

## Chapter C. Charter

### GENERAL REFERENCES

Boards, commissions, committees, agencies and councils — See Ch. **9**.  
Code of Ethics — See Ch. **33**.  
Official Map — See Ch. **47**.

## Article I. Corporate Powers

### Section 1. Incorporation and corporate powers.

The inhabitants of the City of New Rochelle, within the boundaries as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by the name of the City of New Rochelle, and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within and without its boundaries for any municipal purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution or laws of the State of New York or restricted by this Charter, the City of New Rochelle shall have all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

### Section 2. Enumerated powers not exclusive.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated therein, implied thereby or appropriate to the exercise thereof, it is intended that the City of New Rochelle shall have and may exercise all powers which under the Constitution or laws of the State of New York it would be competent for this Charter specially to enumerate. All powers of the city, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein, then in the manner provided by ordinance or resolution of the Council.

## Article II. City Boundaries

### Section 3. On-shore boundaries.

[Amended by Local Law No. 4-1982 (June 15, 1982).<sup>[1]</sup>]

The on-shore boundaries of the city shall continue to be that of the present City and former Town of New Rochelle, in the County of Westchester and State of New York.

[1] *Editor's Note: Local Law No. 4-1982 also repealed former Section 3, Ward boundaries, as amended by L.L. No. 3-1965 (June 16, 1965); 2, 1967 (June 2-1967); and 2-1972 (March 13, 1972).*

### Section 3A. Off-shore boundaries.

(L. 1966, c. 152.)

The off-shore boundaries of the City of New Rochelle in Long Island Sound are hereby fixed and described as

follows:

Beginning at a point southerly of Glen Island, said point being formed by the intersection of the boundary lines of Bronx County, Pelham Manor and New Rochelle; thence proceeding in a southeasterly direction along the Westchester County and Bronx County boundary line for approximately 10,200 feet to a point in Long Island Sound, said point being formed by the intersection of the boundary lines of Westchester County, Bronx County and Nassau County; thence northeasterly along the Westchester County and Nassau County boundary line approximately 3,700 feet to Execution Rock Lighthouse; thence still along the said county boundary line approximately 1,000 feet to a point; thence northwesterly in a straight line approximately 12,300 feet to meet the westerly boundary line of the Town of Mamaroneck between Echo Island and Premium Point, including all of the islands and islets within the limits of the aforementioned boundaries.

## Article III. The Council and Mayor

### Section 4. Creation, composition and powers.

[Amended by Local Law No. 1-1993 (March 2, 1993).]

A Council of seven members, each having one vote, consisting of a Mayor, nominated and elected from the city at large, and six Council members, each nominated and elected from one of six Council Districts into which the city shall be apportioned, shall exercise, except as herein otherwise provided, all powers conferred upon the city.

### Section 5. Term of office of Council members.

[Amended by Local Law No. 1-1987 (February 24, 1987); Local Law No. 1-1993 (March 2, 1993).]

The two Council members elected at the general city election held in 1991 shall continue in office for the unexpired balance of their present terms as if they had been elected from the Council Districts established to include their respective residences as of March 2, 1993. At the general city election held in 1993, there shall be elected one Council member from each of the other four Council Districts of the city whose terms of office shall be two (2) years from the first day of January 1994.

Beginning with the general city election held in 1995, the term of the Council members elected from Council Districts shall be four years from the first day of January next following their election.

### Section 6. Continuing body.

The Council shall be a continuing body, and no measure pending before it shall abate or be discontinued by reason of expiration of the term of office or removal of the members thereof, or any of them.

### Section 7. Meetings.

[Amended by Local Law No. 4-1978 (May 9, 1978).]

The members of the first Council elected under this Charter shall organize on the first day of January after their election. Thereafter the Council shall hold regular, adjourned or special meetings at its chambers or at such other place or places as the Council may from time to time designate, at such times and for such purpose or purposes as it may determine. The Mayor, or a majority of its members, may call a special meeting by causing written notice thereof, specifying the object of the meeting, to be served by the City Clerk upon each member personally, or by mail directed to his place of residence or place of business, at least 24 hours before the time fixed for such meeting. At such special meetings no action shall be taken upon any subject not included in the call or notice for the meeting.

### Section 8. Vacancies.

[Repealed by Local Law No. 1-1966 (February 9, 1966).]

## Section 9. Qualifications.

[Amended by Local Law No. 1-1993 (March 2, 1993); Local Law No. 10-2003 (June 17, 2003).]

Members of the Council shall be qualified electors of the city and, while members of that body, shall hold no other public office except the office of notary public or an office in the State National Guard or the Armed Forces of the United States. If a member of the Council shall cease to possess such qualifications, or shall be convicted of crime while in office, his or her office shall immediately become vacant. No person shall be eligible for the office of Council member or Mayor who has not been a resident of the City for a period of at least one year immediately preceding the date of his or her election. Beginning with the general City election held in 1995, no person shall be eligible for the office of Council member who has not been a resident of the Council District from which he or she is elected for a period of at least six months immediately preceding the date of his or her election; except that during a calendar year in which both a general City election and a reapportionment of Council Districts occur, he or she shall be a resident of the Council District from which he or she is elected on the date his or her term of office commences. If a Council member shall cease to be a resident of the Council District from which he or she was elected, his or her office shall immediately become vacant.

## Section 9A. Establishment and reapportionment of Council Districts.

[Enacted by Local Law No. 1-1993 (March 2, 1993).]

No later than 45 days after the election at which are adopted the revisions of this Charter providing for the City to be apportioned into six Council Districts, the Council shall establish the boundaries of said Districts, which shall comply with the legal standards for apportionment. Such Council Districts shall be of substantially equal population, of convenient and contiguous territory, in as compact a form as practicable and shall thereafter be reapportioned by the Council every 10 years on the basis of the decennial census figures published by the Bureau of Census of the United States Department of Commerce, beginning with the decennial census to be taken in the year 2000.

## Section 9B. Council Districts.

[Enacted by Local Law No. 13-2004 (December 14, 2004)<sup>[1]</sup>; amended 5-10-2011 by L.L. No. 1-2011<sup>[2]</sup>]

The City of New Rochelle shall be divided into six Council Districts, bounded and described as follows:

District No. 1

Beginning at the intersection of the boundary of the City of New Rochelle and the Town of Pelham at Kings Highway, thence proceeding northerly along said boundary to the former New York, Westchester, and Boston Railroad, southeasterly along the former New York, Westchester and Boston Railroad, directly north of and parallel with Maul Place, to Madeline Avenue, southerly on Madeline Avenue to Sickles Avenue, easterly on Sickles Avenue to Fourth Street, southerly on Fourth Street to Lockwood Avenue, easterly on Lockwood Avenue to Colonial Place, northerly then easterly on Colonial Place to Sickles Place, southerly on Sickles Place to Lockwood Avenue, easterly on Lockwood Avenue to Glover Johnson Place, southerly on Glover Johnson Place to Washington Avenue, across Washington Avenue to Badeau Place, southerly on Badeau Place to Union Avenue, easterly on Union Avenue to Division Street, southeasterly on Division Street to Huguenot Street, southwesterly on Huguenot Street to Centre Avenue, southeasterly on Centre Avenue to Elm Street, southwesterly on Elm Street to Weyman Avenue, northwesterly on Weyman Avenue to Main Street, northeasterly on Main Street to Kings Highway, northwesterly then westerly on Kings Highway to the boundary of the City of New Rochelle and the Town of Pelham, the point and place of the beginning.

District No. 2

Beginning at the intersection of the boundary of the City of New Rochelle and the Town of Pelham at Kings Highway, thence proceeding southerly then southeasterly along said boundary to the boundary line of the City of New Rochelle and the City of New York in Long Island Sound, then southeasterly along said boundary to the intersection with the County of Nassau common boundary line with the City of New Rochelle in Long Island Sound, northeasterly along said boundary to the boundary line of the City of New Rochelle and the Town of Mamaroneck in Long Island Sound, northerly then northeasterly then northerly then northwesterly then northerly along said boundary line of the City of New Rochelle and the Town of Mamaroneck to the intersection of said boundary with the center line of

Interstate 95, southwesterly on Interstate 95 to the point of its intersection with the point directly south of the southern terminus of Portman Road, northerly from said point to the southern terminus of Portman Road, northerly on Portman Road to Sharot Street, westerly on Sharot Street to Potter Avenue, southerly on Potter Avenue to the southern boundary of the Consolidated Rail line, southwesterly along said southern boundary of the Consolidated Rail line to the southwest-facing boundary of the Parcel referenced in the Assessor's database as Parcel 1-267-0010 now owned by D'Agostino Management Company, southeasterly along said boundary to its intersection with Oak Street, easterly then southerly on Oak Street to Palmer Avenue, southwesterly on Palmer Avenue to River Street, southeasterly on River Street to Main Street, across Main Street to Echo Avenue, southeasterly on Echo Avenue to Pelham Road, southwesterly on Pelham Road to Hudson Park Road, northeasterly on Hudson Park Road to Davenport Avenue, southeasterly then southerly to the intersection of Davenport Avenue and the south-facing boundary of the Parcel referenced in the Assessor's database as Parcel 1-105-0050 now owned by Goldfarb, Waterview Association, follow this Parcel to the intersection with the Parcel referenced as Parcel 1-222-0032A now owned by the New Rochelle City School District, follow the southeast face of this Parcel to its intersection with Church Street, northwesterly on Church Street to Pelham Road, southwesterly on Pelham Road to Meadow Lane, northwesterly on Meadow Lane to Field Avenue, southwesterly on Field Avenue to Parkview Avenue, northwesterly on Parkview Avenue to Circuit Road, across Circuit Road to Woodland Avenue, northwesterly on Woodland Avenue to Elm Street, southwesterly on Elm Street to Weyman Avenue, northwesterly on Weyman Avenue to Main Street, northeasterly on Main Street to Kings Highway, northwesterly then westerly on Kings Highway to the boundary of the City of New Rochelle and the Town of Pelham, the point and place of the beginning.

District No. 3

Beginning at the intersection of Mayflower Avenue and Webster Avenue, thence proceeding easterly on Mayflower Avenue to Mount Joy Place, southerly on Mount Joy Place to Chauncey Avenue, southeasterly then easterly on Chauncey Avenue to North Avenue, northerly on North Avenue to Hubert Place, northeasterly on Hubert Place to Sidney Street, southerly on Sidney Street to Howard Parkway, northeasterly on Howard Parkway to Halcyon Terrace, southerly on Halcyon Terrace to Lorenz Avenue, northeasterly on Lorenz Avenue to Fifth Avenue, northeasterly then easterly on Fifth Avenue to Potter Avenue, southerly on Potter Avenue to the southern boundary of the Consolidated Rail line, southwesterly along said southern boundary of the Consolidated Rail line to the southwest-facing boundary of the Parcel referenced in the Assessor's database as Parcel 1-267-0010 now owned by D'Agostino Management Company, southeasterly along said boundary to its intersection with Oak Street, easterly then southerly on Oak Street to Palmer Avenue, southwesterly on Palmer Avenue to River Street, southeasterly on River Street to Main Street, across Main Street to Echo Avenue, southeasterly on Echo Avenue to Pelham Road, southwesterly on Pelham Road to Locust Avenue, northwesterly on Locust Avenue to Union Street, northeasterly on Union Street to Franklin Avenue, northwesterly on Franklin Avenue to Main Street, southwesterly on Main Street to North Avenue, northwesterly on North Avenue to Burling Lane, westerly on Burling Lane to Memorial Highway, northerly on Memorial Highway to the point directly east of the intersection between Sickles Avenue and Guion Place, westerly to the intersection of Sickles Avenue and Guion Place, westerly on Sickles Avenue to Webster Avenue, then northerly along Webster Avenue to the intersection of Mayflower Avenue and Webster Avenue, the point and place of the beginning.

District No. 4

Beginning at the intersection of Mayflower Avenue and Webster Avenue, thence proceeding westerly on Mayflower Avenue to the boundary of the City of New Rochelle and the Town of Pelham, southerly along said boundary to the former New York, Westchester, and Boston Railroad, southeasterly along the former New York, Westchester and Boston Railroad directly north of and parallel with Maul Place, to Madeline Avenue, southerly on Madeline Avenue to Sickles Avenue, easterly on Sickles Avenue to Fourth Street, southerly on Fourth Street to Lockwood Avenue, easterly on Lockwood Avenue to Colonial Place, northerly then easterly on Colonial Place to Sickles Place, southerly on Sickles Place to Lockwood Avenue, easterly on Lockwood Avenue to Glover Johnson Place, southerly on Glover Johnson Place to Washington Avenue, across Washington Avenue to Badeau Place, southerly on Badeau Place to Union Avenue, easterly on Union Avenue to Division Street, southeasterly on Division Street to Huguenot Street, southwesterly on Huguenot Street to Centre Avenue, southeasterly on Centre Avenue to Elm Street, southwesterly on Elm Street to Woodland Avenue, southeasterly on Woodland Avenue to Circuit Road, across Circuit Road to Parkview Avenue, southeasterly on Parkview Avenue to Field Avenue, northeasterly on Field Avenue to Meadow Lane, southeasterly on Meadow Lane to Pelham Road, northeasterly on Pelham Road to Church Street, southeasterly on Church Street to the intersection of Church Street with the southeast face of the Parcel referenced in the Assessor's database as Parcel 1-222-0032A now owned by the New Rochelle City School District, follow the southeast face of this Parcel to the intersection with the Parcel referenced as Parcel 1-105-0050 now owned by Goldfarb, Waterview Association, follow the south face of this Parcel to its intersection with Davenport Avenue, northerly then northwesterly on Davenport Avenue to Hudson Park Road, southwesterly on Hudson Park

Road to Pelham Road, southwesterly on Pelham Road to Locust Avenue, northwesterly on Locust Avenue to Union Street, northeasterly on Union Street to Franklin Avenue, northwesterly on Franklin Avenue to Main Street, southwesterly on Main Street to North Avenue, northwesterly on North Avenue to Burling Lane, westerly on Burling Lane to Memorial Highway, northerly on Memorial Highway to the point directly east of the intersection between Sickles Avenue and Guion Place, westerly to the intersection of Sickles Avenue and Guion Place, westerly on Sickles Avenue to Webster Avenue, then northerly along Webster Avenue to the intersection of Mayflower Avenue and Webster Avenue, the point and place of the beginning.

District No. 5

Beginning at the intersection of North Avenue and Hubert Place, thence proceeding southerly on North Avenue to Chauncey Avenue, westerly then northwesterly on Chauncey Avenue to Mount Joy Place, northerly on Mount Joy Place to Mayflower Avenue, westerly on Mayflower Avenue to Webster Avenue, northerly on Webster Avenue to Eastchester Road, easterly on Eastchester Road to North Avenue, northerly on North Avenue to Lovell Road, northeasterly then northerly on Lovell Road to Mildred Parkway, northeasterly then easterly on Mildred Parkway to Victory Boulevard, northerly on Victory Boulevard to Hanson Lane, northerly on Hanson Lane to its end then proceeding in a direct line north to the Hutchinson River Parkway, northeasterly on the Hutchinson River Parkway to its intersection with the point directly north of the northernmost limit of the Parcel referenced in the Assessor's database as Parcel 7-2900-0001, now owned by Temple Israel of New Rochelle, then directly southerly from said intersection to Pinebrook Boulevard, southerly on Pinebrook Boulevard to Quaker Ridge Road, northeasterly on Quaker Ridge Road to the intersection of Quaker Ridge Road with the boundary of the City of New Rochelle and the Village of Scarsdale, southerly along said boundary to the boundary of the City of New Rochelle with the Town of Mamaroneck, southerly along said boundary to the intersection of said boundary with the center line of Interstate 95, southwesterly on Interstate 95 to the point of its intersection with the point directly south of the southern terminus of Portman Road, northerly from said point to the southern terminus of Portman Road, northerly on Portman Road to Sharot Street, westerly on Sharot Street to Potter Avenue, northerly on Potter Avenue to Fifth Avenue, westerly on Fifth Avenue to Lorenz Avenue southwesterly on Lorenz Avenue to Halcyon Terrace, northerly on Halcyon Terrace to Howard Parkway, southwesterly on Howard Parkway to Sidney Street, northwesterly on Sidney Street to Hubert Place, then southwesterly on Hubert Place to the intersection of North Avenue and Hubert Place, the point and place of the beginning.

District No. 6

Beginning at the intersection of the boundary between the City of New Rochelle and the Town of Pelham at the western end of Mayflower Avenue, thence proceeding easterly on Mayflower Avenue to Webster Avenue, northerly on Webster Avenue to Eastchester Road, easterly on Eastchester Road to North Avenue, northerly on North Avenue to Lovell Road, northeasterly then northerly on Lovell Road to Mildred Parkway, northeasterly then easterly on Mildred Parkway to Victory Boulevard, northerly on Victory Boulevard to Hanson Lane, northerly on Hanson Lane to its end then proceeding in a direct line north to the Hutchinson River Parkway, northeasterly on the Hutchinson River Parkway to its intersection with the point directly north of the northernmost limit of the Parcel referenced in the Assessor's database as Parcel 7-2900-0001, now owned by Temple Israel of New Rochelle, then directly southerly from said intersection to Pinebrook Boulevard, southerly on Pinebrook Boulevard to Quaker Ridge Road, northeasterly on Quaker Ridge Road to the intersection of Quaker Ridge Road with the boundary of the City of New Rochelle and the Village of Scarsdale, northerly then westerly then southwesterly along said boundary to the boundary of the City of New Rochelle and the Town of Eastchester, continuing in a southerly direction along the common boundary line between the City of New Rochelle and the Town of Eastchester to the intersection of the Hutchinson River Parkway and Pelhamdale Avenue, then southerly along the boundary line between the Town of Pelham and the City of New Rochelle to the intersection of said boundary with Mayflower Avenue, the point and place of the beginning.

[1] *Editor's Note: This local law also repealed former § 9B, Council Districts, enacted by Local Law No. 3-1993 (April 29, 1993); amended by Local Law No. 6-2003 (April 30, 2003); Local Law No. 9-2003 (May 30, 2003).*

[2] *Editor's Note: This local law also specified the following: "With respect to the official New York State Political Calendar, including the circulation of Designating Petitions and the Primary and General elections held for the City Council of the City of New Rochelle, this Local Law shall be applicable and effective commencing May 18, 2011, unless and until superceded by a Local Law establishing City Council District boundaries based upon the 2020 Decennial Census. With respect to official duties of City Council Members and to local legislative representation for the residents of the City of New Rochelle, this Local Law shall be applicable and effective commencing January 1, 2012, unless and until superceded by a Local Law establishing City Council District boundaries based upon the 2020 Decennial Census."*

## Section 10. The Mayor.

[Amended by Local Law No. 1-1993 (March 2, 1993); Local Law No. 1-1996 (December 19, 1995).]

At the general City election held in 1995, and at such election in each fourth year thereafter, there shall be elected a Mayor who shall serve for four years from the first of January following his or her other election.

He or she shall preside over the Council, represent the City in intergovernmental relationships, present an annual State of the City message and perform other duties specified by the Council as allowed by the Charter.

He or she shall be recognized as the head of the City government for all ceremonial purposes, by the courts for the serving of civil processes and by the Governor for purposes of military law. In time of public danger or emergency, the Mayor shall, if so authorized by vote of the Council, take command of the police, maintain order and enforce the law. During his or her absence or disability, his or her duties as Mayor shall be performed by another member of the Council appointed by the Council.

## Section 11. Salaries.

[Enacted by Local Law No. 1-1957 (March 6, 1957); amended by Local Law No. 4-1957 (July 10, 1957); Local Law No. 5-1965 (December 8, 1965); Local Law No. 2-1969 (January 14, 1969); Local Law No. 1-1971 (January 7, 1971); Local Law No. 3-1980 (December 26, 1979); Local Law No. 2-1984 (January 17, 1984); Local Law No. 1-1986 (January 21, 1986); Local Law No. 1-1989 (February 21, 1989); Local Law No. 1-1990 (February 20, 1990); Local Law No. 1-1996 (December 19, 1995); Local Law No. 11-2006 (December 12, 2006)]

- a. Each member of the Council elected as such shall receive a salary of \$23,000 per year, and the Mayor shall receive a salary of \$63,500 per year, such salary to be payable in accordance with the procedure established by the Council. Notwithstanding the foregoing, commencing January 1, 2008, the salaries of the Council shall be increased to the following amount: Consumer Price Index for the New York-New Jersey Metropolitan Area (CPI) as of December 1, 2007 divided by CPI of December 1, 1993 multiplied by \$23,000; and commencing January 1, 2008, the salary of the Mayor shall be increased to the following amount: Consumer Price Index for the New York-New Jersey Metropolitan Area (CPI) as of December 1, 2007 divided by CPI of December 1, 1995 multiplied by \$63,500.
- b. The Council shall have the power to fix salaries and compensation of all officers and employees except as otherwise provided in the local law.

## Section 12. City Clerk.

[Amended by Local Law No. 3-1976 (June 24, 1976).]

The Council shall appoint a City Clerk who shall hold office at the pleasure of the Council. The City Clerk shall attend all meetings of the Council and keep its records. The City shall have the custody of the City Seal and shall affix the same to such documents as action by the Council may require. The City Clerk shall transmit to the City Manager, in duplicate, within two days after their adoption, certified copies of all ordinances of the Council. The City Clerk may appoint, to hold office during his pleasure, a deputy and such other subordinates as the Council may prescribe. The City Clerk shall act as clerk of elections, as the Registrar of Vital Statistics and shall discharge such other duties as may be prescribed by law or by the Council.

## Section 13. Council rules.

The Council shall be the judge of the election and qualification of its members and shall have the power to subpoena witnesses and compel the production of all pertinent books, records and papers. The Council shall determine its own rules and order of business, and keep a journal of its proceedings. It shall have the power to compel the attendance of absent members, and may punish its members for disorderly behavior or violation of its rules.

## Section 14. Quorum.

[Amended by Local Law No. 7-1993 (December 20, 1993).]

Four members of the Council shall constitute a quorum to do business, but a majority of the members present may

adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

The affirmative vote of at least four members of the Council shall be necessary to adopt any ordinance, resolution or order. No member shall be excused from voting except on matters involving the consideration of his own official conduct or where his financial interests are involved.

## **Section 15. Introduction and passage of ordinances and resolutions.**

[Enacted by Local Law No. 4-1941 (April 14, 1941); amended by Local Law No. 2-1991 (March 19, 1991).]

Resolutions involving the expenditure and/or collection of money and/or levy of taxes and assessments and all ordinances shall be introduced in the Council only in written or printed form. An ordinance and/or resolution shall not be voted upon at the same meeting at which it is introduced unless all the members of the Council consent that such vote be taken. The final reading of each ordinance shall be in full unless a written or printed copy thereof shall have been furnished to each member of the Council prior to such reading. Ordinances shall be confined to one subject, and such subject shall be clearly expressed in the title.

The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council.

The enacting clause of all ordinances shall be "Be it ordained by the City of New Rochelle."

An ordinance amended after introduction does not become a new ordinance unless the Mayor or the Council, upon appeal from his ruling, rules that the amendment is so substantial as to constitute a new ordinance.

No local law, ordinance, resolution or order shall be passed at other than a public meeting.

## **Section 16. Local laws.**

[Amended by Local Law No. 3-1998 (February 17, 1998); by Local Law No. 3-2006 (March 21, 2006).]

Whenever the Council shall have proposed the passage of a local law, before the same shall be put to a final vote, a public hearing shall be held by the Council, which shall cause public notice of the time and place of such hearing to be given. Such notice shall be given by publication in one issue of the official newspaper of the City. Such notice shall contain an explanatory statement of the proposed local law. The publication of such notice shall be made not less than five days before such hearing. At such hearing, opportunity shall be afforded the public by the Council for discussion of the proposed local law. Such hearing may be adjourned from time to time by the Council.

## **Section 17. When ordinances and resolutions take effect; emergency measures.**

[Enacted by Local Law No. 1-1944 (March 20, 1944); amended by Local Law No. 2-1968 (December 9, 1968).]

Ordinances and resolutions shall take effect immediately or at the time indicated therein. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or, if no time is specified, then 30 days after their adoption. Where a provision is contained in an ordinance or resolution heretofore or hereafter passed that the same shall take effect immediately or some time less than 30 days after the date of passage and if under the provisions of this section such ordinance or resolution heretofore or hereafter passed cannot take effect before the expiration of 30 days from the date of passage, then such ordinance or resolution heretofore or hereafter passed shall not be invalid by reason of such fact, but its operation shall be suspended until the expiration of 30 days from the date of passage after which time it shall be in full force and effect.

An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety in which the emergency claimed is set forth and defined in a preamble thereto.

The affirmative vote of at least four members of the Council shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the Council except as defined in this section, and it is the intent of this local law that such definition shall be strictly construed by the courts.

## **Section 18. Authentication and publication of ordinances and**

## resolutions.

[Enacted by Local Law No. 2-1944 (March 20, 1944)]

Upon its final passage each ordinance or resolution shall be authenticated by the signatures of the Mayor and the City Clerk and shall be recorded in a book kept for that purpose. Within 10 days after the final passage each ordinance or resolution shall be published in such manner as the Council may determine. Failure of the Council to determine or prescribe the manner of publication of ordinances or resolutions heretofore or hereafter passed or failure to publish the ordinances or resolutions heretofore or hereafter passed shall not invalidate such ordinances or resolutions.

## Article IV. Nomination and Election of Council Members and Mayor

### Section 19. City elections.

[Amended by Local Law No. 3-1936 (May 18, 1936); Local Law No. 1-1957 (March 6, 1957); Local Law No. 1-1987 (February 24, 1987); Local Law No. 1-1993 (March 2, 1993).]

The two Council members elected at the general city election held in 1991 shall continue in office for the unexpired balance of their present terms as if they had been elected from the Council Districts established to include their respective residences as of March 2, 1993. At the general city election held in 1993, there shall be elected one Council member from each of the other four Council Districts of the city whose term of office shall be two years from the first day of January 1994.

At the general city election held in 1995 and such election in each fourth year thereafter, there shall be elected by the electors of the city a Mayor whose term of office shall be four years from the first day of January next following his or her election. At the general city election held in 1995 and at such election in each fourth year thereafter, there shall be elected one Council member from each Council District of the city whose term of office shall be four years from the first day of January next following his or her election.

General city elections shall be held on the first Tuesday after the first Monday in November in odd-numbered years.

### Section 19A. The City Judge.

[Enacted by Local Law No. 1-1993 (March 2, 1993).]

There shall be elected a City Judge whose term of office shall be 10 years, in conformity with the Uniform City Court Act.

### Section 20. Regulation of elections.

[Enacted as Local Law No. 3-1936 (May 18, 1936).]

The Council shall make all needful rules and regulations not inconsistent with this Charter or with general law for the conduct of primaries and elections, for the prevention of fraud in either and for the recount of the ballots in case of doubt or fraud. In all respects not inconsistent with Sections 19 and 20 as herein renumbered and amended, the Election Law of the state, together with any amendments thereof, shall apply to the nomination and election of candidates for any office.

### Section 20A. Instruction of election inspectors.

[Repealed by Local Law No. 3-1946 (June 3, 1946).]

## Article V. Initiative and Referendum

## Section 29. Power of initiative.

[L. 1943, Ch. 710 (Title 34).]

Any ordinance, except an ordinance authorizing an issue of obligations, directing a local improvement, making a general tax levy, appropriating money or involving an expenditure other than one to be made from taxes to be levied for the fiscal year in which such expenditure is to be made, may be introduced into the Council by petition of the elector as hereinafter provided. The power so to introduce ordinances shall, for the purpose of this Charter, be designated "the initiative;" ordinances so introduced shall be designated "initiated ordinances;" and petitions accompanying such ordinances shall be designated "initiating petitions."

## Section 30. Initiating petitions.

Signatures to an initiating petition need not all be appended to one paper, but all such papers respecting the same proposed ordinance shall be uniform and each shall contain: (1) the complete text of the ordinance to be introduced; (2) the names of five electors who shall serve as a committee for the petitioners; (3) a request that the Council proceed to consider the ordinance in accordance with the provisions of this local law; and (4) the signatures and addresses of not fewer than 10% of the voters who registered for the last preceding general election. Signatures to initiating petitions shall be made in ink or indelible pencil, and to each such paper shall be attached the affidavit of the circulator thereof to the effect that he, and he only, circulated such paper, and that all the signatures thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be. All initiating petition papers respecting the same proposed ordinances shall be assembled and filed with the City Clerk as one instrument.

## Section 31. Action on initiating petitions.

The City Clerk shall examine any initiating petitions filed with him and shall transmit to the Council, at a regular meeting held not later than 20 days from the date of the filing of the petition, a copy of the initiated ordinance and a certificate that he has examined the petition and has found that it complies or does not comply, as the case may be, in all respects with the requirements of the preceding section. If the petition has been found sufficient, the Council shall proceed to consider the proposed ordinance, provide for the publication thereof in the official newspaper prior to the next regular meeting of the Council and provide for public hearings thereon.

The Council may adopt, amend or reject the initiated ordinance, but if the Council has not taken final action thereon within 30 days from the date of the transmission of the certificate by the City Clerk, the initiated ordinance shall be deemed to have been adopted.

## Section 32. Action on amended or rejected initiated ordinances.

If the Council rejects an initiated ordinance or adopts it in amended form, the committee for the petitioners, not later than 10 days after the final action by the Council thereon, may file with the City Clerk a certified copy of the ordinance either as originally presented or as amended by the committee and a request that such ordinance be referred to the electors. The Clerk shall present such ordinance and such request to the Council at its next regular meeting and the Council, at the same meeting, shall provide for the submission of the ordinance to the electors at the next general election occurring not less than 15 days after the date of said meeting. The Clerk, not more than 10 nor less than five days before the election thereon, shall publish in the official newspaper the complete text of the proposed ordinance and the title by which it will be designated on the ballot. Such title shall be a clear and concise description, without argument, of the substance of the ordinance. The ballot used in voting on any such ordinance shall contain, in addition to the ballot title, the following propositions in the order indicated: "For the ordinance" and "Against the ordinance." A vote on the question shall be registered by voting for one of such propositions. The ordinance shall be considered adopted only if a majority of the votes cast are "For the ordinance."

An ordinance which has been so adopted shall not be repealed or amended within one year except by a vote of the electors, unless such ordinance shall otherwise expressly provide.

## Section 33. Power of referendum.

[L. 1943, c. 710 (Title 34).]

Any ordinance or part of an ordinance adopted by the Council, except ordinances authorizing an issue of obligations, making a general tax levy, confirming a general tax roll, appropriating or expending money other than out of taxes to be levied for the fiscal year in which such appropriation or expenditure is to be made, may be suspended in its operation, and its submission to the electors at a general election is required by petitions of the electors filed with the City Clerk within 30 days after its adoption. The power so to require the submission of an ordinance to the electors shall, for the purposes of this Charter, be designated "The Referendum;" ordinances referred to the electors shall be designated "referred ordinances;" and petitions requiring ordinances to be referred shall be designated "referendum petitions."

## Section 34. Referendum petitions.

Signatures to referendum petitions need not all be appended to one paper, but all such papers respecting the same ordinance shall be uniform and each shall contain: (1) a descriptive title, which need not be the legal title, of the ordinance or part of an ordinance to be referred to the electors; (2) a request that the Council adopt the necessary resolution referring said ordinance or part of an ordinance to the electors in accordance with the provisions of this Charter; and (3) the signatures and addresses of not fewer than 10% of the voters who registered for the last preceding general election. All signatures shall be in ink or indelible pencil.

Each separate paper of a referendum petition shall bear the sworn affidavit of the circulator thereof to the effect that he, and he only, circulated such paper, and that all the signatures thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be. All referendum petition papers respecting the same ordinance shall be assembled and filed with the City Clerk as one instrument.

## Section 35. Action on referendum petitions.

The City Clerk shall examine any referendum petitions filed with him and shall transmit to the Council at a regular meeting held not later than 20 days after the date of the filing of the petition a certificate that he has examined the petition and has found it complies, or does not comply, as the case may be, with the requirements of the preceding section. If the petition has been found sufficient, the Council, at the same meeting, shall proceed to reconsider the ordinance or part thereof, and its final vote upon such reconsideration shall be upon the question "shall the ordinance (or part of the ordinance) set forth in the referendum petition be repealed?" If upon such reconsideration the ordinance, or part thereof, is not repealed, the Council, at the same meeting, shall provide for the submission of the ordinance to the electors at the next municipal election occurring not less than 15 days after the date of the said meeting. The referred ordinance shall be suspended in its operation from the date of the Clerk's certification to the Council that a sufficient referendum petition thereon has been filed. The Clerk, not more than 10 days nor less than five days before the election thereon, shall publish in the official newspaper the complete text of the referred ordinance and the title by which it will be designated on the ballot. Such title shall be a clear and concise description, without argument, of the substance of the ordinance. The ballot used in voting on any such ordinance shall contain, in addition to the ballot title, the following propositions in the order indicated: "For the ordinance" and "Against the ordinance."

A vote on the question shall be registered by voting for one of such propositions. If a majority of the votes cast are "For the ordinance," the ordinance shall be considered sustained. If a majority of the votes cast are "Against the ordinance," the ordinance shall be considered repealed. If so repealed all rights and privileges conferred by the said ordinance shall be null and void, but any such ordinance so repealed shall be deemed sufficient authority for any payments made or expense incurred by the city in accordance therewith prior to the date of the Clerk's certification to the Council that a sufficient referendum petition has been filed. The Council may require that the referred ordinance be voted upon at a special election held not earlier than 45 days after the receipt of the referendum petition by the City Clerk.

## Section 36. Preliminary action under referred ordinance.

[L. 1943, c. 710 (Title 34).]

In case a referendum petition is filed requiring that an ordinance passed by the Council involving the expenditure of money out of taxes to be levied for the fiscal year in which such expenditure is to be made is submitted to a vote of the electors, all steps preliminary to such actual expenditure or, in the case of a public improvement, the actual execution of the contract for such improvement, may be taken prior to the election.

## **Section 37. Referendum on initiative of the Council.**

[L. 1943, c. 710 (Title 34).]

The Council may submit on its own initiative a proposition for the enactment, repeal or amendment of any ordinance (except as otherwise provided in Sections 29 and 33 of this local law or in the Local Finance Law) to be voted upon at any general city election or special election called for the purpose, and should a majority of the votes cast at such election favor such proposition, such ordinance shall be enacted, repealed or amended accordingly.

## **Section 38. Later action by Council on matters that have been passed upon by a vote of the electors.**

An ordinance which has been repealed by vote of the electors shall not in any substantially similar form be again adopted by the Council within one year, unless such ordinance is an "initiated ordinance," without the same being approved by the electors.

## **Article VI. City Manager**

### **Section 39. Appointment and qualifications.**

The Council shall appoint a City Manager who shall be the administrative head of the city government. He shall be chosen by the Council solely on the basis of his executive and administrative qualifications. During the first three years after this Charter shall have become effective, the Council shall appoint no one as City Manager (except as a substitute to serve temporarily in the absence or disability of the regularly appointed Manager) who has not had three years' service as City Manager. No person elected to the Council shall, during the time for which he is elected, be chosen as City Manager.

### **Section 40. Term and removal.**

[Enacted by Local Law No. 8-1940 (December 2, 1940).]

The City Manager may be appointed for an indefinite period to serve at the will of the Council. When appointed for an indefinite period, before the Manager may be removed he shall, if he so demands, be given a written statement of the reasons alleged for his removal and shall have the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. The action of the Council in suspending or removing the Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension and removal in the Council. Until the City Manager is chosen, or in the event of his disability or suspension, the Council may designate someone to perform the duties of City Manager during such period.

The City Manager may be appointed for a definite term not to exceed two years, at the expiration of which term the City Manager may be reappointed from time to time in the discretion of the Council, but in no event shall any one period of appointment be for more than two years.

The Council may employ a City Manager for a definite term not to exceed two years under a written contract of employment, which contract shall contain such terms and conditions as may be specified by the Council. Such contracts of employment may be renewed from time to time in the discretion of the Council but no one renewal period shall be for a period in excess of two years.

### **Section 41. Responsibility of Manager; powers of appointment and**

## removal.

[Amended by Local Law No. 3-1982 (May 18, 1982); Local Law No. 10-1997 (July 16, 1997).]

The City Manager shall be responsible to the Council for the proper administration of all affairs of the city placed in his charge, and to that end, subject to the civil service provisions of this Charter, and except as otherwise provided herein, he shall have the power to appoint and remove all department heads and such officers and employees in the administrative service of the city as may be assigned by law.

The City Manager shall have the power to appoint and remove a Deputy City Manager, who shall perform such duties as he shall direct. He shall designate the deputy or a department head to undertake the responsibilities and powers of the City Manager and have the title of Acting City Manager during his absence or disability. During the period of a vacancy in the position of City Manager, the Acting City Manager shall have the responsibilities and powers of the City Manager and perform his duties under the title of Acting City Manager, until such time as the City Council may remove him and appoint an Acting City Manager or until such time as the City Council may appoint a City Manager.

Appointments made by or under the authority of the City Manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite term, unless for temporary service not to exceed 60 days.

## Section 42. Removals.

[Amended by Local Law No. 10-1997 (July 16, 1997); Local Law No. 2-1998 (January 20, 1998).]

Except as otherwise provided in this Charter and except as may be required by the Civil Service rules if applicable thereto, any officer or employee of the city appointed by the City Manager or another appointing authority may be laid off, suspended or removed from office or employment by the respective appointing authority. Verbal or written notice of layoff, suspension or removal personally given to an officer or employee or written notice mailed by certified mail return receipt requested to such person's usual place of residence shall be sufficient to put any such layoff, suspension or removal into effect. If the civil service rules apply, then the officer or employee sought to be removed shall receive such notice and hearing as such civil service rules require, and all further proceedings therein shall be pursuant to such civil service rules. The decision of the Manager or other appointing authority in any such case shall be final. A copy of the written statement of reasons given for any layoff, suspension or removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the Manager or other such authority, shall be filed as a public record in the office of the Manager.

## Section 43. Council not to interfere in appointments or removals.

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office or employment by the City Manager or any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with that portion of the administrative service for which the Manager is responsible solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the city, either publicly or privately.

## Section 44. Duties of Manager.

It shall be the duty of the City Manager to act as chief conservator of the peace within the city; to supervise the administration of the affairs of the city; to see that the ordinances of the city and the laws of the state are enforced, except as otherwise in this Charter provided; to sign all contracts, deeds or leases that may be authorized by the Council; to make such recommendations to the Council concerning the affairs of the city as may seem to him desirable; to keep the Council advised of the financial conditions and future needs of the city; to prepare and submit to the Council the annual budget estimate; to prepare and submit to the Council such reports as may be required by that body; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council.

## Section 45. Rights of Manager.

The City Manager shall be entitled to a seat in the Council but shall have no vote therein. He shall receive notice of all meetings of the Council and shall attend the same. He shall have the right to take part in the discussion of all matters coming before the Council, other than those relating to his own removal or suspension.

## Section 45A. Additional powers of the City Manager.

[Enacted by Local Law No. 1-1941 (February 17, 1941); amended by Local Law No. 1-1951 (February 19, 1951); Local Law No. 2-1998 (January 20, 1998).]

Where there is a vacancy in the office of the department head of any department or during the absence or disability of any department head, the City Manager may perform all the duties and assume all the powers of such department head. Notwithstanding any provisions of this Charter to the contrary, the City Manager may from time to time and for such period as the City Manager deems necessary during the vacancy, absence or disability of a department head designate a city employee or a city officer, other than an elected officer, to act as a deputy in any administrative department. However, an increase in salary shall not be granted to such employee or officer by reason of designation unless such increase is authorized and fixed by the Council.

## Article VII. Administrative Departments

### Section 46. Departments and department heads.

[Enacted by Local Law No. 1-1939 (April 19, 1939); amended by L. 1953, c. 878, § 193; Local Law No. 7-1962 (July 11, 1962); Local Law No. 1-1964 (January 8, 1964); Local Law No. 3-1970 (June 8, 1970); Local Law No. 6-1971 (December 13, 1971); Local Law No. 6-1972 (December 11, 1972); Local Law No. 3-1974 (November 21, 1974); Local Law No. 5-1976 (December 7, 1976); Local Law No. 3-1985 (April 16, 1985); Local Law No. 10-1997 (July 16, 1997); Local Law No. 2-1998 (January 20, 1998); Local Law No. 1-2004 (March 16, 2004).]

The administrative departments of the city shall be those of Finance, Law, Public Works, Police, Fire, Personnel, Development and Parks and Recreation. There may be divisions of such departments called "bureaus." The heads of such departments shall be appointed by the City Manager, shall hold office at the City Manager's pleasure and are vested with authority, direction and control over their respective departments. Heads of departments shall appoint and may remove such deputies who are authorized to act generally for and in place of their principals, a department secretary, bureau heads, assistants or other employees not otherwise herein prescribed as they may deem necessary, provided that their salaries and wages have been fixed by the Council. No person, except laborers employed on per diem basis, shall be appointed or employed by a department head without first obtaining budget approval.

### Section 46A. Power of Directors to investigate, try and determine charges, to suspend members without pay and to impose penalties.

[Enacted by Local Law No. 6-1941 (May 19, 1941); amended by Local Law No. 3-1985 (April 16, 1985).]

The director of any department may investigate, try and determine charges made against any member of his department. In any such investigation or trial, the director shall have power to issue subpoenas to compel the attendance of witnesses, and any person served with a subpoena shall attend and testify in obedience to the command of said subpoena.

### Section 46B. Appeal to the City Manager.

[Enacted by Local Law No., 6-1941 (May 19, 1941); amended by Local Law No. 3-1970 (June 8, 1970).]

Where a member of a department is found guilty after a trial, such member may appeal from such finding or the penalty imposed either by an application to the Municipal Civil Service Commission, or by an application to the

court in accordance with the provisions of Article 78 of the Civil Practice Law and Rules. If such person elects to appeal to the Municipal Civil Service Commission, he shall file such appeal in writing within 20 days after receiving written notice of the determination to be reviewed.

## **Section 46C. Titles of the heads of the Departments of Finance, Public Works, Fire and Development.**

[Enacted by Local Law No. 3-1977 (March 15, 1977).]

Notwithstanding any inconsistent provision contained in this Article **VII** or any other Article contained in this Charter, wherever reference is made to the heads of the Departments of Finance, Public Works, Fire and Development as and by the title of "Director," on and after the effective date of this section, the heads of such Departments shall be known as and shall have the title of "Commissioner," and the word "Director" as applied to the heads of such Departments shall be read as and shall mean "Commissioner."

## **Section 46.01. Deputies to the heads of administrative departments.**

[Enacted by L.L. No. 7-1999 (July 20, 1999).]

The head of the administrative department may appoint and remove deputies, as budgeted by the City Council, who shall be authorized to act generally for and in place of the department head. Such deputies shall possess any minimum qualifications that may be required for the appointment of the department head.

## **Section 47. Department of Finance; Commissioner and Deputies.**

[Enacted by Local Law No. 4-1951 (December 17, 1951); amended by Local Law No. 3-1958 (December 12, 1958); Local Law No. 2-1998 (January 20, 1998).]

The Commissioner of Finance, as head of the Department of Finance, shall be the chief fiscal officer of the city. The Commissioner shall have supervision and control of the administration of the financial affairs of the City. The Commissioner shall appoint a Deputy Commissioner of Finance/Treasurer and Deputy Commissioner of Finance/Purchasing Agent and Risk Manager to hold office during the Commissioner's pleasure. The Deputy Commissioner of Finance/Treasurer shall demand and receive, shall have the care and custody of and shall disburse all city moneys. The Deputy Commissioner of Finance/Purchasing Agent and Risk Manager shall manage, supervise and participate in purchasing, bidding, risk analysis, insurance, loss prevention and other cost control programs.

## **Section 47.01. Director of Finance; qualifications.**

[Enacted by Local Law No. 3-1958 (December 12, 1958).]

The Director of Finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

## **Section 47.02. Director of Finance; powers and duties.**

[Enacted by Local Law No. 3-1958 (December 12, 1958).]

The Director of Finance shall:

1. Compile the current income and expense estimates for the budget for the City Manager.
2. Compile the capital estimates for the budget for the City Manager.
3. Supervise and be responsible for the collection and disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded.
4. Supervise and be responsible for the maintenance of all accounting records, payrolls, preauditing and payment of invoices and financial planning and budgeting.

5. Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government and sell any personal property no longer needed for city purposes, no sale to be made, however, without the written authorization of the City Manager.
6. With the authorization of the City Manager, purchase without previous requisition for the credit of the stores account with funds provided by a revolving fund for that purpose or from a contingent fund such supplies, material and equipment as are likely to be needed by the various departments or offices, to be furnished them on requisition; goods so purchased and furnished to be charged to the department requisitioning the same.
7. Prepare for the City Manager and Council, as of the end of the fiscal year, a complete financial statement and report.
8. Prescribe and install systems of accounts and records for all administrative departments and officials.
9. Audit all claims presented to the city for payment. No claim for payment shall be paid by the city unless it has been audited and approved by the Director of Finance.
10. Perform such other and additional duties as may be prescribed by the City Manager.

## Section 48. Reports.

[Enacted by Local law No. 6-1948 (December 6, 1948); amended by Local Law No. 3-1958 (December 12, 1958).]  
The director shall issue such additional reports as he may be directed so to issue by the City Manager or as may be required by the Council.

## Section 49. Department of Law; Director or Corporation Counsel.

The Director of Law shall be head of the Department of Law and be known as the "Corporation Counsel." He shall be an attorney and counselor at law admitted to practice in the State of New York and practicing as such for at least 10 years previous to his appointment as Corporation Counsel. He shall be the legal advisor of and attorney for the city and for all officers, departments, bureaus, boards and commissions thereof in matters relating to their official duties, and shall prosecute or defend all actions, suits and proceedings for and in behalf of the city.

## Section 50. Actions, suits and proceedings.

When required so to do by the City Manager or by resolution or ordinance, he shall prosecute or defend for and in behalf of the city all actions, suits, proceedings and controversies to which the city is a party or in which it is in any way interested. He shall have power to appeal from orders, decisions or judgments and shall, subject to the approval of the Council, have power to enter into any agreement, compromise or settlement of any claims against the city.

## Section 51. Contracts, bonds and other instruments.

[L. 1943, c. 710 (Title 34).]

He shall prepare all contracts and instruments in which the city is concerned other than obligations, as that term is defined in § 2.00 of the Local Finance Law, and, before execution thereof, shall endorse on each his approval of the form and correctness thereof. No such contract or instrument providing for or involving the payment by or on account of the city of \$500 or more shall be valid without such endorsement or approval.

## Section 52. Opinions.

The Council, City Manager, director of any department or any commission or any officer not included within a department may require, and the Corporation Counsel thereupon shall render, his opinion in writing upon any

question of law involving their or his respective powers or duties.

## **Section 53. Assistants.**

[Enacted by Local Law No. 4-1964 (November 19, 1964); amended by Local Law No. 4-1965 (July 21, 1965); Local Law No. 10-1997 (July 16, 1997).]

The Corporation Counsel may, with the approval of the City Manager, appoint one or more deputy or assistant attorneys, who shall have such powers and perform such duties as the Corporation Counsel may from time to time direct.

## **Section 54. Private practice.**

Neither the Corporation Counsel nor any Assistant Corporation Counsel shall in his private professional capacity appear or advise or be interested, directly or indirectly, in any matter, action or proceeding against the city or any officer or any department thereof, or any officer as such thereof, or in any matter, action or proceeding in which the interest of the city may be adverse.

## **Section 55. Department of Public Works; Commissioner of; duties.**

[Enacted as Local Law No. 4-1951 (December 17, 1951); amended by Local Law No. 4-1970 (June 8, 1970); Local Law No. 4-1971 (November 8, 1971); Local Law No. 3-1974 (November 21, 1974); Local Law No. 4-1976 (September 7, 1976); Local Law No. 4-1980 (April 15, 1980); Local Law No. 4-1991 (October 15, 1991); Local Law No. 2-1998 (January 20, 1998).]

The Commissioner of Public Works, as head of the Department of Public Works, shall have direction and control of the design, construction, operation, maintenance and repair of the public streets and of the public bridges, docks, sewerage system and buildings used by the Department of Public Works in the operation of the Department. The Commissioner shall have direction and control of the collection and disposal of garbage and other refuse, traffic engineering and the operation, repair and maintenance of all municipal buildings. The Commissioner shall have the power to appoint a Deputy Commissioner of Public Works and a Deputy Commissioner of Public Works/City Engineer and heads of bureaus as hereafter established and other employees necessary to the functioning of the Department, in accordance with the Civil Service Law. The Commissioner shall have supervision and control of the design and construction of all municipal buildings.

### **Section 55.01. Bureau established within the Department of Public Works.**

[Enacted by Local Law No. 4-1980 (April 15, 1980); amended by Local Law No. 1-1984 (January 17, 1984); repealed by Local Law No. 3-1992 (July 8, 1992)]

## **Section 56. Deputy Commissioner of Public Works.**

[Amended by Local Law No. 2-1960 (March 9, 1960); Local Law No. 4-1970 (June 8, 1970); Local Law No. 4-1971 (November 8, 1971); Local Law No. 2-1998 (January 20, 1998).]

A Deputy Commissioner of Public Works shall, under the direction of the Commissioner of Public Works, oversee and coordinate all field maintenance operations services of the Department. Such Deputy shall be immediately responsible for handling and resolving public complaints and requests for service and such other special duties as may from time to time be assigned by the Commissioner.

## **Section 57.**

[Enacted by Local Law No. 4-1971 (November 8, 1971); amended by Local Law No. 2-1998 (January 20, 1998); Local Law No. 7-2001 (October 16, 2001)]

The Deputy Commissioner of Public Works/City Engineer shall be in charge of the Bureau of Engineering with responsibility for all municipal engineering design and construction projects, and traffic engineering. Such Deputy Commissioner shall be a civil engineer licensed to practice as such under the laws of the State of New York and shall have spent not less than 10 years in the active practice of such profession.

[1] *Editor's Note: Former Section 57 was rescinded by L.L. No. 4-1970 (June 8, 1970).*

## Section 58. Department of Police; Director; powers and duties.

[Enacted by Local Law No. 1-1964 (January 8, 1964); amended by Local Law No. 3-1970 (June 8, 1970); Local Law No. 1-1977 (January 4, 1977); Local Law No. 3-1983 (September 27, 1983); Local Law No. 7-2001 (October 16, 2001)]

The Director of Police, as head of the Department of Police, shall also be known as "Commissioner of Police." The Commissioner shall be the executive head of the Police Department and shall have charge and control of the administration and discipline of the Police Department and of the buildings and equipment thereof. The Commissioner shall appoint or remove, with the approval of the City Manager, officers and uniformed members of such force as the Commissioner may deem necessary and as may be authorized by the Council. The Commissioner shall have jurisdiction over the enforcement of traffic and traffic regulations, subject to any ordinances passed by the Council. The Commissioner shall have authority to administer oaths and take evidence, affidavits and acknowledgements in all proceedings relating to the Police Department.

He shall have the power to appoint a Deputy Police Commissioner, with the approval of the City Manager, pursuant to Section 41(b) of the Civil Service Law, who shall perform such duties as he may direct. During the absence or disability of the Police Commissioner, the Deputy Police Commissioner shall have the responsibilities, duties and powers of the Police Commissioner.

### Section 58.01.

[Enacted by Local Law No. 1-1964 (January 8, 1964); amended by Local Law No. 1-1984 (January 17, 1984).]

The Chief of the Fire Department shall be appointed by the City Manager and shall also be known as the "Fire Commissioner." He shall be the executive head of the Fire Department and shall have charge and control of the administration and discipline of said Department and of the buildings and equipment thereof. He shall appoint, with the approval of the City Manager, such other officers and uniformed members of such force as he may deem necessary and as may be authorized by the Council. He shall have authority to administer oaths and take evidence, affidavits and acknowledgments in all proceedings relating to the Fire Department. He shall be responsible for the administration and enforcement of the Environmental Protection Code of the City.

## Section 59. Constitution of the Police and Fire Departments.

[Enacted by Local Law No. 1-1964 (January 8, 1964).]

The Police and Fire Departments shall as to their membership and organization remain as now constituted until the same shall be changed by the Council.

All members of the Police and Fire Departments, subject to the powers of removal hereinafter specified, shall hold their respective positions and offices during good behavior or until by age or disease they shall be permanently incapacitated, or for any reason become unfit to discharge their duties.

## Section 60. Employees.

[Enacted by Local Law No. 1-1964 (January 8, 1964); amended by Local Law No. 3-1970 (June 8, 1970).]

The Director of Police and the Fire Chief may appoint, with the approval of the City Manager, such employees in addition to the uniformed forces as may be necessary, provided that the positions have been authorized and the salaries therefor fixed by the Council and may for their respective departments for cause remove employees after hearing of charges on notice.

## Section 61. Appointment and promotion.

[Enacted by Local Law No. 1-1964 (January 8, 1964); amended by Local Law No. 3-1970 (June 8, 1970); Local Law No. 14-1997 (December 9, 1997).]

All appointments and promotions of officers and members of the uniformed forces of the Police and Fire Departments shall be made by the Commissioner of Police and the Fire Commissioner for their respective Departments with the authorization of the City Manager in the manner prescribed by the Constitution of the State of New York and in accordance with the provisions of the civil service laws of the State of New York.

All promotions shall be made on the basis of seniority, meritorious service in the Departments and superior capacity as shown by competitive examinations. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the Municipal Civil Service Commission. The Commissioner of Police and the Fire Commissioner for their respective Departments shall transmit to the Municipal Civil Service Commission, in advance of such examination, the complete record of each candidate for promotion.

## Section 62. Compensation for loss and injury.

[Enacted by Local Law No. 1-1964 (January 8, 1964).]

The Director of Police and Fire Chief acting for their respective Departments shall have power to compensate officers and members of the Police and Fire Departments for loss of personal property and for any medical expenses arising from injuries incurred in the performance of duty.

## Section 63. Trial charges.

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

- a. The Director of Police and Fire Chief for their respective Departments may investigate, try and determine charges made against any member of the uniformed force for neglect of duty, incompetency and incapacity in the performance of his duties or any delinquency affecting his general character or fitness for the office. The Director and Fire Chief shall have power to issue subpoenas to compel the attendance of witnesses upon any proceeding authorized by the rules and regulations of his Department; and any person served with a subpoena shall attend and testify in obedience to the command thereof. The accused shall have the right to be present at his trial and to be heard in person and by counsel and to give and furnish evidence in his defense. If the accused is found guilty, the Director, in his discretion, may punish him by reprimand, imposition of fine, forfeiture of pay for a specified time, suspension during a fixed period or dismissal from office. No member of the uniformed force shall be removed or otherwise punished for any cause other than those hereinbefore specified.
- b. The procedure, right of suspension, penalties, appeals and all other rights and duties of the accused and the Director of Police or Fire Chief shall be governed by and conducted pursuant to the provisions of Article V, Title B, of the Civil Service Law of the State of New York.

## Section 64. Commitment to police station.

[Enacted by Local Law No. 1-1964 (January 8, 1964); amended by Local Law No. 3-1985 (April 16, 1985).]

The Judge of the City Court, the Director of Police or the Chief of Police may commit any person charged with crime, pending an examination, to the police station in the city, and the officer in charge of the police station is authorized and required to receive any such person so committed and retain him in custody in accordance with such commitment.

## Section 65. Expenses chargeable to the county.

The Director of Police shall render annually to the Board of Supervisors of Westchester County an itemized account

of such expenses, incurred in criminal proceedings, as are properly chargeable to the County of Westchester. Such expenses shall include a proportionate part of the lighting, heating, cleaning and rent of the station house, of the board of prisoners, of traveling and other expenses incurred in the apprehension of criminals and expenses of transportation of prisoners under sentence to the place of confinement. Such account shall be audited by the Board of Supervisors and provided for and paid to the City of New Rochelle in the same manner as all other county charges.

## **Section 66. Pension funds.**

The Police Pension Fund and the Firemen's Pension Fund as now constituted by law are hereby continued.

## **Section 67. and 67A. Department of Public Welfare.**

Superseded by City Welfare District as of January 1, 1950; Chapter 323 of 1949, Laws of New York. See Resolution 139 of 1949 confirming resolution 104 of 1946, adopted by the Board of Supervisors of Westchester County; and Resolution 212 of 1946 electing to constitute the City of New Rochelle as a City Welfare District.

## **Section 67B. Recreation and public observances.**

[Repealed by Local Law No. 9-1940 (October 21, 1940).]

## **Section 68. Department of Health.**

[Repealed by Local Law No. 6-1972 (December 11, 1972).]

## **Section 69. Clerk of Department of Health.**

[Repealed by Local Law No. 6-1972 (December 11, 1972).]

## **Section 70. Director of Public Health and other employees.**

[Repealed by Local Law No. 6-1972 (December 11, 1972).]

## **Section 71. Sanitary regulations.**

[Repealed by Local Law No. 6-1972 (December 11, 1972).]

## **Section 74. New Rochelle Hospital.**

[Enacted by Local Law No. 1-1936 (February 3, 1936); amended by Local Law No. 4-1964 (November 19, 1964); repealed by Local Law No. 1-1978 (January 10, 1978).]

## **Section 76.00. Department of Development, Director of; duties.**

[Enacted 7-15-1959 by Local Law No. 3-1959; amended 7-11-1962 by Local Law No. 7-1962; Local Law No. 5-1970 (June 8, 1970); Local Law No. 6-1972 (December 11, 1972); Local Law No. 4-1976 (September 7, 1976); Local Law No. 3-1991 (October 15, 1991).]

The Director of Development shall be the head of the Department of Development. The Director shall have a reasonable knowledge of the generally accepted principles of building and zoning enforcement and regulations, community planning, traffic engineering and renewals and redevelopment projects and planning and administration. The Director shall have had not less than 10 years of progressively responsible technical and managerial experience in any one or several of these areas. The Director shall have the power to appoint heads of bureaus as hereinafter established and other employees necessary to the functioning of the Department with the approval of the City Manager and in accordance with the Civil Service Law. The Director shall have the power and shall be required to control, direct and supervise the functions of the planning, urban renewal, development and Federal Department of Housing and Urban Development programs, such as planning and management programs, and the Community Development Block Grant Programs. The Director shall be further required to coordinate the functioning of the several bureaus of the Department internally, with other departments and agencies of the city and with federal, state and county agencies as required. The Director shall have the power and authority to plan and recommend the policies of the city relative to the use or uses of land, the construction and occupancy of buildings and structures and the renewal, development or rehabilitation of areas of the city. The Director shall serve as principal technical advisor to the Planning Board and shall furnish to it such additional technical and staff planning services as it may require in the exercise of its duly assigned powers and authorities out of funds provided in the annual expense budget.

[1] *Editor's Note: Former Section 76 was repealed by L.L. No. 3-1958 (December 12, 1958).*

## Section 76.01. Office of the Director of Development.

[Enacted by Local Law No. 7-1962 (July 11, 1962).]

The Director of Development shall be responsible to the City Manager for the management of the work of the Department and of its several bureaus hereinafter referred to. He shall be responsible for the management of the relations of the Department with other city departments as well as other governmental agencies, contractors and consultants.

The Director shall have the power to appoint, with the approval of the City Manager and in accordance with the provisions of the Civil Service Law, the necessary staff of planning technicians to perform community planning functions and to render technical and staff services as may be required by the Planning Board under the supervision of the Director. He shall from time to time make recommendations for changes or modifications in land use or uses, patterns, land development plans and zoning regulations. He shall cooperate and coordinate planning and zoning matters with the Planning Board and the Board of Appeals on Zoning and shall from time to time be responsible for recommendations to the Council for any changes or modifications with respect to land use or uses, patterns, land development plans and zoning.

## Section 76.02. Capital improvements and capital program.

[Enacted by Local Law No. 7-1962 (July 11, 1962).]

The Director of Development shall prepare for submission to the City Manager on or before July 1 in each year a list of capital improvements which are necessary or desirable to be constructed during the forthcoming six-year period. The Director of Development shall list the projects in order of preference, and the list shall contain the following additional information as to each project:

1. The order in which it is recommended the project shall be undertaken and/or constructed.
2. The estimated cost.
3. Whether the cost should be paid by the city at large, should be wholly or partly assessable against the benefited area and/or should be paid wholly or partly from the income to be derived from the operation of the project.

The Director of Development, in preparing the list of capital improvements, shall give due consideration to the financial resources of the city and its ability to pay for the projects recommended. The Director of Development shall have the cooperation of the Planning Board and such commissions, departments and bureaus of the city as he deems necessary.

Together with the budget estimate, the City Manager shall submit to the City Council a capital program which shall be a plan of capital projects proposed to be undertaken during a six-year period, the estimated cost and

proposed method of financing. A public hearing on the capital program shall be held by the Council together with the public hearing on the City Manager's budget estimate.

## Section 76.03. Bureau of Traffic Engineering.

[Enacted by Local Law No. 7-1962 (July 11, 1962); repealed by Local Law No. 3-1985 (April 16, 1985).]

## Section 76.04. Bureau of Buildings.

[Enacted by Local Law No. 7-1962 (July 11, 1962); amended by Local Law No. 5-1970 (June 8, 1970); Local Law No. (6-1972 (December 11, 1972); Local Law No. 4-1976 (September 7, 1976); repealed by Local Law No. 4-1980 (April 15, 1980); reenacted by Local Law No. 3-1992 (July 8, 1992); amended by Local Law No. 8-1997 (June 17, 1997).]

There is hereby established within the Department of Development the following Bureau:

Bureau of Buildings. The head of the Bureau of Buildings shall be appointed by the Commissioner of Development with the approval of the City Manager, in accordance with Civil Service Law. The Building Official shall be responsible for the administration and enforcement of the Zoning Ordinance, the Building Code, the Plumbing Code, the Property Maintenance Code and all ordinances of the city pertaining to buildings or structural work of any kind. The Bureau of Buildings shall constitute the central agency responsible for the checking and clearance of all applications and plans for compliance with the building and zoning regulations as well as the receipt and checking of applications for subdivision development, zoning variances, special permits and appeals from administrative decisions in the area of land use or uses, subdivision development, building and zoning.

## Section 76.05. Bureau of Urban Renewal.

[Repealed by Local Law No. 4-1977 (December 1, 1977).]

## Section 77. Bureau of Assessments.

[Enacted by Local Law No. 4-1951 (December 17, 1951); amended by Local Law No. 3-1958 (December 12, 1958); Local Law No. 2-1959 (May 6, 1959).]

The Assessor shall be the head of the Bureau of Assessments. He shall be appointed by the City Manager. The Assessor shall assess all property in the city liable to assessment for general taxes.

[1] *Editor's Note: Former Section 77 was repealed by L.L. No. 3-1958 (December 12, 1958).*

## Section 78. Bureau of Buildings.

[Repealed by Local Law No. 7-1962 (July 11, 1962).]

[1] *Editor's Note: Former Sections 78, 79 and 80 were repealed by L.L. No. 3-1958 (December 12, 1958).*

## Section 80A. Department of Personnel, Director of; duties.

[Enacted by Local Law No. 1-1954 (December 6, 1954); amended by Local Law No. 4-1958 (December 12, 1958).]

The Director of Personnel shall be the head of the Department of Personnel. He shall have power and shall be required to prepare and keep up-to-date a pay plan in the city service; develop and establish training and educational programs for persons in the municipal service; investigate and advise on matters pertaining to working conditions, sick leave and welfare of employees; maintain liaison with the Municipal Civil Service Commission as to the application of the Civil Service Law and its administration by the Municipal Civil Service Commission; establish and maintain a program of attracting qualified persons to seek employment with the city and to recruit and interview prospects; review job descriptions of each position in the city; ascertain and note any changes in the duties of such position; receive complaints and grievances from employees regarding working conditions, remuneration and opportunity for advancement; he shall perform such other duties in regard to personnel matters

as the City Manager may direct.

## Section 81. Board of Education, purchase and supply.

[Repealed L. 1953, c. 878 (Section 325).]

## Section 81A. Child-Care Commission.

[Enacted by Local Law No. 6-1947 (December 23, 1947); amended by Local Law No. 5-1957 (September 11, 1957); repealed by Local Law No. 3-1985 (April 16, 1985).]

## Section 81.01. Youth Bureau.

[Enacted by Local Law No. 5-1977 (December 27, 1977); amended by Local Law No. 3-1978 (March 14, 1978); Local Law No. 4-2010 (October 19, 2010).]<sup>[1]</sup>

1. A Youth Bureau is hereby continued in the City of New Rochelle pursuant to the provisions of Article 19-A of the Executive Law of the State of New York, as amended.
2. The Youth Bureau shall be under the supervision of a paid full-time executive director appointed by the City Manager and responsible to the City Manager.
3. The Youth Bureau shall have a Youth Board consisting of 21 members appointed by the Chief Executive Officer to serve for a period of four years. Vacancies in the membership of such bureau shall be filled by appointment by the Chief Executive Officer for the unexpired term. The Chairman of the Board shall be appointed by the Chief Executive Officer and shall serve as Chairman during the term of his appointment. In the event of a vacancy in the office of the Chairman of the Board and the failure of the Chief Executive Officer to appoint a Chairman within 30 days of said vacancy, the Board shall elect one of its own members to serve as Chairman during the term of his appointment. In addition to the foregoing, the Commissioner of Police, Superintendent of Schools, City Court Judge, Corporation Counsel and Commissioner of Human Services, or their representatives, shall be ex officio members of the Youth Board without vote.
4. The City Manager shall have the power to appoint such employees as may be authorized and prescribed by the City Council.
5. The Board shall have such powers, duties and responsibilities as are prescribed in the New York Code Rules and Regulations of the Executive Department of the State of New York, Part 165, Subtitle E, presently in effect, and as the same may be amended from time to time.

[1] *Editor's Note: This section was previously enacted by L.L. No. 5-1957 (September 11, 1957); amended by Local Law No. 2-1966 (March 9, 1966); and rescinded by L.L. No. 5-1976 (December 7, 1976); Local Law No. 4-2010 (October 19, 2010).*]

## Section 81.02. Department of Off-Track Betting: Director: power and duties.

[Enacted by Local Law No.6-1971 (December 13, 1971); repealed by Local Law No. 3-1985 (April 16, 1985).]

## Section 81.03. Department of Human Services, Commissioner of; duties.

[Enacted by Local Law No. 5-1976 (December 7, 1976); repealed by Local Law No. 2-1994 (May 23, 1994).]

## Section 81.04. Department of Parks and Recreation.

[Enacted by Local Law No. 2-1994 (May 23, 1994)<sup>[1]</sup>; amended by Local Law No. 15-1997 (December 9, 1997); Local Law No. 1-2004 (March 16, 2004).]

The Commissioner of Parks and Recreation shall be the head of the Department of Parks and Recreation. He or she shall be appointed by the City Manager and responsible to the City Manager in accordance with the Civil Service Law. The Department shall be responsible for the creation, equipment, operation, maintenance and use of playgrounds, recreation centers and public parks.

[1] *Editor's Note: This local law also repealed former § 81.04, Bureaus established within the Department of Human Services, enacted by Local Law No. 5-1976 (December 7, 1976), amended by Local Law No. 5-1977 (December 27, 1977).*

## Section 81.05. Bureau of Marinas, Docks and Harbors.

[Enacted by Local Law No. 2-1994 (May 23, 1994); amended by Local Law No. 1-2004 (March 16, 2004).]

The Marina Manager/Harbormaster shall be the head of the Bureau of Marinas, Docks and Harbors. He or she shall be appointed by the Commissioner of Parks and Recreation and responsible to the Commissioner of Parks and Recreation in accordance with Civil Service Law. The Bureau shall be responsible for the management and administration of the marinas, docks and harbors of the city.

## Section 81.06. Bureau of Office of the Aging.

[Enacted by Local Law No. 2-1994 (May 23, 1994); amended by Local Law No. 1-2004 (March 16, 2004).]

The Executive Director of the Office of the Aging shall be the head of the Bureau of Office of the Aging. He or she shall be appointed by the Commissioner of Parks and Recreation and responsible to the Commissioner of Parks and Recreation in accordance with the Civil Service Law. The Bureau shall be responsible for the management and administration of all programs for the aging pursuant to the provisions of Article 13-D of the General Municipal Law, as amended.

## Article VIII. Auditor

### Section 82. Appointment, qualifications and employees.

[Repealed by Local Law No. 3-1958 (December 12, 1958).]

### Section 83. Accounts and records.

[Repealed by Local Law No. 3-1958 (December 12, 1958).]

### Section 84. Audits.

[Repealed by Local Law No. 3-1958 (December 12, 1958).]

### Section 85. Investigations.

[Repealed by Local Law No. 3-1958 (December 12, 1958).]

### Section 86. Other duties.

[Repealed by Local Law No. 3-1958 (December 12, 1958).]

[1] *Editor's Note: Former Section 86a, Bureau of Assessments, and Section 86b, Bureau of Buildings, were renumbered as Sections 77 and 78, respectively, by L.L. No. 5-1959 (September 16, 1959).*

## Article IX. Officers and Employees; General Provisions

### Section 87. Definitions.

#### **OFFICERS**

Include all persons elected to a city office by the electors of the city of any division thereof, the City Manager, the directors of administrative departments and the heads of divisions or bureaus of such departments, the members of all boards and of all commissions of the city and the City Clerk.

#### **EMPLOYEE**

Includes all persons other than an officer, as herein defined, whose salary or compensation is paid out of the city treasury.

### Section 87.01. Appointment of committees.

[Repealed by Local Law No. 5-1964 (November 19, 1964).]

### Section 88. Qualifications.

[Enacted by Local Law No. 1-1957 (March 6, 1957); amended by Local Law No. 1-1971 (January 7, 1971).]

Every person elected to office by vote of the electors of the city must be an elector of the city.

No person shall be eligible to the office of Judge of the City Court unless he has been admitted to practice as an attorney and counselor in the Supreme Court of the State of New York, and has had at least 10 years active practice of his profession and shall have been a resident of the City of New Rochelle at least five years prior to his election. The City Judge shall devote full time to the work of the City Court and shall not engage in the general practice of law. If an elective officer ceases to be a resident of the city, or if a Supervisor ceases to be a resident of the ward from which he is elected, his office shall thereupon become vacant. No elective officer shall hold at any time more than one city office, and upon his acceptance of the second office the first office shall become vacant.

### Section 89. Certificate of appointment.

Every appointment to a city office shall be made by a certificate in writing signed by the appointing officer or, if appointed by the Council, signed by the Mayor, and filed in the office of the City Clerk.

### Section 90. Official oath and undertaking.

Before entering upon his duties every officer shall file with the City Clerk the constitutional oath of office, and if required by this Charter or by resolution of the Council an undertaking in accordance with the provisions of the public officers laws in the amount required by such resolution or by law, which undertaking shall be approved by the City Manager (except as to his own, which shall be approved by the Mayor), as to the sufficiency of the surety or sureties, and by the Corporation Counsel as to its form and validity. The City Manager (except in his own case, when the Mayor shall act in his place) shall examine the sufficiency of the proposed sureties of any officer or person from whom an official undertaking is required, and may require such sureties to be examined under oath as to their qualifications. The justification of such surety shall be reduced to writing, subscribed by him, certified by the officer administering the oath and annexed to and filed with the undertaking. In case any officer fails to file the oath of office, or an undertaking, if required, on or before the beginning of his term of office, if it is an elective office or, if it is an appointive office, within 10 days after his appointment, his office shall be deemed vacant and must be filled as

herein provided.

The expense of procuring official undertakings by officers, whenever the same are required to be given, shall be paid by the city upon presentation of claims for the same and the auditing and approval thereof in the manner provided for claims against the city.

## Section 90.1. Vacancies in appointive office.

[Enacted by Local Law No. 12-1997 (September 16, 1997).]

When any member of a board, commission or bureau fails to attend three consecutive meetings of such board, commission or bureau, unless such absence is for good cause and is excused by the chairperson or other presiding officer thereof or, in the case of such chairperson or other presiding officer, by the appointing authority, the office shall be vacant for purposes of the nomination and appointment of a successor.

## Section 91. Compensation of officers and employees.

The salary or compensation of officers and employees shall be established by ordinance, which shall provide uniform compensation for like services. Such schedules of compensation may fix a minimum and maximum for any grade; and an increase in compensation, within the limits provided for the grade, may be granted at any time by the City Manager or other appointing authority upon the basis of efficiency and seniority, except as otherwise provided in this Charter.

## Section 92. Vacancies.

[Enacted by Local Law No. 1-1966 (February 9, 1966); amended by Local Law No. 1-1987 (February 24, 1987).]

Any vacancy in the office of Mayor, Council member, Supervisor or Judge of the City Court, other than by expiration of term of office, shall be filled by the Council. No person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy. The position filled temporarily by appointment must be filled at the next general election, and the individual who is elected at said election shall serve only for the remainder of the original term.

[1] *Editor's Note: Former Section 92, Vacancies, was repealed by L.L. No. 1-1966 (February 9, 1966).*

## Section 93. Resignations.

Resignations of elective officers must be presented to the Mayor and, of all other officers, to the appointing board or officer, and such resignations must thereupon be filed in the office of the City Clerk.

## Section 94. Penalty for violation of duty.

Any officer or employee who willfully violates or evades any provision of law or, by culpable neglect of duty, allows any public property to be lost to the city shall be deemed guilty of a misdemeanor and, in addition to the penalties imposed by law, shall on conviction forfeit his office or employment.

### Section 94.01. Officers and employees not to be interested in transactions with city; penalty therefor.

[Enacted by Local Law No. 2-1957 (May 15, 1957); amended by Local Law No. 5-2001 (July 17, 2001).]

A.

1. No officer or employee shall be or become interested, directly or indirectly, in any manner whatsoever in transactions with the City of New Rochelle, except by operation of law, or act as attorney, agent, broker or employee for or accept any gift, loan or thing or promise of value from any person, firm or corporation

interested, directly or indirectly, in any manner whatsoever, in or in the performance of or in any litigation arising out of or involving any contract work or business or the sale or acquisition of any property, the expense, price or consideration of which is payable from the city treasury or by any assessment levied pursuant to law; or in the purchase, lease, rental or letting of or grant of license or permit in relation to any real or other property belonging to or taken by the city or which shall be sold for taxes or assessments or by virtue of legal process or any provision of law by or at the suit of the city.

Notwithstanding the foregoing, a city officer or employee may purchase real property from the city, provided such officer or employee has no conflict of interest in such purchase as set forth in § 801(1) of the General Municipal Law and the sale of such real property is made at public auction or by other open competitive process, except that a city officer or employee who is an abutting resident property owner may purchase city real property through negotiation where development of such real property would be impracticable.

2. Any person who knowingly and intentionally violates any of the provisions of this subdivision shall be deemed guilty of a misdemeanor and, in addition to the penalties imposed by law, shall on conviction, forfeit his office and/or employment.
  3. Any violation of any of the provisions of this subdivision shall, at the option of the City Manager, render forfeit and void the contract, work, business, sale or transaction affected, and such violation shall constitute a complete defense to any action brought thereon.
- B. No officer or employee shall during his employment or incumbency act as a real estate broker or engage in the real estate business in any transaction with the City of New Rochelle, nor appear as attorney or counsel before any city agency, nor appear as attorney or counsel in any action or proceeding wherein the city is involved or give opinion evidence against the interests of the city in any litigation to which the city is a party. This subdivision shall not be construed to restrict or prohibit the retainer of persons engaged as brokers or otherwise in the real estate business for the rendition of expert service.
- C. Any violation of any of the provisions of this section shall constitute cause for removal from office or employment.

## Section 94.02. Code of Ethics for officers and employees of the City of New Rochelle.

[Enacted as Local Law No. 6-1970 (September 14, 1970); amended by Local Law No. 2-1975 (August 5, 1975); Local Law No. 5-1997]

1. Statement of purpose. The City Council recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in city government. It is the purpose of this Code of Ethics to promulgate these rules and ethical conduct for the officers and employees of the city. This code shall serve as a guide for official conduct of the officers and employees of the city. The rules of ethical conduct as adopted shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.
2. Definitions.
  - (a) MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the City of New Rochelle, whether paid or unpaid, including members of any administrative board, commission or other agency thereof.
  - (b) INTEREST — A pecuniary or material benefit accruing to a municipal officer or employee unless the context otherwise requires. This shall include benefits accruing to the following:
    1. The municipal officers' or employees' spouse, minor child and dependents;
    2. A firm, partnership or association of which such officer or employee is a member or employee;
    3. A corporation, of which such officer or employee is an officer, director or employee; and
    4. A corporation, any stock of which is accrued or controlled directly or indirectly by such officer or employee.

3. Standards of conduct. Every officer or employee of the City of New Rochelle shall be subject to and abide by the following standards of conduct:
- (a) Gifts. An officer or employee shall not, directly or indirectly, solicit any gift or accept or receive any gift having a value of \$25 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence or could reasonably be expected to influence such officer or employee in the performance of such officer's or employee's official duties or was intended as a reward for any official action on such officer's or employee's part.
  - (b) An officer or employee shall not disclose confidential information acquired by such officer or employee in the course of such officer's or employee's official duties or use such information to further such officer's or employee's personal interest or the interest of others.
  - (c) Representation before one's own agency. An officer or employee shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which such officer or employee is an officer, member or employee or of any municipal agency over which such officer or employee has jurisdiction or to which such officer or employee has the power to appoint any member, officer or employee.
  - (d) Representation before any agency for a contingent fee. An officer or employee shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of such officer's or employee's municipality, whereby such officer's or employee's compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
  - (e) Disclosure of interest in legislation. To the extent that the officer or employee knows thereof, a member of the Council and any officer or employee of the City of New Rochelle, whether paid or unpaid, who participates in the discussion or gives official opinion to the Council on any legislation before the Council shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest such officer or employee has in such legislation.
  - (f) Investments in conflict with official duties. An officer or employee shall not invest or hold any investments, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with such officer's or employee's official duties.
  - (g) Private employment. An officer or employee shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of such officer's or employee's official duties.
  - (h) Future employment. An officer or employee shall not, after the termination of service or employment with such municipality, appear before any board or agency of the City of New Rochelle in relation to any case, proceeding or application in which such officer or employee personally participated during the period of service or employment or which was under such officer's or employee's active consideration, nor shall such officer or employee appear before any board or agency of the City of New Rochelle to which such officer or employee has appointed one or more members who are currently serving thereon. This shall include communicating in any form, including personally, through another person by letter or by telephone.
  - (i) Use or attempt to use such officer's or employee's official position to secure unwarranted privileges or exemptions for the officer or employee or others.
  - (j) Consultant. An officer or employee, after termination of service with the city, may be retained as a paid consultant at a reasonable fee upon the recommendation of the City Manager and approval of the City Council.
  - (k) Political solicitation. A municipal officer or employee shall not knowingly request or knowingly authorize anyone else to request any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.

- (l) Inducement of others. A municipal officer or employee shall not induce or aid another officer or employee to violate any of the provisions of this Code of Ethics.
  - (m) Recusal. A municipal officer or employee shall promptly recuse himself/herself from acting on a matter before the city when acting on the matter or failing to act on the matter may financially benefit his or her interest.
  - (n) Transactional disclosure. Whenever a municipal officer or employee is required to recuse him/her self under this Code of Ethics, such officer or employee shall:
    - (1) Promptly inform his or her superior;
    - (2) Promptly file with the City Clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board; and
    - (3) Refrain from participating further on the matter.
  - (o) Disclosure of financial interest. Certain employees and officers shall submit an annual statement of financial disclosure as provided in Chapter **33** of the Code of the City of New Rochelle.
4. Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the City of New Rochelle, or any agency thereof, on behalf of such officer or employee or any members of such officer's or employee's family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.
  5. Distribution of Code of Ethics. The City Manager of the City of New Rochelle shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the city within 20 days after the effective date of this local law. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of office or employment.
  6. Penalties. In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

## Section 94.03. Nonsalaried officers and employees.

[Enacted by Local Law No. 1-1958 (April 2, 1958); amended by Local No. 6-1970 (September 14, 1970).]

The provisions of Section 94.01 of this Charter shall not apply to any person appointed as a nonsalaried member of any board, agency or commission of the city, provided that such person, upon becoming a nonsalaried officer or employee of such board, agency or commission, shall disclose to the other members of said board, agency or commission his interest or employment in any transaction or matter which may come before such board, agency or commission, and provided further that such nonsalaried officer or employee shall refrain from voting on any transaction or matter in which he has an interest and that he also refrain from any discussion, debate or use of his position in such a manner as to attempt to influence the judgment of any of the other members of the board, agency or commission.

## Section 95. Elective officers removable by the Governor.

Any elective officer may be removed by the Governor in the same manner as a Sheriff, except that the Governor may direct the inquiry provided by law to be conducted by the Attorney General. After charges have been received by the Governor, he may suspend the officer affected thereby for a period not exceeding 60 days pending the investigation.

## Section 96. Removed officers not eligible for reelection or appointment.

No elective officer who has been removed from office under any provision of this Charter shall be eligible for election or appointment to fill the vacancy caused by his removal.

## Section 97. All fees belong to the city.

Except as otherwise provided by law, each officer or employee who receives any fees shall forthwith pay the same into the city treasury and account therefor to the Director of Finance.

## Section 98. Officers not to be interested in contracts.

No city officer who is authorized in his official capacity, on behalf of the city, to sell or lease any property or to make any contract or to take any part in the making of any such sale, lease or contract, shall take part in the making of any such sale, lease or contract if he is personally financially interested in such sale, lease or contract, directly or indirectly, whether in his individual capacity or as a member of any firm or as a stockholder in any corporation.

## Article X. General City Taxes

### Section 99. Apportionment of assessment.

Any person whose real property is assessed upon the assessment roll with real property of another person as one piece or plot may, at any time after the filing of the assessment roll, submit his deed or other evidence of title to the property to the Assessor. The Assessor shall apportion the assessment and the tax thereon, and shall forthwith deliver a written statement of his apportionment to the Treasurer. The Treasurer shall thereupon enter the apportionment upon the assessment roll, and shall thereafter separately receive the taxes so apportioned.

[1] *Editor's Note: Former Section 99 was repealed by L.L. No. 3-1972 (March 27, 1972), and former Section 104 was renumbered as Section 99.*

### Section 100. Assessment Map.

The Assessment Map of the City of New Rochelle, as it now exists or as it may be altered, amended or changed, is hereby declared to be the Official Assessment Map of the city.

[1] *Editor's Note: Former Section 100 was repealed by L.L. No. 3-1972 (March 27, 1972), and former Section 105 was renumbered as Section 100.*

### Section 101. Copy of assessment roll.

A true copy of the assessment roll shall be prepared by the Assessor and shall at all times be kept in his office.

[1] *Editor's Note: Former Section 101 was repealed by L.L. No. 3-1972 (March 27, 1972), and former Section 106 was renumbered as Section 101.*

### Section 102. Power to correct assessments.

The Council shall have the power to correct any assessment claimed to be erroneous or invalid by reason of clerical error in overvaluation upon the application of the party interested, his agent or attorney, and to remit the tax upon the excess valuation if such tax has not been paid and if the Council deems that an injustice has been done, provided that such application is accompanied by a written certificate signed and sworn to by the Assessor, stating that the valuation fixed was a clerical error and that he intended to fix a certain other valuation, naming such intended valuation. The assessment as corrected by the Council must not be lower than the amount named in such certificate.

[1] *Editor's Note: Former Section 102 was repealed by L.L. No. 3-1972 (March 27, 1972), and former Section 107 was*

*renumbered as Section 102.*

## Section 103. Report of canceled taxes and assessments.

In the event of the cancellation or correction of erroneous taxes or assessments by the Council or by judgment of a court, the City Clerk shall report the same to the Director of Finance, and the Director shall forthwith enter the same upon his record and notify the Treasurer thereof. The Treasurer shall not receive any such tax or assessment or mark the same abated until the Director has given him such notice.

[1] *Editor's Note: Former Section 103 was repealed by L.L. No. 3-1972 (March 27, 1972), and former Section 108 was renumbered as Section 103.*

## Section 104. Exemption from real property taxes.

[Enacted by Local Law No. 2-1971 (April 12, 1971).]

- (a) No exemption from real property taxes, either partial or full, shall be granted by the Council of the City of New Rochelle, excluding, however, the tax exemptions mandated by the Real Property Tax Law of the State of New York, until after a public hearing has been held thereon.
- (b) Upon receipt of an application for exemption from real property taxes, the Council may, by resolution, indicate its intent to consider such application. Such resolution shall direct the City Clerk to give notice by publication thereof twice in each of the two weeks preceding the meeting at which Council will consider the matter and the public hearing shall be held not less than 10 days after the date of first publication. Such notice shall specify the tax exemption requested, the name and address of the person, firm or corporation requesting such exemption, the location of the real property, the block and lot number as same appears on the Official Tax Assessment Map of the City of New Rochelle of the property for which the tax exemption is requested and the date when and place where the public hearing will be held.

[1] *Editor's Note: This section was originally listed as Section 109.*

## Section 105. The Board of Assessment Review.

The Board of Assessment Review shall prescribe the form in which complaints in relation to assessments shall be made to it. It shall fix the dates, places and time pursuant to law when the Board will meet to hear complaints. Hearings shall commence on the third Tuesday of June in each year, and terminate not later than the 15th day of July. The Board shall notify the Assessor of such dates, places and times on or before May 20 in each year. The verified statement showing the changes determined to be made in assessments, required by law to be delivered to the Assessor, shall be so delivered not later than July 20 in each year.

## Section 106.

[Enacted by Local Law No. 3-1972 (March 27, 1972); amended by Local Law No. 6-1985 (June 18, 1985).<sup>[2]</sup>]

The powers and duties of the Assessor and of the Board of Assessment Review shall be as set forth in Sections 99 through 103 and as specified in the Real Property Tax Law, except as otherwise set forth below in this Chapter X.

[1] *Editor's Note: This section was originally listed as Sections 104 and 105.*

[2] *Editor's Note: Section 3 of L.L. No. 6-1985 provided that the following laws or sections thereof are hereby superseded or changed: §§ 500; 506; 512, Subdivision 1; and 516, Subdivision 1, of the Real Property Tax Law, as amended by L. 1984, c. 379.*

## Section 107. Taxable status date.

[Enacted by Local Law No. 6-1985 (June 18, 1985).]

The taxable status of all real property in the City of New Rochelle shall be determined annually as of the first day of

May, and all real property therein shall be assessed according to its condition and ownership as of such date.

## Section 108. Ascertainment of facts for assessment.

[Enacted by Local Law No. 6-1985 (June 18, 1985).]

On or before the first day of May in each year, the Assessor shall ascertain, by diligent inquiry, all the real property located in the City of New Rochelle and the names of the owners thereof.

## Section 109. Tentative assessment roll; notice of completion.

[Enacted by Local Law No. 6-1985 (June 18, 1985).]

- A. On or before the first day of June, the Assessor shall complete the tentative assessment roll. The Assessor shall forthwith cause a notice, the contents of which are prescribed by Subdivision 1 of § 526 of the Real Property Tax Law, to be published once in the official newspaper of the City of New Rochelle.
- B. After publication of the notice and until the third Tuesday of June, the Assessor shall make the assessment roll available for inspection as prescribed by Subdivision 2 of § 526 of the Real Property Tax Law.
- C. When the original final assessment roll is prepared, pursuant to § 526 of the Real Property Tax Law, the tentative assessment roll shall be retained in the office of the Assessor for a minimum of five years from the date of filing thereof.

[1] *Editor's Note: Another Section 109 is set forth in Art. XI.*

## Section 110. Filing of final assessment roll; notice of completion.

[Enacted by Local Law No. 6-1985 (June 18, 1985).]

On or before the first day of August, the Assessor shall complete the final assessment roll, deliver the original to the Clerk of the County Legislature and prepare and file a certified copy in the office of the City Clerk. The Assessor shall forthwith cause a notice to be published once in the official newspaper of the City of New Rochelle stating that the final assessment roll has been completed and a certified copy thereof so filed for public inspection.

[1] *Editor's Note: Another Section 110 is set forth in Art. XI.*

# Article XI. Budget, Appropriation and Tax Levy

## Section 109. Budget estimate.

[Enacted by Local Law No. 1-1933 (June 5, 1933); amended by Local Law No. 1-1974 (June 4, 1974); Local Law No. 3-1985 (April 16, 1985).]

On or before the 10th day of November of each year, the City Manager shall prepare and submit to the Council a budget estimate presenting a financial plan for conducting the affairs of the city for the following fiscal year. The City Manager shall also prepare and submit to the City Council a summary of his budget estimate. The budget estimate shall include the following information:

- (1) Detailed estimates of the expenses of conducting each department and office of the city for the ensuing fiscal year. The classification of the estimate for the main divisions of all departments shall be as nearly uniform as possible.
- (2) Expenditures for corresponding items for the two preceding fiscal years with reasons for increases and decreases recommended.
- (3) The value of supplies and materials on hand at the date of preparation of the estimate.
- (4) The amount of the total and net debt of the city, together with a schedule of maturities of bond issues.

- (5) A statement of the amounts to be appropriated for interest on the city debt and for paying off any bonds maturing during the ensuing year.
- (6) An itemization of all anticipated income of the city from sources other than taxes and bond issues, with a comparative statement of the amounts received by the city from each of the same or similar sources for the two preceding fiscal years.
- (7) A schedule of positions and salaries showing increases or decreases in the number of positions and rates of pay.
- (8) An estimate of all unexpended balances which shall remain to the credit of the various departments at the end of the current fiscal year.
- (9) Such other information as the Manager may think desirable or as may be required by the Council.
- (10) The sums apportioned by the Board of Legislators of Westchester County to be levied on the city for state and county purposes; except that if such statement has not been received from the Board of Legislators by the 10th of November, then the said budget estimate shall be submitted to the Council with an estimate of such sums to be levied for state and county purposes.

[1] *Editor's Note: Another Section 109 is set forth in Art. X.*

## Section 110. Annual budget and appropriation.

[Enacted by Local Law No. 1-1933 (June 5, 1933); amended by Local Law No. 1-1953 (July 20, 1953); Local Law No. 4-1964 (November 19, 1964); Local Law No. 1-1974 (June 4, 1974); Local Law No. 3-1985 (April 16, 1985).]

Upon receipt of the Manager's budget estimate and his summary of the budget estimate, the Council shall consider the same and, after due publication of the summary, give a public hearing to all persons wishing to be heard in reference thereto. Such publication shall be made by printing the said summary, together with a notice that copies of the budget estimate will be available to the public at the office of the Clerk, at least once in the official newspaper not less than 20 days before the public hearing and by printing in addition thereto 100 copies for free public distribution by the City Clerk. The resolution fixing the date, time and place of the public hearing may be adopted before the City Manager submits the budget estimate to the Council, but the date so fixed in such resolution shall be not less than 20 days from the date of the publication of the summary of the budget estimate in the official newspaper. The Council may increase, decrease or reject any items contained in the budget estimate except items relating to indebtedness, judgments and estimated revenues.

If the statement from the Board of Supervisors of Westchester County of the sums apportioned by it to be levied on the city for state and county taxes shall have been received before the adoption of the budget, such sums apportioned shall be added unchanged to the budget estimate, otherwise the budget as adopted shall be passed as to state and county taxes on the City Manager's estimate.

Not less than one week after the public hearing, the Council shall adopt the budget estimate as submitted or amended, which shall then become the annual budget, and shall at the same time appropriate the amounts set forth in the budget as adopted and for the purposes stated therein.

[1] *Editor's Note: Another Section 110 is set forth in Art. X.*

### Section 110.1. Income-producing properties.

[Added by L.L. No. 4-2001 (May 15, 2001).<sup>[1]</sup>]

- A. Where real property is income-producing property, the owner shall be required to submit annually to the Assessor not later than the first day of March a statement of all income derived from and all expenses attributable to the operation of such property as follows:
  - (1) Where the owner's books and records reflecting the operation of the property are maintained on a calendar-year basis, the statement shall be for the calendar year preceding the date the statement is filed.
  - (2) Where the owner's books and records reflecting the operation of the property are maintained on a fiscal-year basis for federal income tax purposes, the statement shall be for the latest fiscal year.

- (3) Notwithstanding the provision of Paragraphs one and two of this subdivision, where the owner of the property has not operated the property and is without knowledge of the income and expenses of the operation of the property for a consecutive twelve-month period concluded as of the first day of February preceding the date the statement is filed, then the statement shall be for the period of ownership.
  - (4) The Assessor may for good cause shown extend the time for filing an income and expense statement by a period not to exceed 30 days.
- B. Such statements shall contain the following declaration: "I certify that all information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render this statement null and void."
- C.
- (1) In the event that an owner of income-producing property fails to file an income and expense statement within the time prescribed in Subdivision A of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty equal to five (5%) percent of the assessed value of such income-producing property determined for the current fiscal year. If, in the year immediately following the year in which an owner fails to file, the owner again fails to file an income and expense statement within the time prescribed in Subdivision A of this section (determined with regard to any extension of time for filing), such owner shall be subject to an additional penalty equal to 5% of the assessed value of such property determined for the current fiscal year. Such owner shall also be subject to a penalty equal to 5% of such assessed value in any year immediately succeeding a year in which a penalty of 5% has been imposed, if in such succeeding year the owner fails to file an income and expense statement within the time prescribed in Subdivision A of this section (determined with regard to any extension of time for filing).  
Penalties shall be billed and mailed to the owner by certified mail, return receipt requested, and, if such bill remains unpaid on the expiration of 60 days following the mailing of such bill, such penalty shall become a lien upon the property and shall be added to and collected with the city property tax levy for the property, and shall bear interest and be enforced as provided by law for other city taxes.
  - (2) The Board of Assessment Review shall deny a hearing on any objection to the assessment of property for which an income and expense statement is required and has not been timely filed.
  - (3) Where an income and expense statement required under the provisions of this section has not been timely filed, the Assessor may compel by subpoena the production of the books and records of the owner relevant to the income and expenses of the property, and may also make application to any court of competent jurisdiction for an order compelling the owner to furnish the required income and expense statement. In the event of such order, the Assessor shall be entitled to recover costs, including attorney fees.
- D. As used in this section, the term "income-producing property" means property owned for the purpose of securing an income from the property itself, but shall not include residential property containing three or fewer dwelling units or property classified in Class One as defined in Article 18 of the Real Property Tax Law.
- E. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Assessor, any officer or employee of the city, or any member of the Board of Assessment Review, any person engaged or retained by the city, or any member of the Board of Assessment Review on an independent contract basis, or any person, who, pursuant to this section, is permitted to inspect any income and expense statement or to whom a copy, an abstract or a portion of any such statement is furnished, to divulge or make known in any manner the amount of income and/or expense or any particulars set forth or disclosed in any such statement required under this section. The officers charged with the custody of such statements shall not be required to produce any income and expense statement or evidence of any contained in them in any action or proceeding in any court, except on behalf of the city, the Assessor and/or the Board of Assessment Review. Nothing herein shall be construed to prohibit the delivery to an owner or his or her duly authorized representative of a certified copy of any statement filed by such owner pursuant to this section or to prohibit particular statements and the items thereof, or the inspection by the legal representatives of the city and Board of Assessment Review of the statement of any owner who shall bring an action to correct the

assessment. Any violation of the provisions of this subdivision shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the Finance Department or the Board of Assessment Review, the offender shall be dismissed from office.

[1] *Editor's Note: This local law was subject to permissive referendum and became effective 6-29-2001.*

## Section 111. Preliminary appropriations.

[Enacted by Local Law No. 1-1933 (June 5, 1933).]

After the beginning of the fiscal year, if the annual budget has not yet been adopted, the Council, upon the written recommendation of the City Manager, may make appropriations for current department expenses, chargeable to the appropriations of the year when passed, sufficient to cover the necessary expenses of the various departments until the annual budget is in effect. The aggregate of any such preliminary appropriations shall not be more than 1/3 of the total of the appropriations proposed for the year in the draft of the annual budget estimate submitted to the Council by the City Manager.

## Section 112. Annual tax levy.

[Amended by L.L. No. 2-1995 (January 17, 1995).]

Not later than the next meeting of the Council following the meeting at which the annual budget is adopted and annual appropriation made, the Director of Finance shall report in writing to the Council the rate of tax levy required to produce an amount on income which, together with the estimated income from other sources, will equal the appropriation made by the Council. Upon receipt of the report of the Director of Finance, the Council shall by ordinance levy taxes at the rate specified in such report and shall direct the Director of Finance to apportion, and the Director shall apportion, the said taxes against the respective assessments as the same are set forth in the annual assessment roll. The amount of all taxes so embraced in such roll, as apportioned, shall be and become the first lien upon the property as of the first day of January of the fiscal year for which levied and shall remain a lien until paid. The City Clerk shall thereupon deliver the rolls to the Treasurer, with a warrant annexed thereto, signed by a majority of the members of the Council, commanding the Treasurer to collect the amount of said taxes.

## Article XII. General Financial Provisions

### Section 113.

The fiscal year of the city shall be the calendar year.

### Section 114. Power to borrow money.

[Repealed by L. 1943, c.]

### Section 115. Authority to spend money.

The Council and each officer and board shall have the power to spend or to authorize the expenditure of city money and to incur obligations within the limitations imposed by law and this Charter.

### Section 116. No expenditure without appropriation.

[Enacted by Local Law No. 3-1958 (December 12, 1958).]

No expenditure shall be made or obligation incurred by the Council, or by an officer or board, unless an

appropriation therefor has previously been made and there is at the time a sufficient unencumbered balance of such appropriation and available funds, or if payable from the proceeds of the sale of obligations, unless the issue of obligations has been authorized therefor, except as provided by this Charter and unless it is so certified by the Director of Finance that there is an unencumbered balance or available funds or the issue of obligations has been authorized.

## Section 117. Independent audit.

[Enacted by Local Law No. 3-1958 (December 12, 1958).]

The Council shall designate a qualified certified public accountant who shall make an annual independent audit of accounts and other evidences of financial transactions of the city government on specifications prescribed by the Council and shall submit this report to the Council and to the City Manager. Such audit shall be made in accordance with generally accepted auditing standards. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or in any of its officers. He shall not maintain any accounts or records of the city business.

## Section 117A. Issuance of bonds not to exceed \$500,000 in any one year.

[Repealed by L. 1943, c. 712<sup>[1]</sup>]

[1] *Editor's Note: See generally the New York Local Finance Law.*

## Section 118. Sale of bonds.

[Repealed by L. 1943, c. 712<sup>[1]</sup>]

[1] *Editor's Note: See generally the New York Local Finance Law.*

## Section 119. Certificates of indebtedness.

[Repealed in part by L. 1943, c. 712<sup>[1]</sup>]

Application of assessments. Whenever, after the retirement of tax anticipation notes, there remain uncollected assessments in anticipation of the collection of which such notes had been issued, such assessments, when collected, together with the interest thereon and the costs of sale, if any, shall become part of the sinking fund.

[1] *Editor's Note: See generally the New York Local Finance Law.*

## Section 119A. Tax certificates of indebtedness.

[Enacted by Local Law No. 4-1944 (November 13, 1944).]

Such certificates may be issued in anticipation of the collection of the taxes of the current year in an amount which shall not exceed the total of the annual tax levy of such year, less the amount of the taxes of such year already collected. Such certificates shall be a lien upon the taxes of such year, and expenditures from the receipts of the sale thereof shall be charged against the appropriation of such year. Whenever the amount of such certificates so issued, plus the collection of taxes for such year equals the amount of the annual tax levy thereof, all subsequent collections of taxes of such year shall, up to the time of the adoption of the budget by the Council for the second year succeeding, be applied to the payment of such certificates which have matured or to the redemption at par and accrued interest of the first maturing certificates then outstanding except certificates outstanding against the then current year's taxes, after which time all collections of taxes of such year shall become a part of the current surplus account specified in Section 128, Subdivision C, as herein amended. On or before December 31 of each year the city shall borrow by issuing tax certificates of indebtedness in an amount equal to the uncollected taxes of that current year, less the amount provided in the current budget for uncollectible taxes under Section 121B as herein amended as diminished by transfers, if any, and less the net unexpended balances and net excess revenues from such current

budget estimated as remaining on December 31 of such year.

## Section 120. Sale of certificates of indebtedness.

[Repealed by L. 1943, c. 712<sup>[1]</sup>]

[1] *Editor's Note: See generally the New York Local Finance Law.*

## Section 121A. Redemption of certificates of indebtedness.

[Enacted by Local Law No. 4-1944 (November 13, 1944).]

The amount of all tax certificates unredeemed at the time of the adoption of the budget by the Council for the second year next succeeding the year in which such certificates were issued shall be included in the budget of that year as an appropriation and such certificates shall be redeemed from such appropriation.

## Section 121B. Additional budget items.

[Enacted by Local Law No. 4-1944 (November 13, 1944).]

There shall also be included in the budget for each year a sum for the payment of taxes to be levied against real property owned by the city for the year for which the budget is adopted and an additional sum which is equivalent to the amount of taxes which will remain unpaid at the expiration of the year for which the budget is adopted and which in the opinion of the Council will be uncollectible.

## Section 121C. Redemption of assessment certificates of indebtedness.

[Repealed by L. 1943, c. 712<sup>[1]</sup>]

[1] *Editor's Note: See generally the New York Local Finance Law.*

## Section 122. Sinking fund.

[Repealed by Local Law No. 5-1947 (October 20, 1947).]

## Section 122A. Payments to current surplus account instead of sinking fund.

[Enacted by Local Law No. 5-1947 (October 20, 1947).]

Wherever provision is made in this Charter, state law or otherwise for the payment of funds into the sinking fund, such funds shall be paid into the current surplus account, and, in such event, the current surplus account shall be deemed to be the sinking fund.

## Section 122B. Current surplus account deemed as sinking fund.

[Enacted by Local Law No. 5-1947 (October 20, 1947).]

The current surplus account is hereby declared to be a sinking fund and shall be deemed a sinking fund to which bonds of the City of New Rochelle may be sold when authorized by the Council.

## Section 123. Limitation of indebtedness.

[Repealed by L. 1943, c. 712<sup>[1]</sup>]

[1] *Editor's Note: See generally the New York Local Finance Law.*

## Section 124. Contracts and endorsement by the Director of Finance.

[L. 1943, Ch. 710]

All contracts for construction or work to be done providing for the expenditure of over \$300 shall be endorsed by the Director of Finance and unless so endorsed shall not be binding on the city. The Director of Finance shall endorse contracts if there is an unencumbered balance of an appropriation, or, in the case of a contract payable from the proceeds of the sale of obligations, if the issue of such obligations has been authorized. In the case of a contract under which the amount is estimated, the estimated amount of the contract shall be certified to by the officer submitting the contract for endorsement and the endorsement of the Director of Finance shall be limited to such amount. The Director of Finance shall charge the amount of the contract so endorsed by him against the appropriation therefor. The endorsement of the Director of Finance shall be sufficient evidence in any action of an available balance of the particular appropriation. The provisions of this section shall not apply to contracts involving monthly payments for salaries, water, light, coal, rent, power, telephone and the like made for the ordinary maintenance or operation of a department, nor to contracts for more than one year authorized by the Council and providing for regular monthly payments.

## Section 125. Audit of claims.

[Amended by Local Law No. 5-1985 (May 21, 1985).]

The claims and accounts against the city must be transmitted to the Commissioner of Finance in the form of vouchers and audited by him before payments. No voucher shall be audited unless it shows the appropriation and account against which it is to be charged. No voucher shall be charged against one appropriation or account when properly chargeable against another appropriation or account.

## Section 126. Appeal from audit.

If claimant is dissatisfied with an audit he may appeal to the Council by serving notice of appeal in writing upon the Director of Finance and the Council at any time before the first regular meeting of the Council that is held after he received the Director of Finance audit. If any taxpayer is dissatisfied with an audit he may appeal to the Council on behalf of the city by serving notice of appeal in writing upon the Council, the claimant and the Director of Finance, within 10 days after the audit. The Council shall make rules for the procedure upon the hearing of such appeals, and the decision and audit of the Council after the hearing upon the appeal to it shall be final and conclusive as to the amount of the claim, but if there is no appeal from the original audit it shall in like manner be final and conclusive. The Director of Finance and the Council upon an appeal to it, as herein provided, shall have authority to take evidence and examine witnesses in reference to the claim and for that purpose may issue subpoenas for the attendance of witnesses, and the Director of Finance and each member of the Council are hereby declared to be ex officio commissioners of deeds.

## Section 127. Limitation of actions against the city.

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

- a. No action or proceeding to recover or enforce any claim, debt or demand against the city shall be brought until the expiration of 30 days after the same has been presented to the Director of Finance for audit. All actions brought against the city upon a contractual liability, expressed or implied, must begin within one year from the time when the cause of action accrued, or if for injuries to person or property, caused by negligence, within one year from the time of receiving the injuries; and in other cases within six months after the refusal of the Director of Finance to allow the claim.
- b. No action or special proceeding shall be prosecuted or maintained against the city in any case founded upon

tort as set forth and described in § 50-i of the General Municipal Law of the State of New York unless a notice of claim shall be served upon the city in accordance with the provisions of §§ 50-e and 50-i of the General Municipal Law and all of the provisions of said sections shall apply to the presentation of such claims and actions brought thereunder. An omission to present such notice within the time as above provided shall be a bar to an action against the city.

- c. The Director of Finance shall keep a separate record of non-contractual claims and shall have the same powers with respect to the investigation of such claims as he has with respect to contractual accounts and claims against the city. If such a claim, not exceeding \$50, is approved by the head of the department in connection with which it originated, the Director of Finance may settle and audit such claim in the same manner as contractual accounts and claims.

## Section 127A. Liability of city in certain actions.

[L. 1942, c. 767; amended by Local Law No. 1-1985 (January 15, 1985).]

No civil action shall be maintained against the city for damages or injuries to person or property sustained in consequence of any street, highway, trees, bridge, culvert, sanitary sewer or storm drains, sidewalk or crosswalk or any other public place being defective, out of repair, unsafe, dangerous or obstructed, or in consequence of the existence of snow or ice thereon, unless written notice thereof, specifying the particular place, had actually been given to the Commissioner of Public Works prior to the happening of the event causing such damage or injury to person or property, and there was a failure or neglect by the city to repair or remove the defect, danger or obstruction or to cause the snow or ice to be removed or the specified place to be made reasonably safe within a reasonable time after the receipt of notice relating to it.

## Section 127B.

[Enacted by Local Law No. 3-1952 (August 11, 1952).]

1. Investigation of claims. It shall be the duty of the Director of Finance to cause all claims, whether presented for audit or upon a contractual liability, expressed or implied, or for injuries to persons or property, to be thoroughly investigated. He shall have the power to issue subpoenas to compel the attendance of the claimant or any other person or persons to appear, to be sworn or affirmed and to testify before him relative to such claim and, when so sworn, to answer as to any facts relative to the justness of such claim.
2. An omission or refusal to attend or testify in obedience to such subpoena or to be sworn or affirmed or to answer any proper or material question on the part of any person or persons making a claim against the city shall be a bar to an action or proceeding against the city.

## Section 128. Revenue, transfers and balances.

[Enacted by Local Law No. 3-1934 (October 15, 1934); repealed by Local Law No. 3-1985 (April 16, 1985).]

## Section 128B.

[Enacted by Local Law No. 4-1936 (July 20, 1936).]

Transfers from the contingent fund may be made by the Council. No transfer shall be made from one appropriation or account to another appropriation or account other than the contingent fund except by unanimous consent of the Council.

Transfers, however, from one item to another item in the same account number in the budget may be made by order of the City Manager, except that the City Manager shall have no authority to order the transfer of any items so as to increase the items of salaries and/or wages. It shall be the duty of the City Manager to report to the Council all such transfers made by his order at the meeting following the date when the transfers are ordered.

## Section 128C.

[Enacted by Local Law No. 4-1944 (November 13, 1944).<sup>[1]</sup>]

Unencumbered balances or appropriations and net excess revenues, including those represented by uncollected taxes and other uncollected receivables and also any balances remaining by reason of the inclusion in the budget of the items specified in Sections 121A and 121B shall, at the end of the year, be transferred to the credit of a current reserve account, and when these balances are converted into cash they shall be transferred to a current surplus account. The amount in the surplus account estimated to be on hand December 31 of each year which is in excess of \$300,000 may be used as a general credit to reduce the budget of the following year. The Director of Finance may borrow from the surplus account on certificates of indebtedness of the city.

[1] *Editor's Note: See L. 1943, c. 710.*

## Section 128D.

[Enacted by Local Law No. 7-1936 (December 16, 1936).]

Interest charged as penalties for deferred payment of taxes subsequent to 1932 and collected during any year shall be used as revenue toward the payment of the operating expenses for such year. An estimated amount of collections of interest charged as penalties for deferred payment of taxes shall be included as revenue in the budget for each year.

## Section 128E.

[Repealed by Local Law No. 4-1944 (November 13, 1944).]

## Section 128F.

[Enacted by Local Law No. 4-1944 (November 13, 1944).]

The Council may provide that any appropriation other than a general department appropriation may be continued until the same is expended, provided that the same is not continued for more than three years. However, authority to extend appropriations as herein provided shall apply to the general appropriations made in the budget for public welfare administration, home and veterans' relief, institutional care, old age assistance, special prevention of cruelty to children and public nurse service.

## Section 129. Payments to the city.

[Amended by Local Law No. 3-1985 (April 16, 1985).]

An official receipt shall be given to each person who makes a payment in cash to the city by the officer or employee receiving the same, and all payments to the city shall be transmitted to the Treasurer on the day received and reported to the Commissioner of Finance as he prescribes.

## Section 130. Payments by the city.

[Enacted by Local Law No. 3-1958 (December 12, 1958); amended by Local Law No. 5-1985 (May 21, 1985).]

All payments shall be made by the Treasurer by check upon vouchers prescribed as to form by the Commissioner of Finance. Each check shall identify the claim in payment of which it is drawn by the claim number, date and amount. Checks shall be drawn and signed by the Treasurer and countersigned by the Commissioner of Finance.

## Section 131. Payroll checks.

All payroll checks shall be transmitted promptly by the Treasurer to the several boards and officers for delivery to the employees.

## Section 132. Deposits of city funds.

[Enacted by Local Law No. 6-1940 (August 29, 1940).]

City funds shall be deposited by the Treasurer only in such banks or trust companies, one or more, as shall have been approved by the Council.

## Section 133. Advertising and notice of taxes and special assessments.

Upon receiving a warrant for the collection of taxes and special assessments, the Treasurer shall forthwith advertise in the official newspaper once in each week for two consecutive weeks that he has received such warrant, and shall state the date upon which a penalty for nonpayment will be added and the amounts of the penalties for nonpayments. The Treasurer shall from time to time mail statements of unpaid taxes and special assessments to persons owing the same if in his judgment it will accommodate such persons or tend to promote the prompt collection of taxes and special assessments, but the incompleteness or incorrectness of such a statement, or the failure to send the same, shall in no way effect the validity of the tax or special assessment.

## Section 134. Taxes and special assessments due and payable; penalties of taxes and special assessments.

[Enacted by Local Law No. 1-1933 (June 5, 1933); amended by Local Law No. 7-1936 (December 16, 1936); Local Law No. 3-1951 (August 13, 1951); Local Law No. 4-1964 (November 19, 1964); Local Law No. 2-1977 (February 1, 1977); Local Law No. 2-1980 (December 26, 1979); Local Law No. 5-2003 (March 18, 2003); Local Law No. 12-2003 (September 11, 2003); Local Law No. 7-2004 (May 18, 2004).]

1. Effective through December 31, 2003, City general taxes and special assessments shall be due and payable, 1/2 thereof on the first day of January, and 1/2 thereof on the first day of July of each current year; interest at the rate of 2% per month or any portion thereof shall be charged as a penalty for the deferring of payment of the first half after the 31st day of January; and at the same rate for the deferring of payment of the second half after the 31st day of July of each year.

The deferred 1/2 of the taxes for the current year may be paid on the first day of January or any time thereafter, provided that the first half shall have been paid or shall be paid at the same time. Sewer, street paving and street macademizing assessments may be paid in such equal installments as the Council may determine, with interest thereon as provided in this section.

1. Effective January 1, 2004, City general taxes and special assessments shall be due and payable on the first day of January of each current year; interest at the rate of 2% per month or any portion thereof shall be charged as a penalty for the deferring of payment after the 31st day of January.
2. County general taxes and special assessments shall be due and payable on the first day of June of each current year; interest at the rate of 2% per month or any portion thereof shall be charged as a penalty for the deferring of payment after the 30th day of June.
3. On all taxes and special assessments levied prior to the first day of April 1914, interest shall continue to be charged as a penalty for the deferring of payment at the rates and in the manner prescribed by Chapter 559, Laws of 1910, up to the first day of April 1914, and thereafter as a penalty for the deferring of payment at the rate of 1% per month or any portion thereof until paid. On all taxes and special assessments levied after the first day of April 1914, interest at the rate of 2% per month or any portion thereof as a penalty for the deferring of payment shall be charged from the day they become due until paid. Notwithstanding anything in this section to the contrary, no interest shall be charged as a penalty upon any tax or assessment paid within 30 days from the first publication of the notice prescribed in the next preceding section.

## Section 135. Enforcement of collection of delinquent taxes.

[Enacted by L.L. No. 1-1995 (January 17, 1995).<sup>[1]</sup>]

The City of New Rochelle shall enforce the collection of delinquent taxes in the City of New Rochelle pursuant to Article 11 of the Real Property Tax Law of the State of New York, as amended by Chapter 602 of the Laws of 1993 and Chapter 532 of the Laws of 1994, as well as other technical and clarifying amendments.

[1] *Editor's Note: This local law also repealed former § 135, Collection of tax liens.*

## Section 136. Judgments in tax foreclosures.

[Repealed by L.L. No. 1-1995 (January 17, 1995).]

## Section 137. Procedure.

[Repealed by L.L. No. 1-1995 (January 17, 1995).]

## Section 138. Limitations.

[Repealed by L.L. No. 1-1995 (January 17, 1995).]

## Section 139. Application.

[Repealed by L.L. No. 1-1995 (January 17, 1995).]

## Section 140. Contingent fund.

The Council may make an appropriation or supplement an appropriation by the transfer from a contingent fund which may have been included in the budget of such an amount as it deems necessary. No direct charge for expenditures shall be made against the contingent fund.

## Section 141. Appropriations for recreation, celebrations and observances.

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

The Council may appropriate money for public sports or games and public recreational features and for public, patriotic or commemorative celebrations or observances.

## Section 142. Appropriations for pension funds.

[Repealed by Local Law No. 5-1940 (June 27, 1940).]

## Article XIII. Contracts

### Section 143. Provisions as to contracts.

[Enacted by Local Law No. 2-1938 (July 6, 1938); amended by Local Law No. 4-1964 (November 19, 1964); Local Law

No. 1-1972 (March 13, 1972); Local Law No. 5-1972 (September 11, 1972); Local Law No. 2-1973 (October 9, 1973); Local Law No. 2-1976 (June 1, 1976); Local Law No. 2-1978 (February 14, 1978); Local Law No. 6-1978 (October 17, 1978); Local Law No. 6-1983 (December 12, 1983); Local Law No. 1-1992 (February 18, 1992).]

- A. Except as in this Charter otherwise expressly provided, all contracts for public work and/or local improvements involving an expenditure of more than \$20,000 and all purchase contracts involving an expenditure of more than \$10,000 shall be subject to the following provisions.
- (1) Competition. They shall be awarded to the lowest responsible bidder, after such public advertisement and competition as the Council may prescribe. The City Manager shall have the power to reject all bids and may authorize that the contract be awarded to other than the lowest bidder.
  - (2) Sealed proposals. They shall be awarded under sealed proposals. Each proposal must be secured by a deposit of cash or certified check or bid bond or annual guaranty bond from an approved bonding or insurance company, authorized to do business within the State of New York. Such security shall be in an amount of not less than 5% of the proposal submitted. No proposal shall be opened until the advertised time, at which time and at the designated place all proposals shall be opened and read in public view and thereafter tabulated. All deposits, except that of the successful bidder, shall forthwith be returned. If the successful bidder or bidders refuse or neglect to enter into a contract in accordance with his proposals, the deposit shall be forfeited and retained by the city as liquidated damages.
  - (3) Execution. They shall be in writing and signed, if for supplies or material, by the purchasing agent and if for any other purpose by such department head or other official as may be designated by the City Manager, but no such contract shall be valid as against the city until it has been countersigned by the City Manager and approved in writing by the Corporation Counsel as to form of contract, competency of contracting parties, methods of execution and execution thereof.
  - (4) Bond or security. Upon the signing of a contract the City Manager shall require from the contractor a satisfactory bond or other security for the proper performance of the contract.
  - (5) Abandonment. In the event that the contractor abandons his work and the city elects to complete the work, it shall not be necessary to readvertise therefor.
  - (6) Waiving competitive bids. When in the judgment of the City Manager the subject matter of a proposed contract is such that competition is impossible or impracticable, he may so report with his reasons to the Council, which may exempt such proposed contract from competitive requirements.
  - (7) Alterations in contracts. Whenever it becomes necessary in the opinion of the City Manager to make alterations in any contract, such alterations may be made when authorized by the Council upon the written recommendation of the City Manager. No such alteration shall be valid unless the new price to be paid for any supplies, material or work under the altered contract shall have been agreed upon in writing and signed by the contractor and the City Manager prior to such authorization by the Council.
  - (8) Release of contractors. A contractor who has entered into a contract with the city shall not be released from such contract unless the Council shall have authorized the City Manager to make such release, and the form of such release shall have been approved by the Corporation Counsel.
  - (9) Notwithstanding the provisions of Subdivision (2) above, no deposit of cash or certified check, bid bond or annual guaranty bond shall be required on any proposal on a purchase contract where the total contract is less than \$20,000.
- B. All contracts not enumerated under Subsection **A** of this section shall be subject to such provisions as the Council may establish.

## Section 144. Public improvements by contract or direct labor.

Public work and local improvements of all kinds may be made by the appropriate department either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting for each improvement so made, or by contract duly made. The City Manager, with the approval of the

Council, shall determine by which of the foregoing methods any work or improvement shall be made.

## Article XIV. Local Improvements

### Section 145. Definitions.

Local improvements shall be understood to mean the construction of curbs, gutters and sidewalks, drains, culverts and sewers and the laying out, opening, extending, widening, grading and paving of streets.

### Section 146. Declaration of intention.

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

The Council, either on its own initiative or following the receipt of a petition of freeholders, may provide for the construction of curbs, gutters, sidewalks, drains, culverts and sewers and the laying out, opening, extending, widening, grading and paving of streets. Prior to the authorization by Council of any local improvement, the Council shall direct the City Manager to have a report prepared thereon containing the information specified in Section 147 of this Charter. Following the receipt of such report by the Council, if it desires to proceed with the improvement, the Council shall, by resolution, declare its intention to consider such local improvement. Such resolution shall generally describe the contemplated purpose, and if the contemplated local purpose consists of work, services or improvement, any portion of the cost of which is to be assessed against property deemed to be benefited thereby, the resolution shall also specify the portion of the cost so to be assessed, the limits of the proposed area of assessment, the method of spreading the assessment over the parcels of property within that area and the number of installments in which the assessments may be paid.

### Section 147. Plans and estimates of cost and apportionment.

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

The report required by Section 146 of this Article shall consist of:

1. A detailed estimate of the cost of the proposed work, service or improvement, including all necessary surveys, plans, profiles and specifications.
2. The location and assessed valuation of any land, easements or other property proposed to be taken.
3. A designation of a district of assessment, including that portion of the city which will be benefited by such improvement and which should be assessed for the cost and expense thereof.
4. Estimates of the amount of assessment for benefits to be assessed against each parcel of property affected.
5. A statement of the assessed valuation of each parcel of property against which any benefit is to be assessed, together with the location and block and lot number as shown on the official assessment map of each parcel. A copy of the report, when completed, shall be placed on file for public inspection in the office of the City Clerk.

### Section 148. Notice of proposed local improvement; objections; public hearing.

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

Following the passage of a resolution by the Council declaring its intention to make a local improvement, the assessment for which is payable wholly or in part by a local assessment, the Council shall, and, where the cost thereof is made a charge against the city at large, the Council may, direct the City Clerk to give notice by publication thereof twice in each of the two weeks preceding the meeting at which Council will consider the matter and the hearing shall be held not less than 10 days after date of first publication. Such notice shall: (1) specify the time and

place at which the Council will meet to consider the matter; (2) contain the contemplated purpose and the work, service or improvement proposed; (3) the estimated cost thereof; (4) the portion of the cost to be assessed against the area of assessment and estimates of the amount of assessment for benefits to be assessed against each parcel of property affected; (5) the limits of the proposed area of assessment; (6) the method of spreading the assessment over the parcels of property within that area and the number of installments in which the assessments may be paid. Written objections to the local improvement may be filed with the City Clerk at any time prior to the time set in the notice for the public hearing and shall be considered by the Council. At the time and place mentioned in such notice the Council shall meet and hear all persons desiring to be heard upon the matter of the proposed local improvement or with reference to the district of assessment of the nature of assessment or apportionment and shall, within 60 days thereafter, take such action as it shall deem proper.

## **Section 149. Authorization; assessment.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

A resolution authorizing such improvement may direct that the cost and expense thereof shall be defrayed by local assessment or that a portion of such cost shall be charged to the city at large and shall designate that district of the city which shall be assessed therefor or that the entire cost and expense thereof shall be charged against the city at large in accordance with Sections 150 and 151. The resolution shall also contain a description or designation of the real property if any required for such improvement. The cost of any work, service or improvement to be paid in whole or in part by assessment of the property specially benefited may include the direct cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of assessments and any other items of cost which may be reasonably attributed to the proposed work, service or improvement. The amount to be assessed against all properties specially benefited by any such proposed work, service or improvement shall be apportioned among the individual parcels in the manner designated by the Council in the resolution declaring its intention. The City Clerk, at least 10 days before the meeting at which Council shall meet to proceed with the consideration of the improvement, shall serve a copy of the notice required to be published by mail upon each property owner within the proposed area of assessment by mailing the same to the address shown on the records of the tax office of the City of New Rochelle. The City Clerk shall procure and file in his office an affidavit of the service of the notice required herein and such affidavit shall be prima facie evidence of the facts stated therein in any court action or special proceeding. The failure of the City Clerk to mail notices required or the failure of the property owner to receive the same or any error therein shall not invalidate the proceedings.

## **Section 150. Payment of cost of local improvements.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

The cost of the construction of sewers shall be assessed against the abutting property and the property draining into said sewer; the cost of the construction of curbs, gutters and sidewalks shall be assessed against the abutting property; the cost of laying out, opening, extending, widening, grading and paving of streets and the cost of the construction of drains and culverts may be assessed against the land or parcels of land benefited thereby or, if the Council shall deem it equitable, it may by resolution provide that a portion of the entire expense, stating the portion in such resolution, shall be charged against the city at large and the remainder assessed as herein provided or it may by resolution provide that the entire expense shall be charged against the city at large.

## **Section 151. Assessment for local improvements.**

[Enacted by Local Law No. 4-1964 (November 19, 1964); amended by Local Law No. 1-1969 (January 14, 1969); Local Law No. 3-2000 (June 20, 2000).]

The cost of the maintenance or repair of any local improvement, except sidewalks, shall be paid by the city. Where the cost of any local improvement is assessable in whole or in part against the abutting or benefited property, the Director of Public Works shall forthwith upon the completion of the local improvement make, levy and confirm an assessment as follows:

- a. For the construction of sewers the cost shall be assessed on the basis of the frontage or the area and in proportion to the benefit derived by each piece of property on the street in which the sewer is located and

each piece of property draining into said sewer.

- b. For the construction of curbs, gutters and sidewalks, the cost shall be assessed against abutting property on the basis of its frontage. For the construction of curbs and sidewalks, the cost shall be assessed on the basis of 100% for the front sidewalk, 50% for an additional sidewalk and 25% for a third sidewalk. For construction of curbs and sidewalks at street corners, to render them accessible in accordance with the Americans With Disabilities Act, the city will assume the initial full cost of any such required work. The maintenance and future replacement of such street corner curbs and sidewalks shall remain the responsibility of the respective adjoining property owner.
- c. For the laying out, opening, extending, widening, grading and paving of streets the cost shall be assessed against abutting property on the basis of its frontage or area and in proportion to the benefit derived.
- d. For the construction of drains and culverts the cost shall be assessed against the land or parcels of land benefited thereby.  
Property situated on street corners shall be exempt from sewer assessment on one side of the same of a distance not to exceed 75 feet.

## **Section 152. Local improvements, construction and assessment.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

After the Council has ordered that a local improvement be made and appropriation is made therefor, the Director of Public Works shall have charge of the construction of the local improvement and shall forthwith proceed with the construction. Upon the completion of the work the Director of Public Works shall forthwith assess upon the property affected its share of the cost of the local improvements as herein provided.

## **Section 153. Federal, state or county authorized improvements.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

Where the local improvement is undertaken through or by authority of any agency of the state and/or federal and/or county governments, the Council shall determine the amount, if any, to be borne by and assessed against private property as provided in this Article. Upon the completion of the improvement the Director of Public Works shall forthwith make, levy and confirm the assessment upon such property as herein specified.

## **Section 154. Exemption from sewer assessment.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

Property so situated that it cannot connect with the sewer shall be exempt from sewer assessment. The Director of Public Works shall keep a record of property so exempted, and no permit for sewer connections with such property shall be issued except upon payment of the sewer assessment.

## **Section 155. Assessment roll.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

The Director of Public Works shall make an assessment roll designating the property by lot, block and section number as shown upon the assessment map, and set the amount of the direct tax assessed in the last column of the assessment roll opposite the property to be assessed. The Director shall thereupon advertise once in each week for two successive weeks in the official newspaper that the assessment roll has been prepared and that it will be in his office for inspection for 15 days from the date of the notice and shall fix the date for the hearing of objections thereto.

## **Section 156. Hearing on assessment roll.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

At the time specified in the notice, the Director of Public Works shall attend and hear any objections to the assessment. The Director shall decide upon the objections and may thereupon correct the assessment roll.

## **Section 157. Confirmation of assessment roll.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

The Director of Public Works shall thereupon confirm the assessment roll, which shall be signed by him. The amount so assessed against each parcel shall be a lien upon the premises designated upon the assessment roll from the time of its confirmation by the Director.

## **Section 158. Collection of local assessments.**

[Enacted by Local Law No. 4-1964 (November 19, 1964); amended by Local Law No. 2-1970 (June 8, 1970).]

- a. The Council by resolution may determine, in its discretion, that such local assessments be paid in full or not to exceed 25 annual installments at the option of the property owner assessed for improvement.
- b. The Director of Public Works shall forthwith deliver the assessment roll to the Treasurer with a warrant for the collection of the assessment in installments as therein contained, together with interest at 6% per annum on each installment from date of confirmation to its due date and thereafter in accordance with Section 134.

## **Section 159. Apportionment of assessment.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

Any person whose real property is assessed upon the assessment roll with real property of another person one piece or plot may, at any time after the filing of the assessment roll, submit his deed to the property to the Assessor. The Assessor shall apportion the assessment and the tax thereon and shall forthwith deliver a written statement of its apportionment to the Treasurer. The Treasurer shall thereupon enter the apportionment upon the assessment roll and shall thereafter separately receive the tax so apportioned.

## **Section 160. Contracts with owners of private streets.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

The Director of Public Works shall have the power to enter into a contract for the construction of a sewer with the owner of any private street, provided that the owner of the street will construct the sewer without cost to the city. Such contracts shall not be entered into by the Director except pursuant to a resolution of the Council. No contract shall be made until the owner of the street has granted and conveyed to the city an easement or right of way over the street for the purpose of entering thereon to maintain, alter, repair, reconstruct or enlarge the sewer or to make connection therewith. Such sewer shall be constructed under the specifications and supervision of the Department of Public Works. All such sewers when completed and accepted by the Department shall be the property of the city, and the abutting property shall be exempt from assessment therefor.

## **Article XV. Area of Assessment for Local Improvements**

[Repealed by Local Law No. 4-1964 (November 19, 1964).]

## **Article XVI. Acquisition of Real Property for Public Purposes**

### **Section 168. Power to acquire real property.**

The city by resolution of the Council shall have power to acquire real property, or any interest therein for any city purpose, by purchase or by condemnation.

## **Section 169. Preliminary survey.**

The Council shall by resolution prescribe the manner in which all applications for the purchase or condemnation of real property, or any interest therein, for public purposes shall be made to it by any board or officer, and by what maps and other documents such application shall be accompanied. The Department of Public Works, and its agents, engineers, surveyors and such other persons as it may deem necessary to enable it to perform its duties under this Charter, are hereby authorized to enter upon any land or water for the purpose of making examinations or surveys and preparing maps for the purposes provided in this Article.

## **Section 170. Procedure.**

If in any case the Council is unable to agree with the owner or owners or other persons having an interest in the real property, the acquisition of which is deemed by the Council to be necessary for any city purpose, or when by reason of legal incapacity or absence of such owner, owners or other persons having an interest in the real property no agreement can be made for the purchase of such real property or interest therein, the Council may by resolution declare its intention to acquire the same by condemnation proceedings, and the real property or interest therein so declared to be necessary for any city purpose shall be acquired by condemnation proceedings instituted by the city in the manner provided by the Civil Practice Law and Rules for the condemnation of real property.

## **Section 171. Title pending condemnation.**

[Enacted by Local Law No. 4-1964 (November 19, 1964).]

If the Council by resolution so declares, the title to the real property or interest thereon to be acquired for public purposes by condemnation shall pass to the city upon the qualification of the commissioners appointed to condemn the same, and the city may thereupon enter and take possession of such property. Whenever title is thus vested in the city, the commissioners shall add interest to the awards at the rate of 4% per annum from the date of their qualification to the date of the awards.

## **Section 172. Action upon award.**

In case of neglect or default in the payment of the sum or sums of money awarded by the commissioners within four months after the confirmation of their report, the person or persons to whom the awards have been made may bring an action against the City of New Rochelle to recover the same with interest.

## **Article XVII. Civil Service**

### **Section 173. Municipal Civil Service Commission.**

The Municipal Civil Service Commission shall be constituted as prescribed by law and shall elect one of its members President. The members of the Commission who are in office when this Charter takes effect shall be the members of the Commission (subject to the power of removal as prescribed by law) until the expiration of their terms of office and until their successors are appointed and qualify. Their compensation shall be fixed by the Council.

### **Section 174. Secretary.**

[Amended by L.L. No. 1-2010 (March 23, 2010).]

The City Manager may appoint and at pleasure remove a secretary, who shall perform such duties as may be

imposed by City Manager, the Commission or by law.

## Section 175. Appointment of Commissioners.

The members of the Municipal Civil Service Commission as prescribed by law shall be appointed by the Mayor.

## Article XVIII. Board of Education

[Repealed by L. 1953, c. 878, Section 325]

## Article XIX. (Reserved)

[1] *Editor's Note: Former Article XIX, Public Library, was repealed 1-14-2003 by L.L. No. 1-2003.*

## Section 177. (Reserved)

## Section 178. (Reserved)

## Section 179. (Reserved)

## Article XX. Advisory Boards and Commissions

### Section 180.00. Planning Board; creation and appointment.

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

There shall be a City Planning Board to consist of seven members to be appointed by the Mayor, who shall have the power to remove any members of such Board for cause and after public hearing. The present members of the Board shall serve out the remainder of their terms. Their successors and the successors of those now in office shall be appointed for terms of three years from and after the expiration of the term of their predecessors in office. If a vacancy shall occur otherwise than by expiration of the term, it shall be filled by appointment for the unexpired term. The Director of Development shall attend all meetings of the Planning Board and shall cooperate with the Planning Board in the performance of its duties.

### Section 180.01. Officers and expenses.

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

The Mayor shall designate a member of the Planning Board to act as Chairman thereof for a term of one year, or on his failure so to do, the Planning Board shall elect a Chairman from its own members. The Director of Development shall provide to the Planning Board a planning consultant and such experts, technical advisors and staff as may be required by the Planning Board at a cost not to exceed that provided for in the annual expense budget for said purposes. The members of the Board shall serve without compensation.

### Section 180.02. Powers.

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

The Planning Board shall have all of the powers and duties specifically granted or imposed by Article 3 of the General City Law and in addition thereto such powers and duties which the Council may from time to time confer or impose upon it by separate, general or specific rule, ordinance or resolution in accordance with the provisions of

said Article 3 as the same may from time to time be amended.

## Section 180.03. Appeals.

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

Appeals from decisions of the Planning Board may be taken as provided by Article 3 of the General City Law and any amendments or additions thereto and any other provisions of the law applicable thereto.

## Section 180.04. Master Plan.

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

The Planning Board shall prepare and shall keep up-to-date a Comprehensive Master Plan for the development of the city, which Master Plan shall show existing and proposed streets, bridges and tunnels and the approaches thereto, viaducts, parks, public reservations, roadways in parks, sites for public buildings and structures, zoning districts, pier head and bulkhead lines, waterways and routes of public utilities, location of drainage systems, sewer, sewer treatment plants, incinerators, water conduits, either privately or publicly owned, and such other features existing and proposed as will provide for the improvement of the city and its future growth, protection and development and will afford adequate facilities for public housing, transportation, distribution, comfort, convenience, public health, safety and general welfare of its population.

## Section 180.05. Official Map.

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

The Official Map or Plan of the City of New Rochelle as the same shall exist at the time when this amendment goes into effect is hereby continued and referred to in this chapter as the "Official Map."

1. The Director of Development shall be the custodian of the Official Map, and it shall be the duty of the Director of Development to complete and maintain the same and to register thereon all changes resulting from action authorized by law. He shall file with the Clerk of the County of Westchester a certificate showing that the city has established an Official Map.
2. The Official Map shall be filed in the office of the Director of Development and certified copies thereof and of all changes thereto shall be filed in the office of the Corporation Counsel, the City Manager, the City Clerk and the City Engineer.

## Section 180.06. Official Map, Master Plan, changes.

[Enacted by Local Law No. 6-1962 (July 11, 1962); amended by Local Law No. 1-1968 (September 9, 1968).]

- a. After the adoption of the Master Plan or any part thereof, no improvement or project affecting the Master Plan, and no addition to or change in the plan shall be authorized otherwise than as provided in this chapter.
- b. Before taking action on any proposed addition to or change in the Official Map, the City Council shall refer it to the Planning Board, which shall report thereon within 30 days with respect to its relation to the Master Plan and the Official Map. If the Board shall not make this report with respect to any proposed change within 30 days of such reference, it shall forfeit its right to further withhold its report.
- c. An addition to or change in the Official Map may be initiated by recommendation of the Board to the City Council adopted after public hearing before the Board, notice of which shall be published in the local newspaper at least 10 days prior thereto, with the same effect as a report made by the Board on a proposed addition or change referred to by the City Council.

## Section 180.07. Coordination.

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

In order to effect the accomplishment and purposes of the powers herein authorized, the City Council and the Planning Board shall schedule joint meetings with respect to the capital improvement program, the Master Plan and the Official Map. To further effectuate the purposes there shall be a coordinating committee, to consist of the City Manager and two members of the Council who shall be appointed by the Council and two members of the Planning Board who shall be appointed by the Planning Board.

## **Section 180.o8. Deliberations of the Planning Board.**

[Enacted by Local Law No. 6-1962 (July 11, 1962).]

All deliberations of the Planning Board shall be conducted publicly and all votes on any matter before the Planning Board must be taken at a public meeting.

## **Section 180-A. List of capital improvements to be submitted by the Planning Board.**

[Enacted by Local Law No. 2-1955 (June 15, 1955); repealed by Local Law No. 6-1962 (July 11, 1962).]

The Municipal Art Commission shall be composed of seven members appointed by the Mayor, among whom one shall be designated as Chairperson by the Mayor. One member shall be appointed from the New Rochelle Art Association, and one member shall be appointed from the New Rochelle Council on the Arts. All shall reside or work in the city. The term of office of each member shall be three years. The City Manager or the City Manager's designee(s) shall serve ex officio as (a) non-voting member(s) of the Commission. The members of the Commission shall serve without compensation. The Commission may adopt its own rules of procedure. Four members shall constitute a quorum.

## **Section 181. Municipal Art Commission.**

[Enacted by Local Law No. 6-1965 (December 8, 1965); amended by Local Law No. 6-2006 (June 20, 2006); Local Law No. 2-2014 (July 15, 2014).]

The Municipal Art Commission shall be composed of seven members appointed by the Mayor, among whom one shall be designated as Chairperson by the Mayor. One member shall be appointed from the New Rochelle Art Association, and one member shall be appointed from the New Rochelle Council on the Arts. All shall reside or work in the city. The term of office of each member shall be three years. The City Manager or the City Manager's designee(s) shall serve ex officio as (a) non-voting member(s) of the Commission. The members of the Commission shall serve without compensation. The Commission may adopt its own rules of procedure. Four members shall constitute a quorum.

## **Section 182. Duties and powers.**

[Amended by Local Law No. 4-1969 (July 14, 1969); Local Law No. 6-2006 (June 20, 2006).]

No work of art shall be erected or placed in or upon, or allowed to extend over or upon, any street, park, public building or other property belonging to the city until the same and its proposed location have been approved by the Commission. When required by the Commission, a complete model of a proposed work of art shall be submitted to it. No work of art in the possession of the city shall be removed, relocated or altered in any way without the approval of the Commission; but in case the immediate removal or relocation of any such work of art is deemed an emergency by the City Manager, the Commission shall be deemed to have approved same unless, within 48 hours after notice from the City Manager, it notifies the City Manager of its disapproval of such removal or relocation. The term "work of art" as used herein shall apply to and include mural decorations, stained glass, statues, basreliefs or other sculptures of a permanent character intended for ornament or commemoration. No building, pedestrian bridge, approach gate, fence, lamp, permanent streetscape element, or other structure shall be erected upon and over any street or land belonging to the city, unless the design thereof has first been submitted to the Art Commission for its recommendation and report to the Council. The City Council may by resolution or ordinance

vest the Commission with such other responsibilities and duties as the City Council shall deem necessary, including but not limited to advisory opinions regarding matters involving aesthetics and design.

## Section 183. Advisory boards.

The City Manager may appoint a board of citizens qualified to act in an advisory capacity to the head of any department and, with the approval of the Manager, the director of a department may appoint such a board to act in an advisory capacity to the chief of any division or bureau under his supervision. The member of any such board shall serve without compensation, and it shall be his duty to consult and advise with the director of such department or chief of such division or bureau, as the case may be, but not to direct the conduct of the department, division or bureau. The head of the department, division or bureau for which an advisory board is appointed shall be chairman of all meetings thereof.

## Article XXI. Supervisors

### Section 184.

[L. 1943, c. 710 (Title 34); repealed by Local Law No. 3-1985 (April 16, 1985).]

## Article XXII. Miscellaneous Provisions

### Section 185. Saving clauses.

All proceedings, matters and things which shall have been begun but not completed by the city or its departments or officers prior to the date when this Charter takes effect are hereby ratified and confirmed, and may be continued, carried on and completed under the provisions of this Charter as if they were begun and the action and steps taken therein in conformity with the provisions of this Charter.

Proceedings for the levying of taxes and assessments, the collection thereof and the sale of lands for nonpayment thereof pending and incomplete on the date when this Charter takes effect shall be carried on and completed under the provisions of this Charter.

If any action or special proceeding is pending in any court on the date when this Charter takes effect involving any proceeding, matter or thing which shall have been begun but not so completed, or involving any proceeding for the levying of taxes or assessments, the collection thereof and the sale of lands for the nonpayments thereof, the validity and effect of all such proceedings, matters and things, taxes, assessments and sales shall be adjudged and determined in such action or proceeding as the same would be adjudged if this Charter had not been enacted.

Nothing contained in this Charter shall be construed to repeal any statute of the state or any ordinance of the city or any rules or regulations of any department thereof or of the Board of Health not inconsistent with the provisions of this Charter, but the same shall remain in full force and effect when not inconsistent with this Charter and are to be construed and operated in harmony therewith. All acts and parts of acts not consistent herewith are superseded. All officers holding office at the time this Charter goes into effect shall continue in office and in the performance of their duties and in the receipt of their respective salaries until provision shall have been otherwise made in accordance with this Charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made, the term of any such officer shall expire.

The powers which are conferred and the duties which are imposed upon any officer, commission or department of the city under any statute of the state or any city ordinance in force at the time of the taking effect of this Charter shall, if such office or department is expressly or impliedly abolished by this Charter, be thereafter exercised and discharged by the officer, board or department upon whom or which is imposed corresponding or like functions, powers and duties under the provisions of this Charter.

Where any contract has been entered into by the city or by any officer thereof thereunto empowered prior to the time of the taking effect of this Charter, or any bond or undertaking has been given to or in behalf 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 Charter such office, board or department is abolished as aforesaid, such contract, bond or undertaking shall not in any manner be impaired, but shall continue in full force, and the powers conferred and the

duties imposed with reference to the same shall thereafter be exercised and discharged by the officer, board or department upon whom or which is conferred or imposed corresponding or like functions, powers or duties under the provisions of this Charter.

If any clause, sentence, paragraph, section or part thereof in this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

## Section 186. Ordinances to be published.

The ordinances in force when this local law takes effect shall be reduced to a code and published in pamphlet form. The code of ordinances of the city shall be revised by the Council from time to time, and published in pamphlet form at least every third year thereafter. All ordinances adopted during each calendar year shall be compiled and published on or before the first day of March of the succeeding year.

## Section 187. Powers of inquiry.

The Council, the City Manager, the Auditor or any board, commission, officer or person which or to whom the Council may by resolution delegate authority, shall, for the purpose of inquiry into the affairs of the city, have the powers conferred upon an officer, person, board, commission or committee by §§ 358 and 406 of the Civil Practice Law and Rules.

## Section 188. Official newspaper.

[Amended 4-15-2008 by L.L. No. 1-2008<sup>[1]</sup>]

On or before the 15th day of January in each year the City Manager shall designate as the official newspapers a daily newspaper and a weekly newspaper which have been continually circulated in the English language in the City of New Rochelle for at least two years prior to such designation. The City Manager may, however, at his or her discretion authorize special advertising in other newspapers. Any and all requirements in this Charter for publication of official notices in the official newspaper shall be deemed to require publication in either the daily or weekly official newspaper designated in accordance with this section. The City Manager may direct publication of official notices in both the daily and weekly official newspapers, where appropriate.

[1] *Editor's Note: This local law provided that it take effect 1-1-2009.*

## Section 189. Public records.

All books and records of any department in the city shall be public records.

## Section 190. Confirmation of asset and liabilities.

[Repealed by L. 1943, c. 712]

## Section 191. Judgment against the city.

No judgment recovered against the city shall be enforced by execution until after an annual tax has been levied and collected in said city, which tax was levied subsequent to the docketing of the judgment in the Westchester County Clerk's office.

## Section 192. Retaining walls.

No damages may be recovered from the city by reason of change of grade, but the Council may by resolution authorize the construction of retaining walls by the city when a street has been lowered to more than two feet below the top of the curbline of any property, provided that the owner of such property executes and delivers to the city a proper release of all damages or claims against the city by reason of such change of grade or the construction thereof.

## **Section 193. Claims against the city.**

[Enacted by Local Law No. 2-1958 (May 7, 1958).]

The Council may, in its discretion, inquire into, hear and determine any claim against the City of New Rochelle which has been certified to said board in writing by the Director of Finance as an illegal or invalid claim against the city, but which, notwithstanding, in his judgment is equitable and proper for the city to pay in whole or in part, and if upon such inquiry the Council by a unanimous vote determines that the city has received a benefit and is justly and equitably obligated to pay such claim and that the interest of the city will be best served by the payment or compromise thereof, it may authorize the Director of Finance to pay the claim, and the Director of Finance shall thereupon pay the claim in such amount as the Council shall so determine to be just, in full satisfaction of such claim, provided that the claimant shall fully release the city, upon any such payment, in such forms as shall be approved by the Corporation Counsel. The provisions of this section shall not authorize the audit or payment of any claim barred by the statute of limitations, nor any claim for services performed under an appointment in violation of any provisions of the Civil Service Law; nor shall the provisions of this section authorize the audit or payment or any claim for legal services incurred for or on behalf of any city officer or any member of any city board, commission, committee or any employee incurred in the defense of any charge against such officer, board member, commission or committee member or employee for misconduct, malfeasance, nonfeasance or misfeasance in connection with his official services or duties unless, prior to the engagement of counsel or the incurring of costs for defense, such officer or member of a board, commission or committee or an employee has made a formal request to the Council of the City of New Rochelle for the employment of legal counsel or the cost of defense and said request was approved and employment of counsel or cost of defense authorized by Council. An appropriation for such claims shall be included in the next annual budget.

## **Section 194. Vaults, cellars, stairways, coal holes and other structures under sidewalks.**

(L. 1948, c. 470.)

No vault, cellar, stairway, coal hole or any other structure shall be erected or maintained under the sidewalks of this city unless a permit for the same has been obtained from the Building Inspector. Such permit may be granted by the Building Inspector only upon the payment of an annual license fee to be fixed by ordinance of the Council. Any vault, cellar, stairway, coal hole or any other structure now in existence under the sidewalk may be continued hereafter only upon the payment of the annual license fee fixed by ordinance of the Council for the erection of such cellars, vaults, stairways, coal holes and other structures under the sidewalk. The provisions of this section shall not apply to a corporation operating any part of its business under a franchise from the State of New York.

Between the 15th and 31st days of December of each year the Building Inspector shall prepare and file in his office a list showing the properties where vaults, cellars, stairways, coal holes or other structures are maintained under the sidewalks. Such properties shall be designated by lot and block numbers as the same appear on the official assessment map of the City of New Rochelle. Such list shall also show the annual charge or license fee required to be paid for the use of such vaults, cellars, stairways, coal holes or other structures maintained under the sidewalks for the following year as fixed by ordinance. Within 10 days after the filing of such list the Building Inspector shall cause to be published in the official newspaper a notice stating that the list has been filed and specifying the time and place where the same may be examined. The period for such examination shall not be less than five full days after the date of the publication. During such period of examination, the Building Inspector shall hear any objections to the list and shall pass upon all objections, and he shall have authority to alter and correct the list. Within 10 days after the last day specified for the examination of the aforesaid list, the Building Inspector shall file the said list with the corrections, if any, with the Director of Finance, together with a copy of the notice published, and from the hour of such filing the amount of the fees specified in the said list shall be a lien upon the property affected thereby.

Penalties at the rate of 7% per annum shall be charged for payment of the fees made more than 30 days after the filing of the list with the Director of Finance. Failure on the part of the Building Inspector to prepare or publish the

list in the manner herein prescribed shall not invalidate the lien for the license fee hereinabove specified.

## Section 195. Injunctions to restrain violations of ordinances.

The City of New Rochelle may maintain actions in courts of record of competent jurisdiction to restrain violations of penal and other ordinances of the Common Council.

## Section 196. Commissioners of Deeds.

[Enacted by Local Law No. 2-1935 (September 16, 1935); amended by local Law No. 2-1988 (November 22, 1988).] The Mayor may appoint Commissioners of Deeds to hold office for two years from the dates of their appointments. Such Commissioners shall have the authority within the City to take affidavits and acknowledgments and upon qualifying shall pay the City Clerk a fee of \$10.

## Section 197. Duty to keep sidewalks and curbs clean and in good repair.

[L. 1948, c. 470 (effective April 24, 1948); amended by Local Law No. 1-1991 (January 22, 1991); Local Law 9-1997 (July 16, 1997); Local Law No. 4-2000 (June 20, 2000); Local Law No. 5-2000 (November 21, 2000); Local Law No. 7-2003 (May 21, 2003); Local Law No. 11-2003 (July 15, 2003).]

- (a) It shall be the duty of every owner of any occupied or unoccupied lot or piece of land or any part thereof within the City of New Rochelle to keep the sidewalks and curbs adjoining his or her lot or piece of land at all times in repair, free of defects, clean and free from snow, ice or other obstruction. Property owners are responsible for the replacement of deteriorated or defective curbs.
- (b) It shall be the duty of every owner of any occupied or unoccupied lot or piece of land or any part thereof within the City of New Rochelle to remove new ice and freshly fallen snow from such sidewalks before 12:00 noon of each day and to keep the same cleaned at all times.
- (c) In the event that the Commissioner of Public Works receives notice of a defective condition of a sidewalk or curb pursuant to Article **XII**, Section 127A, of this Charter or the City receives a notice of claim pursuant to § 50-e of the General Municipal Law alleging such a defect, the Commissioner of Public Works shall cause the area of the alleged defect to be inspected and a report to be made to the Commissioner of Public Works concerning the existence and extent of the alleged defect.
- (d) In the event that any owner of any occupied or unoccupied lot or piece of land or any part thereof within the City of New Rochelle shall fail to maintain the sidewalks and curbs adjoining his or her lot or piece of land as required by Subdivisions (a) and (b) above, whether the failure be determined through the procedure of Subdivision (c) above or otherwise, the City shall serve written notice upon such owner by certified mail to his or her last known address or place of residence, if known, and, if not known, then to the address shown upon the records of the Department of Finance for the mailing of tax bills. In the case of a corporate owner, the notice shall be sent to the agent or a principal of the corporation as shown in the records of the Department of Finance or, if not so shown, then to the address shown upon the records of the Department of Finance for the mailing of tax bills and, if not so shown, then to the Secretary of State designated as agent for the service of process in the State of New York. However, in the case of ice or snow, the City may proceed to clean the sidewalks and curbs by entering contracts therefor and making payment out of available funds or by use of City forces and equipment without first serving such notice. The City shall keep records of the cost of such work and, following said cleaning, shall serve notice as set forth herein.
- (e) The notice, in the case of a repair to a sidewalk or curb, shall specify the provisions of this section deemed to have been violated, require the owner to correct the condition or to produce written proof of diligent pursuit toward correction of the condition all within 30 days of the date of such notice and provide that if the owner fails to so timely correct, the Department of Public Works may cause the required repair to be made and assess a lien against the property for the cost of the repair together with an additional ten-percent

administrative fee for costs of inspection and other incidental costs associated with abating the condition. The notice shall advise the owner of the right to a hearing before the Commissioner of Public Works or such Commissioner's designee, obtained by written request to the Commissioner of Public Works within the time specified for compliance by the notice. The notice, in the case of snow or ice, shall specify the provisions of this section deemed to have been violated and advise the owner of the cost of the cleaning together with an additional ten-percent administrative fee for costs of inspection and other incidental costs associated with abating the condition and the right to a hearing obtained by written request to the City within 10 days of the date of the notice.

- (f) Should such owner fail to comply with the provisions of this section, after notice, the City may shall cause the repair to be made by entering contracts therefor and making payment out of available funds, except that, if the Commissioner of Public Works determines that an emergency exists, the City may order the work or repair to be made by or on behalf of the City. The City shall keep records of the cost of such work.
- (g) Should work be performed by or on behalf of the City in cleaning, repairing or maintaining sidewalks or curbs after notice has been given pursuant to this section and the owner's time for compliance has run out, the cost of such work, together with an additional ten-percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, shall be assessed as a lien against the adjoining property. Notice shall be given to the Commissioner of Finance specifying the property affected by lot and block numbers as the same appear on the Official Tax Assessment Map of the City of New Rochelle, together with the costs incurred in cleaning, repair and/or maintenance together with an additional ten-percent administrative fee for costs of inspection and other incidental costs associated with abating the condition, and, from the hour of filing, the amount of the charges specified in said notice to the Commissioner of Finance shall be a lien upon the property affected thereby. A copy of this notice shall be served by certified mail upon the owner of the affected property, in the manner specified in Subdivision (d) above. The costs specified, if not paid by or on behalf of the owner within 10 days of notice, or within 30 days of notice if the owner has prior authorized the City to undertake the work on behalf of such owner within the initial thirty-day notice period in Subdivision (e) above, shall be added to and collected with the subsequent City property tax levy, and shall bear interest and be enforced as provided by law for other City taxes.
- (h) This section shall not affect ordinances now in existence nor ordinances which may hereafter be enacted by the Council providing for the maintenance of occupied or unoccupied lots, lands or parts thereof.
- (i) No action for damages may be maintained against the City by reason of its failure to comply with any of the provisions of this section or any other section of this Charter regarding the removal of snow and ice, maintenance and/or repair of the sidewalks and curbs of the City.
- (j) In the event that any owner of any occupied or unoccupied lot or piece of land or any part thereof within the City of New Rochelle shall fail to maintain the sidewalks and curbs adjoining his or her lot or piece of land as required by Subsection **(a)** and **(b)** above, whether the failure be determined through the procedure of Subdivision (c) above or otherwise, said owner shall be liable to any persons injured as a result of such failure and the City of New Rochelle shall not be liable.

## Section 197-A. Abandoned excavations.

[L. 1956, c. 401 (Effective April 6, 1956); repealed and reenacted by Local Law No. 8-1997 (June 17, 1997).]

- (a) For the purpose of this section, an "excavation" shall mean any uncovered cutting or cavity in the earth of any depth or size created by the removal of earth, stone, topsoil or any other substance. An "abandoned excavation" shall mean any excavation, whether created in the course of a building operation or otherwise, and regardless of whether a building permit has been issued for the same, which said excavation has remained in an open and unfinished condition for a period of six months or more, and, further, an "abandoned excavation" shall mean any excavation as herein defined for which a building permit was issued and where the building operation under said permit is arrested prior to completion and the permit therefor allowed to lapse.
- (b) Any excavation which has been abandoned as herein defined shall be filled in to the original level of the ground, and any topsoil removed shall be replaced by the owner, lessee or occupant of the property where such excavation exists. Should any such owner, lessee or occupant fail to fill in such excavation and replace any

topsoil removed within 10 days after notice in writing from the Building Official delivered by certified mail, the City may proceed to fill in the same and replace any topsoil removed. The cost of such filling and replacement of topsoil shall be assessed against the property where such excavation exists, pursuant to the procedures set forth in Section 200 of this Charter.

## Section 198. Maintenance of lots, lands or any part thereof.

[Enacted by Local Law No. 4-1984 (September 18, 1984); repealed by Local Law No. 8-1997 (June 17, 1997).]

## Section 199. City-owned property.

[Enacted by Local Law No. 6-1997 (April 8, 1997);<sup>[1]</sup> amended by Local Law No. 11-1997 (June 17, 1997; Local Law No. 3-2003 (December 10, 2002).]

### A. Authorization to sell or lease.

1. Procedure. A sale or lease of real estate belonging to or under the control of the City may be made or authorized by a majority vote of all the members of the Council and shall not be subject to referendum or to any of the other provisions of § 23, Subdivision 2b, of the General City Law. In the case of a proposed sale or lease of real estate, the ordinance must provide for a disposition of the same by public auction, request for proposals, or negotiation under such terms, conditions and restrictions as the Council may deem to be for the best interest of the City and, if by public auction or request for proposals after public notice to be published at least once each week for three successive weeks. The Council may reserve to itself the right to reject any or all bids.

### B. Conduct of sales.

1. Authorization for Commissioner of Finance to conduct sale. The Commissioner of Finance is hereby authorized and directed to conduct all sales of city property in the manner provided for by Subsection **A** of this section (Local Law No. 1-1963, enacted July 10, 1963), unless otherwise specified or directed by the City Council.
2. Public notice of sale. There shall be included in each public notice of sale a brief description of the property by Tax Map, block and lot number. Additional description of the property, such as whether improved or unimproved, and the street number address may be included in such notice. Failure to comply with these provisions shall not invalidate the public notice of sale. The terms of sale to be contained in the public notice shall contain such other terms and conditions as shall be satisfactory to the City Manager and approved by the Director of Law.
3. Applicability. This section shall be applicable to all sales authorized by the City Council.

### C. Disposition of real property acquired through in rem foreclosure.

1. Retention of ownership or proceeds of sale. Whenever the City of New Rochelle shall become vested with title to real property by virtue of a foreclosure proceeding brought pursuant to Article 11 of the Real Property Tax Law, it may retain ownership of the real property so acquired or sell and convey the same through a negotiated sale or bidding process. The city shall retain the entire proceeds from any such sale and conveyance. Such moneys shall be deposited in the general funds of the city.

### D. Brokers' commissions.

1. Procedure for determining commission. A broker shall be entitled to receive commissions on the sale of city property at such rate as may be agreed upon between such broker and the City Manager upon such terms as are approved and accepted by the City Council and title actually closes. The City Manager is hereby authorized to agree upon brokerage commission rates up to but not in excess of 6% of the sale price.
2. Approval of bid by Council required. No commission shall become due or payable unless and until the final

bid is approved by the City Council where such approval is necessary under the terms of the resolution or ordinance directing the sale to be held at public auction.

3. Registration of broker and prospective purchaser. Before a broker shall be entitled to a commission for producing a purchaser at the public auction, he shall register his name, together with the name of his prospective purchaser, with the person in charge of the sale and execute an agreement in writing with the City Manager for the brokerage rate payable prior to the time the bidding takes place.
4. When payable. Commissions as above described shall be payable only if, as and when title actually passes to the purchaser procured by the broker.

E. Negotiated real property sales.

1. Authorization. The City Council may authorize the City Manager or any other city official to negotiate a lease, negotiate a sales price or to convey a parcel of city-owned real estate at a price to be established by an independent appraisal. The execution of any such agreements shall be subject to the approval of the City Council.

[1] *Editor's Note: This section was originally included in the Code as Ch. 17, City-Owned Property adopted as follows: Art. I, 7-10-1963 by L.L. No. 1-1963; Art. II, 12-12-1983 by Ord. No. 282-1983; Art. III, 12-14-1993 by L.L. No. 6-1993; Art. IV, 2-18-1975 by Res. No. 49; Art. V, 10-24-1989 by Res. No. 245.*

## Section 200. Property maintenance, abatement and tax liens.

[Enacted by Local Law No. 8-1997 (June 17, 1997); amended by Local Law No. 7-1998 (5-19-1998); Local Law No. 1-2012 (12-11-2012)]

- (a) In the event that any owner of any occupied or unoccupied lot or piece of land or any part thereof within the City of New Rochelle shall fail to maintain or repair the same as required by this Charter and/or by city ordinance, such owner may, in addition to or in lieu of other remedies, be served by certified mail to his or her last known address or place of residence, if known, and, if not known, then to the address shown upon the records of the Department of Finance for the mailing of tax bills. In the case of a corporate owner, the notice shall be sent to the agent or a principal of the corporation as shown in the records of the Department of Finance or, if not so shown, then to the address shown upon the records of the Department of Finance for the mailing of tax bills and, if not so shown, then to the Secretary of State designated as agent for the service of process in the State of New York.
- (b) The abatement notice shall specify the provisions of the Charter and/or city ordinance deemed to have been violated, require the owner to correct the condition within 10 days and provide that if the owner fails to do so, the city shall cause the required work or repair to be made and assess a lien against the property for the cost of the work or repair together with an additional fee as specified in § 133-1 of the Municipal Code for costs of inspection and other incidental costs associated with abating the condition. The notice shall advise the owner of the right to a hearing, obtained by written request to the city within the time specified for compliance by the notice. The notice shall specify the provisions of the Charter and/or city ordinance deemed to have been violated and the right to a hearing obtained by written request to the city within 10 days of the date of the notice. If the city determines that an immediate emergency exists, the city may undertake or cause to be undertaken such work or repair prior to the expiration of the ten-day notice period.
- (c) Should such owner fail to comply with the abatement notice, the city may cause the work or repair to be made by entering contracts therefor and making payment out of available funds, except that, if the city determines that an emergency exists, the Commissioner may order the work or repair to be made by or on behalf of the city. The city shall keep records of the cost of such work.
- (d) Should the work or repair be performed by or on behalf of the city after notice has been given pursuant to this section and the owner's time for compliance has run out, the City shall advise the owner in writing of the cost of such work or repair, together with an additional fee as specified in § 133-1 of the Municipal Code for costs of inspection and other incidental costs associated with abating the condition and subsequent thereto, the owner shall have the right to request a hearing to challenge the cost of such work or repair within 10 days of said notice. The cost of the work or repair as finally determined together with the administrative fee and all

incidental costs shall be assessed as a lien against the affected property. Notice shall be given to the Commissioner of Finance specifying the property affected by lot and block numbers as the same appear on the Official Tax Assessment Map of the City of New Rochelle, together with the costs incurred in undertaking such work or repair together with an additional fee as specified in § 133-1 of the Municipal Code for costs of inspection and other incidental costs associated with abating the condition, and from the hour of filing, the amount of the charges specified in said notice to the Commissioner of Finance shall be a lien upon the property affected thereby. A copy of this notice shall be served by certified mail upon the owner of the affected property, in the manner specified in Subdivision (a) above. The costs specified, if not paid by or on behalf of the owner within 30 days of notice, shall be added to and collected with the subsequent city property tax levy, and shall bear interest and be enforced as provided by law for other city taxes.

## Article XXIII. City Court Act

[See L. 1931, c. 449, as amended by L. 1954.]

## Article XXIV. Tax Liens

[1] *Editor's Note: Section 2 of L.L. No. 3-1985, which repealed Sections 350, 351, 351A, 352, 353, 354, 355, 356, 360 and 361, which comprised this Article, provided as follows: "The rights and remedies of the holders of any outstanding tax liens provided for in Sections 350 through 361 of the Charter of the City of New Rochelle shall continue until the final disposition of such tax liens."*

### Section 350. Sales of tax liens for taxes and assessments; proceedings.

[Enacted by Local Law No. 2-1941 (March 3, 1941); repealed by Local Law No. 3-1985 (April 16, 1985).]

### Section 351. Postponement of sales.

[Enacted by Local Law No. 2-1941 (March 3, 1941); repealed by Local Law No. 3-1985 (April 16, 1985).]

### Section 351A. Withholding taxes and/or assessments from the annual sale.

[Enacted by Local Law No. 2-1942 (May 18, 1942); repealed by Local Law No. 3-1985 (April 16, 1985).]

### Section 352. Sales of tax liens to be conducted by the Director of Finance.

[Enacted by Local Law No. 2-1941 (March 3, 1941); repealed by Local Law No. 3-1985 (April 16, 1985).]

### Section 353. Transfer of tax liens.

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]

### Section 354. Record of transfer of tax liens.

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]

## **Section 355. Rights of purchaser of tax lien.**

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]

## **Section 356. Discharge of tax liens.**

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]

## **Section 357. Procedure when no bid for a tax lien is received.**

[Enacted by Local law No. 3-1939 (August 21, 1939); repealed by Local law No. 3-1985 (April 16, 1985).]

## **Section 358. Sale for less than amount of lien.**

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]

## **Section 359. Sale of lien for less than the face value.**

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]

## **Section 360. Corporation Counsel to protect interest of city.**

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]

## **Section 361. Lost transfer of tax lien; delivery of duplicate in case of.**

[Enacted by Local Law No. 3-1939 (August 21, 1939); repealed by Local Law No. 3-1985 (April 16, 1985).]