

CHAPTER 2

ADMINISTRATION OF GOVERNMENT

[Adopted by the Common Council of the City of Dunkirk on 3-5-1991 as L.L. #2-1991]

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[HISTORY: Adopted by the Common Council of the City of Dunkirk on 3-5-1991 as Local Law No. 2-1991. Amendments noted where applicable.]

GENERAL REFERENCES

- Governmental offices and general regulations - See Charter.
- Defense and indemnification - See Chapter 22.
- Code of ethics - See Chapter 30.
- Rules of Order of Council - See Appendix 1.

ARTICLE I
City and Its Government

§ 2-1.01. Title.

The code and all amendments hereto shall be known any may be cited as the “Dunkirk Administrative Code.”

§ 2-1.02 Purpose.

The purpose of this code is to set forth the details of administration of the Dunkirk City Government consistent with the provisions of the Dunkirk City Charter. The Mayor shall promulgate and maintain a manual of management policies, organizations and procedures to further implement the provisions of the Dunkirk City Charter and this code.

§ 2-1.03. Effect on state provisions.

General state law will govern and supersede any provision of this code which is inconsistent therewith, except where said law expressly allows for a modification of its provisions.

§ 2-1.04. Effect on existing local provisions.

All existing local laws, ordinances, legalizing acts and resolutions of the City shall remain operative except where inconsistent with this code; provided, however, that no provision of this code shall be construed to invalidate or impair any provision of the Dunkirk City Charter.

§ 2-1.05. Definitions.

Whenever used in this code, unless otherwise expressly states or unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

ADMINISTRATIVE CODE or CODE - This chapter, as prescribed by the Charter.

BOARD and COMMISSION - Except as otherwise provided herein, a body of persons appointed or elected in the manner herein provided for the purpose of administering designated City functions or advising on matters of continuing City interest or in the making of City governmental policy.

CHARTER - The Charter of the City of Dunkirk, which consists of Local Law No. 5- 1977, as amended by Local Law No. 6-1977, and as may be amended thereafter from time to time.

CITY - The City of Dunkirk

CITY CODE - The comprehensive compilation of those ordinances heretofore and hereafter adopted by the Common Council of the City which are currently set out in Chapters 1 through 79 of the Code of the City of Dunkirk.

COUNCIL or COMMON COUNCIL - The elected legislative body of the City of Dunkirk

EMPLOYEE - Any person, except an officer, employed by the City or an agency thereof, but shall not include an independent contractor.

FISCAL YEAR - The period beginning with the first day of January and ending with the last day of December each year. (NOTE: The recommendation is to change the year from April 1 to March 31).

FOUR-FIFTHS MAJORITY - An affirmative vote of four (4) members of the Common Council.

LAW - A federal or state statute, charter, local law, ordinance and resolution and court cases interpreting them.

LOCAL LAW - A legislative act of the Council adopted pursuant to the New York State Municipal Home Rule Law, but shall not mean or include an ordinance, resolution or other similar acts of the Council or of any other board or body of this City.

MAJORITY VOTE - An affirmative vote of three (3) or more members of the Common Council.

OFFICER - Includes the following:

- A. All elective and appointive officers as designated by § 2.00 and 2.03 of the City Charter.
- B. Those others defined as such by and under the Public Officers Law of the State of New York.

ORDINANCE - Any legislation adopted by the Common Council providing substantive rules of law, as authorized by the General City Law and other general law.

PERSON - One (1) or more individuals and/or corporations.

QUORUM - That number required to transact business.

RESOLUTION - A legislative act other than a local law or ordinance pursuant to the Charter or other law, which is limited in its application or of a temporary nature, or both.

§ 2-1.06. City Seal.

- A. The City shall have a City Seal as provided for in § 1-03 of the City Charter.
- B. The City Seal shall consist of:
 - (1) Two (2) braided concentric circles with the large circle having a diameter of approximately one and three-fourths (1 3/4) inches;
 - (2) Within the two (2) concentric circles shall appear the words "SEAL OF THE CITY OF DUNKIRK, NEW YORK" across the top and the numerals "1880" at the bottom; and

[EDITOR'S NOTE: The City Seal is on file in office of the City Clerk, where it may be examined during regular business hours.]

- (3) Within the innermost circle shall appear an upright eagle facing the right on top of a shield of thirteen (13) stars and thirteen (13) vertical bars with three (3) arrows and two (2) olive branches. The seal as so described is affixed below.
[EDITOR'S NOTE: The City Seal is on file in office of the City Clerk, where it may be examined during regular business hours.]

ARTICLE II Officers

§ 2-2.01. Appointments; oaths; bonds.

- A. Every appointment to a City office shall be made in writing and signed by the appointing officer or, if made by a board, by the presiding officer thereof and shall be filed in the office of the Personnel Administrator and in the office of the City Clerk.
- B. Every elected officer, before beginning official duties, shall file with the City Clerk the constitutional oath of office and, if required by the Administrative Code or the City Code, an official bond in the amount so required and approved by the Mayor as to the sufficiency of the sureties and by the City Attorney as to its form and validity.
- C. If an officer fails to file the oath of office or, if required, an official bond within thirty (30) days after the commencement of such officer's term of office, the office shall be deemed vacant, and the vacancy must be filled as provided in the Charter and this code.
- D. The premiums for all such bonds shall be paid by the City. If the City, as a general practice, obtains the bonds for officers and employees, the failure by the City to obtain the bond shall not result in a vacancy unless the officer or employee is not bondable.

§ 2-2.02. Resignations.

Resignations of elective and appointive officers shall be made and presented to the City Clerk. The City Clerk shall forthwith file the same in the office of the Personnel Administrator and appointing officer or board.

§ 2-2.03. Vacancies.

- A. The offices of Mayor, Council member or any other elected officer shall become vacant upon the office holder's death or resignation or upon the happening of any event in § 30 of the Public Officers Law.
- B. A vacancy of an elective office shall be filled by appointment by a majority vote of the Common Council within thirty (30) days of such vacancy. If after thirty (30) days no majority is reached, the Councilman at Large or Acting Councilman at Large will fill such vacancy. The appointee shall serve until the commencement of the calendar year next succeeding the first general election after the happening of the vacancy, at which a successor may be elected, and the vacancy shall be filled at such election for the unexpired term. Any person appointed to fill a vacancy shall possess all the qualifications required of the office as set forth in the Charter.

Any person appointed to fill a Common Council vacancy shall be a member of the same political party by which such person was elected any may be nominated by the City Committee of such party. Such City Committee nomination shall be considered a non-binding recommendation. In the event the person vacating the Common Council office was elected with no party affiliation, the Common Council may appoint any qualified elector. **[Added 2-6-2001 as L.L. #2 (Intro No. 13-2000) 2001]**

§ 2-2.04. Removal of officers.

Appointive and acting appointive officers serve at the pleasure of the Mayor and with the consent of the Common Council. In addition to the reasons causing a vacancy described above, such officer may be removed from the office without cause by the Mayor, at the Mayor's pleasure.

§ 2-2.05. Acting appointive officers.

When a vacancy occurs in an appointive office, the Mayor shall have the power to appoint an acting appointive officer to serve until confirmation by the Common Council or the appointment and confirmation of another to fill said vacancy. While serving in that capacity, the acting appointive officer shall have all the powers and duties of such office and shall receive a salary as set forth by the Common Council. An acting appointive officer shall possess all the qualifications required of the office as set forth in the Charter.

§ 2-2.06. Approval of appointive officer by Common Council.

If the Common Council fails to act on any proposed appointive office within sixty (60) days of the date of appointment, the appointment shall be deemed confirmed.

**ARTICLE III
Mayor****§ 2-3.01. Powers and duties.**

- A. It shall be the duty of the Mayor to be the chief executive officer of the City and to supervise, direct and control, subject to the provisions of the City Charter and this code, the proper administration of all City affairs and all departments of City government
- B. Specifically, the powers and duties of the Mayor shall include:
- (1) Responsibility for the exercise of all executive and administrative powers in relation to any and all functions of City government.
 - (2) The appointment of all appointive officers, with the consent of the Common Council, and all acting appointive officers as provided for in § 2-2.05 hereof.
 - (3) The removal of any appointive officer and acting appointive officer at any time, except as otherwise provided by law or the Charter and in accordance with all provisions of law.
 - (4) The appointment of all commissioners, members of boards and other employees, except as otherwise provided by law or by the Charter.
 - (5) The supervision of all administrative departments, offices, commissions and boards.
 - (6) The implementation and execution of all local laws, ordinances and resolutions enacted and adopted by the Common Council.
 - (7) The preparation and submission to the Common Council, on or before three (3) months prior to the start of each fiscal year, of the annual budget and the capital program, which shall be prepared in accordance with the law.

- (8) Communication to the Common Council, on or before March 1 of each year, of a general statement of the finances, government and affairs of the City, with a summary statement of the activities of the departments, boards, commissions and offices of the City, to be known as the "state of the City message," and more often if the Mayor so desires.
- (9) The execution of all contracts, deeds, leases, franchises and any other written instruments authorized by the Common Council.
- (10) Responsibility for the negotiation of all employee contracts with the assistance of the Personnel Administrator and the City Attorney.
- (11) Recommendations to the Common Council of the adoption of local laws, ordinances and resolutions necessary for the enactment of innovative programs for the City.
- (12) Calling special meetings of the Common Council.
- (13) Communication to the Council after the end of each fiscal year, or more frequently if so deemed necessary, of a report on the financial status of the City, including such things as categories of revenues, departmental expenditures, the budgeted receipt and/or appropriation and the projected estimate through that period and the actual receipts and expenditures, and recommending Council action if necessary.
- (14) In addition to the duties imposed by the Charter and this Administrative Code, those duties given to the Mayor by the City Code, including but not limited to:
 - (a) The conducting of auctions pursuant to Chapter 6.
 - (b) The conducting of bingo pursuant to Chapter 13.
 - (c) The regulation of junk dealers and pawnbrokers pursuant to Chapter 44.
 - (d) The issuance of permits under Chapter 51.
- (15) The performance of such other duties and the execution of such other powers as may be prescribed by law, the Administrative Code or resolution, approved by the Common Council.

- C. The Mayor shall notify the Councilman at Large in advance of any scheduled absence from the City and advise the Common Council, through the office of the City Clerk, accordingly.

§ 2-3.02. Conference expenses.

The Mayor shall have the power to designate and authorize any appointive officer, as defined under Article II, § 2.03, of the City Charter, paid from City funds, except Common Council members, to attend an official or unofficial convention, conference or school for the betterment of City government. Within the budget-appropriated limits therefor and when so authorized, all necessary and actual expenses, including but not limited to a registration fee, meals, room and mileage (at a rate set and fixed by the Common Council), shall be paid from City funds. The Mayor shall submit written approval of the expenses to the Common Council, the appropriate department head and the Fiscal Affairs Officer.

§ 2-3.03. State of emergency.

In the event of an occurrence of an emergency affecting the life, health or safety of the inhabitants of the City, the Mayor or Acting Mayor, as defined in the Charter, except as otherwise provided by law, shall have the power to declare a state of emergency within the City and to perform all acts which are necessary for the protection of the life, health, safety and property of such inhabitants. As soon as practicable, the Mayor shall submit a written statement so declaring the emergency to the City Clerk.

§ 2-3.04. Executive approval and disapproval.

- A. Every ordinance and resolution passed by the Common Council, except resolutions regulating the internal affairs of the Common Council, shall be certified by the City Clerk as to its passage by the Common Council and shall be presented by the City Clerk to the Mayor within three (3) working days for the Mayor's consideration.
 - (1) The Mayor shall have ten (10) calendar days after receipt to approve or disapprove.
 - (2) If the Mayor approves the ordinance or resolution, the Mayor shall sign it within those ten (10) calendar days after its receipt and return it signed forthwith to the City Clerk.
 - (3) If the Mayor disapproves the ordinance or resolution, the Mayor shall so indicate, in writing, within ten (10) calendar days after its receipt, setting forth objections thereto, and shall return the same to the City Clerk forthwith.

- (4) If the ordinance or resolution is not approved or disapproved by the Mayor within ten (10) calendar days after its receipt, it shall be deemed approved as if the Mayor had approved it.
- B. Local laws shall be enacted in accordance with and pursuant to the Municipal Home Rule Law of the State of New York notwithstanding any inconsistent local laws previously adopted.
- C. In considering the budget, the Mayor shall have the power to disapprove any specific item or items which the Common Council has changed from the original budget submitted by the Mayor without disapproving the entire budget. The Common Council, however, retains its power for reconsideration as defined under Article IV, § 4.03, of the Dunkirk City Charter.

ARTICLE IV Common Council

§ 2-4.01. Powers and duties.

The powers and duties of the Common Council shall include:

- A. The adoption by a majority vote of its members of resolutions and of all necessary rules and regulations for the conduct and procedures of the Common Council.
- B. The enactment, amendment or rescission of local laws, ordinances and resolutions.

- C. The adoption of the budget, levying of taxes, making of appropriations and contracting of indebtedness.
- D. All appointments, such as assistants and other employees, of each respective City department shall be fixed by resolution of the Common Council, which shall determine the compensation of all officers and employees of the City, except that the compensation of each elective officer shall be fixed by resolution of the Common Council at a meeting thereof to be held in June, prior to his or her election and shall not thereafter be changed until the expiration of the term for which he or she has been elected.
- E. The adoption of and revision to an Administrative Code, which shall set forth the details of administration of the City government in harmony with the provisions of the Charter.
- F. The creation of any necessary administrative departments, offices, commissions and boards.
- G. Authorization for the execution of contracts, deeds, leases, permits, franchises, licenses and any other written instruments.
- H. The designation of such officers and employees of the City who shall be bonded in favor of the City in such amounts as prescribed by the Common Council.
- I. The construction, maintenance and repair of a sewer or system of sewers and treatment facilities, sidewalks, waterlines and treatment facilities, within any public street or street right-of-way and an assessment of the cost thereof in a manner to be determined by the Common Council.
- J. The determination of water rates, sewer use rates and solid waste rates and penalties for nonpayment of water and sewer and solid waste use bills or abuse of the service.
- K. The acceptance of all streets and lands which may be offered or dedicated to the public and the laying out, opening, closing and improving of streets and highways within the City and altering or discontinuing the same. Whenever the Common Council shall deem it necessary to pave a street, the Common Council shall determine the percentage to be assumed by the City and that to be assumed by the abutting property owner.
- L. The performance of such legislative duties and powers as prescribed by state or federal statute.

§ 2-4.02. Meetings of Council.

- A. The Common Council shall organize not later than January 3rd of each year and at the time shall adopt its rules, designate the official paper(s) of the City and establish its committees and such other organizational matters.
- B. The Common Council shall hold regular meetings at least twice in each month. All meetings shall be public, and no action shall be taken by said Common Council except in an open meeting, except as permitted under the Public Officers Law.
- C. Each Council member present at any official meeting shall have a vote on every question brought before the Council for its consideration. However, no person, whose election as a Council member is contested shall be entitled to vote on any question connected with such contest.
- D. No Council member shall be excused from voting on any question unless a majority vote of all members present approves such abstention. It is expected that abstentions shall be approved where the member has a conflict of matters. All Council members shall abide by Article 18 of the General Municipal Law and Chapter 30 of the City Code with regard to any possible conflicts of interest.

§ 2-4.03. Rules of Council.

- A. The Common Council, by resolution, shall adopt and maintain rules and regulations for its business. Such rules and regulations may provide means to compel the attendance of a member and to punish or expel a member for cause. Such rules and regulations shall be public and shall be made available to all Council members and any other interested individual.
- B. All pre-filed resolutions shall be sponsored by appropriate committee members. Resolutions failing to receive committee support may be introduced as new business by other Council members.
- C. Standing committees shall be designated by resolution as defined in the Common Council Rules of Order as adopted February 27, 1980, and revisions thereto. **[Editor's Note: See Chapter A85, Rules of Order of the Common Council.]**

§ 2-4.04. Confirmation of appointments.

- A. All appointments by the Mayor subject to confirmation by the Common Council shall be in writing, signed by the Mayor and filed in the office of the City Clerk and Personnel Administrator within four (4) days after the date of appointment.
- B. Upon confirmation by the Common Council and upon qualifying for the office, an appointive officer shall enter upon the duties of such office. In the event that the Common Council has neither confirmed nor rejected by majority vote an appointment within a period of sixty (60) days after the filing thereof with the City Clerk, such appointment shall be deemed to be confirmed.
- C. Confirmation of an appointment, where required, shall be by majority vote of the Common Council taken at a regular or special meeting.

§ 2-4.05. Investigations.

- A. The Common Council is empowered to conduct an investigation into any subject matter within its jurisdiction, including the conduct and performance of official duties of any officer or employee paid from the City funds and the accounting for all money or property owned by or under the control of the City. The power to conduct investigations may be delegated to a committee of the Council.
- B. Both the Council Member at Large and the Chairman of such committee, after being so authorized to do so by majority vote of the whole Council or committee respectively, may issue a subpoena requiring a person to attend before the Common Council or such committee and be examined with reference to any matter within the scope of the investigation and in a proper case to produce all books, records, papers and documents or material relevant to the investigation. A subpoena issued under this section shall be regulated by the Civil Practice Law and Rules. The Council Member at Large and the Chairman of such committee(s) may administer an oath to any witness. Adjournments may be taken from time to time.

§ 2-4.06. Minutes and transcripts.

- A. All actions taken at any meeting of the Council shall be recorded in the complete minutes of each such meeting. The minutes shall be typed within ten (10) days after the adjournment of the meeting and shall be distributed by the City Clerk to each member of the Council, to the Mayor and to the head of each City department and bureau.

All local laws, ordinances and resolutions shall appear in full in the minutes of the meeting at which they are introduced.

- B. Whenever deemed appropriate by the Council Member at Large, committee Chairman or City Attorney, a verbatim transcript shall be made. In all other cases, electronic recording of Council and committee proceedings shall suffice.

§ 2-4.07. Official notices.

Official notices which are required by law to be published shall be published in the official newspaper of the City as designated by the Common Council at its organizational meeting. When such notices are required to be published in more than one (1) paper, the additional paper or papers shall be designated by the Council.

§ 2-4.08. Powers of Council Member at Large.

- A. The Council Member at Large shall be the presiding officer at all meetings and public hearing of the Common Council. In the absence of the Council Member at Large, the Common Council shall designate by majority vote an acting presiding officer. In the event that no majority is reached, the Council member with the greatest rate of continuous length of service shall serve as acting presiding officer.
- B. If the Mayor is temporarily absent from the City or is temporarily mentally or physically unable to perform the duties of the office, the Council Member at Large shall become the Acting Mayor. In any such case, the Mayor must first notify or have notice be given to the Council Member at Large and the City Clerk so that the Council Member at Large knows when to begin to discharge the duties of Acting Mayor. In such case, the Council Member at Large shall continue to vote and act as Council Member at Large.
- C. Notwithstanding the language of § 2.05 of the City Charter and § 2-2.03 of this code, if the Mayor is permanently mentally or physically unable to perform the duties of the office, the Council Member at Large shall become Acting Mayor. As such, the Acting Mayor shall serve until the commencement of the calendar year next succeeding the first general election after the happening of the vacancy, at which a successor may be elected, and the vacancy shall be filled as such election for the unexpired term. The Acting Mayor in this case shall be paid the Mayor's salary while so acting and relinquish his Council salary for the acting term. The Council Member at Large may

decline to assume such Acting Mayor status by a written notice filed with the City Clerk.

- D. As its organizational meeting, the Common Council shall designate one (1) of its members to act as a backup designee to the Council Member at Large should the Council Member at Large not be able to perform the duties as Acting Mayor under Subsections B and C hereof. In such cases, the backup designee shall assume and discharge the duties and powers of Acting Mayor.

§ 2-4.09. Conference expenses.

The Common Council, by majority vote, shall have the power to designate and authorize any Council member and/or employee to attend an official or unofficial convention, conference or school for the betterment of City government. Within the appropriation therefor and when so authorized, all necessary and actual expenses, including but not limited to a registration fee, meals, room and mileage (at a rate set and fixed by the Common Council), shall be paid from City funds. The Common Council and/or employees shall submit written approval of the expenses to the Fiscal Affairs Officer.

§ 2-4.10. Reconsideration.

In the event of executive disapproval of any local law, ordinance, resolution or budget item, the Common Council shall not later than its next regular meeting reconsider the local law, ordinance, resolution or budget item. If, after such reconsideration, four (4) members of the Common Council shall vote to override the executive disapproval, the local law, ordinance, resolution or budget item shall be of force notwithstanding the objection of the Mayor.

ARTICLE V
Budget and Financial Procedures

SUBARTICLE V-A
Capital Program

§ 2-5.01. Capital Program Committee.

- A. There shall be a Capital Program Committee, the members of which shall hold their positions thereon by virtue of their official positions in the City government as follows: the Mayor, who shall be Chairman; the Fiscal Affairs Officer, who shall serve as Secretary for the Committee; the Director of Public Works; and the Director of Planning and Development. The Mayor may appoint such other officials or employees of the City to act as technical advisers to the Committee.
- B. The Capital Program Committee shall, each year, prepare a proposed capital program for the next six (6) fiscal years, showing the purpose and the amount of recommended capital expenditures by years and including total expenditures remaining beyond the six-year period for capital projects included in the six-year capital program, if any, the suggested methods of paying for the capital projects included in such program, and the estimated effect of such program, and the estimated effect of such program on future budgets, with respect to operating, maintenance, debt service and other costs, and such other information as it may deem advisable. The first year of such program shall constitute the recommendations of the Capital Program Committee for the capital budget of the ensuing year.

§ 2-5.02. Capital projects.

- A. The term "capital project," as used in this code, shall mean:
- (1) Any physical betterment or improvement, including furnishings, machinery, apparatus or equipment for such physical betterment or improvement when first constructed or acquired.
 - (2) Any preliminary studies and surveys relating to any physical betterment or improvement.

- (3) Land or rights in land.
 - (4) Any combination of Subsection A(1), (2) and (3).
 - (5) Anything so defined by state law.
- B. The policy as to what constitutes the minimum dollar value and the necessary useful life for a proposed capital project shall be drafted by the Capital Program Committee and approved by the Common Council.

§ 2-5.03. Submission of capital project requests.

On or before the first day of July in each year, the head of each City department and administrative unit shall furnish to the Fiscal Affairs Officer a description, justification and estimate for each capital project which is proposed for development during one (1) or more of the ensuing six (6) fiscal years. The Mayor or Capital Program Committee may prescribe an earlier date, provided that at least thirty (30) days' written notice is given by the Mayor or Fiscal Affairs Officer. Each capital project request shall show such information as is required in the capital program and any other information that the Mayor or Fiscal Affairs Officer deems useful.

§ 2-5.04. Review of capital project requests.

- A. The Capital Program Committee shall review all project requests and shall analyze the fiscal and programmatic aspects of the requests and consistency with the Master Plan. The various administrative units shall provide such additional information as the Committee may request.
- B. Based on these analyses, the Capital Program Committee shall prepare a proposed capital program.
- C. The Mayor, as Chairman of the Capital Program Committee, shall, at least thirty (30) days before the presentation of the proposed capital budget, submit the same to the City Planning Board. Its Chairman shall append thereto a summary of that Board's concurrence or objection to any item or items in the recommendations of the Capital Program Committee for the proposed capital budget for the ensuing or future years. The Mayor shall include this communication without alteration as an exhibit in the budget message to the Common Council.

§ 2-5.05. Preparation of capital budget.

- A. The Fiscal Affairs Officer shall, based on the proposed capital program, prepare a tentative capital budget, which shall be arranged so as to give in parallel columns not less than the following comparative information for the appropriations and methods of financing capital projects:
- (1) Appropriations for the last completed fiscal year.
 - (2) Appropriations for the present fiscal year.
 - (3) Recommendations of the Mayor for the ensuing fiscal year.
- B. The tentative capital budget shall also contain a statement as to each pending and proposed capital project, incorporating in columnar form the following data:
- (1) The estimated ultimate total cost
 - (2) The amount appropriated to date.
 - (3) The amount expended to date.
 - (4) The amount of additional or new appropriations included in the tentative capital budget for each project.
 - (5) The method of financing each pending and proposed capital project.
- C. The capital budget shall be submitted with the operating budget to the Common Council ninety (90) days prior to the end of the City's fiscal year.

§ 2-5.06. Amendment of capital program.

Any time after the adoption of the capital program, the Common Council may amend it to add, modify or abandon capital projects or to change the method of financing. Such amendments to the capital program are subject to the same review procedures applicable to new capital projects.

§ 2-5.07. Inclusion of capital projects.

- A. No capital project shall be authorized or undertaken unless it is included in the capital program as it is adopted or amended.

- B. No capital project shall be included in the capital program unless it is in the capital budget.

§ 2-5.08 through 2-5.20. (Reserved)

SUBARTICLE V-B

Operating Budget Procedure

§ 2-5.21. Notification of data to be submitted. [Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]

On or before August 3rd, the Mayor shall notify, in writing, the head of each administrative unit and of each agency receiving City funds, including those

pursuant to contract or otherwise, during the current fiscal year to submit their budget request on the required form with any necessary backup information.

§ 2-5.22. Submission of budget requests. [Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]

On or before September 2nd, or such earlier date as the Mayor may prescribe, the head of each administrative unit of the City government and each City-funded agency shall furnish to the Fiscal Affairs Officer a budget request on such form and with such information as required by the Fiscal Affairs Officer and Mayor, together with an estimate of revenues which might accrue in said department. The head of each administrative unit of the City government and each City-funded agency shall simultaneously furnish a copy of their budget request and estimate of revenues to the Common Council.

§ 2-5.23. Review of requests.

The Fiscal Affairs Officer, upon the receipt of the budget estimates and requests for appropriations, shall proceed to make such review and investigation thereon as deemed necessary. The Mayor and Fiscal Affairs Officer may require the head of each administrative unit or any officer or employee thereof and any agency requesting City funds to furnish data and information and answer inquiries pertinent to such review or investigation. They shall also review the recommendations of the various boards and commissions.

§ 2-5.24. Information required for proposed City budget.

- A. Upon the completion of the review and investigation of the estimates and requests from the various administrative units and agencies, the Fiscal Affairs Officer shall prepare, under the direction of the Mayor, the proposed City budget for the ensuing fiscal year for both current operating and capital purposes. The tentative operating budget shall be in such form as the Mayor may deem advisable and shall show in parallel columns, the following comparative information:
- (1) The actual expenditures and revenues for the last completed fiscal year.
 - (2) The budget as modified for the current fiscal year.
 - (3) The estimates of expenditures and revenues for the ensuing fiscal year submitted by the heads of the various departments, other administrative units and agencies.

- (4) The Mayor's recommendations and estimates as to proposed expenditures and revenues for the ensuing fiscal year, which shall be called the proposed City budget.

B. The capital budget shall be as specified in § 2-5.05 of this code.

§ 2-5.25. Additional data concerning debt.

In addition to the operating and capital budgets, the proposed City budget shall include a statement showing the bonded indebtedness of the City government and its authorized agencies, the debt redemption and interest requirements, the indebtedness authorized and unissued, the condition of the capital reserve funds, the borrowing capacity of the City and any other matter which the Mayor may deem advisable or the Common Council may require.

§ 2-5.26. Budget message; recommendations.

- A. The budget message, which shall be presented no later than November 1st, shall describe the important features; outline the proposed capital programs; indicate any major changes from the current fiscal year in financial policies, expenditures and revenues, together with the reasons for such changes; summarize the City's debt condition; and include such other material as the Mayor may deem advisable. **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996] [Amended 2-20-2007 as L.L. #2-2007]**
- C. The recommendations for expenditures in the proposed City budget shall be classified by administrative units and their subunits according to the internal organization of such units or by special funds. Such recommendations shall show the character and object of expenditure and shall contain the following:
 - (1) An estimate of the several amounts which the Mayor deems necessary in the ensuing fiscal year for conducting the business of the City and each administrative unit thereof, separately stated, and for other City purposes and charges, classified to show separately:
 - (a) The ordinary recurring expense of the operation and maintenance of City government.
 - (b) Any extraordinary or nonrecurring expenses to be financed from current revenue.

- (2) An estimate of the General Fund Contingent Account which the Mayor recommends to be provided for unanticipated or emergency City purposes or charges.
- (3) A statement of the several amounts recommended by the Mayor for appropriation to the reserve funds, if any.
- (4) A statement of the amount required to pay the interest on and amortization of or redemption of indebtedness becoming due in the ensuing fiscal year.
- (5) The amount of any judgment recovered against the City and payable during the fiscal year and for which no bonds have been or will be issued.

§ 2-5.27. Estimated revenues.

The estimates of revenue in the proposed City budget shall be classified by accounts and administrative units of City government and shall show the sources of income and shall contain:

- A. A statement of all estimated revenues, including federal and state revenue sharing funds, to be received by the City during the ensuing fiscal year, except City real property taxes to be levied.
- B. A statement of all estimated unexpended balances, if any, at the end of the last completed fiscal year which are available to meet the expenditure requirements of the fiscal year for which the proposed budget is being prepared.
- C. An estimate of the anticipated receipts from delinquent taxes and tax sales, which shall not exceed the amount received in the previous fiscal year.

§ 2-5.28. Adoption of budget.

A. Review by Common Council. The Common Council shall review the proposed City budget as submitted by the Mayor and shall, not later than December 15th, file with the City Clerk its report, including any recommended amendments proposed therein. The Fiscal Affairs Officer shall assist the Common Council in the preparation and submission of this report. Such report shall become a public record in the office of the City Clerk. Copies of the same shall be made by the City Clerk and shall be provided to the Mayor and Fiscal Affairs Officer and shall be made available for distribution to and inspection by the public. **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]**

B. Public notice.

- (1) Not later than December 9th, the City Clerk shall cause to be published in the official newspaper of the City a notice of a public hearing, which shall specify: **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]**
 - (a) The date, time and place of the public hearing.
 - (b) The total amount of the proposed budget.
 - (c) The amount thereof to be raised by taxes.
 - (d) The anticipated tax rate per thousand dollars of assessed valuation.
 - (e) The public availability of copies of the proposed City budget in the City Clerk's office.
- (2) Said notice shall be given not less than five (5) days prior to the date of said public hearing.

C. Public hearing. **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]**

No sooner than five (5) days after the public notice required above has been given and in no event later than December 15th, the Common Council shall meet and conduct a public hearing on the proposed City budget as submitted by the Mayor and on the report submitted by the Common Council. At such hearing, any person may be heard for or against the proposed City budget or any item thereof and the Council's report or any item thereof. The Mayor shall be present at the public hearing.

D. Adoption of City budget.

- (1) After the conclusion of the public hearing, the Common Council may:
 - (a) Decrease or delete programs and the amounts or items of expenditure.
 - (b) Increase and add new programs or amounts, but in no event may expenditures required by law, expenditures for debt service, estimated deficits or estimated revenues be changed except to correct omissions or mathematical errors.

- (2) Before proceeding to adopt changes to the proposed City budget, the Common Council shall first entertain a resolution adopting the proposed City budget as presented by the Mayor. Each addition, deletion, increase, decrease or other change to the proposed City budget shall take the form of a separate amendment to the resolution adopting the proposed City budget and must be self-balancing to identify where funds for a new or increased expenditure will come from and where funds from a deleted or decreased expenditure will go, with the necessary amendments to the source account or receiving account. Each such amendment shall be reviewed by the Fiscal Affairs Officer as to fiscal propriety and by the City Attorney as to legality. Upon completion of action on all amendments, the original resolution adopting the proposed City budget, as amended, will be submitted for the Council's approval.
 - (3) The Common Council may, however, decrease the amount of the tax levy for the ensuing fiscal year as proposed by the Mayor in proportion to such decrease in the total expenditures as it may have determined. If the Common Council shall increase the total expenditures, such increase shall be included in the amount to be raised by taxes.
- E. Resolutions to be enacted.
- After the completion of its review and analysis, the Common Council shall enact three (3) separate resolutions as follows:
- (1) A budget resolution, which shall present an account-by-account detailed list of the City budget for the ensuing year.
 - (2) An appropriations resolution, which shall appropriate funds by department.
 - (3) A warrant resolution authorizing the City Treasurer to levy the taxes necessary to raise sufficient funds for the appropriations so made.
- F. Submission to Mayor and his/her action thereon.
- (1) The proposed City budget, with any amendments, if made, shall be approved by the Common Council no later than December 1st, and the three (3) resolutions adopted shall be presented by the City Clerk to the Mayor within three (3) days

after their approval. **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]**

- (2) Pursuant to § 3.03 of the City Charter, the Mayor may approve said resolutions within ten (10) days of the resolution's presentation and return the same to the City Clerk. The Mayor shall also have ten (10) days, which shall not be later than December 12th, to disapprove any specific item or items which the Common Council may have changed from the proposed City budget as submitted without disapproving the entire budget. The Mayor, in disapproving any item or items, shall do so in writing, setting forth objections thereto. The Mayor shall return the original documents, with any disapproval messages attached, to the City Clerk within ten (10) days of their presentation but in no event later than December 12th. If the Mayor fails to approve or disapprove the budget submitted, with amendments, if any, and return the same to the City Clerk within ten (10) days, the proposed City budget as amended and enacted by the Council shall be deemed approved. **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]**
- G. Final Common Council action. The Common Council shall convene in a meeting on or before December 15th, to consider budget items disapproved by the Mayor, enactment of an appropriation resolution and enactment of a warrant resolution. **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]**
- H. Common Council's failure to act. If the proposed City budget has not been enacted by the Common Council on or before December 15th, as herein provided, then the proposed City budget, with those amendments approved by the Mayor and Common Council to that time, shall be deemed to be the budget for the ensuing fiscal year. **[Amended 9-3-96 as L.L. #14 (Intro No. 18) 1996]**
- I. Certification of budget. Four (4) copies of the City budget as finally enacted shall be certified by the City Clerk. One (1) such copy shall be filed in the office of the Mayor and one (1) each in the offices of the Fiscal Affairs Officer, the City Treasurer and the City Clerk, for inspection by the public, on or before January 5 of that budget year. The City budget, as so certified, shall be printed or otherwise reproduced, and copies shall be made available to the public by the City Clerk.
- J. Other procedures to be included herein. Any other public notice, public hearing or requirement mandated by federal, state or local law

concerning the adoption of the City's budget shall be accommodated to the greatest extent possible into the procedure outlined in this section to avoid duplication of notices, hearings and requirements.

§ 2-5.29. Levy of taxes; reserve for uncollected taxes.

The net City tax requirement, determined by subtracting the total estimated revenues from the total proposed expenditures as set forth in the adopted budget, shall be levied in advance of the start of the fiscal year by the Common Council on the taxable real property of the City. The taxes so levied shall include an amount to be known as "reserve for uncollected taxes," which shall be a City charge. The Common Council shall fix the amount of such reserve at such sum as it may deem sufficient to produce in cash from the collection of taxes and other revenues during the year moneys required to meet the estimated expenditures of such year; provided, however, that such reserve shall be not less than the face amount of unpaid taxes for the preceding completed fiscal year.

§ 2-5.30. Supplemental and emergency appropriations.

If, during any fiscal year, there are available for appropriation revenues received from sources not anticipated in the budget for that year or revenues received from anticipated sources but in excess of the budget estimates therefor, the Common Council, upon the recommendation of the Fiscal Affairs Officer, may make supplemental appropriations for the year, not in excess, however, of such additional revenues. To meet a public emergency affecting life, health or property, the Common Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the Common Council may authorize the issuance of obligations pursuant to applicable law.

§ 2-5.31. Insufficient revenues; reduction of appropriations.

If, at any time during the fiscal year, it appears that the revenues available will be insufficient to meet the amounts appropriated, the Mayor shall report to the Common Council, without delay, the following: the estimated amount of the deficit or revenue shortfall, remedial action already taken and any recommendations as to further action. The Common Council shall take such action as it deems necessary to prevent any deficit. For that purpose, it may, by resolution, reduce one (1) or more appropriations; but no appropriation for debt service may be reduced, and no appropriation may be reduced by more than the unencumbered balance thereof or below any amount required by law to be so appropriated. The Common Council may also, if it so desires, authorize borrowing temporarily pursuant to applicable law in any amount not greater than such deficit for such purposes.

§ 2-5.32. Transfers.

Within limitations established by the Common Council, the Mayor may, upon advice of the Fiscal Affairs Officer, at any time during the fiscal year, transfer an amount up to five hundred dollars (\$500.) in part or all of any unencumbered appropriation balance between classifications or expenditures within the same department of City government. The Common Council may transfer part or all of any unencumbered appropriation balance from one department or authorized agency to another, but no transfer shall be made from appropriations for debt service, and no appropriation may be reduced below any amount required by law to be so appropriated.

§ 2-5.33. Contingent funds.

The budget may include a contingent fund for unanticipated or unallowable expenditures. The Common Council may appropriate all or any part of the moneys in the General Fund Contingent Account for general City purposes. The contingent account funds shall not be greater than five percent (5%) of the proposed budget estimated total expenditures.

§ 2-5.34. Budget controls.

No City officer, employee, administrative unit or other funded agency shall, during a fiscal year, expend or contract to expend any money or incur any liability or enter into any contract which, by its terms, involves the expenditure of money in excess of the amount appropriated for any account or having been authorized to be borrowed, pursuant to the Finance Law, by the Common Council. This shall not prevent the making, when permitted by law, of any contract or any lease providing for the payment of funds at a time beyond the end of the fiscal year in which the contract or lease is made, but any contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one (1) fiscal year shall be authorized by the Common Council.

§ 2-5.35. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned by a two-thirds vote of the Common Council membership.

§ 2-5.36 through 2-5.50. (Reserved)

SUBARTICLE V-C
Local Improvement Assessments

§ 2-5.51. Terms defined; sewer locations.

A. The meanings of terms used in this Subarticle shall be as follows:

LOCAL IMPROVEMENT - The pavement of City streets and the construction of City sewers.

PAVEMENT - The artificial covering of a street with a hard, permanent surface such as concrete, macadam, asphalt or brick.

SEWAGE - A combination of the water-carried wastes from residences and business and industrial establishments, together with such ground-, storm- and surface waters as may be present.

SEWER - A pipe or conduit for carrying sewage.

STREET - A thoroughfare used for vehicular travel.

B. Location of sewers.

The Common Council of the City of Dunkirk may, by resolution, cause to be constructed such sewers within the streets or parts of streets of said City or within such areas in said City as, in its judgment are necessary and proper for the convenience of the people or the preservation of public health.

§ 2-5.52. Declaration of intent.

A. The Common Council may, by resolution, declare its intent to undertake any local improvement in the City as in its judgment is necessary for the convenience and general welfare of the public. Said declaration of intent shall specify the area to be improved and the materials to be used and shall establish a date for a public hearing on the proposed construction.

B. The declaration of intent shall be published in the official City newspaper once a week for two (2) successive weeks. On or before the first day of publication, the City Clerk shall cause to be mailed a copy of said declaration of intent to the owners of real property subject to local assessment for payment of the costs of paving as herein set forth.

§ 2-5.53. Objections.

Any owner of real property within the City of Dunkirk may, at any time within ten (10) days of the first publication of the resolution of intent, present to the Common Council written objections to the construction of such local assessment.

§ 2-5.54. Public hearing.

Before the Common Council shall, by resolution, adhere to its intent to undertake the local improvement, it shall conduct a public hearing on the matter, and any written objections received, before the Common Council, sitting as a committee of the whole, which public hearing shall be held at a time and place set forth in the declaration of intent but not less than ten (10) days from the date of the first publication of the declaration.

§ 2-5.55. Plans and specifications.

Whenever the Common Council orders the construction of any local improvement as herein provided, it shall cause to have plans and specifications for such construction prepared and shall thereafter advertise for bids in accordance with controlling statutes.

§ 2-5.56. Connection of utilities.

- A. Wherever utilities are installed in any street or portion thereof to be paved, it shall be the duty of the Director of Public Works to require the owners of abutting improved or unimproved real property to provide sufficient connections to said utilities to a point outside the roadway to be surfaced. Such connections shall be made by the owners upon fifteen (15) days' notice from the Director of Public Works, who shall establish the standards for such connections and who shall supervise and approve the installation thereof.
- B. In the event that any owner fails to cause connections to be made as required by the Director of Public Works, the Director may cause such connections to be made and charge the cost thereof to the realty. Charges so levied for utility installation shall become a lien against the realty, to be collected in the manner provided by law for the collection of delinquent taxes.

§ 2-5.57. Apportionment of costs.

The expense of paving shall be borne in the manner following:

A. Streets.

- (1) The City shall pay the entire cost of paving all street intersections and, in addition, shall pay one-third (1/3) of the balance of the cost of paving.
- (2) The abutting owners of real property shall pay the remaining two-thirds (2/3) of the cost of paving in proportion to the number of feet of frontage which each owner has on the street so improved.
- (3) Repairs to streets previously paved or resurfacing or repaving of streets shall be paid by the City as part of the general expenses of the operation of government and shall not be charged against the abutting real property owners as a local assessment.

B. Sewers.

- (1) Except as otherwise provided, the cost and expense of any sewer constructed pursuant to this Subarticle shall be charged upon and collected from the property owners abutting the street within which such sewer is constructed, pro rata, share and share alike, in proportion to the number of feet of frontage which the owner has on that portion of the street within which such sewer is constructed.
- (2) Whenever property abutting upon intersecting streets shall have been previously assessed for the cost and expense of a sewer within one of its abutting street fronts, it shall be held exempt from assessment for the cost and expense of any sewer constructed within the other intersecting street for a distance back from such intersecting street of one hundred (100) feet or the distance previously assessed, whichever is less.
- (3) The cost and expense of the construction of any sewer upon intersecting streets where an exemption provided in Subsection B(2) hereof exists shall be borne, pro rata, share and share alike, by the number of remaining feet of frontage upon each and every block wherein such sewer is constructed.
- (4) That portion of the cost and expense of construction of any sewer constructed within a street but lying wholly outside the limits of the frontage of any abutting property shall be borne

by the City and assessed against all of the taxable property of the City as a part of the general expenses of the operation of government.

- (5) In any area wherein a sewer is constructed pursuant to this Subarticle outside the limits of a public street, highway or thoroughfare, the cost and expense of such sewer construction shall be borne, pro rata, share and share alike, among the owners of vacant lots having an area of at least three thousand (3,000) square feet and the owners of dwellings or structures suitable for human habitation, excepting guest houses. For purposes of apportionment of the costs and expenses of such sewer construction, each dwelling or structure suitable for human habitation, excepting guest houses, and each vacant lot having an area of at least three thousand (3,000) square feet shall be considered one (1) unit and shall bear a unit charge in relation to the number of units situate within said area. The Common Council shall designate the limits of such area and require that all units within such area pay a proportionate cost of the expense of such sewer construction.
- (6) Whenever the Common Council determines that a sewer or a portion thereof constructed within any street or area in the City is so constructed or partially constructed for the convenience of the City, it may cause the cost and expense of such sewer or portion thereof as is in its determination is constructed for the convenience of the City to be assessed against all of the taxable property of the City as a part of the general expense of the operation of government.

§ 2-5.58. Assessment; review of assessment.

- A. Upon the completion of a local improvement undertaken pursuant to this Subarticle, the Common Council shall prepare and deliver to the Department of Assessors of the City of Dunkirk a statement of the total cost of said local improvement and related costs and such other facts as it shall deem necessary. Said Department of Assessors, whose duty it shall be to assess the cost and expense of said paving in the manner provided in this Subarticle, shall thereupon prepare a local assessment roll, which shall be open for public inspection in the office of the Assessors. Said local assessment roll shall contain the names of the owners of each parcel of land affected by the local improvement, a statement of the linear feet of frontage on the street and the amount chargeable to each owner.

- B. The Department of Assessors shall designate a date for review of said assessment not less than ten (10) days from the date of first publication and shall publish notice of said day for review in the official City newspaper once a week for two (2) successive weeks. On or before the first day of publication, the Clerk of the Department of Assessment shall cause to be mailed a copy of said notice of review to each owner of real property subject to local assessment for payment of the costs of said local assessment.
- C. On said day of review, the Department of Assessors shall meet at the time and place appointed to hear and consider all objections concerning said assessment. It shall have authority to administer oaths to all persons appearing or produced as witnesses and to subpoena all necessary persons. Said Department of Assessors shall have the power to adjourn said hearing from time to time and to make changes or amendments of said assignment and it may affirm and adopt the same as originally proposed or as changed or amended. It may annul the assessment and proceed anew and prepare a new roll, which, when completed, shall be subject to review de novo. Upon adoption of the assessment roll by the Department of Assessors, it shall forthwith report the same to the Common Council, whose duty it shall be to finally adopt or reject said assessment.

§ 2-5.59. Collection of assessment.

- A. Upon final adoption of the assessment by the Common Council, it shall be filed with the City Treasurer, together with a warrant of the Common Council for the collection of the same, and the charge assessed therein shall become a lien upon the real property therein mentioned.
- B. The City Treasurer shall publish one (1) notice in the official newspaper that the City Treasurer will commence receiving payment of said charge with a one-percent fee added on the day stated in said notice and will so receive the same for a period of sixty (60) days after said date.
- C. Any owner of real property subject to special assessment may pay the whole or any part thereof, but not less than ten percent (10%), within the aforesaid sixty-day period. The balance thereof shall be due and payable in nine (9) equal installments, with interest not exceeding the legal maximum interest rate permissible by law but not less than six percent (6%) annually on all unpaid balances.

- D. Any owner subject to special assessment may pay any remaining unpaid installments after a date sixty (60) days after the notice given by the City Treasurer pursuant to this section by adding thereto the interest which the City of Dunkirk may be required to pay by reason of the issuance of bonds or notes to pay the cost of the improvement.
- E. Moneys received upon the collection of the special assessment roll shall be used in paying the cost of such improvement.

SUBARTICLE V-D
Surplus Equipment Disposal
[Added 4-12-1993 as L.L. No. 4-1993]

2-5.60. Committee responsibility.

The Committee having charge of a particular department shall be responsible for the disposition of surplus equipment and other personal property of the City. Such Committee shall fix the times and places at which public auctions shall be held and shall promulgate such additional rules and establish such procedures as may be necessary to effect the orderly and proper conduct thereof.

2-5.61. Final sales.

All sales shall become final upon payment by the purchaser of the full amount of the purchase price.

2-5.62. Auctioneers.

The Committee is authorized to employ such professional auctioneers from time to time for this purpose as may be necessary and to delegate its responsibility for the conduct of such auctions to one or more of its members or to any official of City government.

2-5.63. Alternate methods of disposal.

All officers, departments, and other agencies of City government shall dispose of office equipment no longer necessary for public use in the manner set forth herein. The disposition of a specific item of office equipment by another method may be permitted by the Committee.

2-5.64. Prohibited sales.

No sale of property shall be made at any public auction or sealed bid held pursuant hereto to any officer, employee or agent of City government.

2-5.65. Open meetings requirement.

The decisions of the appropriate Committee under this subarticle are to be made in accordance with Article 7 of the Public Officers Law.

§2-5.66. through § 2-5.90. (Reserved)

SUBARTICLE V-E
Accounting and Auditing

§ 2-5.91. Encumbrance accounting system.

The Fiscal Affairs Officer shall update and maintain an encumbrance accounting system for all City funds.

§ 2-5.92. Procedure for audit of claims.

Any claim or charge against the City or against funds for which the City is responsible, except for a fixed salary or for the regular or stated compensation of City officers and employees or for witness and juror fees, shall be paid in the following manner:

- A. Any such claim shall be verified by or on behalf of the claimant to the effect that it is just, true and correct; that the services were of the quantity and quality stated therein; that the services were actually performed; that the prices charged are reasonable and do not exceed the prevailing rate of wage or the market price; that the charges are in accordance with the contract or agreement existing, if there is one; that no part thereof has been paid; and that there are no offset or counter claims thereto.
- B. Any such claim shall be approved by a department head or officer whose action gave rise or origin to the claim.
- C. Presentation for audit.
 - (1) Any such claim shall be presented to the Fiscal Affairs Officer and shall be audited by said Officer. The Fiscal Affairs Officer shall cause each such claim presented to him for audit to be numbered, and the number, the date of the claim, the name of the claimant and a brief statement of the character of each claim shall be entered in a book kept for such purpose, which shall at all times during office hours be so placed as to be convenient for public inspection and examination.
 - (2) This section shall not apply, however, to the use of any petty cash fund established pursuant to the Dunkirk City Charter and the Dunkirk Administrative Code.
- D. When a claim has been finally audited by the Fiscal Affairs Officer, said Officer shall endorse thereon or attach thereto a certificate as to such audit. If said Officer shall reject such claim in whole or in part

or modify the same, such certificate shall include a statement of the items recommended to be disallowed, rejected or reduced and the reason or reasons for the action. If the Fiscal Affairs Officer audits and recommends payment of a claim at less than the amount claimed by the claimant, a notice thereof shall be served upon the claimant within three (3) days, either personally or by mail to such claimant's last known address, and said claim and certificate shall thereupon be filed and remain a public record in the Fiscal Affairs Officer's office and shall be open to public inspection. If such claim shall be recommended for payment in whole or in part, the Fiscal Affairs Officer shall certify the amount recommended and the City fund properly charged therewith, and said Officer shall specify the appropriation account to which it is charged.

§ 2-5.93. Financial reports.

- A. At the end of each month, the Fiscal Affairs Officer shall prepare a report of budget account encumbrances and balances to date. Each administrative unit of City government or authorized agency shall be notified as to the condition of those accounts which it is responsible for. A complete monthly report of all accounts shall be given to the Mayor and each member of the Common Council.
- B. A copy of each department's accounts and funded agencies shall be given to the administrative head of each City department and said agencies.

**ARTICLE VI
Department of Law**

§ 2-6.01. Establishment; City Attorney.

- A. There shall be a Department of Law under the direction of the City Attorney, who shall be appointed by the Mayor with the consent of the Common Council. The City Attorney shall serve at the pleasure of the Mayor.
- B. The City Attorney shall be duly admitted to the practice of law as an attorney and counselor in New York State and shall be a resident of the City of Dunkirk while holding said office if the Public Officers Law requires such residency.

§ 2-6.02. Powers and duties of Attorney.

The powers and duties of the City Attorney shall include:

- A. Being the chief legal adviser of and Attorney for the City, the Common Council and all City departments, boards, commissions and offices in matters relating to the official powers and duties.
- B. The appearance for and protection of the rights and remedies of the City in all actions, suits or proceedings brought by or against the City or any City department, office, board or commission.
- C. The prosecution of all offenses against the ordinances of the City and such offenses against the laws of the state as may be required by law.
- D. The preparation of all local laws, ordinances, resolutions, contracts, deeds and other instruments for the City, except in such instances where special counsel has been retained to perform such duties and as otherwise required by law.
- E. Attendance at Common Council meetings.
- F. Giving legal advice and opinion, oral or written, when so requested by the Common Council, the Mayor or the executive head of any department.
- G. Subject to the Civil Service Law, Rules and Regulations, the appointment of such assistants and other employees of the Department to fill such positions with the Department as authorized by the Common Council. The City Attorney may also suspend and remove all assistants and other employees of the Department subject to the Civil Service Law, Rules and Regulations.
- H. In addition to the duties imposed upon the City Attorney by the Charter or required by local law, ordinance or resolution of the

Common Council, the performance of any duties imposed upon the chief legal officers of municipalities by law or those duties incident to the Department. Said duties imposed on the City Attorney shall include but not be limited to:

- (1) The approval of bonds under Chapter 6, Auctions and Auctioneers, Chapter 24, Dock and Harbor Use, Chapter 28, Electrical Installations, Chapter 39, Gas Wells, Chapter 39, Hawkers and Peddlers, Chapter 44, Junk Dealers and Pawnbrokers, and Chapter 55, Plumbing.
 - (2) The serving as an ex officio member of the Landmark and Preservation Board under Chapter 46.
- I. On or before February 1 of each year, making an annual written report for the immediately preceding calendar year, covering generally the work of the Department of Law, with copies of such report being filed with the Common Council and Mayor.
 - J. The preparation annually of a supplement to the City Charter, the Administrative Code and the City Code, which shall indicate all additions to, repeals of and amendments of said Charter and codes.

§ 2-6.03. Employment of special counsel.

- A. The Common Council may, upon the request of the City Attorney, employ bond counsel and other special counsel and experts, at such compensation as may be authorized by the Common Council, to handle or assist the Department in difficult and unusual or specialized matters or proceedings in which the City is interested or in which the City is a party.
- B. Whenever special counsel or other experts are retained by the City, they shall report directly to the City Attorney and shall work generally under the City Attorney's supervision. The City Attorney shall act as liaison with such counsel and experts and shall report regularly to the Mayor and Common Council on the work done by such individuals.

2-6.04. Assistant City Attorneys.

If the Common Council shall create and approve one (1) or more Assistant City Attorney position(s) and if the City Attorney shall appoint more than one (1) such assistant, the City Attorney shall then designate one (1) to serve as the First Assistant, who may act in the City Attorney's position when the City Attorney is out of the City or otherwise temporarily unable to perform the duties of the office, but the First Assistant shall have no power to hire or fire employees within the

Department. Any such designation shall be in writing and shall be filed with the Mayor, the Common Council, the Personnel Administrator and the City Clerk. Such designation may be revoked at any time by the filing of a written revocation of said designation.

§ 2-6.05. Law Library.

The Department of Law shall continue to maintain the Law Library of the City of Dunkirk to aid the work of the City Attorney and other City officers.

§ 2-6.06. Inconsistent interests among City officials.

It is the paramount interest of the Department of Law and the City Attorney to represent the interests of the City of Dunkirk, even when it appears that the interests of the Common Council, the Mayor or an individual officer or board differ from that of the City. When said interests are inconsistent, the City Attorney and the Department of Law shall represent the interests of the City. The interests of the City shall be determined by the City Attorney in light of the State Constitution, the general state statutes, the City Charter and other applicable local laws, ordinances and resolutions and the Code of Professional Responsibility. The City Attorney shall consult with the Common Council, the Mayor and other appropriate City officials and employees, as well as with other attorneys, in determining the true legal interests of the City. In any such case of inconsistent interests, the officer, employee or body may employ an attorney at law to represent such other interest. The City shall be responsible only for such other legal services as allowed by the statutory and case law of the State of New York.

§ 2-6.07. Professional ethics.

The City of Dunkirk needs and deserves attorneys of high professional competence and ethics. All attorneys serving the City shall adhere to the standards of the Code of Professional Responsibility as promulgated and interpreted by the American and New York State Bar Associations. In particular, attorney(s) serving the City should refrain from activities in which personal or professional interests are or foreseeably may be in conflict with their official duties. In addition, all employees of the Department of Law shall adhere to the Code of Ethics enacted by the City of Dunkirk, Chapter 30 of the City Code. Any actual or potential conflicts of interest shall be disclosed in writing to the City Clerk.

ARTICLE VII
Department of Public Works

§ 2-7.01. Director of Public Works.

- A. The Department of Public Works shall be headed by the Director of Public Works, who shall be appointed by the Mayor with the consent of the Common Council. The Director shall be qualified on the basis of training and experience in public works administration and in civic engineering practice and shall serve at the pleasure of the Mayor.
- B. If the Common Council shall create and approve the position of an Assistant Director of Public Works, the Assistant Director shall have all the powers and duties of the Director of Public Works when the Director is out of the City or otherwise temporarily unable to perform the duties of the office, but the Assistant Director shall have no power to hire or fire employees within the Department.

§ 2-7.02. Powers and duties of Director.

The powers and duties of the Director of Public Works shall include:

- A. The supervision of all departmental divisions and their functions, with responsibility for all engineering work of the City.
- B. Responsibility for supervision of consulting engineers when retained by the Common Council for specific purposes.
- C. Having custody of City maps and surveys.
- D. Attendance at Common Council meeting.
- E. Certification of all public work performed pursuant to contract under supervision and control of the Department before it is accepted, to the effect that such work is performed in a good and substantial manner, with the materials required and of the quality and in the manner directed by the terms of the contract. The Director of Public Works shall file such certificate of completion with the City Clerk and City Treasurer before final payment is made under the contract.
- F. Subject to Civil Service Law, Rules and Regulations, the appointment of such assistants and other employees of the Department to fill such positions within the Department as authorized by the Common Council. The Director of Public Works may also suspend and remove all assistants and other employees of the Department, subject to the Civil Service Law, Rules and Regulations.
- G. In addition to the duties imposed upon the Director of Public Works by the Charter or required by ordinance or resolution of the Common Council, the performance of any duties incident to the Department or assigned by the Mayor, and such additional duties shall include but are not limited to supervision of:
 - (1) The collection of garbage and rubbish under Chapter 36 of the City Code.
 - (2) Garbage and rubbish disposal under Chapter 37 of the City Code.
 - (3) The City parks under Chapter 49 of the City Code.
 - (4) Sewers under Chapter 63 of the City Code.
 - (5) Sidewalks under Chapter 65 of the City Code.

- (6) Streets under Chapter 67 of the City Code.
- (7) The public dock under Chapter 24 of the City Code.
- H. Within the appropriations provided therefor and when authorized by the Mayor and Council, the employment of such special engineering, architectural or other technical counsel and incurring of such expenses as may be necessary for the performance of any of the duties prescribed by this code or by the Charter.
- I. Contracting, subject to the approval of the Mayor and the Common Council, with any public corporation, public authority or any combination of the same for public works services.
- J. Assisting in the preparation of specifications as directed by the Mayor and Common Council, assisting in the advertisement of bids and reviewing bids and making any necessary recommendations to the Mayor and Common Council with respect to the awarding of such bids.
- K. Assisting all administrative units in the preparation of and development of information for their respective capital project requests, when such assistance is requested.
- L. Making a monthly report to the Mayor and Common Council giving an account of work projects completed, those in progress and those scheduled. The report shall be submitted on or before the 10th day of each month.
- M. On or before February 1 of each year, making an annual written report to the Mayor and Common Council for the immediately preceding calendar year covering generally the work of the Department.
- N. Filing with the Mayor, Common Council and Fiscal Affairs Officer a report covering maintenance of an inventory of all equipment in said Department, including the year, the make, the model, the purchase price, the division to which it is assigned and the estimated replacement date.

§ 2-7.03. Division of Engineering.

- A. The Division of Engineering shall be headed by the Director of Public Works. It shall be staffed by those employees of the Department of Public Works who shall be designated by the Director of Public Works on the basis of administrative experience and engineering

qualifications to handle the engineering services of the City. Said Division shall be directly responsible to the Director of Public Works.

- B. This Division shall be responsible for:
- (1) The day-to-day engineering work of the City.
 - (2) Supervision of the work of the City's consulting engineers.
 - (3) The preparation and preservation of all maps of all streets, sewers, waterlines and City easements in the City.
 - (4) House numbering.
 - (5) Street lighting.
 - (6) The installation and maintenance of traffic control devices, signs, markings and records under the direction of the Chief of Police.
 - (7) Such other assignments as directed by the Director of Public Works.

§ 2-7.04. Division of Streets and Highways.

- A. The Division of Streets and Highways shall be headed by the Public Works Supervisor, who shall be so designated by the Director of Public Works in accordance with Civil Service Law, Rules and Regulations.
- B. The Division of Streets and Highways shall be responsible for:
- (1) The maintenance and condition of City streets, highways, alleys, sanitary and storm sewers and public parking lots.
 - (2) The exercise of supervision over sidewalks.
 - (3) The collection of garbage and rubbish.
 - (4) The care and removal of trees and shrubs situate on City property.
 - (5) Such other assignments as directed by the Director of Public Works.

§ 2-7.05. Division of Parks and Playgrounds.

- A. The Division of Parks and Playgrounds shall be headed by a Parks Maintenance Supervisor designated by the Director of Public Works based on experience and training in parks and playground operation and maintenance, in accordance with Civil Service Law, Rules and Regulations.
- B. The Division of Parks and Playgrounds shall be responsible for:
 - (1) The maintenance of public parks, playing fields, playground facilities and equipment and other public grounds or such other assignments as directed by the Director of Public Works.

§ 2-7.06. Division of Wastewater Treatment.

- A. The Division of Wastewater Treatment shall be headed by the Chief Wastewater Treatment Plant Operator, who shall be designated by the Director of Public Works based on experience and training in wastewater treatment, subject to Civil Service Law, Rules and Regulations. The Chief Wastewater Treatment Plant Operator shall hold a Class I-A operator's license from the State of New York or shall otherwise meet such requirements for Wastewater Treatment Plant Operator as set by the State of New York.
- B. The Division of Wastewater Treatment shall be responsible for:
 - (1) The operation of the wastewater treatment plant of the City in all aspects, including but not limited to supervision of plant personnel and equipment, inventory of supplies and compliance with the appropriate state and federal regulations concerning wastewater treatment.
 - (2) Such other assignments as directed by the Director of Public Works.

§ 2-7.07. Division of Water Treatment and Water Distribution.

The Division of Water Treatment and Water Distribution shall be subdivided into three (3) Subdivisions: Water Treatment, Water Maintenance and Distribution and Water Meter Service.

- A. Water Treatment Subdivision.
 - (1) The Water Treatment Subdivision shall be headed by the Chief Water Treatment Plant Operator, who shall be designated by the Director of Public Works based on

experience and training in water treatment and shall hold a Class I-A operator's license or shall otherwise meet such requirements for Water Treatment Plant Operator as set by the State of New York and in accordance with Civil Service Law, Rules and Regulations.

- (2) The Water Treatment Plant Operator shall be responsible for:
 - (a) The operation of the water treatment plant of the City in all aspects, including but not limited to supervision of plant personnel and equipment, inventory of supplies and compliance with the appropriate state and federal regulations concerning water treatment.
 - (b) The testing of water throughout the City and as requested under contract outside the City.
 - (c) Such other assignments as directed by the Director of Public Works.

B. Water Maintenance and Distribution Subdivision.

- (1) The Water Maintenance and Distribution Subdivision shall be headed by the Water Maintenance Supervisor, who shall be designated by the Director of Public Works based on experience and training and in accordance with Civil Service Law, Rules and Regulations.
- (2) This Subdivision shall be responsible for:
 - (a) The construction, operation, repair and replacement of all public waterlines in the City.
 - (b) Responsibilities under contract for water supply and service outside the City limits.
 - (c) Such other assignments as directed by the Director of Public Works.
- (3) The following powers are reserved by the Common Council in respect to the Water Maintenance and Distribution Subdivision:
 - (a) The power to extend the current waterworks system for the purpose of furnishing water to the City of Dunkirk, its residents and industries.

- (b) The power to extend the current waterworks system outside the City limits upon such terms which may be agreed upon in a contract that adequately compensates the City for capital costs, debt service and use of its treatment plant, maintenance of the water distribution system and installation and service of new lines.
 - (c) The power to acquire, by purchase, gift or eminent domain, all the lands, to erect all the buildings and structures and to purchase, lease and install all the machinery and equipment which is necessary to maintain, increase and extend the current water distribution system.
 - (d) The power to ascertain annually the cost of supplying water to the City of Dunkirk and its instrumentalities, and it may exempt the City and its instrumentalities from all charges therefor.
 - (e) The power to establish a scale of rates for water furnished to any person, firm or corporation and to alter and change said rates at such time and in such manner as it may determine.
 - (f) The power to make all necessary contracts incidental to or connected with this Subdivision.
- (4) The Common Council shall not have the power to sell or lease said water supply system to any person, firm, corporation or association.
 - (5) Nothing in this code shall in any way invalidate, vitiate or affect any obligations now outstanding against the Water Department as established under Article XVIII of the old City Charter or under the new City Charter.
 - (6) All water rates and charges for labor and material in installing the same shall be paid to the Treasurer of the City of Dunkirk, and water rates and charges for labor and materials and installing the same shall be kept in a separate fund. All such water charges shall be collected from the real property owners upon which the distributing pipes are connected. Such water charges shall be, like other taxes of the City, a lien upon the real property where the water is connected.

Such water charges shall be levied, corrected, enforced and collected in the same manner, by the same proceedings, at the same time and under the same penalties as City tax foreclosures.

C. Water Meter Service Subdivision.

- (1) The Water Meter Service Subdivision shall be headed by a Water Meter Supervisor, who shall be designated by the Director of Public Works based on experience and training and subject to Civil Service Law, Rules and Regulations.
- (2) The Subdivision shall be responsible for:
 - (a) The reading of all water meters within the City and outside the City when required by contract.
 - (b) The repair and maintenance of all such water meters.
 - (c) Such other assignments as directed by the Director of Public Works.

§ 2-7.08. Division of Public Works Maintenance.

- A. The Division of Public Works Maintenance shall be headed by the Automotive Mechanic Supervisor, who shall be designated by the Director of Public Works based on experience and training in automotive repair and maintenance and subject to Civil Service Law, Rules and Regulations.
- B. The Division of Public Works Maintenance shall be responsible for:
 - (1) The operation of the City barns, including fuel supply.
 - (2) The maintenance and repair of all City vehicles and equipment.
 - (3) Such other assignments as directed by the Director of Public Works.

§ 2-7.09. Division of Transit Services.

- A. The Transit Services Division shall be headed by a Transit Supervisor, who shall be designated by the Director of Public Works based on experience and training, subject to Civil Service Law, Rules and Regulations.

- B. The Division shall be responsible for:
 - (1) The scheduling and operation of the City bus services.
 - (2) Such other assignments as directed by the Director of Public Works.

§ 2-7.10. Division of Plumbing.

- A. The Division of Plumbing shall be headed by a Plumbing Inspector, who shall be appointed pursuant to Chapter 55 of the City Code. The Examining Board of Plumbers as provided by law and said chapter shall function in this Division.
- B. The Division shall be responsible for:
 - (1) All duties imposed by Chapter 55, Plumbing, of the City Code.
 - (2) Such other assignments as directed by the Director of Public Works.

ARTICLE VIII
Police Department

§ 2-8.01. Departmental organization.

- A. The Police Department shall consist of the Chief of Police and such other officers and positions within the Department as now exist and as the Common Council may hereafter create or abolish. It shall be organized into such divisions as the Chief of Police shall establish. The Department shall have jurisdiction, supervision and control of all functions and duties customarily performed by a Police Department. Police officers shall have all the powers, authority and duties conferred upon them by the laws of the State of New York. They shall perform such other duties as may be assigned to them by the Chief of Police.
- B. The Police Department shall enforce the laws of the state and the ordinances of the City, except where such enforcement is expressly given to another department, and shall perform such other duties as may be assigned to them by the Chief of Police.

§ 2-8.02. Appointment and qualifications of Chief of Police.

The Chief of Police shall be appointed by the Mayor with the consent of the Common Council from the competitive class of civil service. The Chief shall have at least eight (8) years' service with law enforcement agencies and shall be appointed on the basis of executive and administrative qualifications in the field of police science and in accordance with Civil Service Law, Rules and Regulations.

§ 2-8.03. Powers and duties of Chief of Police.

The Chief of Police shall be the executive head of the Police Department. The powers and duties of the Chief of Police shall include:

- A. Enforcement of the laws of the state and the ordinances of the City.
- B. Assignment of all members of the Department to their respective posts, shifts, details and duties.
- C. The promulgation of reasonable rules and regulations concerning the operation of the Department and the conduct, duties and assignments of all officers and employees for the better efficiency of the Department. Each officer shall be provided with a copy of the existing regulations and of each new regulation prior to its effective date.

- D. Responsibility for the efficiency, discipline and good conduct of the Department and for the care and custody of all property used by the Department, including the maintenance of an inventory of all equipment in said Department, which shall include the year, the make, the model, the purchase price, the division to which it is assigned and the estimated replacement date. Said inventory shall be submitted annually to the Mayor and Common Council and Fiscal Affairs Officer.
- E. Provision for suitable, ongoing training for members of the Department.
- F. The adoption of such innovations within the Department as may be desirable for the betterment and increased efficiency of the Department.
- G. Attendance at Common Council meetings.
- H. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The Chief may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
- I. The performance of such other similar and related duties as may be assigned by the Mayor.
- J. On or before February 1 of each year, the preparation and filing of an annual written report to the Mayor and Common Council for the immediately preceding calendar year covering:
 - (1) Generally the work of the Department.
 - (2) A report of all crimes and offenses against the laws of the state and City ordinances.
 - (3) Any recommended laws for new or revised City ordinances which the Chief feels necessary for safeguarding the rights and property of the citizens of the City of Dunkirk.
- K. Having custody and administration of all lost, abandoned, stolen and impounded property recovered in the City.
- L. The proper maintenance and operation of the City jail and custody of all persons incarcerated therein.

§ 2-8.04. Assistant Chief of Police.

If created by the Common Council, the Chief may appoint an Assistant Chief of Police from the classified competitive class of civil service. The Assistant Chief shall be in charge of the Police Department in the temporary absence of the Police Chief. While in such capacity, the Assistant Chief shall have all the powers and duties of the Police Chief except the promulgation of rules under § 2-8.03C hereof and the power to appoint and dismiss officers or employees under § 2-8.03H hereof.

**ARTICLE IX
Fire Department****§ 2-9.01. Departmental organization. [Amended 4-24-1990 as Resolution #155-1990] [Amended 2-6-2007 as L.L. #1-2007]**

The Fire Department shall consist of the Fire Chief, the First Assistant Fire Chief, the Second Assistant Fire Chief, both volunteer and paid fire fighters and such other officers and positions within the Fire Department as now exist or that the Common Council may hereafter create or abolish. It shall be organized into such divisions as the Fire Chief shall establish. Included among the functions of

the Department shall be the prevention of fire, the fighting and control of fires and the performance of emergency and rescue operations.

§ 2-9.02. Fire Chief and Assistants.

The Chief of the Fire Department shall be appointed by the Mayor with the consent of the Common Council from the Competitive Class of Civil Service. The Chief shall have at least ten (10) years of service as a professional fireman and shall be appointed on the basis of executive and administrative qualifications in the field. Upon the recommendation of the Dunkirk Volunteer Firemen's Association, the Mayor, with the consent of the Common Council, shall appoint the First Assistant Fire Chief and the Second Assistant Fire Chief for a term of two (2) years. **[Amended 2-6-2007 as L.L. #1-2007]**

§ 2-9.03. Powers and duties of Fire Chief.

The Fire Chief shall be the executive head of the Fire Department. The powers and duties of the Fire Chief shall include:

- A. Authority, direction and control over the Fire Department, its officers, members and employees.
- B. The assignment of all members of the Department to their respective posts, shifts, details and duties.
- C. The promulgation of reasonable rules and regulations concerning the operation of the Department and the conduct, duties and assignment of all officers and employees for the better efficiency of the Department. Each member of the Department shall be provided with a copy of the existing regulations and of each new regulation prior to its effective date.
- D. Responsibility for the efficiency, discipline and good conduct of the Department and for the care and custody of all property used by the Department, including the maintenance of an inventory of all equipment in said Department, which shall include the year, the make, the model, the purchase price, the division to which it is assigned and the estimated replacement date. Said inventory shall be submitted annually to the Mayor, Common Council and Fiscal Affairs Officer.
- E. Provision for suitable, ongoing training for members of the Department.

- F. The adoption of such innovations within the Department as may be desirable for the betterment and increased efficiency of the Department.
- G. Attendance at Common Council meetings.
- H. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The Chief may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
- I. The performance of such other similar and related duties as may be assigned by the Mayor.
- J. On or before February 1 of each year, the preparation and filing of an annual written report to the Mayor and Common Council for the immediately preceding calendar year covering:
 - (1) The general work of the Fire Department.
 - (2) A report of all fires, fire alarms and causes of fire against the laws of the state and City ordinances and in particular a statement of losses.
 - (3) Any recommended laws for new or revised City ordinances which the Chief feels necessary for safeguarding the rights and property of the citizens of the City of Dunkirk.
- K. Cooperation with the Department of Public Works to ensure that the fire alarm system is maintained in working order and operation.
- L. Cooperation with the county alarm and dispatch operations.
- M. Enforcement of the Fire Prevention Code, Chapter 32 of the Dunkirk City Code.

§ 2-9.04. Powers and duties of Assistant Chiefs.

- A. When the Fire Chief is out of the City or otherwise temporarily unable to perform the duties of the office or by the Chief's designation, the First Assistant Chief shall have all the powers and duties of the Fire Chief except the power to appoint and dismiss officers and employees within the Department under § 2-9.03H hereof and the power to promulgate rules under § 2-9.03C hereof.

- B. When the Fire Chief and First Assistant Chief are out of the City or otherwise temporarily unable to perform the duties of the office or by the Chief's designation, the Second Assistant Chief shall have the powers and duties of the Fire Chief except the power to appoint and dismiss officers and employees within the Department under § 2-9.03H hereof and the power to promulgate rules under § 2-9.03C hereof.
- C. When the Fire Chief, First Assistant Chief and Second Assistant Chief are out of the City or otherwise temporarily unable to perform the duties of the office or by the Chief's designation, the Third Assistant Chief shall have the powers and duties of the Fire Chief except the power to appoint and dismiss officers and employees within the Department under § 2-9.03H hereof and the power to promulgate rules under § 2-9.03C hereof.

ARTICLE X
City Clerk

§ 2-10.01. Director; maintenance of records.

The City Clerk's Department shall be directed by the City Clerk and in the City Clerk's absence by the Deputy City Clerk. The Department shall keep and maintain all official City records.

§ 2-10.02. Appointment.

The City Clerk shall be appointed by the Mayor with the consent of Common Council and shall serve at the pleasure of the Mayor. The City Clerk shall be the Clerk of the Common Council and the Registrar of Vital Statistics.

§ 2-10.03. Powers and duties.

The powers and duties of the City Clerk shall include:

- A. Having custody of all City records, including but not limited to all books, papers and documents of the City, except as provided otherwise by the City Charter or this code, and of the Official Seal of the City.
- B. The appointment of a Deputy City Clerk, who shall also serve as Deputy Registrar of Vital Statistics.
- C. Countersigning contracts, deeds, leases, permits, franchises, licenses and any other written instruments authorized by the Common Council or by law, including but not limited to permits and licenses issued under the following chapters of the City Code, and maintaining a record of the same:
 - (1) Auctions under Chapter 6.
 - (2) Bicycles under Chapter 9.
 - (3) Billboards under Chapter 11.
 - (4) Bingo games under Chapter 13.
 - (5) The use of the public dock under Chapter 24.
 - (6) Fireworks displays under Chapter 34.
 - (7) Hawkers and peddlers under Chapter 39.

- (8) Permits after the Mayor's approval under Chapters 44, 51 and 74.
 - (9) Permits after Council approval and pavilion reservations under Chapter 49.
 - (10) Plumbing licenses under Chapter 55.
 - (11) Public telephone facilities on streets and public grounds under Chapter 67.
 - (12) Taxicabs and taxicab operators under Chapter 72.
- D. The receipt and collection of all fees, charges and moneys from the granting of licenses, permits and other fee services rendered by the Office of the City Clerk. After allocating fees as may be required by law, all moneys so received shall be delivered to the City Treasurer for deposit. These fees shall include, in addition to those licenses and permits referred to above, the receipt of fees for:
- (1) Building permits issued under Chapter 15.
 - (2) Public dock and boat launch fees under Chapter 24.
 - (3) Electrician licenses under Chapter 28.
 - (4) Gas well permits under Chapter 38.
 - (5) Permits issued under Chapter 51.
 - (6) Land rentals, towing fees, telephone reimbursements, police tags, sale of scrap and equipment, and bathroom supplies.
 - (7) Any other fees instituted by the Common Council, except as otherwise provided.
- E. Upon receipt from the Common Council, the City Clerk shall forthwith deliver to the Mayor all local laws, ordinances and resolutions adopted by the Common Council as provided for in § 2-3.04 of this code, and a record of the date of delivery and return from the Mayor shall be kept by the City Clerk.
- F. Attendance at all Common Council meetings and the clerking thereof and those other meetings as may be required herein.

- G. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The City Clerk may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
- H. The performance of such other similar and related duties as may be assigned by the Mayor, the Common Council or by law.
- I. The preparation and maintenance of a record of all official Common Council meetings in a book to be provided for that purpose, said book to be deemed a public record of proceedings, ordinances, resolutions and rules; and copies of all papers duly filed in the Clerk's office and transcripts thereof and of the records of the proceedings of the Common Council, certified by the Clerk under the Corporate Seal, shall be evidence in all courts and places with the same effect that the original would have, if procured.
- J. The distribution to department heads of copies of official proceedings of the Common Council as well as referral sheets identifying responsibilities and referrals.
- K. The maintenance of a system of indexing and cataloging of all matters coming before the Common Council, including the numbering of all Council resolutions and monthly and yearly compilations of such indexes.
- L. The service of all notices and their filing as required by federal and state statute, the City Charter or by the Common Council.
- M. The service of all notices of meetings as required under the Open Meetings Law, Article 7 of the Public Officers Law.
- N. Stamping upon all papers filed in the Clerk's office with the date and time of receipt.
- O. Keeping a record of all legal notices, notices of claim and all other notices serviced.
- P. Responsibility for the City's compliance with state election law for general and special elections within the City of Dunkirk.
- Q. Filing all oaths of office of City officers, employees (if required) and board and commission members.

- R. The maintenance of official minutes of all boards and commissions of the City of Dunkirk, said minutes to be recorded by the secretaries of these duly appointed boards, and service of notice of meetings to the members of all boards and commissions unless otherwise done by another department.
- S. Responsibility for the printing of agendas of all Common Council proceedings in the duly designated City newspaper prior to their occurrence if at all possible and their posting in one (1) conspicuous place at City Hall.
- T. Presiding at bid openings; and the receipt of bids, bonds and certified checks attached to bids are to be filed with the City Clerk, which shall be returned to their owners upon authorization of the Common Council.
- U. The preparation, as much as possible, and distribution of a calendar of regular and special Common Council meetings, public hearings, Mayor's hearings and meetings of City boards and commissions.
- V. The issuance, as necessary, of a numbered and dated receipt for all moneys received by the Clerk's office.
- W. The receipt and filing of certificates of insurance required of persons doing business with or in the City of Dunkirk, as determined by the City Attorney.
- X. Provision of adequate stenographic transcripts of Common Council and other meetings as necessary.
- Y. Responsibility for the printing, sale or distribution of all City maps, bus schedules, zoning, housing and assessment books and other printed official City material, bus advertising and the issuance of City identification numbers and exemption certificates.
- Z. Responsibility for keeping records of the active volunteer firemen roll and the issuance of discharge certificates.
- AA. Acting as the City's records access officer pursuant to Chapter 56 of the City Code and the Freedom of Information Law, Article 6 of the Public Officers Law.
- BB. Maintenance of an inventory of all equipment in said Department, including the year, the make, the model, the purchase price, the division to which it is assigned and the estimated replacement date,

said inventory to be submitted annually to the Mayor, Common Council and Fiscal Affairs Officer.

- CC. On or before February 1 of each year, making an annual written report for the immediately preceding calendar year, covering generally the work of the City Clerk's office, with copies of such report being filed with the Common Council and Mayor.

§ 2-10.04. Deputy City Clerk.

The City Clerk shall appoint a Deputy City Clerk from the employees of the Department, who shall serve during the term of said City Clerk. When the City Clerk is out of the City or otherwise temporarily unable to perform the duties of the office, the Deputy City Clerk shall have and exercise all of the powers and duties of that office except the power to hire and fire. In the case of a vacancy or absence in the office of City Clerk, the Deputy City Clerk shall serve until the appointment of a new City Clerk or Acting City Clerk. The Common Council shall fix a separate salary or stipend for the Deputy City Clerk position.

§ 2-10.05. Registrar and Deputy Registrar of Vital Statistics.

The City Clerk shall also be the Registrar of Vital Statistics. The Deputy City Clerk shall also be the Deputy Registrar of Vital Statistics for the City of Dunkirk. As such, they shall attend to and perform all the duties imposed upon such Registrars by the Public Health Law of the State of New York, particularly Article 41 thereof.

**ARTICLE XI
City Treasurer**

§ 2-11.01. Establishment

The City Treasurer shall be the chief fiscal officer of the City and shall be the department head of the Department of the City Treasurer.

§ 2-11.02. Powers and duties.

The powers and duties of the City Treasurer shall include:

- A. The receipt and having custody of all public funds belonging to or handled by the City.

- B. The collection of all taxes, assessments, licenses, fees and other revenues of the City for whose collection the City is responsible, including those payable by law or by the Charter to other City departments or offices.
- C. The deposit of all funds received in such depositories as may be designated by resolution of the Common Council.
- D. Supervision over and responsibility for the disbursement of all City funds.
- E. The submission of an annual financial statement of the City to the State Comptroller and preparation and distribution of such other statements or reports as may be required from time to time by the Common Council or as otherwise prescribed by law, including an annual written report for the immediate preceding year covering the work of the Department of the City Treasurer, which shall be filed on or before February 1 of each year with the Mayor and Common Council.
- F. Responsibility for the issuance of vouchers to be used by all offices, departments, boards and commissions of the City.
- G. Having custody over the investment and management of all City funds, unless otherwise provided in the Charter or by law.
- H. Requiring reports of receipts and disbursements from all offices, departments, boards and commissions of the City at such intervals as may be deemed advisable or as otherwise required by law.
- I. Attendance at Common Council meetings.
- J. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The City Treasurer may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
- K. The appointment of a Deputy City Treasurer.
- L. Maintenance of an inventory of all equipment in said Department, including the year, the make, the model, the purchase price, and the division or employee to whom assigned and the estimated replacement date. A copy of said inventory and all changes thereto shall be supplied to the Fiscal Affairs Officer.

- M. Attendance to those duties imposed by Chapter 70 of the City Code governing taxation of utility service.
- N. The performance of such other similar and related duties as may be assigned by the Mayor.

§ 2-11.03. Deputy City Treasurer.

The City Treasurer shall appoint a Deputy City Treasurer, who shall serve during the term of said City Treasurer. The Deputy City Treasurer shall, during the temporary absence or inability of the City Treasurer, have and exercise all the powers and duties of that office except the power to hire and fire. In the case of a vacancy in the office of City Treasurer, the Deputy City Treasurer shall serve until the appointment of a new City Treasurer or Acting City Treasurer. The Common Council shall fix a separate salary or stipend for the Deputy City Treasurer.

§ 2-11.04. Bond required.

The City Treasurer shall give a bond in the sum of One Hundred Thousand Dollars (\$100,000.00), in such form as may be required by the City Attorney, with two (2) or more good and sufficient sureties. The Common Council shall have the right to require of the City Treasurer a new or additional bond whenever, in its opinion, the existing bond is insufficient. Whenever such new or additional bond is required, the City Treasurer shall perform no official act until said bond is obtained.

§ 2-11.05. Investment of moneys.

The City Treasurer is hereby authorized to invest moneys of the City not required for immediate expenditure according to the provisions of the General Municipal Law and as authorized by the Common Council.

ARTICLE XII
Fiscal Affairs Officer

§ 2-12.01. Appointment; qualifications.

The Fiscal Affairs Officer shall be an independent officer of the City who shall be appointed by the Mayor with the consent of the Common Council and shall serve at the pleasure of the Mayor. The Fiscal Affairs Officer shall have a bachelor's degree in accounting from an accredited college and have three (3) years' experience in the field of finance, budgeting and accounting.

§ 2-12.02. Powers and duties.

The powers and duties of the Fiscal Affairs Officer shall include:

- A. The maintenance and supervision of a general accounting system for the City in accordance with a uniform system of accounts approved by the State Comptroller.
- B. The examination and audit of the accounts of all offices of the City and all persons indebted to the City and certification as to the condition of each account.
- C. Requiring reports of receipts and disbursements from the City Treasurer and all offices, departments, boards and commissions of

the City at such intervals as may be deemed advisable or as otherwise provided by law.

- D. Assistance to the Mayor in preparation of the annual City budget and capital program.
- E. The maintenance of budgetary control for the Common Council, the Mayor and all City departments, commissions, boards and offices.
- F. Acting as purchasing agent of the City pursuant to § 20-a of the General City Law, including the processing of requisitions, purchase orders and vouchers.
- G. Attendance at Common Council meetings.
- H. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The Fiscal Affairs Officer may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
- I. Submission on or before February 1 of each year of an annual written report for the immediately preceding calendar year covering generally the work of the Department. Copies of each report shall be filed with the Common Council and Mayor.
- J. Assistance in the preparation of bids and the awarding of public contracts, including any necessary bonding.
- K. The maintenance of an inventory of all equipment in said Department, including the year, the make, the model, the purchase price, the division or employee to whom assigned and the estimated replacement date. A copy of said inventory and all changes thereto shall be supplied to the Director of Public Works.
- L. The performance of such other similar and related duties as may be assigned by the Mayor.
- M. Responsibility for and charge of the overall computer system operations.

2-12.03. Accounting.

The Department shall maintain an encumbrance accounting system for all City funds as prescribed by the New York State Department of Audit and Control. Accounting of fixed assets shall be established and maintained as described in the

General Fixed Assets Handbook for Municipalities published by the Department of Audit and Control. Cost accounting shall be done by the Department when requested by the Mayor or as requested by the Common Council.

§ 2-12.04. Auditing.

The Department shall conduct any and all internal audits prescribed by law or as directed by the Mayor or Common Council.

§ 2-12.05. Budgeting.

The Department shall be responsible for preparation and administration of the capital program budget as well as the City operating budget.

§ 2-12.06. Purchasing.

The Department is hereby authorized to establish a uniform system of purchasing, including requisitions, purchase orders and vouchers, and shall enact any necessary rules and regulations for such a system in all City departments.

ARTICLE XIII
Department of Assessment

§ 2-13.01. Departmental organization. [Amended 04-05-11 as L.L. #5-2011, and passed on 11-08-11 as a Referendum on City of Dunkirk General Election ballot.]

The Assessment Department as established by the City Charter shall consist of one (1) elected Assessor. The Department shall be responsible to apply state and local laws to the evaluation of property for tax purposes.

§ 2-13.02. Qualifications. [Amended 04-05-11 as L.L. #5-2011, and passed on 11-08-11 as a Referendum on City of Dunkirk General Election ballot.]

The elected Assessor shall be required to meet the minimum qualification standards established for such offices by the State Board of Equalization and Assessment and the Real Property Tax Law.

§ 2-13.03. Clerk of Department. [Amended 04-05-11 as L.L. #5-2011, and passed on 11-08-11 as a Referendum on City of Dunkirk General Election ballot.]

The Assessor shall devote full time to the duties of the office and shall hold no other elective office. The Assessor shall:

- A. Have custody of and responsibility for preparing and maintaining all files, reports, maps, assessment books and other records and papers of the Department.
- B. Subject to the Civil Service Law, Rules and Regulations, appoint all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council and may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
- C. On or before February 1 of each year, make an annual written report for the immediately preceding calendar year, covering generally the work of the Department of Assessment, with copies of such report being filed with the Common Council and Mayor.
- D. File with the Mayor, Common Council and Fiscal Affairs Officer a report covering maintenance of an inventory of all equipment in said Department, including the year, the make, the model, the purchase price, the division to which it is assigned and the estimated replacement date.

§ 2-13.04. Powers and duties of Department. [Amended 3-4-1993 as L.L. #1-1993; Amended 04-05-11 as L.L. #5-2011, and passed on 11-08-11 as a Referendum on City of Dunkirk General Election ballot.]

The powers and duties of the Department shall be as follows:

- A. The assessment of all real property within the City for taxation as provided in the Real Property Tax Law.
- B. The preparation, revision and filing of an annual assessment roll using, pursuant to Local Law No. 1, 1993, May 1 of each year as the taxable status date in the City. **[Amended 3-4-1993 as L.L. #1-1993] [Editor's Note: See Ch. 68, Taxation, Art. I, Taxable Status Date for Real Property.]**
- C. Assistance to the Board of Review in revising and correcting the assessment roll.
- D. Assistance to the City Treasurer in preparation of the annual tax levy.
- E. The preparation of special assessments for public improvements.
- F. The recordation of all conveyances of real property within the City, except mortgages, in books specially prepared therefor, showing the names of the grantors and grantees, the consideration expressed therein, a careful description of the premises conveyed and such other information as deemed relevant by the Clerk of the Board.
- G. Attendance at Common Council meetings.
- H. The performance of such other similar and related duties as may be assigned by the Mayor.
- I. The maintenance of such maps of the City showing in detail the location, size, boundary and ownership of each and every lot or parcel of land within the City.

§ 2-13.05. Board of Assessment Review.

Pursuant to the Real Property Tax Law, there shall continue to exist in the City a Board of Assessment Review, which shall exercise all the powers and duties of such boards under said law.

ARTICLE XIV
Department of Planning and Development

§ 2-14.01. Departmental organization.

There shall be a Department of Planning and Development, which shall consist of the following divisions: Planning, Development and such other divisions as the Common Council may authorize. The Department shall perform those functions specified in § 14.01 of the City Charter.

§ 2-14.02. Director.

The Department of Planning and Development shall be headed by the Director of Planning and Development, who shall be appointed by the Mayor with the consent of the Common Council and shall serve at the pleasure of the Mayor. The Director shall have at least five (5) years of administrative experience in community planning and development.

§ 2-14.03. Powers and duties of Director.

The powers and duties of the Director of Development shall include:

- A. The supervision of each of the divisions of the Department and their functions as established by the Common Council.
- B. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The Director of the Department of Planning and Development may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
- C. The preparation of an Official Map of the City, showing the streets, parks, playgrounds, schools and other public places within the City as well as industrial areas and commercial districts, which Official Map shall be revised and updated annually.
- D. Attendance at Common Council meetings.
- E. Coordination of the City development and planning efforts so they are directed in a unified manner.
- F. Acting as an active liaison between the City Planning Board and the Mayor, Common Council and City departments.

- G. Representation of the City, as directed by the Mayor, on county, regional and state boards for matters related to planning and provision of administrative support to City-appointed representatives on various regional, planning and intermunicipal organizations.
- H. Assistance to the Planning Board in maintaining and updating the City's Master Plan.
- I. Submission, on or before February 1 of each year, of an annual written report to the Mayor and Common Council for the immediately preceding calendar year covering generally the work of the Department.
- J. Filing with the Mayor, Common Council and Fiscal Affairs Officer a report covering maintenance of an inventory of all equipment in said Departments including the year, the make, the model, the purchase price, the division to which it is assigned and the estimated replacement date.
- K. Research into the availability of grants and advice to the Mayor and Common Council of their availability.
- L. Assistance to the Dunkirk Urban Renewal Agency as requested by said Agency.
- M. The performance of such other similar and related duties as may be assigned by the Mayor.

§ 2-14.04. Division of Planning.

- A. The Division of Planning shall be supervised by the Director of Development.
- B. The Division shall:
 - (1) Regularly report to and be supervised by the Director concerning the activities and performance of the Division.
 - (2) Be responsible for executing the planning functions of the Department.
 - (3) Do such other activities as assigned by the Director.

§ 2-14.05. Division of Development.

- A. The Division of Development shall be supervised by the Director of Planning and Development. The Community Development Grant Administrator shall be appointed by the Director of Planning and Development.
- B. This Division shall:
 - (1) Regularly report to and be supervised by the Director concerning the activities and performance of this Division.
 - (2) Be responsible for executing the development functions of the Department.
 - (3) Do such other activities as assigned by the Director.

§ 2-14.06. Planning Board.

- A. The Planning Board, as established by the City Charter, shall have all the powers and authority conferred on such boards by the General Municipal and General City Laws. The Director of Planning and Development shall advise and guide the Board in its operation and shall act as its agent in performing the planning function.
- B. In addition to the five (5) members of the Board appointed by the Mayor, the Director of Public Works and the Fiscal Affairs Officer shall attend its meetings. The Board may request any City officer to meet with it concerning matters under its consideration. All City officers shall cooperate as much as possible in supplying information to the Board.

ARTICLE XV
Personnel Department

§ 2-15.01. Establishment; Personnel Administrator.

- A. There shall be a Personnel Department, the head of which shall be the Personnel Administrator. The Personnel Administrator shall be appointed by the Mayor with the consent of the Common Council from the competitive class of civil service.
- B. The Personnel Department shall develop and administer policies and procedures for providing qualified employees, ensuring equitable treatment, promoting job satisfaction and providing advancement opportunities for City employees.

§ 2-15.02. Powers and duties of Personnel Administrator.

The powers and duties of the Personnel Administrator shall include:

- A. The preparation and maintenance of employee records and files, including a personnel file for each City officer and employee, showing such information as date of election or appointment, title of position held, rate of pay and rate changes, promotions, demotions, transfers, disciplinary notices, communications concerning the officer or employee and any other information which the Administrator considers necessary for a proper personnel record or as required by the Civil Service Law. He or she shall also keep running totals for accumulated sick, personal and vacation leaves and compensatory time.
- B. Responsibility for the administration of personnel benefits, including but not limited to all types of City-provided insurance and retirement benefits for all employees of the City.
- C. Assistance to the Mayor in negotiating employee contracts, including:
 - (1) Periodic review of the performance of all agreements with recognized employee organizations concerning terms and conditions of employment, including but not limited to wages, employee benefits, sick leave, vacations, health and life insurance and retirement plans.
 - (2) Meeting with department heads concerning employer/employee relations in each department.

- (3) Periodic advisement to the Mayor and City Attorney concerning needed changes in union agreement and the impact of any other suggested changes.
- D. The training of personnel and long-range staff planning.
 - E. Obtaining from all City offices, departments, officers and employees all information necessary in the performance of personnel duties.
 - F. Attendance at Common Council meetings.
 - G. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The Administrator may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
 - H. Serving as the City's equal employment opportunities officer and coordinating the implementation of the City's Affirmative Action Plan and advising City officers of said implementation.
 - I. Serving as a liaison between the City's Personnel Department and the Dunkirk Municipal Civil Service Commission.
 - J. Filing with the Mayor, Common Council and Fiscal Affairs Officer a report covering maintenance of an inventory of all equipment in said Department, including the year, the make, the model, the purchase price and the estimated replacement date.
 - K. Filing, on or before February 1 of each year, an annual written report to the Mayor and Common Council for the immediately preceding calendar year covering generally the work of the Department.
 - L. The processing of all unemployment insurance claims brought against the City and the monitoring of unemployment insurance experience rating and advising the Mayor, Common Council and department heads on methods of reducing liability costs.
 - M. Assistance in processing personnel problems, including disciplinary and grievance proceedings.
 - N. The performance of such other similar and related duties as may be assigned by the Mayor.

§ 2-15.03. Coordination with other departments.

The Personnel Administrator shall establish procedures to be followed by each department head to be used in obtaining such information, including:

- A. The preparation and maintenance of employee records and files and any other data that may be useful in evaluating performance of City employees.
- B. Coordination of creating and filling vacancies in accordance with civil service rules and regulations.
- C. Providing to all affected departments any information obtained in the normal performance of personnel duties as outlined in this section.

§ 2-15.04. Salary plan.

The Administrator will maintain a job evaluation and salary plan for City employees as approved by the Mayor and Common Council and periodically resurvey prevailing positions and salaries and recommend amendments to eliminate inequities, recruiting difficulties and employee turnover problems.

ARTICLE XVI
Department of Housing, Building
and Zoning Enforcement

§ 2-16.01. Departmental organization.

There shall be a Department of Housing, Building and Zoning Enforcement, the head of which shall be the Housing, Building and Zoning Officer, who shall also be the Electrical Code Enforcement Officer. The Housing, Building and Zoning Officer shall be appointed by the Mayor with the consent of the Common Council from the competitive class of civil service.

§ 2-16.02. Powers and duties.

The Powers and duties of the Housing, Building and Zoning Officer shall include:

- A. Responsibility for plan review of new construction, additions and renovations and conversion from one occupancy to another.
- B. Responsibility for administration and enforcement of the following:
 - (1) The New York State Uniform Fire Prevention and Building Code (New York Codes, Rules and Regulations, Sections 600-1000).
 - (2) The State Energy Conservation Construction Code (New York Codes, Rules and Regulations, Sections 7810-7815).
 - (3) The City Building Construction Ordinance (Chapter 15 of the City Code).
 - (4) The Unsafe Buildings or Structures Ordinance (Chapter 18 of the City Code).
 - (5) The Electrical Installations Ordinance (Chapter 28 of the City Code).
 - (6) The Gas Wells Ordinance (Chapter 38 of the City Code).
 - (7) The City Housing Standards Ordinance (Chapter 41 of the City Code).
 - (8) The Removal of Plant Growth Ordinance (Chapter 53 of the City Code).

- (9) The City Zoning Ordinance (Chapter 79 of the City Code).
 - (10) Such other duties as may otherwise be required by the City Code.
- C. Attendance at Common Council meetings.
 - D. Subject to the Civil Service Law, Rules and Regulations, the appointment of all officers and employees of the Department to fill such positions within the Department as authorized by the Common Council. The Housing, Building and Zoning Officer may also suspend and remove all employees, subject to the Civil Service Law, Rules and Regulations.
 - E. The maintenance of permanent official records of all transactions and activities conducted within the Department, including but not limited to applications and plans received, permits and certificates issued, inspection reports and notices and orders issued.
 - F. On or before February 1 of each year, the filing of an annual written report for the immediately preceding calendar year, covering generally the work of the Departments and submission of said report to the Mayor and Common Council.
 - G. The maintenance of an inventory of all equipment in said Department, including the year, the make, the model, the purchase price, the division or employee to whom assigned and the estimated replacement date. A copy of said inventory and all changes thereto shall be supplied to the Director of Public Works.
 - H. Filing copies of all building and demolition permits with the Department of Assessment.
 - I. The issuance of uniform appearance tickets as authorized by law for alleged violations of the City Code provisions enforced by this Department.
 - J. The performance of such other similar and related duties as provided by law or as may be assigned by the Mayor.

§ 2-16.03. Assistant Housing, Building and Zoning Officer.

If created by the Common Council and funded, there shall be an Assistant Building, Housing and Zoning Officer appointed by the Housing, Building and Zoning Officer, who shall:

- A. When the Housing, Building and Zoning Officer is out of the City or temporarily unable to perform the duties of said office, perform the daily activities of said Officer, except that the power to hire and fire shall not be exercised.
- B. Make inspections or assist in making inspections in the performance of the Department's functions.
- C. Assist in the enforcement of the ordinances administered by this Department.
- D. Do such other work as directed by the Housing, Building and Zoning Officer.

§ 2-16.04. Zoning Board of Appeals.

- A. The Zoning Board of Appeals, as established by Chapter 79 of the City Code and as continued by § 16.02 of the City Charter, shall perform those duties and functions specified by said Chapter 79 and state law.
- B. The Department of Housing, Building and Zoning Enforcement shall provide all necessary administrative support for said Board.

§ 2-16.05. Housing Commission.

- A. The Housing Commission, as established by Chapter 41 of the City Code and as continued by § 16.02 of the City Charter, shall perform those duties and functions specified by said Chapter and state law.
- B. The Department of Housing, Building and Zoning Enforcement shall provide all necessary administrative support for said Commission.

ARTICLE XVII
Sealer of Weights and Measures
[Abolished 02-01-11 as L.L. #3-2011]

ARTICLE XVIII
City Court

§ 2-18.01. Governing provisions.

The City Court shall be governed by the applicable provisions of the New York State Judiciary Law and the rules and regulations of the New York State Unified Court System/Office of Court Administration.

ARTICLE XIX
(Reserved)

ARTICLE XX
Application of Provisions

§ 2-20.01. When effective.

This code shall become effective upon its filing with the New York State Secretary of State.

§ 2-20.02. Amendments.

This code may be amended by a local law enacted by a majority affirmative vote of the total membership of the Common Council, subject to referendum on petition as provided in the Municipal Home Rule Law.

§ 2-20.03. Continuity of authority; completion of unfinished business.

- A. The performance of functions pursuant to the provisions of the Charter or Code shall be deemed and held to constitute a continuation thereof for the purpose of succession to all rights, powers, duties and obligations attached to such functions. Any proceedings, actions or rights of action or other business undertaken or commenced prior to the effective date of this code may be conducted and completed by the City officer or administrative unit responsible therefor under the Charter or Code.
- B. This code shall not be deemed to invalidate any obligations heretofore issued by the City or by any of its commissions, boards or agencies, and such obligations shall be and remain binding obligations of the City. In the event that any obligation shall have been issued in anticipation of the issuance of bonds by the City or by any of its commissions, boards or agencies, the City is hereby empowered to issue such bonds as legal and binding obligations of the City.

§ 2-20.04. Severability.

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

§ 2-20.05. Construal of provisions.

This code shall be liberally construed to effectuate its objectives and purposes.

