

# **SALAMANCA CITY CHARTER**

## **TITLE I                    Incorporation; Boundaries; Civil Divisions; Definitions**

- § 1            Short title; public act.
- § 2            Effective date.
- § 3            Boundaries of the City.
- § 4            Corporation name and powers.
- § 5            Division into wards; ward boundaries.
- § 6            Definitions.

## **TITLE II                    City Officers: Elected and Appointed**

- § 7            City officers.
- § 8            Eligibility to City officers.
- § 9            Elected City officers.
- § 10          City elections.
- § 11          Appointive City officers.
- § 12          Official salaries.
- § 13          Powers and duties of City officers.

## **TITLE III                    City Officers; Their General Powers and Duties**

- § 14          Official oath required of all City officers.
- § 15          City officers authorized to administer oaths and take affidavits and acknowledgments.
- § 16          Official bond of City officers.
- § 17          Liability of City officers for unauthorized expenditures and other official misconduct.
- § 18          Payments of money must be made from and into the General Fund when not otherwise provided.

## **TITLE IV                    The Common Council**

- § 19          Organization of the Common Council.
- § 20          General powers and duties of the Mayor.

- § 21 General powers and duties of the Council Members.
- § 22 General powers of the Common Council.
- § 23 The general legislative powers.
- § 24 Procedures of the Common Council.
- § 25 Filling vacancies – Mayor and Council Member.
- § 26 Mayor's approval or veto.
- § 27 Official newspaper.
- § 28 Resolutions and ordinances.
- § 29 Maximum amount of annual City tax levy.
- § 30 Preparation of budget.
- § 31 Financial reports.
- § 32 Violation of ordinances.
- § 33 Licensing occupations.
- § 34 Conflict-of-Interest.
- § 35 Rules and regulations for transaction of City business.
- § 36 Franchises.
- § 37 Hearings.

**TITLE V City Clerk**

- § 38 General powers and duties of the City Clerk.

**TITLE VI Human Resource Specialist**

- § 39 General powers and duties of the Human Resource Specialist.

**TITLE VII City Comptroller**

- § 40 General powers and duties of the City Comptroller.

**TITLE VIII City Court**

- § 41 General powers and duties of the City Judges.
- § 42 City Court.

**TITLE IX                    Department of Law**

- § 43            The City Attorney.
- § 44            Compensation.
- § 45            Duties of City Attorney.
- § 46            Compromise of suits.
- § 47            Employment of counsel.
- § 48            Judgments; report upon to Common Council.

**TITLE X                    Police Department**

- § 49            Police Commission.
- § 50            Organization.
- § 51            Term of office.
- § 52            Vacancy and resignations.
- § 53            Meetings of Commission.
- § 54            Bylaws of Police force.
- § 55            Qualification of Police.
- § 56            Duties of Chief of Police.
- § 57            Powers and duties of Police Officers.
- § 58            Service of criminal process.
- § 59            Expenses in execution of process.
- § 60            Presents or rewards.
- § 61            Payment of salaries and expenses.
- § 62            Station house.
- § 63            Commitment to Police Station.

**TITLE XI                   Fire Department**

- § 64            Fire Commission.
- § 65            Organization.
- § 66            Term of office.
- § 67            Vacancy and resignations.
- § 68            Meetings of Fire Commission.
- § 69            Rules for the Fire Department.
- § 70            Duties of Chief of the Fire Department.
- § 71            Duties of Assistant Chief of the Fire Department.
- § 72            Audit of bills; report of fires.
- § 73            Charge and sale of property.

**TITLE XII Department of Public Works**

- § 74 Board of Public Works.
- § 75 Organization.
- § 76 Vacancy.
- § 77 Meetings of Board.
- § 78 Powers and duties of Board.
- § 79 Term of the Superintendent of Public Works.
- § 80 Duties of Superintendent of Public Works.
- § 81 Changes made to streets; assessments of benefits and payment.
- § 82 To acquire privileges to dispose of stagnant or surface water.
- § 83 Paving, repaving or macadamizing streets.
- § 84 Sidewalk construction and repair.
- § 85 Cleaning sidewalks.
- § 86 Street cleaning and repairing.

**TITLE XIII City Engineer**

- § 87 General powers and duties of the City Engineer.

**TITLE XIV Recreation Commission**

- § 88 Recreation Commission.
- § 89 Organization.
- § 90 Term of office.
- § 91 Vacancy and resignations.
- § 92 Meetings of Commission.
- § 93 Rules for the Recreation Commission.
- § 94 Powers and duties of the Recreation Commission.
- § 95 Maintenance of recreation facilities.
- § 96 Concessions.

**TITLE XV Youth Board**

- § 97 Youth Board.
- § 98 Organization.

- § 99 Term of office.
- § 100 Vacancy and resignations.
- § 101 Meetings of Youth Board.
- § 102 Rules for the Youth Board.
- § 103 Powers and duties of the Youth Board.
- § 104 Powers and duties of the Youth Bureau Director.

**TITLE XVI Salamanca Board of Public Utilities**

- § 105 Board of Public Utilities.
- § 106 Organization.
- § 107 Term of office.
- § 108 Vacancy and resignation.
- § 109 Meetings of Board.
- § 110 By-laws, rules and regulations of the Board of Public Utilities.
- § 111 Books, accounts and reports.
- § 112 Employees of the Board of Public Utilities.
- § 113 Duties of the Board of Public Utilities.
- § 114 Powers of the Board of Public Utilities.
- § 115 Duties of General Manager of Salamanca Board of Public Utilities.
- § 116 Authority to sell or lease water, power and sewer systems.
- § 117 Water and electric rentals.
- § 118 Furnishing water and electric to towns and villages.
- § 119 Sewer Rent Law.
- § 120 Sewer Rent Fund.
- § 121 Fluoridation of municipal water supply.
- § 122 Unlawful acts and penalties.

**TITLE XVII Joint Leasing Commission**

- § 123 Joint Leasing Commission representatives.

**TITLE XVIII Assessment and Taxation**

- § 124 General powers and duties of the City Assessor.
- § 125 Assessment of taxes.
- § 126 Completion of roll, review of assessment and equalization.

- § 127 Levy of taxes by Common Council; tax rolls.
- § 128 Indian Lease Rent; payment by City; reimbursements by levy.
- § 129 Levy of Indian Lease Rent.
- § 130 Issue of tax roll and warrant to Comptroller.
- § 131 Collection of assessments and notices.
- § 132 Notice of receiving taxes.
- § 133 Tax receipts.
- § 134 Notice of unpaid taxes and demand of payment.
- § 135 Collection of tax by civil action.
- § 136 Proceedings in case of failure to collect tax or warrant.
- § 137 Sale of lands for unpaid taxes.
- § 138 Notice for the sale of land.
- § 139 Manner of conducting sale of land.
- § 140 Disposition of proceeds of sale.
- § 141 Conveyance of real estate sold.
- § 142 Real estate; lease or sale.
- § 143 Exemption from taxes and special ad valorem levies imposed by the City.
- § 144 Power of Common Council as to void and erroneous assessments.
- § 145 Collection of local assessments.
- § 146 Partial exemption from City real property taxes for persons over 65 years of age

**TITLE XIX            Sale or Disposal of City-Owned Personal Property**

- § 147 Sale or disposal of City-owned personal property.

**TITLE XX            Action by and Against the City**

- § 148 Limitation of actions against the City.

# **TITLE I      Incorporation; Boundaries; Civil Divisions; Definitions**

## **§ 1            Short title; public act.**

This Act is a public act and shall be known as the "Charter of the City of Salamanca."

## **§ 2            Effective date.**

If approved by the voters at the November 2023 general election, this Charter shall take effect on January 1, 2024.

## **§ 3            Boundaries of the City.**

Beginning at angle post fifteen in the south bounds of the Allegany Indian reservation, which post is also the southwest corner of the Village of West Salamanca as established by an Act of Congress, approved February nineteenth, eighteen hundred and seventy-five, and running thence easterly along the reservation line to a point two thousand eight hundred ninety-six feet distant; thence south sixty degrees thirty minutes east to a point one thousand seven hundred eighty-three feet distant; thence south twenty degrees thirty minutes west nine hundred thirteen feet to the north line of lands formerly owned and occupied by Louis and Frank Hall; thence due east and along the north line of said Hall and others to a point one thousand seven hundred three feet distant; thence north forty-seven degrees forty-five minutes east eight hundred ten feet to angle post thirteen in the reservation line; thence easterly along the reservation line six thousand nine hundred ninety-six feet to angle post twelve and the east line of the Village of Salamanca as fixed by an Act of Congress of eighteen hundred and seventy-five; thence northerly and along said east line of the Village of Salamanca to the south bounds of the right of way of the Western New York and Pennsylvania Railroad Company; thence easterly along said south bounds of said railroad, as measured along said south bounds, to a point eighteen hundred feet easterly from said east line of the Village of Salamanca; thence northerly across the Allegheny River and along the west bank of the Great Valley Creek to a point which is about seven hundred feet northerly as measured along the west bank of said creek from

the north reservation line; thence north seventy-one degrees ten minutes west to a concrete monument on the west side of the highway leading to the Buffalo, Rochester and Pittsburg Railway Company's undergrade crossing to Great Valley Center and which monument indicates the southeast corner of a lane running from the highway to the railroad yards and belonging to the Buffalo, Rochester and Pittsburg Railway Company; thence continuing the same course and along the south bounds of said railroad lane to the east bounds of the Buffalo, Rochester and Pittsburg Railway Company's yards; thence southerly along said east bounds of said railway to the north reservation line; thence westerly along said reservation line four hundred and ninety feet to the west bounds of said railway's right-of-way leading from East Salamanca to Bradford, Pennsylvania; thence northerly along the west bounds of said railway company's right-of-way aforesaid, eight hundred fifty-five feet to the south bounds of the Buffalo, Rochester and Pittsburg Railway Company's yards; thence westerly along the south boundaries of said yards nine hundred and twenty feet to the east bounds of said railway company's right-of-way leading from East Salamanca to Salamanca; thence southerly along said right-of-way five hundred and thirty-four feet to the north reservation line; thence westerly along said reservation line to the west bounds of the last mentioned right-of-way; thence northerly along said west bounds to a point which is three thousand two hundred fifty-three feet distant as measured along said west bounds; thence north seventy-six degrees west to a point which is one thousand two hundred forty-eight feet distant; thence south twenty-one degrees west and parallel to a laid out highway known as "Highland Avenue" to a point two thousand two hundred fifty-four feet distant; thence south fifty-two degrees west to a point seven hundred one feet distant; thence south seventy degrees forty-five minutes west three hundred thirty-eight feet to a point on the reservation line; thence westerly along said reservation line to the west line of the Village of West Salamanca as established by an Act of Congress of eighteen hundred and seventy-five; thence southerly along said west line of said Village of West Salamanca to angle post fifteen in the reservation line and the point of beginning.

#### **§ 4 Corporation name and powers.**

1. The citizens of the State of New York who may from time to time be inhabitants within the boundaries of the City of Salamanca, as aforesaid, shall be a municipal corporation in perpetuity under the name of the "City of Salamanca." Said corporation may take, purchase, hold, sell and convey



real and personal property; it may take by gift, grant, bequest and devise and hold real and personal estate in trust for any purpose of education, art, health, charity or amusement, for parks or gardens, for the erection of statues, monuments, hospitals, public libraries, public buildings, grounds for the burial of the dead or other public use, upon such terms as may be prescribed by the grantor or donor and accepted by said corporation, and may provide for the proper execution of said trust and may have, use and from time to time alter a common seal, may sue and defend in all courts and may do anything necessary to carry into effect the powers granted it.

- 2. Towns of Salamanca and Great Valley.** The Towns of Salamanca and Great Valley shall hereafter consist of all the territory heretofore constituting said towns, except that portion thereof embraced within the boundaries of the City of Salamanca, and the territory embraced within the boundaries of said City as hereinbefore described shall not constitute or be a part of the Towns of Salamanca and Great Valley.
- 3. Succession of liabilities.** The corporations known as the "Villages of Salamanca and West Salamanca" and included in the boundaries of said City are hereby dissolved, and that portion of the corporations of the Towns of Salamanca and Great Valley outside of the Villages of Salamanca and West Salamanca, as they now exist, and included in the boundaries of said City are hereby separated and divided from said Towns of Salamanca and Great Valley, respectively, and included in and made a part of said City, subject to the provisions of this Charter.

The City of Salamanca shall succeed to and be vested with all the rights and property of said Villages of Salamanca and West Salamanca and with all the rights and property belonging to and embraced in that part of the Towns of Salamanca and Great Valley included in the boundaries of said City, and shall succeed to and be liable for all the liabilities of said village corporations of every name and nature, and shall succeed to and be liable for all the liabilities of the Towns of Salamanca and Great Valley as may be equitably proportioned between said town corporations and said City, as hereinafter provided by this Act, and every suit, prosecution or proceeding commenced by or against said village corporations and pending at the time of the passage of this Act shall be continued by or against and in the name of said City, and the name of said City shall be substituted instead of said village corporations, and, in the name of said City, all suits, actions or proceedings may be

continued, and every suit, prosecution or proceeding commenced by or against said town corporations and pending at the time of passage of this Act shall be equitably adjusted between said town corporations and said City, as hereinafter provided.

All divisions of said villages, and the portions of said towns included within said City, into road, fire or other districts, all highways, streets, parks and alleys shall remain, be and continue such divisions, highways, streets, parks and alleys in the City of Salamanca, and all ordinances, rules and regulations of the Board of Trustees of said Village of Salamanca in force at the time of the passage of this Act shall be and continue to be in force and shall have the same force and effect over the entire limits of the City of Salamanca as in and by this Act established, until repealed, modified or changed by the Common Council of said City; subject, however, to the provisions of this Act.

All ordinances, rules and regulations now existing and in force in the Village of West Salamanca and in that part of the Towns of Salamanca and Great Valley included in the bounds of said City are hereby repealed. Said Common Council is hereby authorized and empowered, in the name, for and in behalf of the City of Salamanca to enforce all such ordinances, rules and regulations of the Village of Salamanca, and all contracts of said villages and all contracts of said towns, as may be proportioned between said City and towns as aforesaid, and the portions of said towns included within the boundaries of said City, including collections of debts and demands, impositions and collections of fines and penalties, prosecution and defense of all suits; and to do, take and perform all other acts and proceedings that may be or become necessary or proper to carry out and enforce said contracts, ordinances, rules and regulations with the same force and to the full extent as might have been done by or on the part of the Board of Trustees of said Village of Salamanca, as though the boundaries of said Village of Salamanca had been the same as the boundaries of said City of Salamanca, and the rights and privileges of all persons or parties that may have arisen or accrued under, pursuant to or by reason of any such contract, ordinance, rule or regulation, or otherwise, as well as any liability that may have arisen by reason thereof, shall remain and be the same under this Act as they would have been under the corporation of the Village of Salamanca, as though the boundaries of said Village of Salamanca were coterminous with the boundaries of the City of Salamanca, and all rights and liabilities of said villages and those of said towns as may be equitably proportioned or adjusted between said towns and said City, existing

at the time of the passage of this Act, shall be in no wise affected or changed thereby; but all actions and proceedings which may be hereafter commenced to enforce or protect any such accrued or existing rights, privileges or liabilities shall be brought and prosecuted or defended by or in the name of the City of Salamanca.

All rules and regulations pertaining to the government of the fire department of said Village of Salamanca, in force at the time of the passage of this Act, shall remain, be and continue the same under said City and shall be extended to the boundaries thereof, as under said village government, until repeal thereof, and the adoption of other or further rules and regulations in relation thereto, and all officers and members of said Fire Department of the Village of Salamanca and all members of the Fire Department of the Village of West Salamanca and of that portion of the Town of Great Valley included in the bounds of said City shall become and be the officers and members of the Fire Department of the City of Salamanca and shall perform all the duties devolving upon them as such firemen and have and retain all the rights and privileges in the same manner and in all respects as if this Act had not been passed; subject, however, to the further provisions of this Act. The ownership and control of all the property and effects pertaining to or connected with the Fire Departments of said villages shall, by virtue of this Act, vest in the City of Salamanca and in the Fire Department thereof.

## **§ 5            Division into wards; ward boundaries.**

The City shall be divided into five (5) wards as follows:

### **1. First Ward.**

The First Ward of said City shall include all of said City north of the center of the Allegheny River and west of the center line of Main Street and all territory west of a line extended north at right angles to the center line of State Street from the point where Main and State Streets intersect.

### **2. Second Ward.**

The Second Ward of said City shall include all of said City south of the center of the Allegheny River and west of the center line of Division Street and west of the center line of Division Street extended southerly to the south boundary of the City, and south of the center line of Broad Street from the point where

the same intersects with the center line of Division Street, to the point where it intersects with the center line of Front Avenue and west of the center line of Front Avenue to the intersection of the center lines of Front Avenue and Race Streets and all territory west of a line drawn north at right angles to the center line of Race Street from the intersection of the center line of Race Streets and Front Avenue to the center of the Allegheny River.

**3. Third Ward.**

The Third Ward of said City shall include all of said City north of the center of the Allegheny River, east of the east boundary line of the First Ward, south of the north reservation line and west of the center lines of Lincoln Avenue to the reservation line and extended southerly to the center of the Allegheny River.

**4. Fourth Ward.**

The Fourth Ward of said City shall include all of said City south of the center of the Allegheny River and east of the east boundary line of the Second Ward.

**5. Fifth Ward.**

The Fifth Ward of said City shall include all the remainder of said City.

**§ 6 Definitions.**

The Official Year of the City shall commence with the first day of January in each year and the Fiscal Year shall commence with the first day of April in each year.

As used in this Charter the words and phrases listed below shall be deemed to have the following meaning:

**CHARTER** – The charter of the City of Salamanca, New York.

**CITY** – The City of Salamanca, New York.

**COMMON COUNCIL** – The Common Council of the City of Salamanca.

**MAY** – Is to be construed as being permissive.

**MUST** – Is to be construed as being mandatory.

**OFFICIAL TITLES** – All references to officers, employees, boards, commissions and authorities are to the officers, employees, boards, commissions and authorities of the City of Salamanca.

**PERSON** - Shall be construed to include all persons, firms, companies, corporations and associations.

**RESOLUTION** - Includes all motions, orders, rules, regulations and bylaws other than ordinances.

**SHALL** – Is to be construed as being mandatory.

**STATE** – The State of New York.

**STREET** - Includes highways, avenues, alleys and lanes.

**TENSE** – Words used in the past or present tense include the future as well as the past and present.

## **TITLE II            City Officers: Elected and Appointed**

### **§ 7                City officers.**

1. The **elected officers** of the City of Salamanca shall be:

Mayor,  
five (5) Council Members [one (1) from each ward],  
City Judge,

2. The **appointive officers** of the City of Salamanca shall be:

City Clerk,  
Human Resource Specialist,  
Comptroller,  
City Judge,

City Attorney,  
Chief of Police,  
Chief of Fire Department,  
Superintendent of Public Works,  
City Engineer,  
Youth Bureau Director,  
General Manager of Public Utilities,  
Assessor,  
Plumbing Inspector,  
substitute Plumbing Inspector,  
Civil Defense Director,  
Dog Control Officer,  
City Historian,  
Records Management Officer,

**There shall also be:**

five (5) Commissioners of Police,  
five (5) Commissioners of Fire,  
six (6) members of the Board of Public Works,  
five (5) Commissioners of Recreation,  
thirteen (13) to fifteen (15) members of the Youth Board,  
five (5) Commissioners of the Board of Public Utilities,  
five (5) members of the Board of Examining Plumbers,  
five (5) members of the Library Board of Trustees,  
five (5) members of the Zoning Board of Appeals,  
five (5) members of the Joint Leasing Commission,  
five (5) members of the Industrial Development Agency (IDA),  
three (3) members of the Board of Ethics,  
three (3) members of the Board of Assessment and Review,  
seven (7) members and two (2) alternate members of the Planning Commission,  
five (5) members of the Salamanca Housing Authority,  
three (3) members of the Joint Venture Commission on Economic Development,

and such other appointive officers as the Common Council may deem necessary and advisable to create for the proper administration of the City government.

## **§ 8 Eligibility to City officers.**

No person shall be elected to any City office or appointed to any City office, except:

City Attorney,  
City Engineer,  
General Manager of Public Utilities,  
Superintendent of Public Works,  
Comptroller,

unless he or she shall at the time be a resident (i.e. domicile) of said City, nor shall any person be elected or appointed to any ward office unless he or she shall at the time be a resident (i.e. domicile) of the ward for which he or she is elected or appointed. Whenever any officer of said City, other than listed above, shall cease to be a resident of said City or ward for which he or she was elected or appointed, his or her office shall thereby become vacant. The Common Council may waive or modify any residency requirement established by this Charter for any appointed City Officer to the extent permitted by law.

## **§ 9 Elected City officers.**

- 1. ELECTIVE CITY OFFICERS:** The elective officers to be elected by the City at large shall be a Mayor and a City Judge; the elective officers of the City to be elected by each ward shall be one (1) Council Member.
- 2. TERM:** Other than as provided by this Charter, the terms of the office of Mayor and Council Member shall be two (2) years to commence the first day of January following his or her election.
- 3. TERM LIMITS:** It is hereby declared to be the public policy of the City of Salamanca to limit to not more than eight (8) consecutive years the time elected officials can serve as Mayor or Council Member so that elected representatives are citizen representatives who are responsive to the needs of the people and to broaden opportunities for political participation. Notwithstanding any provision to the contrary contained in the Charter, no person shall be eligible to be elected to or serve in the office of Mayor or Council Member if that person had previously held such office for four (4) or more full consecutive terms, unless one (1) full term or more has elapsed since that person last held any such office.

## **§ 10 City elections.**

The Common Council in conducting all City elections shall conform to and be governed by the general laws of the State of New York.

In case of a tie vote, the Mayor shall recommend a nominee to the Common Council for approval. Should the Common Council fail to approve such nominee, the described process shall be repeated until a nominee is approved the Common Council. This nominee shall fill such office by appointment until a special election is held.

## **§ 11 Appointive City officers.**

- 1. APPOINTING CITY OFFICERS:** All members of boards or commissions for whose appointment no provision is made in the City Charter or by other law shall be appointed by the Mayor, subject to the approval of the Common Council and subject to any state or local applicable Civil Service laws, rules or regulations. In all other cases where there is a chief executive officer or superintendent or chief of a department, the appointment shall be made by the Common Council. One of each of the five (5) Commissioners of Fire, Police, Recreation and Board of Public Utilities shall be a Council Member designated by the Mayor as Chairperson.
- 2. TERMS:** Appointees shall serve for a term of two (2) years, except as such identified appointees may have their term of office controlled and determined by another provision of the City Charter, a general law of the State of New York or state or local civil service law, rule or regulation.
- 3. COMMENCEMENT OF TERM:** The term of office of each officer appointed by the Mayor or the Mayor and the Common Council for a full term shall commence on the first day of February of the year in which the appointment is required to be made.
- 4. NONRESIDENT MEMBER:** Anything to the contrary notwithstanding, one (1) nonresident of the City of Salamanca may be appointed to any commission or board of the City, with the approval of two-thirds (2/3)



majority of the Common Council, provided that such person is a taxpayer of the City of Salamanca.

5. **SUSPENSION OR REMOVAL:** The Common Council with the approval of the Mayor may remove any City officer appointed by them for a specified term of office for dishonesty, incapacity, neglect of duty or other irregularities, giving such officers reasonable notice and opportunity to be heard, and such officer may be suspended pending investigation.
6. **RESIGNATIONS:** Resignations from any appointed City officer shall be made in writing to the City Clerk.

## **§ 12        Official salaries.**

The salaries of all officers of the City, elective or appointive, shall be fixed by the Common Council. The salaries of City officers shall be payable in such installments and at such times as the Common Council shall determine.

The compensation fixed by the Common Council or by law for the several officers shall be in full for all services which they shall, respectively, perform for said City in any and all capacities, other than as herein provided.

Where the same person holds more than one (1) City office, said person shall be entitled to receive the salary or compensation of said offices.

## **§ 13        Powers and duties of City officers.**

The powers and duties of all City officers shall be such as are hereafter prescribed in this Charter or, when not so prescribed, as provided by existing general laws applicable to such officers.

# **TITLE III        City Officers: Oaths, Bonds, Liabilities**

## **§ 14        Official oath required of all City officers.**

Each officer of the City shall, before he or she enters the duties of his or her office, take and file with the City Clerk his or her official oath in accordance with Article XII of the Constitution and § 10 of the Public Officers Law.

**§ 15 City officers authorized to administer oaths and take affidavits and acknowledgments.**

Each Mayor, City Clerk, and City Judge of the City shall have the power and authority to administer oaths and take and certify affidavits and acknowledgments as provided by law.

**§ 16 Official bond or undertaking of City officers.**

Each City Clerk, Comptroller, Mayor as well as any other officer or employee so designated by the Common Council shall, before he or she enters upon the duties of his or her office, execute and file an official bond in accordance with § 14 of the General Construction Law and §§ 11, 12 and 13 of the Public Officers Law, or undertaking; and for omission so to do shall be subject to the penalties and liabilities prescribed by law other than as herein provided, the penal sum named in any such bond or the sum specified in any such undertaking as the maximum amount of liability thereon shall be fixed by the Common Council.

**§ 17 Liability of City officers for unauthorized expenditures and other official misconduct.**

No officers of said City or other person shall have power or authority to make any purchase on behalf of or on the credit of the City or to contract any debts or liabilities against the City, unless authorized so to do by or in pursuance of the provisions of this Charter or general law; and no account, claim or demand of any kind shall be allowed or paid unless so authorized. If any officer of the City shall vote for any appropriation or for the payment or expenditures of any moneys not authorized by or in pursuance of law, such officer shall be liable to a penalty, to be recovered by the City in a civil action, and shall be guilty of a misdemeanor. Such officers shall be subject to removal as well as any other penalties and actions provided by law.

If the Common Council or any City board or commission shall pass any resolution authorizing or purporting to authorize any expenditure of money by the City for any purpose, exceeding the amount authorized by or in pursuance of law to be expended in any year by the Common Council, each officer voting for such resolution shall be personally liable for the amount thereof, and each

officer present in the meeting at the passage of the resolution shall be deemed as voting for the resolution unless his or her dissent thereto is entered in the minutes of the meeting at which such resolution was passed, but the City of Salamanca shall not be liable therefor, and neither the Common Council nor any City board or commission or City officer shall pay any debt or expenditure so contracted or made.

If any person, having been an officer of said City, whose term of office has expired, shall not, within five (5) days after notification and request, deliver to his or her successor in office all property, papers and effects of every description in his or her possession or under his or her control belonging to said City or pertaining to such office, he or she shall be liable to penalties and consequences as provided by law.

**§ 18            Payments of money from and into the General Fund when not otherwise provided.**

Other than as herein provided, all moneys belonging to said City shall be paid to the Comptroller thereof and deposited to the credit of the General City Fund; and all payment of money made by said City or by any board, commission or officer thereof, when authorized by or in pursuance of law, and the fund from which such payment is not otherwise designated, shall be made from the General City Fund, but nothing in this Charter shall be construed as limiting, modifying or repealing any provision of any general law.

**TITLE IV            The Common Council**

**§ 19            Organization of the Common Council.**

The Mayor and the Council Members of said City shall constitute the Common Council thereof.

**§ 20            General powers and duties of the Mayor.**

The Mayor shall be the chief executive officer of the City and shall have and exercise all the powers conferred upon him or her by this Charter or by the general statutes of this state not inconsistent with this Charter. It shall be the

Mayor's duty to see that the laws of this state and the ordinances and bylaws passed by the Common Council are faithfully executed within the City. The Mayor may designate, from time to time, the place in said City where he or she will keep his or her office.

1. The Mayor shall be the presiding officer of the Common Council.
2. The Mayor shall sign, on behalf of the City, all contracts made by it and cause the Seal of the City to be affixed thereto.
3. The Mayor shall have power and authority to call out and command the police, and firefighters of the City whenever, in his or her discretion, he or she shall deem it necessary, and such command shall be in all respects obeyed. Whenever necessary for the prevention or suppression of public disturbances, mobs or riots, it shall be his or her duty to take such action as is otherwise authorized by law.
4. It shall be the duty of the Mayor to exercise a constant supervision and control over the conduct of all City officers, and he or she shall have power and authority to examine, at all times, the books, vouchers and papers of any officer or employee of said City and to take and hear testimony and proof in pursuance of law.
5. It shall be the duty of the Mayor to communicate to the Common Council as soon after his or her election as practicable and as often thereafter as he or she may deem expedient a general statement of the affairs of the City in relation to its finances, government and improvement, with such recommendations as he or she may deem proper.

## **§ 21           General powers and duties of the Council Members.**

Council Members shall perform or assist in performing all such duties as directed by this Charter upon the Council Member of said City separately or upon the Common Council thereof. It shall be the duty of every Council Member to:

1. Attend the regular and special meetings of the Common Council.
2. Act upon committees when appointed by the Mayor or Common Council.

3. Report to the Mayor all City officers who are guilty of any official misconduct or neglect of duty.
4. Aid in maintaining peace and good order in the City.

## **§ 22        General powers of the Common Council.**

The Common Council shall exercise all the corporate powers conferred by this Charter, and by law, shall:

1. Have the management and control of the finances and of all the property, real and personal, belonging to said corporation, other than as provided in this Charter.
2. Review the salaries of all officers of the City.
3. Oversee the expenditures of all moneys not under the control of any other board or commission, which shall be paid by the City Comptroller from the appropriate funds in his or her hands upon the order of the Mayor and City Clerk.
4. Have power within said City to make, establish, publish and modify, annul and repeal ordinances, rules, regulations and bylaws for any of the purposes specified in this Charter.
5. Have power to regulate, license, or in proper cases to prohibit any acts, vocations, and businesses.

## **§ 23        The general legislative powers.**

The general legislative powers of said City for all proper municipal purposes, except such power as may be vested in other City boards, commissions or officers, shall be vested in the Common Council.

Notwithstanding any provision of this Charter to the contrary, and unless otherwise specifically provided by a general law, the Common Council shall appoint, hire, remove and set the compensation of all City officers and employees, except that this provision shall not apply to the employees of the

Board of Public Utilities, for whom the Board of Public Utilities shall appoint, hire, remove, and set the compensation of all such employees.

In any case where a Board or Commission exercises oversight with respect to a department, such Board or Commission may submit a recommendation to the Common Council during the Common Council's consideration of an appointment of an officer or employee in such department.

## **§ 24            Procedures of the Common Council.**

- 1. RULES:** The Common Council shall determine the rules of its own proceedings not inconsistent with the provisions of this Charter.
- 2. VOTING:** At all meetings of the Common Council each Council Member present shall have one (1) vote. The ayes and nays shall be called and recorded on all resolutions and appointments.
- 3. TIE VOTE:** The Mayor, when present, shall preside at all meetings of the Common Council, but he or she shall have no vote except in case of a tie.
- 4. COMMON COUNCIL PRESIDENT:** At the first meeting of the Common Council in each official year or as soon thereafter as practicable, the Common Council shall choose one (1) of the Council Members to be President, who shall during such official year be the presiding officer of the Common Council in the absence of the Mayor, and while the Mayor is absent from the City or unable to perform his or her duties, said presiding officer shall be Acting Mayor and have all the powers and duties and be subject to all the obligations and liabilities of the Mayor. The Acting Mayor of the Common Council shall not lose his or her vote as Council Member by reason of his or her acting as presiding officer of the Common Council at any time, but when he or she shall vote as a Council Member, he or she shall have no casting vote on a tie.
- 5. MEETINGS:** The Common Council shall hold regular meetings at least twice a month and at such other times as it shall by resolution designate.
- 6. SPECIAL MEETINGS:** The Mayor or, in his or her absence, the Acting Mayor or any three (3) Council Members may call special meetings by

notice, in writing, served personally upon the other members of the Council or left at their resident.

7. **QUORUM:** A majority of the Common Council shall be a quorum for the transaction of business.
8. **PASSING RESOLUTIONS OR ORDINANCES:** A majority of the Council Members present and voting at any meeting of the Common Council at which a quorum shall be present shall be sufficient to pass any resolution or ordinance, except that no resolution authorizing or involving the expenditure of money or collection of money by a tax or assessment shall pass unless it receive the assent of a majority of all the Council Members in office, and other than as provided in this Charter; provided, however, that the vote required for the authorization of the issuance of obligations shall be governed by the Local Finance Law.
9. **EXECUTIVE SESSION:** All meetings of the Common Council shall be public, except as otherwise authorized by law; but no vote shall be taken in executive session.

## **§ 25        Filling vacancies: Mayor and Council Member.**

Whenever a vacancy occurs or exists in the offices of Mayor or Council Member of the City other than by reason of expiration of term, such vacancy shall be filled as follows:

1. **MAYOR:** If the office of Mayor becomes vacant, it shall be filled automatically by the President of the Common Council following his or her resignation as Council Member.
2. **COUNCIL MEMBER:** If the office of Council Member becomes vacant, it shall be filled by the Mayor. The Mayor shall recommend such nominee to the Common Council for approval. Should the Common Council fail to approve such nominee, the described process shall be repeated until a nominee is approved the Common Council.

Any vacancy filled as provided in § 25 hereof shall be for the remaining term of the office.

## **§ 26 Mayor's approval or veto.**

Every resolution or ordinance of the Common Council, except rules for its own government and resolutions for the appointment of officers, shall, before it takes effect, be presented immediately by the City Clerk to the Mayor. If the Mayor approves thereof, he or she shall sign it within ten (10) days after receipt thereof by him or her and file it so signed with the City Clerk.

If the Mayor does not approve it, he or she shall, within ten (10) days after receipt thereof by him or her, return it to the City Clerk with his or her objections thereto, in writing, and a statement that he or she does not approve thereof, and it shall have no force or effect unless the Common Council shall thereafter reconsider it and pass it over the Mayor's veto by the concurring vote of at least two-thirds (2/3) of the total number of Council Members in office, which vote shall be taken by ayes and nays and entered on the minutes, together with the objections of the Mayor.

If any such resolution or ordinance so presented to the Mayor shall not be returned by him or her to the City Clerk within ten (10) days after the receipt thereof by the Mayor, it shall, at the expiration of such ten (10) days, have the same force and effect as if it has been approved by him or her and filed with the City Clerk. If any such resolution contains one (1) or more items appropriating money, the Mayor may sign it with a written statement attached thereto that he or she object to one (1) or more of such items, and each item so objected to shall have no force or effect unless such items be reconsidered separately by the Common Council and passed over the Mayor's vote in the same manner as a resolution wholly vetoed.

Except rules for the government of the Common Council and appointment to office, no resolution or ordinance of the Common Council shall have any force or effect or be deemed to have been enacted by the Common Council unless either it be approved by the Mayor or be not returned by the Mayor to the City Clerk within ten (10) days after the receipt thereof by him or her or unless it be passed over the Mayor's veto in pursuance of the provisions of this section, unless otherwise provided by this Charter.



## **§ 27        Official newspaper.**

The Common Council shall designate one (1) newspaper delivered in said City in which the paper shall publish all notices, bylaws, rules, ordinances, regulations and other matters as the Common Council may direct.

The newspaper so designated shall be the official newspaper of the City for the official year for the purposes above and until the next annual designation, provided that said newspaper shall agree, with said Common Council.

The Affidavit of Publication of the official newspaper shall be evidence of the fact of such publication.

## **§ 28        Resolutions and ordinances.**

1. Any resolution or ordinance shall take effect as a legislative act at the time of approval thereof by the Mayor after passage by the Common Council if no time for its taking effect is specified in the resolution or ordinance, or if the resolution or ordinance specifies that it is to take effect immediately upon its adoption by the Common Council; it shall take effect at the beginning of the eleventh day after receipt by the Mayor of the resolution or ordinance if the Mayor fails to return it to the City Clerk within ten (10) days after the receipt thereof by him or her; or it shall take effect at the time of the passage of the resolution or ordinance over the Mayor's veto if he or she returns it with his or her disapproval and the Common Council passes the resolution or ordinance over the Mayor's veto.
2. Any ordinance or resolution enacted by the Common Council or by any board or commission may specify the time when it is to become effective. No ordinance shall take effect and be binding until after publication at least once in the official newspaper or newspapers available within the City of a verbatim copy of the ordinance or of the title and a brief abstract of the ordinance indicating its general nature and purpose, notwithstanding any specification therein of a previous time for it taking effect or of the provisions of Paragraph 1 hereof. In the event that an abstract is published, there shall be included a notice that a copy of the ordinance is on file with the City Clerk for public inspection.

3. An ordinance may also be effective without publication upon personal service of a copy thereof properly certified by the City Clerk upon the person or persons directly affected thereby, in which event the ordinance shall become effective at the time of said service. If no date be specified, the ordinance shall take effect upon the date of, and after, its required publication.

## **§ 29           Maximum amount of annual City tax levy.**

The Common Council may raise by tax upon the real and personal property assessable in the City in each year certain amounts, which shall be estimated and designated each year for the following purposes:

1. A sum necessary for the expenses of the Police Department and the salaries of the officers of said Department, to be designated the "Police Fund."
2. A sum necessary for paving, repairing, macadamizing and keeping in order the streets, sidewalks, crosswalks, gutters, lanes, public buildings, places and grounds of said City, for defraying the expenses of constructing, repairing and keeping in order the storm sewers, for the service of the City Engineer, the Superintendent of Public Works and his or her employees, the erection and maintenance of bridges and culverts and other expenses relating to streets and highways, to be designated the "Public Works Funds."
3. A sum necessary for constructing, maintaining, repairing, beautifying and acquiring parks, playgrounds and public markets, to be designated as the "Park Fund."
4. A sum necessary for defraying the expenses of supplying and keeping in good condition and repair the engine houses, hose, hose carts, hook and ladder trucks, fire alarm and other apparatus deemed necessary for the extinguishment of fires and for paying the salaries and wages of officers and employees of the Fire Department, to be designated the "Fire Fund."
5. A sum necessary for extending, repairing, maintaining, acquiring and constructing the power system of said City, including expenses of all necessary apparatus and fixtures connected therewith, including the

service of the Electric Department Supervisor, his or her employees, to be designated as the "Electric Fund."

6. A sum necessary for extending, repairing, maintaining, acquiring and constructing the water system of said City, including the expense of purchasing lands, easements and rights-of-way incident thereto and expenses of all necessary apparatus and fixtures connected therewith, including the service of the Water Department Supervisor, his or her employees, together with all necessary expenses connected with furnishing water for the extinguishing of fire, to be designated as the "Water Fund."
7. A sum necessary for defraying general and contingent expenses, for the payment of all salaries and other expenses not otherwise provided for, to be designated as the "General City Fund."

In addition to the amounts which shall be included in the annual tax levy for the foregoing purposes, there shall be included such amounts as shall be necessary to meet the principal and the interest on the bonded and other indebtedness of the City falling due during the fiscal year for which the tax is levied and to meet all indebtedness remaining unpaid on all judgments against the City. Also, for such other sums as the Common Council is authorized to expend for purposes specified in this Charter. The Common Council shall subdivide the funds of the City, as established by this Charter, and the City Comptroller shall amend his or her accounts of the funds so subdivided accordingly.

### **§ 30           Preparation of budget.**

1. Between the first and 15th day of January in each year, all boards, commissions, department heads and officers shall estimate in detail the expenses and income of their respective boards, commissions, department or offices for the next fiscal year and shall provide such estimates to the Common Council. The City Comptroller shall make a detailed statement by items of all other expenses and income of the City as estimated by him or her for the next fiscal year, including an itemized statement of the principal and interest of all bond and other indebtedness of the City which will fall due during the next fiscal year, together with a statement of unpaid taxes, local assessments and the amount which, in his or her judgment, will

probably be received by the City during the next fiscal year, and all expenditures and income from every source known to him or her.

2. On or before the 15th day of February in each year, the Common Council shall consider such estimated and determine the entire amount necessary to be raised to pay the amount of interest and any installment of principal falling due upon the bonds or other debt of the City and to defray the expenses of the City for the ensuing fiscal year. Said Common Council may approve, increase or reduce any of the estimates of the various boards, commissions, department heads and officers aforesaid and shall adopt a tentative budget containing all of the estimated items of income and disbursement for the ensuing year.
3. Following completion of such tentative budget and the adoption thereof, a public hearing to consider such budget shall be held on or before the 24th day of February, and at least five (5) days' notice of such hearing specifying the date thereof shall be published once in the official newspaper. Following such hearing, the Common Council shall have the right to make such changes in the tentative budget as the Common Council shall deem desirable.
4. Following the completion of any changes and on or before the first day of March, the Common Council shall adopt the final budget and shall immediately pass an appropriation resolution referring to such budget, appropriating the funds therein specified, and shall constitute the annual tax levy.

### **§ 31 Financial reports.**

The City Comptroller shall, at the close of the fiscal year, make a written report to the Common Council of all expenditures made or incurred during such year, showing separately and by items the amount expended from each fund, and the balance standing to the credit of each such fund.

### **§ 32 Violation of ordinances.**

The Common Council may establish penalties, forfeitures and imprisonment to punish violations of any ordinance enacted by the Common Council, and the City of Salamanca or any of its officers designated to enforce any

ordinance may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any ordinance enacted by the Common Council.

**§ 33            Licensing occupations.**

Licensing occupations are to be established through the City Municipal Code or governed by the Cattaraugus County Office of Economic Development, Planning, and Tourism.

**§ 34            Conflict-of-Interest.**

It shall not be lawful for the Mayor, any Council Member, a member of any board or commission, any agent or employee of said City, (beyond the compensation that the aforesaid are justly entitled to) to be voluntarily interested, directly or indirectly, in any contract made or work done by, for or on behalf of said City, by any board or commission of which he or she is a member or employee. Nor shall any such person be voluntarily interested, directly or indirectly, in the purchase or sale of any merchandise, material, substance, supplies or requirements for any of the uses or purposes of said City or by any board or commission of which he or she is a member or employee.

It shall not be lawful for any of the boards or commissions of said City to audit any account or issue any warrant for the payment of any claim for services rendered or for work, labor or materials furnished by any person during the time such person shall have held the office of Mayor, Council Member or member of any of the boards or commissions of said City or for any service rendered by the authority of the board or commission of which such person was at the time a member. A violation of any of the provisions of this section shall be dealt with in the manner provided by law.

**§ 35            Rules and regulations for transaction of City business.**

The Common Council shall have power to make such rules, regulations and adopt such methods for the convenient transaction of the business of the City by the boards, commissions, departments and officers thereof, not inconsistent with the duties and powers given such boards, commissions, departments and officers by this Charter and general laws.

## **§ 36           Franchises.**

No person or corporation shall erect any pole or string any wire along, in, over, or under any street, bridge or sidewalk or along, in, over, or under any land owned by said City; or lay any track or any additional track in or upon such street or bridge or on any land owned by the City; or erect any sign, post, pillar or other obstruction in, upon or over any such street, bridge or sidewalk or upon any land owned by the City; unless a franchise or permit shall be granted by the Common Council or Board of Public Utilities of said City; and it is made the duty of the Mayor, Chief of Police, or General Manager of the Board of Public Utilities to order removal of any pole, wire, track, sign, post, pillar or other obstruction erected in violation of this provision.

No franchise shall be granted hereafter for a period exceeding twenty-five (25) years, and any such franchise shall specifically prohibit any sublease, assignment or other transfer of all or part of the rights obtained under such franchise without the consent of the Common Council.

A grant of any franchise by said Common Council shall not become valid and take effect unless made as aforesaid, and no grant of a new franchise or for the extension of a franchise now existing shall become valid without a three-fourths (3/4) vote of all the members of the Common Council, unless approved by a majority vote of the registered voters taking part in a special election called for the purpose of voting on such franchise grant.

In no case shall extension of any franchise now existing in the City be granted for any period of time beyond the limitation of the original grant of said franchise.

## **§ 37           Hearings.**

Upon written complaint by any twenty-five (25) taxpayers that any person or persons, corporation or corporations operating under a license or franchise granted by the City are not complying with the provisions of such grant, the ordinances of the City or the laws of the state, the Common Council is authorized to conduct a full investigation and public hearing as to the conduct of such persons or corporations under such grant.

## **TITLE V      City Clerk**

### **§ 38      General powers and duties of the City Clerk.**

The City Clerk's office is hereby declared for the purpose of depositing and filing therein all books and papers required by law to be filed in a City Clerk's office. The City Clerk shall possess all the powers and perform all the duties of a City Clerk required by the general laws of the state, not inconsistent with this Charter or the Local Finance Law. The City Clerk of said City shall be Clerk of the Common Council and of all the commissions and boards appointed and created by the Common Council. The City Clerk shall perform such other duties incident to his or her office as may be required by the Common Council or by any such commission or board. The City Clerk shall be the Registrar of Vital Statistics of the City.

- 1. TERM:** The City Clerk shall hold office for two-year terms. However, after having completed satisfactory service for three (3) terms, shall hold office for an indefinite term and shall be removed only through the exercise by the Common Council of those procedures and processes as equate with those set forth in Civil Service Law. The City Clerk shall keep an office at such place as the Common Council shall provide and designate.
- 2. RECORDS:** The City Clerk shall keep the minutes of the meeting of the Common Council and of each board and commission of which he or she is Clerk and shall record in books to be kept for that purpose all proceedings of the Common Council and of each such board and commission and index the same. He or she shall have charge, custody and control of the corporate seal, books, papers, documents and official minutes of the City, except as otherwise provided by or in pursuance of law. He or she shall keep a book and alphabetically index and record therein all bonds of the City officers as well as all contractors or other bonds running to the City or any of its officers and note therein the date of filing each such bond.
- 3. CERTIFICATION:** The City Clerk shall, upon request and payment of the fees therefor, make certified copies of all records and documents in his or her possession or under his or her control, as such Clerk and may affix the corporate seal of the City to any such certificate or shall affix the City Clerk's official seal, and any such certified seal shall be evidence as

provided in by law. He or she shall be entitled to demand and receive fees from each person for certified copies made and delivered, other than a City officer requesting for City business.

- 4. MONTHLY RECEIPTS:** The City Clerk shall keep an accurate account of all fees and money received by him or her as such Clerk, other than his or her salary, including fees received by him or her as Registrar of Vital Statistics, and shall, on or before the 10th day of each month, pay all such fees and moneys received by him or her during the month immediately proceeding to the City Comptroller to the credit of the General Fund, for which he or she shall take a receipt and file the same in his or her office. Such receipt shall, at all times, be subject to examination by the Common Council or any member thereof.
- 5. PAYMENT OF BILLS:** The City Clerk shall prepare and countersign all vouchers, orders, bills or claims audited by the Common Council, boards, commissions or other officers authorized by this Charter to audit the same.
- 6. RECORD OF DEEDS:** It shall be the duty of the City Clerk to keep a record in a book, provided for that purpose, showing transfers, deeds and conveyances of all real property in the City, by entering the names of the grantors, the grantees, the date of the transfer, the date of filing and such a description of the property either by number and street, or otherwise, so as to locate the same, he or she shall stamp on the bank of said deed the time of filing the same in his or her office and sign his or her thereto. For filing any such deed, transfer or conveyance, the City Clerk shall receive a fee. It shall not be lawful for the County Clerk and he or she shall not receive for record any deed, transfer or conveyance of land in the City of Salamanca before the same shall have been filed with the City Clerk aforesaid, and the stamp of filing of the City Clerk on any such transfer, deed or conveyance shall be conclusive evidence that the same has been filed in his or her office. The Assessor shall inspect said City Clerk's records of deeds, transfers or conveyances and record the same and pertinent information therefrom in the records of his or her office from which the assessment roll is prepared.



## **TITLE VI      Human Resource Department**

### **§ 39            General powers and duties of the Human Resource Department.**

The Human Resource Department shall oversee the administration of personnel and labor relations for the City, and compliance with and enforcement of all applicable laws, including without limitation the New York Civil Service Law, New York Labor Law and the New York Human Rights Law. The Human Resource Department shall also perform such other duties as may be directed by the Common Council or Mayor.

The Human Resource Office shall be at such place as the Common Council shall provide and designate. Immediately preceding leaving office, or employment, a member of the Human Resource Department shall relinquish all papers and property belonging to said City or pertaining to the affairs of the City in connection with the duties of his or her office.

## **TITLE VII      City Comptroller**

### **§ 40            General powers and duties of the City Comptroller.**

The City Comptroller shall be the fiscal officer of the City and shall perform such duties incident to the office as the Common Council may require. The City Comptroller shall keep an office at such place as the Common Council shall provide and designate.

- 1. BUDGET:** The City Comptroller shall keep separate accounts of the different funds of the City and shall not pay out any moneys chargeable to any fund in excess of the amount standing on his or her books to the credit of such fund and shall not knowingly pay money from any fund which is not properly chargeable thereto.
- 2. FINANCIAL REPORT:** The City Comptroller shall, before the first meeting of the Common Council in each month, file with the City Clerk a report showing in detail the total expenditures and receipts of City moneys during the next preceding calendar month, a summary statement of the receipts and expenditures of the City moneys during that portion of the current fiscal

year expiring with the last day of such preceding month and the balance at the end of such standing to the credit of each of the City funds. Such statement shall be in such form as shall be prescribed, from time to time, by the Common Council.

3. **BONDING:** During the month of January in each year and before the 31st day thereof, the Comptroller or the Acting Comptroller, if such there be, or at the time of initial appointment to the office of Comptroller or Acting Comptroller whenever said time shall be, shall execute and file with the City Clerk an official bond or undertaking as required by Law or the Common Council. The expense of said bond or undertaking shall be a City charge. Said bond or undertaking shall bind said official to the faithful discharge of his or her duties and to promptly account for and pay over all moneys or property received by him or her in his or her official capacity.

Such bonds or undertaking shall be approved by the Common Council; a certificate by the City Clerk or such approval shall be endorsed thereon, and such bond shall be a lien on all property of such Comptroller until the conditions of such bond or undertaking, together with all the costs and charges which may accrue upon the prosecution thereof, shall be fully satisfied, whereupon the Common Council shall by resolution declare that such bond or undertaking is satisfied, and a copy of such resolution duly certified by the City Clerk may be filed and recorded in the office of said City Clerk and shall operate to discharge the same and the lien thereof from record.

4. **COLLECTION OF TAXES:** It shall be the duty of the Comptroller, personally, to receive all state, county, city and local taxes and assessments which may be paid at such office and to retain there, and not elsewhere, the possession of the warrants and assessment rolls which may from time to time be delivered to him or her by the Assessor. He or she shall enter, daily, all sums of money received by him or her for taxes or otherwise, with the name of the person or corporation on whose account the same shall be paid. He or she shall keep a record of the assessment rolls in his or her possession with the names of the persons or corporations whose taxes or assessments are unpaid, including the amount and the date when unpaid. The Assessor shall keep a record of all persons and their respective addresses who may pay taxes for nonresidents of said City and the addresses of such nonresidents so far as he or she can determine.

- 5. CUSTODIAN AND PAYMENT OF CLAIMS:** The Comptroller shall be the custodian of all securities, obligations and other evidences of debt belonging to said City. The City Comptroller shall pay all claims demands and bills, when duly audited by the respective commissions or boards of the several departments subject to the approval of the Common Council, except that those audited by the Board of Public Utilities shall not be subject to such approval. He or she shall settle with the Common Council and as often as it may require all moneys received or collected by him or her and produce the proper vouchers of the City officers for all moneys paid upon the invoices.
- 6. MONEYS TO BE PAID TO COMPTROLLER:** All officers or other persons who shall receive any money for or belonging to the City, by or under the provisions of this Charter or otherwise, shall, within ten (10) days after its receipt, pay the same over to the Comptroller of the City and take his or her receipt therefor except as otherwise provided in this Charter.
- 7. CLAIMS AGAINST FIRE INSURANCE PROCEEDS FOR DELINQUENT TAXES:** Upon the adoption of a resolution providing that the City of Salamanca Comptroller shall serve upon the New York State Superintendent of Insurance notice of intention to claim against fire insurance proceeds for delinquent real estate property taxes, as authorized by § 22, Subdivision 3, of the General Municipal Law, the City of Salamanca may nevertheless release or return to the insured any or all amounts to which it would be otherwise entitled to claim, provided that the insured agrees with the City, in writing, to restore the affected premises to the same or improved condition that the subject premises was in prior to the time that the lien of the City of Salamanca against proceeds provided for by § 22 of the General Municipal Law arose, subject to such conditions as such resolution shall provide to guarantee performance of such obligation by the insured.
- 8. LEAVING OFFICE:** Immediately preceding leaving office, he or she shall relinquish to his or her successor all such money remaining, assessment roll books, papers and property belonging to said City or pertaining to the affairs of the City in connection with the duties of his or her office.

## **TITLE VIII City Court**

### **§ 41 General powers and duties of the City Judges.**

The City Judges shall be the judges of the City Court, which shall have both civil and criminal jurisdiction, as provided by law

### **§ 42 City Court.**

There shall be a Salamanca City Court. The civil and criminal jurisdiction, practice and procedure of the City Court shall be as provided by law. The City Judges shall be the Judges of the Court.

The Court shall be open as is necessary to carry out matters before the court.

## **TITLE IX Department of Law**

### **§ 43 The City Attorney.**

The City Attorney shall be the head of the Department of Law. The City Attorney shall be an attorney licensed to practice law in the State of New York.

### **§ 44 Compensation.**

The compensation of the City Attorney shall be fixed by the Common Council, and the City Attorney shall receive no fees or other compensation of any kind whatever.

### **§ 45 Duties of City Attorney.**

The City Attorney shall be and act as the legal adviser of the Common Council and of the officers, boards, commissions and departments of the City.

1. The City Attorney shall attend meetings of the Common Council as required.
2. The City Attorney, when directed by the Common Council, shall appear for and protect the rights and interests of the City in all actions, suits, and

proceedings brought by and against the City and any City officer, board, commission or department; and such officers, boards, commission or departments shall not employ other counsel.

3. All costs in litigated cases, wherein the City is successful, shall belong to the City and, when collected, shall be paid to the Comptroller and credited to and form a part of the General Fund of the City.
4. The City Attorney shall, when required, prepare all legal papers, contracts, deeds and other instruments for the City and other City departments.
5. The City Attorney shall be available to review City contracts when requested by any City officer.
6. The City Attorney shall perform other professional services relating to the City as the Mayor or Common Council may direct.
7. The City Attorney shall, at the expiration of his or her term of office, hand and deliver to his or her successor in office, as soon as qualified, the record or register of all suits or proceedings in which the City or any of its departments may be a party and also all papers on the part of the City therein, and also sign stipulations substituting said successor as attorney for the City to such suits or proceedings.

#### **§ 46           Compromise of suits.**

The Department of Law shall, whenever it considers that the best interest of the City will be served thereby, enter into an agreement, in writing, subject to the approval of the Common Council, to compromise and settle any claim against the City, which agreement shall be reported to the Common Council at its next meeting and be and constitute a valid obligation against the City; and the amount therein provided to be paid shall be included in the next City tax budget; and when raised to be paid to the claimant.

#### **§ 47           Employment of counsel.**

The City Attorney, with the written consent of the Mayor or when authorized by the Common Council, may employ counsel to assist in conducting the functions and duties of the Department of Law.

**§ 48            Judgments; report upon to Common Council.**

The City Attorney shall immediately report to the Common Council any judgments entered against the City.

**TITLE X            The Police Department**

**§ 49            Police Commission.**

The Police Commission shall consist of five (5) members who shall be appointed by the Mayor subject to the approval of the Common Council pursuant the City Charter. The commissioners shall each have the right to one vote and shall exercise all the powers and duties conferred by this Title upon the Police Commission.

The City Clerk shall at all times, without additional compensation, act as the Clerk of the Commission. It shall be his or her duty to keep a record of its proceedings in a book kept for that purpose. The City Clerk shall have the custody of all books and papers belonging to said Commission. Said books and papers shall at all times be open for the inspection of the members of the Commission. The City Clerk shall do all such clerical work as such Commission shall from time to time prescribe.

**§ 50            Organization.**

The Police Commissioners appointed as hereinbefore provided shall constitute the Police Commission.

They shall annually organize by the mayoral appointment of a City Council Member as Chairperson and the election of one (1) of their members as Vice-Chairperson for the ensuing year. The Chairperson, and in their absence the Vice-Chairperson, shall preside at the meetings when present and shall not lose his or her vote as a member of said Commission by reason of his or her acting as presiding officer.

**§ 51           Term of office.**

The term of office of each member appointed shall be for three (3) years excluding the Chairperson which will coincide with their elected term.

**§ 52           Vacancy and resignations.**

In case any vacancy shall occur, other than by expiration of term, in the Police Commission in said City, such vacancies shall be filled for the unexpired term in the same manner as provided in the original appointment. Resignations from the Police Commission shall be made in writing to the City Clerk.

**§ 53           Meetings of Commission.**

Said Police Commission shall hold meetings at least once in each month. Special meetings may be held on the call of the Chairperson or any two (2) members of the Commission. A majority of the members of said Commission shall constitute a quorum.

**§ 54           Bylaws of Police force.**

The Police Commission shall make such bylaws, not inconsistent with the laws of this state, as may be necessary for the government of the Police Department hereby established, for regulating the powers and duties of the officers and members thereof, for uniforming them and for the maintenance of law and good order in said City, but no bylaw concerning the enforcement of any ordinances of said City shall take effect until after it shall be approved by the Common Council of said City.

**§ 55           Qualification of Police.**

The qualification of police officers shall be as established by law, including the Civil Service Law, and/or by the Common Council.

**§ 56           Duties of Chief of Police.**

It shall be the duty of the Chief of Police to operate the Police Department of said City, of which Department he or she shall be the chief executive officer

and shall have full control of the Police Department, subject to the general oversight of the Police Commission, or as otherwise provided by this Charter.

He or she shall keep electronic records in which he or she shall make daily entries of all the proceedings of the Department and of all the services rendered by him or her and the Police Department.

He or she shall, at the monthly meeting, report to the Police Commission the state of the Department; the service performed by the members of the Police Department, respectively; the amounts respectively due each of them for their services in the preceding month; and whether any of them have been disorderly in their behavior or delinquent in their duties.

He or she shall do and perform such other duties as may be required by said Commission. He or she shall work with the Police Commission for the betterment of the Police Department but shall not violate any New York State laws or union agreements.

## **§ 57 Powers and duties of Police Officers.**

The members of the Police Department of said City shall possess in every part of the State of New York all the common law and statutory powers of Constables, except for the service of civil process, and any warrant for search or arrest issued by any Magistrate of the State of New York may be executed in any part of the state by any member of the Police Department of said City without any endorsement of said warrant and according to the terms thereof; they shall also have the same power and authority which a Constable possesses in civil cases and special proceedings, under the common law and statutory law. In all cases in which they are authorized to act, they shall possess the same powers, perform the same duties and be subject to the same liabilities as constables, except as herein otherwise provided.

They shall execute the orders and commitments of the City Judge in said City and of all courts held by him or her for the trial of criminal cases. They shall convey all persons sentenced by him or her to confinement in any jail, penitentiary or house of refuge, to such place of confinement, and they shall serve and execute all civil processes or proceedings issued or directed by any officer or court in said City.



They shall also convey to the City pound all unauthorized animals forbidden to run at large by law or the ordinances of said City whenever the same are so found on any of the streets of said City. They shall further aid in the enforcement of the bylaws and ordinances of said City by directing a compliance therewith whenever an omission so to do is observed and, upon further neglect or refusal to obey the same, by arresting all violators thereof in the manner provided by the laws of the State of New York.

**§ 58            Service of criminal process.**

All criminal process for any offense committed within said City issued out of any court within said City and all process, subpoenas, bench warrant or otherwise issued by the District Attorney of the County of Cattaraugus relating to any offense committed within said City may be served by a member of said Police Department.

**§ 59            Expenses in execution of process.**

The necessary expenses incurred in the execution of criminal process within said City shall be a charge against the City. No fees or compensation whatever, other than as herein provided, shall be charged or received by any officer or member of said Police Department for the arrest, confinement or discharge of any person or for mileage and travel or for serving any warrant, subpoena or process or for discharging any other duty required by this Charter; nor shall any such fee or compensation be charged or received by any officer or citizen for the arrest of any person charged with crime or for the service of any warrant, subpoena or other process in any criminal case, other than as herein provided.

**§ 60            Presents or rewards.**

No member of the Police Department shall receive any present or reward for services rendered or to be rendered unless the following is met:

1. Written consent of the Police Commission is filed with the City Clerk.
2. Permitted by law.

and any one (1) of their number who shall receive any fee or reward in violation of this section shall be subject to disciplinary action.

**§ 61            Payment of salaries and expenses.**

The Comptroller shall pay the salary of the members of the Police Department, as it shall become due, on the warrant of the Police Commission. The contingent expenses of the Police Department shall be paid by the Comptroller of said City upon the invoices of the Police Commission. All invoices of said Commission must be authorized by a vote of the Commissioners and be signed by the Police Commissioners.

**§ 62            Station house.**

The Board of Public Works shall provide and keep in order such station house, lockup and other necessary accommodations as shall be required for the use of said Police Department.

Said Board of Public Works may also employ some suitable and competent person to serve as Cleaner of such station house and lockup, at a compensation authorized by the Common Council.

**§ 63            Commitment to Police Station.**

The City Judge of the City may commit to the police station in said City any person charged with crime and pending an examination for trial therefor, and the officer in charge of said police station in said City is authorized and required to receive any such person so committed and retain him or her in custody in accordance with committal.

**TITLE XI        Fire Department**

**§ 64            Fire Commission.**

The Fire Commission shall consist of five (5) members who shall be appointed by the Mayor subject to the approval of the Common Council pursuant to the City Charter. The commissioners shall each have the right to one vote and shall exercise all the powers and duties conferred by this Title upon the Fire Commission.

The City Clerk shall at all times, without additional compensation, act as the Clerk of the Fire Commission. It shall be his or her duty to keep a record of its proceedings in a book kept for that purpose. The City Clerk shall have the custody of all books and papers belonging to said Commission. Said books and papers shall at all times be open for the inspection of the members of the Commission. The City Clerk shall do all such clerical work as such Commissioners shall from time to time prescribe.

## **§ 65            Organization.**

The Fire Commissioners appointed as hereinbefore provided shall constitute the Fire Commission.

They shall annually organize by the Mayoral appointment of (1) Council Member as Chairperson and the election of one (1) of their members as Vice-Chairperson for the ensuing year. The Chairperson, or in their absence the Vice-Chairperson, shall preside at the meetings when present but shall not lose his or her vote as a member of said Commission by reason of his or her acting as presiding officer.

## **§ 66            Term of office.**

The term of office of each member appointed shall be for two (2) years excluding the Chairperson which will coincide with their elected term.

## **§ 67            Vacancy and resignations.**

In case any vacancy shall occur, other than by expiration of term, in the Fire Commission in said City, such vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment. Resignations from the Fire Commission shall be made in writing to the City Clerk.

## **§ 68            Meetings of Commission.**

Said Fire Commission shall hold meetings at least once in each month. Special meetings may be held on the call of the Chairperson or any two (2) members of the Commission. A majority of the members of said Commission shall constitute a quorum.

**§ 69 Rules for the Fire Department.**

The Fire Commissioners shall make such rules and regulations as it may deem best for its government or the Fire Department, provided that such rules and regulations shall not conflict with the laws of the state or of the United States, or action of the Common Council.

**§ 70 Duties of Chief of the Fire Department.**

It shall be the duty of the Fire Chief to operate the Fire Department of said City, of which Department he or she shall be the chief executive officer and shall have full control of the Fire Department, subject to the general oversight of the Fire Commission, or as otherwise provided by this Charter.

It shall be his or her duty to see that the fire engines and other fire apparatus and conveniences for the prevention and extinguishment of fires are kept in proper order and to make report, in writing, to the Fire Commissioners at such times as said Commissioners may require.

It shall be his or her further duty to be present at fires and to take command of the fire companies present and exercise a general supervision and control of the operations and proceedings of the different companies present and to give direction concerning the same.

**§ 71 Duties of Assistant Chief of the Fire Department.**

It shall be the duty of the Assistant Chief to be present and aid the Chief of the Fire Department at all fires.

**§ 72 Audit of bills; report of fires.**

All bills for expenditures and services connected with said Fire Department must be audited and ordered paid by the Fire Commission and paid by the Comptroller as provided in this Charter.

The Fire Chief shall monthly present to the Fire Commission and Common Council of said City a report showing the number of fire alarms and fires which have occurred in said City during the preceding month.

**§ 73 Charge and sale of property.**

Said Fire Commissioners shall have charge of all property now in use or hereafter to be acquired by the City of Salamanca for the purpose of extinguishing fires, including all the rooms for storing the same.

Said Fire Commissioners shall also have power, by and with the approval of the Common Council of said City, to sell the same or any part thereof, except real estate, the proceeds of such sale to be forthwith paid over to the City Comptroller and by him or her kept in a separate fund, the moneys of which may, by said Fire Commission, be applied to the purchase of other apparatus or property or for any other Fire Department purpose.

**TITLE XII Department of Public Works**

**§ 74 Board of Public Works.**

The Mayor and the Council Members of the City of Salamanca shall constitute the Board of Public Works, shall each have the right to one vote and shall exercise all the powers and duties conferred by this Title upon the Board of Public Works.

The City Clerk shall at all times, without additional compensation, act as Clerk to said Board. It shall be his or her duty to keep a record of its proceedings in a book kept for that purpose. The City Clerk shall have the custody of all books and papers belonging to said Board. Said books and papers shall at all times be open for the inspection of the members of the Board. The City Clerk shall do all such clerical work as such Board shall from time to time prescribe.

**§ 75 Organization.**

The Board of Public Works shall within the first meeting in each year organize by the Mayoral appointment of one (1) of their members as Chairperson for the ensuing year, who shall preside at the meetings when present and who shall not lose his or her vote as a member of the Board by reason of his or her acting as presiding officer.

## **§ 76        Vacancy.**

In case any vacancy shall occur in the office of the Board of Public Works in said City, such vacancy shall be filled in accordance with § 25 regarding the filling of vacancies of the Mayor or Council Member.

## **§ 77        Meetings of Board.**

The Board of Public Works shall hold a meeting at least once in each month. Special meetings may be held on the call of the Chairperson or any two (2) members of the Board. At any meetings of the Board of Public Works, a majority shall constitute a quorum.

## **§ 78        Powers and duties of Board.**

The Board of Public Works shall be Commissioners of Highways in and for said City and shall have the powers and perform all the duties of the Commissioner of Highways, other than as provided in this Charter. The Board of Public Works shall have power to:

1. Make rules and regulations for its own government and for the government of the Superintendent of Public Works and City Engineer.
2. Approve all contracts relating to construction, paving and repair of the streets, sidewalks and storm sewers and the cleaning of the streets, the grading, paving and repaving and macadamizing and remacadamizing of all streets and public places and laying and extending of storm sewers and the provision of all materials, machinery, implements and utensils necessary therefor.

## **§ 79        Term of Superintendent of Public Works.**

The Superintendent of Public Works shall hold office for two-year terms. However, after having completed satisfactory service for three (3) terms, shall hold office for an indefinite term and shall be removed only through the exercise by the Common Council of those procedures and processes as equate with those set forth in the Civil Service Law.

## **§ 80            Duties of Superintendent of Public Works.**

The Superintendent of Public Works shall be under the direction of the Common Council, sitting as the Board of Public Works. The Superintendent of Public Works shall be the head of the Department of Public Works and shall have the authority and obligations, to the following:

- 1.** To enforce all rules and regulations for the conduct of all labor, services and functions of said Department.
- 2.** Have the general supervision and direction over all the streets, storm sewers and related engineering and shall perform such other duties as the Board of Public Works shall direct.
- 3.** Subject to the approval of the Board of Public Works, to initiate all contracts and prepare all specifications for contracts relating to construction, paving and repair of the streets and sidewalks and the cleaning of the streets, the grading, paving and repairing and macadamizing and remacadamizing of all streets and public places and the provisions of all materials, machinery, implements and utensils necessary therefor.
- 4.** To lay out, make, open, grade, level, regulate, pave, macadamize, clean, repair and improve highways, streets, lanes, alleys, sidewalks, storm sewers, gutters, drains, crosswalks and alter, amend, widen, straighten and discontinue the same through any lands, buildings or enclosures in said City.
- 5.** To supervise, control and direct the maintenance, repair, operation and conduct of all parks and recreation areas.
- 6.** To supervise, control and direct all operations and functions as are presently assigned to the Department of Public Works and as from time to time may hereafter be assigned by the Board of Public Works to said Department of Public Works.

**§ 81            Changes made to streets; assessments of benefits and payment.**

1. Whenever the Board of Public Works shall intend to lay out, alter, widen, extend, contract or discontinue any street, lane, alley or highway in said City and the lands of any person or corporation or any right or easement therein that will be necessary for such purpose and whenever the Board of Public Works shall intend to acquire lands, rights or easements therein for any other purpose mentioned in this Charter, it shall cause the same to be surveyed and monuments placed showing the line thereof and a map to be made of the same, which shall be filed in the City Clerk's office, showing upon such map the lots, tracts and parcels of land and rights or easements therein that are deemed necessary to be taken and the commencement, course and termination of the street, lane, alley or highway proposed to be laid out, widened, extended or altered or other work or improvement proposed to be made in or through the land so to be taken. And for that purpose, the Board of Public Works and those acting under its direction shall have power to enter upon any grounds in said City.

The Board of Public Works, subject to the approval of the Common Council, shall then declare by resolution its intention to take and appropriate said property for the proposed improvement, and thereafter it may purchase of the owner or owners thereof the land or right or easement therein deemed necessary and make him or her or them such compensation as it shall judge reasonable upon receiving from such owner or owners a conveyance thereof to the City subject to the approval of the Common Council. In case the Board of Public Works is unable to agree with the owner or owners for the purchase of any real estate or land or right or easement therein required for the purpose aforesaid, it shall acquire the same by condemnation proceedings under the provisions of the condemnation law of this state, Chapter 23 of the Code of Civil Procedure now the Civil Practice Law and Rules and amendments thereto.

2. After such damages shall have been ascertained and determined, or in case of agreement with owner or owners as herein provided, said Common Council shall declare a district of assessment making the award to assess the amount awarded for damages, specifying the aggregate amount of the same, upon the property within such district of assessment, or in case of agreement with the owner or owners as herein provided, the Common



Council shall proceed to assess the amount agreed upon for compensation upon the property within such district of assessment.

The Common Council shall proceed to assess such amount upon the property benefited by such improvement in a just and equitable manner and as near as may be, in proportion to the benefits received; such assessment shall be made in the same manner as other local assessments, except that the Common Council shall direct such part of said expenses to be assessed upon the City, and such part locally, as they or it shall deem just; the powers and duties of the Common Council shall be the same as those of Assessors. When the assessment roll shall be filed, the assessment may be appealed from in the same manner and the Common Council shall possess the same powers in reference thereto and proceed in the same manner as on appeals from other local assessments.

3. Immediately after the final determination of all proceedings in which any award shall have been made, the Common Council shall cause to be paid or tendered to the respective owners the amount awarded to each, respectively, less any sum which shall have been assessed against them for any benefits on account of such improvements. In case any such owner shall refuse the same or be unknown or nonresident of the City or for any reason be incapacitated from receiving the amount or the right thereto be disputed or doubtful, the Common Council may make payment of the portion to the County Treasurer of the County of Cattaraugus and file therewith a statement of the facts and circumstances in each case and a transcript of the proceedings of the Common Council relating to the ascertainment of the amount so paid in. Upon such payment or tender or payment to said Treasurer being fully made, the fee of the land shall be vested in the City.

**§ 82            To acquire privileges to dispose of stagnant or surface water.**

The Board of Public Works shall on an order from the Common Council have power to enter upon any lands or grounds in the City and appropriate such property for the purpose of conveying off any stagnant or surface water within and throughout the City, and thereafter said Board of Public Works may purchase from the owner or owners thereof the land or right or easement

whenever deemed necessary and make him or her or them such compensation as it shall judge reasonable and just upon receiving from such owner or owners a conveyance thereof to the City.

In case said Board is unable to agree with the owner or owners for the purchase of any real estate or land or right or easement required therein for the purpose aforesaid, it shall acquire the same by condemnation proceedings under the provisions of the condemnation law of the state, proceeding in the same manner as obtaining lands for the street purposes elsewhere specified in this Title.

### **§ 83           Paving, repaving or macadamizing streets.**

If the Board of Public Works of the City of Salamanca, by resolution or resolutions duly adopted by that Board, may at any time or times decide that any street or section of a street should be paved, repaved or macadamized and the owners of more than one-half (1/2) of the total of feet front or more than one-half (1/2) of the bona fide owners of the property abutting upon the street upon which the improvement is to be made give consent thereto, in writing, or if in place of said consents the Common Council shall by resolution vote unanimously to concur with said Board of Public Works that such improvement is expedient and necessary.

Said Board shall publish at least two (2) weeks' notice in the official newspapers of said City that at a time and place therein specified it will meet to make a final determination thereof. Such notice shall contain a brief description of the character, location and extent of the proposed improvement. At such meeting of said Board, any person shall be entitled to be heard for and against such improvement.

**1. Expense of improvement:** The expenses of such aforesaid improvements as are made along and border upon and are contiguous and adjacent to any property owned by the City, including crosswalks and intersections of streets, and one-third (1/3) of the remainder of such improvements, exclusive of the amount charged to any railroad company, shall be paid by the City at large from the General and Special Public Works Improvement Fund.

- 2. Determination to make improvement:** If the Board of Public Works shall determine to make the improvement, it shall record an order therefor in its minutes, shall estimate the whole cost thereof, the Department of Public Works may build and construct such pavement or improvement by contract therefor duly advertised and let to the lowest bidder in all things as provided in the Purchasing Policy Guidelines of the City of Salamanca.
- 3.** No paving, repairing, asphaltting or macadamizing shall be done in any street until the gas and water mains and storm and sanitary sewers have been installed and service and house connection pipes to the same laid to the curblineline of each separate piece of property, at least to a point within the line of the curbing, in such manner as the Board of Public Works shall prescribe. In case of neglect or refusal of the owner, the Department of Public Works is authorized to do such work, and the actual expense thereof shall be assessed on the property benefited thereby the same as other local assessments. The word "pavement," as herein used, is intended to include curbs and gutters.
- 4. Change of grade:** After said Board of Public Works shall have caused to be established the grade necessary for the paving in any manner of any street, alley or public place or any part thereof which it has determined to improve under the provisions of this section. It shall give notice, in writing, to the owner or owners or persons interested in the lands which front or abut upon any such street, alley or public place as are above or below the grade thus established, to construct and maintain a retaining wall of suitable materials and in such manner as said Board of Public Works may direct along such street, alley or public place in front of their respective land. In case any such owner or owners or persons interested in said lands shall neglect or refuse to complete such retaining wall within such reasonable time as may be required by said Board of Public Works or shall neglect or refuse to keep said retaining wall in good repair and condition after its completion, then said cost and expense of building, completing and maintaining the same shall be by said Board of Public Works assessed upon the property upon and in front of which said retaining wall was built, completed and maintained, and the amount thereof added by said Board of Public Works to the next City assessment upon said property and levied and collected in the ordinary way of levying and collecting taxes and expenditures in said City.

**§ 84 Sidewalk construction and repair.**

The Board of Public Works shall construct and repair all sidewalks and crosswalks upon the streets in the City wholly at the expense of the City of Salamanca. The owner or occupant of lands adjoining a street may, with the consent and approval of the Board of Public Works construct along said street a sidewalk, the Board of Public Works shall have the power to refund to such owner or occupant the cost of said sidewalk.

**§ 85 Cleaning sidewalks.**

It shall be the duty of every owner or occupant of every lot or piece of land to keep the sidewalks adjoining his or her lot or piece of land at all times clean and free from snow, ice or other obstructions. In case such owner or occupant shall neglect or refuse to clean said sidewalk in a timely manner, he or she may be subject to a fine or penalty to be assessed against the property to be set by the Board of Public Works. In addition, the Department of Public Works in such case may proceed to clean the same without notice to such owner or occupant.

**§ 86 Street cleaning and repairing.**

The Board of Public Works shall have power to cause the streets, lanes, alleys, highways and public grounds and places of said City to be cleaned and repaired from time to time, and the expense thereof shall be paid by the City.

**TITLE XIII City Engineer**

**§ 87 General powers and duties of the City Engineer.**

The City Engineer shall perform all of the City engineering required by the Common Council or Board of Public Works and by the other departments and the other officers of the City. Any engineer hired by the City shall be a NYS Certified Licensed Civil Engineer.

1. The City Engineer shall make all preliminary surveys for the opening, making, constructing, paving, macadamizing, repairing, grading and establishing the grade of all streets, side and crosswalks, gutters, storm

sewers, sewer inlets and the measurement of all work done on the same or on other public places in the City and prepare plans, profiles and specifications therefor, when necessary or when required by the Board of Public Works, and shall perform such other duties as may, from time to time, be required by the Common Council.

2. The City Engineer shall have no power to contract any liability or debt on the part of the City, except as authorized by the Common Council or the Board of Public Works.
3. The City Engineer shall keep in his or her office books and records of all surveys and maps of streets, avenues and lanes and the grade thereof and sidewalks, water mains, storm sewers, sewer inlets with location and grade thereof.
4. Such books and records shall be properly indexed and shall be the property of the City and transmitted with all other matters pertaining to his or her office to his or her successor.
5. The City Engineer shall receive such compensation for services rendered as may be approved by the Common Council.

## **TITLE XIV Recreation Commission**

### **§ 88 Recreation Commission.**

The Recreation Commission shall consist of five (5) members, each a resident of the City of Salamanca, who shall be appointed by the Mayor subject to the approval of the Common Council. The commissioners shall each have the right to one vote and shall exercise all the powers and duties conferred by this Title upon the Recreation Commission.

The City Clerk, or such other person as may be designated by the Common Council, shall at all times, without additional compensation, act as Clerk to said Commission. It shall be his or her duty to keep a record of its proceedings in a book kept for that purpose. The City Clerk shall have the custody of all books and papers belonging to said Commission. Said books and papers shall at all times be open for the inspection of the members of the

Commission. The City Clerk shall do all such clerical work as such Commission shall from time to time prescribe.

**§ 89            Organization.**

The Recreation Commission appointed as hereinbefore provided shall constitute the Recreation Commission.

The Recreation Commission shall within the first meeting in each year organize by the Mayoral appointment of one (1) Council Member as Chairperson and the election of one (1) of their members as Vice-Chairperson for the ensuing year. The Chairperson, or in their absence the Vice-Chairperson, shall preside at the meetings when present but shall not lose his or her vote as a member of the Commission by reason of his or her acting as presiding officer.

**§ 90            Term of office.**

The term of office of each member appointed shall be for three (3) years excluding the Chairperson which will coincide with their elected term.

**§ 91            Vacancy and resignations.**

In case any vacancy shall occur, other than by expiration of term, in the Recreation Commission in said City, such vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment. Resignations from the Recreation Commission shall be made in writing to the City Clerk.

**§ 92            Meetings of Commission.**

The Recreation Commission shall hold a regular meeting at a minimum of four (4) times per year as necessary as called by the Chairperson. Special meetings can be held upon the written or oral request of a majority of the Commissioners. A majority of the Recreation Commission shall constitute a quorum.

### **§ 93 Rules for the Recreation Commission.**

The Recreation Commission shall be empowered to adopt rules for the conduct of all business within its jurisdiction.

### **§ 94 Powers and duties of the Recreation Commission.**

The Commission shall possess all of the powers and be subject to all of the responsibilities of local authorities as set forth in Article 13 of the General Municipal Law.

The Recreation Commission shall have power to establish and develop recreation programs for the City of Salamanca and shall have charge of all recreational activities and provide for the use of all recreational facilities under the control of the City of Salamanca, including athletic fields, skating facilities, playgrounds, theatre, and similar facilities.

In order to accomplish its programs, with authorization from the Common Council, the Commission is authorized to hire such employees as may be necessary.

The Recreation Commission is authorized to allocate the use of said facilities, establish and enforce regulations, policies and practices governing the same and shall act as the adviser to the Mayor and Common Council on recreational matters.

The Recreation Commission shall maintain a relationship and shall coordinate with the Board of Education on the use of recreational facilities and the establishment and development of recreational programs.

### **§ 95 Maintenance of recreation facilities.**

The Commission is not authorized to maintain, nor is it responsible for the maintenance of, any of the facilities under its control, such authority being vested in the Board of Public Works.

The Recreation Commission may and shall make recommendations, reference repair, maintenance or purchase of recreational facilities to the

Board of Public Works, which shall cooperate with the Recreation Commission at all times, and to the Mayor and Common Council.

## **§ 96            Concessions.**

1. The Recreation Commission shall have authority to control the sale of merchandise by concession or otherwise, in all parks, playgrounds, skating facilities and similar facilities of the City; in exercising said authority it shall have the authority to lease concessions for such purpose on such terms as the Commission shall fix.
2. All such concessions shall be let by contract by the Recreation Commission for the City only after public notice and bidding.
3. All funds accruing from said contracts shall be deposited in the General Funds of the City with the Comptroller. All concessions shall be operated in compliance to rules adopted by the Recreation Commission.

## **TITLE XV      Youth Board**

### **§ 97            Youth Board.**

The Youth Board shall consist of no less than thirteen (13) members and no more than fifteen (15) members, who shall be appointed by the Mayor subject to the approval of the Common Council. Board members shall consist of persons residing in or working in the community for the duration of the term of office. Membership shall include three (3) school youth representatives. At least two (2) of the aforementioned Board members shall be Common Council Members, appointed by the Mayor for their term in office. The Board members shall each have the right to one vote and shall exercise all the powers and duties conferred by this Title upon the Youth Board.

The Youth Bureau Director, or such other person as may be designated by the Common Council, shall at all times, without additional compensation, act as Clerk to said Board. It shall be his or her duty to keep a record of its proceedings in a book kept for that purpose. The City Clerk shall have the custody of all books and papers belonging to said Board. Said books and papers shall at all times be open for the inspection of the members of the



Board. The Youth Bureau Director shall do all such clerical work as such Board shall from time to time prescribe.

### **§ 98            Organization.**

The Youth Board members appointed as hereinbefore provided shall constitute the Youth Board.

The Youth Board shall within the first meeting in each year organize by the election of one (1) Youth Board Member as Chairperson and such other officers as may be necessary. The Chairperson shall preside at the meetings when present but shall not lose his or her vote as a member of the Board by reason of his or her acting as presiding officer.

### **§ 99            Term of office.**

The term of office of each member appointed shall be five (5) years excluding the Council Members which will coincide with their elected term. Furthermore, school youth shall serve until high school graduation.

### **§ 100          Vacancy and resignations.**

In case any vacancy shall occur, other than by expiration of term, in the Youth Board in said City, such vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment. Resignations from the Youth Board shall be made in writing to the City Clerk.

### **§ 101          Meetings of Youth Board.**

The Youth Board shall hold a regular meeting once in each month. At least six (6) members present of the Youth Board shall constitute a quorum, however, all quorums must be at least fifty percent (50%) adults. Special meetings can be held upon the written or oral request of a majority of the Board. Special meetings require two-thirds (2/3) attendance of the membership must be present to constitute a quorum. Summary reports of said meetings and all special meetings concerning plans, programs, and expenditures shall be made to the Executive Director in writing.

## **§ 102 Rules for the Youth Board.**

The Youth Board shall be empowered to adopt by-laws, rules and regulations for the conduct of all business of the Board.

## **§ 103 Powers and duties of the Youth Board.**

1. Develop policies and programs for youth development, youth services, delinquency prevention and control of crime.
2. In cooperation with the Director, create plans for youth programs and make recommendations to the Mayor for the needs of youth in the City.
3. Encourage cooperation between agencies and community organizations to encourage sound youth programs.
4. All funds directly controlled or expanded by the Youth Board shall be handled through the Office of the City Comptroller.

## **§ 104 Powers and duties of the Youth Bureau Director.**

Responsible for administration of the Youth Bureau Program including guidance, counseling, public relations, agency coordination and business activities of the Bureau.

Shall provide professional advice and assistance to the Youth Board and shall coordinate programs approved for funding.

## **TITLE XVI Salamanca Board of Public Utilities**

### **§ 105 Board of Public Utilities.**

The five (5) members of the Salamanca Board of Public Utilities, who shall be appointed by the Mayor subject to the approval of the Common Council, shall constitute the Salamanca Board of Public Utilities. The members shall each have the right to one vote and shall exercise all the powers and duties conferred by this Title upon the Board of Public Utilities.

The City Clerk shall at all times, without additional compensation, act as Clerk to said Board. It shall be his or her duty to keep a record of its proceedings in a book kept for that purpose. The City Clerk shall have the custody of all books and papers belonging to said Board. Said books and papers shall at all times be open for the inspection of the members of the Board. The City Clerk shall do all such clerical work as such Board shall from time to time prescribe.

### **§ 106      Organization.**

The Board of Public Utilities appointed as hereinbefore provided shall constitute the Board of Public Utilities.

The Board of Public Utilities shall within the first meeting in each year organize by the Mayoral appointment of one (1) Council Member as Chairperson and the election of one (1) of their members as Vice-Chairperson for the ensuing year. The Chairperson, or in their absence the Vice-Chairperson, shall preside at the meetings when present but shall not lose his or her vote as a member of the Board by reason of his or her acting as presiding officer.

### **§ 107      Term of office.**

The term of office of each member appointed shall be for three (3) years excluding the Chairperson which will coincide with their elected term.

### **§ 108      Vacancy and resignations.**

In case any vacancy shall occur, other than by expiration of term, in the Board of Public Utilities in said City, such vacancy shall be filled for the unexpired term in the same manner as provided for the original appointment.

Resignations from the Board of Public Utilities shall be made in writing to the City Clerk.

### **§ 109      Meetings of Board.**

The Board of Public Utilities shall hold a meeting at least once in each month. Special meetings may be held on the call of the Chairperson or any two (2) members of the Board. At any meetings of the Board of Public Utilities, a majority shall constitute a quorum.

**§ 110 By-laws, rules and regulations for the Board of Public Utilities.**

The Board of Public Utilities may make and from time to time alter or amend bylaws, rules and regulations for the transaction of its business.

**§ 111 Books, accounts and reports.**

The Salamanca Board of Public Utilities shall assume the function and obligation of keeping all books, records, reports and accounts of the Salamanca Board of Public Utilities, showing the cost of the maintenance of said water, electric and sewer facilities and of extending the water and electric facilities, and it shall make all of its own collections and expenditures and shall furnish, whenever required by the Common Council, such information, in writing, as to the business and affairs of said water, power and sewer systems and operations as may be required by the Common Council.

Annually before the City adopts its tentative budget, the Board of Public Utilities and the Common Council shall agree upon a sum to be paid by the Board of Public Utilities to the General Fund of the City as and for services, by the City Comptroller's Office to the Board of Public Utilities.

**§ 112 Employees of the Board of Public Utilities.**

1. The Board of Public Utilities shall appoint, hire, remove, and set the compensation of all employees of the Board of Public Utilities. The employees of the Salamanca Board of Public Utilities need not necessarily be residents of the City of Salamanca.
2. Said Board may appoint or employ such officers, supervisor or personnel or persons acting temporarily in such positions; sewer plant operator, consultants, engineers, analysts, and other specially qualified personnel; and all other officers and employees, including laborers, necessary and required.
3. The Board shall prescribe the duties, authority and terms of employment, wages, salary and other compensation; and all other conditions of employment of all officers, employees or specially qualified personnel

except as the same may be otherwise provided for in any labor management contract entered into by the City of Salamanca and the employees engaged, in work in either the water, electric or sewer facilities of said City.

4. Provided further, however, that said Board shall be the authorized and designated bargaining unit for said City of Salamanca in bargaining conducted under the Public Employees Fair Employment Act (Taylor Law) on behalf of the employer as to the employees in the employ of said Board only. The foregoing shall supersede all provisions of the City Charter in conflict with these provisions.
5. The General Manager and all employees handling money belonging to the City should give a bond in the form usual for City officers in the penal sum prescribed by said Board.

### **§ 113 Duties of the Board of Public Utilities.**

The municipal water, electric and sewer facilities of the City of Salamanca shall be under the control and supervision of the Salamanca Board of Public Utilities.

1. The Board shall keep the water and power systems in repair, and they shall from time to time improve and extend said water and power systems within said City and service area.
2. The Board shall have control of all improvements and additions to the water and power systems, facilities and equipment and any extension of said water and power systems. Said Board shall have the power to make all contracts necessary or incidental to the execution of the powers conferred by this Charter.
3. Said Board shall have the direction, control and management of the operation of all the sewer facilities of the City of Salamanca, including the Wastewater Treatment Plant, its pumping stations and all auxiliary facilities, and the planning and layout of new sewer extensions.

4. Said Board shall have the direction and control of all the employees appointed or hired to operate said Wastewater Treatment Plant as the same are hereinafter described.
5. It shall be the responsibility of the Board to provide for the maintenance and operation of such sewer facilities as to comply with all federal, state and local regulations applicable to such sewer plant and facilities and to periodically inspect, repair and maintain the sewer facilities as considered necessary.
6. The General Manager and Board of Public Utilities shall have full control of said water, power and sewer systems within the City system and outside said City pursuant to contract heretofore or hereafter made and shall exercise the power and fulfill the duties connected with the management and regulation thereof and of the use of water, electric and sewer by said municipality or by any person or persons, firm or firms, corporation or corporations, municipal, domestic or foreign, and may enforce the observance thereof by cutting off the supply of water and electricity and the use of sewer facilities or by the imposition of penalties.
7. The Salamanca Board of Public Utilities shall audit the salary of the General Manager of the Board of Public Utilities, supplies, equipment and labor purchased or provided by said Board which shall be paid by the Board of Public Utilities Business Manager from the water, electric and sewer funds hereof upon the order of the Chairman of the Salamanca Board of Public Utilities.

#### **§ 114 Powers of the Board of Public Utilities.**

The Board of Public Utilities shall have power to make all contracts necessary or incidental to the execution of the power conferred by this Charter including those relating to construction of laying out and extending sewers and the provision of all materials, machinery, implements and tools necessary; to layout, make, repair and maintain sewers and auxiliary fixtures and systems; and to cause to be made all necessary surveys, maps and profiles relating to any work within its jurisdiction.

1. **Sewer construction or extension resolution.** The Salamanca Board of Public Utilities of the City of Salamanca, by resolution or resolutions duly

adopted by that Board, may at any time or times decide that the public sewers of said City, including Wastewater Treatment Plants, shall be built and extended in and along any street or streets of said City. The public sewer systems to be therein specified pursuant to and in accordance with the sewer plans of said City, duly adopted and approved by the State Board of Health, and on file in the City Clerk's office in said City.

- 2. Consent for rights for construction or extension.** In addition, the owners of more than one-half (1/2) of the total feet front or more than one-half (1/2) of the bona fide owners of the property abutting upon the street in which the sewer is to be built or extended must give consent thereto, in writing, or if in place of said consents the Common Council shall by resolution vote to concur with said Board of Public Utilities that the building or extension of said sewer is expedient and necessary.
- 3. Publication of Notice:** The Board of Public Utilities shall publish at least two (2) weeks' notice in the official newspapers of said City that at a time and place therein specified it will meet to make a final determination thereof. Such notice shall contain a brief description of the character, location and extent of the proposed construction or extension. At such meeting of said Board, any person interested or affected shall be entitled to be heard for or against any such proposition to build or extend such sewer.
- 4. Determination to construct or extend sewer.** If the Board of Public Utilities shall finally determine to make the extension or construct such sewer, it shall record an order therefor in its minutes, shall estimate the whole cost thereof and report the same to the Common Council. And thereupon, if said Common Council approve, said Board of Public Utilities may build and construct said sewer by contract therefor duly advertised and let to the lowest bidder in all things as provided in the Purchasing Policy Guidelines of the City of Salamanca.
- 5. Expense of sewer construction or extension.** The expense of such building and extending of sewers in and along streets that border upon and are contiguous and adjacent to any property owned by the City, including intersections of streets and including the expense of any Wastewater Treatment Plant, exclusive of the amount charged to any railroad company, shall be paid by the City at large from the General and Special Public Utility Improvement Fund; the balance of the expense of constructing and

extending said sewers shall be paid and become a charge upon and shall be assessed against such real estate and real property benefited thereby or abutting and bordering upon and adjacent to the street or streets, alleys, public place or way or any part of the expenses of laying or constructing such sewer shall be assessed upon any land not benefited thereby or bordering upon or touching the part or parts of such street or other way or public place upon or in which sewers are laid or extended or which is not adjacent thereto.

- 6. Ascertaining expense and report to the Common Council.** Upon the completion of such sewer or extension thereof, it shall be the duty of the Board of Public Utilities to ascertain the whole cost and expense thereof, including all labor and materials therefor, cost of engineering, printing and all other necessary expenses connected therewith or incidental thereto, including all interest on any bond anticipation notes which may have been issued for such purpose, and certify the same to the Common Council of said City. The Board shall apportion the total costs and expenses thereof upon all the real estate benefited thereby or fronting, abutting upon or adjacent to said street, or section of street upon which or in which said sewer was laid, in proportion to the frontage of the respective lots or parcels of land and in proportion to the benefit which each owner of said real property may be deemed to receive, first deduction he or she share thereof imposed upon the City and the share of any proportion thereof which any street or other railroad company may be liable to pay and shall thereupon report the same to the Common Council with a list of all the lots and parcels of land liable to assessment, with their respective frontage and a description thereof; and the Common Council shall thereupon proceed to assess the costs and expenses thereof as herein provided.
- 7. Assessment of expense.** The Common Council shall assess upon any railway company liable to assessment hereunder and upon the City its share of the costs of such sewer construction, and said assessment shall be collected by the Board of Public Utilities as provided therein. The Common Council shall assess the residue of such expense upon the real estate fronting upon said street or section of street or public place or adjacent thereto or benefited thereby as hereinbefore provided and shall make a just and equitable assessment of the amount so fixed by it against said owners and occupants and upon such land deemed to be benefited as herein provided, assessing each parcel as near as may be in proportion to



the benefit to such land and which each owner of real property may be deemed to receive therefrom. The Board shall thereupon cause a notice to be published in the official newspapers of said City that the assessment roll has been filed with the City Clerk and that the Common Council will on a certain day and place to be therein specified, which shall not be less than ten (10) days from the first publication of said notice, proceed to confirm said assessment at the time or place to which the Common Council may from time to time adjourn said hearing, any person interested may appear before the Common Council and apply to have said special assessment roll as it may deem just and by resolution confirm the same; said assessments shall thereupon be and become final and conclusive upon all the parties interested, the property owners against whom assessment has been made may pay the amount so assessed to the BPU Business Manager. All moneys derived from a sale of obligations issued to provide for the payment of the costs and expenses of such improvements shall be kept by the BPU Business Manager as a separate fund and designated the "Public Utilities Improvement Fund," and all orders for the payment of any moneys from said Fund shall be drawn directly upon said Fund and shall be signed by the BPU General Manager countersigned by the Mayor or Comptroller of said City.

- 8. Acquisition of real property.** The Board of Public Utilities shall have the power to acquire for and in the name of the City by agreement or appraisal in such manner as heretofore provided and also in such manner as is authorized by the condemnation law of this state and any local law authorizing and describing condemnation procedures any lands, easements, privileges, rights and estate necessary for the construction and maintenance of sewers or sewage disposal plants. The Board may also enter upon any private lands or waters for the purpose of making necessary surveys, constructing or extending such sewers or to prevent the overflow of natural water sources and protect public health and property. The Board shall not be liable therefor unless some unnecessary damage shall have been done and then only for the actual damage, provided that, in all cases involving an expenditure of money, it shall have first submitted to the Common Council its estimate of the cost of such real estate and that the Common Council shall have approved the same and authorized the expenditures proposed, or, in cases where the expenditures proposed in such estimate are to be raised by taxes levied for the fiscal year in which such expenditures are to be made, that the same shall have

been approved by the taxpayers at a special election. And on acquiring the same either by agreement or appraisal or by condemnation proceedings, as hereinbefore provided, said City of Salamanca shall be liable to pay therefor said agreed price or appraisal value thereof. But the Common Council shall have the right to authorize the expenditure, for the purpose of altering or repairing a Wastewater Treatment Plant or repairing and extending a trunk line sewer or altering or repairing any sewer or sewers now in existence in any of the streets of the City of Salamanca, if it shall be deemed expedient or necessary to do so, and the expenditure thereof shall be payable by the City at large out of the Public Utility Improvement Fund in the same manner as hereinbefore provided.

### **§ 115      Duties of General Manager of Salamanca Board of Public Utilities.**

The General Manager shall be the chief executive officer of the Salamanca Board of Public Utilities and shall under its direction have the general supervision and direction of all water, electric and sewer facilities within the jurisdiction of the Board.

1. The General Manager shall have the supervision and direction of laying all water mains, erecting poles, stringing electric wires and laying all of conduits from private dwellings or other places and any connecting or lateral pipes and keeping the same in repair.
2. Such lateral pipes and conduits shall not be laid and connected until a permit therefor shall be obtained from the General Manager of the Salamanca Board of Public Utilities, and all such connecting or lateral pipes and conduits and the fixtures thereto shall be constructed under and according to the directions of the General Manager.
3. The General Manager shall be charged with the supervision of the operation of the Wastewater Treatment Plant and ensuring that said facilities are operated in accordance with all state, federal and local laws, rules and regulations.

**§ 116 Authority to sell or lease water, power and sewer systems.**

Neither the Common Council of said City nor the Board of Public Utilities shall have the power or authority to sell or lease said municipal water, power and sewer systems to any person or persons, corporation or corporations except that the Salamanca Board of Public Utilities may enter into a contract with any corporation providing for the joint ownership use and construction of any poles, wires or transmission or other distribution lines of the system whenever it may appear proper to said Board to make such an agreement and on such terms and conditions as the Board may approve.

**§ 117 Water and electric rentals.**

The Board of Public Utilities shall establish a scale of rentals for the use of water and electric to be called "Water Rentals" and "Electric Rentals," respectively, and to be paid at such time as the Board may prescribe. Such rentals shall be a lien upon the real property upon which the water or electric is used, for ten (10) years from time to time of such use, superior to any mortgage, judgment, other lien of any nature, except general, city and school taxes assessed upon the property, which shall be prior thereto, any conveyance thereof shall not alter its legality upon a subsequent grantee; provided, however, that notice shall be mailed to the owner of such real property, whenever the payment of any water rental or electric rental is delinquent by the City Comptroller, said Board may adopt ordinances not inconsistent with the law and with this Charter for the enforcement of the collection of water and electric and may enforce the observance thereof in cutting off the supply of water and electricity or by the imposition of penalties.

**§ 118 Furnishing water and electric to towns and villages.**

The Board of Public Utilities may in its discretion contract with the Town Boards of the Town of Salamanca or Great Valley, or both, to furnish water for the extinguishment of fires and for sanitary and other public purposes and may contract therewith to furnish electric for lighting the highways of said towns and with any other person or persons for domestic consumption either of water or electric. Said Board may in addition and as permitted for municipalities so to do, contract for furnishing sewer services and facilities to consumers, both individual and corporate, outside of the geographic limits of the City of Salamanca.

## **§ 119 Sewer Rent Law.**

The Board of Public Utilities shall establish a scale of rents to be called "Sewer Rents."

1. The owner of any parcel of real property connected with the sanitary sewer system of the City of Salamanca or serviced by the City of Salamanca Board of Public Utilities shall pay a Sewer Rent for the use of such sanitary sewer system, which Sewer Rent shall become due and payable monthly at the same time that the water bill for public water supplied to such real property becomes due and payable. The Sewer Rent shall be included as a separate charge on the water bill.
2. The Sewer Rents consists of two separate and distinct components: a flat monthly charge based upon the size of the potable water meter(s) servicing the property pursuant a schedule and an amount equal to one hundred thirty-seven percent (137%) of the charge for public water supplied to any such property during the monthly billing period.
3. Owners of real property connected to the sanitary sewer system, but having a private water supply shall, at their expense, meter such private water supply, such meter having been approved by the Board of Public Utilities, and shall pay Sewer Rents as set forth above based upon the amount of water consumed on the premises as if the water had been purchased from the City of Salamanca Board of Public Utilities.
4. All of the other sections of Local Law No. 2 for the year 1969 shall remain in full force and effect.

## **§ 120 Sewer Rent Fund.**

All moneys and revenues collected for sewer services by reason of the Sewer Rent Law shall be turned over to the City Comptroller and shall be credited to a special fund known as the "Sewer Rent Fund." These revenues collected by the Board of Public Utilities under the abovementioned "Sewer Rent" shall be handled by the Board of Public Utilities and shall constitute a special fund to be known as the "Sewer Rent Fund." Moneys in said Fund shall be used in the following order:

1. For the payment of the cost of management, maintenance, operation and repair of the sanitary sewer system or such part or parts thereof for which sewer rents have been established and imposed.
2. For the payment of the interest on any bonds or the amortization of any bonds or payment of indebtedness which has been or shall be incurred for the construction of the sewer system or such part or parts thereof for which sewer rents have been established or imposed.
3. For the construction of sewer treatment and disposal works which necessary appurtenances, including pumping stations, or the extension, enlargement or replacement of or additions to such sewer systems or part or parts thereof.

and for any other purposes authorized by the laws of the State of New York, but shall not be used for the extension of a sewer system to serve non-sewered areas.

## **§ 121      Fluoridation of municipal water supply.**

Notwithstanding any other provision of this Charter all decisions regarding the addition or removal of fluoride from the municipal water supply shall be made solely by the Common Council.

## **§ 122      Unlawful acts and penalties.**

Any unlawful act whereby said water, electric or sewer facilities or any property or apparatus belonging or pertaining thereto shall be injured or an unlawful connection made thereto shall be deemed a misdemeanor, and the person or persons convicted thereof shall be punished to the extent of the law for any person or persons, corporation or corporations to move, cut, remove, alter or in any manner interfere with the wires, poles, pipes, facilities or any other equipment or appurtenances to the water system, the power system or the sewer system without first having obtained the consent, in writing, of the General Manager of the Board of Public Utilities.

All provisions of the Charter of the City of Salamanca, local laws and ordinances of the City of Salamanca insofar as they conflict with this local law are hereby superseded, but otherwise shall remain in full force and effect.

## **TITLE XVII            Joint Leasing Commission**

### **§ 123            Joint Leasing Commission representatives.**

**1. ELIGIBILITY:** No person shall be appointed as a City representative to the Joint Leasing Commission unless he or she at the time shall be a resident, leaseholder and taxpayer of the City.

**2. APPOINTMENT:** The two (2) City representatives to the Joint Leasing Commission shall be appointed by the Council.

**3. REMOVAL:** The Council may remove the City-appointed member to the Joint Leasing Commission for dishonesty, incapacity, neglect of duty or other irregularities, giving such representative reasonable notice thereof and a reasonable opportunity to be heard, and such representative may be suspended pending such investigation.

**4. RESIDENT of CITY:** Whenever any City representative shall cease to be a resident of the City, his or her office shall thereby become vacant.

**5. VACANCY:** If a vacancy occurs for any reason, the Council shall fill the vacancy by appointing a new representative meeting all of the eligibility requirements of this section within thirty (30) days after the vacancy occurs.

## **TITLE XVIII    Assessment and Taxation**

### **§ 124            General powers and duties of the City Assessor.**

The City Assessor shall perform all the duties required of him or her by this Charter in regards to the assessment of property in said City as well for the purpose of imposing taxes levied by Cattaraugus County as those levied by the Common Council of said City.

The City Assessor shall estimate by him or her, before the first day of July of each year, establish, exhibit and furnish all values and assessments as estimated.

The City Assessor shall keep a record of all persons and their respective addresses who may pay taxes for nonresidents of said City and the addresses of such nonresidents so far as he or she can determine.

## **§ 125      Assessment of taxes.**

**1.** The Assessor shall in each year prepare an assessment roll of the persons and property taxable within the City, in the same manner and form as is required by law for the preparation of City assessment rolls, except as modified by this Charter. The City Assessor shall inspect the City Clerk's records of deeds, transfers or conveyances and record the same and pertinent information therefrom in the records of his or her office from which the assessment roll is prepared.

**2.** For the purposes of assessment for taxation, all land and improvements within the City and outside of the limits of the Allegany Indian Reservation shall be subject to taxation as set forth by the laws of New York State.

**3.** For the purposes of assessment for the county taxes, the leasehold estates, leasehold estates of inheritance and freehold estates created pursuant to the followings Acts of Congress, leases entered into pursuant to said Acts of Congress and pursuant to § 71 of the Indian Law of New York State shall be assessed and taxable in the same manner as real property:

- i.** Act of 1875 (approved February 19, 1875) (18 statute 330).
- ii.** Act of 1890 (approved September 30, 1890) (26 statute 558).

**4.** For the purposes of assessment for City taxes, the leasehold estates, leasehold estates of inheritance and freehold estates created pursuant to the following Acts of Congress, leases entered into pursuant to said Acts of Congress and pursuant to § 71 of the Indian Law of New York State shall be assessed and taxable in the same manner as real property:

- i.** Act of 1875 (approved February 19, 1875) (18 statute 330).
- ii.** Act of 1890 (approved September 30, 1890) (26 statute 558).

iii. Seneca Nation Settlement Act of 1990 (approved November 3, 1990) (104 statute 1292).

5. It shall be sufficient to state the name of one (1) of the owners or occupants of said land and also the street and number of any building thereon; but if the land be vacant or the building thereon not numbered, then the name of the street on which it fronts shall be given. In case no inhabited building is on the land, the owner may be designated as "unknown." No error in the name of the owner or occupant shall invalidate the assessment. Only one (1) assessment shall be made in each year for all the taxes levied within the City during the year. The Assessor shall in the first instance and prior to the review thereof fix and establish all values and assessments thereof in all respects as provided by this Charter.

**§ 126      Completion of roll, review of assessment and equalization.**

The Assessor shall complete such assessment roll and shall file one (1) copy with the City Comptroller and shall give notice and perform all the acts required by the general tax law of the state governing the completion of the roll and review of the assessment.

The City Assessor shall immediately thereupon proceed to prepare the roll for the ensuing year by correcting all clerical errors appearing therein, make a true copy of the assessment roll as corrected and provide it to the Cattaraugus County Real Property Tax Office. The New York State Department of Taxation and Finance, the Office of Real Property Tax Services, shall in each year equalize the assessments within the City of Salamanca.

**§ 127      Levy of taxes by Common Council; tax rolls.**

The Common Council must annually, at the times hereafter specified, cause to be levied and raised by general tax upon all taxable property in the City, according to the valuation upon the assessment roll last verified by the Assessor, corrected as aforesaid:



1. During the month of December and following the resolution of the County Legislature, the amount of taxes so certified to be assessed upon the City. Such tax is hereinafter referred to as the "County Tax." The City Assessor shall distribute the County Tax bills together with the Indian Lease Rent bills, such notice to be mailed on or before the 10th day of January in each year.
2. During the month of March and following the adoption of the budget for City purposes provided for in § 30, the amount necessary to defray the expenses for the next fiscal year as authorized and provided by this Charter. Such tax is hereinafter referred to as the "City Tax."

**§ 128 Indian Lease Rent; payment by City; reimbursements by levy.**

The greater part of the corporate limits of the City of Salamanca is located on the Allegany Indian Reservation and is held under written leases granted to the owners thereof by the Seneca Nation of Indians pursuant to the Acts of the Congress of the United States enacted in the years eighteen hundred seventy-five (18 U.S. Stat. 330) and eighteen hundred ninety (26 U.S. Stat. 558).

The City of Salamanca is the owner of various tracts of land within said City and of highways and public buildings therein and is dependent for its corporate expenses upon the taxes levied on real property within said City which is held under the leases aforesaid. Continuance of the validity of such leases is vital to the City of Salamanca and to its corporate existence.

The cancellation of any of the leases within such City of Salamanca would seriously impair the ability of such City to pay its expenses and maintain its corporate organization. The City of Salamanca has acquired under tax sales many parcels of real estate in the City upon which rentals are in default, and the City may in the future acquire other parcels of real estate by reason of tax sales upon which defaults have occurred or may hereafter be allowed to occur in the payment of rentals on leases by which said premises are held.

The ability of the City of Salamanca to borrow money and maintain its corporate credit depends on the maintenance of the validity of such leases under which real property in the City of Salamanca is now held.

All rents reserved in said leases within the corporate limits of the City of Salamanca are hereby declared to be a lien in favor of the City upon the premises described therein, superior to any other liens, except general taxes, so long as said leases or renewals thereof or leases hereafter granted under the Acts of Congress aforesaid are in force.

The Common Council of the City shall cause to be levied and raised each year an assessment of rent upon each parcel of real property located within the corporate limits of the City held under any such leases in an amount equal to the rent reserved in each such lease. The City Clerk under the direction of the Common Council shall extend and apportion such amount of the rental so reserved on each parcel of real property so held by lease new or hereafter in force, in a separate section, to be part of and attached to the assessment roll delivered to him in each year, and shall forthwith file the same and perform such other acts as are required of him by § 130 of this Charter.

The City Clerk or such other person who is authorized to have the Indian Lease Rent assessment records in his or her charge is authorized and directed to apportion the rent reserved in any said lease in the event of subdivision thereof and to make the necessary entries on said records. Such rentals shall become liens upon delivery of the roll with a warrant annexed thereto, under the seal of the City to the Comptroller, as provided in § 130 of this Charter, and such rentals shall be payable to the Comptroller on or before the 15th day of February after the delivery of such roll and warrant.

The Comptroller of the City shall on or before the 19th day of February in each year pay to such person, officer, agency or organization as may be designated by or pursuant to Act of Congress of the United States the aggregate sum of all of said rentals so levied. All provisions relating to the levy and collection of taxes and assessments in this Charter as amended shall apply to the levy and collection of the assessment of rentals authorized by this Charter.

Nothing in this section shall be construed to authorize the taxation or assessment of the property of the Seneca Nation of Indians or of any individual Indian.

**§ 129 Levy of Indian Lease Rent.**

Such Indian Lease Rent specified in § 128 of this Charter shall be levied by the Common Council during the month of December in each year at the same time that the County Tax is levied, and notice of the amount of such rental as so extended and apportioned shall be given to the person appearing on the assessment roll as the owner thereof in the same manner as herein provided for giving notice of assessment of tax, such notice to be mailed on or before the 10th day of January in each year.

**§ 130 Issue of tax roll and warrant to Comptroller.**

Immediately following each levy of the County Tax, the levy of the Indian Lease Rent and the levy of the City Tax, the City Clerk, under the direction of the Common Council, shall extend and apportion said taxes on a copy of the assessment roll delivered to him or her each year and shall certify the same to be correct rolls of the county tax and the City tax and shall, on or before January 10, following the levy of any such county tax, and on or before April 10 following the levy of any such City Tax, deliver the same to the Comptroller with a warrant annexed, under the seal of the City, commanding him or her to receive, levy and collect the several sums in the rolls specified as assessed against the person or property therein mentioned or described, with such penalties and percentages on interest as is in the Charter provided in the manner provided by law for the collection and levying of county taxes and to return said warrants and rolls to the Clerk on the day following the date of sale for unpaid taxes hereinafter provided.

From the time of the receipt of the tax rolls and warrants by the Comptroller, all taxes assessed and levied upon any real estate, leasehold estates of inheritance or freehold estates shall be a lien upon the aforementioned for the amount of the tax, Indian Lease Rental, penalties and interest until the same shall be fully paid.

## **§ 131      Collection of assessments and notices.**

The Comptroller shall receive, levy and collect all sums of money duly assessed against person or property to pay the expense of paving or repaving any street, section of a street or public place or for the construction or extension of any sewer in any street or public place on or before June 30 of each year. The Comptroller shall give notice of the amount of each such rental assessment to the persons affected by such assessment on or before the first day of June of each year in the manner herein provided for notice of taxes, except that no notice thereof need be published. Such assessment shall be construed as a tax and shall be subject to penalties and interest as herein provided for taxes and shall be enforced in the manner and at the times herein provided for the enforcement of taxes.

## **§ 132      Notice of receiving taxes.**

Immediately upon the delivery of any tax roll the Comptroller shall publish a notice in the official newspaper of the City that he or she will attend at the Comptroller's office with said roll and warrant until December 1, during regular business hours to receive all taxes and Indian Lease Rent so levied.

The Comptroller shall also mail to each person on said assessment roll at his or her last known post office address notices showing the taxes and Indian Lease Rent so assessed against him or her, together with the notification of the time in which such tax may be paid. Such notice shall be mailed within the fifteen-day period ending on the date on which such taxes and Indian Lease Rent are first payable as provided herein. The Assessor shall keep a record of all persons and their respective addresses who may pay taxes for nonresidents of said City and the addresses of such nonresidents so far as he or she can determine.

Every person may pay each of the taxes and Indian Lease Rent above specified to said Comptroller without any fees thereon during the period specified in this Charter, and after the final date for payment without penalty so specified, ten percent (10%) shall be added to the tax, Indian Lease Rent or assessments then past due, and commencing thirty (30) days thereafter, interest at the rate of one-half of one percent (1/2 of 1%) per month or fraction thereof shall be charged. All penalties and interest provided for in this section shall belong to the City.

The four final payment of all taxes, Indian Lease Rent and Assessments without penalty or interest shall be the date next following the levy thereof specified as follows:

- (a) February 15 for the Indian Lease Rent.
- (b) The last day of February for the County Tax.
- (c) The last day of May for the City Tax.
- (d) The last day of June for the Assessments.

### **§ 133 Tax receipts.**

Immediately upon receiving any tax, Indian Lease Rent or assessment, the Comptroller shall enter in a column in the tax roll prepared for the purpose and opposite the name of the person or corporation paying the same the fact of payment and the date thereof and shall give the person paying the same a receipt therefor. Any person may pay any one (1) or more taxes or assessments upon his property leaving others unpaid to be enforced or to be paid later. All tax bills issued by the Comptroller for taxes shall be numbered consecutively, and all receipts issued by the Comptroller for taxes paid to him or her shall bear the same number, and the Comptroller shall not receipt for more than one (1) year's taxes on the same property in one (1) tax receipt.

The form of such tax, Indian Lease Rent and assessment notice to be mailed and the form of receipt herein provided for shall be determined by the Comptroller with the approval of the Common Council. A copy of the receipt of a tax bill stub showing the number of such tax bill, the amount and the date of payment shall be retained by the Comptroller and filed with the Records Management Officer. After six (6) years have elapsed from the date of payment, such duplicates, receipts or stubs may be destroyed, with the exception of school taxes which shall be held in perpetuity.

### **§ 134 Notice of unpaid taxes and demand of payment.**

If any tax, Indian Lease Rent or assessment levied during the current year shall remain unpaid on the 31st day of November of each year, the Comptroller shall on December 1 mail a notice specifying all unpaid taxes, Indian Lease Rent and assessment levied during the year including the school

tax and specifying the serial number of the tax bill and requiring the taxpayer to pay the same to the Comptroller by December 10 following. Such notice shall be deposited in the post office in the City mailed directly to such person at the address stated on the tax bill or at such other address as shall have been specified to the City Assessor, in writing. Such notice may also be served upon such person personally. It shall not be necessary to make any other demand for payment of said tax.

### **§ 135      Collection of tax by civil action.**

The Comptroller is hereby authorized and empowered to recover, by action in any court of competent jurisdiction and in the corporate name of the City, the amount of every tax and Indian Lease Rent remaining unpaid after December 10, with the additions and fees unpaid thereon, and to recover judgment therefor with twelve percent (12%) interest thereon and the cost and expenses of such action.

A transcript of the judgment obtained in such action may be filed and such judgment docketed in the office of the Clerk of Cattaraugus County, and it shall, however small the amount, thereupon become a judgment of the County Court of said county and the lien of the amount of said judgment, upon all real estate of the judgment debtor, located in said county and shall have the same priority over any other lien or encumbrance upon or transfer of property charged with the tax for which action was brought as the lien of the tax sought to be recovered in said action.

Upon any judgment recovered for said unpaid taxes and/or Indian Lease Rent and docketed in said County Clerk's office, execution may be issued and collected as provided by law and all the provisions of law in reference to sale and redemption of real estate on executions shall apply to sales, redemptions or such proceedings which may be had under this Charter.

### **§ 136      Proceedings in case of failure to collect tax.**

On or before the first day of December after any tax shall have been imposed upon any real estate, leasehold estates of inheritance or freehold estates in said City, the Comptroller shall make and deliver to the Assessor a transcript of any and all such taxes which remain unpaid. It shall be the duty of the Assessor, on or before the 10th day of December, to make and deliver to the

Comptroller a statement containing a brief general description of the location, present boundaries and estimated quantity of each parcel of said aforementioned lands in said City, and in case any such aforementioned lands in said City shall have been erroneously assessed. Then it shall be the duty of such officer to make and include in said statement a correct assessment at the same valuation as before, and such corrected assessment and the amount of taxes levied upon said lands, leasehold estates of inheritance or freehold estates shall be as valid and effective for all purposes as though they had been originally corrected.

**§ 137 Possession of lands for unpaid taxes.**

1. Whenever any such tax, penalty or interest or any part of either of them shall remain unpaid on the 10th day of December, the Comptroller shall proceed to publish a notice of the lands, leaseholds of inheritance and freehold estates in lands in said City, upon which the same was imposed, for the payment of such tax, penalty or interest or the part remaining unpaid, and the expense of such sale, as hereinafter prescribed, shall also be a charge upon such lands.

2. The Comptroller shall designate the subject property as Tax Pending. At any time within one (1) year from the date the subject property is designated as Tax Pending the owner of the leasehold estate, or free hold estate if the property is located outside the territorial boundaries of the Seneca Nation of Indians' Allegany Reservation, or any person having a lien upon any such parcel may pay to the City Comptroller the tax arrearage which was owed as of the date the subject property was designated as Tax Pending with interest thereon at the rate of fifteen percent (15%) from the date that the subject property was designated as Tax Pending.

Upon payment of the required amount to the Comptroller as herein provided, the Comptroller shall give such person a receipt for the amount paid and shall remove the property from the designation of Tax Pending.

3. At least three (3) months before the expiration of the one (1) year period during which the payment can be made the Comptroller shall commence the publication of a notice which shall show the date when the property was designated as Tax Pending and the last day by which the payment can be made without other or further description and such notice shall be published at

least twice in each of the three (3) months in the official newspaper of the City. A copy of such notice shall be served personally on the owner or occupants of the subject property, or if unoccupied, posted on the premises at least twenty (20) days before the expiration of such time for final payment. The publication and service of such notice shall bar and preclude any and all persons except the City or its assigns or the person finally making the payment in case the payment is not made as herein provided.

4. If the payment is not made as herein provided the Comptroller, upon approval of the Common Council shall execute a deed conveying the subject property to the City or its assigns or as designated by the Common Council pursuant to resolution.

### **§ 138      Notice for the sale of land.**

The City Clerk shall publish a notice containing a description of the lands, leaseholds of inheritance or freehold estates in land within said City to be sold and specifying the time and place of sale in the official newspaper of the City, once a week for at least two (2) successive weeks, immediately prior to day of sale, and shall also post such notice of sale in at least three (3) public places in the City at least fourteen (14) days before the day of sale.

On the day named, the Comptroller shall commence the sale of such lands, leaseholds of inheritance or freehold estates in said City and shall continue such until the whole thereof shall be sold.

### **§ 139      Manner of conducting sale of land.**

Each parcel shall be sold at public auction to the highest bidder. The purchaser on such sales shall pay the amounts of their respective bids to the Comptroller following the Common Council's acceptance of such bid. In case a purchaser shall fail to pay the amount of his or her bid, as herein prescribed, the Comptroller shall forthwith offer the parcel for sale again and proceed as though it had not been sold. Should there be no bid the Common Council shall have the care and control of all such parcels and may lease or sell and convey the same.



As soon as practical after the sale, the City Attorney shall prepare a deed, as to the parcel sold, describing the parcel purchased by the location and boundary and stating the fact of the sale, the name of the purchaser, the sum paid, and the amount due at the time of the sale.

The City shall deliver the deed to the Clerk of the County of Cattaraugus, who shall file the deed in his or her office and record the same in said Clerk's office for that purpose, and shall index the deed in the name of the City and the name of the purchaser and manner as deeds are required by law to be indexed.

The County Clerk shall be entitled to receive the fees provided by law for each deed so filed and recorded, which fee shall be paid by the City Comptroller and shall be a part of the expenses of the sale of the parcel. If from any cause the Comptroller shall be unable to attend at the time and place of sale, the City Clerk of said City may conduct the sale with the same force and effect as though made by the Comptroller.

#### **§ 140      Disposition of proceeds of sale.**

The proceeds of the sale of each parcel, other than those struck off to the City, shall be applied to the payment of the expenses of the sale as herein provided, and the extinguishment of the tax, penalty or interest for which it was sold and if there shall be any residue, the Comptroller shall hold the same until the owner of the premises at the time of such sale shall redeem them from the sale as herein provided, and the Comptroller shall pay such owner said surplus. In all other cases, the Comptroller shall hold the same until after the period of redemption shall have expired and then he or she shall pay such surplus, and the person or persons entitled thereto shall be ascertained in the same manner and by the same proceedings as in the case of surplus or statutory foreclosure of a mortgage on real estate.

In case any taxes shall be assessed and levied upon real estate, leaseholds of inheritance or freehold estates in said City, which have been sold for taxes, subsequent to such sale, and before the redemption thereof or conveyance thereof to the purchaser, and the same shall be unpaid, the Comptroller may deduct the amount thereof from any surplus in his or her hands of the sum bid for the same, if there be any surplus; if there shall be no surplus or the same shall be insufficient to pay such taxes, the person redeeming shall pay the

same, otherwise, the purchaser shall pay the same before he or she shall receive his or her conveyance of the same.

## **§ 141      Conveyance of real estate sold.**

For any parcel so sold shall, the Comptroller shall execute and deliver to the purchaser, his or her heirs or assigns or to the City or its assigns, a conveyance of the real property, leaseholds of inheritance or freehold estates so sold, which conveyance in case of real estate held in fee by the owner shall vest in the grantee an estate in fee, but in case of leaseholds of inheritance or freehold estates, said conveyance shall vest in the grantee only the estate by which said leaseholds of inheritance or freehold estates are hold from the Seneca Nation of Indians pursuant to the Acts of Congress of eighteen hundred seventy-five, approved February nineteenth, eighteen hundred seventy-five (18 statute 330), and of eighteen hundred ninety, approved September thirtieth, eighteen hundred ninety (26 statute 558), and § 71 of the Indian Law of the State of New York, subject only to the liens, if any, of unpaid taxes or assessments thereon.

The Common Council shall establish a fee schedule for such conveyance. Every such conveyance shall be executed by the Comptroller, and the execution thereof shall be acknowledged before some officer authorized to take and certify acknowledgments of instruments for record in said county, and such conveyance in case of real estate held in fee by the owner shall vest in the grantee an absolute estate in fee simple, but in case of leaseholds of inheritance or freehold estates, said conveyance shall vest in the grantee only the estate by which said leaseholds of inheritance or freehold estates are held pursuant to the Acts of Congress of eighteen hundred seventy-five, approved February nineteenth, eighteen hundred seventy-five (18 statute 330) and of eighteen hundred ninety, approved September thirty, eighteen hundred ninety (26 statute 558), and § 71 of the Indian Law of the State of New York, subject to all claims which the state may have thereon for taxes, other liens or encumbrances and which shall be presumptive evidence that the sale and all proceedings prior thereto from and including the assessment of the land, leaseholds of inheritance or freehold estates aforesaid sold and that all notices required by law to be given previous to the expiration of the time allowed by law for the redemption thereof were regular and in accordance with all the provisions of law relating thereto.

After two (2) years from the date of recording such conveyance in the office of the Clerk of Cattaraugus County, such presumption shall be conclusive. Any such conveyance may be recorded in like manner and with like effect as any other conveyance of real estate. Said grantor or his or her assigns or the City or its assigns, as the case may be, shall be entitled to have and possess the granted lands, leaseholds of inheritance or freehold estates from and after the execution of such conveyance and may cause the occupants of such lands to be removed therefrom and the possession thereof delivered to them, in the same manner and by the same proceedings and by and before the same officers as in the case of a tenant holding over after the expiration of his or her term without permission of his or her landlord.

**§ 142      Real estate; lease or sale.**

The phrase "real property belonging to the City" as used in this section shall not include real property acquired by the City as a result of tax sale or real property acquired by the City as a result of tax lien foreclosure actions. Any real property belonging to the City or in control of the City may be leased, sold or otherwise alienated at public or private sale. No lease or sale or other alienation at public auction shall be authorized except by resolution of the Common Council receiving the approval of a majority of the Council Members, and no lease, sale or other alienation at private sale shall be authorized except by resolution of the Common Council receiving the approval of two-thirds (2/3) of the Council Members.

Real property belonging to the City may be sold, transferred or leased to or exchanged with any municipal corporation or corporations, school districts, fire districts, State of New York, the United States government, an Indian Nation or authorized and approved agency or housing authority of such municipal corporation, school district, fire district, state, federal government or Indian Nation, at or for such consideration and upon such terms and conditions as the Common Council may determine in its discretion.

**§ 143      Exemption from taxes and special ad valorem levies imposed by the City.**

The Common Council shall have the power and be charged with the duty of carrying out the purposes and intent of § 485 of the Real Property Tax Law of the State of New York and such other applicable laws or regulations, so as to

grant eligible business facilities as defined by the aforesaid laws, tax exemption or tax credit from taxes and special ad valorem levies or assessments imposed upon real property and improvements.

Once meeting the requirements for eligibility for tax credit and exemptions as provided for in § 485 of the Real Property Tax Law of the State of New York, the owner or operator of the eligible business facility, on a form provided by the Assessor, shall make application to the Common Council before the tax status date accompanied by a Certificate of Eligibility issued by the New York State Job Incentive Board and simultaneously therewith, files such application with the State Board of Real Property Services and the New York State Job Incentive Board.

Upon submission of the aforesaid application, certification and such additional information as may be required by the Common Council and within the time prescribed for submission by such Common Council before such tax status date, said Common Council shall either, with or without a hearing, process said application for exemption and if found to meet the requisites herein provided, determine the assessed value of such tax credit or exemption in accordance with such Certificate of Eligibility and enter such value on the exemption portion of the assessment roll.

The Common Council may grant such an exemption for a period not to exceed ten (10) years and shall determine the percentage of exemption for each of said number of years not to exceed ten (10) years, or combination thereof, and may further specify that the exemption so granted shall continue from year to year during the selected period of years, only if the Certificate of Eligibility is not revoked or modified, and upon the condition that annually, said certificate is renewed or extended by the New York State Job Incentive Board.

Any exemption so granted by the Common Council shall commence with the appropriate assessment roll prepared on the next following taxable status date of the City of Salamanca.

#### **§ 144      Power of Common Council as to void and erroneous assessments.**

The Common Council of the City may, in its discretion, release, discharge, remit or commute any portion of the taxes assessed or levied against any

person or property for any error, irregularity or omission in the levying of said taxes or in any of the proceedings relating to the same. In case any assessment shall remain unpaid on account of any irregularity, omission or error in any assessment authorized by this Charter or the laws in force when such tax was levied or in case of error in the description of lands held either in fee, leaseholds of inheritance or freehold estates or in the description of the owner or occupants, the Common Council may, in its discretion or upon the application of any person interested, proceed to correct such irregularity, omission or error or cancel, remit or commute such tax or cause the amount so unpaid to be reassessed on the property, the assessment against which remains unpaid or upon the owner or occupant thereof; and the Common Council is hereby authorized and empowered to make such reassessment upon giving ten (10) days' personal notice thereof to the owner, agent or occupant of the property against which the amount remains so unpaid.

It may direct the City Comptroller to correct any irregularity, omission or error, and such reassessment or correction shall have the same effect as if said assessment had been properly made. But the Common Council shall not alter any valuation made by the Assessors. Any omission to comply with the provisions of this Charter in making an assessment or levying a tax or creating a lien shall not render such assessment or the tax levied thereunder or the assessment made or lien created thereby void, but shall be treated as an irregularity merely, and it shall be the duty of any and all courts in case it shall appear that such irregularity exists to direct the same to be corrected or amended or the omission supplied, if possible.

In case any tax or assessment shall be void or have failed for want of jurisdiction or for any irregularity, mistake or inadvertence in levying or assessing the same, the Common Council shall have power and it shall be their duty to cause the same to be reassessed in a proper manner. Any sum paid thereon shall be credited upon the tax so reassessed, and, if the sum paid shall exceed the amount so reassessed, the excess shall be refunded to the person entitled thereto.

## **§ 145      Collection of local assessments.**

Whenever an assessment shall be ordered for local improvements, the assessment shall be made to resemble in form as nearly as practicable the tax list and be provided with a column in which payments can be entered by

the Comptroller. All provisions relating to the collection of taxes in this Charter shall be applicable to the collection of assessments mentioned in this Charter.

**§ 146      Partial exemption from City real property taxes for persons over 65 years of age.**

1. Partial exemption from City taxation may be granted to the extent of 50% of the assessed valuation of real property less all other existing exemptions on property which is owned by certain persons with limited income who are 65 years of age or over meeting the requirements set forth in § 467 of the Real Property Tax Law.
2. Real property owned by a person 65 years of age or over shall be exempt from City Tax to the extent of 50% of the assessed valuation, less all other existing exemptions, subject to the following conditions:
  - a. The owner, or all of the owners, must file an application annually in the Assessor's office at least 90 days before the day for filing the final assessment roll of the City of Salamanca, which said date for filing the final assessment roll is March 1st or such other time as may hereafter be fixed by law. Application for such exemption must be made by the owner, or all of the owners of the property, on forms to be furnished by the City Assessor's office and shall furnish the information and be executed in the manner required or prescribed in such forms, and shall be filed in such Assessor's office on or before March 1.
  - b. The income of the owner or the combined income of the owners must not exceed \$18,000 for 12 consecutive months prior to the date the application is filed, which application must be filed before March 1 of each year. At the time of application, all prior City taxes must be paid in full.
  - c. Title to the property must be vested in the owner or, if more than one, in all the owners for it least 24 consecutive months prior to the date that the application is filed.
  - d. The property must be used exclusively for residential purposes, be occupied in whole or in part by the owners and constitute the legal residence of the owners.

- e. Where title is vested on either the husband or the wife, combined income may not exceed the sums as applicable for the years described in Subdivision (b) hereof; provided, further, that the appropriate partial exemption shall be applicable to premises wherein the person or persons entitled to the partial exemption have conveyed the premises but retained life use thereof.
3. Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine and shall disqualify the applicant or applicants from further exemption for a period of five years.
4. Notwithstanding 2(a) hereof, a property owner who has received an exemption pursuant to this law on the preceding assessment roll fail to file on or before taxable status date for another annual exemption may nevertheless file the application, provided that it is filed before the hearing of Grievance Day, and it will be treated as if such application had been filed on or before March 1.

## **TITLE XIX     Sale or Disposal of City-Owned Personal Property**

### **§ 147         Sale or disposal of City-owned personal property.**

The Common Council or any commission or board of the City may order any personal property of the City of Salamanca under its control which is not needed for public use and is so certified, the value of which amounts to five thousand (\$5,000) or more, to be sold either at public auction or by sealed bid to the highest responsible bidder. Before any board or commission shall hold any such sale, the Mayor and Common Council shall be informed as to the proposed sale and the reasons.

1. Such auction and sale shall be held under the direction of the Common Council or commission or board concerned, which shall take the necessary proceedings to conduct and consummate such sale in accordance with the following procedure:
  - a. Public notice in proper form of such sale shall be published in the official newspaper of the City once each week for three (3) successive weeks

immediately proceeding the date of the sale. Such notice shall contain provisions as to the date, time and terms of sale, the posting of security and the forfeiture thereof in event of default, the other matters as may be directed by the Common Council or the commission or board concerned.

- b.** The Common Council or the commission or board concerned may reject any or all bids received.
  - c.** Such sale shall be effective only upon the approval of a majority of the Common Council and the approval of the Mayor or upon approval of a majority of the commission or board concerned.
  - d.** The successful bidder shall be required to pay ten percent (10%) of his or her bid in cash or certified check at the time of the sale as security therefor, which sum shall be returned to the bidder in the event that the sale is not approved.
  - e.** In the event that the bid is accepted and the sale approved, the balance of the purchase price shall be paid in cash or by certified check upon delivery of the property to the bidder. In the event that the successful bidder fails to pay the whole purchase price at the time and place designated, his or her deposit shall be considered forfeited and shall become the property of the City of Salamanca as liquidated damages.
  - f.** Upon receipt by the City of Salamanca of the whole purchase price, the Mayor, if the sale has been held by the Common Council, or the Chairperson of the commission or board concerned shall execute and deliver on behalf of the City of Salamanca a bill of sale for the personal property sold.
  - g.** In the event that the Common Council shall approve by majority vote a proposed sale to be conducted by a sealed bid, the procedure of Subparagraphs (a), (b), (c), (e) and (f) of Paragraph 1 shall be followed, and the procedure of Subparagraph (d) shall be modified so as to require a bidder, under the sealed bid method.
- 2.** In the event that the personal property certified as not needed for public use is less than five thousand dollars (\$5,000) in value, the same may be disposed of at private sale for the best obtainable price and in the best



interest of the City of Salamanca by the Common Council or the commission or board concerned.

3. The proceeds for any such sale after deduction of the necessary expenses therefor shall be deposited with the City Comptroller and credited to the Unestimated Revenue Fund.
4. The Common Council or the commission or board concerned may authorize the exchange of such property for other property of like nature or may dispose of the same by trading-in, without resort to the foregoing provisions, but subject to the existing provisions respecting the award of contracts for the purchase of property by the City.

## **TITLE XX      Action by and Against the City**

### **§ 148      Limitation of actions against the City.**

The City of Salamanca shall not be liable for any damage or injury sustained in consequence of defects in, want of repair or obstruction of any of the highways, streets, alleys, sidewalks, crosswalks or public places of the City, unless the City Clerk shall have had prior written notice of the defects in, want of repair or obstruction of any of the highways, streets, alleys, sidewalks, crosswalks or public places of the city at least twenty-four (24) hours before the happening of the casualty from which such injury or damage may have resulted.