

CHAPTER 149 LAWS OF N. J. 19 63

APPROVED AUG 30 - 1963

ASSEMBLY, No. 668

STATE OF NEW JERSEY

INTRODUCED APRIL 1, 1963

By Assemblymen MATTHEWS, SARCONI, LYNCH, POLICASTRO,
VOHDIN, MANDELBAUM and LUBETKIN

Referred to Committee on State, County and Municipal Government

A SUPPLEMENT to "An act concerning cities, providing for the officers, govern-
ment and powers of cities adopting the same," approved April 14, 1908
(P. L. 1908, c. 250).

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

ARTICLE I

INCORPORATION, SUCCESSION, GENERAL LAW DEFINED,

GENERAL POWERS ENUMERATED

1 1. Incorporation and Corporate Name

2 Any city of this State that may adopt the provisions of this act shall
3 thereby be and become a body corporate, and shall have the officers, govern-
4 ment and powers that are herein provided for or conferred and by all applica-
5 ble provisions of general law.

6 Upon the adoption of this act the name of the city adopting its provi-
7 sions shall be, and it shall thereafter be known as "The City of"
8 (Inserting in the said blank the territorial name by which said city has been
9 theretofore designated or known, not including in said name such words as
10 the mayor and city council or other like words.)

1 2. Succession

2 Any city adopting this act shall succeed to all the right, title and inter-
3 est in property, of every kind, nature or description, which was owned, held

4 or enjoyed by the municipality of which it is the successor. All ordinances
5 and resolutions of the city to the extent they are not inconsistent with the
6 provisions of this act shall remain in full force and effect until modified or
7 repealed as provided by law. All contracts, bonds and other obligations here-
8 tofore entered into by any city adopting this act shall remain in full force
9 and effect.

1 3. General Law Defined

2 For the purposes of this act, a "general law" shall be deemed to be
3 any law or provision of law, not inconsistent with this act, heretofore or here-
4 after enacted which is by its terms applicable or available to all municipali-
5 ties, and the following additional laws whether or not such additional laws
6 are so applicable or available to all municipalities: legislation relating to
7 taxation, local courts, education, health, public authorities serving more than
8 one municipality, and municipalities in unsound financial condition.

1 4. General Powers Vested in City and Construction Thereof

2 (a) Each city adopting this act, shall, subject to the provisions of this
3 act or other general law, have full power to:

4 (1) organize and regulate its internal affairs, and establish, alter, merge,
5 consolidate or abolish offices, departments, positions and employments and
6 define the functions, powers and duties thereof; and fix their term, tenure and
7 compensation, provided however any board established for the operation of
8 any department by vote of the people shall not be abolished, merged or con-
9 solidated except by vote of the people;

10 (2) adopt regulatory ordinances and enforce both regulatory and health
11 ordinances enacted by the local board of health and impose penalties or fines
12 not exceeding \$500.00 or imprisonment for a term not exceeding 90 days
13 or both for the violation thereof;

14 (3) construct, acquire, operate or maintain any and all public improve-
15 ments, projects or enterprises for any public purpose except as otherwise
16 limited by law, and exercise all powers of local government in such manner
17 as its governing body may determine;

18 (4) expend moneys for any public purpose, enter into any contract, buy,
 19 sell, lease, hold and dispose of real and personal property within or without
 20 the geographical boundaries of the city or do any act similar to or dissimilar
 21 to the foregoing authorized expressly or impliedly by any other general law
 22 for municipalities generally and for cities of the same form and class.

23 (b) It is the intention and purport hereof to confer the greatest power
 24 of local self-government consistent with the Constitution of this State. Any
 25 specific enumeration of municipal powers contained in this section or in this
 26 act shall not be construed in any way to limit the general description of
 27 powers contained in this article, and any such specifically enumerated mu-
 28 nicipal powers shall be construed as in addition and supplementary to the
 29 powers conferred in general terms by this article. All powers vested by this
 30 act or general law in the city shall be liberally construed in favor of the city
 31 and its governing body. Powers delegated by law or this act to a subordi-
 32 nate city agency, board or commission shall be strictly construed as not re-
 33 moving any powers from the governing body and vesting the same in any
 34 subordinate body except to the extent expressly set forth or necessarily im-
 35 plied from any such provision.

ARTICLE III

ELECTED OFFICIALS

1 5. Number and Term

2 The city shall be governed by an elected mayor and a city council con-
 3 sisting of 2 elected councilmen from each ward, each of whom shall serve for a
 4 term of 4 years beginning at 12:00 o'clock noon January 1 next following his
 5 election.

1 6. Time of Election

2 The mayor and one councilman from each ward shall be elected in the
 3 general election in which members of the General Assembly are to be elected
 4 next following the date of adoption by any city of the provisions of this act
 5 and the remaining councilman from each ward shall, except as provided in sec-
 6 tion 56 of this act, be elected at the second succeeding general election at which
 7 members of the General Assembly are to be elected.

1 7. Eligibility for Office

2 No person shall be eligible as a candidate for election as mayor or qual-
3 ified to serve as mayor unless he shall be a citizen of the United States and
4 shall have resided in the city continuously for a period of 2 years next pre-
5 ceding the date of his election to office and continuously after the date of elec-
6 tion and during his term of office. No person shall be eligible for election or
7 appointment to the office of councilman unless he shall be a citizen of the
8 United States and shall have resided:

9 (a) in the city continuously for a period of 2 years next preceding the
10 date of his election or appointment to office, and

11 (b) in the ward which he is to represent continuously for a period of 1
12 year next preceding the date of his election or appointment to office and shall
13 maintain each such residence after his election or appointment as the case
14 may be.

15 If any such person shall terminate the residency hereinbefore required
16 while a candidate, then the said position shall thereupon become vacant and
17 be filled as provided by law; if the termination shall occur after election to
18 office but before commencement of the term thereof, then the said office shall
19 be deemed vacant as of the date of commencement of the term; if the re-
20 quired residency shall cease during service in office, then the office shall be
21 deemed immediately vacant.

1 8. Vacancies Filled by Election

2 Vacancies occurring in any elective office shall be filled by election for the
3 remainder of the unexpired term at the next general election occurring not
4 less than 60 days thereafter, and shall, until a successor is elected and qual-
5 ified, be filled in accordance with this article. Unless such vacancies occur not
6 less than 60 days prior to a primary election, nomination for such vacant offices
7 shall be made by the filing at least 40 days prior to such general election with
8 the county clerk of:

9 (a) A statement duly certified by the members of the county committee of
10 a political party from the territory affected by such vacancy setting forth the

11 name of a candidate who shall thereupon be the candidate of such political
12 party at the general election.

13 (b) A petition directly nominating a candidate made in the manner pro-
14 vided by law for the filling of vacancies in municipal offices where candidates
15 are nominated by direct petition for a general election.

1 9. Interim Filling of Vacancies Until Election

2 (a) The mayor shall in case of his absence from the city or his dis-
3 ability, such that he is unable to attend to the usual and routine functions of
4 his office, designate a city officer as acting mayor for a period not exceeding
5 60 consecutive days. In the event of the absence from the city or disability of
6 the mayor exceeding 60 consecutive days or vacancy in the office of the mayor,
7 the chairman of the city council shall serve as acting mayor until such absence
8 shall terminate, disability be removed, or the vacancy be filled by the election
9 and qualification of a successor as provided by this article. Any person serv-
10 ing as acting mayor shall be vested with all the rights, powers and duties of
11 mayor, provided, however, that during the first 60 consecutive days of such
12 absence or disability, no appointments shall be made by the acting mayor
13 except temporary appointments necessary for the continuing function of
14 government.

15 (b) Vacancies in the office of councilman shall be filled by an interim
16 appointment of the city council of a qualified person from the same political
17 party as the most recent incumbent thereof if elected as a nominee of a political
18 party until the election and qualification of a successor as provided by this
19 article.

ARTICLE III

CITY COUNCIL

1 10. Organization, Meetings and Election of Council Chairman

2 The annual organizational meeting of the city council shall be held at
3 12:00 o'clock noon on January 1 (or if said day falls on a Sunday, then Janu-
4 ary 2) at which time the members of the city council shall elect one of their own
5 number to serve as council chairman until his successor is elected.

6 Regular meetings of the city council shall be held at least once each month
7 at such time and place within the city as it shall designate. Special meetings
8 may be called by the mayor or council chairman upon such notice as may be
9 set forth in the rules of the city council. Upon the filing with the city clerk of
10 a petition signed by at least 100 registered voters of the city requesting a
11 special meeting of the city council to consider any matter relating to the wel-
12 fare of the city referred to in such petition, the chairman shall forthwith call
13 such a meeting at a date and place specified in a notice thereof published in an
14 official newspaper at least 10 days prior to the date of such meeting.

1 11. Council Chairman

2 The council chairman shall preside over all meetings of the city council.
3 In the event of the absence from the city or disability of the council chairman
4 for any cause or reason, then the members of the city council shall elect one
5 of their own number as acting chairman during such absence or disability or
6 in the case of a vacancy in the office of council chairman, shall elect a new
7 council chairman. The council chairman while acting as mayor shall be dis-
8 abled and disqualified from participating in or voting on any matter before
9 council.

1 12. Majority and Quorum

2 A quorum of the city council required for the transaction of business
3 shall consist of a majority of the whole number of the city council as provided
4 by law and, unless otherwise required by law, all actions of the city council
5 shall be by an affirmative vote conducted at a public meeting of at least a ma-
6 jority of the members of council then in office and not disqualified by law from
7 voting thereon, provided however, in the absence of a quorum, any meeting of
8 the city council may be adjourned without such affirmative vote.

1 13. Adoption and Publication of Ordinances

2 Every ordinance or resolution introduced for consideration shall be re-
3 duced to written form, and except as otherwise provided by this act, shall be
4 adopted and published in the manner required by general law; provided how-
5 ever, that any ordinance may incorporate by reference technical regulations

6 or codes, official or unofficial, which need not be so published whenever 10
7 copies of said regulations or code have been placed on file in the office of the
8 city clerk and in the office of the body or department charged with the en-
9 forcement of said ordinance for the examination by the public so long as said
10 ordinance is in effect.

1 14. Powers of the City Council

2 The governing body of the city shall be the city council in which, unless
3 otherwise provided herein or by general law, all legislative power of the
4 city shall vest, including but not limited to the following enumerated
5 powers to:

6 (a) Pass, adopt, amend and repeal any ordinance, or where permitted,
7 any resolution for any purpose required for the government of the city, or
8 for the accomplishment of any public purpose for which the city is author-
9 ized to act.

10 (b) Enact any regulatory ordinance authorized by law and provide pen-
11 alties for the violations thereof as hereinbefore provided.

12 (c) Pass or adopt rules governing its internal procedures not incon-
13 sistent with any applicable provisions of this act or general law.

14 (d) Control and regulate the finances of the city and raise money by
15 borrowing or by taxation and notwithstanding other provisions of this act
16 or of any other law except Title 18 of the Revised Statutes (Education), en-
17 act an ordinance requiring that there shall be attached to the budget request
18 of each office, department, board, commission or agency a schedule contain-
19 ing the number of persons employed or to be employed for each office, posi-
20 tion or employment except where the city council by ordinance has exempted
21 a particular category of employment from such specification and the salary
22 to be paid for each and said schedule shall not be revised by such office, de-
23 partment, board, commission or agency subsequent to the initial approval of
24 the budget by the city council unless such revision is approved prior to the
25 final adoption of the budget by the city council in the same manner as the
26 budget is amended, or subsequent thereto by $\frac{2}{3}$ of the members of the city

27 council serving in office and not disqualified from voting thereon, unless an
28 affirmative vote of a greater number is otherwise required by general law.

29 (e) Enact ordinances governing the administrative structure of the city
30 and its departments and, except as otherwise provided herein and in Title 11
31 of the Revised Statutes (Civil Service) where adopted and in effect in a
32 municipality, governing personnel practices of the city and prohibiting actions
33 and activities of city officers and employees inimical to the integrity of the
34 government of the city.

35 (f) Except as hereinafter limited by reason of the establishment of a
36 commission pursuant to the vote of the people of the city, establish, regulate
37 and maintain a police department and fire department or combined depart-
38 ment therefor.

39 (g) Except as hereinafter limited by reason of the establishment of a
40 commission pursuant to the vote of the people of the city, establish, regulate
41 and maintain a water department; provide a supply of pure and wholesome
42 water for the use of the city, its inhabitants and such other persons and for
43 such incidental use as may be authorized including water for fire and sprink-
44 ling purposes; regulate the use of water; fix and establish rates or charges;
45 provide for the collection of the same; provide by ordinance for admin-
46 istration of the department; and do all such things which a board of water
47 commissioners may do when acting in lieu thereof.

48 (h) Perform all other acts, duties or functions to the fullest extent per-
49 mitted by law.

ARTICLE IV

DUTIES AND POWERS OF THE MAYOR

1 15. Executive Powers; Powers and Duties of Mayor

2 The mayor shall be the chief executive officer of the city and shall have,
3 in addition to other duties and powers vested in him by this act or by general
4 law, the power and duty to:

5 (a) Administer the affairs of the city and supervise all city departments
6 not otherwise entrusted by law or this act to some other officer, board, agency
7 or commission.

8 (b) Enforce this act, city ordinances and all general laws applicable
9 thereto.

10 (c) Recommend from time to time to the city council such ordinances,
11 resolutions or other action as he may deem necessary or expedient for the
12 welfare or good government of the city.

13 (d) Present at the annual organizational meeting of the city council a
14 general statement with respect to the government and finances of the city,
15 together with such recommendations as he may deem proper.

16 (e) Control and direct the police force and police officers of the city
17 to quell insurrections, riots or disorderly assemblages or to meet any emer-
18 gency imperiling public safety and in the absence of a board of police com-
19 missioners, to control and direct them generally.

20 (f) Serve as the appointing authority with respect to all employees of
21 the city not otherwise by law or the provisions of this act subject to the jur-
22 isdiction of another board, commission or agency, with power to remove,
23 suspend, discharge or otherwise discipline employees as permitted by law
24 personally or through the head of the department in which the said em-
25 ployee is employed.

26 (g) Perform such other duties, functions and acts as the representative
27 of the city not otherwise vested in any other city officer, board, agency or
28 commission.

1 16. Approval or Veto of Ordinances and Resolutions

2 Every ordinance and resolution passed or adopted by the city council,
3 or by the board of police commissioners, board of fire commissioners, or
4 board of water commissioners where such boards have been established,
5 shall be submitted to the mayor by the city clerk or by the secretary of any
6 such board within 3 business days after its final passage or adoption and
7 shall be duly certified to him by the city clerk and either by the city council
8 chairman, if originating from the city council, or by the secretary of the
9 originating board. If the mayor shall approve the same by affixing his sig-
10 nature thereto or shall fail to act thereon within 10 days after the said ordi-

11 nance or resolution has been submitted to him, the said ordinance or resolu-
12 tion shall thereupon become effective as provided by law or in accordance
13 with its terms. If the mayor shall disapprove any ordinance or resolution
14 submitted to him, he shall transmit it together with a statement containing
15 his objections to the city clerk. It shall be the duty of the city clerk, upon
16 receiving any such ordinance or resolution with objections from the mayor,
17 to report the same to the city council at its next regular meeting and where
18 a resolution was adopted by a board, then also to advise the secretary of
19 such board. At such meeting the objections of the mayor shall be read in
20 full and entered into the minutes; and thereupon the city council may pro-
21 ceed to consider the mayor's objections and vote thereon. Upon an affirma-
22 tive vote of $\frac{2}{3}$ of the number of members of the city council then in office
23 and not disqualified by law from voting thereon to approve the said ordinance
24 or resolution notwithstanding the veto of the mayor at the aforesaid meeting
25 or at any subsequent meeting within 30 days from the date thereof, the same
26 shall become effective as provided by law or in accordance with its terms.

27 Every ordinance or resolution shall be presented to the mayor as herein
28 provided notwithstanding the absence of any statutory reference to the mayor
29 where the statute requires action by the governing body, unless by the express
30 terms of this act or of any law the mayor is excluded from consideration
31 thereof.

ARTICLE V

CITY OFFICERS AND DEPARTMENTS

1 17. Establishment of City Departments

2 Except as limited by law or this act, the city shall operate with such de-
3 partments as may be established from time to time and with such powers and
4 duties as may be prescribed by ordinance, which departments may be re-
5 organized, merged, consolidated or abolished when necessary or appropriate
6 for the efficient operation of the city, provided, however, that except by vote
7 of the people, no change shall be made in the board of police commissioners,

8 board of fire commissioners or board of water commissioners where estab-
9 lished by vote of the people.

1 18. City Officers; Certain Offices Specified; Designation as City Officers;
2 Provisions Governing Offices

3 (a) The following offices shall exist in any city under this act and shall not
4 be subject to abolition by ordinance or referendum: mayor, members of the
5 city council, city clerk.

6 (b) The following offices once created by referendum can only be merged
7 or abolished by referendum: police chief, fire chief, members of the board
8 of police commissioners, members of the board of fire commissioners, mem-
9 bers of the board of water commissioners.

10 (c) The following office shall exist in any city under this act unless other-
11 wise provided by ordinance: city counsel, city comptroller, collector of taxes,
12 tax assessor or director of property taxation, city treasurer and city engineer.

13 (d) Each member of each board or commission entrusted with powers of
14 government and each head of a department, whether or not expressly recited
15 herein, shall be considered a city officer.

16 (e) The city council shall by ordinance prescribe the powers and duties
17 for each office in the city unless otherwise provided by law; fix the salaries
18 and compensation for each office to the extent permitted thereby; and estab-
19 lish other offices as needed from time to time.

1 19. Appointment and Term of Office of City Officers

2 All city officers unless otherwise provided by law or this act, shall be
3 appointed by the mayor subject to confirmation by the city council and shall
4 serve for a term coterminous with the term of office of the mayor unless a
5 different term is fixed by ordinance provided, however, that the police chief
6 and the fire chief shall serve unless removed for cause in accordance with this
7 article and provided further that the expiration of the then current term of
8 an incumbent city officer shall not be affected by any ordinance adopted dur-
9 ing such term.

1 20. Vacancies in Appointive Offices

2 Any vacancy occurring for any reason in any appointive office shall be
3 filled for the unexpired term in the same manner as the original appointment
4 to such office.

5 In case any appointed city officer be suspended or through illness or other
6 cause temporarily be unable to perform the duties of his office, then the mayor
7 shall have power to designate, by a written statement signed by him and filed
8 with the city clerk, a suitable person to act in the place and stead of such
9 officer until such disability be removed.

1 21. Citizenship and Residency Requirements for City Officers

2 No person shall be eligible for an appointive city office unless he be a citi-
3 zen of the United States and a resident of the city. If any such officer shall
4 move from the city during his term, his office shall thereby become vacant.

1 22. Failure to Appear or Testify before Court, Legislative Committee or
2 Governor

3 If any person hereafter elected or appointed to any office or position in the
4 city shall, after lawful notice or process, willfully refuse or fail to appear
5 before any court, any legislative committee, or the Governor, or having ap-
6 peared, shall refuse to testify or answer any question regarding the prop-
7 erty, government or affairs of the city, or regarding his nomination, election,
8 appointment or official conduct on the ground that his answer would tend to
9 incriminate him or shall refuse to waive immunity from prosecution on account
10 of any such matter in relationship to which he may be asked to testify, shall
11 be subject to removal for cause as provided by this act. Any person removed
12 from any office pursuant to this section shall not thereafter be eligible for
13 election or appointment to any office or employment in the city.

1 23. Conflicts of Interest

2 (a) Any elected or appointed city officer having a direct or indirect per-
3 sonal interest in any city business shall immediately upon learning of such
4 interest file written notice thereof with the mayor and with the body, board,
5 commission or department head having jurisdiction of such business, provided,

6 however, that if the mayor shall have such personal interest, he shall also file
7 written notice with the city clerk.

8 (b) After written notice has been given in accordance with this section,
9 no further action shall be taken on said city business with the interested
10 officer, provided, however, that if by resolution it is determined that the
11 welfare of the city requires the purchase of real property or any right, title
12 or interest therein from the interested officer, or the taking of any other action,
13 such city business may be conducted with the interested officer after full public
13a disclosure thereof.

14 (c) Failure to comply with this section shall be cause for removal from
15 office. The city council may by ordinance regulate limitations and procedures
16 concerning city employees as to any personal interest of such employees in city
17 business.

1 24. Suspensions and Removal for Cause

2 The mayor shall have power for sufficient cause to suspend any appointed
3 city officer, and in case of the suspension of any such officer, the mayor shall
4 within 5 days thereafter deliver to the city clerk a specification in writing of
5 the charges preferred against such officer and cause a copy of the same to be
6 served personally, and if personal service cannot be effected, then by registered
7 mail addressed to the accused officer's last known address; and it shall be the
8 duty of the city clerk to present such charges to the city council at its next
9 regular meeting and thereafter the city council shall proceed as speedily as
10 possible to hear and determine the said charges, after reasonable notice
11 of such hearing to the accused and an opportunity to the accused to be heard
12 with his witnesses. If upon such hearing, the charges preferred against such
13 officer shall not be sustained by a two-thirds vote of the city council, the officer
14 shall be thereby immediately restored to office, but if such charges be sus-
15 tained by a like vote of the city council, then said office shall become and be
16 vacant and the vacancy caused thereby may be filled as herein provided.

1 25. Appointment and Duties of City Clerk

2 The city council shall appoint a city clerk for a term of 4 years commencing on 12:00 o'clock noon of January 1. The city clerk shall serve as clerk of the city council and shall keep its minutes and records of its proceedings, maintain and compile ordinances and resolutions as provided by this act and perform such additional functions as may be required by law or ordinance. The office of deputy clerk may be created by ordinance and the appointment thereof shall be made in the manner provided by this act for the appointment of city officers generally. In the absence or temporary disability of the city clerk, the city council shall appoint an acting city clerk during such absence or temporary disability with all his powers and duties, provided that if a deputy city clerk shall be serving, he shall so act without action of the city council. Any vacancy in the office of city clerk shall be filled by the city council for the unexpired term thereof.

1 26. Office of Chief Finance Officer or City Comptroller

2 The city comptroller, unless the city council shall designate another city officer by ordinance, shall supervise and direct a system of internal controls over the fiscal affairs of the city, and unless otherwise expressly provided by law each of its constituent boards, commissions or bodies. The ordinance shall provide for an encumbrance system of budget operation, for expenditures only upon written requisition, for the preaudit of all claims and demands against the city prior to payment and for the control of all payments out of any public funds by individual checks for each payment to the official having custody thereof.

11 The city comptroller, or other officer so designated, shall have the duty to maintain records of all fiscal transactions of the city including all vouchers or checks audited by him and shall make such examinations and render reports as required by law or as directed by resolution. He shall have the right, duty and power to examine all books, records of accounts, and vouchers of any board, commission, body or officer and may compel by subpoena where necessary any city officer or employee of the city to submit to examination under oath on any matter pertaining to the fiscal affairs of the city.

ARTICLE VI

SPECIAL BOARDS FOR THE OPERATION OF THE POLICE, FIRE OR WATER DEPARTMENTS

1 27. Establishment, Merger, Consolidation or Abolition

2 The city council by resolution may, and upon the filing with the city clerk
 3 of a written petition signed by 100 residents of the city registered to vote in
 4 the last preceding general election requesting said action, shall place on the
 5 ballot for the next general election a proposition for the establishment, merger,
 6 consolidation or abolition of a board of police commissioners, board of fire com-
 7 missioners or board of water commissioners, except that if no general election
 8 is to be held within 90 days of such resolution, the council may provide for a
 9 special election to consider such a proposition. Each proposition shall relate
 10 to only one such board provided, however, that more than one proposition may
 11 appear on the same ballot. The proposition shall be publicized and advertised
 12 and any such special election shall be conducted in the manner hereinafter
 13 provided in this act.

14 The proposition shall be presented in the following general form:

	Yes.	“Shall there be established a Board of Water Commissioners (or as the case may be, fire commissioners or police commissioners) in lieu of regulation, supervision and operation of the water department under the direction of the Mayor and City Council?”
	No.	

	Yes.	“Shall the Board of Water Commissioners (or as the case may be, the fire commissioners or police commissioners) be abolished (or merged or consolidated, as the case may be) and the department be regulated, supervised and operated by direction of the Mayor and City Council (or otherwise, as the case may be)?”
	No.	

15 If at an election held as herein above provided the voters by a majority
 16 of those of the legal voters of the city who vote on the proposition, assent to
 17 the establishment, merger, consolidation or abolition as the case may be of any

18 board, an ordinance effectuating the expressed desire of the voters shall be
19 adopted within 60 days from the date thereof.

1 28. Powers and duties of the Boards Governing the Police or Fire Depart-
2 ments

3 When established by the voters of the city, the board shall assume respon-
4 sibility for the operation, conduct and efficiency of the police or fire
5 department as the case may be and shall have power by resolution to :

6 (a) Appoint all the personnel thereof necessary for the operation of the
7 department, provided, however, that in the case of the police department, the
8 police chief, and of the fire department, the fire chief shall be appointed as
9 otherwise provided in this act and as the appointing authority establish regu-
10 lations and administer the same governing personnel practices and policies
11 including the exercise of the power according to law to suspend, discharge, de-
12 mote, promote or discipline personnel.

13 (b) Fix compensation as part of the annual budget of the department
14 which when adopted shall not thereafter be changed for the balance of the
15 fiscal year except as provided in this act upon recommendation to and after ap-
16-17 proval by resolution of the city council.

18 (c) Provide for the care and maintenance of all lands, improvements,
19 buildings, vehicles and other personalty entrusted to the department, but not
20 for the acquisition, leasing or disposition of real property or any right, title or
21 interest therein except with the consent and approval of the city council.

22 (d) Enter into contracts and agreements necessary for the operation of
23 the business of the department and purchasing of equipment and supplies ex-
24 cept as limited by ordinance requiring the purchase and disposition of equip-
25 ment and supplies of a character not unique to the department to be conducted
26 through a central purchasing agency for the city.

1 29. Powers and Duties of the Board of Water Commissioners

2 When established by the voters of the city, the board of water commis-
3 sioners shall assume responsibility for the operation, conduct and efficiency of
4 the water department and shall have power to :

5 (a) Appoint, fix the compensation of, and in accordance with law to sus-
6 pend, discharge and discipline all personnel thereof necessary for the oper-
7 ation of the department.

8 (b) Appoint by resolution a water engineer for a term of 3 years and
9 prescribe his duties.

10 (c) Provide for the care and maintenance of all lands, improvements,
11 buildings, vehicles and other personalty entrusted to the department.

12 (d) Enter into contracts and agreements necessary for the operation of
13 the business of the department and purchasing of supplies and equipment.

14 (e) Exercise custody, control and management of the waterworks and
15 water supply of the city including the power and authority to maintain, re-
16 pair, equip and extend the waterworks and water supply system of the city
17 both within the city and outside the boundaries thereof.

18 (f) Establish and, from time to time, change the rates to be charged for
19 water supplied to the inhabitants of the city or others and adopt and establish
20 rules and regulations with respect to the use and protection of the water sup-
21 ply and waterworks, and determine, where service to inhabitants of the city will
22 not be impaired, the terms, bases and extent that water may be sold or sup-
23 plied to other municipalities or to the residents thereof.

1 30. Fiscal Operation of the Water Department by the Board of Water
2 Commissioners

3 All moneys received from

4 (a) the residents of the city or from other consumers for water supplies,

5 (b) other services performed by the water department,

6 (c) sale, lease or disposal of water reserve lands as hereinafter provided,

7 (d) the proceeds of bonds or notes issued in such city for the uses or pur-
8 poses of the water department, and

9 (e) appropriations of the city council for the use or purposes of the water
10 department,

11 shall be kept in a special fund to be known as the "water department fund"
12 which shall be paid out only on warrants or checks signed by the chairman or
13 president of the board of water commissioners and the mayor.

14 The said board shall, on or before a certain day in each year, to be fixed
15 by the board, cause a careful estimate to be made of the interest on the water
16 debt, cost of managing and keeping in repair and operation the works
17 for the ensuing year, the amount to be received during the same year for
18 the use of water and water rents, and the deficiency, if any, of such re-
19 ceipts for the payment of such expenditures, and shall report the same in
20 writing to the city council, and if there is any deficiency the said report shall
21 be submitted no later than January 25 of the year in which the deficiency is
22 anticipated, whereupon the city council shall include in the annual budget an
23 appropriation to meet any such deficiency. In case of any such deficiency, the
24 city council shall have the right and power to review and pass upon the budget
25 of the water department for the year of the deficiency in the same manner as
26 the rest of the municipal budget, but otherwise shall not be required to vote
27 thereon.

28 The board shall not have the power to incur indebtedness and any bond
29 issue required for capital expenditures shall require authorization by ordi-
30 nance. If the surplus accumulated by the water department and reserves not
31 committed as allowed by law shall exceed at the end of any fiscal year 50% of
32 the gross revenue for that year from the sale of water to the inhabitants of
33 the city or other consumers, then the board of water commissioners shall
34 appropriate the excess over 50% to and for the general use of the city unless
35 the city council by resolution authorizes the board of water commissioners to
36 retain part or all of the said excess for some other lawful purpose.

1 31. Limitation of Powers over Acquisition and Disposition of Water Re-
1A serve Lands

2 The board of water commissioners shall have use of real property needed
3 for water reserve and water supply purposes. No real property or interest
4 therein shall be leased, sold or disposed of or easement given or contract
5 thereafter authorized for purposes other than the operation of the water-
6 works or water supply system unless the board of water commissioners shall

7 determine that the sale, lease, easement or disposition can be made with-
 8 out impairing the operation and function, present or anticipated of the water
 9 supply and water reserve system for the people of the city. No such lease,
 10 sale, disposition or easement or contract therefor shall be authorized by the
 11 city council unless and until notice 30 days in advance thereof has been filed
 12 in writing with the secretary of the board to afford opportunity by the board
 13 to make any appropriate determination and advise the city council thereof.
 14 Real property or interests therein acquired as part of the water supply or
 15 water reserve system shall be held in the name of the city and such ac-
 16 quisition shall be made upon recommendation of the board of water com-
 17 missioners and adoption of an ordinance concurring therein by the city
 18 council.

ARTICLE VII

RECALL

1 32. Elective Officers; Removal by Recall Petition and Vote

2 Any elective officer shall be subject to removal from office for cause
 3 connected with his office, after he has served at least one year, upon the filing
 4 of a recall petition and the affirmative vote of a majority of those voting on
 5 the question of removal at any general or special election.

1 33. Recall Petition

2 A recall petition shall demand the removal of a designated incumbent,
 3 shall be signed by qualified voters equal in number to at least 25% of the
 4 persons registered to vote at the last preceding general election of the terri-
 5 tory represented by said incumbent and shall be filed with the city clerk. It
 6 shall set forth a statement of the cause upon which the removal is sought.

1 34. Signatures to Recall Petition

2 The signatures to a recall petition need not all be appended to one paper
 3 but each signer shall add to his signature his place of residence giving the
 4 street and number or other sufficient designation if there shall be no street
 5 and number. One of the signers to each such paper shall take an oath be-
 6 fore an officer competent to administer oaths that the statement therein made

7 is true as he believes and that each signature to the paper appended is the
 8 genuine signature of the person whose name it purports to be. Within 10
 9 days from the date of filing the petition the city clerk shall complete his ex-
 10 amination and ascertain whether or not such petition is signed by the requi-
 11 site number of qualified voters, and shall attach to the petition his certifi-
 12 cate showing the result of his examination. If by that certificate the petition
 13 is shown to be insufficient, it may be amended within 10 days from the date
 14 of said certificate. The city clerk shall, within 5 days after such amendment,
 15 make a similar examination and determination of the amended petition, and
 16 if the certificate shall show the same to be insufficient, it shall be returned to
 17 the person filing it without prejudice to the filing of a new petition to the
 18 same effect.

1 35. Notice to Officer; Recall Election; Notice of Filing of Petition

2 If the petition shall be sufficient the city clerk shall, within 2 days, notify
 3 the mayor, councilman or councilmen whose recall is sought thereby. If such
 4 notice cannot be served personally upon the mayor, councilman or council-
 5 men affected, service may be made by registered mail addressed to the offi-
 6 cer's last known address. If, within 5 days after the service of the notice
 7 by the city clerk, the mayor, councilman or councilmen sought to be recalled
 8 by such petition do not resign, the city clerk shall order and fix a date for
 9 holding a recall election not less than 70 nor more than 100 days from the
 10 filing of the petition as finally amended and advertise the same as herein-
 11 after provided in this act.

1 36. Ballots

2 The ballots at the recall election shall conform to the requirements re-
 3 specting the election of officers in the city, as provided in this act or in Title
 4 19 of the Revised Statutes (Elections), except that the words "recall elec-
 5 tion" shall appear on the ballot. The recall feature of the ballot shall appear
 6 at the top thereof and shall be separated from the portion of the ballot for
 7 the election of officers by a heavy black line. The proposal for recall shall
 8 be placed on the ballot in the following manner: "Shall

9 (here insert name of incumbent) be removed from office by recall?"
10 This matter shall occupy 2 lines in bold-face type. Immediately below the
11 above wording shall appear the phrase "for recall" and immediately under-
12 neath such phrase the words "against recall." Immediately at the left of
13 each of these 2 phrases shall be printed a square, in which the voter may
14 make a cross (X) or plus (+) or a check (✓) mark. Immediately below the
15 foregoing shall appear the following:

16 "Indicate your vote by placing a cross (X) or plus (+) or check (✓)
17 mark in one of the squares above."

1 37. Removal of More Than One Officer

2 If the removal of more than one officer is sought, the same provisions
3 for submitting to the electors the question and direction hereinbefore de-
4 scribed shall be repeated in the case of each officer concerned and their posi-
5 tion on the ballot for their recall shall be in the order of the filing of the
6 petition with the city clerk.

1 38. Election of Successor; Use of Recall Ballot

2 The same ballot used for submitting the question or questions of recall
3 shall be used for the election of a successor to the incumbent sought to be
4 removed and immediately under the black line following the recall question
5 shall appear the phrase "Nominees for successors of . . . (here insert name
6 of incumbent) . . . in the event he is recalled." The names of all persons
7 nominated as successors shall be placed upon the ballot in the same manner
8 provided for other elections of elected officers in the city.

1 39. Nomination of Candidates for Successor of Recalled Incumbent

2 Nomination of candidates for successor of recalled incumbent shall be
3 made in the same manner provided in this act for nomination of candidates
4 to fill a vacancy in an elective office.

1 40. Results of Election

2 (a) If a majority of votes in connection with the recall of any officer
3 be in favor of the recall, the term of office of such officer shall terminate,
4 upon the certificate of the results of election by the city clerk.

5 (b) If the results of such recall election shall, by the certificate of the
6 city clerk, be shown to be against the recall of the officer he shall continue
7 in office as if no recall election had been held, and the vote for the election for
8 the successor of such officer taken at the time of such attempted recall shall
9 be void.

1 41. Successor Where Incumbent Resigns After a Certain Date or is
2 Recalled

3 If the office of the incumbent shall become vacant either by his resig-
4 nation after the date is fixed by the city clerk for the recall election or by the
5 result of the recall election, his successor shall be the nominee receiving the
6 greatest number of votes at the recall election. The person so elected shall
7 serve for the remainder of the unexpired term.

ARTICLE VIII

INITIATIVE AND REFERENDUM

1 42. Petition; Percentage of Registered Voters Required

2 The voters of the city may propose any ordinance and may adopt or
3 reject the same at the polls, such power being known as the initiative. Any
4 initiated ordinance may be submitted to the city council by a written petition
5 delivered to the city clerk and signed by qualified voters equal in number to
6 at least 15% of the persons registered to vote at the last preceding general
7 election.

1 43. Power of Referendum; Time for Filing Petition

2 The voters shall also have the power of referendum which is the power
3 to approve or reject at the polls any ordinance submitted by the council to
4 the voters or any ordinance passed by the council, against which a referendum
5 petition has been filed as herein provided. No ordinance passed by the city
6 council other than the local budget ordinance except when otherwise required
7 by general law or passed following the adoption of a resolution on the
8 affirmative vote of two-thirds of the number of members of the city council
9 then in office and not disqualified by law from voting thereon, shall take effect
10 before 20 days from the time of its final passage and its approval by the

11 mayor. If within 20 days after such final passage and approval of such
12 ordinance a written petition signed by qualified voters equal in number to at
13 least 15% of the persons registered to vote at the last preceding general
14 election, protesting against the passage of such ordinance shall be filed with
15 the city clerk, the ordinance shall be suspended from taking effect until pro-
16 ceedings are had as herein provided.

1 44. Petition Papers; Affidavits

2 All petition papers circulated for the purposes of an initiative or
3 referendum shall be uniform in size and style. Initiative petition papers
4 shall contain the full text of the proposed ordinance. The signatures to
5 initiative or referendum petitions need not all be appended to one paper,
6 but to each separate petition there shall be attached a statement of the
7 circulator thereof as provided by this section. Each signer of any such peti-
8 tion paper shall sign his name in ink or indelible pencil and shall indicate
9 after his name his place of residence by street and number, or other description
10 sufficient to identify the place. There shall appear on each petition paper the
11 names and addresses of 5 voters, designated as the committee of the peti-
12 tioners, who shall be regarded as responsible for the circulation and filing
13 of the petition and for its possible withdrawal as hereinafter provided.
14 Attached to each separate petition paper there shall be an affidavit of the
15 circulator thereof that he, and he only, personally circulated the foregoing
16 paper, that all the signatures appended thereto were made in his presence,
17 and that he believes them to be the genuine signatures of the persons whose
18 names they purport to be.

1 45. Filing of Petition Papers; Examination; Certificate of Result

2 All petition papers comprising an initiative or referendum petition shall
3 be assembled and filed with the city clerk as one instrument. Within 20 days
4 after a petition is filed, the city clerk shall determine whether each paper
5 of the petition has a proper statement of the circulator and whether the peti-
6 tion is signed by a sufficient number of qualified voters. After completing
7 his examination of the petition, the city clerk shall certify the result

8 thereof to the council at its next regular meeting. If he shall certify that
9 the petition is insufficient he shall set forth in his certificate the particulars
10 in which it is defective and shall at once notify at least 2 members of the com-
11 mittee of the petitioners of his findings.

1 46. Amendment of Initiative or Referendum Petition

2 An initiative or referendum petition may be amended at any time within
3 10 days after the notification of insufficiency has been served by the city clerk,
4 by filing a supplementary petition upon additional papers signed and filed as
5 provided in case of an original petition. The city clerk shall, within 5 days
6 after such an amendment is filed, examine the amended petition and, if the
7 petition be still insufficient, he shall file his certificate to that effect in his
8 office and notify the committee of the petitioners of his findings and no
9 further action shall be had on such insufficient petition. The finding of the
10 insufficiency of a petition shall not prejudice the filing of a new petition for
11 the same purpose.

1 47. Suspension of Ordinance

2 Upon the filing of a referendum petition with the city clerk, the ordinance
3 shall be suspended until 10 days following a finding by the city clerk that the
4 petition is insufficient or, if an amended petition be filed, until 5 days there-
5 after; or, if the petition or amended petition be found to be sufficient, until
6 it be withdrawn by the committee of the petitioners or until repeal of the
7 ordinance by vote of the council or approval or disapproval of the ordinance
8 by the voters.

1 48. Submission to City Council

2 Upon a finding by the city clerk that any petition or amended petition
3 filed with him in accordance with this act is sufficient, the city clerk shall sub-
4 mit the same to the city council without delay. An initiative ordinance so sub-
5 mitted shall be deemed to have had first reading and provision shall be made
6 for a public hearing.

1 49. Submission of Ordinance to Voters; Withdrawal of Petition

2 If within 60 days of the submission of a certified petition by the city clerk
3 the city council shall fail to pass an ordinance requested by an initiative peti-

4 tion in substantially the form requested or to repeal an ordinance as requested
 5 by a referendum petition, the city clerk shall submit the ordinance to the
 6 voters unless, within 10 days after final adverse action by the city council or
 7 after the expiration of the time allowed for such action, as the case may be,
 8 a paper signed by at least 4 of the 5 members of the committee of the peti-
 9 tioners shall be filed with the city clerk requesting that the petition be with-
 10 drawn. Upon the filing of such a request, the original petition shall cease to
 11 have any force or effect.

1 50. Referendum Election

2 Any ordinance to be voted on by the voters in accordance with this article
 3 shall be submitted at the next general election occurring not less than 60 days
 4 after the date of final action by the city council or the expiration of the time
 5 allowed for action by the city council in this article as the case may be, pro-
 6 vided that if no such election is to be held within 90 days the city council may
 7 in its discretion provide for a special election.

1 51. Number of Proposed Ordinances Voted Upon; Time Between Special
 2 Elections

3 Any number of proposed ordinances may be voted upon at the same elec-
 4 tion in accordance with the provisions of this article, but there shall not be
 5 more than one special election in any period of 6 months for such purpose.

1 52. Publication of Ordinance

2 Whenever an ordinance is to be submitted to the voters of the city at
 3 any election in accordance with this article, the city clerk shall cause the
 4 ordinance to be publicized and advertised as hereinafter provided in this act.

1 53. Ballots

2 The ballots to be used at such election shall be in substantially the fol-
 3 lowing form:

4 “To vote upon the public question printed below, if in favor thereof
 5 mark a cross (×) or plus (+) or check (√) in the square at the left of the
 6 word ‘Yes,’ and if opposed thereto mark a cross (×) or plus (+) or a check
 7 (√) in the square to the left of the word ‘No.’ ”

	Yes.	"Shall the ordinance (indicate whether submitted by the city council or initiative or referendum petition) providing for (here state nature of proposed ordinance or proposition) be adopted?"
	No.	

1 54. Results of Election; Conflicting Measures

2 If a majority of the qualified electors voting on the proposed ordinance
 3 shall vote in favor thereof, such ordinance shall thereupon become a valid and
 4 binding ordinance of the city and be published as in the case of other ordi-
 5 nances. If the provisions of 2 or more measures approved or adopted at
 6 the same election conflict, then the measure receiving the greatest affirma-
 7 tive vote shall control.

ARTICLE IX

CERTAIN ELECTION PROCEDURES

1 55. Elections; Publicizing and Advertising in Certain Instances

2 Except as otherwise provided in this act, all elections affecting the gov-
 3 ernment of the city shall be conducted in accordance with the provisions of
 4 the general election law of this State.

5 Any recall, referendum, initiative, public question or public proposition
 6 relating to the government of the city shall be publicized and advertised by
 7 the city clerk who shall keep posted in a prominent location in the city clerk's
 8 office and in each of the official newspapers of the city (but in no event in
 9 less than 2 newspapers circulated and distributed in the city) on at least 2
 10 occasions at least 5 days but not more than 30 days prior to the date of elec-
 11 tion, the text of the matter to be submitted, the date of election and the
 12 hours during which the polls will be kept open.

ARTICLE X

EFFECTIVE DATE AND ADOPTION

1 56. Operative in Cities upon Adoption by Voters

2 This act shall not become operative in any city unless and until the
 3 voters thereof shall determine by referendum held in accordance with a res-
 4 olution adopted by the city council or governing body pursuant to this act

5 that the same shall apply thereto. The question shall be placed upon the
6 ballot in substantially the following form:

	Yes.	“Shall this city be hereafter governed on and after—(insert effective date) by chapter of the laws of 1963, which is a supplement to chapter 250 of the laws of 1908?”
	No.	

7 (a) If this act shall be adopted by any city governed at the time of its
8 adoption by chapter 250 of the laws of 1908, it shall operate in lieu thereof
9 and any offices filled at the general election at which this act was adopted
10 shall be for an initial term of 4 years if the election was held at the same
11 time the General Assembly was being elected, otherwise for an initial term
12 of 3 years, the term commencing 12:00 o'clock noon of January 1 next suc-
13 ceeding the election notwithstanding the fact that the term of office would
14 have been for a different period if the voters had not approved the revision.
15 Any officials elected and in office as of the time of the adoption of this act as
16 provided herein and whose offices were not to be filled at the same general
17 election as the adoption hereof shall continue in office and their term shall
18 be extended to 12:00 o'clock noon of the January 1 following 2 years prior
19 to the expiration of the terms of the officials elected simultaneously with the
20 adoption of this act by any city. The term of any appointed official whose
21 appointment was made for a term commencing with the term of the mayor
22 and coterminous therewith shall be extended so that it shall remain cotermi-
23 nous with the term of the mayor and expire at the same time as the term of
24 the mayor.

25 (b) If this act shall be adopted by any city governed at the time of its
26 adoption by any State law other than said chapter 250 of the laws of 1908,
27 such municipality shall continue under its present form of government until
28 12:00 o'clock noon of the January 1 next following the year in which the
29 next succeeding General Assembly is to be elected and all persons appointed
30 and elected in office at the time of adoption of this act shall continue in office
31 until the said time. There shall be nominated at the primary election at

32 which candidates for the General Assembly are to be nominated next fol-
33 lowing the adoption of this act, a mayor and 2 councilmen from each ward,
34 one councilman from each ward to serve a term of 2 years from the date of
35 commencement of government under this act and the mayor and remaining
36 councilman from each ward to serve a term of 4 years from the said date
37 of commencement. The ballot at the primary election for nomination and at
38 the general election for election to the office of councilman shall specify in
39 a manner provided by the county clerk the term for which each candidate
40 for councilman seeks office during the initial election therefor. Any subse-
41 quent elections after the initial election shall be for a term of office as pro-
42 vided under Article II.

ARTICLE XI

SEVERABILITY

1 57. Partial Invalidity

2 If any clause, sentence, paragraph, section or part of this act shall be
3 adjudged by any court of competent jurisdiction to be invalid, such judg-
4 ment shall not affect, impair or invalidate the remainder thereof, but shall be
5 confined in its operation to the clause, sentence, paragraph, section or part
6 thereof directly involved in the controversy in which such judgment shall
7 have been rendered.

1 58. This act shall take effect immediately.