

To be continued with Ord. 17 of 1930; 6 & 36 of 1933  
1 of 1936; 5 of 1938

## CHAPTER 87.

## NEW AMSTERDAM TOWN COUNCIL.

[No. X of 1916.]

[27th May, 1916.]

1. This Ordinance may be cited as the New Amsterdam Short title.  
Town Council Ordinance.

2. In this Ordinance, unless the context otherwise Interpreta-  
requires,— tions.

“the town” means the town of New Amsterdam;

“the Council” means the Mayor and Town Council  
of New Amsterdam;

“the magistrate” means the magistrate of the judicial  
district in which the town is situate, and includes  
any magistrate sitting in the court of that judicial  
district;

“the registry” means the registry of the Supreme  
Court;

“market” or “the market” means the New Amster-  
dam market and includes every other public  
market now or hereafter to be established in the  
town by the authority of the Council;

“lot” includes a portion of a lot;

“voter” means persons qualified to vote for a coun-  
cillor at elections.

## THE MUNICIPAL COUNCIL.

3.—(1) Subject to the provisions of this Ordinance, the Municipal  
municipal council in and for the town, established as one corporation  
body politic and corporate by the New Amsterdam Town as estab-  
Council Ordinance, 1891, under the name and style of lished by  
“The Mayor and Town Council of New Amsterdam,” is Ordinance 8  
hereby continued. of 1891 to  
be con-  
tinued.

(2) By that name the Council shall have perpetual  
succession, may have and use a common seal, and by and  
in the name of “The Town Clerk of New Amsterdam”  
may sue and be sued in all courts of justice and before all  
magistrates and justices.

## EXTENT OF THE TOWN.

Boundaries  
of the town.

4.—(1) The town shall be bounded as follows, that is to say, on the north by the ordnance land; on the east by plantations Smythfield and Vryheid; on the south by plantation Overwinning; and on the west by the Berbice river.

(2) For the purposes of this Ordinance the town includes all the land and buildings within those boundaries.

(3) The Council with the approval of the Governor in Council may from time to time extend the limits of the town.

(4) The jurisdiction of the Council shall extend to low water mark of the Berbice river and to all stellings thereon.

## NUMBER OF COUNCILLORS.

Composition  
of the  
Council.

5. The Council shall consist of not more than nine Councillors, of whom six shall be elected by the inhabitants of New Amsterdam duly qualified in the manner herein-after mentioned and three may be nominated by the Governor in Council.

Election of  
the Mayor:

6.—(1) On the second Friday in the month of January in every year or on the first convenient day thereafter the Council shall elect out of the councillors a fit and proper person to be Mayor of the town.

(2) As soon as may be after his election the Mayor shall appear before the Governor and take and subscribe the following oath of office:—

“ I, *A. B.*, do swear that I will, according to the best of my ability, execute the office of mayor of New Amsterdam, according to law, without fear, favour, or partiality.—So help me God.”

Provided.

Provided that an affirmation to the like effect may be made in lieu of the oath by anyone who would be lawfully entitled to make an affirmation in lieu of being sworn in a court of justice.

(3) The Mayor shall continue in office until the election of his successor, and shall be *ex officio* a justice of the peace in and for the town during his tenure of office.

(4) The Mayor may resign his office by writing under his hand addressed to the Town Clerk, but his resignation shall not affect his position as a member of the Council.



(5) If a vacancy is occasioned in the office of mayor during the year by reason of anyone who has been elected to that office not accepting it, or by reason of his dying or resigning or becoming incapable to hold that office, the Council shall, within ten days after the vacancy, elect out of the councillors another fit and proper person to be mayor for the remainder of the then current year, but no one shall be eligible to fill the office of mayor for more than two consecutive years unless a period of one year at least intervenes after the expiration of his last year of service.

*See sec. 28  
Ch. 1772*

(6) The Council may grant leave of absence to the Mayor or to any member of the Council for any period not exceeding three months, and may elect another member of the Council during the Mayor's leave of absence to act as Mayor, who shall have all the powers and privileges of the Mayor during the time he so acts.

Leave of  
absence.

#### QUALIFICATION OF VOTERS AND COUNCILLORS.

7. Every inhabitant of the town who is of full age and not subject to any legal disability, and is a British subject or has resided in the colony for not less than three years and is a proprietor of a house or tenement in the town rated in the book of the Town Clerk at the value of two hundred and fifty dollars or more, over and above the amount of any mortgage, or who occupies premises in the town the rental value whereof is not less than fifteen dollars a month, shall be entitled to vote at the election of a councillor.

Qualification  
of voter.

8. No one shall be entitled to be registered as a voter who—

- (a) cannot read or write; or
- (b) has, within three months previous to registration, received any relief from public or parochial funds; or
- (c) has been sentenced in any part of his Majesty's dominions to death, or penal servitude, or imprisonment with hard labour for any term exceeding twelve months, and has not either suffered the punishment to which he was sentenced or some other punishment by competent authority substituted for it, or received a free pardon from His Majesty.

Disqualifica-  
tion for  
voting.

Qualification  
of joint  
owners.

9. Where any premises are jointly owned or occupied by more persons than one as joint owners or tenants, each of those joint owners shall be deemed to have the property qualification for membership of the Council, and each of the joint holders or tenants to have the qualification for a voter, if the value or rental of the premises is of an amount which, when divided by the number of the owners or tenants in cases of equal ownership, or when apportioned among the owners or tenants according to the interest of each therein, gives a qualification for each of them, but not otherwise.

Premises  
may be  
owned in  
succession.

10. The premises in respect of the ownership of which anyone shall be entitled to be elected a member of the Council or to vote at the election of a member shall not be required to be the same premises, but may be different premises owned in immediate succession by that person, and he shall be entitled to vote in respect of the property held by him in immediate possession, although his qualification is in respect of property other than the one mentioned in the list of voters, if the Town Clerk is satisfied that the other property is held by the person so entitled.

Registration  
and appeals  
therefrom.

11.—(1) No property qualification shall be deemed to be sufficient unless the persons who claim thereunder are registered as owners on the books of the Town Clerk, and unless the particulars of the premises in respect of which the qualification is claimed are also recorded in those books.

(2) Any owner of property within the town shall be entitled, without payment of any fee, to inspect the books of the Town Clerk for the purpose of ascertaining whether the several matters specified in the preceding sub-section affecting his qualification are duly recorded.

(3) For the purpose of the aforesaid qualifications the word "premises" means any land, or land and building.

(4) The Town Clerk may register anyone as entitled to a vote if he has been in undisputed occupation or in beneficial ownership for ten years of any property on the footing of which he claims the right to be registered, notwithstanding that he may not be able to produce satisfactory documents of title.

(5) The Council shall hold an open court in the month of December in each year to determine any objections to the list of voters so prepared and shall give one week's notice in the Gazette of the date and hour of the court. The decision of the Council upon any objection shall be final.



12. Every voter who is of full age and not subject to any legal disability and is a proprietor of any household property in the town, rated in the book of the Town Clerk at the value of one thousand dollars or more, over and above the amount of any mortgage, or occupies premises in the town the rental value whereof is not less than twenty dollars a month, shall be qualified and eligible to be elected a member of the Council :

Qualification  
of councillor :

Provided that—

Proviso.

- (a) in the case of occupation as aforesaid, the occupant shall have resided in the same premises during the six months immediately preceding his election as Councillor; and
- (b) the attorney or chairman of the board of directors of any limited liability company shall be qualified for election as a member of the Council if that company is in possession or occupation of premises within the town which would have constituted the necessary qualification of any one in possession thereof not a company.

13. No one shall be capable of being elected a councillor, or, having been so elected, shall sit or vote in the Council, who—

Disqualifica-  
tion of coun-  
cillor.

- (a) is not entitled to vote at the election of a member of the Council; or
- (b) is a minister of religion; or
- (c) is the holder of any place of profit in the gift or disposal of the Council; or
- (d) is either directly or indirectly pecuniarily or otherwise interested in any contract with the Council, even though the contract, by virtue of the provisions of any Ordinance, shall be null and void; but no one shall be deemed to be so interested in any contract within the meaning of this paragraph by reason only of his having any share or interest in—
  - (i) any agreement for the loan of money only; or
  - (ii) any newspaper in which advertisement relating to the affairs of the Council is inserted; or
  - (iii) any incorporated company or society in which he does not hold more than one-fifth of the shares.

Effect of  
being in  
arrears for  
town taxes.

14. No one who is in arrear of payment of town taxes for more than three months shall be eligible to be elected, or, having been elected, to serve, as a councillor, or to vote at the election of a councillor.

Oath to be  
taken by  
councillor :

15.—(1) Every councillor shall, before voting or sitting at any meeting of the Council, take and subscribe the following oath :—

“ I, *A. B.*, do swear that I will, according to the best of my ability, execute the duty of a member of the Town Council of New Amsterdam, according to law, without fear, favour, or partiality.—So help me God ” :

Proviso.

Provided that an affirmation to the like effect may be made in lieu of the oath by anyone who would be lawfully entitled to make an affirmation instead of being sworn in a court of justice.

(2) On each of those occasions the Mayor, or, in the event of his absence, the senior councillor present, shall administer the oath in presence of the Council.

Resignation  
of councillor.

16. A councillor may resign his office by writing under his hand addressed to the Town Clerk.

Order of  
retirement  
and duration  
of office of  
councillors.

17.—(1) On the first day of July in each year the two senior elected councillors for the time being shall go out of office and a new election shall take place in the manner hereinbefore provided.

(2) The nominated councillors shall serve for the period not exceeding three years prescribed by the Governor in Council in writing at the time of any nomination, and in case of death, resignation, illness, incapacity, or absence from the colony of any nominated councillor the Governor in Council may nominate in writing any other person to serve in his stead for a period not exceeding three years. Nominated members shall be eligible for election to the mayoralty or to any other office of honour under the Council.

Quorum and  
president.

18.—(1) Any five councillors shall form a sufficient quorum for the despatch of business of every kind.

(2) In the absence of the Mayor, the senior elected member present at any meeting of the Council shall preside.

Equality of  
votes.

19. If the votes on any matter under discussion are equal, the Mayor or other presiding member shall have a second or casting vote.



20. If a member of the Council leaves the colony during his term of service without obtaining leave of absence from the Council, his seat shall thereupon become vacant, and a notice shall be issued for the election of a new member to serve in his place; but the Council shall not grant leave of absence to any member for a longer period than three months, and if a member absents himself from the colony after the expiration of his leave, his seat shall in like manner become vacant :

Granting  
leave of  
absence to  
member :

Provided that in any case of urgency the Mayor may grant the leave, subject to its being ratified by the Council.

Proviso.

21. The meetings of the Council shall be held monthly at the times and places appointed by the Mayor, and the Mayor shall have power to convene at any time a special or extra meeting of the Council by summonses to be issued and delivered to the members respectively or at their usual places of abode.

Meetings.

22. The existence of any vacancy or vacancies among the members of the Council shall not affect the validity of any proceeding of the Council, whose decision shall be final.

Validity of  
proceedings  
not affected  
by vacancy.

23. Full minutes shall be taken by the Town Clerk of all the proceedings of the Council and entered in a book to be kept for that purpose, and, when settled and confirmed by the Council, they shall be signed by the Mayor.

Minutes of  
proceedings.

24.—(1) All elections shall be held at the town hall or at some other place within the town from time to time appointed by the Council.

Where  
elections to  
be held.

(2) The Town Clerk or, in the event of a vacancy, some fit and proper person appointed by the Council, shall be the returning officer at all elections.

(3) The returning officer shall not in any case be entitled to vote at an election for which he is the returning officer.

25. Whenever the seat of a member of the Council becomes vacant a notice shall be forthwith published by the Town Clerk, in the Gazette and in a newspaper of the colony circulating in the county of Berbice, for the election of a new member in the place of the member whose seat has become vacant, and intimation thereof shall be given to the returning officer.

Notice when  
a seat  
becomes  
vacant.



Notice of day  
and place of  
nomination.

26.—(1) The returning officer shall thereupon cause to be published in the Gazette and in a newspaper of the colony circulating in the county of Berbice, and to be posted at the town hall and in any other conspicuous places he thinks fit not less than four, a notice of the day and place on and at which he will receive the nomination of a candidate for the seat to be filled by election.

(2) The day so fixed shall not be less than five nor more than ten days after the day whereon the intimation was received by the returning officer.

Nomination  
of candidate.

27.—(1) On the day and at the place so fixed the returning officer shall attend at eleven o'clock in the forenoon and receive the nomination of any duly qualified candidate for the seat to be filled.

(2) Every candidate shall be proposed and seconded by two other persons whose names appear on the register of voters.

(3) If only one candidate has been nominated the returning officer shall declare him to have been duly elected.

Procedure  
where more  
than one  
candidate.

28.—(1) If more candidates than one are nominated the returning officer shall thereupon appoint a day not more than three days thereafter for holding the election and each candidate shall be bound to pay to the returning officer, before the day appointed for holding the election, the sum of ten dollars, for the purpose of remunerating the poll clerks and defraying the necessary expenses to be incurred.

(2) If anyone is proposed as a candidate without his consent, the person so proposing him shall be bound to pay the sum of ten dollars for the purpose aforesaid.

(3) If the candidate or his proposer aforesaid fails to pay the sum in this section mentioned the candidate shall be deemed to have withdrawn.

(4) A candidate may, at any time before the day appointed for holding the election but not afterwards, withdraw from his candidacy by giving a notice to that effect signed by him to the returning officer, and in that case if only one candidate besides the candidate so withdrawing has been nominated, he who has not withdrawn shall be deemed to be duly elected and notice of his election shall be published by the returning officer in the Gazette.



29. The returning officer shall, if necessary, appoint fit and proper persons to be clerks to attend at the polling station, and shall preside over and conduct the election there.

Clerks at polling station.  
Returning officer to preside at election.

30. The voting shall commence at the polling station at ten o'clock in the morning of the day appointed for holding the election, and shall close at five o'clock in the afternoon of the same day.

Hours of voting.

### THE BALLOT.

31.—(1) In case of a poll at an election, the votes shall be given by ballot.

Votes to be given by ballot.

(2) The ballot of each voter shall consist of a paper (in this Ordinance called a ballot paper) showing the names of the candidates, and each ballot paper shall have a number printed on the back and have attached to it a counterfoil with the same number printed on the face.

32. When a poll is to take place, the returning officer shall take care beforehand that the polling-place is provided with proper doors, barriers, tables, chairs, and other conveniences, and that they are properly arranged for carrying out the provisions of this Ordinance, and he shall also provide the polling-place with a proper ballot box and a sufficient number of voting papers, in conformity with the provisions of this Ordinance, and any other necessary convenience for taking the poll, and he shall, on or before the day fixed for the taking of the poll, visit the polling station and see that it is provided with the proper conveniences aforesaid.

Preparing polling places.

Inspection of polling stations.

33. For the guidance of electors in voting, notices shall be printed in conspicuous characters and placarded in various places outside and inside of the polling station, in the following form :—

Placarding directions to voters.

#### DIRECTIONS.

- (1) To mark your vote, you must draw your pen through the names of all the candidates other than the one for whom you wish to vote.
- (2) You can vote for one candidate at this election.
- (3) When you have marked your vote, fold up your ballot paper so as to conceal your vote, but so as to show the official mark on the back, show the



returning officer the official mark, then put your ballot paper in the ballot box, and leave the room.

Duties of voter on coming to vote.

**34.** Each person on coming to vote shall address himself to the returning officer and state his name and address in an audible voice.

Duties of returning officer and of voter at time of voting.

**35.**—(a) The returning officer shall proceed to write on the counterfoil of a voting paper the number of the elector on the register of voters, mark the voting paper with an official mark and, calling out the name of the voter in an audible voice, deliver the paper to the voter within the polling station.

(b) The voter shall then retire to a table apart but within the polling station and, having secretly marked his vote on the paper and folded it up so as to conceal his vote, but so as to show the official mark at the back, shall place it in the ballot box in the presence of the returning officer, after having shown to him the official mark at the back.

(c) The voter having voted shall forthwith leave the polling station.

(d) The returning officer, after having delivered to the voter a ballot paper and while the voter is recording his vote, shall make a mark against his name on the officer's copy of the register of voters to indicate that he has voted at the election, but not so as to show the particular voting paper given to him.

How to mark a vote.

**36.** The voter shall mark his vote upon the voting paper by drawing his pen through the names of all the candidates other than that of the candidate for whom he wishes to vote.

Who are to be admitted within polling-place.

**37.** No one shall be admitted within any polling-place during the hours appointed for taking the poll, except the returning officer and his clerks, one agent for each candidate appointed by the candidate in writing, and one voter at a time.

How agents are to be placed.

**38.** The agents aforesaid shall be so placed that they can see each person who presents himself as a voter and hear his name as given by him and interfere in the proceedings to the extent allowed by this Ordinance, but so that they cannot see how any voter votes or otherwise interfere.



39. The non-attendance of any candidate or of any agent nominated by him shall not in any way invalidate any act or thing done under this Ordinance, if that act or thing is otherwise duly done, notwithstanding that it is required or authorised to be done in the presence of the candidate or of his duly authorised agent.

Non-attendance of candidate or agent not to invalidate any act.

40. If any agent persists after being warned in contravening these provisions, the returning officer may have him turned out of the polling-place, and the returning officer may at any time summon constables within the polling place for the purpose of preserving order.

Preservation of order.

41. The returning officer shall, on request, give to a voter any instructions appearing necessary as to the manner in which he shall record his vote.

Returning officer to instruct voter.

42.—(1) The returning officer may in his discretion, and shall, if required by any candidate or any person representing a candidate at an election, put to any voter, at the time of tendering his vote, the following questions or either of them, and no other :—

Questions allowed to be put to voter.

first : are you the same person whose name appears as *A. B.* on the register of voters?

second : have you already voted at this election for a councillor?

(2) If anyone refuses to answer any question so put to him, the returning officer or his substitute may refuse to receive his vote.

(3) Anyone who wilfully makes a false answer to any question so put to him shall be guilty of a misdemeanor, and on conviction thereof shall be liable to imprisonment with or without hard labour for any term not exceeding one year.

43. If a person representing himself to be a particular elector named on the register applies for a ballot paper after another person has voted as that elector, the applicant, upon duly answering the questions set forth in the preceding section, shall be entitled to mark a ballot paper in the same manner as any other voter; but the ballot paper (hereinafter called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the returning officer and indorsed by him with the name of the

Where a person claims to vote as an elector after another has voted as that elector.



voter and his number in the register of voters and set aside in a separate packet, and shall not be counted by the returning officer, and the name of the voter and his number on the register shall be entered on a list to be called the Tendered Votes List.

Tendered  
votes list.

Spoilt ballot  
paper.

44. A voter who has so inadvertently dealt with his ballot paper that it cannot be conveniently used as a ballot paper may, on surrendering it to the returning officer and proving the fact of the inadvertence to the satisfaction of that officer, obtain another ballot paper in the place of the ballot paper so surrendered (hereinafter called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled by the returning officer writing the word "cancelled" across the face of it.

Where voter  
is physically  
incapaci-  
tated from  
voting in  
manner  
prescribed.

45. If any voter is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Ordinance, the returning officer shall, at his request, in the presence of the agents of the candidates, cause his vote to be marked on a ballot paper in manner directed by him, and the ballot paper so marked to be placed in the ballot box; and the name and number on the register of voters of every voter whose vote is so marked for him, and the reason why it is so marked, shall be entered on a list to be kept by the returning officer.

Size and  
construction  
of ballot box.

46.—(1) The ballot box shall be of convenient size, and be provided with a lock, and key, and shall be so constructed that the ballot paper can be introduced therein but cannot be withdrawn therefrom unless it is unlocked.

Exhibition  
thereof  
before  
taking the  
poll.

(2) It shall be exhibited empty to those persons who are in the polling-place immediately before the taking of the poll and be then securely locked, and not be again unlocked except by the returning officer at the close of the poll in manner hereinafter mentioned.

Counting of  
votes and  
other duties  
of returning  
officer at  
close of poll.

47.—(1) The returning officer, at the close of the poll, shall—

(a) proceed in the presence of the candidates or their agents appointed as aforesaid, to count the votes contained in the ballot box, keeping the ballot papers with their faces upwards and taking all proper precautions for preventing anyone from seeing the numbers on their backs;



- (b) compare their number and the number of the unused and spoilt papers with that of the voting papers provided by him for the election and record the number of votes given for each candidate;
- (c) after having counted and recorded the contents of the ballot box in manner aforesaid, wrap the voting papers contained therein with the counterfoils and spoilt, tendered, and unused voting papers, the marked copy of the register of voters, the tendered votes list, and the list of votes marked by him, and a statement of the number of the voters whose votes are so marked by him, and seal up the parcel in such a way that it cannot be opened without breaking the seals.

(2) The returning officer shall not himself refer, and shall take proper precautions to prevent any other person referring, to the counterfoils of the used ballot papers.

48. Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything except the number on the back is written or marked by which the voter can be identified, shall be void and not counted.

What ballot papers not to be counted.

49. The Returning Officer shall indorse "rejected" on any ballot paper which he rejects as invalid, and shall add to the indorsement "rejection objected to" if an objection is in fact made by any agent to his decision, and he shall report to the Council the number of ballot papers rejected and not counted by him under the several heads of—

Rejected ballot papers.

- (a) want of official mark;
- (b) voting for more candidates than entitled to;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or void for uncertainty,

Report thereon.

and shall, on request, allow any agents of the candidates to copy the report before it is sent.

50. The decision of the returning officer on any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

How far decision of returning officer final.

Procedure in  
case of  
obstruction  
of election.

51. Wherever the proceedings at an election are interrupted or obstructed by any riot or open violence at the polling station, the returning officer may adjourn the further holding of the election at the station until the next working day, and so on as often as necessary.

Declaration  
of result of  
poll and  
return.

52.—(1) As soon as possible after the close of the poll, but not later than eleven o'clock in the morning on the working day next thereafter, the returning officer shall attend at the polling station and state publicly the result of the poll and declare the person elected to be a member of the Council, and shall forthwith make to the Council a return of the member elected.

Making false  
return ;  
penalty.

(2) A returning officer who wilfully makes a false return shall forfeit the sum of five hundred dollars, which may be recovered with costs by an action in the Supreme Court at the suit of anyone aggrieved.

Case of  
equality of  
votes.

53. Where two or more candidates have an equal number of votes, the returning officer shall make a special return of the result of the election, and the Council shall have the right of choosing one of those candidates to be a member of the Council.

Return of  
particulars of  
voting to be  
made to  
Council.

54. The returning officer, as soon as may be after any election, shall make a return to the Council, shewing the number of those who appear to have voted, the number of spoilt ballot papers, and the number of those to whom, from the counterfoils, voting papers appear to have been supplied.

Papers to be  
sent to  
Council :

55. The returning officer, as soon as may be after making the return, shall send the parcel made up by him in accordance with section forty-seven of this Ordinance to the Council, who shall keep it in safe custody, and allow none to have access to it :

Proviso :  
duty of  
Council  
therein.

Provided that—

- (a) when an election petition has been presented questioning the validity of an election or a return, the Council shall, on the order of the Registrar, deliver to him the parcel of papers relating to the election that is in dispute; and
- (b) after the expiration of three months from the day of any election the Council may burn the parcel of papers used at that election.



56. No voter who has voted at any election shall be, in any proceeding to question the election, required to state for whom he has voted. Protection to voter.

#### OFFENCES RELATING TO ELECTION.

57. Everyone who at an election applies for a ballot paper in the name of another, whether that name be the name of a person living or dead, or of a fictitious person, or who, having voted once at an election, applies at the same election for a ballot paper in his own name, shall be guilty of a misdemeanor and on conviction thereof shall be liable to imprisonment with or without hard labour for any term not exceeding two years. Personation.  
Punishment.

58.—(1) Everyone who—

- (a) forges or counterfeits, or fraudulently defaces or destroys, any ballot paper or the official mark thereon; or,
- (b) without due authority, supplies a ballot paper to anyone; or
- (c) fraudulently puts into the ballot box any paper other than that which he is authorised by law to put in; or
- (d) fraudulently takes out of the polling station any ballot paper; or,
- (e) without due authority, destroys, takes, opens, or otherwise interferes with the ballot box or packet of ballot papers then in use for the purposes of an election,

shall be guilty of a misdemeanor and be liable, if he is the returning officer or clerk employed at the polling station, to imprisonment for any term not exceeding one year, with or without hard labour, or to a fine not exceeding five hundred dollars, and if he is anyone else, to imprisonment for any term not exceeding three months, with or without hard labour, or to a fine not exceeding one hundred dollars. Other specified misdemeanors;  
penalty therefor;

(2) An attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable. attempts to commit them.

59. In any information or prosecution for an offence in relation to the ballot box, ballot papers, and other things in use at an election, the property therein may be stated to be in the returning officer at the election. Laying property in information.



Duty of  
secrecy by  
officer  
present at  
polling  
stations.

60. Every officer, clerk, and agent, in attendance at the polling station shall maintain and aid in maintaining the secrecy of the voting in that station, and shall not, before the poll is closed, communicate, except for some purpose authorised by law, to anyone any information as to the name or number on the register of voters of any voter who has or has not applied for a ballot paper or voted at that station; and no one whosoever shall interfere with, or attempt to interfere with, a voter when marking his vote, or otherwise attempt to obtain in the polling station any information as to the candidate for whom a voter in the station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at the station.

Voter not to  
be interfered  
with.

Duty of  
secrecy by  
officers  
present at  
count of  
votes.

61. Every officer, clerk, and agent, in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at the counting the number on the back of any ballot paper, or communicate any information obtained at the counting as to the candidate for whom a vote has been given in any particular ballot paper.

Inducing  
voter to  
display his  
marked  
ballot paper.

62.—(1) No one shall directly or indirectly induce any voter to display his ballot paper after he has marked it, so as to make known to anyone the name of the candidate for or against whom he has so marked his vote.

Penalty.

(2) Everyone who acts in contravention of the provisions of this section shall be liable, on summary conviction before a magistrate, to imprisonment, with or without hard labour, for any term not exceeding six months.

Bribery,  
treating and  
undue  
influence.

63. No candidate may at any election, before, or during or after any election, by himself or his agent directly or indirectly give any entertainment of provisions or liquor to any voter whomsoever, or give, make over, or assign to any voter, or to the wife, child, or relation of any voter, or to any person whomsoever in trust for any voter, or for his use or benefit, or in trust for, or for the use or benefit of, the wife, child, or relation of the voter, directly or indirectly, any money, office, place or emolument, gift, or reward, or any promise or security for any money, office, place, emolument, gift, or reward, in order to obtain any vote or to recompense anyone for a vote at that election or any election whatsoever.



64. If any candidate shall do, or be guilty of doing, in manner and form therein mentioned, any of the matters or things prohibited in and by the last preceding section, contrary to the true spirit and meaning of this Ordinance, then and in each case, upon proof thereof on petition questioning the election or return, the election of that candidate shall be declared null and void; and if that candidate has a majority of votes on the poll a new election shall take place, and the candidate so offending shall be adjudged incapable of being chosen a councillor during the space of two years next after that election.

On proof of any of above offences, election of candidate to be declared void.

65. All and every transport, lease, or assignment thereof whatsoever, made to anyone in a fraudulent or collusive manner to qualify him to give his vote at any election of a Councillor, shall be deemed and taken against those persons who executed it, as valid and absolute, and every bond, covenant, collateral and other security, contract, or agreement, between or with those parties, or any of them, for redeeming, revoking, or defeating the transport, lease, or assignment, shall be null and void to all intents and purposes whatsoever; and everyone who makes and executes any transport, lease, or assignment aforesaid, and everyone who, by colour thereof, gives any vote at an election of a Councillor, shall for each offence forfeit the sum of five hundred dollars to anyone suing therefor in the Supreme Court.

Collusive instrument for purpose of qualifying voter to be deemed valid as against persons executing it.

Penalty on persons executing and voting by colour thereof.

66. Any returning officer, clerk, or anyone whomsoever wilfully contravening or disobeying the provisions of this Ordinance, or any of them, with respect to any matter or thing which he is required to do, shall, for the offence, be liable to be sued in the Supreme Court by any registered voter, candidate, member actually returned, or other party aggrieved, for the sum of five hundred dollars: and the defendant in the action having judgement against him shall pay the sum so awarded, with full costs of suit, to the party who sues therefor:

Liability of officer contravening provisions of Ordinance:

Provided—

Proviso.

(a) that the action shall be commenced within four calendar months next after the cause of action has arisen, and that notice in writing shall be given to the defendant within one month after it has arisen, signed by the party bringing the action, or his solicitor, and setting,

forth the place of abode of the party signing the notice; and

- (b) that any defendant against whom judgement has been recovered in the action shall be allowed to plead the judgement as a bar to any other action brought against him for the same matter or thing.

Objection to return by candidate or voter.

**67.** A petition complaining of an undue return or undue election of any councillor, hereinafter called an election petition, may be presented to the Supreme Court within four days after the return or election by any one or more of the following persons, that is to say, some person who—

- (a) voted or had a right to vote at the election to which the petition relates; or  
 (b) claims to have had a right to be returned or elected at the election; or  
 (c) alleges himself to have been a candidate at the election.

Procedure thereon.

**68.**—(1) On presenting an election petition the person presenting it shall deposit with the registrar a sum of two hundred and forty dollars, or give security with one or more sureties for payment of that amount, and the sum so deposited or secured shall be security for costs.

(2) The registrar shall not receive and file any petition unless the sum aforesaid is so paid or secured.

Trial of election petition.

**69.**—(1) Every election petition shall be tried by a judge of the Supreme Court, sitting without a jury in open court.

(2) At the conclusion of the trial, the judge shall determine whether the councillor whose return or election is questioned, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify the determination to the Council; and upon the certificate being given, the determination shall be final; and the return shall be confirmed or altered or a new election held, as the case may require, in accordance with the certificate.

Procedure at trial of election petition.

**70.** At the trial of an election petition, the procedure shall, as near as circumstances will admit, be the same, and the judge shall have the same powers, jurisdiction and



authority, as if he were trying a civil action without a jury; and witnesses shall be subpoenaed and sworn in the same manner, as near as circumstances admit, as in the trial of a civil action in the Supreme Court and be subject to the same penalties for perjury.

71. If any candidate or voter, after objecting to an election or return, shall not proceed to try its validity, or if his petition is declared frivolous and vexatious he shall be liable to pay all the costs and expenses incurred by the candidate to whose election or return he has so objected, those costs and expenses to be paid by order of the Court out of the money to be deposited or secured as aforesaid, and if that money is insufficient to pay all the costs and expenses, the balance thereof shall be recovered by action in any court of competent jurisdiction :

Where objection is not pursued or is declared frivolous :

Provided that if the candidate or voter so objecting to any election or return aforesaid shall, within five days after the election or return, give notice to the candidate to whose return objection is made, that it is not his intention to proceed to try the validity thereof, then and in that case the last mentioned candidate shall not be entitled to recover the costs or expenses aforesaid.

Proviso.

#### POWERS AND FUNCTIONS OF THE TOWN COUNCIL.

72. The Council shall have full power and authority to assess, levy and raise town taxes, and to superintend and direct the collection and appropriation thereof, for all or any of the following purposes, namely,—

Council may raise taxes.

- (a) the maintenance of the public streets, roads, thoroughfares, dams, trenches, drains, ways, places, sluices, kokers, stellings, bridges, and canals of the town which are vested in or under the control of the Council;
- (b) the exercise or discharge of any authority or obligation, for the benefit of public health within the town, vested in or imposed on the Council by the Local Government Ordinance, or any other Ordinance;
- (c) the supply of water for the use of the town as herein provided;
- (d) the provision and maintenance of any burial ground, public garden, pound, market or slaughter-house;

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- (e) the lighting of all public buildings, streets, roads, thoroughfares, stelling, and bridges of the town, and the manufacture and supply of gas or electric light for all purposes, public or private, within the limits thereof and within a radius of five miles of the town hall;
- (f) the acquisition of land under the provisions hereinafter contained;
- (g) the equipment and upkeep of a fire brigade and the payment of any necessary staff;
- (h) the repayment of any moneys raised on loan as hereinafter specified, and the payment of interest on any part of those moneys for the time being not repayable;
- (i) the payment of the salaries and wages of all officers and servants duly employed by the Council;
- (j) the payment of any expenditure which the Council is by this or any other Ordinance authorised to incur;
- (k) any other purpose for which under this or any other Ordinance the Council is authorised to levy and raise taxes;
- (l) the appropriation out of the town funds of any sum, not exceeding two hundred and fifty dollars, it thinks fit to be placed at the personal disposal of the Mayor;
- (m) the award of any pensions or gratuities to any of its officers or servants seeming to it just, to be paid out of the general revenue of the Council.

By-laws.

**73.**—(1) The Council may from time to time make by-laws with respect to all or any of the following matters, that is to say,—

- (a) the restriction on sub-division of lots within the township;
- (b) the regulation of public recreation grounds;
- (c) the regulation of the number, dimensions, and general character and style, of buildings to be erected on lots in different portions of the town;
- (d) the prohibition of the establishment of provision shops and manufactories in certain parts of the town, and the regulation of the number of those shops and manufactories in other parts of the town;



- (e) the supervision, control, and regulation of hackney carriages and carts plying for hire and of the drivers thereof;
- (f) the supervision, control, and regulation of the owners and boatmen of boats plying for hire in the harbour of New Amsterdam and the rates and fares to be charged by them;
- (g) the control and regulation of porters, jobbers, and hucksters;
- (h) the regulation of a fire brigade;
- (i) the protection of buildings from fire;
- (j) the safeguarding and removal of dangerous buildings, and the removal of obstructions;
- (k) the marking of boundaries, and the fencing, of lots, the open spaces to be left thereon, the control of the streets, public stollings, and other public places, and the moving of cattle through the streets;
- (l) generally, all matters connected with the rule and good government of the town and the proper observance of the provisions of this Ordinance.

(2) Each by-law shall be subject to the approval of the Governor and Legislative Council, who may alter and amend it when submitted to them, and shall come into force on its publication in the Gazette after that approval or at any other later time mentioned in the by-law, and shall have the same force and effect as if it were enacted by an Ordinance.

(3) There may be attached to any by-law a penalty for a breach of it, not exceeding one hundred dollars, and any by-law may contain the power to arrest any person for a breach of it, and also to seize and forfeit any article in relation to which a breach of a by-law has been committed.

(4) Everyone guilty of an offence against any by-law of the Council or any provision in this Ordinance, for which no special penalty is imposed, shall be liable to a penalty not exceeding one hundred dollars.

General  
penalty for  
breach.

74. The Council may from time to time appoint out of its own body so many committees either of a general or special nature as it thinks fit, for any purposes which, in the discretion of the Council, would be better regulated by means of those committees:

Appointment  
of  
committees :

Provided that—

- (a) the acts of every committee shall be subject to the approval of the Council; and

Proviso.



(b) the Council may delegate from time to time all or any of the powers conferred upon it by this Ordinance or by any other Ordinance in regard to the matters mentioned in paragraphs (a), (b), (c), and (d) of section seventy-two of this Ordinance to an executive committee of not more than three persons consisting of the Mayor and two others, of whom one shall be a person appointed by the Governor in Council and the other a person nominated by the Council with the approval of the Governor in Council.

#### TOWN TAXES.

Annual account and estimate.

75. The Council shall, not later than the month of February in each year, transmit to the Governor in Council a report in writing, signed by the Mayor, exhibiting a minute account of all the moneys received, expended, and applied by the Council during the preceding year; and the report shall contain a short summary of the proceedings of the Council during the preceding year, and also a true and correct statement of the funds of the Council and an estimate of the sum required for the expenses of the current year, together with the amount of the town tax intended to be levied for that year; and those documents shall be published by order of the Governor in Council in the Gazette and in a newspaper of the colony circulating in the town, for the information of the inhabitants of the town.

Levy of annual town tax.

76.—(1) After the documents have been so published for one month, the Council may levy, and they are hereby authorised to levy, for the current year a town tax upon the appraised value of all lots and buildings within the town, including all lots and buildings the property of the Crown or colony, sufficient to meet the estimate.

(2) All those lots and buildings shall be liable and executable for the tax or taxes; and the amount of the tax or taxes due by or claimable against any of the lots and buildings shall be preferent over and above all other claims of whatever nature, whether they are against the said lots and buildings or against the proprietor or proprietors thereof, except claims due to the Crown or the colony, anything in any law or Ordinance to the contrary notwithstanding; but no church, chapel, mosque, or school, solely and exclusively used for religious or educational purposes,

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as the case may be, and no land occupied therewith respectively, shall be liable or subject to any town tax, and St. Mary's Convent, New Amsterdam, shall be similarly exempt.

77.—(1) All persons whom it concerns shall pay every tax to the Town Clerk in the proportions or instalments and at the times directed by the Council from time to time by notice published in the Gazette and in a newspaper of the colony circulating in the town; and the Town Clerk is hereby authorised and empowered to receive them, and, in default of payment, to proceed for the recovery of them by summary execution against the property in default.

Mode of  
recovering  
town tax.

(2) The recovery is hereby declared not to be limited to those taxes within the year for the service of which they have been imposed, but the Council may, and it is hereby authorised and empowered to do so, receive and enforce payment of all arrears of the taxes remaining unpaid at the commencement of this Ordinance or which at any time thereafter remain unpaid.

78. In any proceeding for the recovery of town taxes,—

(a) there may be included in one and the same summons all taxes for the time being recoverable in respect of the same lot of land, whether with or without buildings thereon;

Inclusion of  
several town  
taxes in one  
summons.

(b) the signature of the Town Clerk subscribed to any document containing a statement of the amount claimed for taxes in respect of each lot of land, whether with or without buildings thereon, shall, without proof of that signature and without proof of any other matter or thing, be deemed, in all courts and for all other purposes, *primâ facie* evidence that the amount so claimed is due and payable;

Proof of  
amount of  
town taxes  
sued for.

(c) a summons against the proprietor or the representative of the proprietor of any lot of land, whether with or without buildings thereon, the name of that owner or representative not being mentioned, shall be deemed to be sufficiently served if it is affixed to the principal building, or, if there is no building, then to any railing, bridge, tree, or post on the lot which the marshal thinks most suitable for the purpose.

Mode of serv-  
ing summons  
for recovery  
of town  
taxes.



Interest  
to be  
charged on  
any unpaid  
instalment.

79. When any instalment of tax remains unpaid for more than one month from the date fixed for the payment of the tax, interest at the rate of six per centum per annum from that date until the date of the payment of the instalment shall be payable by way of surcharge upon the amount of the instalment and shall be recoverable in the manner provided for the recovery of the instalment.

Appoint-  
ment of  
auditor and  
audit of  
accounts.

80.—(1) The accounts of the Council shall at some date between the first day of January and the thirty-first day of March in each year be audited by the Auditor who shall give one month's notice in writing to the Town Clerk of the date of his intention to commence the work of audit, and at the audit any ratepayer may be present and shall be at liberty to communicate with the Auditor on any matter relating to the accounts of the Council. The expenses of the audit shall be borne by the Council.

(2) An account duly made up and balanced of all moneys received and of all moneys expended and applied by the Council during the financial year preceding the audit, together with all rate books, account books, contracts, accounts, vouchers, and receipts relating thereto, shall be deposited in the Town Clerk's office and be open during office hours thereat to the inspection of all ratepayers for fourteen days before the audit who may take copies or extracts therefrom without payment for so doing; and the Town Clerk or other officer or servant of the Council, liable to make up that account who fails to do so, or who alters or allows the account to be altered when made up, or refuses to allow inspection thereof, shall be liable to a penalty not exceeding twenty-four dollars.

Penalty.

(3) Any ratepayer present at the audit may make objection to the accounts before the auditor, and the auditor shall hear and determine each objection, and shall, whether the objection is made or not, state in writing whether any item of the account is in his opinion not authorised by law.

(4) Any ratepayer may by action before any court of competent jurisdiction recover with costs any sum which has been paid or applied without lawful authority from any member of the Council who has authorised or taken part in authorising that payment or application, or if the payment was not so authorised, from the person who was the Town Clerk making the payment or application.

(5) Any sum so recovered shall be paid to the Town Clerk in aid of the town funds.



(6) The Council may appoint auditors for the purpose of making monthly audit and may remunerate them as it deems fit.

(7) The accounts of the Council in respect of the expenditure and setting apart of certain sums annually in repayment of any moneys raised on loan under the provisions of this Ordinance or any amending Ordinance may at any time be audited by the Auditor or any officer of his department duly authorised in writing by him, and the expenses of the audit shall be borne by the Council.

#### OFFICERS OF THE TOWN COUNCIL.

81.—(1) The Council may appoint a town clerk, a town superintendent, a manager and an engineer, or a manager and engineer of electric works and water works, a clerk of the market, a health officer, one or more sanitary inspectors, and any other officers the Council from time to time deems necessary, and may also fix their salaries and emoluments:

Appoint-  
ment of  
officers of  
the Council :

Provided that—

Proviso.

- (a) the appointment of a town clerk, a town superintendent, a manager and engineer of electric works and water works, and a health officer shall be subject to previous consultation with, and the previous approval of, the Governor in Council; and
- (b) in the case of those officers no dismissal or reduction of salary shall take place without the approval of the Governor in Council; and
- (c) the Governor in Council may after consultation with the Council direct the Council to suspend or to dismiss either of those officers, or, on giving a three-months' notice, to terminate his employment.

(2) The salary of the Town Clerk shall be not less than three hundred pounds sterling per annum rising by annual increments of twenty-five pounds to four hundred pounds sterling per annum, and the salary of the present town clerk shall be that amount as if this provision had been in force at the date of his appointment.

82. The Town Clerk shall be ex officio the receiver of town taxes.

Receiver of  
town taxes.

Security by  
the town  
clerk and the  
clerk of the  
market.

83. The Town Clerk and the clerk of the market shall each give security to the satisfaction of the Council in an amount determined by the Council, for the true and faithful performance of his duties and the due and punctual accounting for and paying over all moneys received by him.

Fee for  
searching  
records.

84. A fee of forty-eight cents in aid of the town funds shall be paid to the Town Clerk for searching the records of the Council and giving information as to the ownership or appraised value of any lot or building in the town.

#### TOWN CONSTABLES.

Appoint-  
ment.

85.—(1) The Council may appoint the number of town constables they from time to time deem necessary for the apprehension of offenders against the provisions of this Ordinance and of the by-laws made under it, and for the performance of any other duties from time to time directed by the Council.

(2) Each town constable shall be furnished with a uniform and bâton and receive the monthly pay from time to time determined by the Council.

(3) The Council may at any time dismiss any town constable for misconduct or neglect of duty.

Oath.

86. Everyone appointed a town constable shall, on his appointment or within two weeks after it is notified to him, take before the magistrate the following oath:—

“ I, *A.B.*, do swear that I will well and truly serve our Sovereign lord the King as a town constable for New Amsterdam and as a constable generally, if need be, whenever thereunto required.—So help me God ”;

and shall thereupon receive a precept signed by the magistrate authorising him to act as town constable.

Resignation.

87. No town constable shall be at liberty to resign his office without giving three months' previous notice or receiving from the Council permission to resign; and any town constable who resigns his office or ceases to act without giving that notice or receiving that permission shall be liable to a penalty not exceeding twenty-four dollars.

Penalty for  
unauthorised  
resignation.

Neglect of  
duty.

88. Any town constable who—

(a) is guilty of any neglect or violation of duty in his office; or



(b) refuses or neglects to obey a lawful order of the Council or any of its officers, shall be liable to a penalty not exceeding twenty-four dollars, and shall forfeit all pay then due to him. Penalty.

89. Everyone who ceases to serve as a town constable shall, within seven days thereafter, surrender to the Town Clerk the uniform and bâton with which he is provided, and if he fails to do so, he shall be liable to imprisonment, with or without hard labour for any term not exceeding two months, and the magistrate may issue his warrant to search for and seize the uniform and bâton, wherever they are found. Surrender of uniform and bâton by person ceasing to serve.

90. When a Town Constable dies, his heir, executor, or other representative, or the householder in whose house he dies possessed of the uniform and bâton, shall be bound within fourteen days after the death to surrender them to the Town Clerk, and every heir, executor, or representative, or householder aforesaid failing to do so shall be liable to a like punishment to that provided in the last preceding section, and the magistrate may in like manner issue his warrant to search for and seize the uniform and bâton, wherever they are found. Delivery of uniform and bâton on death.

#### OBSTRUCTION OF OFFICERS.

91. Everyone who assaults, molests, or obstructs any officer of the Council, or any town constable, or anyone employed by the Council, in the execution of his duty under and by virtue of this Ordinance or any by-law made under it, shall be liable to a penalty not exceeding twenty-four dollars. Assaulting officer of the Council.  
Penalty.

92. Any officer of the Council or any town constable who, under pretence of doing any act under the provisions of this Ordinance or of any by-law made under it, uses any unnecessary violence or gives any uncalled-for and vexatious annoyance, shall be liable, on the complaint of anyone aggrieved, to a penalty not exceeding fifty dollars; and one moiety of the sum recovered shall be paid to the complainant and the other moiety to the Town Clerk in aid of the town funds. Violence or annoyance by officer of the Council.  
Penalty.

93. The members of the Council, for the purposes of this Ordinance and of the by-laws made under it, shall have power, by themselves, their officers and servants, to enter at Powers of entry of the Council:

all reasonable hours in the daytime into and upon any land or building within the limits of the town, for the purpose as well of inspection as of execution of any work authorised to be executed by them, without being liable to any legal proceeding on account thereof :

Proviso.

Provided that, except when it is herein otherwise provided, the members of the Council and their officers and servants shall not make that entry, except with the consent of the occupier of the land or building, until after the expiration of twenty-four hours' notice for that purpose given to him.

Liability of the Council for act of its servant.

94. The Council in its corporate capacity shall be liable and responsible in damages, at the suit of anyone aggrieved, for all sorts and acts of omission or neglect of duty, misfeasances, and malfeasances, of any of its officers and servants in all matters within the scope of their authority or employment; but each of those officers or servants shall be liable and responsible to the Council in the full amount of the damages and costs, with all costs of suit as between solicitor and client.

Recovery of penalties generally.

95. Any penalty imposed under this Ordinance, for the recovery whereof no special provision is made, may be sued for by and in the name of the Town Clerk.

#### TOWN APPRAISEMENTS.

Triennial appraisal.

96. The Council may order and direct a general appraisal of all the properties in the town to be made in the month of January in every third year.

Appointment of appraisers, and oath of appraiser and umpire.

97.—(1) The Council may, from time to time as it thinks proper appoint appraisers, if they are not members or officers of the Council, for the purposes of this Ordinance, and may fill up any vacancies occurring in the number of the appraisers either by death, resignation, refusal to act, or in any other manner.

(2) Every appraiser, and every umpire appointed as hereinafter mentioned—

(a) shall receive remuneration for his services at the rates and on the terms the Council thinks proper;

(b) shall, before he enters upon his office, take and subscribe an oath before the Mayor, who is hereby



authorised to administer it, that he will faithfully, honestly, and diligently perform the duties of his office.

98. The appraisers so appointed shall, whenever directed by the Council, appraise the several lots and buildings of the town, and in making the appraisement shall have special regard to their condition and locality respectively.

Making appraisement.

99.—(1) The appraisers, in the discharge of their duty, shall have full power and authority to enter as aforesaid on any lot between the hours of six o'clock in the morning and six o'clock in the evening of any business day.

Powers of entry of appraisers.

(2) Everyone who assaults, molests, or obstructs an appraiser in the discharge of his duty shall be liable to a penalty not exceeding twenty-four dollars, and the penalty may be recovered on the complaint of the Town Clerk and shall be applied in aid of the town funds.

Penalty for obstruction.

100.—(1) The proprietor, or the representative of a proprietor, of any building within the town which he considers to have become deteriorated in value since the last appraisement may at any time require the Council to make a re-appraisement of the building which shall take effect at the close of the current year :

Provision as to re-appraisement :

Provided that, before re-appraisement is made, he shall first pay into the town funds the sum, not exceeding fifteen dollars, fixed by the Council as the cost of the re-appraisement.

Proviso.

(2) The Council shall have power to order the making in every year of a re-appraisement of all buildings in the town erected or improved during the year immediately preceding that re-appraisement.

101.—(1) When an appraisement under this Part is completed, it shall be lodged in the office of the Town Clerk, where all information may be had respecting it; and notice that it has been lodged shall be forthwith published in the Gazette and in a newspaper of the colony circulating in the town.

Subsequent proceedings on appraisement :

(2) Any proprietor, or the representative of a proprietor, who considers that his lot or building has been improperly appraised may, within one month from the day



when the appraisement is lodged, appeal therefrom by notice in writing to the Council, who shall within one week from the notice appoint one appraiser, and the party appealing shall within the like period appoint another appraiser, to make a new appraisement.

(3) If a difference of opinion occurs between the appraisers so appointed with respect to the true value of the property required to be re-appraised, they may appoint an umpire, whose decision shall be final :

Proviso.

Provided that before the new appraisement is made, the appellant shall pay into the town funds the sum, not exceeding ten dollars, fixed by the Council as the cost of the new appraisement.

#### VESTING AND ACQUISITION OF LANDS.

Property vested in Council by Ordinance to remain vested notwithstanding repeal.

102. All lands, buildings, and other erections, and all streets, roads, alleys, lanes, dams, parapets, trenches, drains, sewers, stellinges, and all other property whatsoever vested in the Council or in anyone on behalf of the Council, by Ordinance, transport, or otherwise, or under the control of the Council for the purposes of the corporation at the date of the commencement of this Ordinance, shall, notwithstanding the repeal of the Ordinance, remain vested in and under the control of the Council for the purposes of this Ordinance.

Powers of Council : acquisition of property :

103. The Council shall have full power and authority—  
(a) to acquire, purchase, and hold lands and other property, movable and immovable, for the uses and purposes of the corporation, and the property or any part thereof to sell, exchange, lease or mortgage :

Proviso.

Provided that the Council may not sell, exchange, alienate, lease for a term of years exceeding three, or mortgage, the lands or other immovable property except with the approval of the Governor in Council, after notice of the intention to apply for that approval has been published in the Gazette for two successive weeks ;

purchase or possession of lands, for certain purposes ;

(b) to purchase, or under and subject to any restrictions and regulations generally or in any particular case approved by the Governor in Council to take possession of, all lands and



buildings within the town which the Council requires to enable it to effect any of the following objects, namely,—

- (i) opening any new, or extending widening or improving any existing, street, thoroughfare, or public place;
  - (ii) digging any public well or reservoir for water, or establishing any public tank or fountain;
  - (iii) establishing any public stelling or landing place;
  - (iv) making any new, or extending or improving any existing, drainage or sewerage;
  - (v) improving the sanitary conditions of the town;
  - (vi) erecting any public building for municipal purposes;
- (c) to purchase, or under and subject to any restrictions and regulations aforesaid to take possession of and demolish, any building which the Town Superintendent certifies in writing to be in his opinion so situated, or in such a state from any cause, as greatly to increase the risk of fire :

demolition  
of buildings :

Provided that the certificate shall set forth at length the reasons of the Town Superintendent for his opinion. Proviso.

104.—(1) Whenever the Council wishes to take possession of any property under the provisions of this Ordinance, it shall present a petition to the Governor in Council, setting forth the object for which possession is sought and, in any case coming under paragraph (c) of the preceding section shall send in with the petition the Town Superintendent's certificate. Petition of  
Council to  
Governor in  
Council  
when  
wishing to  
take posses-  
sion of  
property.

(2) The Council shall also cause a copy of the petition and, whenever the certificate is necessary, a copy thereof, to be served on the owner or representative of the property, and, in the case of land held on a lease duly recorded, also on the holder of the lease, if the owner, representative, or holder thereof is known; but if there is no owner, representative, or holder of the lease known, the Council shall cause copies of all documents, of which copies are required to be served on the owner, representative, or holder of a lease when known, to be affixed to some conspicuous part of the property and published in each



number, for three successive weeks, of the Gazette and of every newspaper published in the city of Georgetown.

Governor in  
Council may  
authorise  
Council to  
take  
possession :

105. At the expiration of thirty days from the time when the documents required to be laid before the Governor in Council are sent in to him, and on proof to his satisfaction that the service required to be made on any owner, representative, or holder of a lease as aforesaid, has been duly made on or before the day whereon they were so sent in (or, in cases where the owner, representative, or holder of a lease is not known, on proof that the copies hereinbefore required to be affixed were duly affixed on or before the day on which the documents were so sent in) and that the publications hereinbefore required to be made have been duly made, the Governor in Council may, if no sufficient cause is shown by the owner, representative, or holder of a lease, and if to the Governor in Council it seems meet, pass a resolution, authorising the Council to take possession of the property, and thereupon that property shall at once vest absolutely in the Council, for the object or objects set forth in its petition, and it shall be entitled to, and may at once, take possession of the property, and no transport, transfer, or conveyance thereof shall be necessary :

Proviso.

Provided that the price or value of the property, when agreed, or determined, or assessed in the manner hereinafter provided, shall be retained in the hands of the Town Clerk for two successive weeks and public notice thereof given by him in the Gazette and in a newspaper of the colony circulating in the town, and during that time the amount so retained in his hands shall remain liable and leivable at the instance of any creditors who would by law have been entitled to oppose the passing of a transport thereof.

Assessment  
of value of  
property  
where per-  
sons inter-  
ested are  
known :

106. When the persons interested in property of which possession is taken, whether as owners, representatives, or holders of leases as aforesaid, are known and no agreement for the price of the property can be made between them and the Council, the value shall be determined or assessed in manner following, that is to say,—

- (a) (i) if the price claimed does not exceed two hundred and forty dollars, the value shall be determined by the magistrate of New Amsterdam, who is hereby authorised, on the application, either of the Council or of anyone interested on



the other side, to give notice to all parties interested in the question to appear before him at a time and place specified in the notice, the notice to be served at least fourteen clear days before the day named for appearance;

- (ii) on the appearance of the parties, or in the absence of any of them, the magistrate may hear the matter and determine the value, and may in his award give to any party a reasonable sum for costs and expenses; and his award shall be subject to the appeal provided by any Ordinance for the time being in force regulating appeals from the decisions of magistrates;
- (b) if the price claimed exceeds two hundred and forty dollars, the magistrate, on any application mentioned in the preceding paragraph may give notice to all the parties interested in the question, that at the registry and on some day to be named in the notice, not less than seven or more than ten clear days from the service thereof, a jury will be struck by the registrar; and that, at a place and on a day to be named in the notice not less than twenty-one clear days from the service thereof, parties will be heard before the magistrate and a jury for the purpose of having the value assessed; and the magistrate, at least five clear days before the day appointed for the striking of the jury, shall give written intimation to the registrar that he will be required to strike the jury;
- (c) the jury shall consist of seven persons, not members or in the service of the Council and not having any interest in the question, and shall be struck by the registrar at the registry from and out of the jurors' list kept under any Ordinance for the time being in force regulating the keeping of jurors' lists;
- (d) when a jury has been struck, the registrar shall forthwith make out a special writ or precept for summoning, and shall summon that jury to appear at the time and place specified in the notice mentioned in paragraph (b) of this section; and the summons shall be served on each juror at least two clear days before the day on which his appearance is required;



(e) at the time and place appointed, the jurors, or any number of them not less than five, who appear shall, on their oaths or affirmations to be taken before the magistrate and by a majority of votes, assess the amount to be paid; and the magistrate shall thereupon give judgement for the amount so assessed and may also award to any party a reasonable amount for costs and expenses, and shall deposit the judgement and award in the registry; and any judge of the Supreme Court may grant execution thereon :

Proviso.

Provided that any party aggrieved by the award as to costs may, within one week after the deposit of the award in the registry and on giving security to the amount of fifty dollars for costs in appeal, appeal therefrom by petition to the Supreme Court.

Assessment  
of value of  
property  
where  
parties inter-  
ested are not  
known.

107.—(1) If the parties interested in the property are not known, the magistrate shall first procure an appraisement of the property to be made by two disinterested persons and, if the appraised amount does not exceed two hundred and forty dollars, shall proceed by himself, and if it exceeds two hundred and forty dollars shall proceed with a jury in manner hereinbefore provided, to determine or assess the value.

(2) The notices hereinbefore required to be served on parties who are known shall be addressed to all whom it may concern and affixed to some conspicuous part of the property, in cases where a jury is to be struck at least seven clear days before the day appointed therefor, and in all cases at least three weeks before the day appointed for the determination or assessment of the value, and shall also be published in the Gazette and in a newspaper of the Colony circulating in the town, in cases where a jury is to be struck at least seven clear days before the day appointed therefor, and in all cases for at least three weeks previous to the day appointed for the determination or assessment of the value.

(3) Any party interested appearing to the notice shall be entitled to be heard and to proceed as if the notice had been served on him; but if no party claiming to be interested appears, the Council may proceed ex parte up to the final close of the matter, and in that case the amount determined or assessed shall be deposited in the registry, and may be paid out by order of a judge of the Supreme Court, on the petition of any person or persons proving a right thereto.



(4) Any money so deposited and not claimed within one year after the date of the deposit shall be paid by the registrar into the Treasury and be subject to the provisions of any Ordinance for the time being in force relating to unclaimed dividends and balances paid into the Treasury.

108. Whenever any dispute arises among several claimants, or when in the absence of any dispute the magistrate entertains any doubt, as to the apportionment or appropriation of the amount determined or assessed, that amount shall be deposited in the registry, and the apportionment or appropriation thereof shall be determined by the Supreme Court or by any judge thereof, on the petition of any interested party.

Dispute or doubt as to apportionment of amount assessed.

109. At any hearing under this Ordinance the parties interested and their witnesses may be examined on oath or affirmation, and witnesses may be summoned and their attendance shall be enforced in like manner as is provided by any Ordinance for the time being in force regulating procedure before magistrates in the exercise of their civil jurisdiction, and shall be entitled to any remuneration prescribed thereunder.

Examination, attendance and remuneration of witnesses.

#### WATERWORKS.

110. The Council may provide the town with a supply of water proper and sufficient for sanitary purposes, for extinguishing fires, and for private use to the extent required; and for those purposes or any of them the Council may construct, lay down, and maintain waterworks and do and execute all works, matters and things necessary and proper; and the Council shall provide and keep in any waterworks constructed or laid down by them under the power of this Ordinance a supply of pure and wholesome water, and may make reasonable charges for the supply, and the water so supplied shall be constantly laid on at a pressure sufficient to convey it to the top story of the highest dwelling-house within the town or any other suitable pressure directed by the Council.

Council may construct and maintain waterworks.

111. Everyone who wilfully or carelessly breaks, injures, or opens any lock, cock, waste pipe, or waterworks, constructed or maintained by the Council under this Ordinance, or unlawfully flushes, draws off, diverts, or takes water from any waterworks so constructed or maintained

Misuse of water appliances or diverting water:



or from any water, creek, or stream by which the waterworks are supplied, or wilfully or negligently wastes or causes to be wasted any water with which he is supplied by the Council, shall for each offence, forfeit a penalty not exceeding twenty-four dollars, and a further penalty of five dollars for every day on which the offence is continued after written notice in that behalf by the Town Clerk :

Penalty :  
 Proviso. Provided that nothing herein contained shall prevent the owners or occupiers of premises through or by which any creek or stream flows from using it as they would have been entitled to do if this Ordinance had not passed.

Fouling water.

112. Everyone who bathes in any stream, reservoir, conduit, aqueduct, or other waterworks, constructed or maintained under this Ordinance, or washes, cleanses, throws, or causes to enter, therein any animal, rubbish, filth, stuff or thing of any kind whatsoever, or causes or permits, or suffers to run or to be brought therein, the water of any sink, sewer, drain, engine, or boiler, or other filthy, unwholesome, or improper water, or does anything whatsoever whereby any water belonging to the Council or under its management or control, or any water contained in a reservoir, conduit, aqueduct, or other waterworks, so constructed or maintained, is fouled, shall for each offence, forfeit a penalty not exceeding twenty-four dollars, and a further penalty of five dollars for every day on which the offence is continued after written notice in that behalf by the Town Clerk.

Penalty.

#### FIRE BRIGADE.

Control of fire brigade.

113. The Governor in Council may by order in the Gazette or the Governor and Legislative Council may by resolution, direct that the control and management of the fire brigade shall be transferred from the Council to the Governor in Council until further order or resolution, or for a specified period :

Proviso.

Provided that,—

- (a) the cost of equipment and upkeep and payment of any necessary staff, as mutually agreed between the Governor in Council and the Council and approved by the Legislative Council, shall be borne equally by the Council and the public revenue of the colony; and
- (b) the expenditure so incurred by the Council shall be deemed to be expenditure which the Council



is authorised to incur within the meaning of paragraph (g) of section seventy-two of this Ordinance.

#### THE POUND.

114.—(1) The Council shall keep a pound at some convenient place within the town; and public notice of the appointment of a place to be a pound shall be given in the Gazette and in a newspaper of the colony circulating in the town.

Appoint-  
ment.

(2) The pound shall be under the charge and superintendence of the Council and shall not be in any way affected by the provisions of the Pounds Ordinance.

Manage-  
ment.

Chapter 93.

(3) The appointment of the pound-keeper shall be vested in the Council, and all pound fees, penalties, and sums of money payable under the provisions of this Ordinance shall enure for the benefit of the town funds.

115. When any stray is found trespassing on private premises or land within the town, the owner or person in possession of the premises or land may send the stray to the pound, and for so doing he shall receive from the keeper thereof the sum of forty-eight cents for every horse, mare, gelding, pony, mule, bull, cow, ox, steer, or heifer, thirty-two cents for every ass, and twenty-four cents for every calf, sheep, or goat.

Stray on  
private  
premises.

116. Any animal found grazing on the town savannah, unless the fee for its grazing has been paid to the town superintendent or some other duly authorised person, shall be deemed a stray, and the town superintendent, or someone duly authorised by him, may send it to the pound, and he shall receive from the keeper thereof the fee mentioned in the last preceding section.

Stray on  
town savan-  
nah.

117.—(1) The owner or person for the time being in charge of any horse, mare, gelding, pony, mule, ass, bull, cow, ox, steer, heifer, or calf, tethered, grazing, or straying on any public street, road, dam or place within the town, or within the burial ground hereinafter mentioned, shall be guilty of an offence and on conviction thereof shall be liable to a penalty not exceeding five dollars; and the horse, mare, gelding, pony, mule, ass, bull, cow, ox, steer, heifer, or calf, may be seized and impounded by any member of the police force or town constable, or by anyone authorised by the town superintendent, and any

Stray on  
street or in  
burial  
ground.

Penalty.



sheep or goat tethered or straying as aforesaid may be seized and impounded by anyone.

(2) The same pound fees and expenses shall be paid and received in respect of that animal as are payable and receivable in respect of strays on private premises or land.

(3) All swine straying or trespassing on any public or private premises or land in the town may be destroyed, and their bodies shall belong to the destroyer.

Poundage  
money and  
expenses :

118. The pound-keeper, before delivering any stray, shall demand and receive from the person claiming it the sum of forty-eight cents for every horse, mare, gelding, pony, mule, bull, cow, ox, steer or heifer, and the sum of thirty-two cents for every ass, and the sum of twenty-four cents for every calf, sheep, or goat, as poundage money, in addition to the reward mentioned in section one hundred and fifteen and to the expense of feeding and advertising the stray, and the pound-keeper shall be entitled to charge the sum of twenty-four cents per diem for feeding each horse, mare, gelding, pony, mule, ass, bull, cow, ox, steer, or heifer, and eight cents per day for feeding each calf, sheep, or goat, and no more :

Proviso.

Provided that the young of any mare, cow, ass, goat, or sheep, sent to the pound with its mother or dam and under six months old shall not be liable to poundage.

Time of  
driving kine  
in the town.

119.—(1) All kine kept in the town shall be driven to and from the grazing savannah along the back dam before the hour of eight o'clock in the morning and after six o'clock in the evening.

(2) All kine brought into or driven through the town for any purpose shall be so driven between the hours of twelve o'clock midnight and five o'clock in the morning, but kine may be conveyed in a cart through the town at any hour.

(3) All kine driven through the town within the hours specified in sub-section (2) or as mentioned in sub-section (1) of this section shall be under proper control; that is to say, a single animal must be under the care of a minder or driver, and when there are more animals than one they shall be yoked by twos or threes and shall be under the care of two or more minders or drivers.

Penalty for  
infringement.

(4) For any infringement of any sub-section of this section the owner or person for the time being in charge of the animal or animals shall be liable on conviction to a fine not exceeding five dollars.



120. All kine brought into or driven through the town in contravention of the last preceding section may be seized and impounded by anyone authorised to impound strays under section one hundred and seventeen of this Ordinance, and the same pound fees shall be paid and received in respect thereof as are payable and receivable in respect of strays on private premises or land, and the owner or person claiming possession of the kine shall in addition be liable to a fine of two dollars (for the benefit of the town funds) for each head of kine so impounded, and that fine shall be also paid to the pound-keeper before the release of the kine.

Impounding of kine improperly driven through the town.

121. Everyone who—

- (a) damages or destroys the pound, or any lock or bolt belonging thereto or with which it is fastened; or
- (b) rescues or releases, or attempts to rescue or release, on the way to the pound any stray taken for the purpose of being impounded under the authority of this Ordinance; or
- (c) rescues or releases, or attempts to rescue or release, any stray impounded under the authority of this Ordinance before it has been discharged by due course of law,

Rescue or release of stray.

shall be liable to a penalty not exceeding fifty dollars.

Penalty.

122.—(1) No one who takes an animal to the pound may ride or in any way beat or ill-use it, or take it to the pound by any way other than the nearest way thereto.

Riding or ill-using stray.

(2) Everyone who contravenes this section shall forfeit all right of the poundage, and shall be liable to a penalty not exceeding twenty-four dollars.

Penalty.

123. Anyone who drives off any animal from the premises of the owner thereof, or breaks a gap in any fence or enclosure, in order to make any animal a stray, or for the like purpose takes any animal from private premises or land in the town of which he is not the owner or occupier, shall be liable to a penalty not exceeding twenty-four dollars, and if the animal is received in the pound, shall be liable in addition to repay the full expenses of poundage to the owner of the animal.

Driving off animal for purpose of impounding it.

Penalty.

124.—(1) Anyone who takes up a stray in the town with the intention of impounding it shall not detain it more than three hours before sending it to the pound, unless the stray

Time of sending stray to the pound.



is taken up after sunset, in which case he shall send it to the pound before eight o'clock on the following morning.

Penalty.

(2) Everyone who contravenes this section shall be liable to a penalty not exceeding five dollars.

Keeping record of strays.

125.—(1) The pound-keeper shall keep a book in which he shall enter the date when any stray is received, the name of everyone sending a stray, and the name of the person taking or delivering it to the pound, with the colour, description, and marks of each stray, the place whence it was sent and the sum paid to the party impounding; and the book shall be open to the inspection of anyone during the day without any fee.

Penalty for neglect or falsification.

(2) The pound-keeper who neglects to make any entry in the book, or wilfully makes any false or incorrect entry, or demands any fee for making an entry, shall be liable to a penalty not exceeding fifty dollars.

Weekly publication of list of strays.

126. The pound-keeper shall publish once every week in a newspaper circulating in the town a correct list of all the strays in the pound, describing them in every particular as recorded in his book; and if in any case he neglects to do so, he shall be liable to a penalty not exceeding five dollars.

Penalty.

Providing grass and water for impounded stray.

Penalty.

127. The pound-keeper shall procure for, furnish, and give daily to, each stray in the pound a sufficient quantity of good grass and water; and if in any case he neglects to do so, he shall be liable to a penalty not exceeding twenty-four dollars, and in addition shall be liable to immediate dismissal.

Attendance of pound-keeper or his deputy.

128. The pound-keeper, or someone appointed by him as his deputy and for whose acts or omissions in respect of any matter or thing under this Ordinance he shall be responsible, shall constantly be at the pound between the hours of six o'clock in the morning and six o'clock in the evening to receive and deliver all strays; and if he or his deputy makes default in that attendance, he shall be liable to a penalty not exceeding ten dollars for each default.

Penalty.

Hiring out or using stray.

129. If the pound-keeper—

(a) hires out, lets, uses, works, or employs any stray;  
or



(b) allows any stray to be taken out of the pound wrongfully; or

(c) suffers any stray while impounded to be ill-used or injured,

he shall be liable to a penalty not exceeding fifty dollars. Penalty.

**130.**—(1) If any impounded stray is not redeemed within three days after the impounding, it shall be sold; and the pound-keeper shall advertise for sale for one week in a newspaper of the colony circulating in the town all strays, except sheep and goats, and notify upon a board, to be placed in some conspicuous part of the pound, the intended sale of all strays for two days beforehand. Sale of unclaimed stray :

(2) The sale shall take place by public competition between the hours of eleven and three o'clock in the daytime; and the pound-keeper, after deducting the sums of money due for rewards and the expenses, shall pay to the Town Clerk the balance of the proceeds of sale :

Provided that if anyone proves to the satisfaction of the magistrate, within three months after the sale of any stray, that he was the owner of it, the Town Clerk shall, upon the order of the magistrate, pay to him the balance of the proceeds of the sale of the stray paid into the Town Clerk's hands. Proviso.

(3) Any stray duly advertised and put up for sale under this Ordinance but not sold, may be disposed of or destroyed by the pound-keeper.

**131.** If the pound-keeper directly or indirectly purchases any unclaimed stray sold out of the pound, the purchase shall be void and the pound-keeper shall in addition be liable to a penalty not exceeding fifty dollars. Purchase of stray by pound-keeper void. Penalty.

**132.** All penalties imposed under this Title for the recovery whereof no special provision has been made, may be sued for by a town constable or by anyone interested or aggrieved in the subject-matter of the complaint. Recovery of penalties generally.

#### THE BURIAL GROUND.

**133.** On the commencement of this Ordinance, the public burial ground established in Stanley Town, including in that description any addition made thereto after the Control.



commencement of this Ordinance, shall be under the control of the Council; and the Council shall appoint a sexton to take charge thereof, and a sufficient number of fit and proper persons to be grave-diggers, with such remuneration as the Council think fit.

Laying out.

**134.** The burial ground shall be laid out in layers or spaces, and each grave in each layer or space shall be numbered in regular series, and a diagram of the ground shall be made and kept in the Town Clerk's office.

Maintenance.

**135.**—(1) The Council shall keep the burial ground free from bush and weeds and from nuisances of every kind, and shall keep in proper order and repair the fences, palings, bridges, roads, avenues, walks, and trenches of the ground and the drainage thereof.

(2) Anyone who, within the burial ground, behaves in a disorderly manner or plucks the fruit or flowers or injures any flowers, shrubs, or trees, or any grave, vault, tombstone, tablet, rail, or any other thing there fixed or deposited may be arrested without a warrant by any town or other constable or by any other person employed in the burial ground by the Council, and shall on conviction be liable to a penalty not exceeding twenty-five dollars.

Penalty for disorder or injury.

Regulations for graves.

**136.** All graves, vaults, or tombs in the burial ground shall have a clear space of two feet between one another and shall be placed in uniform parallel lines; and each grave shall be of the depth of at least four and a half feet and, until closed up, shall be kept clear of water; and a clear space of six feet shall intervene between the outside line of graves, tombs, or vaults and the fencings or palings of the ground.

Regulations for vaults and tablets.

**137.** Anyone wishing to acquire a right to build a vault or brick grave, or to enclose a grave with a railing, or to place any stone or tablet upon any part of a grave for the purpose of acquiring a right of property in the grave, within the burial ground, shall apply to the Council, and the Council is hereby authorised to grant leave to do so on payment to it of the value of the land to be occupied or enclosed at the rate of sixty-seven cents per square foot superficial measure.



**138.** The Town Council shall have and be entitled to the dues, charges and fees hereinafter mentioned, that is to say,—

	\$ c.
for the interment of the corpse of anyone above the age of twelve ... ..	3 00
for the interment of the corpse of an infant under twelve years of age ... ..	2 00
for the interment of the corpse of each person above the age of twelve interred at the public expense ... ..	2 00
for the interment of the corpse of each infant under the age of twelve interred at the public expense ... ..	1 25
for the entrance into the burial ground of every hearse carrying a corpse not interred at the public expense ... ..	1 00
for permission to erect a tomb or vault, including all fees on the entrance into the burial ground of every vehicle carrying materials therefor ... ..	3 00
for permission to erect a railing enclosing a grave, or any stone or tablet upon any part of a grave ... ..	1 50
for permission to erect a head-board ... ..	1 50

**139.** Everyone who buries a corpse or causes it to be buried in any yard, garden, or premises, or in any other place whatever within the limits of the town, shall be liable to a penalty of not less than fifty dollars and not more than ninety-six dollars to be recovered by the Town Clerk in aid of the town funds.

Prohibition  
of burial of  
corpses in  
the town.  
Penalty.

**140.** The Town Clerk shall keep a register of all interments in the burial ground, specifying the name, designation, sex, age, and nationality, as far as practicable, of everyone interred therein, and also the number of the grave and the date of the interment; and, at the end of every three months, shall lodge or deposit in the deeds registry for the county of Berbice, a duly certified copy of the register for that period; and the Town Clerk shall be bound to deliver a certificate of any interment aforesaid to anyone applying for it, and shall be entitled to charge therefor the sum of fifty cents.

Register of  
interments.



Power to set  
apart for use  
of Churches  
parts of  
burial  
grounds.

141. The Governor, on application made to him on behalf of the members of any Church in the colony, may set apart for the burial of the members of that Church those parts of the public burial grounds for the time being of the town to the Governor seeming fit and sufficient.

#### POWER TO BORROW MONEY.

Power to set  
raise money  
by issue of  
bonds.

142.—(1) The Council, with the approval of the Governor in Council, may from time to time raise on loan, by the issue of bonds, the sums of money required for the purposes hereinafter mentioned, not exceeding one hundred and twenty thousand dollars in any one year or one hundred and sixty thousand dollars in the whole.

Application  
of moneys  
raised.

(2) The moneys so raised shall be applied in carrying out those improvements within the town which in the opinion of the Council cannot be conveniently defrayed out of the rates and taxes levied in any one year.

Form,  
amount, rate  
of interest,  
and redemp-  
tion of bonds.

(3) The bonds shall be in the form, shall be issued for the amounts and at the rate of interest and be redeemable at the times and in the manner decided by the Council, with the approval of the Governor in Council.

Charging of  
principal  
moneys and  
interests on  
revenues and  
assets of the  
Council.

(4) The principal moneys and interest secured by the bonds shall be, and the same are hereby, charged upon and shall be payable in their order of priority, out of the general revenues and assets of the Council, subject to any special prior charge on those revenues and assets by any Ordinance already in force.

Provision for  
re-payment  
of loan :

143.—(1) In order to provide for the re-payment of any loan under the last preceding section there shall be set apart from the general revenues and assets of the Council each year, in addition to the interest on the amount of the bonds from time to time issued, such a proportionate part of the capital sum of the bonds as will be sufficient in the aggregate to pay it as and when it becomes payable.

(2) The amount to be so set apart each year for the repayment of the capital sum raised for each special object shall be an equal proportion of the capital sum so raised.

(3) Where the sum set apart each year cannot be immediately applied to the redemption of the bonds to which it is applicable it shall be invested by the Town Council until it with the accruing interest can be so applied :

Proviso.

Provided that when, in determining the amount to be set apart each year, any allowance is made for interest



to accrue on the sums to be invested, the interest to be obtained shall not be estimated at a higher rate than five per centum per annum.

144.—(1) If any bond issued under this Ordinance is by accident defaced, the Council may cause a new bond to be made and delivered to the bearer and may cause the defaced bond to be cancelled.

Replacement  
of defaced  
bond.

(2) The new bond shall bear the same number, date, and principal sum, and carry the same interest, and be subject to the same rules, as the original bond.

145. The Council, on proof to its satisfaction that any bond issued under this Ordinance has by accident been lost or destroyed before being paid off, may, if the number and amount of the bond are ascertained and upon being furnished with due security for indemnifying the Council for any loss to which it may at any time be subjected by reason thereof, issue a new bond corresponding in all respects with the bond so lost or destroyed, or, if any bond when so lost or destroyed is overdue, the Council may cause the money due thereon to be paid off and discharged.

Replacement  
or payment  
of lost or  
destroyed  
bond.

146. The Council shall have the power from time to time to borrow money only from its bankers on current account and solely to apply the moneys, when necessary, towards the payment in any year of any of the votes on the annual estimates of the Council :

Temporary  
advances :

W. 36/7/33

Provided that every borrowing, whether it be in the form of a loan or an overdraft or in any other form whatever, shall be repaid before the expiration of the financial year in which the power to borrow has been exercised.

Proviso.

#### MISCELLANEOUS PROVISIONS.

##### *Procedure.*

147. All legal proceedings by, or on the part of, or against the Council may be preferred, instituted, and carried on in the name of the Town Clerk, and no proceeding whatever shall abate or be discontinued by the death, resignation, or removal of the Town Clerk, or by reason of any change or vacancy in the Council by death, resignation, or otherwise.

Mode of  
taking legal  
proceedings.



Mode of describing property of the Council.

148. In any proceeding by or on the part of the Council against anyone for stealing, or wilfully injuring, or otherwise improperly dealing with any property, work, or thing, belonging to the Council or under its management or superintendence, it shall be sufficient to state generally that the property, work, or thing in respect of which the proceeding is instituted is the property of the Council.

Exemption from personal liability of officer of the Council.

149. No contract entered into by the Council, nor any matter or thing done by it, or by any officer or person acting under its direction, shall, if the matter or thing has been done, or the contract has been entered into in good faith for the purpose of executing this Ordinance, subject the Council or any of its members personally to any action, liability, claim, or demand whatsoever; and any expense incurred by the Council in its corporate capacity, or by any officer or person acting as aforesaid, shall be borne and repaid out of the town funds.

Protection of councillors and officers of Council.

150. The Council, and each and every member thereof, and each and every officer and servant thereof, and each and every person acting under the direction thereof, shall be entitled, with respect to all matters and things done or intended to be done under the provisions of this Ordinance, to the benefit and protection of the provisions of the Justices Protection Ordinance.

Chapter 254

Service of notice on proprietor or occupier :

151. Where under this Ordinance any notice is required to be given to the proprietor or occupier of any building or land, the notice, addressed to the proprietor or occupier thereof, as the case may require, may be served on the occupier thereof or left with some inmate of his abode, or if there is no occupier may be put up on some conspicuous part of the building or land; and it shall not be necessary in the notice to name the proprietor or the occupier of the building or land :

Proviso.

Provided that when the proprietor of any building or land and his residence in the colony are known to the Council, it shall be the duty of the Council if that owner is residing in the town, to cause every notice required to be given to the proprietor to be served on him or left with some inmate of his abode; and if he is resident in some part of the colony other than the town, it shall be sufficient if the Council sends the notice by post, addressed to his residence.



152.—(1) The Attorney General or any registered voter under this Ordinance may apply to the Supreme Court in its civil jurisdiction for a writ of mandamus or for an injunction to compel the performance by the Council of any duty, act, matter, or thing to be by it as a corporation done and performed under this Ordinance, or to restrain it from the performance of any illegal or improper act.

Writ of mandamus or injunction.

(2) The Court shall have full power and authority to grant the application, on just grounds being adduced for so doing, whether there exists any other legal remedy or not.

(3) Every application when granted shall be proceeded with in manner and form directed by any enactment for the time being in force relating thereto.

153.—(1) All fines, penalties, and forfeitures incurred under or by virtue of this Ordinance exceeding two hundred and forty dollars may be sued for and recovered in the Supreme Court in its civil jurisdiction unless in any case the contrary is expressly provided.

Recovery of fines, penalties, and forfeitures.

(2) All fines, penalties, and forfeitures incurred under or by virtue of this Ordinance not exceeding two hundred and forty dollars may, unless the contrary is expressly provided, be sued for and recovered before a magistrate, who is hereby invested with full power, authority and jurisdiction to hear and determine the matter, and also to make any order, to issue any warrant, and to decide any matter which, under any of the provisions of this Ordinance, it is enacted may be made, issued, or entertained by a magistrate.

154. The Town Council may from time to time reduce or abolish any fee, toll, due, fare, or charge fixed by this Ordinance, and the reduction or abolition shall be published in the Gazette and in a newspaper of the colony circulating in the town.

Reduction or abolition of fees, tolls, or charges.

155. Every proceeding before the magistrate under any of the provisions of this Ordinance shall be commenced within six months from the time when the right of complaint or proceeding first accrued, and the proceeding shall be conducted, as near as may be, according to the form of procedure and be subject to the appeal provided by any Ordinances for the time being in force regulating procedure before magistrates in the exercise of their summary jurisdiction and appeals from the decisions of magistrates.

Procedure and appeal.



Appropriation of fines and forfeitures.

156. All fines, penalties, and forfeitures recovered under or by virtue of any of the provisions of this Ordinance, for the appropriation whereof no express provision is made, shall be appropriated as follows, that is to say, one-third shall be paid to the complainant, and the remaining two-thirds to the Town Clerk in aid of the town funds.

Several liability of joint proprietors or occupiers.

157. In case of any demand or complaint under this Ordinance to which two or more proprietors or occupiers of premises are jointly answerable, it shall be sufficient to proceed against any one or more of them without in any manner proceeding against the other or others; but nothing herein contained shall prevent the parties so proceeded against from recovering contribution in any case in which they would be entitled by law to contribution.

Description of proprietor or occupier.

158. Whenever in any proceeding under this Ordinance, whether in writing or otherwise, it becomes necessary to mention or refer to the proprietor or occupier of any premises, it shall be sufficient to designate him as that proprietor or occupier without name or further description.

Affirmation in lieu of oath.

159.—(1) Every person who is authorised by law to affirm instead of taking an oath may affirm in every case in which by this Ordinance an oath is required to be taken.

(2) If anyone taking any oath required by this Ordinance, or affirming instead of taking the oath, wilfully swears or affirms falsely, he shall be deemed guilty of perjury, and shall be liable to be indicted and punished accordingly.

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