

Table of Contents

CHAPTER 1. RISE AND PROGRESS OF MUNICIPAL INSTITUTIONS

II. LOCAL GOVERNMENT IN THE UNITED STATES

- § 1:25 Public local corporations—Counties
- § 1:26 Public local corporations—Counties—Definition
- § 1:27 Public local corporations—Counties—Historical development
- § 1:42 Public local corporations—Cities, towns and villages—Federal interference
- § 1:43 Public local corporations—Cities, towns and villages—Home rule
- § 1:44 Public local corporations—Cities, towns and villages—Home rule—Definition

III. MUNICIPAL ADMINISTRATION IN THE UNITED STATES

- § 1:75 Municipal problems—Definition and purpose

CHAPTER 2. NATURE AND KINDS OF MUNICIPAL CORPORATIONS

I. GENERAL CONSIDERATIONS

- § 2:3 Public corporations
- § 2:4 Public corporations—Illustrations
- § 2:5 Public corporations—Illustrations—Nonmunicipal public corporations
- § 2:7 Municipal corporations
- § 2:8 Municipal corporations—Definitions
- § 2:9 Municipal corporations—Elements necessary to constitute
- § 2:10 Municipal corporations—Elements necessary to constitute—Limitation of powers; effect
- § 2:11 Municipal corporations—Purpose
- § 2:12 Municipal corporations—Nature and status

MUNICIPAL CORPORATIONS

- § 2:13 Municipal corporations—Nature and status—Duality of functions
- § 2:17 Quasi-municipal corporations
- § 2:19 Particular terms construed—“Boroughs.”
- § 2:23 Particular terms construed—“Municipal.”
- § 2:24 Particular terms construed—“Municipality.”

II. MUNICIPAL CORPORATIONS DISTINGUISHED FROM QUASI-MUNICIPAL CORPORATIONS

- § 2:31 Tests to determine corporate status—Statutory designation of certain corporations as municipal—For some purposes only
- § 2:33 Districts and authorities created by legislature—
Illustrations

III. CITIES AND VILLAGES

- § 2:41 Cities
- § 2:42 Cities—Corporate status
- § 2:44 Cities—Town, village or borough distinguished from city
- § 2:45 Cities—City as including village or town
- § 2:47 Villages

IV. COUNTIES, TOWNS AND TOWNSHIPS

- § 2:50 Counties
- § 2:51 Counties—Municipal corporations and counties distinguished
- § 2:52 Towns and townships

CHAPTER 3. CREATION OF MUNICIPAL CORPORATIONS

I. GENERAL CONSIDERATIONS

- § 3:2 State legislature’s powers
- § 3:3 State legislature’s powers—Quasi-municipal districts and authorities

III. METHODS

- § 3:34 Generally
- § 3:39 General incorporation statutes
- § 3:40 General incorporation statutes—Pending annexation proceedings as bar to incorporation
- § 3:41 General incorporation statutes—Concurrent jurisdiction

TABLE OF CONTENTS

§ 3:42 Home-rule charters

§ 3:43 Home-rule charters—Purpose

§ 3:46 Home-rule charters—Charter contents

IV. PROCEDURE GENERALLY

§ 3:48 Generally

§ 3:49 Generally—Compliance with statute

§ 3:51 Petition—Filing

**CHAPTER 3A. INTERGOVERNMENTAL
RELATIONS**

III. DISPUTES

§ 3A:27 Zoning

Table of Contents

CHAPTER 4. LEGISLATIVE CONTROL OF MUNICIPAL CORPORATIONS

I. GENERAL CONSIDERATIONS AND RULES

- § 4:3 General rule as to legislative control
- § 4:7 General rule as to legislative control—Limitation by state or federal constitution
- § 4:9 Delegation of powers by legislature—Municipal legislative powers
- § 4:12 Delegation of powers by legislature—Powers of commissions and boards
- § 4:14 Delegation of powers by legislature—Powers which legislature may delegate to municipal corporations

II. PARTICULAR PROVISIONS IN CONSTITUTIONS AFFECTING LEGISLATIVE CONTROL

B. PROVISIONS IN UNITED STATES CONSTITUTION

- § 4:21 Due process of law

C. PROVISIONS IN STATE CONSTITUTIONS

- § 4:22 In general

D. PROHIBITION OF SPECIAL LAWS

1. General Considerations

- § 4:32 Validity of special and local laws

2. Provisions in State Constitutions in Regard to Special Acts

- § 4:33 In general
- § 4:34 Conditional prohibition of special laws

MUNICIPAL CORPORATIONS

- § 4:36 Particular provisions in state constitutions—Regulating internal affairs of municipality
- § 4:39 Statutes conferring corporate powers—Where general law can be made applicable
 - 3. What are General, Special, Local and Public Laws
 - § 4:42 General law
 - § 4:44 Special law
 - § 4:45 Special law—“Local” law distinguished
 - § 4:48 Curative acts as special or local laws
 - 4. Classification as Affecting Prohibition of Special Laws
- § 4:60 Municipal corporations previously created by special act

Table of Contents

CHAPTER 8. DISSOLUTION, REORGANIZATION, AND CONSOLIDATION OF MUNICIPAL CORPORATIONS

III. PROCEDURES FOR DISSOLUTION; REINSTATEMENT

§ 8:10 Statutory provisions; petitions

IV. EFFECT OF DISSOLUTION AND REORGANIZATION

§ 8:12 In general

§ 8:13 Rights of creditors of extinct corporation

CHAPTER 9. THE MUNICIPAL CHARTER

I. GENERAL CONSIDERATION

§ 9:1 Basis of municipal organization

§ 9:2 Definition and description of charter

§ 9:3 Nature, purpose, and scope of charter

§ 9:6 Special municipal powers and functions

II. LEGISLATIVE AND CONSTITUTIONAL CHARTERS

§ 9:8 Constitutional, home-rule, “freeholders” charters

§ 9:10 Constitutional, “home-rule,” “freeholders” charters—
Conformity with state laws

IV. CONSTRUCTION AND PROOF

§ 9:23 Construction of charter

V. AMENDMENT AND REVISION

§ 9:27 Direct amendment of constitutional charters

- § 9:28 Direct amendment of constitutional charters—Scope of amendment
- § 9:29 Direct amendment of constitutional charters—Procedure
- § 9:31 Direct amendment of constitutional charters—Procedure—Single subject rule
- § 9:33 General, special, local laws amending municipal charters
- § 9:34 Review

CHAPTER 10. NATURE, CONSTRUCTION, AND EXERCISE OF GENERAL CORPORATE POWERS

I. GENERAL CONSIDERATIONS

- § 10:3 Sources of municipal power
- § 10:5 Classifications and descriptions of municipal powers—Governmental and private
- § 10:8 Extraterritorial powers
- § 10:9 Powers delegable to municipality by legislature
- § 10:10 Scope of powers—Dillon's Rule
- § 10:11 Scope of powers—Powers expressly granted
- § 10:13 Scope of powers—Implied powers
- § 10:14 Scope of powers—Implied powers—Illustrations
- § 10:15 Illustrations—Use of red light and speed cameras
- § 10:16 Powers of home rule municipalities
- § 10:17 Powers of home rule municipalities—Constitutional provisions
- § 10:18 Powers of home rule municipalities—Home Rule Amendment
- § 10:19 Powers of home rule municipalities—Supplementary statutes
- § 10:20 Powers of home rule municipalities—Charter provisions

II. CONSTRUCTION OF POWERS

- § 10:23 Strict construction rule
- § 10:24 Doubtful powers; ambiguity
- § 10:27 Governmental and proprietary powers
- § 10:28 Enumerated powers as exclusive
- § 10:30 Home rule powers
- § 10:31 Regulatory powers

III. EXECUTION OF POWERS

- § 10:43 Surrender of municipal powers
- § 10:44 Delegation of municipal powers

TABLE OF CONTENTS

- § 10:46 Delegation of municipal powers—Administrative and executive powers
- § 10:48 Delegation of municipal powers—Powers of particular departments or officers
- § 10:51 Judicial review

Table of Contents

CHAPTER 11. MISCELLANEOUS MUNICIPAL POWERS AND FUNCTIONS

- § 11:2 Aid to private corporations
- § 11:3 Airports generally
- § 11:4 Airports—Location of airport
- § 11:5 Airports—Operation, control and regulation
- § 11:6 Airports—As a nuisance
- § 11:7 Airports—Noise regulations
- § 11:8 Airports—Constitutional concerns
- § 11:9 Airports—Heliports
- § 11:13 *[Deleted]*
- § 11:14 Navigable waters
- § 11:15 Navigable waters—Submerged lands
- § 11:16 Navigable waters—Submerged lands—Accretions
- § 11:17 Navigable waters—Navigation and use
- § 11:18 Navigable waters—Interference with commerce;
preemption
- § 11:19 Navigable waters—Riparian rights
- § 11:20 Bridges
- § 11:26 *[Deleted]*
- § 11:27 Wharves and docks
- § 11:30 *[Deleted]*

CHAPTER 12. ELECTIONS, OFFICES AND OFFICERS, EMPLOYEES AND AGENTS AND MUNICIPAL DEPARTMENTS

I. IN GENERAL

- § 12:1 Regulation in general

II. MUNICIPAL ELECTIONS

- § 12:2 Manner of regulation
- § 12:3 Manner of regulation—Balancing test

MUNICIPAL CORPORATIONS

- § 12:5 Manner of regulation—Campaign contributions and expenditures
- § 12:6 Manner of regulation—Prohibiting use of public funds for distribution of materials
- § 12:7 Equal Protection Clause
- § 12:8 Equal Protection Clause—One-person, one-vote
- § 12:9 Equal Protection Clause—One-person, one-vote—Percent deviations
- § 12:10 Equal Protection Clause—One-person, one-vote—Boards and school committees
- § 12:11 Equal Protection Clause—One-person, one-vote—Exceptions
- § 12:12 Equal Protection Clause—Nondilution of minority votes
- § 12:13 Equal Protection Clause—Nondilution of minority votes—Multimember or at-large districts
- § 12:14 Equal Protection Clause—Nondilution of minority votes—Factors contributing to dilution
- § 12:15 Equal Protection Clause—Nondilution of minority votes—Remedies
- § 12:16 Voting Rights Act of 1965
- § 12:17 Voting Rights Act of 1965—Vote dilution claims
- § 12:18 Voting Rights Act of 1965—Vote dilution claims—Factors establishing
- § 12:19 Questions submitted to election
- § 12:20 Questions submitted to election—Primaries
- § 12:21 Voter qualifications
- § 12:22 Voter qualifications—Citizenship and residence
- § 12:25 Mode
- § 12:27 Mode—Effect of irregularities on election
- § 12:29 Mode—Petitions
- § 12:30 Mode—Calling elections
- § 12:31 Mode—Time and place
- § 12:32 Mode—Time and place—Conduct of election officials
- § 12:33 Mode—Time and place—Polling places
- § 12:34 Mode—Time and place—Hours
- § 12:35 Mode—Ballot boxes
- § 12:36 Mode—Ballots; marking; preservation
- § 12:37 Mode—Ballots; marking; preservation—Secrecy requirements
- § 12:38 Mode—Ballots; marking; preservation—First Amendment implications
- § 12:39 Mode—Ballots; marking; preservation—Write-in ballots
- § 12:40 Mode—Voting machines
- § 12:41 Mode—Absentee voting
- § 12:42 Ineligible person's election to office
- § 12:43 Vote determination
- § 12:44 Vote determination—Tabulation; canvass of returns; certifying result

TABLE OF CONTENTS

- § 12:45 Vote determination—Tie vote; run-off
- § 12:46 Vote determination—Multiple office field elections
- § 12:48 Election contests
- § 12:49 Election contests—Limitations on court’s jurisdiction
- § 12:50 Election contests—Who may institute
- § 12:51 Election contests—Time for filing
- § 12:52 Election contests—Procedure
- § 12:53 Election contests—Evidence
- § 12:54 Election contests—Ballot inspection; recount
- § 12:55 Appeal

III. GENERAL CONSIDERATIONS CONCERNING OFFICES AND OFFICERS, SUBORDINATES AND EMPLOYEES

- § 12:56 Designation and classification
- § 12:57 *[Deleted]*
- § 12:58 Nature and elements of “office” and “officer”
- § 12:59 Office distinguished from employment
- § 12:60 Office distinguished from employment—Particular offices
and employments
- § 12:61 Assistants
- § 12:62 Deputies
- § 12:63 Clerks
- § 12:64 Employees
- § 12:66 Creating offices
- § 12:67 Nondelegability

IV. MUNICIPAL DEPARTMENTS, BOARDS, OFFICERS, COMMISSIONERS, ETC.

- § 12:68 Various forms; creation and abolition
- § 12:69 Powers and liabilities
- § 12:70 Hearings
- § 12:71 Mayor or chief executive
- § 12:72 Mayor or chief executive—Pro tempore
- § 12:73 Mayor or chief executive—Powers and duties
- § 12:74 Mayor or chief executive—Powers and duties—
Supervisory
- § 12:75 Mayor or chief executive—Powers and duties—
Contractual
- § 12:76 Mayor or chief executive—Powers and duties—Judicial
- § 12:77 *[Deleted]*
- § 12:78 Public works or improvements department
- § 12:79 Parks department
- § 12:80 Water department
- § 12:83 Health department

MUNICIPAL CORPORATIONS

- § 12:84 Law department
- § 12:85 Law department—City attorney
- § 12:86 Law department—City attorney—Qualifications
- § 12:87 Law department—City attorney—Election
- § 12:88 Law department—City attorney—Assistants
- § 12:89 *[Deleted]*
- § 12:90 Library boards
- § 12:91 Civil service commission
- § 12:92 Civil service commission—Jurisdiction
- § 12:93 Civil service commission—Administration
- § 12:94 Civil service commission—Administration—Rules and regulations
- § 12:95 Civil service commission—Review of actions
- § 12:96 Various municipal departments

V. ELIGIBILITY TO HOLD PUBLIC OFFICE OR PLACE

- § 12:97 Qualifications generally
- § 12:98 Citizenship
- § 12:99 Residence
- § 12:100 Residence—Constitutionality
- § 12:101 Residence—Officers and employees distinguished
- § 12:102 Residence—Residence in ward
- § 12:103 *[Deleted]*
- § 12:104 Elector or voter
- § 12:105 Property owner
- § 12:106 Criminal convictions
- § 12:108 Failure to pay taxes; debt
- § 12:111 Officer holding two offices generally
- § 12:112 Officer holding two offices—Incompatible offices
- § 12:115 Officer holding two offices—Incompatible offices—Offices held not incompatible

VI. MANNER OF SECURING OFFICE AND PUBLIC PLACE; DETERMINING TITLE; QUALIFYING FOR OFFICE

- § 12:117 Manner of conferring office
- § 12:118 Authority to appoint
- § 12:119 Authority to appoint—Exclusive to authority
- § 12:120 Authority to appoint—Nondelegability
- § 12:121 Authority to appoint—Mayor's or city manager's authority
- § 12:122 Authority to appoint—Council's or governing body's authority
- § 12:123 Authority to appoint—Self-appointment

TABLE OF CONTENTS

- § 12:124 Civil service
- § 12:125 Civil service—Classification
- § 12:126 Civil service—Examinations
- § 12:127 Civil service—Examinations—Competitive and noncompetitive
- § 12:132 Civil service—Eligible lists
- § 12:133 Civil service—Certification and appointment
- § 12:135 Civil service—Provisional and temporary appointments
- § 12:136 Preference in appointments; veterans
- § 12:137 Time to exercise power of appointment
- § 12:138 Manner of appointment
- § 12:139 Commission
- § 12:140 Completion of appointment
- § 12:141 Confirmation of appointment
- § 12:142 Ratification of irregular or void appointment
- § 12:143 Mandamus as to appointment
- § 12:144 Determining title to office; testing title
- § 12:145 Determining title to office—Quo warranto
- § 12:146 Determining title to office—Equity
- § 12:148 Legislative body as election judge
- § 12:149 *[Deleted]*
- § 12:150 Acceptance of office
- § 12:151 Qualifying to perform duties of office
- § 12:152 Qualifying to perform duties of office—Oath of office
- § 12:153 Qualifying to perform duties of office—Bond
- § 12:155 Vacancies in office
- § 12:156 Authority to fill vacancy

VII. DE FACTO OFFICERS

- § 12:157 De facto officer defined
- § 12:158 Intruders or usurpers
- § 12:159 Absence of de jure office
- § 12:160 Hold-overs
- § 12:161 Acts
- § 12:162 Questioning title and authority of de facto officer

VIII. TENURE

- § 12:163 Offices
- § 12:164 Offices—Appointed or elected to fill vacancy
- § 12:165 Offices—Holding over; no successor
- § 12:166 Offices—During good behavior
- § 12:167 Offices—Tenure at will of authority
- § 12:168 Offices—Change in municipal organization, class or grade
- § 12:169 Offices—Changes in term

MUNICIPAL CORPORATIONS

- § 12:170 Assistants and subordinates
- § 12:171 *[Deleted]*
- § 12:172 Vested right in office
- § 12:173 Change in or abolition of office
- § 12:173.1 Change in or abolition of office—Offices subject; limitations on right
- § 12:173.2 Change in or abolition of office—Civil service and veterans' preference laws
- § 12:173.3 Change in or abolition of office—Manner of abolishing offices
- § 12:173.4 Resignation of officer
- § 12:173.5 Resignation of officer—Implied; abandonment of office
- § 12:173.6 Resignation of officer—Election to, or acceptance of, another office
- § 12:173.7 Resignation of officer—Acceptance

IX. POWERS AND FUNCTIONS OF OFFICERS AND MISCELLANEOUS MATTERS

- § 12:173.8 Powers and functions of officers in general
- § 12:173.10 Power to select subordinates, employees, agents, etc.
- § 12:173.11 *[Deleted]*
- § 12:173.12 *[Deleted]*
- § 12:173.13 Restrictions on outside employment; moonlighting
- § 12:173.14 Promotions
- § 12:173.17 *[Deleted]*
- § 12:173.20 Reclassification
- § 12:173.22 Conflicts of interest
- § 12:173.23 Conflicts of interest—Factors considered
- § 12:173.24 Conflicts of interest—Financial disclosure requirements
- § 12:173.25 Reimbursing or indemnifying officer
- § 12:173.26 Reimbursing or indemnifying officer—Factors influencing decision
- § 12:173.27 *[Deleted]*
- § 12:173.28 Engaging in politics; soliciting gifts or political contributions
- § 12:173.29 Engaging in politics; soliciting gifts or political contributions—Restricting speech of municipal employees
- § 12:173.31 *[Deleted]*
- § 12:173.32 Union recognition and membership
- § 12:173.33 Union recognition and membership—Collective bargaining
- § 12:173.35 Union recognition and membership—Striking and picketing

TABLE OF CONTENTS

X. PENSIONS, BENEFITS AND INSURANCE

§ 12:173.36	Pension laws—Introduction
§ 12:173.37	Pension laws—Statutory construction
§ 12:173.38	Pension laws—Constitutionality
§ 12:173.39	Pension laws—Contract Clause
§ 12:173.40	Pension laws—ADEA and pensions
§ 12:173.41	<i>[Deleted]</i>
§ 12:173.42	Vested rights
§ 12:173.43	Vested rights—Contractual interest
§ 12:173.44	Vested rights—Vesting after happening of event fixed
§ 12:173.45	Vested rights; law applicable—Promissory estoppels
§ 12:173.46	Pension funds
§ 12:173.47	Pension funds—Contributions and deductions
§ 12:173.48	Right to pension generally
§ 12:173.49	Right to pension generally—Public service; membership in department
§ 12:173.50	Right to pension generally—Disability
§ 12:173.51	Right to pension generally—Disability—Permanent disability
§ 12:173.52	Right to pension generally—Length of service
§ 12:173.53	Right to pension generally—Pendency of charges; effect
§ 12:173.54	Right to pension generally—Misconduct or commission of felony
§ 12:173.55	Pension rights on death of officer or employee
§ 12:173.56	Pension rights on death of officer or employee—Surviving spouse’s rights
§ 12:173.57	Pension rights on death of officer or employee—Surviving spouse’s rights—Marital status as factor
§ 12:173.58	Pension rights on death of officer or employee—Surviving spouse’s rights—Exclusions
§ 12:173.59	Pension rights on death of officer or employee—Surviving spouse’s rights—Workers’ compensation benefits as factor
§ 12:173.60	Pension rights on death of officer or employee—Setting aside beneficiary designation
§ 12:173.61	Pension rights on death of officer or employee—Public service or employment of deceased
§ 12:173.62	Pension rights on death of officer or employee—Cause of death
§ 12:173.63	Effect of divorce on pension rights
§ 12:173.64	Amount of pension or disability benefit
§ 12:173.64.50	Pension adjustments <i>[New]</i>
§ 12:173.65	Waiver

MUNICIPAL CORPORATIONS

- § 12:173.66 Effect of other employment
- § 12:173.68 Procedure generally
- § 12:173.69 Procedure generally—Medical examination
- § 12:173.70 Procedure generally—Hearing
- § 12:173.71 Procedure generally—Hearing—Upon termination of benefits
- § 12:173.72 Procedure generally—Discretion of board
- § 12:173.73 Procedure generally—Order
- § 12:173.74 Procedure generally—Order—Res judicata
- § 12:173.75 Procedure generally—Review
- § 12:173.76 Procedure generally—Rehearing
- § 12:173.77 Actions generally
- § 12:173.78 Actions generally—Mandamus
- § 12:173.79 Actions generally—Limitations and laches
- § 12:173.80 Discontinuance or reduction
- § 12:173.81 Benefit and relief associations
- § 12:173.82 Group insurance
- § 12:173.83 Sick leave
- § 12:173.84 Sick leave—Family and Medical Leave Act

Table of Contents

CHAPTER 12. ELECTIONS, OFFICES AND OFFICERS, EMPLOYEES AND AGENTS AND MUNICIPAL DEPARTMENTS (CONTINUED)

XI. SALARIES AND COMPENSATION, FEES AND COMMISSIONS

- § 12:220 Changing salaries or compensation of officers and employees
- § 12:221 Changing salaries or compensation of officers and employees—Salary reductions
- § 12:240 Action to recover salary or compensation—
Reinstatement as condition precedent to recovery

XII. LIABILITIES

- § 12:244 Generally
- § 12:246 Federal Civil Rights Acts
- § 12:248 Federal Civil Rights Acts—Action/inaction reflecting municipal policy/custom
- § 12:249 Federal Civil Rights Acts—Action/inaction reflecting municipal policy/custom—Single or isolated act
- § 12:250 Federal Civil Rights Acts—Constitutionally protected rights
- § 12:251 Federal Civil Rights Acts—Constitutionally protected rights—Detainees and prisoners
- § 12:252 Federal Civil Rights Acts—Employment discrimination
- § 12:253 Federal Civil Rights Acts—Employment discrimination—Hostile work environment claims
- § 12:254 Federal Civil Rights Acts—Employment discrimination—Pregnancy discrimination claims
- § 12:256 Federal Civil Rights Acts—Employment discrimination—Sexual orientation; sexual identity claims
- § 12:261 Federal Civil Rights Acts—Employment discrimination—Retaliation claims
- § 12:262 Federal Civil Rights Acts—Employment discrimination—Americans with Disabilities Act; Rehabilitation Act

MUNICIPAL CORPORATIONS

- § 12:264 Federal Civil Rights Acts—Immunities
- § 12:265 Federal Civil Rights Acts—Immunities—Absolute immunity
- § 12:266 Federal Civil Rights Acts—Immunities—Absolute immunity—Legislative actions
- § 12:267 Federal Civil Rights Acts—Immunities—Absolute immunity—Judicial functions
- § 12:269 Federal Civil Rights Acts—Immunities—Qualified immunity
- § 12:275 Liability for costs; attorney fees
- § 12:276 Personal liability for negligence; torts
- § 12:277 Personal liability for negligence; torts—Employees
- § 12:279 Personal liability for negligence; torts—Defamation
- § 12:280 Personal liability for negligence; torts—Damage resulting from public work
- § 12:295 Personal liability for legislative acts
- § 12:298 Action on official bonds—Who may bring action
- § 12:305 Acts of subordinates
- § 12:306 Civil liability of judicial and quasi-judicial officers
- § 12:307 Criminal liability

XIII. REMOVAL, SUSPENSION, REINSTATEMENT

- § 12:311 Removal and suspension
- § 12:312 Removal and suspension—State whistleblower laws
- § 12:315 Constitutionally protected interest in continued employment
- § 12:316 Removal and suspension generally—Handbook or policy manual as basis for rights
- § 12:320 Cause
- § 12:321 Cause—Cause only
- § 12:322 Cause—Elective officers
- § 12:323 Cause—Officers appointed for definite term
- § 12:324 Agency authorized to remove or suspend
- § 12:325 Agency authorized to remove or suspend—Mayor or city manager
- § 12:326 Agency authorized to remove or suspend—City council or legislative body
- § 12:328 Agency authorized to remove or suspend—Governor
- § 12:330 Sufficiency of cause
- § 12:334 Sufficiency of cause—Neglect of duty
- § 12:336 Sufficiency of cause—Malfeasance, misfeasance, and misconduct
- § 12:337 Sufficiency of cause—Malfeasance, misfeasance, and misconduct—Illustrations
- § 12:338 Sufficiency of cause—Protected speech—Citizen v. public employee

TABLE OF CONTENTS

§ 12:339	Sufficiency of cause—Protected speech—Citizen v. public employee—Burden of proof
§ 12:340	Sufficiency of cause—Protected speech—Citizen v. public employee—“Public concern”
§ 12:341	Sufficiency of cause—Protected speech; Citizen v. public employee—Applications
§ 12:343	Sufficiency of cause—Protected speech; Citizen v. public employee—“Adverse employment action”
§ 12:346	Sufficiency of cause—Criticism of public officials—Motive as a factor
§ 12:352	Sufficiency of cause—Insubordination
§ 12:358	Sufficiency of cause—Membership in society or organization
§ 12:359	Sufficiency of cause—Political activity
§ 12:361	Sufficiency of cause—Economic reasons
§ 12:364	Restrictions on removal powers, by civil service and veteran’s; preference provisions—Applicability
§ 12:367	Restrictions on removal powers, by civil service and veteran’s; preference provisions—Cause for removal
§ 12:368	Restrictions on removal powers, by civil service and veteran’s; preference provisions—Cause for removal—Reasons of economy; abolition of position
§ 12:370	Removal of subordinates and employees
§ 12:372	Removal of patronage employees
§ 12:373	Removal by recall
§ 12:374	Removal by recall—Procedure
§ 12:375	Removal by recall—Procedure—Petition
§ 12:376	Removal by recall—Procedure—Petition—Signatures and verification
§ 12:377	Removal by recall—Procedure—Petition—Presentment and sufficiency
§ 12:377.50	Removal by recall—Procedure—Petition—Insufficient petition allegations [<i>New</i>]
§ 12:379	Removal by recall—Judicial review
§ 12:381	Suspensions
§ 12:385	Suspensions—Employees—Civil service employees
§ 12:388	Removal or suspension proceedings
§ 12:389	Pre-termination procedure
§ 12:390	Removal or suspension proceedings—Right to specification of charges, notice and hearing
§ 12:410	Removal or suspension proceedings—Hearing or trial
§ 12:412	Removal or suspension proceedings—Hearing or trial—Due process—Hearing to clear reputation
§ 12:421	Removal or suspension proceedings—Hearing or trial—Incidents—Aid of counsel
§ 12:422	Removal or suspension proceedings—Evidence
§ 12:435	Judicial review

MUNICIPAL CORPORATIONS

- § 12:436 Judicial review—Statutory provisions
- § 12:437 Judicial review—Civil service proceedings
- § 12:438 Judicial review—Procedure
- § 12:439 Judicial review—Scope of review
- § 12:440 Judicial review—Scope of review—Cause for removal
- § 12:441 Judicial review—Scope of review—Legality of proceedings
- § 12:442 Judicial review—Scope of review—Weight or sufficiency of evidence
- § 12:444 Judicial review—Certiorari
- § 12:449 Judicial review—Certiorari—Weight and sufficiency of evidence
- § 12:454 Reinstatement—Grounds for denial
- § 12:455 Reinstatement—After wrongful removal, suspension or demotion
- § 12:456 Reinstatement—After resignation
- § 12:465 Reinstatement—Court proceedings—Mandamus—Scope of review

CHAPTER 13. MEETINGS AND PROCEEDINGS OF COUNCIL OR GOVERNING LEGISLATIVE BODY

I. GENERAL CONSIDERATIONS

- § 13:1 Municipal organization; where authority vested
- § 13:9 Meetings of council
- § 13:10 Meetings of council—Legislative prayer
- § 13:11 Meetings of council—Public meeting laws
- § 13:12 Meetings of council—Public meeting laws—Electronic communications
- § 13:13 Violations of open meeting laws
- § 13:14 Meetings of council—Public meeting laws—Requirements
- § 13:15 Meetings of council—Public meeting laws—Public comment
- § 13:16 Meetings of council—Public meeting laws—Access to public meetings
- § 13:17 Meetings of council—Public meeting laws—Procedural matters
- § 13:18 Meetings of council—Public meeting laws—Exemptions
- § 13:20 Meetings of council—Public meeting laws—Exemptions—Litigation exception
- § 13:23 Meetings of council—Private recording of meetings
- § 13:25 Meetings of council—Place
- § 13:27 Meetings of council—Notice

TABLE OF CONTENTS

III. PROCEEDINGS

§ 13:66 Procedural rules

§ 13:67 Procedural rules—Judicial review

Table of Contents

CHAPTER 14. MUNICIPAL RECORDS

V. INSPECTION

- § 14:15 Inspection rights
- § 14:18 Records subject to inspection

CHAPTER 15. NATURE, REQUISITES, AND OPERATION OF MUNICIPAL ORDINANCES

I. CHARACTERISTICS

- § 15:1 Definitions
- § 15:2 Resolutions and ordinances distinguished
- § 15:3 When ordinance necessary
- § 15:6 Action by resolution

II. REQUISITES

- § 15:14 In general
- § 15:18 Conformity to state and federal laws
- § 15:19 Conformity to state and federal laws—Types and tests for
preemption
- § 15:20 Conformity to state and federal laws—Implied
preemption
- § 15:21 Conformity to state and federal laws—Express
preemption
- § 15:23 Conformity to state and federal laws—Field preemption

CHAPTER 16. ENACTMENT OF ORDINANCES

I. ENACTMENT POWER AND GOVERNING PROCEDURAL PROVISIONS

- § 16:3 Legislature's power to grant—Departments, boards,
commissions, etc
- § 16:4 Power to enact—In general

MUNICIPAL CORPORATIONS

- § 16:5 Power to enact—Express power
- § 16:6 Power to enact—Implied or inherent power
- § 16:7 Power to enact—Scope
- § 16:8 Power to enact—Delegated power

IV. INITIATIVE AND REFERENDUM

- § 16:45 Generally
- § 16:51 Referendum generally; definition
- § 16:52 Measures submissible

CHAPTER 17. PENALTIES OF MUNICIPAL ORDINANCES

- § 17:1 Generally
- § 17:3 Power to enforce ordinance by penalties
- § 17:4 Power to enforce ordinance by penalties—Implied power
- § 17:5 Power to enforce ordinance by penalties—Construction

CHAPTER 19. CONSTITUTIONALITY OF ORDINANCES

I. GOVERNING CONSTITUTIONAL PROVISIONS

- § 19:1 Conformity with constitutional provisions
- § 19:2 Conformity with constitutional provisions—Federal
- § 19:6 Constitutionality favored
- § 19:7 Presumption of constitutionality

II. IMPAIRMENT OF CONSTITUTIONAL RIGHTS AND LIBERTIES

B. DUE PROCESS OF LAW

- § 19:10 Generally
- § 19:11 Substantive due process

F. LIBERTIES OF THE PERSON

- § 19:51 Religion—Legislative prayer

Table of Contents

CHAPTER 20. VALIDITY AND CONSTRUCTION OF ORDINANCES

I. VALIDITY IN GENERAL

- § 20:1 Generally; scope of treatment
- § 20:2 Judicial power to determine invalidity
- § 20:4 Judicial power to determine invalidity—Considerations governing
- § 20:5 Judicial power to determine invalidity—Deference to legislature
- § 20:6 Presumption of validity
- § 20:7 Presumption of validity—Application of presumption
- § 20:8 Burden, weight, and sufficiency of proof

III. CONSTRUCTION OF ORDINANCES

- § 20:44 Overview and scope
- § 20:45 Applying rules of statutory construction
- § 20:46 Construction determined by court, not jury
- § 20:47 Charter, state law, and public policy
- § 20:48 Legislative intent
- § 20:49 Construing unambiguous language
- § 20:50 Construing unambiguous language—Ambiguous language
- § 20:60 Construction of ordinance as a whole
- § 20:61 Construction of ordinance as a whole—Giving effect to each word, clause and part
- § 20:62 Construction of ordinance as a whole—Changing, ignoring and supplying words and parts

IV. EFFECT OF INVALIDITY OF ORDINANCE IN PART OR IN PARTICULAR APPLICATIONS

- § 20:72 Voidness of part not invalidating whole ordinance—Severability or saving clause

CHAPTER 21. AMENDMENT, REPEAL, AND SUPERSEDING OF ORDINANCES

I. AMENDMENT OF ORDINANCES

§ 21:1 Generally

§ 21:3 Power to amend—Initiative and referendum measures

II. REPEAL OF ORDINANCES IN GENERAL

§ 21:10 Power to repeal

§ 21:11 Power to repeal—Initiative and referendum measures

IV. SUPERSEDING EFFECT OF CHARTERS, STATUTES, AND ORDINANCES

§ 21:32 Ordinance or statute as superseding the other

§ 21:33 Ordinance or statute as superseding the other—Matters
purely local or solely within municipal power

§ 21:34 Ordinance or statute as superseding the other—Matters
of statewide concern

V. OPERATION AND EFFECT OF REPEAL

§ 21:39 Generally

CHAPTER 22. PLEADING, PROOF, AND EFFECT OF ORDINANCES IN CIVIL ACTIONS

III. PROOF OF ORDINANCES

§ 22:27 Burden of proof and presumptions

§ 22:28 Proof of authority to enact

Table of Contents

CHAPTER 24. MUNICIPAL POLICE POWER AND ORDINANCES

I. IN GENERAL

A. GENERAL NATURE AND SCOPE OF POLICE POWER

- § 24:1 Scope of chapter
- § 24:2 Nature and meaning
- § 24:3 Nature and meaning—Difficulty of definition
- § 24:4 Nature and meaning—Limits and differences
- § 24:5 Nature and meaning—Limits and differences—Federal law
- § 24:6 Nature and meaning—Public over private interests
- § 24:9 Extent and limitations
- § 24:12 Objects—Public order, health, safety and morals
- § 24:14 Objects—Protection of private property
- § 24:16 Subjects

C. POLICE ORDINANCES

- § 24:52 Requisites for validity—Relationship to proper objects
- § 24:56 Requisites for validity—Conformity or conflict with state law; conflict preemption

D. MUNICIPAL CONTROL AND SUPPRESSION OF NUISANCES

- § 24:63 What constitutes nuisance
- § 24:65 Classification of nuisances as per se or per accidens—Public or private
- § 24:66 Classification of nuisances as per se or per accidens—Future and anticipated

II. PUBLIC PEACE, ORDER, MORALS, AND DECENCY

C. OBSCENITY, PROSTITUTION, AND

DISORDERLY HOUSES

- § 24:129 Regulation of adult businesses
- § 24:138.50 Regulation of adult businesses—Restrictions on hours

**E. INTOXICATING AND
NONINTOXICATING BEVERAGES**

- § 24:170 Generally
- § 24:171 Private rights and privileges
- § 24:172 Municipal power
- § 24:174 Municipal power—Extent and limitations

Table of Contents

CHAPTER 24. MUNICIPAL POLICE POWER AND ORDINANCES (CONTINUED)

III. PUBLIC AMUSEMENTS

- § 24:198 Generally
- § 24:217 Shooting ranges

VII. INDUSTRY, COMMERCE, TRADE, AND OCCUPATIONS

A. IN GENERAL

- § 24:320 Regulation—Limitations and considerations

B. REGULATION OF BUSINESS HOURS

- § 24:328 Specific businesses—Restaurants and bars

F. BILLBOARDS, SIGNS, HANDBILLS, AND ADVERTISING

- § 24:375 Regulations of billboards, signs, and outdoor advertising

VIII. POLITICAL, LABOR, SOCIAL, AND RELIGIOUS ACTIVITIES, SPEECH, AND LITERATURE

A. IN GENERAL

- § 24:413 Generally

B. EMPLOYERS AND EMPLOYEES

- § 24:427 Picketing and strikes—Use of force, violence, threats,
intimidation

C. POLITICAL, CONTROVERSIAL, AND

**INFORMATIONAL SPEECH AND
WRITING**

- § 24:430 Generally
- § 24:431 Commercial speech
- § 24:432 Forum analysis; time, place, and manner restrictions
- § 24:434 Forum analysis; time, place, and manner restrictions—
Religious activities

**D. RELIGIOUS LITERATURE,
SOLICITATION, AND ACTIVITIES**

- § 24:450 Religious meetings and parades—Legislative prayer

Table of Contents

CHAPTER 24. MUNICIPAL POLICE POWER AND ORDINANCES (CONTINUED)

IX. FIRE AND EXPLOSIONS; GUNS AND WEAPONS; ATMOSPHERIC POLLUTION

A. FIRE REGULATIONS

§ 24:457 Generally; preemption

D. FIREARMS AND WEAPONS

§ 24:487 Firearms and weapons

§ 24:492 Discharge of firearms within city

X. REGULATION OF BUILDINGS, HOUSING, AND URBAN REDEVELOPMENT

A. BUILDING REGULATIONS

§ 24:515 Particular buildings and structures—Historical
properties

XI. POLICE REGULATION OF STREETS AND PUBLIC PLACES; MEETINGS AND PARADES

A. IN GENERAL

§ 24:594 Music, noise, and sound on streets

**XII. VEHICLES, TRAFFIC, AND
TRANSPORTATION**

C. MOTOR VEHICLES

§ 24:652 Towing on streets; public and private

Table of Contents

CHAPTER 25. ZONING

I. IN GENERAL

A. INTRODUCTION

- § 25:1 Nature and scope
- § 25:5 Constitutionality and validity generally
- § 25:7 Constitutionality and validity generally—Substantive due process
- § 25:8 Constitutionality and validity generally—Religious freedom concerns
- § 25:9 Adoption generally
- § 25:10 Definitions and distinctions
- § 25:11 City zoning and planning distinguished
- § 25:13 Zoning and police power
- § 25:15 Zoning and nuisances

B. PURPOSES OF ZONING

- § 25:21 In general
- § 25:22 Necessity of purpose within police power
- § 25:23 Public good or general welfare
- § 25:24 Public good or general welfare—What constitutes
- § 25:25 Public health
- § 25:34 Esthetic considerations
- § 25:37 Esthetic considerations—Historical preservation

C. POWER TO ZONE

- § 25:38 In general
- § 25:40 Under police power
- § 25:43 Delegation of power—Zoning by counties and townships
- § 25:45 Limitations on power

II. ZONING LAWS AND REGULATIONS

A. CONSTITUTIONAL, STATUTORY AND CHARTER PROVISIONS

- § 25:54 Constitutional provisions
- § 25:55 Zoning statutes

B. ORDINANCES AND REGULATIONS

- § 25:59 Generally
- § 25:60 Legislative function
- § 25:63 Requisites and validity
- § 25:64 Requisites and validity—Conformity to other laws
- § 25:66 Requisites and validity—Certainty and definiteness

C. CONSTRUCTION OF ZONING MEASURES AND PROVISIONS

- § 25:80 Generally
- § 25:83 Effect of administrative construction
- § 25:84 Particular words and phrases

III. TERRITORIAL ASPECTS OF MUNICIPAL ZONING

A. IN GENERAL

- § 25:89 Zoning plans—Comprehensive plans
- § 25:90 Zoning plans—Factors and elements
- § 25:92 Limited and partial zoning—Illegal spot zoning
- § 25:93 Limited and partial zoning—Valid spot zoning
- § 25:100 Designation and delimitation—Boundaries, size and shape
- § 25:103 Designation and delimitation—Floating zones
- § 25:105 Rezoning and extension of districts
- § 25:106 Rezoning and extension of districts—Conditional zoning
- § 25:108 Rezoning and extension of districts—Grounds and requisites

F. SUBDIVISIONS

- § 25:133 Generally
- § 25:136 Dedications or “in lieu” fees
- § 25:137 Dedications or “in lieu” fees—Land dedicated for open space
- § 25:139 Dedications or “in lieu” fees—Impact fees, developmental fees and other governmental exactions
- § 25:140 Dedications or “in lieu” fees—The rational relationship or nexus test
- § 25:143 Dedications or “in lieu” fees—Specifically and uniquely attributable test

TABLE OF CONTENTS

IV. USES; RESTRICTIONS AND EXCLUSIONS

A. IN GENERAL

- § 25:145 Use control through zoning laws
- § 25:158 Residential uses and restrictions—Hotels, motels, rooming houses
- § 25:162 Residential uses and restrictions—Group homes in residential districts—Fair Housing Act
- § 25:167 Agricultural and farming uses
- § 25:174 Miscellaneous particular uses—Religious Land Use and Institutionalized Persons Act of 2000
- § 25:180 Miscellaneous particular uses—Signs and billboards

B. BUILDING RESTRICTIONS UNDER ZONING

- § 25:197 Height restrictions under zoning
- § 25:199 Dedication as condition precedent to development

VI. VARIANCES, EXCEPTIONS AND SPECIAL USES

A. IN GENERAL

- § 25:216 Statutory and ordinance provisions
- § 25:217 Nature and purpose
- § 25:218 Nature and purpose—Use and area variances; tests applied
- § 25:219 Constitutionality and validity

B. GROUNDS

- § 25:223 Generally
- § 25:225 Unnecessary hardship or difficulty; definitions and comparisons

C. REQUISITES AND GOVERNING CONSIDERATIONS

- § 25:228 Generally
- § 25:229 Public welfare

E. RELATION TO PARTICULAR USES AND RESTRICTIONS

- § 25:247 Oil and gas operations; storage

Table of Contents

CHAPTER 25. ZONING (CONTINUED)

VII. NONCONFORMING USES

A. IN GENERAL

- § 25:248 General nature and definition
- § 25:249 Basis of right to continue nonconforming use; vested rights
- § 25:251 To what extent protected from zoning
- § 25:252 Extent subject to zoning
- § 25:254 Policy to minimize nonconforming uses

B. ELEMENTS, REQUISITES AND PROOFS

- § 25:257 Definition and nature
- § 25:258 Existence before and when zoning becomes effective
- § 25:259 Lawful use requirement
- § 25:263 Evidence and burden of proof

D. EXTENT, PRESERVATION, CHANGE AND ENLARGEMENT OF USE

- § 25:285 Enlargement or extension of use

VIII. ZONING COMMISSIONS, BOARDS OF ADJUSTMENT, BODIES, AND OFFICIALS

A. IN GENERAL

- § 25:298 Delegation of powers and functions to boards and agencies—Administrative and discretionary powers
- § 25:304 Open meeting and sunshine laws

B. PLANNING AND ZONING COMMISSIONS

- § 25:311 Powers

C. BOARDS OF ADJUSTMENT, REVIEW

AND ZONING APPEALS

- § 25:316 Status
- § 25:317 Status—Advisory, legislative, or quasi-judicial
- § 25:319 Powers
- § 25:322 Powers—Administrative appellate powers
- § 25:325 Powers—Legislate, regulate, amend or set aside ordinances

IX. LEGISLATIVE FUNCTIONS AND PROCEDURES

- § 25:333 Enactment, amendment and repeal procedure
- § 25:337 Notice
- § 25:338 Publication
- § 25:339 Hearings

X. ADMINISTRATIVE FUNCTIONS AND PROCEDURES

- § 25:344 Enforcement functions, devices and procedures
- § 25:350 Notice and publication; notice of appeal
- § 25:356 Hearing—Evidence
- § 25:358 Hearing—Presumptions and burden of proof
- § 25:359 Action or decision of board

XI. JUDICIAL PROCEEDINGS AND RELIEF

A. IN GENERAL

- § 25:368 Powers of courts
- § 25:369 Limitations on courts
- § 25:370 Limitations on courts—Judicial attitude
- § 25:371 Reasonable acts
- § 25:373 Doubtful cases; “fairly debatable” rule
- § 25:375 Necessity of resort to administrative remedies

B. AGAINST ZONING ORDINANCES AND REGULATIONS

- § 25:384 Character of proceeding—Mandamus
- § 25:386 Grounds for relief
- § 25:397 Proof
- § 25:398 Proof—Presumptions
- § 25:399 Proof—Burden

C. AGAINST ADMINISTRATIVE DECISIONS

- § 25:409 Character of proceeding—Appellate proceeding

TABLE OF CONTENTS

§ 25:411 Character of proceeding—Mandamus
§ 25:414 Grounds for relief or reversal of administrative
decision—Abuse of discretion or unreasonableness
§ 25:417 Grounds for relief or reversal of administrative
decision—Fraud or bad faith
§ 25:421 Defenses; time limitations; waiver, estoppel or laches
§ 25:422 Parties generally
§ 25:423 Parties generally—Aggrieved parties
§ 25:431 Pleading and procedure—On review or appeal
§ 25:436 Proof—Burden
§ 25:437 Proof—Weight and sufficiency
§ 25:442 Hearing or trial—Scope of inquiry or review
§ 25:450 Appeal and error

Table of Contents

CHAPTER 26. MUNICIPAL LICENSES AND PERMITS

V. PROCEDURE; ENFORCEMENT; REVOCATION; JUDICIAL RELIEF

C. REVOCATION OR SUSPENSION OF LICENSES OR PERMITS

- § 26:100 Generally
- § 26:103 Rights of licensees—Arbitrary or discriminatory revocation
- § 26:104 Rights of licensees—Arbitrary or discriminatory revocation—Property right approach
- § 26:107 Rights of licensees—Arbitrary or discriminatory revocation—First Amendment
- § 26:108 Rights of licensees—Substantial work, expenditures and obligations
- § 26:113 Grounds—Constitutionality
- § 26:116 Procedure
- § 26:118 Procedure—Notice and hearing

VI. LICENSING OF BUSINESSES, OCCUPATIONS, SOLICITORS AND PUBLIC ENTERTAINMENT

B. MISCELLANEOUS PARTICULAR BUSINESSES AND OCCUPATIONS

- § 26:135 Coverage of topic
- § 26:154.16 Restaurants and the like

Table of Contents

CHAPTER 26. MUNICIPAL LICENSES AND PERMITS (CONTINUED)

VII. LICENSING OF STREET USES AND VEHICLES

A. STREET USES

- § 26:155 In general
- § 26:156 Particular uses
- § 26:157 Meetings and parades

B. VEHICLES AND THEIR USE AND OPERATION

- § 26:158 Generally

D. TAXICABS

- § 26:182 Discrimination

VIII. BEVERAGE LICENSES

A. LIQUOR AND BEER

- § 26:204 Administrative bodies and proceedings
- § 26:206 Operation and effect of license—As right or privilege

IX. BUILDING PERMITS

A. IN GENERAL

- § 26:217 Nature and purpose
- § 26:219 Validity and effect of laws
- § 26:220 Fees
- § 26:221 Structures, uses, and activities regulated
- § 26:222 Structures, uses, and activities regulated—Repairs and alterations
- § 26:223 Discretion of authorities; necessity of standards

- § 26:224 Prerequisites and conditions
- § 26:225 Prerequisites and conditions—Illustrations
- § 26:226 Consent or approval of other property owners
- § 26:227 Compliance with requirements

B. PROCEDURE FOR ISSUANCE OR REFUSAL; REVOCATION

- § 26:228 Application
- § 26:232 Grant of permit
- § 26:233 Denial of permit
- § 26:234 Denial of permit—Vested rights
- § 26:235 Denial of permit—Sufficient grounds for denial
- § 26:236 Denial of permit—Insufficient grounds for denial
- § 26:237 Revocation of permit
- § 26:238 Revocation of permit—Grounds
- § 26:239 Revocation of permit—Estoppel of or waiver by city; laches

C. CONSTRUCTION, OPERATION, AND EFFECT OF PERMIT

- § 26:242 Effect of application for permit
- § 26:244 Permit as authorizing violation of law
- § 26:245 Effect of change of law

D. JUDICIAL PROCEEDINGS AND RELIEF

- § 26:246 Generally
- § 26:248 Against denial of permit—Mandamus
- § 26:250 Against denial of permit—Section 1983 actions
- § 26:252 Against denial of permit—Racketeer Influenced and Corrupt Organizations Act (RICO) actions

CHAPTER 27. ACTIONS TO ENFORCE POLICE ORDINANCES

I. THE COURT AND ITS JURISDICTION

- § 27:1 Establishment and continuance of courts
- § 27:2 Jurisdiction of municipal courts

II. THE ACTION; ITS FORM, NATURE, AND INSTITUTION

- § 27:5 Ordinance enforcement; form of action
- § 27:6 Civil or criminal character of proceedings

TABLE OF CONTENTS

**IV. THE TRIAL; SUMMARY OR JURY;
PROCEEDINGS**

§ 27:49 Attorney's fees

VI. DEFENSES

§ 27:60 In general

§ 27:67 Discriminatory enforcement

**VII. THE JUDGMENT, RECORD, AND
EXECUTION**

§ 27:71 The judgment

§ 27:73 The judgment—Fine or imprisonment

VIII. REVIEW

§ 27:83 Right of review

§ 27:86 Review by appeal—Time and method of taking

§ 27:97 Writ of prohibition

Table of Contents

CHAPTER 28. CORPORATE PROPERTY

I. CONTROL OVER, TITLE TO, AND POWER TO ACQUIRE

- § 28:2 Power to acquire property in general
- § 28:10 Purposes for which property may be acquired
- § 28:11 Purposes for which property may be acquired—
Applications of “corporate purpose” rule
- § 28:12 Power to acquire, erect or repair buildings
- § 28:14 How property may be acquired
- § 28:20 Who may question purchase by municipality
- § 28:24 Constitutional rights and government-owned property
- § 28:25 Constitutional rights and government-owned property—
Limited public forum
- § 28:26 Government speech
- § 28:27 Government speech—Monuments on public property

III. PLEDGE, MORTGAGE, SALE, LEASE OR OTHER DISPOSITION OF PROPERTY

- § 28:38 Right to dispose of property in general
- § 28:39 Right to dispose of property in general—Property devoted
to public use
- § 28:41 Right to dispose of property in general—Property devoted
to public use—Streets
- § 28:45 Right to dispose of property in general—Statutory power
to dispose of property
- § 28:49 Power to lease or permit use of corporate property—
Lease or use of wharves, lands under navigable water
- § 28:51 Power to lease or permit use of corporate property—
Leasing to private lessees
- § 28:53 Power to lease or permit use of corporate property—
Contract requirements
- § 28:55 Power to transfer, donate, or dedicate property for
particular uses
- § 28:57 Methods and procedures for transfer of title—Preliminary
steps; elections
- § 28:59 Methods and procedures for transfer of title—
Instruments of transfer; form, content, and effect

- § 28:60 Methods and procedures for transfer of title—Advertising sale; public auctions; competitive bidding
- § 28:64 Effect of want of power to transfer municipal property

IV. PUBLIC PARKS AND SQUARES

- § 28:65 Definitions; state and municipal powers
- § 28:66 Commissions and boards
- § 28:68 Titles and rights in park property
- § 28:69 Titles and rights in park property—Restrictions in grants
- § 28:70 Titles and rights in park property—Illustrations of municipal uses
- § 28:71 Titles and rights in park property—Leases, licenses, and permits
- § 28:72 Regulation of use by public

CHAPTER 29. CONTRACTS IN GENERAL

I. INTRODUCTION

- § 29:2 Essentials in considering validity
- § 29:3 Ordinance, resolution, or motion as contract
- § 29:4 Notice imputed to one contracting with municipality
- § 29:5 Retaliation against contractor for exercise of constitutional rights

II. CREATION

- § 29:7 Power to make contracts
- § 29:8 Power to make contracts—Express power
- § 29:9 Power to make contracts—Implied power
- § 29:10 Power to make contracts—Contracting with governments or agencies
- § 29:11 Contracts prohibited
- § 29:12 Contracts prohibited—Contracts limiting legislative power
- § 29:14 Contracts prohibited—Incurring indebtedness beyond debt limit
- § 29:15 Contracts prohibited—Ultra vires contracts
- § 29:16 Power to contract for legal services
- § 29:17 Power to contract for legal services—Contracts for extra legal services
- § 29:20 Who may act in behalf of municipality
- § 29:22 Who may act in behalf of municipality—Contract made by wrong officer or board
- § 29:23 Conditions precedent or subsequent to making contract

TABLE OF CONTENTS

- § 29:24 Conditions precedent or subsequent to making contract—Ordinance or resolution
- § 29:26 Mode of executing, form, and contents
- § 29:27 Mode of executing, form, and contents—Writing
- § 29:28 Mode of executing, form, and contents—Signature
- § 29:28.50 Mode of executing, form, and contents—Approval; countersignature
- § 29:29.50 Mode of executing, form, and contents—Irregularities; effect of performance

III. COMPETITIVE BIDS

- § 29:30.50 General considerations
- § 29:31 Bids contrasted with request for proposals
- § 29:31.50 Purpose of requiring bids
- § 29:32 Mandatory requirements
- § 29:33 Absence of requirements; permissive laws
- § 29:35 Exceptions to bidding requirements
- § 29:35.50 Applicability to particular contracts
- § 29:39 Statutory authority to dispense with bid requirements
- § 29:41 Effect of not following competitive bidding requirements
- § 29:43 Advertisements for bids and restrictions on competition
- § 29:46 Advertisements for bids and restrictions on competition—Preferences to local work, materials, etc.
- § 29:49 Void, ambiguous, or defective specifications
- § 29:50 Form and contents of advertisement
- § 29:63 Bid conformity to advertisement- Slight or substantial noncompliance
- § 29:71 Awarding contracts
- § 29:72 Awarding contracts—To “lowest,” or “lowest responsible” bidder
- § 29:72.50 Awarding contracts; discretion—To “lowest,” or “lowest responsible” bidder—Determining “responsible” bidder
- § 29:73 Awarding contracts—To other than lowest bidder
- § 29:74 Awarding contracts—To other than lowest bidder—Minorities and women-owned businesses
- § 29:79 Right to reject any or all bids
- § 29:82 Creation of contract
- § 29:84 Review of award by courts
- § 29:85 Review of award by courts—Rights of unsuccessful bidder
- § 29:86 Review of award by courts—Mandamus
- § 29:87 Review of award by courts—Injunction

Table of Contents

CHAPTER 29. CONTRACTS IN GENERAL (CONTINUED)

IV. VALIDITY AND DURATION

- § 29:91 Validity generally
- § 29:92 Validity generally—Procuring legislation
- § 29:96 Validity generally—Partial invalidity of contract
- § 29:97 Validity generally—Presumption as to validity
- § 29:98 Validity generally—Unconscionability
- § 29:99 Interest of officer in contract with city
- § 29:101 Interest of officer in contract with city—Interest in partnership or corporation which is contracting party
- § 29:102 Duration of contract
- § 29:103 Duration of contract—Binding successors
- § 29:104 Duration of contract—Perpetual contracts

V. RATIFICATION AND ESTOPPEL

- § 29:105 In general
- § 29:106 Contracts which may be ratified
- § 29:107 Contracts upon which estoppel can be based
- § 29:108 Contracts upon which estoppel can be based—
Promissory estoppel
- § 29:110 Ultra vires or illegal acts
- § 29:114 Who may ratify

VI. IMPLIED CONTRACTS

- § 29:116 In general
- § 29:118 Ultra vires matters; illegal agreements
- § 29:119 Agreements invalid for defects in execution
- § 29:121 Benefits; mere acceptance

VII. CONSTRUCTION, OPERATION, TERMINATION, AND ASSIGNMENT

- § 29:123 Construction of contracts
- § 29:124 Construction of contracts—Particular rules
- § 29:125 Law applicable

MUNICIPAL CORPORATIONS

- § 29:126 Performance or breach
- § 29:127 Performance or breach—Extra work
- § 29:128 Performance or breach—“No damages for delay” provisions
- § 29:129.50 Termination for convenience [*New*]
- § 29:130 Modification
- § 29:131 Assignment

VIII. REMEDIES

- § 29:132 In general
- § 29:132.50 Waiver of remedies [*New*]
- § 29:133 Miscellaneous remedies
- § 29:134 Action for breach of contract
- § 29:135 Action for breach of contract—Measure of damages
- § 29:137 Action for breach of contract—Measure of damages—Liquidated damages
- § 29:138 Action for breach of contract—Attorney’s fees
- § 29:139 Action on implied contract
- § 29:140 Recovery of property
- § 29:141 Specific performance and injunction
- § 29:142 Third-party action on contract
- § 29:143 Action for rescission or cancellation
- § 29:146 Invalidity of contract

CHAPTER 30. STREETS AND ALLEYS

I. DEFINITIONS, WHAT CONSTITUTE, AND OTHER GENERAL CONSIDERATIONS

- § 30:2 Highway defined
- § 30:3 Streets and avenues; definition and nature
- § 30:13 Bicycle paths; trails
- § 30:19 Use of streets as public or private

II. ESTABLISHMENT AND OPENING

- § 30:21 Method of establishing streets
- § 30:22 Method of establishing streets—Presumptions; burden of proof
- § 30:23 Prescription
- § 30:24 Prescription—Adverse possession distinguished
- § 30:25 Prescription—Dedication distinguished
- § 30:26 Prescription—Basis of rule
- § 30:28 Basis of rule—Sufficiency of user
- § 30:29 Basis of rule—Duration of user
- § 30:31 Basis of rule—Extent acquired

TABLE OF CONTENTS

§ 30:34 Opening streets

IV. GENERAL CONTROL OVER AND USE BY MUNICIPALITY

§ 30:40 Paramount state powers—Delegations of power; state law preemption

§ 30:41 Municipal powers

§ 30:42 Municipal powers—Preemption by state law

§ 30:43 Municipal powers—Scope and extent

§ 30:53 Effect of municipal permits

V. ABUTTING OWNERS—THEIR RIGHTS AND LIABILITIES

§ 30:55 Rights of abutting owners

§ 30:58 Rights of abutting owners—Unopened streets; “paper streets”

§ 30:62 Liabilities of abutting owners

§ 30:64 Right of access to street

§ 30:67 Shade and ornamental trees

§ 30:69 Shade and ornamental trees—Abutters against third persons *[Retitled]*

VI. ENCROACHMENTS ON STREETS AND USE OTHER THAN TRAVEL

§ 30:95 Sale of goods and merchandise on sidewalks

VII. REMEDIES

§ 30:111 Municipal action to abate or enjoin nuisance

§ 30:113 Municipal action to abate or enjoin nuisance—Defenses

§ 30:116 Remedies of private persons for street obstructions

§ 30:124 Private action to enjoin or abate nuisance—Parties

§ 30:131 Special injuries and damages—Action by private person for damages

Table of Contents

CHAPTER 30. STREETS AND ALLEYS (CONTINUED)

VIII. USE OF STREET BY PUBLIC

- § 30:142 Public use paramount
- § 30:145 Relative rights of travelers—Emergencies
- § 30:146 Relative rights of travelers—Street traffic regulations
- § 30:155 Automobiles—Operation
- § 30:157 Automobiles—Speed limit
- § 30:158 Automobiles-Photo enforcement of traffic violations
- § 30:162 Right of action for personal injuries—Comparative and contributory negligence proximate cause

IX. DISCONTINUANCE OF STREETS

- § 30:165 In general
- § 30:169 Abandonment
- § 30:171 Abandonment—Effect of statutory provisions
- § 30:173 Vacation—Methods
- § 30:176 Vacation—Motives
- § 30:178 Vacation—Discretion as reviewable
- § 30:182 Damages for vacation—“Special” injuries
- § 30:188 Proceedings to vacate—Pleadings and parties
- § 30:189 Proceedings to vacate—Notice
- § 30:196 Hearing—In general
- § 30:199 Hearing—Attacking vacating orders

CHAPTER 31. SEWERS AND DRAINS

- § 31:4 Definitions—Drainage distinguished
- § 31:6 Sewer districts
- § 31:7 Sewer districts—Joint districts
- § 31:8 Sewer districts—Powers
- § 31:10 Municipal control and regulation
- § 31:11 Municipal control and regulation—Express, implied, incidental powers
- § 31:12 Municipal control and regulation—Discretionary powers
- § 31:13 Municipal control and regulation—Property rights

MUNICIPAL CORPORATIONS

- § 31:14 Municipal control and regulation—Contracts relating to sewers
- § 31:15 Municipal control and regulation—Authorities empowered to act
- § 31:16 Extraterritorial control of sewers
- § 31:20 Construction and operation of sewers
- § 31:21 Construction and operation of sewers—Nuisances
- § 31:28 Sewer connections
- § 31:29 Sewer connections—Charges
- § 31:30 Sewer connections—Charges—Rate determination
- § 31:31 Sewer connections—Charges—Users
- § 31:32 Sewer connections—Charges—Payments
- § 31:34 Assessment payments
- § 31:35 Assessment payments—Nonpayment
- § 31:36 Duty to maintain sewers
- § 31:37 Abandonment and closure of sewers and drains

CHAPTER 32. EMINENT DOMAIN

I. GENERAL CONSIDERATION

- § 32:2 Definition and nature of power
- § 32:4 Other powers distinguished—Police power
- § 32:6 Other powers distinguished—Power of special assessment
- § 32:9 Constitutional provisions
- § 32:10 Constitutional provisions—Regulatory taking
- § 32:11 Inherent power of state
- § 32:13 What is “property”?
- § 32:15 Delegation of power to municipalities
- § 32:19 Construction of statutes
- § 32:23 Amount of property which may be condemned
- § 32:24 Necessity as limit of power
- § 32:26 Bad faith takings

II. “TAKING” OF PROPERTY

- § 32:27 Meaning of “taking”
- § 32:29 Meaning of “taking”—Damage or destruction of property
- § 32:30 Meaning of “taking”—Interference with property
- § 32:31 Meaning of “taking”—Flooding
- § 32:32 Meaning of “taking”—Temporary takings
- § 32:33 Taking under police power distinguished
- § 32:34 Taking under police power distinguished—Regulations
- § 32:36 Taking under police power distinguished—Regulations—Zoning and planning
- § 32:41 Preliminary steps as a taking
- § 32:45 Historic preservation ordinances

TABLE OF CONTENTS

§ 32:47 Tax or assessment as a taking

III. “PUBLIC” USES

§ 32:49 Basis of public use doctrine

§ 32:51 Definitions and distinctions

§ 32:52 Legislative determination of public use

§ 32:65 Light, heat or power supply

§ 32:74 Sewers and drains

§ 32:75 Urban renewal; slum clearance; housing

§ 32:76 Urban renewal; slum clearance; housing—Blight removal

IV. WHAT PROPERTY MAY BE TAKEN

§ 32:79.21 Kinds of property that may be taken

§ 32:79.23 Property already devoted to public use

§ 32:79.25 Property already devoted to public use—Same or similar use

V. DISCONTINUANCE OF PROCEEDINGS

§ 32:79.50 Right to discontinue proceedings

§ 32:79.51 Recovery of damages and costs

Table of Contents

CHAPTER 32. EMINENT DOMAIN (CONTINUED)

VI. COMPENSATION

- § 32:80 Basis of right
- § 32:81 Basis of right—Public property taken
- § 32:83 Parties entitled to compensation
- § 32:84 Parties entitled to compensation—Jointly owned property, coowners, cotenants, etc.
- § 32:85 Parties entitled to compensation—Lessor and lessee
- § 32:88 Manner of payment
- § 32:93 Measures of damages
- § 32:94 Measures of damages—Injury to property not taken
- § 32:95 Measures of damages—Regulatory takings
- § 32:96 Measures of damages—Less than fee interests; leaseholds
- § 32:97 Measures of damages—Elements of damage
- § 32:98 Measures of damages—Partial takings
- § 32:99 Valuation
- § 32:100 Valuation—“Market” value
- § 32:102 Valuation—“Before and after” values
- § 32:103 Valuation—Project influence rule
- § 32:104 Valuation—Replacement costs
- § 32:105 Elements of value
- § 32:106 Elements of value—Uses to which property adaptable
- § 32:107 Elements of value—Zoning or rezoning
- § 32:115 Proof of value—Expert witnesses
- § 32:116 Proof of value—Sufficiency of evidence
- § 32:120 Remote, speculative, and contingent damages
- § 32:122 Attorney’s fees, other costs
- § 32:123 Time compensation computed
- § 32:127 Timing of payment—Constitutional regulation
- § 32:129 Timing of payment—No constitutional regulation
- § 32:130 Interest
- § 32:132 The award, judgment, or decree

VII. TITLE AND RIGHTS ACQUIRED, ABANDONMENT, AND REVERSION

- § 32:133 Title acquired by municipality
- § 32:136 Legislative authorization of condemnation in fee simple—Effect
- § 32:140 What constitutes abandonment

VIII. PROCEDURE

- § 32:144 What law governs
- § 32:145 Nature of proceeding
- § 32:146 Compliance with procedural statutes
- § 32:147 Preliminary procedures
- § 32:149 Jurisdiction and venue
- § 32:150 Parties
- § 32:151 Pleadings and defenses
- § 32:152 Notice of proceedings
- § 32:155 Assessment of damages
- § 32:156 Remedies
- § 32:158 Remedies—Injunctions; possessory actions
- § 32:160 Remedies—Appellate review of condemnation
- § 32:161 Remedies—Mandamus, prohibition, declaratory relief
- § 32:162 Remedies—Damage actions or proceedings
- § 32:163 Remedies—Damage actions or proceedings—
Exclusiveness of statutory remedy
- § 32:164 Remedies—Inverse condemnation
- § 32:166 Remedies—Inverse condemnation—Maintaining action
- § 32:167 Remedies—“Inverse” condemnation—Maintaining
action—Standing
- § 32:168 Remedies—“Inverse” condemnation—Grounds for action

CHAPTER 33. DEDICATION

I. NATURE, KINDS AND ELEMENTS

- § 33:2 Definition and nature
- § 33:3 Types and distinguishing characteristics
- § 33:4 Types and distinguishing characteristics—Implied
dedication
- § 33:13 Property which may be dedicated

III. PLATS AND MAPS

- § 33:30 Operation and effect of plat

IV. INTENTION TO DEDICATE

- § 33:35 Necessity for intent to dedicate

TABLE OF CONTENTS

- § 33:36 How intent shown
- § 33:37 Public use as showing intent to dedicate
- § 33:42 Intent must be clearly indicated

V. ACCEPTANCE

- § 33:48 Power to accept
- § 33:49 Necessity for acceptance
- § 33:53 Mode and sufficiency of acceptance

VI. REVOCATION

- § 33:67 Right to revoke

**VIII. RIGHTS AND TITLE ACQUIRED OR
AFFECTED**

- § 33:73 Effect on rights of dedicator

Table of Contents

CHAPTER 34. FRANCHISES

I. DEFINITION, NATURE AND GENERAL RULES

- § 34:4 Franchise defined—Grant as license rather than franchise
- § 34:5 Franchise defined—Franchise as contract
- § 34:6 Franchise defined—Grant to use streets
- § 34:7 Public utility defined
- § 34:8 Public utility defined—What are not public utilities
- § 34:9 Public utility defined—State commissions

II. POWER TO GRANT OR REFUSE FRANCHISE

- § 34:10 Franchise grant as exercise of sovereign power
- § 34:11 Power of state legislature
- § 34:12 Need for municipal consent
- § 34:13 Need for municipal consent—Telecommunication services
- § 34:14 Need for municipal consent—Telecommunication services—Telecommunications towers
- § 34:15 Need for municipal consent—Telecommunication services—Telecommunications towers—Antennas
- § 34:16 Need for municipal consent—Telecommunication services—Management of public rights-of-way
- § 34:17 Need for municipal consent—Telecommunication services—Management of public rights-of-way—Fair and reasonable compensation
- § 34:18 Need for municipal consent—Telecommunication services—Management of public rights-of-way—Scope and authority under the TCA of 1996
- § 34:20 Need for municipal consent—By implication, waiver or estoppel
- § 34:21 Power of municipality
- § 34:22 Power of municipality—Implied power

III. EXCLUSIVE RIGHTS

- § 34:36 Power to grant exclusive franchises—Waste management contracts

§ 34:37 Power to grant exclusive franchises—First Amendment protection for cable television

V. CONTENTS, CONDITIONS, ACCEPTANCE, CONSTRUCTION AND ASSIGNMENT

§ 34:57 Contents—Conditions—Compensation

§ 34:66 Construction

§ 34:67 Construction—Illustrations

VII. EFFECT OF GRANT; GRANTEE'S RIGHTS AND DUTIES

B. POLICE POWER

§ 34:95 Effect of grant on subsequent exercise of police power

§ 34:96 Effect of grant on subsequent exercise of police power—Relocation of facilities

§ 34:97 Effect of grant on subsequent exercise of police power—Reasonableness of regulations

§ 34:100 Effect of grant on subsequent exercise of police power—Reasonableness of regulations—Poles and wires

§ 34:103 License fees

X. CONTRACTS BETWEEN GRANTEE AND MUNICIPALITY

§ 34:145 Power to make

§ 34:146 Power to make—Water supply contracts

§ 34:151 Construction and operation

XI. RATES

B. POWER TO FIX RATES

§ 34:168 Municipal regulatory powers

§ 34:179 Cable television

D. REASONABLENESS OF RATES

§ 34:185 Generally

XII. REMEDIES

§ 34:216 Municipalities

TABLE OF CONTENTS

**CHAPTER 35. MUNICIPAL OWNERSHIP
OF PUBLIC UTILITIES**

- § 35:2 State's power to authorize municipal ownership of public utilities
- § 35:3 Municipal power to own and operate public utilities
- § 35:8 Types of municipally owned utilities—Waterworks
- § 35:11 Types of municipally owned utilities—Electricity plants
- § 35:13 Types of municipally owned utilities—Transportation systems
- § 35:15 Construction and operation of competing plant—Certificates of convenience and necessity
- § 35:16 Construction and operation of competing plant—Conditions precedent
- § 35:19 Acquisition of property outside territorial limits
- § 35:20 Acquisition of existing company's plant
- § 35:28 State's power to compel city to operate
- § 35:29 Ownership, operation as discretionary
- § 35:32 Financing the utility—Special assessments
- § 35:34 Furnishing utility service to individuals or private businesses
- § 35:36 Furnishing supply outside territorial limits
- § 35:42 Furnishing supply outside territorial limits—Contracts for extraterritorial supply
- § 35:44 Rights, duties, and liabilities
- § 35:45 Rights, duties, and liabilities—Rule-making
- § 35:46 Rights, duties, and liabilities—Management and control—Legal actions
- § 35:50 Rights, duties, and liabilities—Discrimination between users
- § 35:56 Rates and service charges
- § 35:68 Rates and service charges—Remedies of municipality
- § 35:69 Rates and service charges—Remedies of patrons
- § 35:70 Rates as taxes, assessments or liens

**CHAPTER 36. MUNICIPAL
ENTERPRISES**

I. IN GENERAL

- § 36:2 Power to engage in business

III. ACTIONS AND REMEDIES

- § 36:13 Tort liability

Table of Contents

CHAPTER 37. PUBLIC IMPROVEMENTS

I. POWER TO MAKE

- § 37:3 Nature of power
- § 37:4 Municipal power
- § 37:5 Municipal power—Joint powers
- § 37:6 Public improvements as legislative matters
- § 37:7 Public improvements as legislative matters—Uniformity
- § 37:9 Authority to provide for improvements
- § 37:10 Delegation of power
- § 37:12 Improvements beyond corporate limits
- § 37:18 Street improvements
- § 37:19 Street improvements—Sidewalks
- § 37:21 Street improvements—Paving, repaving, and repairing distinguished
- § 37:22 Construction of improvement laws

II. MUNICIPAL DISCRETION

- § 37:23 Municipal discretion as beyond court control
- § 37:24 Municipal discretion as beyond court control—
Illustrations
- § 37:25 Constitutional limitations
- § 37:26 Compelling municipality to make improvements
- § 37:28 Materials
- § 37:30 Mode and time of doing work

III. EXERCISE OF POWER

A. GENERAL CONSIDERATIONS; PRELIMINARY PROCEEDINGS

- § 37:38 Preliminary proceedings—Notice
- § 37:49 Preliminary proceedings—Hearing
- § 37:51 Preliminary proceedings—Protest or remonstrance—
Validation actions
- § 37:54 Preliminary proceedings—Protest or remonstrance—
Withdrawal
- § 37:55 Submission to and approval of electors

§ 37:56 Mode of payment for improvement

B. FORMAL ACTION PROVIDING FOR IMPROVEMENT

§ 37:81 Enactment procedure—Notice

§ 37:82 Enactment procedure—Referendum

IV. CONTRACTS

A. EXECUTION AND VALIDITY

§ 37:98 Municipal contractual powers

§ 37:100 Municipal contractual powers—Authorization required

§ 37:101 Constitutional and statutory requirements

§ 37:104 Constitutional and statutory requirements—Resident quotas

§ 37:106 Mode of contracting

§ 37:107 Competitive bidding

§ 37:116 Unauthorized and void contracts

§ 37:118 Unauthorized and void contracts—Severable contracts

§ 37:121 Compliance with improvement statute or ordinance

§ 37:122 Compliance with improvement statute or ordinance—Nonconformance in part

§ 37:127 Assignment or subletting

B. PERFORMANCE

§ 37:133 Contractor's performance of contract as condition precedent to recovery—Defective performance

§ 37:135 Contractor's performance of contract as condition precedent to recovery—Defective performance—Excuses: nonperformance

§ 37:140 Delay and waiver

§ 37:142 Partial performance

§ 37:151 Subcontractors' rights

C. PAYMENT FOR WORK

§ 37:157 Liability of municipality to contractor

§ 37:158 Liability of municipality to contractor—Contractor's right to recover

§ 37:160 Liability of municipality to contractor—Default or neglect of municipality

§ 37:163 Extra pay for extra work

§ 37:170 Method of payment

§ 37:172 Method of payment—Special assessment

§ 37:181 Conditions

TABLE OF CONTENTS

§ 37:186 Defenses

D. LIENS

§ 37:191 Laborers' and suppliers' liens—Construction of lien laws

E. BOND

§ 37:201 Performance of work

§ 37:203 Performance of work—Requisites, validity, and contents

§ 37:207 Security of laborers, suppliers, and subcontractors—
Express requirement by statute or charter—
Coverage—Subcontractors and their suppliers

§ 37:210 Security of laborers, suppliers, and subcontractors—
Form, requisites and sufficiency

§ 37:213 Liability on bond

§ 37:215 Liability on bond—Extent of recovery

§ 37:216 Liability on bond—On abandonment of work

§ 37:220 Actions and defenses—Defenses

V. DAMAGES

§ 37:222 Scope of subdivision

§ 37:223 Consequential damages

§ 37:227 Lost profits

§ 37:242 Sewer and drain construction

§ 37:244 Who liable—Municipality or contractor

§ 37:253 Measure of damages

§ 37:260 Delay in bringing action

VI. REMEDIES

§ 37:268 Judicial interference with public improvements

§ 37:269 Injunction

§ 37:283 Review by appeal

§ 37:284 Certiorari

Table of Contents

CHAPTER 38. SPECIAL TAXATION AND LOCAL ASSESSMENTS

- § 38:1 Nature of special assessments
- § 38:2 Distinction between tax and special assessment
- § 38:3 Distinction between tax and special assessment—
Contrasted with property tax
- § 38:6 Nature of special assessment or taxation—Benefit
conferred theory
- § 38:7 Nature of special assessment or taxation—Under police
power
- § 38:11 Constitutional restrictions
- § 38:14 Constitutional restrictions—Uniformity and equality;
classifications
- § 38:15 Power to levy assessments

I. KINDS OF IMPROVEMENTS AUTHORIZED

- § 38:21 Street improvements
- § 38:22 Street improvements—Exercise of police power
- § 38:32 Sewers and drains
- § 38:37 Waterworks; water pipes
- § 38:39 Parking lots

II. PROPERTY SUBJECT TO ASSESSMENT

A. BENEFITS

- § 38:42 Necessity of benefit to property

D. ASSESSMENT DISTRICTS

- § 38:56 In general
- § 38:60 Creation or establishment—Water and sewer districts
- § 38:63 Boundaries and area of district

III. PROPERTY EXEMPT FROM ASSESSMENT

- § 38:90 Power to exempt; statutory construction

IV. EXERCISE OF POWER

A. POWER TO LEVY ASSESSMENT

§ 38:98 In general

D. MAKING ASSESSMENT

§ 38:118 Levy of assessment generally—Ordinance, resolution or order

§ 38:119 Manner of levying assessment

§ 38:120 Manner of levying assessment—Assessment according to benefits; market value

E. APPORTIONMENT AND REAPPORTIONMENT OF ASSESSMENTS

§ 38:128 In general

§ 38:131 According to benefits

§ 38:135 By front foot

V. THE LIEN

§ 38:171 Creation and existence

§ 38:173 Creation and existence—Property subject to lien

§ 38:179 Priorities and preferences of liens—Priority between mortgages, deeds of trust, and assessment liens

§ 38:182 Enforcement of lien

VI. VALIDITY AND REMEDIES

B. DETERMINATION OF VALIDITY OF ASSESSMENT

§ 38:193 In general

§ 38:194 Presumption of validity generally

§ 38:197 Presumption of validity generally—Weight and sufficiency of evidence

§ 38:199 Collateral attack

D. REASSESSMENTS AND SUPPLEMENTAL OR ADDITIONAL ASSESSMENTS

§ 38:242 Appellate review

E. APPEALS IN ASSESSMENTS PROCEEDINGS

TABLE OF CONTENTS

- § 38:243 In general
- § 38:244 Limitations as to time
- § 38:245 Perfection of appeal
- § 38:249 Scope and extent of review
- § 38:254 Presumptions on appeal

VII. COLLECTION AND ENFORCEMENT

A. REMEDIES AND METHODS OF ENFORCEMENT

- § 38:264 In general

B. MODE OR FORM OF ACTION

- § 38:270 Foreclosure proceedings

F. SALE OF PROPERTY

- § 38:333 Purchaser's title and rights

VIII. RIGHTS AND REMEDIES OF TAXPAYER

- § 38:338 Equitable and declaratory relief
- § 38:339 Mandamus
- § 38:346 Recovery of assessments paid—Burden of proof

Table of Contents

CHAPTER 39. FINANCIAL POWERS IN GENERAL

I. INTRODUCTION

- § 39:3 Sources of revenue
- § 39:6 Sources of revenue—Government exactions—
Development agreements
- § 39:7 Sources of revenue—Government exactions—Dedication
of land
- § 39:8 Sources of revenue—Reimbursements from state
- § 39:10 Financial reports and statements

II. POWER TO BORROW, LOAN AND GIVE NOTES OR ISSUE BILLS

- § 39:11 Power to borrow money

III. POWER TO INCUR INDEBTEDNESS AND MAKE EXPENDITURES

- § 39:22 General rules
- § 39:24 Public purpose required; tests applied
- § 39:25 Public purpose required—Legislative power to authorize
- § 39:26 Public purpose required—Illustrations
- § 39:29 Public purpose required—Expenditures to obtain or
oppose legislation
- § 39:31 Public purpose required—Donations
- § 39:33 Public purpose required—Aid to private individuals,
corporations or associations
- § 39:34 Public purpose required—Interpretation and application
of statutory authorization
- § 39:38 Public purpose required—Constitutional prohibitions
- § 39:40 Amount limitations
- § 39:41 Conditions precedent and procedure
- § 39:42 Conditions precedent and procedure—Multi-year contract
- § 39:45 Certificate that funds are available or indebtedness
lawful
- § 39:46 Effect of unauthorized debts or expenditures

IV. COLLECTION AND DISTRIBUTION OF FUNDS

- § 39:48 Budget law
- § 39:49 Budget law—Preparation and contents
- § 39:50 Budget law—Time of preparation
- § 39:51 Budget law—Mandamus
- § 39:53 Municipal funds
- § 39:55 Special funds
- § 39:63 Transfer of moneys from one fund to another
- § 39:71 Municipal bankruptcy
- § 39:77 Municipal bankruptcy—Plan of adjustment

V. APPROPRIATIONS

- § 39:81 Definition, classification and power to make
- § 39:82 Definition, classification and power to make—
Limitations, restrictions and conditions precedent
- § 39:84 Necessity for appropriation
- § 39:87 Ordinance, passage and contents
- § 39:88 Construction of appropriations
- § 39:91 Mandamus and other remedies to compel appropriations

CHAPTER 40. ELECTIONS RELATING TO INDEBTEDNESS OR ISSUANCE OF BONDS

- § 40:2 Authority to hold elections
- § 40:3 Necessity for election
- § 40:4 Necessity for election—Condition precedent to issuing bonds
- § 40:5 Necessity for election—Transactions not calling for election
- § 40:6 Procedure for calling election
- § 40:11 Holding and conduct of election—Qualifications of voters
- § 40:12 Holding and conduct of election—Ballot considerations

CHAPTER 41. DEBT LIMIT OF MUNICIPALITIES

I. INTRODUCTORY

- § 41:1 General considerations

II. CONSTITUTIONAL, STATUTORY AND CHARTER PROVISIONS

- § 41:3 Constitutional provisions

TABLE OF CONTENTS

§ 41:4 Debt limits prescribed by legislature

§ 41:6 Debt limit for utilities

**IV. CONSTRUCTION AND OPERATION OF
DEBT-LIMITATION LAWS**

§ 41:10 Construction

§ 41:11 Debt limit provisions applications

§ 41:14 Evading debt-limit provisions

**V. OBLIGATIONS TO WHICH DEBT
LIMITATIONS APPLY**

§ 41:18 Indebtedness defined

§ 41:19 Indebtedness defined—Necessity of right to compel
payment

§ 41:22 Purpose and necessity of indebtedness

§ 41:35 Liabilities payable out of special fund only—Liability
payable solely from income of property

§ 41:36 Liabilities payable out of special fund only—Fund created
by levy of tax

**VI. TIME INDEBTEDNESS INCURRED AND
CONTRACT VALIDITY**

§ 41:38 In general

§ 41:39 Contracts for payments for a term of years

**CHAPTER 42. MUNICIPAL WARRANTS
AND OTHER EVIDENCE OF
INDEBTEDNESS**

III. FORM, CONTENTS AND VALIDITY

§ 42:13 Form and contents—Signature

CHAPTER 43. MUNICIPAL BONDS

**I. DEFINITIONS AND GENERAL
CONSIDERATIONS**

§ 43:1 Definitions

II. KINDS OF BONDS

§ 43:14 Revenue bonds

III. VALIDITY AND CONSTRUCTION

- § 43:16 In general
- § 43:17 Validity of bonds

IV. POWER TO ISSUE

A. GENERALLY

- § 43:22 Express power—Construction of statutes
- § 43:27 Debt-limit provisions

C. PARTICULAR KINDS OF BONDS

- § 43:36 Revenue bonds
- § 43:39 Funding and refunding bonds—Construction of statutes

V. CONDITIONS PRECEDENT TO ISSUANCE

- § 43:43 In general
- § 43:44 Petition or consent
- § 43:46 Election

XII. RECITALS IN BOND

- § 43:110 Recitals—Purpose of issue

XIV. PAYMENT

B. SOURCE OF PAYMENT

- § 43:132 Special funds

C. IMPROVEMENT BONDS

- § 43:135 In general

XV. INTEREST

- § 43:138 In general

XVI. REMEDIES

- § 43:141 In general
- § 43:142 Mandamus to compel issuance or approval of bonds
- § 43:143 Determining validity of issue before sale
- § 43:145 Determining validity of issue before sale—Parties
- § 43:146 Determining validity of issue before sale—Notice
- § 43:148 Determining validity of issue before sale—Judgment

TABLE OF CONTENTS

§ 43:155 Action on bonds to recover amount due—Procedure
generally; parties

Table of Contents

CHAPTER 44. TAXATION

II. POWER TO TAX

- § 44:4 In general
- § 44:5 Legislative power
- § 44:7 Delegation of tax authority
- § 44:8 Delegation of tax authority—Constitutional provisions

III. LIMITATIONS ON TAX POWER GENERALLY

- § 44:24 User fees distinguished from “taxes”
- § 44:25 User fees—Regulatory fees distinguished from “taxes”
- § 44:26 Taxation for municipal purposes requirement
- § 44:28 Uniformity—Classifications

VI. TAX PURPOSES

- § 44:43 Public purpose required
- § 44:46 Public purpose required—Application of rule—Streets and highways

VII. PERSONS AND PROPERTY TAXABLE

- § 44:52 Real property
- § 44:60 Property in annexed territory

VIII. TAX EXEMPTIONS

- § 44:85 Construction of exemption provisions
- § 44:86 Construction of exemption provisions—Strict rule is favored
- § 44:87 Taxes to which exemption laws apply

X. LEVY

- § 44:125 Conditions precedent
- § 44:126 Conditions precedent—Voter approval as necessary
- § 44:132 Review—Validity and presumptions

XVI. REMEDIES FOR WRONGFUL TAXATION

§ 44:238 Recovery of taxes paid—Judgment; interest

XVIII. POLL AND EXCISE TAXES

§ 44:251 Gross receipts tax—Public utilities

§ 44:253 Income taxes

Table of Contents

CHAPTER 45. FIRE AND POLICE DEPARTMENTS

I. ORGANIZATION AND CONTROL

A. IN GENERAL

§ 45:1 Legislative control

B. FIRE DEPARTMENTS

§ 45:2 Generally

§ 45:3 Nature; organization; management

§ 45:5 Volunteer fire companies

C. POLICE DEPARTMENTS

§ 45:12 Police boards and commissions—Removal

§ 45:14 Rules and regulations

II. EMPLOYMENT

A. QUALIFICATIONS AND APPOINTMENT

§ 45:17 Chief of police

§ 45:18 Positions as “public officers” or “employees.”

§ 45:19 Appointment

§ 45:21 Promotions

§ 45:22 Discrimination

§ 45:23 Discrimination—Anti-retaliation provisions

§ 45:24 Discrimination—Age discrimination

§ 45:26 Psychological requirements

B. COMPENSATION, BENEFITS AND INJURY RECOVERIES

§ 45:27 Compensation

§ 45:28 Pensions

§ 45:29 Pensions—Calculating the amount of pension

§ 45:30 Pensions—Disability or death in line of duty

- § 45:31 Mandatory retirement at specified age
- § 45:34 Injuries on private premises

III. POWERS, RIGHTS AND DUTIES

- § 45:37 Police officers

IV. ACTIONS AGAINST POLICE OFFICERS AND FIREFIGHTERS

A. INJUNCTIONS

- § 45:54 Police officers

B. LIABILITIES

2. Particular Actions

- § 45:73 Mistreatment of prisoners
- § 45:75 Intentional Infliction of emotional distress
- § 45:76 Misfeasance, nonfeasance and mistake

V. REGULATION OF CONDUCT

A. IN GENERAL

- § 45:83 Off-duty conduct

B. REGULATION OF SPEECH

- § 45:86 Generally
- § 45:88 Generally—Balancing of interests
- § 45:89 Criticism of department/superiors

C. REGULATION OF ASSOCIATION

- § 45:91 General principles

D. REGULATION OF POLITICAL ACTIVITY

- § 45:98 Active participation—Nonpartisan activities
- § 45:100 Candidacy for office

VI. COMPULSORY DISCLOSURES

- § 45:102 Financial disclosure
- § 45:104 Departmental files and records
- § 45:105 Departmental files and records—Public access
- § 45:106 Departmental files and records—Governmental access

TABLE OF CONTENTS

- § 45:108 Departmental files and records—Access in judicial proceedings—Criminal actions
- § 45:113 Drug and alcohol testing

VII. DISCIPLINE, REMOVAL AND TERMINATION

A. IN GENERAL

- § 45:116 Removal

B. GROUNDS FOR DISCIPLINARY ACTIONS

- § 45:120 Unbecoming conduct
- § 45:123 Insubordination or violation of rules—Exercise of constitutional rights—Dismissal for exercise of free speech
- § 45:125 Malfeasance, misfeasance and misconduct
- § 45:129 Excessive absences or tardiness
- § 45:130 Reduction of force

C. RIGHT TO HEARING

- § 45:132 Sources of hearing rights—Constitutional right to hearing

E. JUDICIAL REVIEW AND REMEDIES

- § 45:147 Judicial review

Table of Contents

CHAPTER 46. PUBLIC EDUCATION

I. IN GENERAL

- § 46:1 Scope of chapter
- § 46:2 Public school establishment
- § 46:5 Public school establishment—Formation of and changes in school districts
- § 46:5.50 Detachment of school district properties *[New]*
- § 46:7 Public schools and religion—Establishment Clause
- § 46:10 Public schools and religion—Use of premises for extracurricular activities
- § 46:11 Public schools and religion—Prayers; moments of silence

II. SCHOOL BOARDS AND SCHOOL DISTRICTS

- § 46:27 Powers of boards of education
- § 46:28 Powers of boards of education—Funds
- § 46:33 Powers of boards of education—Contracts
- § 46:36 Powers of boards of education—Taxes
- § 46:40 Powers of boards of education—Textbooks and studies
- § 46:41 School libraries
- § 46:48 Meetings of boards of education

III. OFFICERS, TEACHERS AND EMPLOYEES

A. IN GENERAL

- § 46:63 Nonteaching officers and employees

B. TENURE

- § 46:72 Transfer, reassignment or demotion

C. DISCIPLINE AND TERMINATION

- § 46:75 Generally
- § 46:76 Procedure
- § 46:82 Grounds

MUNICIPAL CORPORATIONS

- § 46:86 Grounds—Criticism of school officials or policies
- § 46:90 Grounds—Unprofessional conduct; miscellaneous
- § 46:90.50 Refusal to use requested pronouns *[New]*

IV. STUDENTS

A. IN GENERAL

- § 46:102 Government and discipline
- § 46:104 Health supervision; vaccination requirements
- § 46:104.50 Mask requirements *[New]*
- § 46:112 Participation in sports
- § 46:114 Personal grooming regulations

B. CONSTITUTIONAL RIGHTS OF STUDENTS

- § 46:115 Right of free speech
- § 46:116 Right of free speech—Student dress as free speech
- § 46:117 Right of free speech—Internet, texting and social media activity
- § 46:117.50 Classroom use of pronouns, name changes, transgender recognition *[New]*

C. STUDENT DISCIPLINE

- § 46:134 Bullying

Table of Contents

CHAPTER 47. CHARITIES, WELFARE AND CORRECTION

- § 47:3 Municipal administration of charity and welfare programs
- § 47:5 Municipal administration of charity and welfare programs—Federal government’s role
- § 47:7 Municipal regulation of private charity; soliciting for charity
- § 47:10 Duty of municipal corporations to support indigent persons—Homeless persons’ right to shelter
- § 47:12 Municipal power to support the poor
- § 47:14 Municipal liability for relief of poor by others
- § 47:20 Public housing-eligibility

CHAPTER 48. CLAIMS AGAINST MUNICIPAL CORPORATIONS

- § 48:1 Valid claims against municipalities
- § 48:3 Presentation or filing of claims—Claims requiring presentation
- § 48:12 When claims bear interest

CHAPTER 49. ACTIONS BY AND AGAINST MUNICIPAL CORPORATIONS IN GENERAL

I. GENERAL CONSIDERATION

- § 49:2 Right to sue and be sued
- § 49:8 Limitation of actions—Actions by municipal corporations
- § 49:11 Laches
- § 49:14 Conditions precedent
- § 49:16 Conditions precedent—Notice of intention to sue
- § 49:17 Jurisdiction
- § 49:22 Parties
- § 49:27 Pleading
- § 49:36 Process
- § 49:40 Defenses

- § 49:52 Appeal and error
- § 49:55 Attorney fees and costs
- § 49:57 Attorney fees and costs—Post-judgment interest

II. PARTICULAR ACTIONS

B. EQUITABLE REMEDIES

- § 49:65 Injunction against city—Application of rules
- § 49:66 Injunction against city—Enactment of ordinances
- § 49:68 Injunction against city—Nuisances

E. CERTIORARI

- § 49:84 Review of acts of a judicial character
- § 49:85 Review of acts of a judicial character—Quasi-judicial acts

G. DECLARATORY RELIEF

- § 49:98 In general
- § 49:99 Necessity of justiciable controversy
- § 49:102 Litigable issues
- § 49:104 Procedure—Parties

CHAPTER 50. QUO WARRANTO

I. INTRODUCTORY

- § 50:2 Nature and purpose

II. CONSIDERATIONS AFFECTING ISSUANCE OF WRIT

- § 50:3 In general; existence of another remedy
- § 50:5 Discretion of court in allowing writ

III. GROUNDS FOR REMEDY

- § 50:6 In general
- § 50:7 Determining right to public office
- § 50:10 Questioning annexation proceedings

IV. PROCEDURE

- § 50:19 Burden of proof and evidence

TABLE OF CONTENTS

CHAPTER 51. MANDAMUS

I. GENERAL CONSIDERATION

§ 51:2 Mandamus defined

**II. GENERAL PRINCIPLES GOVERNING
REMEDY**

§ 51:5 In general

§ 51:8 Discretion in granting writ

§ 51:9 Existence of another remedy

III. RIGHTS AND DUTIES ENFORCEABLE

§ 51:13 Necessity of clear legal right to performance

§ 51:14 Compelling performance of official act; nature of duty

§ 51:16 Discretionary acts

§ 51:17 Discretionary acts—Application of rule

§ 51:19 Ministerial acts

**IV. SPECIFIC INSTANCES WHERE WRIT WILL
BE GRANTED OR REFUSED**

A. IN GENERAL

§ 51:21 Constitutionality or validity of ordinance

B. PUBLIC OFFICERS AND EMPLOYEES

§ 51:30 In general

G. ELECTIONS

§ 51:51 In general

§ 51:52 In general—Actions on ballots

§ 51:54 Determining the vote and certifying the result

I. LICENSES AND PERMITS

§ 51:58 Compelling issuance—Discretion of authorities

V. PROCEDURE

§ 51:82 Review

Table of Contents

CHAPTER 52. CITIZENS' AND TAXPAYERS' SUITS

I. IN GENERAL

- § 52:2 Definition and distinctions
- § 52:4 Nature and elements

II. PROPRIETY OF PROCEEDINGS

- § 52:5 In general
- § 52:7 Statutory provisions
- § 52:8 Illegality of act

III. WHO MAY SUE; STANDING REQUIREMENTS

- § 52:13 Standing in general
- § 52:14 Standing in general—"Concrete" injury requirement
- § 52:16 Pecuniary interest
- § 52:17 Injury different from other taxpayers

IV. REMEDIES GENERALLY

- § 52:19 Form of action
- § 52:20 Actions on behalf of municipality

V. INJUNCTION

- § 52:23 In general
- § 52:24 Discretionary acts
- § 52:36 Levy and collection of taxes

VI. PROCEDURE

- § 52:45 Parties generally
- § 52:47 Complaint or petition
- § 52:50 Burden of proof
- § 52:54 Costs and attorney's fees

CHAPTER 53. MUNICIPAL LIABILITY FOR TORTS

I. IN GENERAL

A. INTRODUCTION

§ 53:3 Common law rule: municipalities liable for torts

B. IMMUNITIES

§ 53:4 In general

§ 53:5 Sovereign immunity—Abrogation of doctrine

§ 53:6 Sovereign immunity—Development of proprietary/
corporate distinction and other exceptions

§ 53:7 Statutory provisions providing municipal immunity

§ 53:8 Legislative immunity

§ 53:9 Prosecutorial immunity

§ 53:10 Statutory provisions providing municipal immunity—
Waiver of immunity

§ 53:11 Statutory provisions providing municipal immunity—
Liability insurance

§ 53:12 Statutory provisions providing municipal immunity—
Exemptions, limitations, conditions

§ 53:15 Discretionary-ministerial distinction

§ 53:16 Discretionary-ministerial distinction—Defining
“discretionary”; “ministerial”

§ 53:19 Discretionary-ministerial distinction—Planning-
operational distinction

§ 53:21 Public duty rule and the special relationship exception

§ 53:22 Public duty rule and the special relationship exception—
Applications of special duty exception

§ 53:24 Public duty rule and the special relationship exception—
Police protection

§ 53:25 Public duty rule and the special relationship exception—
Police protection—Emergency or 911 calls

§ 53:27 Public duty rule and the special relationship exception—
Fire protection

§ 53:28 Immunity of quasi-municipal corporations

§ 53:31 Immunity of quasi-municipal corporations—School boards
and districts

§ 53:32 Municipal property

§ 53:33 Municipal property—Recreational use immunity

§ 53:38 Municipal property—Dangerous conditions on municipal
property

§ 53:40 Willful, wanton, reckless, gross, or malicious misconduct

E. DISCRETIONARY/JUDICIAL/

TABLE OF CONTENTS

**LEGISLATIVE/PLANNING VS.
MINISTERIAL/OPERATIONAL
FUNCTIONS**

- § 53:72 Discretionary distinguished from ministerial duties
- § 53:73 Discretionary distinguished from ministerial duties—
Contrasting planning/operational
- § 53:74 Discretionary distinguished from ministerial duties—
Judicial acts

**F. GOVERNMENTAL VS. CORPORATE/
PROPRIETARY FUNCTIONS**

- § 53:80 Corporate or proprietary acts; definitions
- § 53:81 “Governmental” acts
- § 53:103 Emergency medical services

II. NUISANCES

- § 53:109 Nuisances

IV. RESPONDEAT SUPERIOR

- § 53:125 In general
- § 53:129 Scope of authority
- § 53:144 Sections 1981 and 1983 actions

Table of Contents

CHAPTER 53. MUNICIPAL LIABILITY FOR TORTS (CONTINUED)

V. ACTS OF PARTICULAR OFFICERS

- § 53:145 Negligent hiring
- § 53:146 Police officers
- § 53:147 Police officers—Immunity
- § 53:151 Police officers—Nonfeasance—Failure to restrain intoxicated motorist
- § 53:152 Police officers—Negligence
- § 53:153 Police officers—Off-duty officers
- § 53:155 Police officers—Assault and battery
- § 53:157 Police officers—Taking or damaging property
- § 53:161 Police officers—Operation of vehicles
- § 53:162 Police officers—Wrongful death
- § 53:164 Firefighters, ambulance drivers and paramedics
- § 53:165 School officials and educational personnel
- § 53:169 Animal control officers
- § 53:171 Health officers
- § 53:174 Social workers
- § 53:176 Boat operators
- § 53:178 Acts of mayor

VI. PROPERTY OWNED BY MUNICIPALITY

- § 53:180 Modern view on liability
- § 53:181 Modern view on liability—Dangerous conditions
- § 53:182 Modern view on liability—Waiver of immunity
- § 53:185 Public housing
- § 53:186 Municipal buildings
- § 53:197 Waterworks
- § 53:202 Garages; parking places
- § 53:205 Subways
- § 53:207 Parks
- § 53:208 Beaches and swimming pools

VII. SEWERS AND DRAINS

- § 53:213 In general

MUNICIPAL CORPORATIONS

- § 53:214 Sewers as to which liability exists
- § 53:222 Notice of defects or obstructions
- § 53:224 Nuisances—Liability for personal injury

VIII. WATERCOURSES

- § 53:228 In general

IX. PESTICIDE REGISTRATION

- § 53:236 Pollution of waters—Remedies

X. SURFACE WATER

- § 53:237 In general
- § 53:239 Liability for public improvements; “common enemy” rule

XI. MOBS AND RIOTERS

- § 53:243 Common-law rule of immunity
- § 53:244 Statutory liability
- § 53:247 Actions

XII. NOTICE OF THE “ACCIDENT”

- § 53:248 In general
- § 53:249 Statutory and charter provisions
- § 53:251 Statutory and charter provisions—Compliance with statute
- § 53:252 Failure to comply with notice requirement; excuse
- § 53:253 Statutory and charter provisions—Object and purpose
- § 53:254 Notice as a condition precedent to suit
- § 53:256 Waiver and equitable estoppel
- § 53:260 To whom given
- § 53:261 Time for giving
- § 53:263 Sufficiency generally
- § 53:264 Form and contents
- § 53:266 Form and contents—Time of accident
- § 53:267 Form and contents—Place of accident
- § 53:270 Amendment

XIII. SECTION 1983 LIABILITY

- § 53:272 In general—Who are “persons” under the Act
- § 53:273 In general—“Shocks the conscience” standard
- § 53:278 State-created danger theory
- § 53:284 Policies and customs
- § 53:285 Policies and customs—What constitutes “official” and “custom”

TABLE OF CONTENTS

- § 53:286 Policies and customs—Inadequate training
- § 53:288 Custodial relationships giving rise to constitutional rights—Detainees and prisoners

Table of Contents

CHAPTER 53A. ENVIRONMENTAL LIABILITY

I. IN GENERAL

§ 53A:1 Environmental regulation; preemption

II. STATUTORY VIOLATIONS

§ 53A:18 Clean water

§ 53A:22 Hazardous waste regulations

CHAPTER 54. MUNICIPAL LIABILITY FOR DEFECTIVE STREETS

I. GENERAL RULES

§ 54:1 Municipal corporations

§ 54:5 Common-law—Duty to construct, maintain and repair
public ways

§ 54:26 Delegation of duty

III. PARTS OF WAYS TO WHICH LIABILITY EXTENDS

§ 54:60 Curbs and gutters

IV. LIABILITY

§ 54:67 Liability of third persons—Abutters

VI. PARTICULAR CONDITION AS CAUSE OF INJURY

A. STREETS

§ 54:84 Street defects and obstructions

§ 54:90 Obstructions generally—Vehicles left in street

MUNICIPAL CORPORATIONS

- § 54:95 Openings, excavations, potholes, and other holes,
generally
- § 54:112 Overhanging or falling objects—Trees or limbs

B. SIDEWALKS

- § 54:120 Sidewalk defects and obstructions—Slight defects or
obstructions
- § 54:121 Sidewalk defects and obstructions—Slight defects or
obstructions—Sufficiency of defect or obstruction
- § 54:127 Excavations, holes, openings and irregularities,
generally—Differences in sidewalk levels

**VII. DUTY TO GUARD AND WARN AGAINST
DANGER**

- § 54:148 General rule

**VIII. NOTICE OF DEFECTS AND
OBSTRUCTIONS**

- § 54:173 Necessity for notice—Defects in original construction or
design exception
- § 54:177 Actual notice
- § 54:180 Actual notice—Sufficiency of notice
- § 54:191 Notice of snowy or icy condition

XI. PRACTICE AND PROCEDURE

- § 54:273 Burden of proof