

## Subpart B

### RELATED ACTS\*

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\* **Editors Note:** Certain special acts relating to the City of Warwick are set out in this subpart for historical purposes and for the benefit of the reader. The parenthetical history notes following each section show its derivation. Obvious misspellings have been corrected without notation. Additions made for clarity are indicated by brackets. A uniform system of citations to state law has been used to conform to the Code of Ordinances.

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## CHAPTER 1.

### BOARD OF PUBLIC SAFETY\*

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\* **Editors Note:** The board of public safety was created by section 8-6 of the city Charter (P.L. 1960, ch. 150), which section specifies that the board of public safety shall have all the powers, etc., of the former board of police commissioners and the former bureau of fire.

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## ARTICLE I.

### BOARD OF POLICE COMMISSIONERS

#### **Sec. 1.1. Created; number of members; initial appointments.**

There shall be a board of police commissioners for the town of Warwick, consisting of three members, all of whom shall be qualified electors of said town. At the present [1911] session of the general assembly, the governor, with the advice and consent of the senate, shall appoint one member of said board to hold office until the first day of January, A.D. 1916; one member to hold office until the first day of January, A.D. 1915; and one member to hold office until the first day of January, A.D. 1914.  
(P.L. 1911, ch. 695, § 1)

#### **Sec. 1.2. Annual election of members.**

In the year 1913, and annually thereafter, the electors of the town of Warwick shall, at the annual election to be holden on the first Tuesday after the first Monday in November, elect one member of said board [of police commissioners], to hold office for three years, beginning with the first day of January next succeeding his election, to succeed the member of said board whose term then expires.  
(P.L. 1911, ch. 695, § 2)

#### **Sec. 1.3. Members to be sworn; chairman of board.**

Said members [of the board of police commissioners] shall be sworn to the faithful performance of their duties according to law. The governor shall designate one of the members of said board so appointed by him in the year 1911, as chairman of such board, and thereafter the members of said board shall annually elect one of their number as chairman of said board upon the election of any new member for a full term.  
(P.L. 1911, ch. 695, § 3)

#### **Sec. 1.4. Filling vacancies; removal of members appointed by the governor.**

Any vacancy which may occur in said board [of police commissioners] when the senate is not in session

shall be filled by the governor until the next session thereof, when he shall, with the advice and consent of the senate, appoint some person to fill such vacancy for the remainder of the term. The members of said board appointed by the governor, may be removed by the governor, with the advice and consent of the senate, for such cause as he shall deem sufficient, and shall express in the order of removal.

(P.L. 1911, ch. 695, § 4)

#### **Sec. 1.5. Appointment of board clerk; duties of clerk.**

Said board of police commissioners shall appoint a clerk, who shall be sworn to the faithful performance of his duties, and shall hold office during the pleasure of said board. Said clerk shall keep a record of all proceedings, issue all notices, and attest all papers and orders as said board shall direct, and shall perform such duties as shall be designated by said board.

(P.L. 1911, ch. 695, § 5)

#### **Sec. 1.6. Annual report; records to be open.**

Said board [of police commissioners] shall make a detailed report of its proceedings each year, during the month of January, to the governor, and also file a copy of said report with the town clerk of the town of Warwick, which report, as filed, shall become a public record. The records of said board shall at all times be open to the inspection of the governor or to such person or persons whom he may designate in writing.

(P.L. 1911, ch. 695, § 6)

#### **Sec. 1.7. Power to appoint, remove, fix salaries, and make rules and regulations.**

The board of police commissioners shall have authority to appoint, remove, and control the chief of police, deputy chief, constables, police constables, police surgeons, police matrons and special liquor officers, and all other attaches of the police department of said town, and to fix the salaries of such officers and agents of the board, and shall have authority to make all necessary rules and regulations for their efficiency, management and direction, not inconsistent with the laws of the state of Rhode Island. All the powers now vested in the town council of said town or other competent authority, concerning the qualification, appointments, removal, organization, compensation, term of office, discipline or control of all attaches of the police department of said town, by the statutes, the state laws, or by special laws relative to said town, or by any ordinance of said town, are hereby conferred and vested in said board.

(P.L. 1911, ch. 695, § 7)

#### **Sec. 1.8. Effect of act on existing officers, etc., and ordinances.**

The chief of police, deputy chief, special officers, constables, and police constables, and all other attaches of the police department of said town in office when this act shall take effect, shall continue to hold their several offices until otherwise ordered by said board, and all ordinances of said town, rules, and regulations of the town council thereof, which are then in force for the government and organization of the police, shall continue in force until otherwise ordered by said board.

(P.L. 1911, ch. 695, § 8)

#### **Sec. 1.9. Police powers vested by act.**

The members of said board [of police commissioners], the chief of police, and other police officers and constables, and police constables, and special officers appointed by said board, shall have and exercise within the town of Warwick, all the statutory powers of constables, except the power to serve civil process; and shall also have all the powers given to the chief of police, or the members of the police of said town as town watchmen or otherwise, respectively, at the time this act takes effect, by the statutes of the state, the laws relating to said town, or by any ordinance of said town, or otherwise.  
(P.L. 1911, ch. 695, § 9)

#### **Sec. 1.10. Board to serve as license commissioners.**

Said board [of police commissioners] shall also have and exercise within and for said town, all the power and authority which shall be vested in and conferred by law upon the town council of Warwick as license commissioners of said town on the date of the passage of this act, and from and after the date of its passage and approval by the governor, said town council shall cease to perform such office for said town, and the town council shall order the clerk of said town council to deliver to said board of police commissioners, all their books, records, documents and papers relative to the granting of licenses of every description in said town, and the clerk of the board of police commissioners shall thereafter exercise all the powers and discharge all the duties then conferred upon the clerk of the town council.  
(P.L. 1911, ch. 695, § 10)

#### **Sec. 1.11. General licensing powers and duties; appointment of constables.**

Said board [of police commissioners] shall also exercise in said town all the power and authority conferred upon said town council thereof, or other competent authority, by the statutes of the state, by special laws relating to said town, by ordinance of said town or otherwise, in respect to the following matters and things, and shall have the like power to make such needful rules and regulations concerning the same as are not inconsistent with the statutes of the state, that is to say, liquor licenses, the licensing of private detectives, pawn brokers, taverns, and victualing-house licenses, the licenses of keepers of shops for the purpose of sale or barter of junk, old metals or any secondhand articles, and dealers therein, the licensing of dogs, newsboys, bootblacks, bowling alleys, pistol galleries, rifle galleries, billiard tables, bagatelle tables, pool tables, scipio tables, or tables of a similar character, when kept in any saloon, shop, or place of business in said town, or when kept for public use or profit; the licensing of persons to sell goods, wares, or merchandise, ice-cream, and other articles and substances on the streets of said town, the licensing of all persons to sell fruits and vegetables from carts and baskets, and the licensing of hawkers and peddlers in said town, in addition to the state license required by law, the licensing or prohibiting the giving publicly, or for pay or advantage of any kind, of boxing, sparring, or wrestling matches for exhibition, or other exhibitions of skill, strength, or endurance of man or beast, theatrical performances, moving pictures, rope or wire dancers, roller skating in rinks or halls, dances, balls, fairs, or any other show or performance, and the appointment of railroad and steamboat police, and of constables under any law, [and] the appointment of constables for any purpose, which constables and police constables shall severally hold their office during the pleasure of said board.  
(P.L. 1911, ch. 695, § 11)

#### **Sec. 1.12. Powers when hearing cases; swearing witnesses, issuing subpoenas, etc.**

The members of said board [of police commissioners] are hereby severally authorized to administer oaths, and said board, in all cases pending before it, is hereby authorized and empowered to summon witnesses

by subpoena, signed by the clerk of said board, and to compel such witnesses to attend and testify in like manner as in the supreme or superior court, and said board is authorized to compel the production of all papers, books, documents, records, certificates or other legal evidence that may be necessary or proper for the determination and decision of any question, or the discharge of any duty required by law of said board, by issuing a subpoena duces tecum signed by the clerk of said board, and every person disobeying any such writ shall be considered as in contempt of said board, and said board may punish any contempt of its authority in like manner as contempt may be punished in either the supreme or superior court. Any person who shall wilfully swear falsely in any proceeding, matter, or hearing before said board, shall be deemed guilty of the crime of perjury.

(P.L. 1911, ch. 695, § 12)

### **Sec. 1.13. Removal of appointees; revocation of licenses.**

Said board [of police commissioners] may remove from office at any time any officer appointed by it or placed under its control by law, and may revoke any license granted by it, pursuant to the provisions of section 11 of this act, for violation of the laws of the state, or of any of the rules or regulations made by it concerning the exercise of the privilege conferred by such license.

(P.L. 1911, ch. 695, § 13)

### **Sec. 1.14. Maximum amount of fee.**

In all cases hereinbefore enumerated, in which the maximum fee chargeable for any license or appointment is fixed by the state law, by ordinance of said town or otherwise, said board [of police commissioners] shall charge and collect the maximum amount of fee permissible for such license or appointment at the time this act takes effect until otherwise ordered by said board [of police commissioners].

(P.L. 1911, ch. 695, § 14)

### **Sec. 1.15. Monthly delivery of license fee funds to treasurer.**

Said board [of police commissioners] shall pay over to the town treasurer of said town on the first business day of each month, all moneys and fees received in payment for licenses.

(P.L. 1911, ch. 695, § 15)

### **Sec. 1.16. Salaries of board members, clerk.**

The annual salary of each member of said board [of police commissioners] shall be five hundred dollars (\$50.00) [sic] and said board is hereby authorized to determine the salary of the clerk of said board: Provided, however, that such salary shall not exceed the sum of six hundred dollars (\$600.00). Said salaries shall be paid monthly from the treasury of the town of Warwick out of any sums of money received in accordance with section 15 of this chapter.

(P.L. 1911, ch. 695, § 16)

**Cross References:** For salary of members of board of public safety, see § 64-5 of the Code of Ordinances.

### **Sec. 1.17. Office space, etc.; cost of same to be paid by town; board to have charge of police property.**

Said board [of police commissioners] shall provide itself with such rooms, furnishings and supplies for, and care for the same, as shall be convenient and suitable for the performance and discharge of said board's

duties, the expenses of which, and all other expenses for the maintenance of police, the pay of police, the purchase of supplies and repair of property for police use, and all other incidental expenses of said board shall be paid for by said town treasurer upon requisition of said board, and all police property which said town now has or shall have, shall be placed in charge of said board.

(P.L. 1911, ch. 695, § 17)

**Sec. 1.18. Town treasurer authorized to pay salaries under act; salary limitation; use of seal of board.**

The town treasurer of the town of Warwick is hereby authorized, empowered and directed to pay the salaries of the members of said board [of police commissioners], the clerk of said board, as specified in Section 16 of this act, the salaries of police officers appointed by said board, or by law, in office at the time of the passage of this act, and thereafter, and all other incidental expenses enumerated in the foregoing section on presentation to the town treasurer of an order from said board certifying such expenses in detail and that such bills or accounts are correct: Provided, however, that the sum or sums so expended by said board shall not in any one year exceed five thousand dollars (\$5,000.00), exclusive of the salaries provided for in Section 16 of this act; and provided, further, that said sum of five thousand dollars or such part thereof as may be expended in any one year, shall be paid by the town treasurer from the moneys received by said board as license fees. Said board shall have a seal and all its processes and orders shall bear the seal of said board and the signature of the clerk.

(P.L. 1911, ch. 695, § 18)

**Sec. 1.19. Bond of board members, clerk.**

Said [members of the board of police] commissioners shall each give a satisfactory bond in the sum of ten thousand dollars (\$10,000.00) to said town of Warwick, with sureties satisfactory to the town treasurer, and the clerk of said board shall give a like bond, with sureties satisfactory to said board, for the faithful performance of the duties of the office, and the expenses of procuring said bonds shall be paid by the town treasurer from said license fees.

(P.L. 1911, ch. 695, § 19)

**Sec. 1.20. Quorum.**

Two (2) members of said board [of police commissioners] shall constitute a quorum for the transaction of all business under the provisions of this act.

(P.L. 1911, ch. 695, § 20)

**Sec. 1.21. Effective date; repealer; effect of act on existing licenses, etc.**

This act shall take effect on and after its passage, and all acts and parts of acts, including special acts, relative to said town, inconsistent herewith are hereby repealed: Provided, however, that nothing herein contained shall in any way invalidate or annul any license for the sale of intoxicating liquors or licenses of any other nature which have lawfully been issued by the town council of said town of Warwick at any time in the current year prior to the passage of this act; and provided, further, that all applications for licenses and transfer of licenses, and all other remonstrances against the same or other business pending before said town council on the passage of this act shall be transmitted to said board of police commissioners for adjudication and determination.

(P.L. 1911, ch. 695, § 21)

## **ARTICLE II.**

### **BUREAU OF FIRE**

#### **Sec. 1.22. Bureau of fire created; membership; partisan representation.**

There shall be a bureau of fire for the city of Warwick, hereinafter referred to as said bureau, consisting of three members, no more than two of whom shall be of the same political party all of whom shall be qualified electors of said city, which is authorized and empowered to provide fire protection for the city of Warwick.

(P.L. 1953, ch. 3136, § 1)

#### **Sec. 1.23. Appointment and removal of members of the bureau of fire; term, compensation, duties, duty of city council.**

The city council of said city of Warwick are [is] authorized, empowered and directed to provide by ordinance for the appointment and removal of said members [of the bureau of fire] the terms of office, and the compensation of said members; and the duties of said members.

(P.L. 1953, ch. 3136, § 2)

#### **Sec. 1.24. City council to provide for fire chief and subordinates; appointment, promotion, etc.**

The city council shall also provide by ordinance for a chief, and other subordinate members and officials as it deems necessary for the proper operation of a fire department; the appointment, promotion, demotion, hiring and removal of any and all such subordinate members; provided, however, that the ordinance shall require that all personnel of the fire alarm department, and the "permanent drivers" so called, presently employed, shall become members of the Warwick fire department at their present pay and work classifications.

(P.L. 1953, ch. 3136, § 3)

#### **Sec. 1.25. Removal, suspension, reduction in rank of fire department members.**

Any member of the fire department, including the chief, shall be subject to reduction in rank or removal from office by the bureau at any regular or special meeting thereof, for misconduct, incapacity, infraction of the rules, neglect of duty or insubordination of such character as said bureau [of fire] may deem a disqualification for said office; and all such reductions or removals shall be made by said bureau [of fire] upon charges made in writing, and a copy served upon said member so charged, at least 5 days before the date of hearing. Said hearing shall be held at the next regular or special meeting of the bureau which shall be held no later than 30 days of said reduction in rank or removal from office. Said member shall have the right to be represented by counsel. Provided, however, the chief shall have the right to suspend any subordinate officers or members for cause and any such suspended officer or member shall be entitled to a hearing before the bureau as provided for in this section.

(P.L. 1955, ch. 3554, § 1)

#### **Sec. 1.26. Authority of city council to make rules and regulations governing the fire department.**

The city council of the city of Warwick may by ordinance make all needful rules and regulations for the discipline, efficiency, management and direction of said fire department, or delegate such authority to the bureau [of fire]; establish pay schedules, pension fund, or other benefit, which rules and regulations shall be administered by members of said bureau.

(P.L. 1953, ch. 3136, § 5)

**Sec. 1.27. Providing fire protection in areas where there exists a fire district.**

Nothing contained herein [P.L. 1953, ch. 3136, as amended] shall be construed to permit the said bureau [of fire] to provide fire protection for any area in the city of Warwick wherein there is an existing fire district created by the general assembly for the state of Rhode Island.

(P.L. 1953, ch. 3136, § 6)

**Sec. 1.28. Effective date of act; repealer.**

This act [P.L. 1953, ch. 3136, as amended] shall take effect upon its passage and all acts and parts of acts inconsistent herewith are hereby repealed.

(P.L. 1953, ch. 3136, § 7)

**CHAPTER 2.**

**SEWERS AND SEWERAGE\***

**ARTICLE I.**

**SEWER AUTHORITY**

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\* **Editors Note:** The Warwick Sewer Authority was created by P.L. 1962, ch. 254. Subsequent amendments which are substantive in nature are reflected in the history notes following each section, as well as in the Charter Comparative Table.

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**Sec. 2.1. Authority to plan, etc., sewage works; definitions; bonding authorized; sewer charge, assessment authorized.**

The city of Warwick is authorized and empowered, in accordance with the provisions of this act, to plan, lay out, construct, finance, operate and maintain sewage works for a part or the whole of its territory and for such purposes to take by eminent domain or otherwise any lands, water rights, rights-of-way, or easements, public or private, in said city necessary for accomplishing any purpose mentioned in this act. Such sewage works may include sewers and sewer service connections, pumping stations, sewage treatment works, sewage disposal works, and other works essential to the proper collection and disposal of the sewage of said city.

As used in this act, unless the context otherwise requires:

"Authority" means the sewer authority authorized by this act.

"City" means the City of Warwick.

"City Council" means the city council of the City of Warwick.

"Common sewer" means a sewer in which all abutters have equal rights of entrance and use.

"Cooling water" shall include the clean waste water from air conditioning, industrial cooling, condensing and similar apparatus and from hydraulically powered equipment. In general, cooling water will include only water which is sufficiently clean and unpolluted to admit of being discharged, without treatment or purification, into any natural open stream or watercourse without offense.

"Force Main" means a sewer wherein sewage is moved by pressure.

"Highways" means any state or other highway and any public street, alley, park, parkway, driveway, bridge or public place.

"Land" means and includes any land, including building and other improvements thereon, estate, riparian or other right, easement, interest or waterway.

"Lateral sewer" means a sewer which does not receive the sewage from any other common sewer.

"Main sewer" means a sewer into which the sewage from two or more sub-main sewers is discharged.

"Mayor" means the mayor of the City of Warwick.

"Sewage" shall mean waste water, water carried wastes, or a combination of them, discharged into and conveyed by sewers or intended or customarily so discharged and conveyed. Sewage may be further classified as follows:

"Sanitary sewage" shall mean the common waste water and water carried wastes from human dwellings and from toilet and lavatory fixtures, kitchen, laundries and similar facilities of business and industrial buildings. In general, sanitary sewage shall not include storm water from roofs, yards, streets or open spaces, water from land surfaces or brooks, clean waste or overflows from springs, wells, or subsoil drainage, large volumes of clean water from air conditioning or other cooling or condensing facilities, clean waste water from hydraulically operated contrivances and those wastes included within the definition of "industrial waste" next following.

"Industrial wastes" shall include the liquid or water carried wastes of any industrial process not clearly included within the definitions of sanitary sewage, storm water, cooling water or subsoil drainage herein. In general, waste waters carrying any quantity of oils, grease, fats, abrasives, chemicals, residues of manufacturing processes, wastes from commercial food preserving or canning, from slaughter houses or meat processing plants, and similar substances, whether dissolved, in suspension, or mechanically carried by water, shall be considered as industrial wastes.

"Seepage" or "subsoil drainage" shall include water from the soil percolating into subsoil drains and through foundation walls, basement floors, or underground pipes or from similar sources.

"Sewage works" means all constructions for collection, transportation, pumping, treatment and final

disposition of sewage.

"Sewer service connection" means a pipe to convey sewage and wastes from a building to a common sewer.

"Storm water" shall include the runoff or discharge of rain and melted snow or other clean water from roofs, surfaces of public or private lands or elsewhere. For most purposes within the scope of this ordinance, storm water shall not include the flow of any natural brook, rivulet or stream even if the source of such water is storm runoff from land or other property once that runoff has entered the channel of such brook or natural watercourse. In general, storm water shall include only water which is sufficiently clean and unpolluted to admit of being discharged, without treatment or purification, into any natural open stream or watercourse without offense.

"Sub-main sewer" means a sewer into which the sewage from two or more lateral sewers is discharged.

The City of Warwick may provide for the construction of sewers and for other sewage works for said city and may raise funds therefor by borrowing or otherwise, and for that purpose may issue bonds or notes for the city in accordance with the provisions hereinafter stated or under other authority.

The sewer authority shall provide that annual charges shall be made upon the owners of the lands using the sewer works and that sewer assessments shall be made upon the owners of lands for which the use of sewage works is available. The sewer authority may further provide that connect capable charges shall be made upon property owners whose property is abutting on that portion of any highway in which a common sewer is laid, while said property remains unconnected to the city's sewage system. The receipts from annual charges, sewer assessments and connect capable charges shall be appropriated for and applied to the payment of the charges and expenses incident to the planning, construction, financing, operation, maintenance, renewal and replacement costs of the sewage works, and to the payment of principal and interest costs for any bonds or notes issued or outstanding for the sewage works, and any deficiency of said receipts in any year for said purposes shall be made by the city tax pending the authority in the next fiscal year eliminating said deficiency and reimbursing the city for any moneys advanced through the increasing of the rates established for annual charges and/or connect capable charges.

(P.L. 1962, ch. 254, § 1; P.L. 1988, ch. 479, § 1; P.L. 1991, ch. 86, § 1; P.L. 1998, ch. 39, § 1(1))

## **Sec. 2.2. Sewer authority.**

There shall be a bi-partisan sewer authority for the city consisting of five (5) qualified electors of the city, not more than three (3) of whom shall be members of the same political party, to be appointed by the mayor subject to confirmation by the city council. Upon passage of this act, the mayor, within eighty (80) days thereafter, shall appoint the five (5) members of the authority, two (2) of each from lists of ten (10) names submitted by the respective chairman of the city political committees and one (1) member without party designation; one (1) member to hold office until one (1) year from the first day of February preceding said appointment, one (1) member to hold office until two (2) years from the first day of February preceding said appointment, one (1) member to hold office until three (3) years from the first day of February preceding said appointment, one (1) member to hold office until four (4) years from the first day of February preceding said appointment, and one (1) member to hold office until five (5) years from the first day of February preceding said appointment, and in the month of January preceding the expiration of the term of each of said members, the

mayor shall appoint one (1) member to succeed the member whose term will next expire to hold office for the term of five (5) years from the first day of February next after his appointment and until his successor is appointed and qualified in the same manner as provided in the original appointment for such term. In case any person appointed as a member of said authority shall decline to serve or neglect to qualify within ten (10) days after his appointment, or a vacancy shall occur in said authority for any other cause, the mayor shall appoint some person to fill such vacancy for the unexpired term in the same manner as provided in the original appointment for such term. A person holding any other office of emolument or profit under the government of the city shall not be eligible to membership on the authority and if any member of said authority shall accept any such office or shall remove from the city, his place on the authority shall immediately become vacant. The members of the authority shall be severally sworn to the faithful performance of their duties under this act. They shall elect from among their members a chairman and a secretary at the first meeting after the organization and upon the appointment of any new member for a full term and shall fill any vacancy that may occur in either office from any cause. A majority of the members of the authority shall constitute a quorum for the transaction of business. The mayor may remove any member of the authority from office for cause shown after a hearing before the city council of which such member shall be given seven (7) days' notice in writing.

The mayor, with the advice and consent of the city council, shall fix the compensation of the members of the authority and shall annually appropriate a sum sufficient to pay the same together with a sum sufficient for office expenses. The authority may adopt by-laws governing the transaction of business but no such by-laws shall authorize any action by the authority except by a majority vote thereof and with the advice and consent of the mayor.

The authority appointed by the provisions of this section, until the remaining sections of this act take effect upon acceptance by referendum as further provided herein, shall have the following interim powers and duties:

The authority shall review the sewer survey in order to develop procedures for the implementation of the general sewer program and to conduct preliminary studies in order to execute the administrative details contained in this act.

Such activities may include:

- (a) The planning and programming of the various phases of the sewer project, and
- (b) A review of the procedures of various financing programs in terms of charges and assessments to be instituted upon the commencement of the construction of sewers, and
- (c) An establishment and exercise of a public information program.

The members of the authority and their duly authorized agents may enter upon any premises within the city to examine, inspect or survey the same, whenever necessary for the performance of their duties under this act.

(P.L. 1962, ch. 254, § 2; P.L. 1988, ch. 479, § 2; P.L. 1991, ch. 86, § 2)

**Cross References:** For salary of members of sewer authority, see § 64-5 of the Code of Ordinances.

### **Sec. 2.3. Preparation of plans; public hearing; reports; specifications; estimates.**

Without in any way limiting the authority of said city to provide sewers anywhere within the territorial limits of the city, the sewer authority, with the advice and consent of the mayor, may authorize the construction, maintenance, and operation of sewage works from time to time in different areas or sections of the city. The authority shall proceed to prepare construction plans, specifications and cost estimates of sewage works for the city, or any portion thereof, allowing the streets and highways in which the sewers will be placed and the location of other sewage works to be placed outside of the street and highway limits. The authority shall also prepare, or have prepared, a report describing the proposed sewage works and a complete estimate of costs therefor.

When such plans, specifications, report and estimates are completed, they shall cause to be held a public hearing. Notice of the hearing shall be published in a public newspaper having circulation in the City of Warwick at least five (5) days prior to the hearing.

The finance director, with the consent of the mayor and a requisition signed by a majority of the authority, shall appropriate a sum sufficient to pay the cost of preparing the plans, specifications, report and estimates provided for in this section, to be expended by the authority, and to be paid by the city treasurer upon vouchers approved by the mayor and a majority of the authority and the finance director, and the city treasurer shall repay the treasury any sums so expended whenever sewer bonds or notes are issued as hereinafter provided.

In the preparation of plans, specifications, reports and estimates provided in this section, the authority may, with the consent of the mayor, from time to time employ and fix the compensation of such consulting engineers, legal advisers, and other professional experts, and such other employees as it may find necessary and may discontinue the employment of any or all such employees.

(P.L. 1962, ch. 254, § 3; P.L. 1988, ch. 479, § 3; P.L. 1991, ch. 86, § 3)

#### **Sec. 2.4. Construction of works; contracts; operation and maintenance of works; employment of professionals; records; minutes.**

Upon the completion of a public hearing of the plans, specifications, reports and estimates as provided in section 3 [2.3] hereof, the sewer authority, with the advice and consent of the mayor, shall proceed as soon as may be practicable to carry out construction work contemplated by the plans aforesaid. The authority, with the advice and consent of the mayor, shall be vested with full authority to construct sewage works for said city, and to make for and on behalf of the city all necessary contracts for construction and for the purchase of property, supplies and equipment. All work, supplies, materials and equipment required by the authority in connection with the construction of the sewage works shall be procured by contract made pursuant to and in manner required by the provisions hereof. For all contracts involving more than five thousand dollars (\$5,000), except in the case of legal services, the services of consulting engineers and other professional services, said authority shall not issue purchase orders without obtaining the prior consent of the mayor and thereafter filing a monthly report of such contracts with the city council. The operation, maintenance and reparation of said sewage works shall be vested in the authority.

The authority, with the advice and consent of the mayor, may from time to time employ and fix the compensation of such professional engineers, legal advisors, surveyors, draftsmen, clerks, and other employees as it may find necessary for the construction, operation, maintenance and repair of said sewage works, and may at any time discontinue the employment of any or all such employees subject to compliance with the rules and

regulations of the city's personnel administration. The authority shall cause to be kept a record of all its accounts and proceedings and an accurate account of all its transactions, and shall annually, and at such other times as directed by the mayor or the city council, report to the city council its doings and make a report in detail of its financial accounts. The authority shall keep minutes of all its proceedings showing the vote of each member upon each question or if such member be absent or fails to vote, indicating such fact; and shall keep records of its examinations and of other official actions, all of which shall be filed and shall be a public record. (P.L. 1988, ch. 479, § 4; P.L. 1991, ch. 86, § 4; P.L. 1998, ch. 39, § 1(4))

### **Secs. 2.5--2.7. Reserved.**

**Editors Note:** Section 1 of ch. 39 of the Public Laws of 1998 deleted §§ 2.5--2.7 in their entirety. Formerly, said sections pertained to authority authorized to borrow up to four million, issuance of bonds, notes, terms and conditions of bond, notes, disbursement of funds; authority to issue temporary notes for temporary borrowing; and serial bonds or notes generally, and derived from P.L. 1962, ch. 254, §§ 5--7; P.L. 1988, ch. 479, §§ 5, 6; and P.L. 1991, ch. 86, § 5.

### **Sec. 2.8. Custody and accounting of funds raised by bonding or notes.**

The proceeds arising from the sale of any bonds or notes issued under authority of this act shall be delivered to the city treasurer and shall be kept by him in separate accounts and shall be expended only for the purposes and in the manner prescribed by this act, provided that the proceeds of the sale of any issue of serial bonds or notes shall first be applied to the payment of such temporary notes as may have been issued in anticipation of such issue, and provided further that any premium received over the par value of the serial bonds or notes of any issue, less the cost of preparing, issuing and marketing such serial bonds or notes shall be applied to the payment of the principal of the first bonds or notes of such issue first to mature. (P.L. 1962, ch. 254, § 8)

### **Sec. 2.9. Apportionment of costs; sewer assessments and charges; enforcement of charges and assessments.**

The authority, with the advice and consent of the mayor, shall prescribe just and equitable sewer assessment rates on account of the construction costs, to be levied against owners of property abutting on that portion of any highway in which a common sewer is laid under this act and also rates of annual and connect capable charges on account of operation and maintenance costs renewal and replacement funding and the cost of principal and interest for any bonds or notes issued for sewage works, to be levied against owners of property which is or could be connected to a common sewer.

Such assessments, annual and connect capable charges herein referred [to] shall be paid by every property owner or institution whose property is or can be connected to the city sewage works, in a manner prescribed by the authority, with the approval of the mayor and the finance director.

Notwithstanding the foregoing, the authority shall have discretion to defer sewer assessments against parcels of land that are undeveloped provided that such parcel remain subject to assessment upon the earlier to occur of either, (i) development of such parcel of land; or (ii) twenty (20) years from the date of initial assessment. Similarly, the authority shall have discretion to defer sewer assessments against parcels of land if the owner of such parcel, within seven (7) years of the date of the sewer assessment, has installed a new septic system, provided that such parcel shall remain subject to assessment and shall begin paying such assessment at least seven (7) years from the date of initial assessment.

The sewer assessments may be determined according to the frontage along the highway of each parcel of land abutting on a common sewer, or according to the area of such land within a fixed depth from the highway, or according to both such frontage and area. The sewer authority with the advice and consent of the mayor may, from time to time, redetermine the rates fixed for sewer assessments, if construction costs warrants, and may redetermine rates for annual and connect capable charges if costs so warrant.

The sewer assessments herein referred to shall be paid by every property owner or institution whose property is abutting on that portion of any highway in which a common sewer is laid under this act or is connected to the city's sewage works. In the case of property connected to the City's sewage works where that property is not abutting on any highway in which a common sewer is laid, the property will be assessed in the same manner as if the common sewer were abutting the highway to which the property is connected in a manner consistent with this Act. Sewer assessments levied hereunder may be paid in as many as twenty (20) annual installments upon application by the property owner and approval of the sewer authority. In the case of installment payments, interest at a rate not to exceed four percent (4%) per annum for assessment in effect prior to June 30, 1988, and for assessments established thereafter a rate not to exceed nine percent (9%) per annum shall be charged annually on the unpaid balance of the total sewer assessment. Such annual installment payments may be paid on a quarterly basis.

Sewer assessments shall be levied at a uniform rate based upon the estimated cost of constructing all sewers, sewer service connections and other sewage works belonging to the city. Sewer assessment revenues shall be used for the payment of the principal costs for any bonds or notes issued for sewage works.

Annual charges shall be levied upon every property owner or institution whose property is connected to the city's sewage system. The charge will be computed based upon water consumption or other factors deemed equitable by the sewer authority. The annual charge should be set at a level sufficient to support operation and maintenance costs of the wastewater treatment plant, the renewal and replacement fund and the principal and interest for any bonds or notes issued for sewage works. The revenues to be raised by annual charges will be reduced by revenues generated by sewer assessments and connect capable fees.

Connect capable charges may be levied upon every property owner or institution whose property is abutting on that portion of any highway in which a common sewer is laid while said property is not connected to the aforementioned sewerage system, but is capable of doing so. The charge will be established at a level determined by the sewer authority to recover an equitable portion of the principal for any bonds or notes issued for sewerage works and renewal and replacement funding, and shall be subject to consent by the mayor and the Warwick City Council.

The authority shall annually certify to the finance director and to the mayor all the charges and sewer assessments made by it under the authority of this act. Each charge or assessment made by said authority pursuant to this act shall be a lien upon the lands, buildings and improvements upon which it is made in the same way and manner as taxes assessed on real estate, but such liens shall not expire until the charge or assessment with all interest, costs and penalties thereon is paid in full, and, if the charge or assessment is not paid as required, it shall be collected in the same manner that taxes assessed on real estate are by law collected. The finance director, after receiving a list of charges or assessments under this act, shall forthwith, at the expense of the authority, send to each person assessed or charged notice of the amount of his assessment or charge. The notice shall substantially identify the person assessed, state the amount of the assessment or charge and refer to the remedy available under section 19 [2.19] of this act. The notice shall be mailed postpaid and

directed to the last known address of the person assessed. If there are persons whose addresses are unknown, a similar notice covering the assessments against such persons shall be published in a newspaper of general circulation in the city and such published notice may be a single collective notice for all such persons. No irregularity in the notice required by this section shall excuse the nonpayment of the assessment or charge or affect its validity or any proceedings for the collection thereof as long as there is substantial compliance with the provision hereof. No deficiency in the notice to the person assessed shall excuse the nonpayment by others of the assessment or charges assessed against them or affect the validity thereof or any proceedings for the collection thereof. The finance director shall without further warrant collect such charges and assessments in the same manner as the regular taxes of the city may be payable. Interest at the rate per annum fixed for nonpayment of city taxes shall be charged and collected upon all overdue charges and assessments from the date they become payable until paid, provided however, that the total overdue charge for non-payment of installment of sewer assessments shall be applied to past due installments and not the total assessment; and provided further, that there shall be no penalty on installment assessments deferred by reason of income subject to rules and regulations that the Warwick City Council may prescribe by ordinance.

The authority with the advice and consent of the mayor may at any time cancel in whole or in part any charge or assessment to the extent the authority determines such charge or assessment to have been improperly imposed.

(P.L. 1962, ch. 254, § 9; P.L. 1988, ch. 479, § 9; P.L. 1991, ch. 86, § 9; P.L. 1998, ch. 39, § 1(9))

#### **Sec. 2.9.1. Renewal and replacement account.**

The city finance director shall establish in a separate account for renewal and replacement. The purpose of the account is to provide for the future renewal or replacement of the current and future physical assets of the wastewater treatment plant whose cost is in excess of ten thousand dollars (\$10,000.) with an economic life of at least five (5) years. The renewal and replacement account will be funded annually through annual charges and connect capable fees, as determined by the sewer authority, in an amount equal to total gross depreciation expense as computed under generally accepted accounting principals, including the amortization of local and nonlocal contributed capital. Interest earned on monies deposited in the renewal and replacement fund will be credited to the account. Withdrawals from the account, subject to the aforementioned limitations of cost and economic life, must be approved by the sewer authority."

(P.L. 1988, ch. 479, § 9.1)

#### **Sec. 2.10. Receipts from annual charges and assessments.**

The receipts from annual charges, sewer assessments and connect capable charges, as provided for in section 9 [2.9] of this act, should be separately accounted for by the finance director; at the close of each fiscal year the city treasurer shall transfer from such funds to the treasury a sum sufficient to repay the sums appropriated and paid from the treasury during the fiscal year then close on account of the principal and interest of all borrowing for the purpose of this act and for the payment of charges and expenses incident to the operation, maintenance, renewal and replacement fund and repair of said sewage works or to the extension thereof. At the end of a fiscal year, if the finance director determines that the revenues referred to above as well as prior year fund balances were not sufficient to cover operation and maintenance costs, renewal and replacement funding and principal and interest for any bonds or notes issued for sewage works, thereby creating insufficient end of year balances, charge shall be adjusted in the next fiscal year to assure sufficient balances in the sewer fund. If the receipts from said charges and assessments amount in any year to more than will be

required for the aforesaid purposes, the surplus shall be added to the receipts of the next succeeding year. (P.L. 1962, ch. 254, § 10; P.L. 1988, ch. 479, § 10; P.L. 1998, ch. 39, § 1 (10))

**Sec. 2.11. Recovery of assessment charge by joint tenant, tenant in common, etc., from other tenant.**

Whenever a tenant by the entirety, or a joint tenant, or a tenant in common of any land subject to a sewer charge or assessment under this act, shall pay the whole amount of such assessment, he may recover from the other joint tenant or tenant in common, as the case may be, such proportional part of such charge or assessment as the value of the latter's interest in the land bears to the aggregate value of such land, by proceedings in the superior court for the county of Kent in the nature of an action of account as provided in G.L. 1956, § 10-2-1 et seq., and in any acts in amendment thereof or in addition thereto, and such action is hereby made available for the purposes of this section. The same shall apply as between a tenant for life or years and the owner of the fee with respect to construction assessments. Whenever the owner of the fee shall pay an annual charge, he may recover the amount so paid from the tenant in a similar action to the extent [it] is attributable to the period of the tenancy. The provisions of this section shall not be construed to impair any other right of action which the party paying such charge or assessment may have at law or in equity to secure a contribution from the other parties having an interest in the land subject to such charge or assessment.

(P.L. 1962, ch. 254, § 11)

**Sec. 2.12. Appeal of assessment of irregular, unusual land; assessment of lots at intersections of roads.**

The owner of a lot of land irregular in shape or which is unduly above or below grade or which for any reason is deemed to be inequitably assessed under this act, in the event such an assessment is made, may appeal to the sewer board of review as hereinafter provided in section 19 [2.19] of this act. The authority, with the advice and consent of the mayor, may notwithstanding an appeal, on its own initiative, adjust the sewer assessment on such a lot or exempt such a lot from assessment.

Where a lot is located at the intersection of two streets or highways in which sewers have been constructed, the sewer assessment on such lot shall be made only for the sewer in the street or highway in which the assessment would be greater.

(P.L. 1962, ch. 254, § 12; P.L. 1991, ch. 86, § 12)

**Sec. 2.13. Assessments for land held by religious corporations, cemeteries.**

All lands in said city held by religious corporations, and on which are located buildings used solely for the purpose of holding religious services therein, and all lands in said city held by cemetery corporations and used solely for cemetery purposes, shall be exempt from the payment of any and all sewer assessments for the construction of sewage works made in pursuance of the provisions of this act, so long as such lands shall be held and used solely for such purposes; provided, that all such assessments made on such lands for the construction of sewage works under the provisions of this act shall be and remain for thirty (30) years a lien on said lands and the improvements thereon without interest, and the said city may enforce for collection of said assessments whenever said lands or any portion thereof shall be abandoned for said purposes, in the same manner as other sewer assessments under this act are collected or enforced; and provided, further, that any such assessment may be adjusted in the manner and for any of the reasons prescribed in section 12 [2.12] of this act. (P.L. 1962, ch. 254, § 13; P.L. 1988, ch. 479, § 13)

## **Sec. 2.14. Procedure for taking of land.**

The sewer authority with the advice and consent of the mayor on behalf of the city may acquire by agreement, purchase or condemnation such land or right or easement in land as may be necessary for the purposes of this act. Whenever the authority desires to take any such land or right or easement in land by condemnation, it shall file with the city clerk a plat, description, and statement of such land or right or easement in land to be taken and a statement that such land or right or easement in land is taken pursuant to the provisions of this act.

Upon the recording of said plat, description and statement in the office of the city clerk, the land or right or easement in land defined in such plat, description and statement to the extent and according to the nature of the interest therein taken, shall vest in the city and shall be subject to the use of the authority for the purposes of this act, and said authority may thereupon enter upon and enjoy the rights, interests and easements taken as aforesaid; and after the filing of such plat, description and statement, notice of such taking shall be served upon the owners of and persons having an estate in and interested in such land by any police officer of the City of Warwick leaving a true and attested copy of such description and statement with each of such persons personally, or at their land and usual place of abode in this state with some person living there, and, in case any of such persons are absent from the state and have no last [land] and usual place of abode therein occupied by any person, such copy shall be left with the persons, if any, in charge of or having possession of such land of such absent persons, and another copy thereof shall be mailed to the address of such absent persons if the same is known to said officer; and after the filing of such description and statement, the city clerk of said city shall cause a copy of such description and statement to be published in some newspaper or newspapers published or circulated in said city at least twice a week for three successive weeks; and if any party shall agree with said authority for the price of the rights, interests or easement so taken, the same shall be paid to him forthwith by said authority.

The authority with the advice and consent of the mayor shall have general authority to represent the city and to make any agreements for said city under the authority of this section and to do, with the advice and consent of the mayor, any acts or things necessary or incidental to executing settlements and agreements, and shall have authority to agree with the owner for the price of land so taken and the same shall be paid by the city treasurer out of the proceeds of bonds or notes issued hereunder or other funds made available for the purpose, upon vouchers approved by the majority of the authority and the finance director.

Any owner of or person entitled to any estate in or interested in any part of the land in which such fee, rights, interests or easements are so taken who cannot agree with said city for the price such fee, rights, interests or easements so taken in which he is interested as aforesaid, may, within one year from the filing of the plat, description and statement referred to in this section of this act, apply by petition to the superior court in and for the county of Kent, setting forth the taking of such fee, rights, interests or easements in his land and praying for an assessment of damages by a jury. Upon the filing of said petition the said court shall cause twenty days' notice of the pendency thereof to be given to said city by serving the mayor of said city with a certified copy thereof, and may proceed after such notice to the trial thereof; and such trial shall determine all questions of fact relating to the value of such fee, rights, interests or easements and the amount thereof, and judgment shall be entered upon the verdict of such jury and execution shall be issued therefor.

In case any owner of or person having an estate in or interested in such land shall fail to receive personal notice of the taking as aforesaid, and shall fail to file the petition as provided in this section, said court in its

discretion may permit the filing of such petition subsequent to said period of one year from the filing of such description and statement; provided, such person shall have no actual knowledge of the taking of such fee, right, interest or easement in season to file such petition.

If any lands, or any fee, rights, interests or easements therein, in which any infant or other person not capable in law to act in his own behalf is interested, are taken by said authority under the provisions of this act, said superior court, upon the filing therein of any such petition by or in behalf of such infant or other person, may appoint a guardian ad litem for such infant or other person, and such guardian may appear and be heard in behalf of such in fact [infant] or other person; and such guardian may also, with the advice and consent of said superior court, may prescribe, release to said city or authority all claims for damages for the fee, rights, interests or easements in the lands of such infant or other person. Any lawfully appointed, qualified and acting guardian of the estate of any such infant or other person, with the approval of the court of probate within this state having jurisdiction to authorize the sale of lands within this state of any such infant or person, may, before the filing of any such petition, agree with said authority upon the amount of damages suffered by such infant or other person by any such taking and may, upon receiving such amount, release to said city or authority all claims of damages of such infant or other person for such taking.

Any damages assessed as the result of petition to the superior court shall be paid by the city treasurer from the proceeds of bonds or notes issued hereunder or other funds made available for the purpose upon vouchers approved by the mayor and the majority of the authority and finance director, provided, however, that nothing in this act shall authorize the authority to condemn any portion of the land or right-of-way of any railroad, street, railway or other public service company, except for the purpose of crossing the same below grade and of building and maintaining necessary manholes at such crossing in such manner as not to render unsafe, or to impair the usefulness of such land or right-of-way for railroad or street railway purposes or the purposes of such other public service company. If said authority and such railroad, street, railway or other public service company are unable to agree as to the method of the construction and maintenance of such sewer and manholes at any such crossing, either party may apply to the division of public utilities for a determination thereof, and, after hearing, such sewer and manholes shall be constructed and maintained in such method and manner as may be ordered by said division. Either party aggrieved by such order of said division may appeal to the supreme court.

Prior to any taking hereunder, the authority shall provide specific funds for payment of compensation, the use of such funds for such purpose shall be a fixed obligation of the city, and, notwithstanding anything to the contrary herein, the full faith and credit of the city shall be deemed pledged to pay such compensation. (P.L. 1962, ch. 254, § 14; P.L. 1988, ch. 479, § 14; P.L. 1991, ch. 86, § 14)

### **Sec. 2.15. Contracts with other municipalities, the state.**

The city, acting by its sewer authority and the mayor, is further authorized to contract with any other city or town in this state or with the State of Rhode Island, [and any other city or town in this state and the State of Rhode Island] is authorized to contract with the City of Warwick, on such terms as may be mutually agreed upon between them with reference to the construction, maintenance, operation and the utilization of sewage works belonging to the city or any other city or town in this state and the State of Rhode Island; and the city may likewise contract with any other city or town or the State of Rhode Island with regard to the disposition of sewage from sewage works belonging to any of said cities or towns or the State of Rhode Island. (P.L. 1962, ch. 254, § 15; P.L. 1991, ch. 86, § 15)

**Sec. 2.16. Authority to prescribe rules and regulations governing construction, use, discharge of substances, and connections.**

The sewer authority, after notice and a public hearing, and the advice and consent of the mayor, is authorized from time to time to prescribe rules and regulations relative to the regulation of, construction of, use of, discharge of substances into and connections to the sewage works, and assessment of properties abutting a sewer line. These rules and regulations shall cover the restriction of storm waters, wastes which may or may not be discharged into the sewer system, the requirement for the property owner or sewer user to provide protective devices prior to discharge, sampling wells to determine strength of wastes, flow measuring devices, pretreatment facilities and any other requirement to provide proper protection and control of the use of the sewage system and sewage treatment facilities. Such rules or regulations adopted after a public hearing shall be filed with the city clerk. Any person violating any rule or regulation prescribed by the authority under the authority of this act shall be fined not exceeding five thousand dollars (\$5,000) for each violation, and not exceeding five thousand dollars (\$5,000) for each additional day that any such violation shall continue, as may be prescribed by the authority, and shall also be liable in an action of the case for all damages caused to the city or to any person by any such violation.

(P.L. 1962, ch. 254, § 16; P.L. 1988, ch. 479, § 16; P.L. 1991, ch. 86, § 16; P.L. 1998, ch. 39, § 1 (16))

**Sec. 2.17. Authority to order connection to sewer; ordering cesspool, etc., to be filled up, etc.**

The sewer authority with the advice and consent of the mayor in the interest of public health and safety is authorized to order any abutting owner or occupant of land upon any street in which there is a sewer or in which a sewer may hereafter be constructed, to connect the sewage of such premises with such sewer, and to order any owner or occupant to fill up and destroy any cesspool, privy vault, drain or other arrangement on such land for the reception of sewage. Upon the service of any such order, or copy thereof, upon any such order or occupant, to connect the sewage as aforesaid, or to fill up or destroy any cesspool, privy vault, drain or other arrangement for the reception of sewage, such owner or occupant shall comply therewith within thirty (30) days from the time of service of such order. In case the owner or occupant to whom any such order is directed shall neglect or refuse to comply therewith within thirty (30) days after the service thereof upon him, he shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent twenty-four (24) hours during which he shall neglect or refuse to comply therewith and in case such neglect or refusal shall continue for sixty (60) days after the service of such an order, the authority may cause such cesspool, privy vault, drain or other arrangement for the reception of sewage which is the subject of such order to be filled up and destroyed and the sewage from such land to be connection [connected] with a common sewer. The pendency of any appeal from any such order shall not affect the power of the authority, after the expiration of said period of sixty days, to cause such cesspool, privy vault, or other arrangement for the reception of sewage to be forthwith filled up and destroyed.

Whenever the authority shall cause any cesspool, privy vault, or other arrangement for the reception of sewage to be filled up and destroyed, or the sewage of any land to be connected with a common sewer, it shall keep careful account of the cost of such work and of any expense caused the city by reason of the neglect or refusal of the owner or occupant of such land to comply with the order of the authority issued as aforesaid, and upon the completion of such work the authority shall file statement of such cost and expense with the director of finance and thereupon the amount of such cost and expense shall be a lien upon the land, including improvements thereon, for which such cost and expense was incurred and the same shall be collected in the

same manner as other assessments and charges are collected under this act.  
(P.L. 1962, ch. 254, § 17; P.L. 1988, ch. 479, § 17; P.L. 1991, ch. 86, § 17)

**Sec. 2.18. Plat of sewer declared public record for assessment purposes.**

Whenever a common sewer is constructed under the provisions of this act, the sewer authority shall cause a plat of the layout of the same and of the estates abutting upon that portion of the highway in which the sewer is laid to be filed in the office of the city clerk, which said plats are hereby declared to be public records for the determination of the description of the estate assessed for construction of sewage works.  
(P.L. 1962, ch. 254, § 18; P.L. 1988, ch. 479, § 18)

**Sec. 2.19. Sewer board of review; appeals; record of proceedings; organization and procedure.**

There shall be a sewer board of review which shall consist of three (3) members appointed by the Mayor with approval of the city council. The members first appointed shall serve for terms of 1, 2 and 3 years respectively and thereafter one member shall be appointed in each year for a term of three years.

Within 60 days after mailing of notice of an assessment or charge under section 9 or within 30 days after giving or mailing of notice of an order under section 17, any person aggrieved by such assessment, charge or order may appeal to the sewer board of review.

The sewer board of review shall keep an accurate record of its proceedings which shall be available for public inspection.

If the board determines that such assessment charge or order is unwarranted in whole or in part, it shall annul or modify the same and make such order as justice may require. Otherwise it shall affirm the same. Within 30 days after the decision of the sewer board of review, any party aggrieved, which may include the sewer authority, may appeal to the superior court which shall have the same powers to annul, modify, enter further orders or affirm as the sewer board of review.

The city council shall provide by ordinance for the organization of procedure of the sewer board of review and for the manner of receiving, considering and disposing of appeals.  
(P.L. 1962, ch. 254, § 19)

**Cross References:** For salary of members of sewer board of review, see § 64-5 of the Code of Ordinances.

**Secs. 2.20, 2.21. Reserved.**

**Editors Note:** Section 1 of ch. 39 of the Public Laws of 1998 deleted §§ 2.20 and 2.21 in their entirety. Formerly, said sections pertained to submission of question of authority to issue sewer bonds to the voters; and duties of secretary of state with regard to election on bond authorization, and derived from P.L. 1962, ch. 254, § 21; and P.L. 1962, ch. 258, § 1.

**Sec. 2.22. Use of federal, other aid.**

The sewer authority of said city by the vote of a majority of its members may vote to accept and use in connection with the construction of the sewage works authorized by this act any funds from the United States of America or aid in any form under any and all acts and joint resolutions of congress already enacted or which may be enacted, and upon such terms and conditions as may be required by the proper federal authorities.  
(P.L. 1962, ch. 254, § 22)

### **Sec. 2.23. Severability.**

If any part, clause, division or section of this act shall be declared unconstitutional, the validity of its remaining provisions shall not be affected thereby.  
(P.L. 1962, ch. 254, § 23)

### **Sec. 2.24. Effect on power of city to incur indebtedness.**

This act shall not affect any other power which the city may have under any other provisions of law to incur indebtedness.  
(P.L. 1962, ch. 254, § 24)

### **Sec. 2.25. Reserved.**

**Editors Note:** Section 1 of ch. 39 of the Public Laws of 1998 deleted § 2.25 in its entirety. Formerly, said section pertained to the effective date of the act, and derived from P.L. 1962, ch. 254, § 25; and P.L. 1988, ch. 479, § 25.

## **ARTICLE II.**

### **INDUSTRIAL WASTE PRE-TREATMENT PROGRAM**

#### **Sec. 2.26. General.**

The city sewer authority and/or its duly designated representatives shall have all powers necessary to implement a program for the pretreatment of waste by industrial users of the city treatment facilities, and without limiting the generality of the foregoing, all power necessary to meet the requirements for an industrial waste pretreatment program mandated by any federal or state law, rule or regulation.  
(P.L. 1983, ch. 13, § I)

#### **Sec. 2.27. Authority to promulgate regulations.**

The city sewer authority shall have authority to promulgate all regulations necessary to implement an industrial waste pretreatment program. Said regulation may be applicable to all industrial users of the system whether or not they are residents of the city and to all residents of the city. Such regulations may include but need not be limited to regulations which:

1. Prohibit or limit users from discharge of substances to the facility where such substances interfere with the operation of the treatment works, may pass through treatment works or otherwise be incompatible with the treatment works.
2. Require industrial users to monitor waste at the user's point of discharge, which monitoring shall include as a minimum: user identifying information, description of operations flow measurement, measurements of pollutants and other information reasonable required by the regulations. Said regulations may require that the results of self-monitoring, which shall be submitted periodically, be reviewed by a representative of the user and certified by a qualified professional indicating whether pretreatment standards (imposed by the city regulations and/or other state and federal laws or regulations) are being met.

3. Establish categorical standard for discharge of pollutants by industrial users.
4. Establish a system of inspection, monitoring, sampling and analyzing industrial users' discharge at the point of discharge independent of the information supplied by the industrial users.
5. Establish fees for the cost of the industrial waste pretreatment program, which cost the authority, in its discretion, may determine by regulation shall be borne either by all industrial users equitably, by industrial users in proportion to the amount and type of discharge, by users of the treatment works generally or in any other manner deemed appropriate by the authority.
6. Establish a system of permits and/or contracts between the authority and industrial users prohibiting or limiting the amounts and forms of pollutants or other substances to be discharged. Said permits and/or contracts may be made specifically enforceable in federal court or the county superior court.
7. Establish a system for the development of compliance schedules for each industrial user and require submission of base-line data from each industrial user.
8. Establish procedures for notice and hearing deemed by the authority necessary to afford due process to industrial users.

(P.L. 1983, ch. 13, § II)

### **Sec. 2.28. Enforcement powers.**

The city of sewer authority shall have authority to seek legal or equitable relief in the federal court or in the county superior court, to enforce the requirements of Section 307(b) and (c) and Section 902(B) of the Federal Water Pollution Control Act, also known as the Clean Water Act and any regulations implementing those section or authorized by this Act. The city sewer authority shall also be enabled to:

1. Deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the sewage treatment works where such contributions do not meet applicable pretreatment standards and requirements or where such contribution would cause the sewer authority to violate any state or federal permit.
2. Require compliance with applicable pretreatment standards and requirements by industrial users and issue orders to industrial users including orders to cease and desist discharging into the treatment works.
3. Control through permit, contract, order or similar means the contribution to the sewage works by each industrial user to ensure compliance with applicable pretreatment standards and requirements.
4. Require (a) the development of a compliance schedule for the installation of technology required to meet pretreatment standards and requirements and (b) the submission of all notices and self monitoring reports as are necessary to assess and assure compliance by industrial users.

5. Carry out all inspections, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or non-compliance with applicable pretreatment standards. Representatives of the authority shall be authorized to enter any premises of an industrial user.
6. Obtain remedies for noncompliance by any industrial user with any pretreatment standard and requirement including injunction, which relief shall be granted where any duty to report or permit inspection is violated or where there has been non-compliance with a permit or contract between the industrial user and the authority or violation of any regulation or order of the authority.
7. In any instances of violation of any regulation of the city sewer authority, adopted under the authority of this chapter or of any permit condition or order, the city sewer authority through its authorized representatives, shall have the power to order the violation to cease and desist, to remedy such violations and to impose administrative penalties not to exceed the civil penalty specified in section 2.28 of this chapter, as amended. Such orders and administrative penalties shall be subject to judicial review in accordance with Chapter 42-35 of the General Laws. The county superior court shall have jurisdiction to enforce such orders and administrative penalties.
8. Enter into consent orders, assurances of voluntary compliance, or similar documents establishing an agreement with the industrial user responsible for the non-compliance.

(P.L. 1983, ch. 13, § III; P.L. 1991, ch. 86, § I)

#### **Sec. 2.29. Penalties.**

Any industrial user which shall fail to comply with any of the regulations enacted by the authority, shall fail to comply with a requirement of a permit issued by the authority, or shall fail to comply with any order duly made by the authority pursuant to its regulations, shall be subject to a penalty of five thousand dollars (\$5,000.00) per day for each day of non-compliance which penalty may be recovered in a civil action brought by the authority in the county superior court. This right of the authority to seek civil penalties shall be in addition to the right of the sewer authority to seek injunctive relief. In addition, any industrial user shall be liable for any damages and costs caused by non-compliance and shall be liable for reasonable attorney fees of the authority seeking compliance, penalties or damages.

(P.L. 1983, ch. 13, § IV; P.L. 1991, ch. 86, § II)

#### **Sec. 2.30. Severability.**

If any section, phrase, clause, sentence or paragraph of this Act or any regulation enacted pursuant to this Act shall be declared unconstitutional or otherwise invalid, such invalidity shall not affect the remaining portions of the Act or regulations.

(P.L. 1983, ch. 13, § V)

#### **Sec. 2.31. Additional authority.**

The authority granted to the city sewer authority shall be in addition to any other authority heretofore

granted to said authority.  
(P.L. 1983, ch. 13, § VI)

### **Sec. 2.32. Collection.**

Any fees, charges, costs, or administrative penalties shall be paid by the industrial user within the time frame prescribed by the city of sewer authority. The city sewer authority may collect the fees, charges, costs, and administrative penalties in the same manner in which taxes are collected by the city pursuant to Chapter 44-9 of the General Laws. All unpaid fees, charges, costs, and administrative penalties shall be a lien upon the personal property and real estate of the industrial user and a lien upon the real estate from which the waste is being discharged by the industrial user.

(P.L. 1991, ch. 86, § III)

### **Sec. 2.33. Criminal penalties.**

Any person who shall be found guilty of violating, wilfully or with criminal negligence, any of the provisions of the city sewer authority regulations adopted pursuant to this chapter, or of any permit, rule or regulation issued pursuant thereto, or an order of the city sewer authority, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) dollars or by imprisonment not exceeding thirty (30) days, or by both such fine or imprisonment; and every person shall be deemed guilty of a separate and distinct offense for each day during which such violation shall be repeated or continued. Said criminal penalties shall be in addition to any civil or administrative penalties set forth in section 2.32 of this chapter, as amended. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under the ordinance adopted pursuant to this chapter, or by any permit rule, regulation, or order issued under such ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring devise or method required to be maintained under such ordinance or by any permit, rule, regulation, or order issued under such ordinance, shall upon conviction be punished by a fine of not more than five thousand dollars (\$5,000) for each instance of violation. Said criminal penalties shall be in addition to any civil or administrative penalties set forth in section 2.32 of this chapter, as amended.

Every offense punishable by this section shall be prosecuted by the authority for the city sewer authority or a solicitor for the city and shall be triable in the Third Division District Court.

(P.L. 1991, ch. 86, § IV)

## **CHAPTER 3.**

### **WATER DEPARTMENT\***

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\* **Editors Note:** The water department traces its origin to P.L. 1927, ch 1121, "An Act Providing for a Water Supply in the Town of Warwick." That chapter was amended by P.L. 1931, ch. 1852, "An Act to Establish the City of Warwick."

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### **Sec. 3.1. Water supply board generally.**

There is hereby established for the town of Warwick a water supply board, consisting of five members all of whom shall be qualified electors of said town. The board of water commissioners, appointed by the moderator at the annual financial town meeting of said town held on May 12, 1925, pursuant to resolutions

adopted by said town meeting, is hereby continued in office until the members of said water supply board are elected as hereinafter provided.

The members of said water supply board shall be elected by the electors of the town of Warwick qualified to vote for general officers, at the special election to be called and held in said town in accordance with the provisions of section 5 of this act, and shall hold office from the date of their election until their duties relative to the construction of a water supply system are completed.

A person holding any other town office or representing said town as a senator or representative in the general assembly shall not be eligible for membership on said board and whenever any member of said board shall be elected to any other town office or shall be chosen as a senator or representative in the general assembly or shall cease to be a qualified elector of said town his membership on said board shall cease and determine. The town council of said town may by a majority vote remove any member of said board because of misconduct or incapacity on the part of such member in the discharge of his duties and said town council shall fill any vacancy occurring in the membership of said board from any cause, by the appointment of a properly qualified elector as a member to fill such vacancy. The members of said board shall serve without pay, but they may elect one of their number as secretary and fix his salary, which shall be paid in the same manner as other lawful obligations incurred by said board.

The board may adopt by-laws and rules regulating the transaction of its business but no by-laws shall authorize any action by the board except by majority vote thereof. The board from time to time may employ and fix the compensation of such attorneys, engineers, surveyors, draftsmen, clerks and other employees as may be necessary for the efficient performance of its duties hereunder, and may at any time discontinue the employment of any or all such employees. The board shall cause to be kept in books of the town a record of all its acts and proceedings and an accurate account of all its financial transactions and shall annually in the month of April report to the town council its doings and a summary at least of its financial accounts. The board shall be vested with the exclusive power and authority to construct a system of waterworks for said town, and to provide an adequate water supply for said town, and for said purposes is hereby authorized and empowered to make for and in behalf of said town all necessary contracts with the owners of privately owned water systems, quasi-municipal water companies and other municipalities, for the purchase or lease of their property and equipment and for the purchase of water to be distributed throughout said town or any portion thereof, and especially to contract for and in behalf of said town with the city of Providence and to act for and in behalf of said town in all matters relating thereto as are provided in P.L. 1915, ch. 1278, § 18, and all acts in amendment thereof and addition thereto. Before said board shall acquire by purchase or condemnation, or both, the necessary property for such water supply system, or before said board shall make contracts with the city of Providence, or with any other municipality, person or corporation for a supply of water, said board shall prepare a plan or plans for the construction of said waterworks and the acquisition of a water supply and shall submit such plan or plans to the town council, and after the same shall have been approved by said council, said board shall proceed as soon as may be to execute such plan or plans. All work and materials required for such construction, or any other construction authorized or required under this act shall be procured by contract made pursuant to and in [the] manner required by the provisions hereof. In all contracts involving more than five hundred dollars said board shall advertise for bids based upon proper specifications to be prepared by said board and shall let such contract or contracts to such bidder or bidders who will give security satisfactory to said board for the performance of their contract, after considering the relative competency and responsibility of the bidders and the amounts of their respective bids. No member of said board nor any employee thereof shall have any interest directly or indirectly for personal gain or profit in any contract, agreement, lease, sale or purchase made

by the board in behalf of the town under the authority of this act and any and all contracts, agreements, leases, sales or purchases made in violation hereof shall be utterly void as to said town at the option of the town council. In addition to the duties of said board herein prescribed, the town council of said town may from time to time by ordinance prescribe other and further duties not inconsistent herewith, and at any time may amend or repeal any such ordinance.

The board is authorized and empowered to expend the appropriation voted at said annual financial town meeting held on May 12, 1925 for the purpose of providing a water supply system for said town in accordance with the provisions of this act and the town treasurer shall pay all authorized obligations of said board for such purpose from the proceeds of the bond issue authorized in section 4 of this act upon the receipt of vouchers approved by the chairman of said board and the town auditor.

(P.L. 1927, ch. 1121, § 1)

### **Sec. 3.2. Town authorized to exercise certain powers and authority; authority to take, condemn, hold, etc., property.**

Said town of Warwick is authorized and empowered to exercise all the powers and authority conferred upon towns by the provisions of G.L. 1956, ch. 179, entitled "Of municipal water supply," and all acts in amendment thereof and in addition thereto. In addition to the powers and authority thereby conferred, said town is hereby authorized and empowered to take, condemn, hold, use and permanently appropriate the property and equipment of any and all privately owned water systems now engaged in supplying water to communities or districts in said town, which may be necessary for the establishment and operation of a complete and effective water supply system throughout said town: Provided, however, that in case any such privately owned water system shall be located partly outside the limits of said town, said town shall not acquire by condemnation that portion of the physical equipment, lands, rights and other property of such system as shall be actually located outside said town: Provided, further, that the right of condemnation shall not extend to any property now within said town of Warwick and owned and controlled by The Warwick & Coventry Water Company, a privately owned water company heretofore created by the general assembly and having its principal places of business in the towns of West Warwick and Coventry. All proceedings for the acquisition of any such privately owned water system or any part thereof and for fixing the compensation to be paid therefor shall be in accordance with the provisions of said G.L. 1956, ch. 179, which are hereby made expressly applicable thereto. Whenever the town council of said town shall by vote authorize the condemnation of any property or estate or rights of property, which the water supply board deems necessary for a complete and effective water supply system in said town, said board shall act for and in behalf of said town in all matters and proceedings governing such condemnation and taking.

(P.L. 1927, ch. 1121, § 2)

### **Sec. 3.3. Board of water commissioners, generally.**

There is hereby established a board of water commissioners for the town of Warwick consisting of three members who shall be qualified electors of said town. The electors of the town of Warwick qualified to vote for general officers shall, at the special election to be called and held in said town in accordance with the provisions of section 5 of this act, elect the members of said board of water commissioners, one to hold office until the first day of January, 1929, one to hold office until the first day of January, 1931, and one to hold office until the first day of January, 1933, and until their successors are respectively elected and qualified. On the Tuesday next after the first Monday in November, 1928, and biennially thereafter the electors of the town of Warwick qualified to

vote for general officers shall elect a member of said board of water commissioners to succeed the member whose term is about to expire, and to hold office for the term of six years from the first day of January next after his election, and until his successor is elected and qualified. For the election to be held on the Tuesday next after the first Monday in November, 1928, and biennially thereafter, the nomination and election of a member of said board shall be governed by the provisions of chapters 10 and 11 of the general laws, and the names of the candidates so nominated shall be placed upon the ballot with the names of the candidates for other town officers to be voted for at said election.

A person holding any other town office or representing said town as a senator or representative in the general assembly shall not be eligible for membership on said board and whenever any member of said board shall be elected to any other town office or shall be chosen as a senator or representative in the general assembly or shall cease to be a qualified elector of said town his membership on said board shall cease and determine. The town council of said town may by a majority vote remove any member of said board because of the misconduct or incapacity on the part of such member in the discharge of his duties and said town council shall fill any vacancy occurring in the membership of said board from any cause by the appointment of a properly qualified elector as a member to fill such vacancy for the remainder of the term of the member who has retired. The town council shall have authority to require the members of the board of water commissioners to furnish bond for the faithful performance of their duty, in such amount and with such surety as said town council may deem desirable. The board of water commissioners shall hold regular monthly meetings on the Monday next preceding the regular meeting of the town council at five o'clock in the afternoon unless said board shall by rule otherwise provide.

The board of water commissioners shall have the care, management and control of the water supply system established by this act and it may extend the mains and otherwise increase the efficiency and advantage of the system as appropriations are made from time to time for such purposes, and generally it may do any act or thing which it may deem necessary for the proper care and management of said system, provided that it shall not at any time incur any obligation in excess of the appropriations which shall from time to time be made by the town for the operation, maintenance and development of said water system. After the completion of the construction of a water supply system by the water supply board as provided in sections 1 and 2 of this act, the board of water commissioners shall be vested with all the power and authority conferred by this act upon said water supply board, for the purpose of providing a continuous supply of water for said town and of extending the mains and otherwise increasing the efficiency of the system.

The board of water commissioners may from time to time frame rules and regulations concerning the rates to be charged for water, the time and place for the payment thereof and such other rules and regulations as it may deem necessary and advisable for the proper care, management, preservation and use of the said water supply system and shall report all such rules and regulations to the town council, and if any of them are adopted by the town council the same shall become to all intents and purposes part of the ordinances of said town.

The board of water commissioners shall collect and receive all water rates and bills receivable for water supplied and shall promptly pay the same over to the town treasurer and shall keep a full and complete record of its receipts and expenditures, which record shall at all times be subject to the inspection and examination of the town council. The board of water commissioners shall make an annual report to the town council at the time of the making of the annual reports of the several departments of the town, and such report shall contain in addition to the doings of the board a schedule of the property of the town in its possession and the condition thereof with a statement of any depreciation that has occurred from any cause.

The board of water commissioners may elect a superintendent of the water supply system and contract for his services for a period of not more than six years, such contract to be subject to the approval of the town council, and it may require said superintendent to give bond for the faithful performance of his duty with such surety and in such amount as it may deem necessary. All bonds required to be furnished by the provisions of this act shall be deposited with the town treasurer. The board of water commissioners may from time to time employ and fix the compensation of such other agents, clerks and other employees as it may find necessary for the proper care, management and control of the water supply system and may at any time discontinue the employment of any or all such employees. No member of said board nor any employee thereof shall have any interest directly or indirectly for personal gain or profit in any contract, agreement, lease, sale or purchase made by the board in behalf of the town under the authority of this act and any and all contracts, agreements, leases, sales or purchases made in violation hereof shall be utterly void as to said town at the option of the town council.

In addition to the powers herein specifically conferred upon said board the town council of said town is authorized to confer such additional powers upon said board not inconsistent herewith as said town council may deem necessary.

All obligations contracted by said board in the discharge of its duties shall be paid by the town treasurer from the income received from the operation of said water supply system upon the receipt of vouchers properly approved by the chairman of said board and audited by the town auditor, and at the close of the financial year any unexpended balance of said income shall be used for the payment of the principal and interest of the bonded indebtedness as provided in section 4 of this act.

The water supply board within ten days after the completion of any unit of the water supply system authorized by this act shall file a certificate of such completion in the office of the town clerk and upon the filing of said certificate the duties of the board of water commissioners as herein provided shall begin, and such board of water commissioners shall at once take charge of said unit, and manage and operate the same, and shall from time to time take charge of, manage and operate other units as certificates of the completion of such units are filed with the town clerk.

(P.L. 1927, ch. 1121, § 3)

### **Sec. 3.4. Additional powers of board of water commissioners.**

The board of water commissioners in addition to the powers already conferred, may install or extend water distribution mains in any public or private street or way, and assess the cost of the same subject to the following terms and conditions:

- (a) The board of water commissioners may from time to time establish just and equitable rates of charge for the installation or extension of water distribution mains hereafter made. Such rates of charge shall be based on a pipe not larger than eight inches and where pipes larger than eight inches are used the excess cost shall be paid by the city of Warwick. The cost of all hydrants and other special equipment appurtenant to water distribution mains, except water service pipe installations, shall be paid by the city of Warwick.
- (b) No assessment shall be made against the owner of any land which abuts on a water distribution

main unless the board of water commissioners shall first hold a public hearing relative thereto. All owners of land abutting on the proposed installation or extension of a water distribution main shall be notified by registered mail of the time and place of said public hearing and such notice shall be mailed at least 15 days prior to the public hearing. After such public hearing the board of water commissioners shall decide whether or not to make such extension or any part thereof.

- (c) An assessment shall be made against every owner of land which abuts on any public or private street, way or lane in which water distribution mains are hereafter installed.
- (d) No assessment shall be made against the owners of land presently abutting on a water distribution main, or for the replacement of an existing water distribution main.
- (e) The assessment made against the owner of undeveloped land, shall be limited to 300 feet frontage, until such owner or subsequent owner of such land requests water service. Upon such request the assessment shall be made in accordance with the foregoing limitations upon land not previously assessed.
- (f) The board of water commissioners shall have the authority to adopt special rules and regulations to provide relief in cases where land abuts on more than one street, road, way or land wherein there is a water distribution main, and also in cases of land of irregular shape or undeveloped or partially developed land.
- (g) The board of water commissioners shall within ten days of making any such assessment send a notice by registered mail to the owners of land assessed stating the amount of such assessment, and shall also certify such assessment to the director of finance who shall add such assessment to the taxes assessed against said land at the next annual assessment of taxes. However, the owner of any land so assessed may elect to pay said assessment in ten equal annual payments, together with interest on the unpaid balance at 4% per annum, provided the director of finance is notified of such election within sixty days of such assessment.
- (h) Said assessments shall be and remain a lien upon the land until fully paid, and if any assessment or annual installment payment of an assessment is not paid within thirty days after becoming due and payable, the whole balance may become due and payable and may be collected in the same manner and means as taxes are collected.

(P.L. 1957, ch. 159, § 1)

### **Sec. 3.5. Issuance of bonds, etc.**

For the purpose of providing funds for the construction of said water supply system as provided in sections 1 and 2 of this act and in accordance with resolutions adopted by the annual financial town meeting of the town of Warwick held on May 12, 1925, the town of Warwick is hereby authorized and empowered to issue serial bonds under its corporate name and seal to the amount of one million two hundred fifty thousand dollars, in addition to the bonds heretofore issued by said town and now outstanding. Said bonds shall be of the denomination of not less than one hundred dollars or more than five thousand dollars each, shall bear interest at the rate of not exceeding four and one-half per centum per annum payable semi-annually and the principal thereof and the interest thereon shall be payable in gold coin of the United States of America of the present

standard of weight and fineness. The debt secured by said bonds shall be obligatory on said town in the same manner and to the same extent as other debts lawfully contracted by said town. The dates of maturity of said bonds shall in no case be more than fifty years from the date of issue and not more than fifty thousand dollars in amount of principal of said bonds shall become due and payable in any one year.

Said bonds shall be signed by the town treasurer and countersigned by the chairman and secretary of the water supply board and by the town clerk, and shall be issued and sold by the town treasurer of said town at such times, in such amounts, in such manner and in such form and at such rate of interest as the town council may authorize and direct, but such interest shall not exceed the rate of four and one-half per centum per annum. Any premiums arising from the sale thereof shall be applied to the payment of the principal of said bonds in the order of their maturity. The proceeds arising from the sale of said bonds shall be paid over to the town treasurer and shall be applied exclusively, except as above provided in respect to the premiums from such sale, to the payment of the expenses and liabilities incurred by said water supply board for the construction of a water supply system as provided in this act but no purchaser of said bonds shall be in any way bound to see to the proper application of the proceeds thereof.

The town treasurer shall pay out the moneys realized from the sale of said bonds upon the vouchers of said water supply board duly audited as provided in section 1 of this act. The town of Warwick shall annually appropriate until said bonds are paid in full a sum which with the balance of the income derived from the operation of said waterworks, after the payment of the annual expenses of such operation, will be sufficient to pay the interest as it accrues upon said bonds and also the principal of said bonds as the same becomes due and payable until said bonds are paid in full. All obligations of said town which may be incurred under the authority of this act shall be excepted from the operation of G.L. 1956, § 45-12-2.  
(P.L. 1927, ch. 1121, § 4)

### **Sec. 3.6. Election of water supply board.**

Upon the passage of this act the town council of the town of Warwick shall meet and appoint a date for the holding of a special election to elect the five members of the water supply board established by section 1 of this act and the three members of the board of water commissioners established by section 3 of this act, and such election shall be held within sixty days after the passage of this act. Said election shall be warned, organized and held in the manner provided by law for election of town officers of said town, and the provisions of G.L. 1956, §§ 17-10-5 et seq., 17-17-1 et seq. and 17-18-1 et seq., and the acts in amendment thereof and in addition thereto, shall govern the canvassing of the voting lists for said special election and the nomination and election of the members of said boards.  
(P.L. 1927, ch. 1121, § 5)

### **Sec. 3.7. Repeal of previous act.**

P.L. 1926, ch. 917, being "An act providing for a water supply in the town of Warwick," is hereby repealed.  
(P.L. 1927, ch. 1121, § 6)

### **Sec. 3.8. Effective date.**

This act shall take effect upon its passage.

(P.L. 1927, ch. 1121, § 7)

## CHAPTER 4.

### WATERFRONT AND PARK COMMISSION\*

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\* **Editors Note:** The Warwick waterfront and park commission was created by P.L. 1958, ch. 113. That act amended P.L. 1950, ch. 2580, which established a previous commission.

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## ARTICLE I.

### IN GENERAL

#### **Sec. 4.1. General authority.**

The city of Warwick, through the commission hereinafter created in section 7 of this act [section 4.7], is hereby authorized and empowered to develop, operate and administer parks and shoreline recreational facilities, waterfront business facilities, harbors and coves, to carry on a general beach and bathhouse business at said city; to purchase, construct, maintain and operate or lease thereon buildings, wharfs, piers, walks, parking facilities and swimming pools; to furnish business buildings and accommodations on or near the waterfront for lease or hire; to furnish bathing accommodations and facilities to the public; and to make reasonable rules and regulations for the use of the same, to charge suitable fees and/or rents therefor, and to perform all acts necessary and consistent with the purposes of this act.

(P.L. 1958, ch. 113, § 2)

#### **Sec. 4.2. Lots which may be taken, purchased.**

Said city is hereby authorized and empowered to purchase or to take for the aforesaid purposes the hereinafter described land or any part or parts thereof situated in said city and described as follows: [The enumeration of lots set forth in P.L. 1950, ch. 2580, § 2, has been omitted at the request of the city.]

(P.L. 1950, ch. 2580, § 2)

#### **Sec. 4.3. Method of taking land; notice to landowner.**

The city council of said city may take said land or any part or parts thereof, by filing in the records of land evidence of said city a description of the land, and also a plat thereof, and a statement that the same is taken pursuant to the provisions of this act, which description and statement shall be signed by the president of said city council and the mayor, and upon the filing of such description, statement and plat, the title in fee simple of such land shall vest in said city; and after the filing of such description, statement and plat, notice of the taking of such land shall be served upon the owners of and persons having an estate in and interested in such land by the city sergeant of said city leaving a true and attested copy of such description and statement with each of such persons personally, or at their last and usual place of abode in this state with some person living there, and, in case any such persons are absent from this state and have no last and usual place of abode therein occupied by any person, or in case the whereabouts of any such persons are unknown to said city sergeant, such copy shall be left with the persons, if any, in charge of or having possession of such land taken of such absent person and persons whose whereabouts are unknown, and another copy thereof shall be mailed to the address of

such absent persons if the same is known to said officer; and after the filing of such description and statement, the city clerk of said city shall cause a copy of such description and statement to be published in some newspaper in Kent County at least once a week for 3 consecutive weeks; and if any party shall agree with said city council for the price of the land so taken, the same shall be paid to him forthwith by said city. (P.L. 1950, ch. 2580, § 3)

#### **Sec. 4.4. Contesting taking of land.**

Any owner of or person entitled to any estate in or interested in any part of the land so taken, who cannot agree with said city council for the price of the land so taken in which he is interested as aforesaid, may, within 3 months after personal notice of said taking, or, if he have [has] no personal notice of said taking, may, within one year from the filing of the description, statement and plat, referred to in section 3 of this act, apply by petition to the superior court held for the county of Kent, setting forth the taking of his land and praying for an assessment of damages by a jury. Upon the filing of said petition the said court shall cause 20 days' notice of the pendency thereof to be given to said city by serving the city treasurer of said city with a certified copy thereof, and may proceed after such notice, to the trial thereof; and such trial shall determine all questions of fact relating to the value of such land and the amount thereof; and shall be conducted in every respect as other civil cases are tried, including the right to except to rulings and apply for new trial for cause. In case of conflicting claims to such land by any 2 or more petitioners, said court may set down the petitions of such petitioners for trial at the same time by the same jury, and may frame all necessary issues for the trial thereof. (P.L. 1950, ch. 2580, § 4)

#### **Sec. 4.5. Authority to issue bonds not exceeding \$75,000.00; terms of issuance.**

The city of Warwick is hereby authorized and empowered to issue in addition to authority heretofore granted, under its corporate name and seal, bonds in an amount not exceeding \$75,000.00. Said bonds shall be of the denomination of \$1,000.00 each, [and] shall bear interest at a rate not exceeding 4% per annum payable semi-annually; the principal thereof and interest thereon shall be payable in any coin or currency of the United States of America, which, at the time of payment, is legal tender for public and private debts, and the debt secured by said bonds shall be obligatory on said city in the same manner and to the same extent as other debts lawfully contracted by said city. The dates of maturity of said bonds shall in no case be more than 15 years after the date of issue, and not more than \$5,000.00 of said bonds shall become due and payable in any one year. Said bonds shall be signed by the mayor and the city treasurer of said city of Warwick, and shall be issued and sold at such times and in such amounts as the council of said city shall determine: Provided, however, that the premiums, if any, arising from sale of said bonds shall be applied to the payment of the principal of any bonds of said city in the order of their maturity. The proceeds arising from the sale of the bonds authorized by this act shall be delivered to the city treasurer, and such proceeds, except as hereinbefore provided in respect to the premiums arising from the sale thereof, shall be expended for the purposes of paying for the lands acquired, the buildings, piers, parking areas, walks and swimming pools purchased or constructed, and the equipment for the same, all as authorized and contemplated by this act, as well as all expenses and charges incidental to the same. No purchaser of any of said bonds, however, shall be in any way responsible for the proper application of the proceeds derived from the sale thereof. The city of Warwick shall annually appropriate a sum sufficient to pay the interest upon the bonds issued and outstanding under authority of this act, and also to pay the principal of the bonds maturing in any such year, until said bonds are paid in full. All obligations of said city which are incurred under authority of this act shall be excepted from the operation of G.L. 1956, § 45-12-9. (P.L. 1950, ch. 2580, § 5)

**Sec. 4.6. Authority to issue and sell notes, debentures, etc.**

The city of Warwick through its city council is hereby authorized and empowered to issue and sell, in its corporate name, notes, debentures, or other evidence of indebtedness, signed by the mayor and city treasurer of the city of Warwick, and said city may renew the same from time to time as the same become due and payable, to an amount not exceeding in the aggregate, at any one time, the amount of bonds authorized to be issued under the provisions of this act and the proceeds of the sale of such notes, debentures or other evidence of indebtedness, shall be used only for the purposes specified in section 5 of this act; provided, however, that the proceeds of the sale of any bonds authorized and issued under the provisions of this act shall first be applied to the payment of such notes, debentures or evidences of indebtedness issued under authority hereof.

(P.L. 1950, ch. 2580, § 6)

**Sec. 4.7. Waterfront development and park commission--Created; membership; terms of office; compensation.**

The management of the lands acquired, the purchase, the construction, maintenance, leasing and operation of buildings, wharfs, piers, parking facilities, walks and swimming pools, on behalf of said city of Warwick under the provisions of this act except as otherwise provided, in the general conduct of the beach, bathhouse, and any other business of said city authorized by the foregoing provisions, shall be vested in the Warwick waterfront development and park commission consisting of five members all of whom shall be qualified electors of said city of Warwick. The members of said commission shall be appointed by the mayor subject to the approval of the city council, and vacancies which may occur in the membership of said commission shall be filled in the same manner for the unexpired term. The term of office for each member of said commission shall be for five years or until his successor is appointed and qualified; provided, however, the initial appointments shall be made from the present membership of the Oakland beach park commission for the terms as follows: One member to hold office until the first Monday of January, 1959, one member to hold office until the first Monday of January, 1960, one member to hold office until the first Monday of January, 1961, one member to hold office until the first Monday of January, 1962, one member to hold office until the first Monday of January, 1963, or until their successors are duly appointed and qualified; provided, however, that the planning director of the city of Warwick shall be an ex officio member of said commission with full voice but no vote in any proceedings; and provided further that members except the planning director shall receive three hundred (\$300) dollars annually as compensation for their services.

(P.L. 1958, ch. 113, § 3)

**Sec. 4.8. Same--Oath, bond.**

Before entering upon the discharge of the duties of his office, each member of the commission shall be sworn to the faithful performance of his duties in the same manner as other city officers, and shall give bond to the city of Warwick with surety in some company authorized to do a surety business in this state, and approved by the city treasurer of said city, in the penal sum of \$2,000.00, with the condition that he will well and faithfully execute and perform all and singular the duties appertaining to his office according to law. The cost of any bond given by any member of said commission shall be taken to be part of the necessary expenses of said commission.

(P.L. 1950, ch. 2580, § 8)

**Sec. 4.9. Same--General powers and duties.**

The said commission may appoint such officers and employees as may be necessary who shall serve at the pleasure of said commission, and fix their compensation. All contracts and purchases, except as otherwise provided for, shall be made in the manner prescribed by the city Charter. Said commission shall keep a record of its proceedings and of its receipts and disbursements and make an annual report concerning the same to the city council and shall see to it that all the gross income received from the operation of said beach, bathhouse, and all other business and from all other sources connected therewith is turned over to the city treasurer of said city at least once a week, and shall certify all accounts payable incurred in the conduct of said business to the city treasurer of said city for payment when approved by the chairman of said commission, said disbursements to be made out of the budget appropriation of said commission. Said commission may charge suitable and reasonable fees for admission to any part of said beaches, parks or waterfront facilities, owned by said city; and said commission shall charge reasonable and suitable fees for admission to and use of bathhouses, swimming pools, lockers, wharfs, piers, and other bathing and waterfront accommodations, parking space and facilities so furnished by said city to the end that said project contemplated by this act will be self-liquidating and reasonably profitable to said city considering its investment, and the expense of operation incidental to the same. Said commission shall have power to make reasonable rules and regulations as it may deem necessary or proper for the proper care, management, maintenance, protection and improvement of any parks, shorelines and harbors of said city and or any buildings, fences, walks, piers, wharfs, parking areas and other property which may be thereon from time to time, and for the use and enjoyment of the same and the maintenance of good order and sanitary conditions thereon, and for regulating any and all travel by the public to, from, on or over any parks, shorelines and harbors of said city or over the highways or other public ways adjacent or leading thereto. (P.L. 1958, ch. 113, § 4)

**Sec. 4.10. Authority of city council to pass penal ordinances.**

The city council of said city is hereby authorized and empowered to enact such ordinances as it may deem necessary or proper to enforce the rules and regulations made by said commission under the provisions of this act, and to prescribe penalties not to exceed \$50.00 for the violation of such ordinances; to protect said beach from damage and unsanitary and unsightly conditions and to preserve the interests of said city in and to said beach. (P.L. 1950, ch. 2580, § 10)

**Sec. 4.11. Effective date; repealer.**

This act shall take effect upon its passage and all other acts and parts of acts inconsistent herewith are hereby repealed. (P.L. 1950, ch. 2580, § 11)

**ARTICLE II.**

**REGULATION OF ANCHORAGES AND MOORINGS**

**Sec. 4.12. General authority under act.**

In addition to any authority and powers conferred upon city or town councils by G.L. 1956, tit. 46, and

in addition to any authority and powers conferred upon the Warwick waterfront and park development commission by P.L. 1950, ch. 2580, said commission is hereby further authorized to regulate the size, type, location and use of all anchorages and moorings within and on the public waters within said city, to require permits for said anchorages and moorings, and to fix the fees therefor.  
(P.L. 1965, ch. 219, § 1)

**Sec. 4.13. Role of harbor master under act.**

In addition to any authority conferred upon the harbor master and assistant harbor masters of said city by existing laws and ordinances, said harbor master is authorized and empowered to enforce the regulations adopted by said commission. Said harbor master shall be the officer to whom application for permits required by the regulations of said commission shall be made and who, pursuant to the rules of said commission, shall be the officer responsible for the issuance of such permits. Said harbor master may delegate any or all of his authority and powers to an assistant harbor master or harbor masters of said city.  
(P.L. 1965, ch. 219, § 2)

**Sec. 4.14. Public hearing on regulations required.**

The regulations authorized in section 1 [4.12] hereof may be made, amended and repealed by said commission on its own motion or on a petition therefor. No such action shall become effective unless public hearing shall have been held upon the proposed action by said commission. The commission before holding any such public hearing, shall first give notice of such hearing specifying its time and place, by publication of such notice in a newspaper of general circulation within the city of Warwick at least once each week for three (3) successive weeks prior to the date of such hearing. At such hearing all parties in attendance shall be given a reasonable opportunity to be heard.  
(P.L. 1965, ch. 219, § 3)

**Sec. 4.15. Adoption of rules governing application for and issuance of permits.**

Said commission shall adopt rules governing the application for and issuance of permits required by its regulations. Said rules shall provide for the reasonable prompt disposition of applications by the harbor master and shall also provide for appeals of the harbor master's decisions on such applications to said commission.  
(P.L. 1965, ch. 219, § 4)

**Sec. 4.16. Authority of council to provide for penalty by ordinance.**

The city council of the city of Warwick may provide by ordinance for the imposition of a penalty for the violation of the regulations made by said commission, such penalty not to exceed a fine of twenty dollars or imprisonment not exceeding ten days.  
(P.L. 1965, ch. 219, § 5)

**Sec. 4.17. Removal of vessels violating regulations.**

Whenever any vessel, mooring, structure or thing is deposited or suffered to be or remain in the public waters within said city contrary to or in violation of any regulation of said commission made under the authority of this chapter, said commission is authorized and empowered to remove the same, or cause the same to be

removed, in accordance with the provisions of this chapter.  
(P.L. 1965, ch. 219, § 6)

**Sec. 4.18. Notice to remove unlawful vessel, mooring, structure.**

If any person or resident living in the United States is known to said commission as the owner of such unauthorized vessel, mooring, structure or thing, or any interest therein, or as having or exercising any control over the same as master, agent, insurer or otherwise, or, in case of unauthorized moorings, structures or things as having alone or with others built, deposited or caused the same, or as owning, maintaining or using the same in whole or in part, said commission shall give notice in writing to such owner or other person to remove such vessel, mooring, structure or thing at or within a time specified in the notice. It shall be deemed a sufficient notice to all such owners and other persons, if served upon any one or more of them by said harbor master as agent for said commission, upon the direction thereof, by delivering the same in hand, or by leaving it at the usual place of business, residence or abode, or by duly mailing it to the post office address of the owner or other person on whom such notice is to be served.

(P.L. 1965, ch. 219, § 7)

**Sec. 4.19. Removal by commission.**

If such vessel, or other unauthorized mooring, structure or thing is not removed at or within the time specified in such notice, and in a manner and to a place satisfactory to said commission, or if no such owner or other person is known to said commission upon whom such notice can be served, said commission may proceed to remove such vessel, mooring, structure or thing, or to complete the removal thereof, or to cause the same to be done, in such manner and to such place as said commission shall deem best.

(P.L. 1965, ch. 219, § 8)

**Sec. 4.20. Recovery of costs of moving.**

The owner of any such vessel, mooring, structure or thing, removed by said commission as hereinbefore provided, whether owning the same at the time it first became unauthorized, or at any subsequent time before such removal is completed, and all persons having or exercising any control over such vessel or any part thereof, and, in the case of any mooring, structure or thing so removed, the person or persons originally building, depositing or causing the same, or at the time of such removal, or at any time prior thereto, owning, maintaining or using the same in whole or in part, shall be liable to pay the cost and expenses of such removal or to repay the same when paid out by said city; and the same may be recovered in an action of the case brought by the city solicitor of said city in the name thereof against such owners or other persons, or against any one or more of them. Any person who pays on a judgment or otherwise more than his proportional part of the costs and expenses aforesaid, shall leave [have] a claim for contribution against all other parties liable according to their respective interests.

(P.L. 1965, ch. 219, § 9)

**Sec. 4.21. "Person" defined.**

The word "person" as used in this act means and includes an individual, partnership, firm, corporation, association, or their [other] entity.

(P.L. 1965, ch. 219, § 10)

**Sec. 4.22. Effect of act on powers of state director of public works under general law.**

The provisions of this act shall not supersede the authority and jurisdiction over the public tide waters of this state which are vested in the state director of public works by and under the provision of G.L. 1956, tit. 46. The powers, authority and jurisdiction conferred by this act are in addition to such powers, authority and jurisdiction conferred upon said director as aforesaid. In the actual exercise of the respective powers, authority and jurisdiction of said director and said commission, the actions of said director shall take precedence over and supersede any actions of said commission affecting the same matter or thing to the extent that any such respective acts are inconsistent.

(P.L. 1965, ch. 219, § 11)

**Sec. 4.23. Severability.**

The provisions of this act shall be severable and if any of the provisions shall be held to be invalid, the decision of the court respecting such provision or provisions shall not affect the validity of any other provision which can be given effect without such invalid provision.

(P.L. 1965, ch. 219, § 12)