CHAPTER 81. FOURTH CLASS CITIES

THE FOURTH CLASS CITY ACT
Act 215 of 1895

AN ACT to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto; to validate such prior amendments and certain prior actions taken and bonds issued by such cities; and to prescribe penalties and provide remedies.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1931, Act 223, Eff. Sept. 18, 1931;—Am. 1954, Act 110, Eff. Aug. 13, 1954;—Am. 1962, Act 161, Imd. Eff. May 10, 1962;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974;—Am. 1983, Act 45, Imd. Eff. May 12, 1983 ;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

CHAPTER I
INCORPORATION.

81.1 Fourth class cities.

Sec. 1. That all cities within the state of Michigan heretofore incorporated and made subject to the provisions of this act or which shall hereafter be incorporated under the provisions of this act, and containing a population not exceeding 10,000 according to the last preceding federal or state census, shall be cities of the fourth class.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2956;—CL 1915, 2872;—CL 1929, 1796;—CL 1948, 81.1.

81.1a Short title; definitions.

Sec. 1a. (1) This act shall be known and may be cited as “the fourth class city act”.

(2) As used in this act:

(a) “Civil infraction”, except as used in section 2 of chapter IX, means that term as defined in section 113 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.113 of the Michigan Compiled Laws.

(b) “Civil infraction action” and “municipal civil infraction” mean those terms as defined in section 113 of Act No. 236 of the Public Acts of 1961.

History: Add. 1945, Act 25, Eff. Sept. 6, 1945;—CL 1948, 81.1a;—Am. 1994, Act 19, Eff. May 1, 1994;—Am. 1994, Act 83, Eff. Oct. 1, 1994.

81.1b Fourth class cities; construction of act; validation of amendments and acts.

Sec. 1b. No provision of this act shall apply or be construed as having heretofore applied to any city incorporated or reincorporated under Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Compiled Laws of 1948, unless specifically adopted by the electors as a part of its city charter. The provisions of this act shall be deemed to be in the nature of charter provisions for any city incorporated thereunder or subject thereto and any such provision may be altered or removed by amendment adopted by the electors as provided in Act No. 279 of the Public Acts of 1909, as amended, provided that the effect of the amendment is such as might legally be accomplished by charter provision in the case of a city operating under said Act No. 279. All such amendments heretofore so adopted by any city incorporated under or subject to this act, and all actions heretofore taken and all bonds heretofore issued under or in accordance with such amendments, are hereby validated to the same extent as if the foregoing provision had been in effect when such amendments were adopted.

History: Add. 1962, Act 161, Imd. Eff. May 10, 1962.

81.1c Incorporated city as home rule city; charter.

Sec. 1c. Effective January 1, 1980, a city incorporated under this act shall be deemed a home rule city as provided by Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Michigan Compiled Laws. Until a charter is adopted pursuant to Act No. 279 of the Public Acts of 1909, as amended, this act shall be deemed to be the charter of the city.

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History: Add. 1976, Act 334, Imd. Eff. Dec. 15, 1976.

81.1d Emergency financial manager; authority and responsibilities.

Sec. 1d. Notwithstanding any provision of this act, if an emergency financial manager has been appointed under the local government fiscal responsibility act, Act No. 101 of the Public Acts of 1988, being sections 141.1101 to 141.1118 of the Michigan Compiled Laws, with respect to a city governed by this act, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by Act No. 101 of the Public Acts of 1988.

History: Add. 1988, Act 191, Imd. Eff. June 27, 1988.

81.2 Incorporation.

Sec. 2. Any incorporated village containing a population of not less than 3,000 nor more than 10,000 as shown by the last preceding federal or state census may be incorporated as a city of the fourth class, as hereinafter provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2957;—CL 1915, 2873;—CL 1929, 1797;—CL 1948, 81.2.

81.3 Incorporation; petition; resolution of village council; referendum.

Sec. 3. Any 100 or more registered electors residing within a village may present to the village council a petition setting forth the population of the village as shown by the census, and asking that the village be incorporated as a city of the fourth class. If the village council is satisfied that the village contains the population required in section 2 of this chapter, the village council shall by resolution to be entered upon the record of their proceedings, reciting the presentation of the petition and the object of the petition, and that the village contains the requisite population, submit the question as to whether the village shall be incorporated as a city of the fourth class to a vote of the electors of the village at the next annual village election.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2958;—CL 1915, 2874;—CL 1929, 1798;—CL 1948, 81.3;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

81.4 Election; notices, contents.

Sec. 4. At least 30 days before the time of holding any election at which the question mentioned in the preceding section shall be submitted to a vote of the electors, the clerk of the village shall give public notice of the time and place of holding such election; and that the question whether the village shall be incorporated as a city of the fourth class under the provisions of this act, will be submitted to vote at the election. Such notice shall be given by posting written or printed copies thereof in 10 of the most public places in the village, and by publishing the same in 1 or more newspapers published in the village, the same length of time before such election.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2959;—CL 1915, 2875;—CL 1929, 1799;—CL 1948, 81.4.

81.5 Election; qualified voters; form of submission, canvass; return.

Sec. 5. At such election all persons having the qualifications of electors at the annual village elections may vote upon the question of such incorporation, and it shall be the duty of the council to cause to be printed at the foot of the official village ballot, to be used at such election, the question of incorporation proposed to be voted upon, in accordance with the general election laws of the state as follows:

For city incorporation. Yes. [ ]

For city incorporation. No. [ ]

The inspectors of election shall canvass such votes within the same time and in the same manner as provided for canvassing the votes for village officers, and they shall make return thereof to the village clerk within the time and in the manner provided for making returns of village elections; and the council shall determine the result of the election upon the proposition voted upon the same as upon the election of village officers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2960;—CL 1915, 2876;—CL 1929, 1800;—CL 1948, 81.5.

81.6 Election; authorizing vote; resolution of council, contents; records.

Sec. 6. After the council shall have determined the result of the election upon the proposition voted upon, as provided in the preceding section, if it shall appear to the council that a majority of all the votes legally given at such election upon the question of such incorporation, were given for the incorporation, the council shall, by a resolution to be entered in the record of their proceedings, recite that at said election, stating the date thereof, the question as to whether said village should be incorporated as a city of the fourth class under the provisions of this act, was submitted to a vote of the electors of the village, and that a majority of those voting upon the question, voted for city incorporation; and shall, in the same resolution declare that, in

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accordance with said vote, the said village shall be and is incorporated as a city of the fourth class by the name of "The city of ..... ". (Stating the name by which the city is to be known).

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2961;—CL 1915, 2877;—CL 1929, 1801;—CL 1948, 81.6.

81.7 Election results; adoption, recording; declaration of incorporation, filing.

Sec. 7. Immediately upon the adoption of the resolution mentioned in the last preceding section, the clerk of the village shall record the same in the record of the proceedings of the council and shall make a copy of so much of the record of the proceedings of the meeting at which the same was adopted, as may be necessary to show the time and place of holding such meeting, and the names of the members of the council who were present, and the passage of said resolution including a true copy thereof. To said copy the clerk and the president of the village shall annex their certificate, under the corporate seal of the village, showing the same to be a true copy of said record; which said certified copy of the record and resolution aforesaid shall be designated as a "declaration of incorporation", and shall be transmitted to, and be filed and recorded in the office of the secretary of state, and a like certified copy or declaration of incorporation shall be filed and recorded in a book to be kept for that purpose, in the office of the county clerk of the county in which said village is located.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2962;—CL 1915, 2878;—CL 1929, 1802;—CL 1948, 81.7.

81.8 Village deemed fourth class city; evidence.

Sec. 8. When the declaration of incorporation mentioned in the last preceding section shall be filed in the office of the secretary of state, as therein directed, the said village shall be deemed in law to be, and shall be, a city of the fourth class duly incorporated under and subject to the provisions of this act, by the name expressed in said declaration of incorporation; and the declaration of incorporation filed in the office of the secretary of state and in the office of the county clerk aforesaid, or the records thereof, or certified copies of such records shall be prima facie evidence of the due and legal incorporation of such village as a city of the fourth class under the provisions of this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2963;—CL 1915, 2879;—CL 1929, 1803;—CL 1948, 81.8.

81.9 Village deemed fourth class city; officers in power.

Sec. 9. After the incorporation of the village as a city as aforesaid, the government and affairs of the old or village corporation shall continue and proceed as before, and all village officers shall remain in office and exercise their powers and duties as village officers, except as herein otherwise provided, until the city officers and members of the council first elected under the new corporation shall enter upon the duties of their offices.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2964;—CL 1915, 2880;—CL 1929, 1804;—CL 1948, 81.9.

81.10 Village deemed fourth class city; division into wards.

Sec. 10. Immediately upon filing the declaration of incorporation mentioned in section 7, in the office of the secretary of state, as in that section directed, the council shall proceed to divide the newly incorporated city into wards. If such city contains a population of less than 5,000 persons, they shall divide it into 3 wards; if it contains a population of 5,000 and upwards, it may be divided into 4 wards; and a greater number of wards may be established upon the basis of population as provided in section 2, chapter 3 of this act. The division shall be so made as to make the territory and population of the wards as nearly equal as may be.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2965;—CL 1915, 2881;—CL 1929, 1805;—CL 1948, 81.10.

Compiler's note: For provisions of section 2 of chapter 3, referred to in this section, see MCL 83.2.

81.11 First election of new city; time, procedure.

Sec. 11. The first election in and for the new corporation shall be held on the first Monday in April next after the filing of the declaration of incorporation in the office of the secretary of state: Provided, There shall be sufficient time after the division of the city into wards, to make a registration of the electors, and to give the notice of election hereinafter required; and if there shall not be sufficient time for that purpose, then such first election shall be held on the first Monday of April next thereafter; or the council may appoint a day for the holding of a special election, upon giving like notice as hereinafter required for the holding of such elections.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2966;—CL 1915, 2882;—CL 1929, 1806;—CL 1948, 81.11.

81.12 First election of new city; prerequisites.

Sec. 12. At least 10 days before the first election in and for the new corporation, the council of the old corporation shall appoint 4 persons in each ward as inspectors of such election therein; and cause notice to be

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given by the clerk, by handbills posted in 10 of the most public places in each ward, and by publication in 1 or more newspapers printed in the city, of the time and place in each ward of holding such election and of the city and ward officers to be elected; and of the place in each ward where the said inspectors of election will meet on the Saturday next preceding the election to make a registration of the electors of the new city corporation, and that no person, unless registered in such registry, can be permitted to vote at such elections. Said council shall also procure books of registry of the form required by law for the registration of electors in cities, and deliver them to said inspectors.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2967;—CL 1915, 2883;—CL 1929, 1807;—CL 1948, 81.12.

81.13 Inspectors of election; oath, duties.

Sec. 13. The inspectors of election, appointed as provided in the preceding section, shall constitute boards of registration for their respective wards for the purpose of making the first registry of the electors therein. They shall take and file with the clerk the oath of office required in this act to be taken by city officers, and shall meet in their respective wards on the day and place appointed in the notice mentioned in the preceding section, and there make a registry of all persons in the wards qualified by law to be registered as electors therein. In making such registry they shall proceed in the manner provided by law for making the registry of electors in cities. Such registry, when completed, shall be the registry of electors of the several wards of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2968;—CL 1915, 2884;—CL 1929, 1808;—CL 1948, 81.13.

81.14 Inspectors of first election; duties.

Sec. 14. Said inspectors shall be inspectors of such first election in their respective wards, and shall have the same powers, and perform the same duties at the election, and in respect to the canvass of the votes, and in making and returning written statements and certificates of the votes cast, and for whom given, as are required of inspectors at annual city elections provided for in this act, except that said written statements and certificates shall be deposited with the village clerk, and the village council shall respectively perform the same duties in respect to the canvass of the votes and returns, and in determining and certifying what persons were elected to office, and in notifying such persons of their election as are required of the city clerk and council in respect to said annual city elections.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2969;—CL 1915, 2885;—CL 1929, 1809;—CL 1948, 81.14.

81.15 Fourth class city; bodies corporate.

Sec. 15. All cities organized under or made subject to the provisions of this act shall be bodies politic and corporate under and by the name assumed by them in their declaration of incorporation, or designated in their acts of incorporation; and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the purposes for which they are incorporated, have a common seal and change the same at pleasure, and exercise all the powers in this act conferred.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2970;—CL 1915, 2886;—CL 1929, 1810;—CL 1948, 81.15.

81.16 Fourth class cities; judicial notice taken; changes in organization.

Sec. 16. Judicial notice shall be taken in all courts and proceedings in this state of the existence of all cities incorporated or made subject to the provisions of this act, and of the change of organization of any city or village from its former organization to its incorporation under or subject to the provisions of this act, and of all changes at any time made in the corporate limits of any city, by the annexation of territory thereto or otherwise, and of the boundaries of all wards, and of all changes made at any time in the boundaries of any ward in any such city; and from the time of such incorporation or change of organization the provisions of this act shall be applicable to such cities, and all laws in conflict therewith shall no longer be applicable.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2971;—CL 1915, 2887;—CL 1929, 1811;—CL 1948, 81.16.

81.17 Existing ordinances, by-laws, resolutions.

Sec. 17. All ordinances, by-laws, and resolutions, in force in any village, when it shall be incorporated under this act and not inconsistent herewith, shall continue in full force and effect until repealed or amended by the city council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2972;—CL 1915, 2888;—CL 1929, 1812;—CL 1948, 81.17.

81.18 Status of former rights; liabilities; remedies.

Sec. 18. All rights and property of any kind and description which were vested in any village corporation under its former organization shall, upon its incorporation, subject to this act be deemed and held to be vested

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in the new corporation; and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its incorporation, under this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the new corporation, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, That when a different remedy is given in this act, which can be made applicable to any rights existing at the time of the incorporation of the city under this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2973;—CL 1915, 2889;—CL 1929, 1813;—CL 1948, 81.18.

CHAPTER II
CHANGES OF BOUNDARIES.

82.1 Change of boundaries; procedure; order of determination, entry upon records; approval by electors of territory affected.

Sec. 1. Whenever the council of any city shall determine by resolutions to alter the boundaries of such city, either by taking in lands and premises adjoining thereto, or by taking out any lands and premises included in such city, or both, they shall petition the board of supervisors of the county in which such lands and premises affected thereby are situated to make such change. Such petition shall contain a description by metes and bounds of the lands and premises proposed to be added to or taken out of such city and be accompanied by a map of said lands, and set forth the reasons for the proposed change, and shall contain a copy of the resolution of the council in relation thereto, and shall be certified to by the clerk under the official seal of such city. Before such petition shall be presented to the board of supervisors, notice shall be given by the city clerk of the time and place when the same will be presented for consideration, by publishing the same in 1 or more newspapers published in such city for at least 3 weeks immediately preceding the presentation of the same. Such notice shall also contain a description of the premises proposed to be taken in or out of the boundaries of such city. At the time of presenting such petition all parties interested may appear before such board of supervisors and be heard touching the proposed boundaries of such city, and after such hearing and due consideration of such petition, it shall be the duty of the board of supervisors to order and determine as to whether the prayer contained in the petition or any part thereof shall be granted, and they shall make an order of such determination, which order shall be entered upon their records, and thereupon, if a change of boundaries shall be ordered, then such boundaries of the city shall be fixed and shall exist as provided in such order, and a certified copy thereof shall be transmitted to the clerk of such city and to the secretary of state, and such order shall be prima facie evidence of such change of boundaries of such city and of the regularity of such proceedings in all courts and places: Provided, That the board of supervisors shall not change the boundaries of any city in such a manner as to affect the boundaries of a representative district at a time when changes in the boundaries of representative districts are prohibited: Provided further, That excepting totally uninhabited territory and state owned lands, the board of supervisors shall not so change the boundaries of any such city, until such change shall have been approved by a majority vote of the duly qualified electors of the territory proposed to be added to or taken out of such city, voting at a special election called for that purpose. Such election shall be called and conducted by the clerk of the city, village or township in which such territory lies, within 60 days after receiving notification from the board of supervisors. If such notification be given within 40 days of any general election, the special election shall be held at the same time as such general election. Any such special election shall be advertised and conducted in accordance with the election laws of this state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2974;—CL 1915, 2890;—CL 1929, 1814;—Am. 1945, Act 184, Eff. Sept. 6, 1945;—CL 1948, 82.1.

82.2 Change of boundaries; rights and liabilities of annexed territory.

Sec. 2. Whenever any city incorporated subject to the provisions of this act shall have its boundaries changed by the addition of any territory thereto, or by the taking of any territory therefrom, the rights and interests of the township or city from which such territory shall be taken or to which it shall be annexed as well as the rights of the persons affected by reason of such change of boundary, shall be settled and adjusted in accordance with the general laws of this state in such cases made and provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2975;—CL 1915, 2891;—CL 1929, 1815;—CL 1948, 82.2.

CHAPTER III
WARDS.

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83.1 Existing wards.

Sec. 1. The wards established by the council as provided in section 10, chapter 1 of this act, and the wards established in any incorporated city at the time of its re-incorporation under the provisions of this act, shall continue to be the wards of such city, until changed by the legislature.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2976;—CL 1915, 2892;—CL 1929, 1816;—CL 1948, 83.1.

Compiler's note: For provisions of section 10, chapter 1, referred to in this section, see MCL 81.10.

83.2 Wards; number, apportionment.

Sec. 2. Any city having a population of less than 5,000 inhabitants may be divided into 3 wards. If it contains a population of 5,000 or upwards it may be divided into 4 wards, and an additional ward for every additional 2,000 inhabitants above 5,000 and up to 10,000. But any city having, at the time of its being brought under or subject to the provisions of this act, a greater number of wards in proportion to its population than above mentioned, shall not be required to diminish the number of its existing wards.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2977;—CL 1915, 2893;—CL 1929, 1817;—CL 1948, 83.2.

83.3 Wards; existing ward officers or aldermen.

Sec. 3. No election of aldermen or ward officers shall be held in any newly established ward, or in any ward, on account of changes in the boundaries thereof, previous to the next annual city election; nor shall the office of any alderman or other officer elected in any ward be vacated by reason of any change in such ward; but any such alderman and other officer shall, during the remainder of his term, continue in office and to represent the ward including the place of his residence at the time of the change of the boundaries of the ward, unless the office become vacant for some other cause.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2978;—CL 1915, 2894;—CL 1929, 1818;—CL 1948, 83.3.

83.4 New wards; aldermen, terms.

Sec. 4. When by the creation of a new ward 2 aldermen are to be elected therein at the same time, 1 of them shall be elected for 1 year, and 1 for 2 years, and the term of each shall be designated on the ballot.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2979;—CL 1915, 2895;—CL 1929, 1819;—CL 1948, 83.4.

CHAPTER IV
ELECTORS AND REGISTRATION.

84.1 Electors; qualifications; registration; precincts.

Sec. 1. The inhabitants of cities having the qualifications of electors under the constitution of the state and statutes enacted thereunder, and no others, shall be electors therein. Registration of electors and division of the city into precincts shall be conducted in the manner provided by law.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2980;—CL 1915, 2896;—CL 1929, 1820;—CL 1948, 84.1;—Am. 1963, 2nd Ex. Sess., Act 2, Imd. Eff. Dec. 27, 1963;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

84.2-84.8 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed sections pertained to voting districts and registration.

CHAPTER V
OFFICERS.

85.1 Election of certain city officers.

Sec. 1. In cities incorporated under this act, a mayor, city clerk, and city treasurer shall be elected by the qualified voters of the whole city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2988;—CL 1915, 2904;—CL 1929, 1828;—Am. 1931, Act 84, Eff. Sept. 18, 1931;—CL 1948, 85.1;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

85.2 Ward officers; election, term.

Sec. 2. In each ward a supervisor, 2 aldermen and a constable shall be elected: Provided, That the council of any city re-incorporated under and made subject to the provisions of this act, which at the time of such re-incorporation shall have but 2 wards, may provide by ordinance for the election of 2 additional aldermen, to be known as aldermen at large, and to be elected by the qualified electors of the whole city. At the first election held under this act 1 of such aldermen shall be elected for a term of 1 year and 1 for a term of 2 years, and annually thereafter 1 shall be elected for a term of 2 years.

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History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2989;—CL 1915, 2905;—CL 1929, 1829;—CL 1948, 85.2.

85.3 Appointment, powers, and duties of city officers; availability of writings to public.

Sec. 3. (1) A city attorney, city marshal, street commissioner, city surveyor, a city assessor when provided for, and a chief engineer of the fire department shall be appointed by the mayor, by and with the consent of the council. The council may also provide by ordinance for the appointment of, for the term prescribed in the ordinance, other officers whose election or appointment is not specially provided for in this act, as the council considers necessary for the execution of the powers granted by this act. These appointments shall be made by the mayor, by and with the consent of the council, and their powers and duties shall be prescribed by ordinance. The mayor shall not have a vote in the council regarding mayoral appointments of those officers.

(2) A writing prepared, owned, used, in the possession of, or retained by a board, commission, or committee created under this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2990;—CL 1915, 2906;—CL 1929, 1830;—CL 1948, 85.3;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

85.3a Conducting business at public meeting; notice.

Sec. 3a. The business which a board, commission, or committee created under this act may perform shall be conducted at a public meeting of the board, commission, or committee held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: Add. 1978, Act 222, Imd. Eff. June 13, 1978.

85.4 City officers; appointment, time.

Sec. 4. Appointments to office, except appointments to fill vacancies, shall be made on the first Monday of May in each year; but appointments which for any cause shall not be made on that day may be made by the mayor and confirmed at any subsequent regular meeting of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2991;—CL 1915, 2907;—CL 1929, 1831;—CL 1948, 85.4.

85.5 First election; election and terms of aldermen.

Sec. 5. At the first election held in a city incorporated under this act, 2 aldermen in each ward shall be elected. In a city reincorporated under this act, the aldermen elected under the former corporation shall continue in office for the term for which they were elected and, at the first election, the number of aldermen to be elected shall be a number which together, with those continuing in office as provided in this act, totals the requisite number of aldermen required by this act. In this case, the terms of the aldermen first elected as provided by this act, shall be arranged so that 1 alderman for each ward is elected annually thereafter.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2992;—CL 1915, 2908;—CL 1929, 1832;—CL 1948, 85.5;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

85.6 City officers; terms.

Sec. 6. The mayor, city clerk, city treasurer, supervisors and constables shall hold their offices for the term of 1 year from the second Monday in April of the year when elected, and until their successors are qualified and enter upon the duties of their offices.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2993;—CL 1915, 2909;—CL 1929, 1833;—CL 1948, 85.6.

85.7 Appointive officers; terms, vacancies.

Sec. 7. All officers appointed by the mayor or council, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the first Monday of May next after such appointment, and until their successors are qualified and enter upon the duties of their office, unless a different term of office shall be provided in this act, or in the ordinance creating the office. Any officer elected to fill a vacancy shall hold the office during the residue of the term of office in which the vacancy occurred, and any officer appointed to fill a vacancy in any elective office shall hold such office until the next annual city election.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2994;—CL 1915, 2910;—CL 1929, 1834;—CL 1948, 85.7.

85.8 Entering upon duties of offices.

Sec. 8. Except as otherwise prescribed by law, officers not elected to fill vacancies shall enter upon the duties of their offices on the second Monday of April of each year.

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History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2995;—CL 1915, 2911;—CL 1929, 1835;—CL 1948, 85.8;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

QUALIFICATIONS, OATH AND BOND OF OFFICE.

85.9 City offices; qualifications; defaulters, election or appointment void.

Sec. 9. No person shall be elected or appointed to any office unless he be an elector of the city, and if elected or appointed for a ward, he must be an elector thereof; and no person shall be elected or appointed to any office in the city who has been or is a defaulter to the city or to any board or officers thereof, or to any school district, county, or other municipal corporation of the state. All votes for, or any appointment of, any such defaulter shall be void.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2996;—CL 1915, 2912;—CL 1929, 1836;—CL 1948, 85.9.

85.10 Oath of office.

Sec. 10. All officers elected or appointed in the city, within 10 days after receiving notice of election or appointment, shall take and subscribe the oath of office prescribed by the state constitution of 1963 and file the oath with the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2997;—CL 1915, 2913;—CL 1929, 1837;—CL 1948, 85.10;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

85.11 Bond or security.

Sec. 11. Each officer elected or appointed in the city, before entering upon the duties of his or her office and within the time prescribed for filing the official oath, shall file with the city clerk the bond or security required by law, ordinance, or requirement of the council with sureties approved by the council, for the due performance of the duties of that person's office. The bond or security of the clerk shall be deposited with the city treasurer.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2998;—CL 1915, 2914;—CL 1929, 1838;—CL 1948, 85.11;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

85.12 Required bond; sufficiency of sureties, inquiry; examination annexed to bond.

Sec. 12. The council, or the mayor, or other officer whose duty it shall be to judge of the sufficiency of the proposed sureties of any officer or person of whom a bond or any security may be required by this act or by any ordinance or direction of the council, shall inquire into the sufficiency of such sureties, and may examine them under oath as to their property; such oath may be administered by the mayor, or any alderman, or other person authorized to administer oaths. The examination of any such surety shall be reduced to writing and be signed by him, and annexed to and filed with the bond or instrument to which it relates.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2999;—CL 1915, 2915;—CL 1929, 1839;—CL 1948, 85.12.

85.13 New bonds; failure to comply.

Sec. 13. The council may also at any time require any officer, whether elected or appointed, to execute and file with the clerk of the city, new official bonds in the same or in such further sums, and with new or such further sureties as said council may deem requisite for the interest of the corporation. Any failure to comply with such requirement shall subject the officer to immediate removal by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3000;—CL 1915, 2916;—CL 1929, 1840;—CL 1948, 85.13.

VACANCIES IN OFFICE.

85.14 Resignations.

Sec. 14. Resignation of officers shall be made to the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3001;—CL 1915, 2917;—CL 1929, 1841;—CL 1948, 85.14.

85.15 Office declared vacant.

Sec. 15. If any officer shall cease to be a resident of the city, or if elected in and for a ward, shall remove therefrom during his term of office, the office shall thereby be vacated. If any officer shall be a defaulter the office shall thereby be vacated.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3002;—CL 1915, 2918;—CL 1929, 1842;—CL 1948, 85.15.

85.16 Office declared vacant; failure to file oath or bond.

Sec. 16. If any person elected or appointed to office shall fail to take and file the oath of office, or shall fail to give the bond or security required for the due performance of the duties of his office, within the time herein

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limited therefor, the council may declare the office vacant, unless previous thereto he shall file the oath and give the requisite bond or security.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3003;—CL 1915, 2919;—CL 1929, 1843;—CL 1948, 85.16.

85.17 Vacancies; filling.

Sec. 17. In case any vacancy occurs in the office of mayor, or in any other elective office, except justice of the peace, constable and school trustee, as hereinafter provided, the council may fill such vacancy by appointment at any time within 20 days after such vacancy occurs, or may, within such time, call a special election for the purpose of filling such vacancy, as they may deem for the best interest of the city. Vacancies in the office of justice of the peace and constable shall be filled at the next annual election or at a special election called for that purpose. Vacancies in any appointive office shall be filled within 20 days after such vacancy occurs, by the mayor by and with the consent of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3004;—CL 1915, 2920;—CL 1929, 1844;—CL 1948, 85.17.

85.18 Vacating officer; liabilities.

Sec. 18. The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office, exonerate such officer or his sureties from any liability incurred by him or them.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3005;—CL 1915, 2921;—CL 1929, 1845;—CL 1948, 85.18.

85.19 Property turned over to successor; penalty.

Sec. 19. Whenever any officer shall resign or be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor in office all the books, papers, moneys and effects in his custody as such officer, and in any way appertaining to his office; and every person wilfully violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers may be proceeded against for the like offense, under the general laws of this state now or hereafter in force and applicable thereto; and every officer appointed or elected under this act shall be deemed an officer within the meaning and provisions of such general laws of the state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3006;—CL 1915, 2922;—CL 1929, 1846;—CL 1948, 85.19.

CHAPTER VI
ELECTIONS.

86.1 Annual city election; time, place.

Sec. 1. An annual city election shall be held on the first Monday in April in each year, at such place or places in each of the several wards of the city, as the council shall designate.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3007;—CL 1915, 2923;—CL 1929, 1847;—CL 1948, 86.1.

86.2 Special election; resolution of council.

Sec. 2. Special elections may be appointed by resolution of the council, and held in and for the city, or in and for any ward thereof, at such times and place or places as the council shall designate; the purpose and object of which shall be fully set forth in the resolution appointing such election.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3008;—CL 1915, 2924;—CL 1929, 1848;—CL 1948, 86.2.

86.3-86.9 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed sections pertained to notice of elections, ballot boxes, polls, and board of election inspectors.

86.10 Elections; manner conducted.

Sec. 10. All elections held under the provisions of this act, shall be conducted, as nearly as may be, in the manner provided by law for holding general elections in the state, except as herein otherwise provided; and the inspectors of such elections shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3016;—CL 1915, 2932;—CL 1929, 1856;—CL 1948, 86.10.

86.11 Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 11. A petition under section 3 of chapter I, section 40 of chapter VII, section 11 or 13 of chapter XXVIII, or section 1 of chapter XXXIII, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of

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the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 149, Eff. Mar. 23, 1999.

Compiler's note: Former MCL 86.11, which pertained to appointments and duties of election commissioners, was repealed by Act 345 of 1974, Imd. Eff. Dec. 21, 1974.

86.12 Vote by ballot.

Sec. 12. The electors shall vote by ballot. Such ballot shall be prepared and furnished by the board of election commissioners as provided by the general election laws of the state, and shall contain the names of all officers to be voted for, and all questions or propositions submitted to be voted upon, and all matters touching the form and contents of the ballot and the casting and canvassing of the same, and all other matters touching elections shall be governed by the general election laws of the state, when not inconsistent with the provisions of this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3018;—CL 1915, 2934;—CL 1929, 1858;—CL 1948, 86.12.

86.13, 86.14 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed sections pertained to certificates showing result of election and to persons deemed duly elected.

86.15 Notification of election or appointment.

Sec. 15. The city clerk, within 5 days after the meeting and determination of the board of canvassers, shall notify each person elected, in writing, of his election; and he shall also, within 5 days after the appointment of any person to any office in like manner notify such person of such appointment.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3021;—CL 1915, 2937;—CL 1929, 1861;—CL 1948, 86.15;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

86.16 Oath of office or bond; failure to file; notice by clerk.

Sec. 16. Within 1 week after the expiration of the time in which any official bond or oath of office is required to be filed, the city clerk shall report, in writing, to the council, the names of the persons elected or appointed to any office, who shall have neglected to file such oath and requisite bond or security for the performance of the duties of the office.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3022;—CL 1915, 2938;—CL 1929, 1862;—CL 1948, 86.16.

CHAPTER VII
DUTIES AND COMPENSATION OF OFFICERS.

MAYOR.

87.1 Mayor; duties.

Sec. 1. The mayor shall be the chief executive officer of the city. He shall preside at the meetings of the council and shall from time to time give the council information concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the several departments of the city government, see that the laws relating to the city and the ordinances and regulations of the council are enforced.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3023;—CL 1915, 2939;—CL 1929, 1863;—CL 1948, 87.1.

87.2 Mayor; conservator of peace; limitation.

Sec. 2. The mayor shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder; and shall have authority to command the assistance of all able bodied citizens to aid in the enforcement of the ordinances of the council, and to suppress riot and disorderly conduct. Unless otherwise provided in the city charter the mayor is not a law enforcement officer within the meaning of section 18 of Act No. 8 of the Public Acts of the extra session of 1933, as amended, being section 436.18 of the Compiled Laws of 1948.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3024;—CL 1915, 2940;—CL 1929, 1864;—CL 1948, 87.2;—Am. 1969, Act 237, Imd. Eff. Aug. 11, 1969.

87.3 Mayor; suspension of appointed officers, procedure; records, inspection.

Sec. 3. The mayor may suspend any officer appointed by him at any time for neglect of duty, misconduct or other sufficient cause: Provided, That a written complaint under oath shall be preferred against said officer and filed with the city clerk. Said complaint shall be reasonably certain as to time, place and the offense, or

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offenses, charge therein, and a copy thereof served personally on such person or left with a person of suitable age at the last known place of residence of such suspended person, within 3 days after such suspension. The said officer shall have the privilege of filing answer to said complaint within 5 days after service of copy of said complaint as above provided. The council shall hear such complaint and defense thereto, if any, at the next regular meeting thereof: Provided, Said regular meeting shall occur within a time not less than 10 and not more than 15 days after the date of the filing of said complaint, otherwise a special meeting shall be called for the purpose of such hearing, and within the time herein limited. Should no complaint be filed within the time herein provided, or be not sustained at the hearing thereof, said officer may resume the duties of his office as if such suspension had never been made.

He shall at all times have authority to examine and inspect the books, records and papers of any agent, employe or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinances of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3025;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 2941;—CL 1929, 1865;—CL 1948, 87.3.

87.4 Mayor; vacancy in office, president pro tem.

Sec. 4. In the absence or disability of the mayor, or in case of any vacancy in his office, the president pro tempore of the council shall perform the duties of mayor during such absence, disability or vacancy.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3026;—CL 1915, 2942;—CL 1929, 1866;—CL 1948, 87.4.

ALDERMEN.

87.5 Aldermen; powers, duties.

Sec. 5. The aldermen of the city shall be members of the council, and attend the meetings thereof, and act upon committees, when thereupon appointed by the mayor or council. They shall be conservators of the peace, and as such they shall aid in maintaining quiet and good order in the city, and in securing the faithful performance of duty by all officers of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3027;—CL 1915, 2943;—CL 1929, 1867;—CL 1948, 87.5.

CITY CLERK.

87.6 City clerk; powers, duties.

Sec. 6. The city clerk shall keep the corporate seal, and all the documents, official bonds, papers, files and records of the city, not by this act or the ordinances of the city entrusted to some other officer; he shall be clerk of the council; shall attend its meetings, record all its proceedings, ordinances and resolutions, and shall countersign and register all licenses granted; he shall, when required, make and certify under the seal of the city copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be; he shall possess and exercise the powers of a township clerk, so far as the same are required to be performed within the city; and he shall have authority to administer oaths and affirmations.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3028;—CL 1915, 2944;—CL 1929, 1868;—CL 1948, 87.6.

87.7 City clerk; general accountant; tax reports.

Sec. 7. The clerk shall be the general accountant of the city; and all claims against the corporation shall be filed with him for adjustment, and, after examination thereof, he shall report the same, with all accompanying vouchers and counter claims of the city, and the true balance as found by him, to the council, for allowance, and when allowed shall draw his warrant upon the treasurer for the payment thereof, designating thereon the fund from which payment is to be made, and take proper receipts therefor, but no warrant shall be drawn upon any fund after the same has been exhausted. When any tax or money shall be levied, raised or apportioned, the clerk shall report the amount thereof to the city treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts thereof to be credited to each fund.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3029;—CL 1915, 2945;—CL 1929, 1869;—CL 1948, 87.7.

87.8 Supervision duties over moneys and property; accounts.

Sec. 8. The clerk shall exercise a general supervision over all officers charged in any manner with the receipt, collection and disbursement of the city revenues and over all the property and assets of the city; he shall have charge of all books, vouchers and documents relating to the accounts, contracts, debts and revenues of the corporation; he shall countersign and register all bonds issued, and keep a list of all property and effects belonging to the city, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the

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financial condition of the corporation and all its departments, funds, resources and liabilities, with a proper classification thereof and showing the purpose for which each fund was raised; he shall also keep an account with the treasurer, in which he shall charge him with all moneys received for each of the several funds of the city, and credit him with all the warrants drawn thereon, keeping a separate account with each fund; when any fund has been exhausted, the clerk shall immediately advise the council thereof.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3030;—CL 1915, 2946;—CL 1929, 1870;—CL 1948, 87.8.

87.9 Financial report to council.

Sec. 9. The clerk shall report to the council, whenever required, a detailed statement of the receipts, expenditures, and financial condition of the city, of the debts to be paid, and moneys required to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3031;—CL 1915, 2947;—CL 1929, 1871;—CL 1948, 87.9.

87.10 Deputy; appointment, duties; responsibility of clerk.

Sec. 10. The clerk may, subject to the approval of the council, appoint a deputy, who shall possess all the powers and authority of the city clerk, and may exercise all the duties thereof, subject to the control of such clerk, and such deputy shall be paid for his services by the clerk, unless otherwise provided by the council. The clerk shall be responsible for all the acts and defaults of such deputy, and he may remove such deputy at his pleasure.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3032;—CL 1915, 2948;—CL 1929, 1872;—CL 1948, 87.10.

CITY TREASURER.

87.11 City treasurer; powers; duties; depositary, bond; deputy.

Sec. 11. The treasurer, subject to the direction of the council, shall have the custody of all moneys, bonds, mortgages, notes, leases and evidences of value belonging to the city: Provided, That the council by a majority vote of all the aldermen elect may designate 1 or more depositaries in such city in which the city treasurer shall deposit all such moneys and other property named above in his possession by virtue of his office, to be drawn therefrom only in such manner as the council shall direct, and every such depositary shall furnish a bond, as the council may require and approve, for the safekeeping and accounting of all such moneys and property thus coming into its possession. The council may at any time by a majority vote of all the aldermen elect change any depositary or depositaries. He shall receive all moneys belonging to and receivable by the corporation, and keep account of all receipts and expenditures thereof: Provided, That the treasurer shall not be liable for any neglect or default by such depositary or depositaries. The treasurer shall pay no money out of the treasury except in pursuance of and by authority of law and as directed by the council. He shall keep an account of and be charged with all taxes and moneys appropriated, raised or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in or appropriated therefor, and shall pay every warrant out of the particular fund constituted or raised for the purpose for which the warrant was issued, and having the name of such fund endorsed thereon by the clerk. The treasurer may also, subject to the approval of the council, appoint a deputy, who shall possess all the powers and authority of the treasurer, subject to the control of the treasurer; and the treasurer and his bondsmen shall be liable for the acts and defaults of such deputy. Such deputy shall be paid for his services by the treasurer, unless otherwise provided by the council, and such deputy may be removed at the will of the treasurer. The city treasurer shall be the collector of state and county taxes within the city, and all other taxes and assessments levied within the city; he shall perform all such duties in relation to the collection of taxes as the council may prescribe, and as provided by this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3033;—Am. 1901, Act 156, Imd. Eff. May 22, 1901;—CL 1915, 2949;—CL 1929, 1873;—CL 1948, 87.11.

87.12 Financial reports; time.

Sec. 12. The treasurer shall render to the clerk on the first Monday of every month, and oftener if required, a report of the amounts received and credited by him to each fund, and on what account received, and the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report, and the council may at any time when they shall deem it advisable cause such report to be verified by a personal examination of the books, warrants, vouchers and city moneys in the possession of the treasurer. He shall also exhibit to the council annually on the first Monday in March, and as often and for such period as the council shall require, a full and detailed account of the receipts and

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disbursements of the treasury since the date of his last annual report, classifying them therein by the funds to which such receipts are credited and out of which such disbursements are made, and the balances remaining in each fund; which account shall be filed in the office of the clerk and shall be published in one or more of the newspapers of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3034;—CL 1915, 2950;—CL 1929, 1874;—CL 1948, 87.12.

87.13 Payment receipts and vouchers.

Sec. 13. The said treasurer shall take receipts and vouchers for all moneys paid from the treasury, showing the amount and fund from which payment was made, and he shall exhibit to the council such receipts or vouchers on the first Monday of March in each year, or as often as the council shall require, as provided in the next preceding section.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3035;—CL 1915, 2951;—CL 1929, 1875;—CL 1948, 87.13.

87.14 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed section pertained to city treasurer as treasurer of school district.

87.15 Public moneys; prohibited handling; removal from office.

Sec. 15. The city treasurer shall keep all moneys in his hands belonging to the city and to the public schools, separate and distinct from his own moneys; and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt, or any of the school or library funds in his custody or keeping, for his own use or benefit or that of any other person; any violation of this section shall subject him to immediate removal from office by the council, and the council is hereby authorized to declare the office vacant and to appoint his successor for the remainder of his term.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3037;—CL 1915, 2953;—CL 1929, 1877;—CL 1948, 87.15.

CITY MARSHAL.

87.16 City marshal; chief of police and peace officer; duties.

Sec. 16. The marshal shall be the chief of the police of the city. As police officer, he shall be subject to the direction of the mayor. It shall be his duty to see that all the ordinances and regulations of the council, made for the preservation of quiet, good order, and for the safety and protection of the inhabitants of the city are promptly enforced.

As peace officer he shall be vested with all the powers conferred upon sheriffs for the preservation of quiet and good order. He shall serve and execute all process directed or delivered to him and such process may be served anywhere within the state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3038;—CL 1915, 2954;—CL 1929, 1878;—CL 1948, 87.16.

87.17 City marshal; suppression of riots.

Sec. 17. He shall suppress all riots, disturbances, and breaches of the peace, and for that purpose may command the aid of the citizens in the performance of such duty. It shall be his duty to arrest all disorderly persons in the corporation. He shall arrest upon view, and with or without process, any person found in the act of committing any offense against the laws of the state or the ordinances of the city amounting to a breach of the peace, and forthwith take such person before the proper magistrate or court for examination or trial, and may also without process arrest and imprison persons found drunk in the streets.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3039;—CL 1915, 2955;—CL 1929, 1879;—CL 1948, 87.17.

87.18 Monthly report to council; contents; moneys, disposition.

Sec. 18. The marshal shall report in writing and on oath to the council at their first meeting in each month all arrests made by him, and the cause thereof, and all persons discharged from arrest during the month; also the number remaining in confinement for breaches of the ordinances of the city, and the amount of all fines and fees collected by him. All moneys collected or received by the marshal, except fees for his personal services, unless otherwise directed by this act, shall be paid into the city treasury during the same month when received, and the treasurer's receipt therefor shall be filed with the clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3040;—CL 1915, 2956;—CL 1929, 1880;—CL 1948, 87.18.

87.19 Fees.

Sec. 19. The marshal may collect and receive the same fees for services performed by him as are allowed to constables for like services; but in no case shall such fees be charged to, or be paid by, the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3041;—CL 1915, 2957;—CL 1929, 1881;—CL 1948, 87.19.

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CITY ATTORNEY.

87.20 City attorney; duties.

Sec. 20. The attorney, in addition to the other duties prescribed in this act, shall be the legal adviser of the council and of all officers of the city, shall act as the attorney and solicitor for the corporation in all legal proceedings in which the corporation is interested, and, except as otherwise provided by law, shall prosecute violations of the ordinances of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3042;—CL 1915, 2958;—CL 1929, 1882;—CL 1948, 87.20;—Am. 1994, Act 19, Eff. May 1, 1994.

CITY SURVEYOR.

87.21 City surveyor; powers, duties.

Sec. 21. The surveyor shall have and exercise within the city, the like powers and duties as are conferred by law upon county surveyors; and the like effect and validity shall be given to his official acts, surveys and plats, as are given by law to the acts and surveys of county surveyors. He shall make all necessary plats, maps, surveys, diagrams and estimates, plans and specifications required by the council or officers of the city, relating to the public improvements, buildings, grounds and streets of the city, and all plats, maps, surveys and diagrams made by him as such surveyor shall be the property of the city, and shall be delivered by him to his successor in office.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3043;—CL 1915, 2959;—CL 1929, 1883;—CL 1948, 87.21.

STREET COMMISSIONER.

87.22 Street commissioner; duties.

Sec. 22. It shall be the duty of the street commissioner to perform or cause to be performed, all such labor, repairs and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds and parks within the city as the council shall direct to be done by or under his supervision; and to oversee and do whatever may be required of him in relation thereto by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3044;—CL 1915, 2960;—CL 1929, 1884;—CL 1948, 87.22.

87.23 Monthly report to council; contents; marshal as street commissioner.

Sec. 23. He shall make a report to the council, in writing and on oath, once in each month, giving an exact statement of all labor performed by him, or under his supervision, and the charges therefor, the amount of material used, and the expense thereof, and the street or place where such material was used, or labor performed; and further showing the items and purpose of all expenses incurred since his last preceding report, and no payment for labor or services performed, or for expenses incurred by him shall be made until reported on oath, as aforesaid: Provided, That nothing in this act shall prevent the council from bestowing the powers and duties of street commissioner upon the marshal when it shall be deemed advisable.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3045;—CL 1915, 2961;—CL 1929, 1885;—CL 1948, 87.23.

CONSTABLES.

87.24 Constables; powers, duties.

Sec. 24. The constables of the city shall have the like powers and authority in matters of civil and criminal nature, and in relation to the service of all manner of criminal process, as are conferred by law upon constables in townships, and shall receive the like fees for their services. They shall have power also to serve all process issued for breaches of ordinances of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3046;—CL 1915, 2962;—CL 1929, 1886;—CL 1948, 87.24.

87.25 Neglect or refusal to perform duty; penalty; bond.

Sec. 25. The constables of the city shall obey the lawful orders of the mayor, and aldermen and shall discharge the duties required of them by ordinance, resolution, or regulation of the council. For neglect or refusal to perform a required duty, each constable shall be subject to a penalty of not less than $5.00 nor more than $50.00. Before assuming the duties of office, each constable shall give the bonds for the performance of the duties of that office as are required and approved by the council and shall file the bonds with the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3047;—CL 1915, 2963;—CL 1929, 1887;—CL 1948, 87.25;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

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SUPERVISORS.

87.26 Supervisors; powers, duties; representation upon county board.

Sec. 26. The supervisors of the several wards are authorized to perform the same duties in relation to the assessment of property and levying taxes for all purposes in their respective wards, as are imposed by law upon supervisors elected in townships; and they shall have the like powers and perform the like duties in all other respects as supervisors so elected, except as herein otherwise provided, so far as such powers and duties are required to be exercised and performed in their wards; they shall represent their several wards in the board of supervisors of the county in which the city is located, and shall have all rights, privileges and powers of the several members of such board of supervisors: Provided, That any city now having a greater representation upon the board of supervisors of any county than is provided by this act, shall continue to have such representation as it may have at the time of such reincorporation, and if the office of any officer now representing any such city upon the board of supervisors is abolished by this act, the council of such city may annually appoint some suitable person, being a resident elector of such city, to represent the city upon the board of supervisors in the place of such officer whose office has been abolished.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3048;—CL 1915, 2964;—CL 1929, 1888;—CL 1948, 87.26.

87.27 Selection of jury lists.

Sec. 27. The supervisors of the several wards shall, except in counties having a jury commission, select and return lists of grand and petit jurors to the clerk of the county, in the same manner and within the same time as the like duty is required to be performed by township officers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3049;—CL 1915, 2965;—CL 1929, 1889;—CL 1948, 87.27.

JUSTICES OF THE PEACE.

87.28-87.36 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

87.37 Additional powers and liabilities of officers.

Sec. 37. In addition to the rights, powers, duties and liabilities of officers prescribed in this act, all officers, whether elected or appointed, shall have such other rights, powers, duties and liabilities, subject to and consistent with this act, as the council shall deem expedient, and prescribe by ordinance or resolution.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3059;—CL 1915, 2975;—CL 1929, 1899;—CL 1948, 87.37.

COMPENSATION OF OFFICERS.

87.38 City officers; compensation; fees.

Sec. 38. The mayor shall receive an annual salary as the council determines and aldermen may each receive a salary as prescribed by the council. The city marshal, clerk, treasurer, city attorney, and engineer of the fire department shall each receive an annual salary as the council determines by ordinance. Constables and officers serving process and making arrests, when engaged in causes and proceedings for violations of the ordinances of the city, may charge and receive the fees allowed to those officers for the same services by the laws of the state. Except as otherwise provided in this act, other officers elected or appointed in the city, shall receive the compensation determined by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3060;—Am. 1915, Act 209, Eff. Aug. 24, 1915;—CL 1915, 2976;—CL 1929, 1900;—CL 1948, 87.38;—Am. 1957, Act 268, Eff. Sept. 27, 1957;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

87.39 Increase or diminishment of salary during term prohibited; exception; eligibility for office resigned or vacated.

Sec. 39. The salary or rate of compensation for any officer elected by authority of this act shall not be increased or diminished during the term of office, except as provided in section 40; and no person who shall have resigned or vacated any elective office shall be eligible to the same office during the term for which he was elected or appointed when during the same time the salary or rate of compensation has been increased except in the event of an increase pursuant to section 40.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3061;—CL 1915, 2977;—CL 1929, 1901;—CL 1948, 87.39;—Am. 1973, Act 39, Imd. Eff. June 28, 1973.

87.40 Ordinance establishing alternate procedure for determining salaries; local officials compensation commission; resolution; petition for referendum; changing procedure by charter amendment or revision.

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Sec. 40. (1) In lieu of the procedure in section 38, as amended, for determining salaries of elected officials, the council by ordinance may establish the procedure described in this section, in which case the restriction contained in section 39 with respect to changing salaries during term shall be inapplicable. The ordinance shall provide:

(a) A local officials compensation commission is created. It shall determine the salaries of city elected officials. The commission shall consist of 5 members who are registered electors of the city, appointed by the mayor subject to confirmation by a majority of the members elected and serving on the council. The terms of office shall be 5 years, except that of the members first appointed, 1 each shall be appointed for terms of 1, 2, 3, 4, and 5 years. All first members shall be appointed within 30 days after the effective date of the ordinance. Thereafter members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of an unexpired term. No officer or employee of any government agency or unit or member of the immediate family of such an officer or employee shall be eligible to be appointed to the commission.

(b) The commission shall determine the salaries of the city elected officials which determination shall be the salaries unless the legislative body by resolution adopted by 2/3 of the members elected to and serving on the council rejects the determinations. The determinations of the commission shall be effective 30 days following their filing with the city clerk unless rejected by the council. In case of rejection, the existing salary shall prevail. Any expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.

(c) The commission shall meet for not more than 15 session days in 1973 and every odd numbered year thereafter and shall make its determination within 45 calendar days of its first meeting. A majority of the members of the commission constitutes a quorum for conducting the business of the commission. The commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairman from among its members. “Session days” means any calendar day on which the commission meets and a quorum is present. The members of the commission shall receive no compensation, but shall be entitled to actual and necessary expenses incurred in the performance of their duties.

(2) The council may implement the provisions of the ordinance by resolution including the date for convening the commission.

(3) Within 60 days after the effective date of the ordinance, a petition for a referendum on the ordinance may be filed with the city clerk containing the signatures of at least 5% of the registered electors of such city on the effective date of the ordinance in which case the election shall be conducted in the same manner as an election on a charter amendment. If a petition for referendum is filed, any determination of the commission shall not be effective until the ordinance has been approved by the electors.

(4) After 1 year following the effective date of the ordinance, the procedure for establishing the compensation of city elected officials may be changed by charter amendment or revision.

History: Add. 1973, Act 39, Imd. Eff. June 28, 1973.

CHAPTER VIII
THE CITY COUNCIL.

88.1 City council; members.

Sec. 1. The legislative authority of cities incorporated under this act shall be vested in a council consisting of the mayor, two aldermen elected from each ward and the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3062;—CL 1915, 2978;—CL 1929, 1902;—CL 1948, 88.1.

88.2 Mayor to be president.

Sec. 2. The mayor shall be president of the council, and preside at the meetings thereof, but shall have no vote therein, except in case of a tie, when he shall have the casting vote.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3063;—CL 1915, 2979;—CL 1929, 1903;—CL 1948, 88.2.

88.3 President pro tempore; powers, duties.

Sec. 3. On the first Monday in May in each year, the council shall appoint 1 of their number president pro tempore of the council, who, in the absence of the president, shall preside at the meetings thereof, and exercise the powers and duties of president. He shall have a vote upon all questions, but he shall have no casting vote in case of a tie. In the absence of the president and president pro tem, the council shall appoint 1 of their number to preside and for the time being he shall exercise the powers and duties of the president.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3064;—CL 1915, 2980;—CL 1929, 1904;—CL 1948, 88.3.

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88.4 Clerks; duties.

Sec. 4. The city clerk shall be clerk of the council, but shall have no vote therein. He shall keep a full record of all the proceedings of the council, and perform such other duties relating to his office as the council may direct. In the absence of the clerk or his deputy the council shall appoint 1 of their number to perform the duties of clerk for the time being.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3065;—CL 1915, 2981;—CL 1929, 1905;—CL 1948, 88.4.

88.5 Aldermen; required attendance; loss of vote, interest.

Sec. 5. Each alderman shall be required to attend all sessions of the council, and serve upon committees when appointed thereon. No alderman shall vote on any question in which he shall have a direct personal interest, but on all other questions he shall vote unless excused therefrom by a vote of 2/3 of the aldermen elect.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3066;—CL 1915, 2982;—CL 1929, 1906;—CL 1948, 88.5.

88.6 Election returns; qualification of membership; meetings, notice.

Sec. 6. The council shall be judge of the election returns and qualifications of its own members. It shall hold regular stated meetings for the transaction of business, at such times and places within the city as it shall prescribe, not less than 2 of which shall be held in each month. The mayor or any 3 members of the council may call special meetings thereof, notice of which, in writing, shall be given to each alderman, or be left at his place of residence at least 6 hours before the meeting.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3067;—CL 1915, 2983;—CL 1929, 1907;—CL 1948, 88.6.

88.7 Conducting business at public meeting; notice; quorum; adjournment; pending business; compelling attendance of absent members; concurring vote required for certain actions; reconsidering or rescinding vote at special meeting; appropriation of money; passing or adopting resolution.

Sec. 7. (1) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A majority of the aldermen shall constitute a quorum for the transaction of business. A number less than a majority may adjourn a meeting, and all pending business noticed or set down for hearing at that meeting shall be taken up and heard at the next meeting.

(3) Members present may compel the attendance of absent members in the manner as prescribed by rule or ordinance. An office shall not be created or abolished; nor a tax or assessment imposed; a street, alley, or public ground vacated; real estate or interest in real estate purchased, leased, sold, or disposed of; or private property taken for public use, unless by a concurring yea and nay vote of 2/3 of all the aldermen elected to office. A vote of the council shall not be reconsidered or rescinded at a special meeting, unless there are present as many aldermen as were present when that vote was taken.

(4) Money shall not be appropriated except by ordinance or resolution of the council. A resolution shall not be passed or adopted except by the vote of a majority of all the aldermen elected to office, except as prescribed in this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3068;—CL 1915, 2984;—CL 1929, 1908;—CL 1948, 88.7;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

88.8 Rules for council proceedings; record or journal of proceedings; availability of writings to public; taking votes; entering votes on journal; publication of record and votes.

Sec. 8. (1) The council shall prescribe rules for council proceedings, and keep a record or journal of the proceedings. A writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Votes shall be taken by yeas and nays when required by 1 or more members and the votes shall be entered upon the journal indicating the names of those voting in the affirmative and those in the negative. Within 10 days after a meeting of the council, the record of the proceeding, and votes taken at the proceeding shall be published in a newspaper of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3069;—CL 1915, 2985;—CL 1929, 1909;—CL 1948, 88.8;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

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88.9 Compelling attendance at meetings; fines for nonattendance; sanctions for disorderly conduct; ordinance.

Sec. 9. The council, by ordinance, may compel the attendance of council members and other officers of the city at its meetings, may enforce fines for nonattendance of a member or officer, and may prescribe sanctions for any misbehavior or contemptuous or disorderly conduct by a member or a person present at a session of the council. The ordinance shall not conflict, as written or applied, with section 3 of the open meetings act, Act No. 267 of the Public Acts of 1976, being section 15.263 of the Michigan Compiled Laws.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3070;—CL 1915, 2986;—CL 1929, 1910;—CL 1948, 88.9;—Am. 1978, Act 222, Imd. Eff. June 13, 1978;—Am. 1994, Act 19, Eff. May 1, 1994.

88.10 City officers; attendance at meetings; public attendance and participation not prohibited.

Sec. 10. (1) The attorney, marshal, street commissioner, surveyor, and engineer of the fire department may take part in proceedings and deliberations of the council on subjects relating to their respective departments, subject to rules prescribed by the council, but without the right to vote. The officers may be required to attend the meetings of the council in the same manner as members.

(2) Subsection (1) shall not prohibit public attendance and participation at a meeting as prescribed under section 7.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3071;—CL 1915, 2987;—CL 1929, 1911;—CL 1948, 88.10;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

88.11 Powers of council; control of finances, property.

Sec. 11. The council shall have control of the finances and of all property of the city corporation, except as may be otherwise provided by law.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3072;—CL 1915, 2988;—CL 1929, 1912;—CL 1948, 88.11.

88.12 Powers of council; ordinances, enactment.

Sec. 12. Whenever by this act or any other provisions of law any power or authority is vested in, or duly imposed upon, the corporation or council, the council may enact such appropriate ordinances as may be necessary for the execution and exercise of such power and authority, and to regulate the performance of such duty.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3073;—CL 1915, 2989;—CL 1929, 1913;—CL 1948, 88.12.

88.13 Powers of council; standing committees; appointment, duties.

Sec. 13. The council may provide for the appointment of standing committees of its members, who shall perform such duties, investigate, have charge of, and report upon such matters as may be properly referred to them.

Such committees shall be appointed by the mayor, subject to the approval of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3074;—CL 1915, 2990;—CL 1929, 1914;—CL 1948, 88.13.

88.14 Records, books, documents, or papers; location; filing; inspection; defacement or destruction; violation; penalty.

Sec. 14. (1) The council shall cause the records of the corporation, records of the proceedings of the council, and all books, documents, reports, contracts, receipts, vouchers, and papers relating to the finances and affairs of the city, or to the official acts of an officer of the corporation, unless required by this act to be kept elsewhere, to be deposited and kept in the office of the city clerk. The records shall be arranged, filed, and kept to facilitate convenient access and inspection. These records, books, and papers shall be subject to inspection by any person in compliance with Act No. 442 of the Public Acts of 1976.

(2) A person shall not secrete, injure, deface, alter, or destroy the books, records, documents, or papers described in subsection (1), or expose them to loss or destruction.

(3) A person who violates subsection (2) with intent to prevent the contents or true meaning or import of the records from being known, is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $1,000.00, or by both.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3075;—CL 1915, 2991;—CL 1929, 1915;—CL 1948, 88.14;—Am. 1978, Act 222, Imd. Eff. June 13, 1978.

88.15 Members; compensation.

Sec. 15. No member of the council shall receive any compensation for his services, either as alderman,

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committeeman or otherwise, except as herein provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3076;—CL 1915, 2992;—CL 1929, 1916;—CL 1948, 88.15.

88.16 Repealed. 1968, Act 317, Eff. Sept. 1, 1968.

Compiler's note: The repealed section provided that city council members not be interested in contracts; penalty; exception.

88.17 Removal from office; preferring charges against and trying officers.

Sec. 17. A person appointed to office by the council under this act, may be removed from office by a vote of the majority of the aldermen elect. The council may remove from office an alderman by a concurring vote of 2/3 of all the aldermen elect. For elective officers other than aldermen, provisions shall be made by ordinance for preferring charges against and trying these officers. Removal of an elective officer other than an alderman shall not be made except by a 2/3 vote of all the aldermen elect and unless a charge in writing is preferred and an opportunity given to make a defense to the charge.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3078;—CL 1915, 2994;—CL 1929, 1918;—CL 1948, 88.17;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

88.18 Investigation of charges or other matters; procedure.

Sec. 18. To enable the council to investigate charges against an officer, or other matters as they consider proper to investigate, the mayor, at the request of the council, may issue subpoenas or process by warrant, to compel the attendance of persons and the production of books and papers, before the council or a committee of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3079;—CL 1915, 2995;—CL 1929, 1919;—CL 1948, 88.18;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

88.19 Witnesses; summons, oath.

Sec. 19. Whenever the council, or any committee of the members thereof, are authorized to compel the attendance of witnesses for the investigation of matters which may come before them, the presiding officer of the council or chairman of such committee for the time being, shall have power to administer the necessary oaths.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3080;—CL 1915, 2996;—CL 1929, 1920;—CL 1948, 88.19.

88.20 Claims against city; audit, allowance; rules; defense to suit.

Sec. 20. The council shall audit and allow all accounts chargeable against the city but no account or claim or contract shall be received for audit or allowance, unless it shall be accompanied with a certificate of an officer of the corporation, or an affidavit of the person rendering it, to the effect that he verily believes that the services therein charged have been actually performed or the property delivered for the city, that the sums charged therefor are reasonable and just, and that to the best of his knowledge and belief, no set-off exists, nor payment has been made on account thereof, except such as are endorsed or referred to in such account or claim, and every such account shall exhibit in detail all the items making up the amount claimed, and the true date of each. It shall be a sufficient defense in any court, to any action or proceeding for the collection of any demand or claim against the city for personal injuries or otherwise, that it has never been presented, certified to or verified as aforesaid, to the council for allowance; or if such claim is founded on contract that the same was presented without the affidavit or certificate as aforesaid, and rejected for that reason; or that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3081;—CL 1915, 2997;—CL 1929, 1921;—CL 1948, 88.20.

CHAPTER IX
ORDINANCES.

89.1 Style of ordinance; passage; required vote; effective date of ordinance.

Sec. 1. The style of each ordinance shall be, “The city of ..... ordains.” Each ordinance shall require for its passage the concurrence of a majority of all the aldermen elected or appointed, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor. The time when an ordinance takes effect shall be prescribed in the ordinance. If the ordinance imposes a sanction, the ordinance shall take effect not less than 20 days after the day of its passage.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3082;—Am. 1905, Act 246, Eff. Sept. 16, 1905;—CL 1915, 2998;—CL 1929, 1922;—CL 1948, 89.1;—Am. 1994, Act 19, Eff. May 1, 1994.

89.2 Violation of ordinance; sanction; designation of civil infractions; act or omission

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constituting crime; limitation on fine or forfeiture; penalty.

Sec. 2. (1) The council of a city may prescribe a sanction for the violation of an ordinance.

(2) Consistent with any of the following statutes, the council may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation:

(a) The Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(b) Act No. 235 of the Public Acts of 1969, being sections 257.941 to 257.943 of the Michigan Compiled Laws.

(c) Act No. 62 of the Public Acts of 1956, being sections 257.951 to 257.954 of the Michigan Compiled Laws.

(3) The council may adopt an ordinance that designates a violation of the ordinance as a municipal civil infraction and provides a civil fine for that violation. An ordinance may not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (2). A statute may provide that a violation of a specific type of ordinance is a municipal civil infraction whether or not the ordinance designates the violation as a municipal civil infraction.

(4) An ordinance shall not make an act or omission a municipal civil infraction if that act or omission constitutes a crime under any of the following:

(a) Article 7 or section 17766a of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7101 to 333.7545 and 333.17766a of the Michigan Compiled Laws.

(b) The Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.1 to 750.568 of the Michigan Compiled Laws.

(c) Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(d) The Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(e) Part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199 of the Michigan Compiled Laws.

(f) The aeronautics code of the state of Michigan, Act No. 327 of the Public Acts of 1945, being sections 259.1 to 259.208 of the Michigan Compiled Laws.

(g) Part 821 (snowmobiles) of Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82159 of the Michigan Compiled Laws.

(h) Part 811 (off-road recreation vehicles) of Act No. 451 of the Public Acts of 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws.

(i) Sections 351 to 365 of the railroad code of 1993, Act No. 354 of the Public Acts of 1993, being sections 462.351 to 462.365 of the Michigan Compiled Laws.

(j) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.

(5) For the violation of an ordinance other than an ordinance described in subsection (2) or (3), the council may prescribe a fine or forfeiture not exceeding $500.00, unless a greater fine or forfeiture is authorized in this act, or imprisonment not exceeding 180 days, or both, in the discretion of the court, together with the costs of prosecution for each violation of the ordinance; may provide that the offender, on failing to pay a fine or forfeiture, or the costs of prosecution, may be imprisoned for a term not exceeding 180 days unless payment is made before the expiration of the term; and may direct the imprisonment to be in the county jail of the county within which the city is located or in a prison or other place of confinement in the state as provided by law.

(6) A sanction for the violation of an ordinance shall be prescribed in the ordinance.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3083;—CL 1915, 2999;—CL 1929, 1923;—CL 1948, 89.2;—Am. 1994, Act 19, Eff. May 1, 1994;—Am. 1996, Act 43, Imd. Eff. Feb. 26, 1996.

89.2a Recreational trailway; posting of ordinance; prohibited operation of vehicle as municipal civil infraction; penalty.

Sec. 2a. (1) An ordinance regulating a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(2) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance is a municipal civil infraction, whether or not so designated by the ordinance. A civil fine ordered for a municipal civil infraction described in this subsection shall not exceed the maximum amount of a fine provided by the ordinance or $500.00, whichever is less. An act or omission described in this subsection is not a municipal civil infraction if that act or omission constitutes a violation or crime that

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section 2 prohibits an ordinance from designating as a civil infraction.

History: Add. 1994, Act 83, Eff. Oct. 1, 1994.

89.3 Veto powers of officers; passage of resolution over veto.

Sec. 3. No ordinance or resolution passed by the council shall have any force or effect, if, on the day of its passage, or on the next day thereafter, the mayor, or other officer or person legally discharging the duties of mayor, shall lodge in the office of the clerk a notice, in writing, suspending the immediate operation of such ordinance or resolution.

If the mayor, or other officer or person legally exercising the office of mayor, shall, within 3 days after the passage of any such ordinance or resolution, lodge in the office of the city clerk his reasons in writing, why the same should not go into effect, the same shall not go into effect, nor have any legal operation, unless it shall, at a subsequent meeting of the council, be passed by a 2/3 vote of all the aldermen elect, exclusive of the mayor or other officer or person legally exercising the duties of the office of mayor, and if so repassed shall go into effect according to the terms thereof. If such reasons shall not be lodged with the clerk as above provided, such ordinance or resolution shall have the same operation and effect as if no notice suspending the same had been lodged with the city clerk, and no ordinance or resolution of the council shall go into operation until after the expiration of 24 hours after its passage, unless the said mayor, or acting mayor, shall approve the same in writing.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3084;—CL 1915, 3000;—CL 1929, 1924;—CL 1948, 89.3.

89.4 Repealed ordinances; re-enactment.

Sec. 4. No repealed ordinance shall be revived unless the whole, or so much as is intended to be revived, shall be re-enacted. When any section or part of a section of an ordinance is amended, the whole section, as amended shall be re-enacted.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3085;—CL 1915, 3001;—CL 1929, 1925;—CL 1948, 89.4.

89.5 Approved ordinances; recording.

Sec. 5. All ordinances when approved by the mayor or when regularly enacted shall be immediately recorded by the clerk of the council, in a book to be called "The Record of Ordinances," and it shall be the duty of the mayor and clerk to authenticate the same by their official signatures upon such record.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3086;—CL 1915, 3002;—CL 1929, 1926;—CL 1948, 89.5.

89.6 Approved ordinances; publication; certificate; plumbing, electric, building codes, adoption; publication.

Sec. 6. Within 1 week after the passage of any ordinance the same shall be published in some newspaper printed and circulated within the city, and the clerk shall immediately after such publication enter upon the record of ordinances, in a blank space to be left for such purpose under the recorded ordinance, a certificate stating in what newspaper and of what date such publication was made, and sign the same officially, and such certificate shall be prima facie evidence that legal publication of such ordinance has been made: Provided, however, That each city shall have power to adopt any plumbing code, electrical code, or building code which has been promulgated by the state of Michigan, or by any department, board, or other agency thereof, or by any organization or association which is organized and conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing any such code in full: Provided, That said code is clearly identified in said ordinance and that the purpose of said code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the city clerk, available for inspection by and distribution to the public at all times, and that the publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3087;—CL 1915, 3003;—CL 1929, 1927;—CL 1948, 89.6;—Am. 1951, Act 28, Eff. Sept. 28, 1951.

89.7 Judicial notice of ordinances; best evidence, order.

Sec. 7. In all courts having authority to hear, try or determine any matter or cause arising under the ordinances of any city, and in all proceedings in such city relating to or arising under the ordinances or any ordinance thereof, judicial notice shall be taken of the enactment, existence, provisions and continuing force of the ordinances of the city. And whenever it shall be necessary to prove any of the laws, regulations or ordinances of any city, or any resolution adopted by the council thereof, the same may be read in all courts of justice, and in all proceedings: First, From a record thereof kept by the city clerk; Second, From a copy

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thereof, or of such record thereof, certified by the city clerk under the seal of the city; Third, From any volume of ordinances purporting to have been written or printed by authority of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3088;—CL 1915, 3004;—CL 1929, 1928;—CL 1948, 89.7.

CHAPTER X
ENFORCEMENT OF ORDINANCES.

90.1 Violations; commencement of action; time limitation.

Sec. 1. An action for a violation of an ordinance of a city incorporated under this act shall be commenced within 2 years after the commission of the violation.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3089;—CL 1915, 3005;—CL 1929, 1929;—CL 1948, 90.1;—Am. 1994, Act 19, Eff. May 1, 1994.

90.4 Violations; commencement of action; warrant for arrest.

Sec. 4. Except in the case of a civil infraction action or an action against a corporation, an action for the violation of an ordinance of the city may be commenced by warrant for the arrest of the offender.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3092;—CL 1915, 3006;—CL 1929, 1930;—CL 1948, 90.4;—Am. 1994, Act 19, Eff. May 1, 1994.

90.5 Contents, form, and issuance of warrant; law governing proceedings.

Sec. 5. (1) A warrant shall be in the name of the people of the state of Michigan and shall set forth the substance of the offense complained of, and shall be substantially of the form and be issued upon complaint made, as provided by law in misdemeanor cases in the district court.

(2) Except as otherwise provided in this act, the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings, proceedings upon the trial of the cause, in procuring the attendance and testimony of witnesses, in the rendition of judgment, and in the execution of judgment, shall be governed by, and conform as nearly as practicable to the provisions of law regulating the proceedings in misdemeanor cases in the district court.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3093;—CL 1915, 3007;—CL 1929, 1931;—CL 1948, 90.5;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.6 Judgment or conviction; limitation on sanctions; costs.

Sec. 6. Upon judgment or conviction, the court shall impose a sanction not exceeding the limit prescribed in the ordinance violated, as the nature of the case may require, together with such costs of prosecution as the court shall order. In a civil infraction action, the district court may assess costs as provided in section 907 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, or section 8727 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.8727 of the Michigan Compiled Laws.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3094;—CL 1915, 3008;—CL 1929, 1932;—CL 1948, 90.6;—Am. 1994, Act 19, Eff. May 1, 1994.

90.7 Judgment; execution; fine and imprisonment.

Sec. 7. Every such judgment shall be executed by virtue of an execution or warrant, specifying the particulars of the judgment. If the judgment be for the payment of a fine only, with or without costs, execution of the form prescribed in section 3 of this chapter shall issue forthwith. If judgment be for both fine and imprisonment, a warrant shall issue immediately for the commitment of the defendant until the expiration of the term mentioned in the sentence, and an execution shall issue at the same time against the goods and chattels of the defendant for the collection of the fine or forfeiture imposed; but in neither case above mentioned shall the imprisonment without payment operate as a satisfaction of the fine and costs imposed. In cases where a fine and imprisonment in default of payment thereof, or where imprisonment alone is imposed, a warrant of commitment shall issue accordingly, in the former case, until the expiration of the sentence, unless the fine and costs be sooner paid, and in the latter, for the term named in the sentence.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3095;—CL 1915, 3009;—CL 1929, 1933;—CL 1948, 90.7.

90.8 Imprisonment; city use of county jail.

Sec. 8. Every city shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and any person so liable to imprisonment may be sentenced to, and committed to imprisonment, in such county jail or in the city prison, or other place of confinement provided by the city, or authorized by law,

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and the sheriff or other keeper of such jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3096;—CL 1915, 3010;—CL 1929, 1934;—CL 1948, 90.8.

90.9 Process; direction and execution.

Sec. 9. Process issued in a prosecution or proceeding for the violation of an ordinance of the city shall be directed to the city marshal or to a constable of the city or county, and may be executed in any part of the state by these officers or another officer authorized by law to serve process issued by the district court.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3097;—CL 1915, 3011;—CL 1929, 1935;—CL 1948, 90.9;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.10 Cause of action; allegations; applicability of subsection (1); judicial notice.

Sec. 10. (1) It is not necessary in a proceeding for the violation of an ordinance of the city to state or set forth the ordinance or a provision of the ordinance in a warrant, process, or pleading. It is a sufficient statement of the cause of action in the warrant, process, or pleading to set forth substantially, and with reasonable certainty as to time and place, the act or offense complained of and to allege it to be in violation of an ordinance of the city, referring to the ordinance by its title and the date of its passage or approval. This subsection does not apply to an ordinance violation that constitutes a civil infraction.

(2) A judge or district court magistrate having authority to hear or determine a proceeding for the violation of an ordinance of the city shall take judicial notice of the enactment or adoption, existence, and provisions of the ordinances of the city and the resolutions of the council and of the authority of the city or council to enact or adopt the ordinances and resolutions.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3098;—CL 1915, 3012;—CL 1929, 1936;—CL 1948, 90.10;—Am. 1994, Act 19, Eff. May 1, 1994.

90.11 Trial by jury.

Sec. 11. In prosecutions for violations of the ordinances of the city, either party may require a trial by jury. The jury, except when other provision is made, shall consist of 6 persons. In suits commenced by warrant, the jury shall be selected and summoned as in misdemeanor cases in the district court. In civil actions to recover penalties for the city ordinance violation, the jury shall be selected and summoned as in other civil actions in the district court. An inhabitant of the city shall not be incompetent to serve as a juror in any cause in which the city is a party or is interested due solely to the interest in the outcome of the action which the person may have in common with the other inhabitants of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3099;—CL 1915, 3013;—CL 1929, 1937;—CL 1948, 90.11;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.12 Appeal; judicial notice of ordinances and resolutions.

Sec. 12. (1) In an action commenced by warrant as provided in this act, a party convicted of a violation of an ordinance of the city may appeal the judgment to the circuit court in the county in which the city is located, in the same manner as in misdemeanor cases appealed from the district court.

(2) In a suit to which the city is a party, brought to recover a penalty or forfeiture for violation of an ordinance, either party may appeal from the judgment to the circuit court in the county in which the city is located, in the same manner as in civil actions appealed from the district court, except that the city shall not be required to give a bond or security.

(3) The circuit court to which the cause is appealed shall take judicial notice of the ordinances of the city and the resolutions of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3100;—CL 1915, 3014;—CL 1929, 1938;—CL 1948, 90.12;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.13 Fines imposed for violations; payment.

Sec. 13. Except in cases in which a fine is paid to a parking violations bureau or a municipal ordinance violations bureau pursuant to section 8395 or 8396 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.8395 and 600.8396 of the Michigan Compiled Laws, a fine imposed for a violation of an ordinance of the city shall be received by the clerk for the court in which judgment or conviction was had. If the fine is collected upon execution, the person receiving the fine shall immediately pay the money collected to that clerk. If the defendant is committed, the fine and costs imposed shall be paid to the sheriff or other keeper of the jail or prison, who shall, within 30 days after receiving payment, pay the money to that clerk for distribution pursuant to section 8379 of Act No. 236 of the Public Acts of 1961, being section 600.8379 of the Michigan Compiled Laws.

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History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3101;—CL 1915, 3015;—CL 1929, 1939;—CL 1948, 90.13;—Am. 1994, Act 19, Eff. May 1, 1994.

90.14 Fines imposed for violations; neglect of receiver, penalty.

Sec. 14. If any person who shall have received any such fine or any part thereof shall neglect to pay over the same pursuant to the foregoing provision, it shall be the duty of the council to cause suit to be commenced immediately therefor, in the name of the city, and to prosecute the same to effect. Any person receiving any such fine who shall wilfully neglect or refuse to pay over the same as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3102;—CL 1915, 3016;—CL 1929, 1940;—CL 1948, 90.14.

90.15 Fines imposed for violations; disposition.

Sec. 15. Fines paid into the city treasury for violations of ordinances of the city shall be disposed of as the council may direct. The expense of apprehending and sanctioning a person who violates an ordinance of the city, except the part of the expense paid by costs collected, shall be defrayed by the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3103;—CL 1915, 3017;—CL 1929, 1941;—CL 1948, 90.15;—Am. 1994, Act 19, Eff. May 1, 1994.

90.16 District court; jurisdiction; proceedings; applicable laws.

Sec. 16. The district court in the judicial district in which a city incorporated under this act is located has jurisdiction to hear, try, and determine a case for a violation of an ordinance of the city. Unless the case is a civil infraction action, proceedings in the district court shall be the same as in a prosecution to recover a penalty or forfeiture or to punish a violation of a criminal law of this state. The laws of this state regulating prosecutions in misdemeanor cases and the recovery of penalties apply.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3104;—CL 1915, 3018;—CL 1929, 1942;—CL 1948, 90.16;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978;—Am. 1994, Act 19, Eff. May 1, 1994.

90.17 Repealed. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

Compiler's note: The repealed section pertained to jurisdiction of justice of the peace.

90.18 Prosecutions by person other than officer; security filed for payment of costs.

Sec. 18. In all prosecutions for violations of the ordinances of the city, commenced by any person other than an officer of the city, the court may require the prosecutor to file security for the payment of the costs of the proceedings, in case the defendant is acquitted. But he shall not be liable for the payment of the costs if the magistrate before whom the complaint is made, or trial is had, shall certify in his minutes that there was probable cause for the making of such complaint.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3106;—CL 1915, 3020;—CL 1929, 1944;—CL 1948, 90.18.

CHAPTER XI
GENERAL POWERS OF CITY CORPORATIONS.

91.1 General powers.

Sec. 1. (1) A city incorporated under the provisions of this act has, and the council may pass ordinances relating to, the following general powers:

(a) To restrain and prevent vice and immorality, gambling, noise and disturbance, and indecent or disorderly conduct or assemblages; to prevent and quell riots; to preserve peace and good order; and to protect the property of the city or of persons in the city.

(b) To prohibit vagrancy, truancy, begging, public drunkenness, disorderly conduct, or prostitution.

(c) To prevent injury or annoyance from anything dangerous, offensive, or unhealthy; to prohibit and remove anything tending to cause or promote disease; and to prevent and abate nuisances.

(d) To prohibit and suppress places of disorderly conduct, immorality, or vice.

(e) To regulate or license the use of places of entertainment.

(f) To prohibit and suppress gambling and to authorize the seizure and destruction of instruments and devices used for gambling.

(g) To prohibit and prevent the selling or giving of alcoholic liquor, as defined in section 2 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2 of the Michigan Compiled Laws.

(h) To regulate, restrain, or prohibit sports, exhibitions, caravans, and shows for which money or other reward is demanded or received, except lectures on historic, literary, or scientific subjects.

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(i) To prevent the violation of the Sabbath day, or the disturbance of a religious meeting, congregation, or society or other public meeting assembled for a lawful purpose; and to require businesses to be closed on the Sabbath day.

(j) To license, regulate, or prohibit auctioneers, auctions, and sales by public bids or offers by buyers or sellers in the manner of auctions; and to regulate the fees to be paid by and to auctioneers. However, a license shall not be required in case of sales required by law to be made at auction.

(k) To license, regulate, or prohibit hawking and peddling and to license pawnbroking.

(*l*) To license and regulate wharf boats and to regulate the use of boats in and about the harbor, if any, and within the jurisdiction of the city.

(m) To establish, authorize, license, and regulate ferries to and from the city or a place in the city; and to regulate and prescribe the charges and prices for the transportation of persons and property by ferry.

(n) To regulate and license taverns, houses of public entertainment, saloons, restaurants, and eating houses; and to regulate and prescribe the location of saloons. This subdivision does not authorize the licensing of the sale of alcoholic liquor, as defined in section 2 of Act No. 8 of the Public Acts of the Extra Session of 1933.

(o) To license and regulate vehicles used for the transportation of persons or property for hire in the city; and to regulate or fix their stands on the streets and public places and at wharves, boat landings, railroad station grounds, and other places.

(p) To regulate and license toll bridges within the city and to prescribe the rates and charges for passage over the bridges.

(q) To provide for and regulate the inspection of food.

(r) To regulate the inspection, weighing, and measuring of brick, lumber, firewood, coal, hay, and any article of merchandise.

(s) To provide for the inspection and sealing of weights and measures and to enforce the keeping and use of proper weights and measures by venders.

(t) To regulate the construction, repair, and use of vaults, cisterns, areas, hydrants, pumps, sewers, and gutters.

(u) To prohibit and prevent indecent exposure of the person; the show, sale, or exhibition for sale of indecent or obscene pictures, drawings, engravings, paintings, books, or pamphlets; and indecent or obscene exhibitions and shows.

(v) To regulate or prohibit bathing in the city's bodies of water.

(w) To provide for the clearing of driftwood and noxious matter from the city's bodies of water; and to prohibit and prevent the depositing in the city's bodies of water of matter tending to render the water impure, unwholesome, or offensive.

(x) To compel the owner or occupant of any grocery, tallow chandler shop, soap or candy factory, butcher shop or stall, slaughter house, stable, barn, privy, sewer, or other offensive, nauseous, or unwholesome place to cleanse, remove, or abate it when the council considers it necessary for the health, comfort, or convenience of the inhabitants of the city.

(y) To regulate the keeping, selling, and using of dynamite, gunpowder, firecrackers and fireworks, and other explosive or combustible materials; to regulate the exhibition of fireworks and the discharge of firearms; and to restrain the making of fires in the streets and other open spaces in the city.

(z) To direct and regulate the construction of cellars, slips, barns, private drains, sinks, and privies.

(aa) To prohibit, prevent, and suppress mock auctions and fraudulent games, devices, and practices. Persons managing, using, or practicing; attempting to manage, use, or practice; or aiding in the management or practice of a mock auction or fraudulent game, device, or practice may be subject to the provisions of an ordinance under this subdivision.

(bb) To prohibit, prevent, and suppress lotteries for the drawing or disposing of money or other property. Persons maintaining, directing, or managing such lotteries or aiding in the maintenance, directing, or managing of such lotteries may be subject to the provisions of an ordinance under this subdivision.

(cc) To license and regulate solicitors for passengers or for baggage to and from a hotel, tavern, public house, boat, or railroad and to provide the places where they may be admitted to solicit or receive patronage; and to license and regulate porters, runners, and drivers of vehicles used and employed for hire, to provide the places where they be admitted to solicit or receive patronage, and to fix and regulate the amounts and rates of their compensation.

(dd) To provide for the protection and care of paupers.

(ee) To provide for taking a census of the inhabitants of the city, whenever the council sees fit, and to direct and regulate the census.

(ff) To provide for the issuing of licenses to the owners and keepers of dogs and to require the owners and keepers of dogs to pay for and obtain such licenses; and to regulate and prevent the running at large of dogs,

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to require dogs to be muzzled, and to authorize the killing of dogs running at large or not licensed in violation of an ordinance of the city.

(gg) To prohibit the possession or use of toy pistols, slingshots, and other dangerous toys or implements within the city.

(hh) To require horses, mules, or other animals attached to vehicles or standing in the streets, lanes, or alleys in the city to be securely fastened, hitched, watched, or held and to regulate the placing and provide for the preservation of hitching posts.

(ii) To provide for and regulate the numbering of buildings upon the streets and alleys; to require the owners or occupants of buildings to affix numbers on the buildings; and to designate and change the names of public streets, alleys, and parks.

(jj) To provide for, establish, regulate, and preserve public fountains and reservoirs within the city, and troughs and basins for watering animals.

(kk) To prevent or provide for the construction and operation of street railways, to regulate street railways, and to determine and designate the route and grade of any street railway to be laid or constructed in the city.

(*ll*) To establish and maintain a public library, to provide a suitable building for that public library, and to aid in maintaining such other public libraries as may be established within the city by private beneficence as the council considers to be for the public good.

(mm) To license transient traders. In the case of transient traders who engage in the business of selling goods or merchandise after the commencement of the fiscal year, the license fee may be apportioned with relation to the part of the fiscal year that has expired. If such traders continue in the same business after the commencement of the next fiscal year, and their goods or merchandise are assessed for taxes for the next fiscal year, the traders shall not be required to take out a second license upon the commencement of the next fiscal year.

(2) The council may enact ordinances and make regulations, consistent with the laws and constitution of the state as they may consider necessary for the safety, order, and good government of the city and the general welfare of the inhabitants of the city, but exclusive rights, privileges, or permits shall not be granted by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3107;—CL 1915, 3021;—CL 1929, 1945;—CL 1948, 91.1;—Am. 1994, Act 19, Eff. May 1, 1994.

91.2 License; conditions for granting; revocation; sanctions.

Sec. 2. (1) The council may prescribe the terms and conditions upon which a license shall be granted and may require payment of a reasonable sum for a license. The person receiving the license shall, before the license is issued, execute a bond to the corporation, if required by the council, in a sum prescribed by the council, with 1 or more sufficient sureties, conditioned for a faithful observance of the charter of the corporation and the ordinances of the council, and otherwise conditioned as the council may prescribe.

(2) A license is revocable by the council. If a license is revoked for noncompliance with the terms and conditions upon which it was granted, or on account of a violation of an ordinance or regulation passed or authorized by the council, the person holding the license shall, in addition to any other sanctions imposed, forfeit payments made for the license.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3108;—CL 1915, 3022;—CL 1929, 1946;—CL 1948, 91.2;—Am. 1994, Act 19, Eff. May 1, 1994.

91.3 License; term; transfer prohibited; sanctions.

Sec. 3. Except as otherwise provided in section 1(1)(mm) of this chapter, a license shall not be granted for a term beyond the next first Monday in June or be transferable. The council may provide sanctions for a person who, without license, does something for which a license is required by an ordinance or regulation of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3109;—CL 1915, 3023;—CL 1929, 1947;—CL 1948, 91.3;—Am. 1994, Act 19, Eff. May 1, 1994.

91.4 License receipts; disposition.

Sec. 4. All sums received for licenses granted for any purpose by the city or under its authority, shall be paid into the city treasury to the credit of the contingent fund.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3110;—CL 1915, 3024;—CL 1929, 1948;—CL 1948, 91.4.

91.5 Franchise rights in streets; council vote; private damage suits.

Sec. 5. The council of any city shall have authority to permit any railroad company or street railway company to lay its track, and operate its road with steam, electric or other power, in or across the streets,

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highways and public alleys of the city, as the council may deem expedient, upon such terms and conditions, and subject to such regulations, to be observed by the company, as the council may prescribe; and to prohibit the laying of such track, or the operating of any such road, except upon such terms and conditions. But such permission shall not affect the right or claim of any person for damages sustained by reason of the construction or location of any such railroad or street railway: Provided, That no franchise for the use or occupancy of any street for any purpose shall be granted to an individual, company or corporation, except by a 2/3 vote of all the aldermen elect, nor shall any such franchise be granted for a period exceeding 30 years.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3111;—CL 1915, 3025;—CL 1929, 1949;—CL 1948, 91.5.

91.6 Railroad track; location and grade of street crossings; construction and repair; flagmen; lighting; enforcement of ordinance prescribing maximum speed limit.

Sec. 6. The council may provide for and change the location and grade of street crossings of any railroad track; compel any railroad company or street railway company to raise or lower its railroad track to conform to street grades which may be established by the city; construct street crossings in a manner and with the protection to persons crossing at those crossings as the council may require and to keep those crossings in repair; and require and compel railroad companies to keep flagmen or watchmen at all railroad crossings of streets and to give warning of the approach and passage of trains at those crossings and to light those crossings during the night. On and after the effective date of a passenger railroad maximum speed limit specified in a final order of the director of the state transportation department, an ordinance of a city prescribing the maximum speed limit of locomotives used in passenger train operations or of passenger railroad trains shall not be enforceable as to a speed limit other than the limit set forth in the order.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3112;—CL 1915, 3026;—CL 1929, 1950;—CL 1948, 91.6;—Am. 1984, Act 12, Imd. Eff. Feb. 16, 1984.

91.7 Railroad companies; drainage repairs; failure, expense of company.

Sec. 7. The council shall have power to require and compel any railroad company and any street railway company to make, keep open and in repair, such ditches, drains, sewers and culverts, along and under, or across their railroad tracks, as may be necessary to drain their grounds and right of way properly, and in such manner as the council shall direct, so that the natural drainage of adjacent property shall not be impeded. If any such railroad company or street railway company shall neglect to perform any such requirement, according to the directions of the council, the council may cause the work to be done at the expense of such company, and the amount of such expense may be collected at the suit of the city against the company, in a civil action, before any court having jurisdiction of the cause.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3113;—CL 1915, 3027;—CL 1929, 1951;—CL 1948, 91.7.

91.8 Partition fence; ordinances, by-laws, regulation.

Sec. 8. The council is authorized to enact all such ordinances and by-laws as it may deem proper relative to the building, rebuilding, maintaining and repairing of partition fences by the owners and occupants of adjoining lots, inclosures and parcels of land in said city; and relative to the assigning to the owners or occupants of such adjoining pieces of land the portion of such partition fences to be maintained by them respectively; and may provide for the recording of such assignments and divisions when made; and may provide for the recovery of damages from any owner or occupant who shall fail to comply with the provisions and requirements of any ordinance relative to such partition fences. And the council may appoint fence-viewers, and prescribe their duties and mode of proceeding in all cases relative to partition fences in said city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3114;—CL 1915, 3028;—CL 1929, 1952;—CL 1948, 91.8.

91.9 Support of poor persons; director of the poor.

Sec. 9. The council of any city may make such provision as they shall deem expedient for the support and relief of poor persons residing in the city; and for that purpose may provide by ordinance for the election or appointment of a director of the poor for the city, and may prescribe his duties and vest him with such authority as may be proper for the exercise of his duties.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3115;—CL 1915, 3029;—CL 1929, 1953;—CL 1948, 91.9.

CHAPTER XII
POLICE.

92.1 Policemen; watchmen.

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Sec. 1. The council of any city may provide, by ordinance, for a police force and for the appointment by the mayor of such number of policemen and nightwatchmen as they may think necessary for the good government of the city and for the protection of the persons and property of the inhabitants; and may authorize the mayor to appoint special policemen from time to time, when in his judgment the emergency or necessity may so require.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3116;—Am. 1907, Act 320, Eff. Sept. 28, 1907;—CL 1915, 3030;—CL 1929, 1954;—CL 1948, 92.1.

Constitutionality: There was no state or federal constitutional violation by the police in the impoundment and inventory of the defendant's car. The impoundment was in accord with departmental procedures and the procedures were within the constitutionally mandated authority of the municipality. *People v Krezen*, 427 Mich 681; 397 NW2d 803 (1986).

92.2 Policemen; rules, regulations; temporary appointments.

Sec. 2. The council may make and establish rules for the regulation and government of the police, prescribing and defining the powers and duties of policemen and nightwatchmen, and shall prescribe and enforce such police regulations as will most effectually preserve the peace and good order of the city, preserve the inhabitants from personal violence, and protect public and private property from destruction by fire and from unlawful depredation. The mayor is hereby authorized, whenever he shall deem it necessary for the preservation of peace and good order in the city, to appoint and place on duty such number of temporary policemen as in his judgment the emergencies of the case may require; but such appointments, unless made in accordance with some ordinance or resolution of the council shall not continue longer than 3 days.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3117;—CL 1915, 3031;—CL 1929, 1955;—CL 1948, 92.2.

92.3 City marshal; duties.

Sec. 3. The city marshal, subject to the direction of the mayor, shall, as chief of police, have the superintendence and direction of the policemen and night-watchmen, subject to such regulations as may be prescribed by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3118;—CL 1915, 3032;—CL 1929, 1956;—CL 1948, 92.3.

92.4 Police officers; powers; duties.

Sec. 4. Under the direction of the mayor and chief of police, and in conformity with the ordinances of the city and laws of this state, the police shall suppress riots, disturbances, and breaches of the peace; pursue and arrest a person fleeing from justice in any part of the state; apprehend a person in the act of violating a law of this state, or an ordinance of the city, involving a breach of the peace, and, unless the violation constitutes a civil infraction, take the offender before the proper court or magistrate, to be dealt with for the violation; make complaints to the proper officers and magistrates of any person known or believed by them to be guilty of the violation of the ordinances of the city or the penal laws of the state or to be responsible for a violation of an ordinance or law of this state designated as a civil infraction; diligently and faithfully to enforce all laws, ordinances, and regulations for the preservation of good order and the public welfare as the council may ordain; and serve process directed or delivered to them for service. For such purposes, the chief of police and every police officer have the powers of constables and may arrest, upon view and without process, a person in the act of violating an ordinance of the city involving a breach of the peace, unless the violation constitutes a civil infraction, or of committing a violation of a criminal law of this state. The chief of police and a police officer may serve and execute process in a proceeding for a violation of an ordinance of the city, and also any other process that a constable may serve.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3119;—CL 1915, 3033;—CL 1929, 1957;—CL 1948, 92.4;—Am. 1994, Act 19, Eff. May 1, 1994.

92.4a Police officer or constable; authority to execute bench warrant.

Sec. 4a. A police officer of a city or, if authorized by the city council, a constable of a city has the same authority within the city as a deputy sheriff to execute a bench warrant for arrest issued by a court of record or a municipal court.

History: Add. 1992, Act 49, Imd. Eff. May 12, 1992.

92.5 Police force; fees, compensation; monthly report.

Sec. 5. When employed in the service of process, policemen shall receive the same fees therefor as are allowed to constables for like services; when otherwise engaged in the performance of police duty, they shall receive such compensation therefor from the city as the council may prescribe. Every policeman shall report on oath to the council, at its first meeting in every month, the amount of all moneys and fees received by him for services as policeman since his last preceding report and the names of the persons from whom received,

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and the amount received from each.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3120;—CL 1915, 3034;—CL 1929, 1958;—CL 1948, 92.5.

92.6 Police force; suspension, removal.

Sec. 6. The mayor may suspend any policeman or nightwatchman on the complaint in writing and under oath of any citizen or on his own motion for a period of not longer than 30 days for neglect of duty, misconduct, or other sufficient cause. At a public hearing before such mayor, as provided for in section 3 of chapter 7 of this act, if such mayor shall be satisfied of the guilt of such policeman or nightwatchman, then it shall be the duty of such mayor to remove such officer from office. After such removal the mayor shall report such action to the council at its next regular meeting and his reasons therefor.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3121;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—Am. 1907, Act 320, Eff. Sept. 28, 1907;—CL 1915, 3035;—CL 1929, 1959;—CL 1948, 92.6.

Compiler's note: For provisions of section 3 of chapter 7, referred to in this section, see MCL 87.3.

CHAPTER XIII
CITY PRISON.

93.1 Prison facilities.

Sec. 1. The council of any city shall have power to provide and maintain a city prison, and such watch or station houses as may be necessary, and may provide for the confinement therein of all persons liable to imprisonment or detention under the ordinances of the city, and for the employment of those imprisoned therein.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3122;—CL 1915, 3036;—CL 1929, 1960;—CL 1948, 93.1.

93.2 Prisoners; hard labor.

Sec. 2. All persons sentenced to confinement in the city prison, and all persons imprisoned therein on execution or commitment for the non-payment of fines for violations of the ordinances of the city, may be kept at hard labor during the term of their imprisonment, either within or without the prison, under such regulations as the council may prescribe.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3123;—CL 1915, 3037;—CL 1929, 1961;—CL 1948, 93.2.

CHAPTER XIV
PUBLIC HEALTH.

94.1-94.8 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

CHAPTER XV
CEMETERIES.

95.1 City ownership of cemetery; regulation.

Sec. 1. Any city may acquire, hold and own such cemetery or public burial place or places, either within or without the limits of the corporation, as in the opinion of the council shall be necessary for the public welfare, and suitable for the convenience of the inhabitants, and may prohibit the interment of the dead within the city, or may limit such interments therein to such cemetery or burial place as the council may prescribe; and the council may cause any bodies buried within the city in violation of any rule or ordinance made in respect to such burials to be taken up and buried elsewhere.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3132;—CL 1915, 3046;—CL 1929, 1970;—CL 1948, 95.1.

95.2 Appropriation, cemetery.

Sec. 2. The council may, within the limitations of this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds and for the improvement, adornment, protection and care thereof.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3133;—CL 1915, 3047;—CL 1929, 1971;—CL 1948, 95.2.

95.3 Board of cemetery trustees; appointment, term, removal.

Sec. 3. Whenever any city shall own, purchase or otherwise acquire any cemetery or cemetery grounds, the mayor, by and with the consent of the council, shall appoint 5 trustees who shall be freeholders and electors in the city, and who shall constitute a “board of cemetery trustees.” The 5 trustees so appointed shall hold their offices for the term of 5 years, except that at the first appointment 1 shall be appointed for 1 year, 1 for 2

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years, 1 for the term of 3 years, 1 for the term of 4 years and 1 for the term of 5 years from the first Monday in May of the year when appointed, and annually thereafter 1 trustee shall be appointed. The council may remove any trustee so appointed, for inattention to his duties, want of proper judgment, skill, or taste for the proper discharge of the duties required of him, or other good cause. Said board shall serve without compensation.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3134;—CL 1915, 3048;—CL 1929, 1972;—CL 1948, 95.3.

95.4 Board of cemetery trustees; chairman, clerk; powers.

Sec. 4. The board of cemetery trustees shall appoint 1 of their number chairman, and the city clerk shall be the clerk of the board. And the council may by ordinance invest the board with such powers and authority as may be necessary for the care, management and preservation of such cemetery and grounds, the tombs, and monuments therein, and the appurtenances thereof; and in addition to the duties herein mentioned, the board shall perform such other duties as the council may prescribe.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3135;—CL 1915, 3049;—CL 1929, 1973;—CL 1948, 95.4.

95.5 Board of cemetery trustees; property management powers, duties.

Sec. 5. Said board, subject to the directions and ordinances of the council, shall have the care and management of any such cemetery or burial place or places, and shall direct the improvements and embellishments of the grounds; cause such grounds to be laid out into lots, avenues and walks; the lots to be numbered and the avenues and walks to be named and plats thereof, to be made and recorded in the office of the city clerk. Such board shall also have power in its discretion to take, receive and hold any property, real or personal, by devise or otherwise, which may be granted, transferred or devised to such board in trust for the purpose of caring for and keeping in good order and repair any given lot or lots, or portions thereof, specified in any such trust. The board shall fix the price of lots and make the sales thereof. The conveyances of such lots shall be executed on behalf of the city by the city clerk, and be recorded in his office at the expense of the purchasers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3136;—CL 1915, 3050;—CL 1929, 1974;—CL 1948, 95.5.

95.6 Board of cemetery trustees; necessary employees; ordinances, enforcement.

Sec. 6. Said board shall appoint the necessary superintendents and employes for the cemetery; expend the money provided for the care and improvement of the grounds; enforce the ordinances of the city made for the management and care thereof and make such regulations for the burial of the dead, the care and protection of the grounds, monuments and appurtenances of the cemetery, and the orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the city and the laws of the state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3137;—CL 1915, 3051;—CL 1929, 1975;—CL 1948, 95.6.

95.7 Board of cemetery trustees; cemetery fund, accounting; report to council, contents.

Sec. 7. All moneys raised for any public cemetery authorized by this act and all moneys received from the sale of lots therein, or otherwise therefrom, shall be paid into the city treasury, and constitute a fund to be denominated the "cemetery fund." Said fund shall not be devoted or applied to any other purpose, except the purposes of such cemetery. The board of trustees shall report to the council annually on the first Monday in March, and oftener when the council shall so require, the amount of all moneys received into and owing to the cemetery fund, and from what source, and from whom, and the date, amount, items and purpose of all expenditures and liabilities incurred, and to whom paid, and to whom incurred, and such other matters as the council shall require to be reported, which report shall be verified by the oath of the clerk of the board.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3138;—CL 1915, 3052;—CL 1929, 1976;—CL 1948, 95.7.

95.8 Cemetery; city owned; ordinances; passage; enforcement.

Sec. 8. If a city owns a public cemetery, whether within or without the city, the council of a city may pass and enforce ordinances necessary to carry into effect the provisions of this chapter, to control or regulate the cemetery and the improvement of the cemetery, to protect the cemetery and the appurtenances of the cemetery from injury, and to impose sanctions for a violation of a lawful order or regulation made by the board of cemetery trustees.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3139;—CL 1915, 3053;—CL 1929, 1977;—CL 1948, 95.8;—Am. 1994, Act 19, Eff. May 1, 1994.

95.9 Privately owned cemeteries; ordinances governing.

Sec. 9. The council shall have power also to pass all ordinances deemed necessary for the preservation and

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protection of any cemetery or burial place within the city, belonging to or under the control of any church, religious society, corporation, company or association, and for the protection and preservation of the tombs, monuments and improvements thereof, and the appurtenances thereto.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3140;—CL 1915, 3054;—CL 1929, 1978;—CL 1948, 95.9.

CHAPTER XVI
POUNDS.

96.1 City owned pounds; impounding regulations; poundmaster.

Sec. 1. The council may provide and maintain 1 or more pounds within the city and may appoint poundmasters, prescribe their powers and duties, and fix their compensation; and may authorize the impounding of all beasts and fowls found in the streets or otherwise at large contrary to any ordinance of the city; and if there shall be no pound or poundmaster they may provide for the impounding of such beasts and fowls, by the city marshal, in some suitable place under his immediate care and inspection, and may confer on him the powers and duties of poundmaster.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3141;—CL 1915, 3055;—CL 1929, 1979;—CL 1948, 96.1.

96.2 Fees for impounding; sale of animals; penalties.

Sec. 2. The council may also prescribe the fees for impounding and the amount or rate of expenses for keeping, and the charges to be paid by the owner or keeper of the beasts or fowls impounded; and may authorize the sale of such beasts and fowls for the payment of such fees, expenses and charges, and for penalties incurred, and may impose penalties for rescuing any beast or thing impounded.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3142;—CL 1915, 3056;—CL 1929, 1980;—CL 1948, 96.2.

CHAPTER XVII
HARBORS, WHARVES AND HARBORMASTERS.

97.1 Authority of council; public wharves.

Sec. 1. The council of any city located upon or adjacent to any of the navigable waters of the state shall have the power to establish, construct, maintain and control public wharves, docks, piers, landing places and levees, basins and canals, upon any lands or property belonging to or under the control of the city; and for that purpose the city shall have the use or control of the shore or bank of any lake, river or other waters within the city, not the property of individuals, to the extent to which the state can grant the same, and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than 5 years, and in such manner as to preserve the right of all persons to a free passage over the same with their baggage.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3143;—CL 1915, 3057;—CL 1929, 1981;—CL 1948, 97.1.

97.2 Authority of council; construction of wharves.

Sec. 2. The council shall have authority also to require and cause all docks, wharves and landings, whether upon public grounds or upon the property of private individuals, to be constructed of such material and in such manner and maintained in conformity with such grade as may be established therefor by the council, and prescribe the line beyond which any such wharf, dock or landing shall not be constructed or maintained.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3144;—CL 1915, 3058;—CL 1929, 1982;—CL 1948, 97.2.

97.3 Authority of council; regulation of use of wharves, rates.

Sec. 3. The council shall have authority to prohibit the encumbering of the public wharves and landings, and to regulate the use of all wharves, docks, and landing places within the city; regulate the use and location of wharf boats; and to regulate and prescribe the rates and charges for landing, wharfage, and dockage at all public and private wharves, docks and landings, and to collect wharfage and dockage from boats, water craft, and floats landing at or using any public landing place, wharf, or dock within the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3145;—CL 1915, 3059;—CL 1929, 1983;—CL 1948, 97.3.

97.4 Authority of council; preservation of water purity; use of harbor; ordinances and regulations.

Sec. 4. The council may provide by ordinance for the preservation of the purity of a body of water within the city, and within 1/2 mile from the corporate boundaries of the city; prohibit and impose sanctions for the depositing of filth, logs, floating matter, or any injurious thing in such a body of water; control and regulate the anchorage, moorage, and management of watercraft and floats within the jurisdiction of the city; prescribe

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the mode and speed of entering and leaving the harbor, if any, and of coming to and departing from the docks, wharves, and landings, by watercraft and floats; regulate and prescribe, by ordinances or through a harbormaster or other officer, the location for a watercraft or float, and the changes of station in and use of the harbor required to promote order in the harbor and the safety and convenience of watercraft and floats; and enact and enforce ordinances and regulations that in the opinion of the council are most conducive to the orderly, safe, and convenient use and occupancy of the navigable waters, wharves, docks, piers, and landing places within the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3146;—CL 1915, 3060;—CL 1929, 1984;—CL 1948, 97.4;—Am. 1994, Act 19, Eff. May 1, 1994.

97.5 Authority of council; regulation of use of tugs and bridges.

Sec. 5. The council may also license and regulate the use of tugs and prescribe the rates and charges of towage within the harbor or other waters of the city, and regulate the opening and passage of bridges.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3147;—CL 1915, 3061;—CL 1929, 1985;—CL 1948, 97.5.

97.6 Authority of council; appointment of harbor officers; powers, duties.

Sec. 6. The council may also appoint a harbormaster, wharfmaster, port wardens, and such other officers as may be necessary for the enforcement of all such ordinances and regulations as the council may lawfully enact and prescribe, in respect to and over the navigable waters, harbors, wharves, docks, landings and basins, within the city, and in respect to the navigation, trade, and commerce of the city and prescribe the powers and duties of such harbormaster and other officers, and to fix the compensation to be paid them.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3148;—CL 1915, 3062;—CL 1929, 1986;—CL 1948, 97.6.

CHAPTER XVIII
FERRIES.

98.1 Regulation and licensing of ferries by council; sanctions.

Sec. 1. The council of a city may regulate and license ferries from the city or a place in the city; require the payment of a reasonable sum for a ferry license; impose reasonable terms and restrictions in relation to the keeping and management of ferries, and the time, manner, and rates of carriage and transportation of persons and property by ferry; and provide for the revocation of a ferry license and for the imposition of sanctions for the violation of an ordinance prohibiting unlicensed ferries and regulating ferries established and licensed.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3149;—CL 1915, 3063;—CL 1929, 1987;—CL 1948, 98.1;—Am. 1994, Act 19, Eff. May 1, 1994.

CHAPTER XIX
MARKETS.

99.1 Council; powers to establish and regulate markets.

Sec. 1. The council of any city shall have the power to erect market houses, establish and regulate markets and market places for the sale of meats, fish, vegetables and other provisions and articles necessary to the sustenance, convenience and comfort of the inhabitants; to prescribe the time for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the venders.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3150;—CL 1915, 3064;—CL 1929, 1988;—CL 1948, 99.1.

99.2 Council; rules and regulations.

Sec. 2. The council may adopt and enforce such rules and regulations as may be necessary to prevent fraud, and to preserve order in the markets; and may authorize the immediate seizure, arrest and removal from the market of any person violating its regulations, together with any articles in his or their possession; and may authorize the seizure and destruction of tainted or unsound meats, or other unwholesome provisions exposed for sale therein.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3151;—CL 1915, 3065;—CL 1929, 1989;—CL 1948, 99.2.

CHAPTER XX
PUBLIC BUILDINGS, GROUNDS AND PARKS.

100.1 Council; power to acquire real estate.

Sec. 1. Any city may acquire, purchase and erect all such public buildings as may be required for the use of

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the corporation and may purchase, acquire, appropriate and own such real estate as may be necessary for public grounds, parks, markets, public buildings and other purposes necessary or convenient for the public good and the execution of the powers conferred in this act; and such buildings and grounds, or any part thereof, may be sold, leased and disposed of as occasion may require.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3152;—CL 1915, 3066;—CL 1929, 1990;—CL 1948, 100.1.

100.2 Council; grounds for prisons; hospitals outside city limits.

Sec. 2. When the council shall deem it for the public interest, grounds and buildings for city prisons, workhouses and other necessary public uses, may be purchased, erected and maintained beyond the corporate limits of the city; and in such cases the council shall have authority to enforce, beyond the city limits and over such lands, buildings and property in the same manner and to the same extent as if they were situated within the city, all such ordinances and police regulations as may be necessary for the care and protection thereof and for the management and control of the persons kept or confined in such prisons, workhouses or hospitals.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3153;—CL 1915, 3067;—CL 1929, 1991;—CL 1948, 100.2.

100.3 Council; public parks.

Sec. 3. The council shall have authority to lay out, establish and enlarge, or vacate and discontinue public grounds and parks within the city, and to improve, light and ornament the same, and to regulate the care thereof, and to protect the same and the appurtenances thereof from obstructions, encroachment and injury, and from all nuisances.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3154;—CL 1915, 3068;—CL 1929, 1992;—CL 1948, 100.3.

CHAPTER XXI

SEWERS, DRAINS AND WATER-COURSES.

101.1 Construction of sewage systems; condemnation; location.

Sec. 1. The council of any city may establish, construct and maintain sewers and drains whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the city; and private property, or the use thereof, may be taken therefor in the manner prescribed in this act for taking such property for public use. But in all cases where the council shall deem it practicable such sewers and drains shall be constructed in the public streets and grounds.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3155;—CL 1915, 3069;—CL 1929, 1993;—CL 1948, 101.1.

101.2 Board of public works; powers, duties.

Sec. 2. The board of public works shall have the management, supervision and control of the sewers, sewerage system and drainage of the city, and the charge of their construction, subject to the general direction and approval of the council as herein provided, and the council may by ordinance prescribe the powers and duties of said board, relating to all matters connected with the sewers, sewerage system and drainage of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3156;—CL 1915, 3070;—CL 1929, 1994;—CL 1948, 101.2.

101.3 Board of public works; drainage construction plan.

Sec. 3. Whenever it may become necessary, in the opinion of the council, to provide sewerage and drainage for the city or for any part thereof, it shall be their duty to instruct and direct the board of public works to devise, or cause a plan of such sewerage or drainage to be devised, for the whole city, or for such part thereof as they shall determine.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3157;—CL 1915, 3071;—CL 1929, 1995;—CL 1948, 101.3.

101.4 Board of public works; sewer districts; plats submitted to councils; adoption, filing.

Sec. 4. Such plan shall, in the discretion of the board, be formed with a view to the division of the city into main sewer districts, each to include 1 or more main or principle sewers, with the necessary branches and connections; the districts to be numbered and so arranged as to be as nearly independent of each other as may be. Plats or diagrams of such plan, when completed, shall be submitted to the council, and when adopted by the council shall be filed in the office of the clerk of the board.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3158;—CL 1915, 3072;—CL 1929, 1996;—CL 1948, 101.4.

101.5 Main sewer districts; subdivision; special sewer districts.

Sec. 5. Main sewer districts may be subdivided into special sewer districts in such manner that each special

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district shall include 1 or more lateral or branch sewers connecting with a main sewer, and such lands as in the opinion of the board, subject to the approval of the council, will be benefited by the construction thereof. When deemed necessary, special sewer districts, to include 1 or more local or branch sewers, and such lands as in the opinion of the board, subject to the approval of the council, will be benefited by the construction thereof, may be formed of territory not included in any main sewer district.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3159;—CL 1915, 3073;—CL 1929, 1997;—CL 1948, 101.5.

101.6 Main trunk sewers; adoption, recording.

Sec. 6. The council may, however, provide for main or trunk sewers without reference to sewer districts, and may direct the board of public works to prepare diagrams, or plats thereof, which, when approved by the council, shall be recorded in the office of the clerk, in the book of sewer records.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3160;—CL 1915, 3074;—CL 1929, 1998;—CL 1948, 101.6.

101.7 Main or trunk sewers; payment of cost and expenses; assessment; taxation.

Sec. 7. The cost and expenses of establishing and making any main or trunk sewers constructed without reference to sewer districts shall be paid from the general sewer fund, excepting that portion as the council shall deem to be of benefit to adjacent private property, which property shall be described and the benefits thereto determined, assessed, and taxed in the same manner as hereinafter provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3161;—CL 1915, 3075;—CL 1929, 1999;—CL 1948, 101.7;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

101.8, 101.9 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed sections pertained to diagram of sewer district, notice of intention to construct sewer, and resolution to construct sewer.

101.10 Special assessments for construction of sewers.

Sec. 10. Special assessments for the construction of sewers shall be made in the manner provided in this act for making special assessments.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3164;—CL 1915, 3078;—CL 1929, 2002;—CL 1948, 101.10;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

101.11 Construction petition; sewer districts.

Sec. 11. When the owner of a majority of the lands liable to taxation in any sewer district or part of the city which may be constituted a sewer district, shall petition for the construction of a sewer therein, the council shall construct a district sewer in such location, and if the lands included in the line of such proposed sewer are not within any sewer district, a district shall be formed for that purpose. In other cases sewers shall be constructed in the discretion of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3165;—CL 1915, 3079;—CL 1929, 2003;—CL 1948, 101.11.

101.12 Drains privately owned; regulations; expense lien.

Sec. 12. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon in the manner hereinafter provided for the levying and collecting of special assessments.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3166;—CL 1915, 3080;—CL 1929, 2004;—CL 1948, 101.12.

101.13 Drains privately owned; connection with public sewers.

Sec. 13. The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the board of public works shall prescribe.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3167;—CL 1915, 3081;—CL 1929, 2005;—CL 1948, 101.13.

101.14 Drains privately owned; annual charge, lien.

Sec. 14. The board of public works may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding 2 dollars per year, as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall

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be a lien upon the premises, and may be collected by special assessment thereon, or otherwise.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3168;—CL 1915, 3082;—CL 1929, 2006;—CL 1948, 101.14.

101.15 Improvement of ditches and water courses; special assessment.

Sec. 15. Such part of the expenses of providing ditches and improving water-courses as the council shall determine, may be defrayed by a special assessment upon the lands and premises benefited thereby, in proportion to such benefits.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3169;—CL 1915, 3083;—CL 1929, 2007;—CL 1948, 101.15.

101.16 Public sewers; repair; cost, payment.

Sec. 16. The expenses of repairing public sewers, ditches and water-courses may be paid from the general sewer fund. The expenses of reconstructing public sewers shall be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3170;—CL 1915, 3084;—CL 1929, 2008;—CL 1948, 101.16.

101.17 Public sewers; ordinances for protection and control.

Sec. 17. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to drainage of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3171;—CL 1915, 3085;—CL 1929, 2009;—CL 1948, 101.17.

101.18 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed section pertained to borrowing to construct main or trunk sewer.

CHAPTER XXII
STREETS AND PUBLIC GROUNDS.

102.1 Thoroughfares and public grounds; control by council; damage suits, liability; required notice.

Sec. 1. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the city, and shall cause the same to be kept in repair, and free from nuisance. No city subject to the provisions of this act shall be liable in damages sustained by any person in such city either to his person or property by reason of any defective street, sidewalk, crosswalk, or public highway, or by reason of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or public highway, situated in such city, unless such person shall serve or cause to be served, within 60 days after such injury shall have occurred, a notice in writing upon the clerk or the deputy clerk of such city, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold such city liable for such damages as may have been sustained by him. No city shall be responsible for the care, improvement or repair of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked and used by the public as a street or alley before the incorporation of the city under this act, nor for the improvement and repair of any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall have been accepted and confirmed by the council by an ordinance or resolution specially passed for that purpose.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3173;—CL 1915, 3087;—CL 1929, 2011;—CL 1948, 102.1.

102.2 Thoroughfares; public improvements; condemnation; expenses, assessment.

Sec. 2. The council shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate or abolish any highway, street or alley in the city, whenever they shall deem the same a public improvement; and if in so doing it shall be necessary to take or use private property, the same may be taken in the manner in this act provided for taking private property for public use. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, in the manner in this act provided for levying and collecting special assessments; or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general street fund.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3174;—CL 1915, 3088;—CL 1929, 2012;—CL 1948, 102.2.

102.3 Thoroughfares; resolution to vacate; hearing, notice.

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Sec. 3. When the council shall deem it advisable to vacate, discontinue or abolish any street, alley or public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time, not less than 4 weeks thereafter, when they will meet and hear objections thereto; notice of such meeting with a copy of said resolution shall be published for not less than 4 weeks before the time appointed for such meeting, in 1 of the newspapers of the city.

Objections to such proposed action of the council may be filed with the city clerk in writing, and if any such shall be filed, the street, alley or public ground, or any part thereof, shall not be vacated or discontinued, except by a concurring vote of 2/3 of the aldermen elect.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3175;—CL 1915, 3089;—CL 1929, 2013;—CL 1948, 102.3.

102.4 Thoroughfares; survey; boundaries; recording of descriptions; ordinance to discontinue street; filing with secretary of state.

Sec. 4. The council may cause all public streets, alleys, and public grounds to be surveyed, and may determine and establish their boundaries and cause those surveys and descriptions to be recorded in the office of the city clerk, in a book of street records; and they shall cause surveys and descriptions of all streets, alleys, and public grounds opened, laid out, altered, extended, or accepted and confirmed by the council, to be recorded in like manner; and that record shall be prima facie evidence of the existence of those streets, alleys, or public grounds as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley, or public ground shall also be recorded in the book of street records, and the record shall be prima facie evidence of all the matters set forth in that book, and a true copy of every resolution or ordinance, containing an accurate description of the lands comprising any street, alley, or public ground, laid out, altered, extended, discontinued, or vacated shall be recorded in the office of the register of deeds for the county where those lands are situated, and shall thereafter be filed in the office of the secretary of state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3176;—CL 1915, 3090;—CL 1929, 2014;—Am. 1935, Act 133, Imd. Eff. June 4, 1935;—CL 1948, 102.4;—Am. 2002, Act 376, Imd. Eff. May 24, 2002.

102.5 Thoroughfares; street grading; diagrams, record.

Sec. 5. The council shall have authority to determine and establish the grades of all streets, avenues, alleys and public grounds within the city, and to require improvements and buildings adjacent to or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grade and upon such line as shall be prescribed by the council; and the council may change or alter the grade of any street, alley or public ground, or of any part thereof, whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered, a record and diagram thereof shall be made in the book of street records in the office of the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3177;—CL 1915, 3091;—CL 1929, 2015;—CL 1948, 102.5.

102.6 Thoroughfares; expense of grading, payment.

Sec. 6. Whenever any street, alley or public highway shall have been graded, or pavement shall have been constructed in conformity to grades established by authority of the city, and the expense thereof shall have been assessed upon lots or lands bounded by or abutting upon such street, alley or public highway, the owner or owners of such lots or lands shall not be subject to any special assessment occasioned by any subsequent change of grade in such pavement, street, alley or public highway, unless such change be asked for by a majority of the owners of such lots or lands; but the expense of all improvements occasioned by such change of grade shall be chargeable to and paid by the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3178;—CL 1915, 3092;—CL 1929, 2016;—CL 1948, 102.6.

102.7 Thoroughfares; grade changes, damage to property owner; compensation, assessment, procedure.

Sec. 7. Whenever the grade of any street or sidewalk shall have been heretofore, or shall hereafter be established, and improvements shall thereafter be made by the owner or occupant of the adjacent property in conformity to such grade, such grade shall not be changed without compensation to the owner for all damages to such property resulting therefrom, to be ascertained by a jury as provided in chapter 25 of this act, or said damages may be ascertained and agreed upon by and between such city and the owner or occupant of such premises. Whenever such damage shall be ascertained or agreed upon as heretofore provided, such damages, or such part thereof as the council shall deem equitable and just, shall be paid by the city, or the council may cause such damages, or such part thereof as may be just and proper, to be assessed upon such real estate as may be benefited by reason of the change of such grade, and whenever the council shall determine to assess such damages, or any part thereof, upon the property benefited, it shall determine and define a district in said

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city which in its judgment is benefited by the improvement out of which said damages arise, and shall cause the same to be assessed upon such district, which said assessment shall be upon the owners or occupants of the taxable real estate in said district, in proportion as nearly as may be to the advantage or benefit each lot, parcel, or subdivision is deemed to acquire by the improvement out of which such damages arise, but the property on account of which such damages were awarded shall not be included in said district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefited in the grading and improvement of streets, as provided for in this act; and all of the provisions of chapter 24 of this act, relative to special assessments and the collection thereof, shall apply thereto. Such damages, when collected as aforesaid, and when determined upon by said city, shall be paid to the person entitled thereto.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3179;—CL 1915, 3093;—CL 1929, 2017;—CL 1948, 102.7.

Compiler's note: For provisions of chapter 25, referred to in this section, see MCL 105.1 et seq. Chapter 24, also referred to in this section, was repealed by Act 345 of 1974.

PAVING AND IMPROVEMENTS.

102.8 Improvement and repair of highways, streets, avenues, lanes, and alleys; street districts; sewer, water, and gas connections; liability for cost; penalty; special assessment.

Sec. 8. The council shall have power to grade, pave, plank, gravel, curb, and otherwise improve and repair the highways, streets, avenues, lanes, and alleys of the city; and for that purpose, and for defraying the expenses thereof, may divide the city into street districts. The term “paving” shall be deemed to include the construction of crosswalks, gutters, and curbing. Whenever any paving has been ordered upon any street or public highway in the city, it shall be the duty of any person owning any lot, or land, or premises adjoining to, or abutting upon such street, before the same shall be paved, to put in and lay all sewer, water, and gas connections in front of their land and premises, and carry the same from the pipe in the street to and beyond the curb line of the proposed pavement as the council shall determine to be necessary for the preservation of the proposed paving, when the same shall be laid and put down, and the connection shall be laid, made, and put in in the manner and at the time as directed by the council. In case the owner of such lot, land, or premises shall neglect or refuse to make, lay, or put in the connections at the time or in the manner prescribed by the council, then the council shall cause the same to be made, laid, or put in, and the respective owners of such lot, land, or premises shall be liable for the cost thereof, together with 10% in addition thereto as a penalty to be recovered by the city in an action of debt or assumpsit, or the costs together with the amount of the penalty for which the person shall be respectively liable, the council shall cause to be specially assessed in the manner provided in this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3180;—CL 1915, 3094;—CL 1929, 2018;—CL 1948, 102.8;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: For provisions of section 4, chapter 23, referred to in this section, see MCL 103.4.

102.9 Street districts; expenses of improvement, payment.

Sec. 9. Such part of the expenses of improving any street, lane or alley, by grading, paving, planking, graveling, curbing, or otherwise, and of repairing the same as the council shall determine, may be paid from the general street fund or from the street district fund of the proper street district, or in part from each; or the whole, or such part of the expense of such improvement as the council shall determine, may be defrayed by special assessments upon lots and premises included in a special assessment district, to be constituted of the lands fronting upon that part of the street or alley so improved or proposed so to be; or constituted of lands fronting upon such improvement, and such other lands as in the opinion of the council may be benefited by the improvement.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3181;—CL 1915, 3095;—CL 1929, 2019;—CL 1948, 102.9.

102.10 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed section pertained to special assessment for improvement or repairs.

STREET REGULATIONS.

102.11 Obstructions to highways; removal.

Sec. 11. The council shall have the power to prohibit and prevent obstructions and encumbrances in, and encroachments upon the public highways, streets and alleys of the city, and to remove the same, and to punish those who shall obstruct, encumber, encroach or maintain any encroachments, upon or in any such highway,

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street or alley; and to require all such persons to remove every such obstruction, encumbrance and encroachment.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3183;—CL 1915, 3097;—CL 1929, 2021;—CL 1948, 102.11.

102.12 Shade trees; lighting system.

Sec. 12. The council may provide for and regulate the planting of shade and ornamental trees in the public highways, streets and avenues of the city, and for the protection thereof; and may light the streets and public places, and regulate the setting of lamps and lamp posts therein, and protect the same.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3184;—CL 1915, 3098;—CL 1929, 2022;—CL 1948, 102.12.

102.13 Removal of soil; street openings.

Sec. 13. The council may regulate the making of all openings in, and removals of, the soil of public streets, and for the laying or repair of sewers, drains, tunnels, gas pipes, water pipes, or for any other purpose; and may prohibit and prevent all such openings, and removals of the soil, except by express permission of the council, and at such times and upon such terms and regulations as they may prescribe.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3185;—CL 1915, 3099;—CL 1929, 2023;—CL 1948, 102.13.

102.14 Use of highways and streets.

Sec. 14. The council may regulate the use of the public highways, streets, avenues and alleys of the city, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or designate the places where loads of wood, coal, hay and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use or placing of signs, advertisements and banners, awning posts and telegraph, telephone or light poles and wires in or over the streets; to prohibit immoderate riding and driving in the streets or over bridges; to regulate or prohibit all such sports, amusements, proceedings and gathering of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of beasts and fowls in the streets or elsewhere in the city, and to impose penalties upon the owners or keepers thereof permitting the same; to cleanse and purify the streets; and to prohibit, prevent, remove and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same and to punish them; and generally to prescribe and enforce all such police regulations over and in respect to the public streets, as may be necessary to secure good order and safety to persons and property in the lawful use thereof; and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the city, as are conferred by law upon highway commissioners in townships.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3186;—CL 1915, 3100;—CL 1929, 2024;—CL 1948, 102.14.

CHAPTER XXIII
SIDEWALKS.

103.1 Sidewalks; control; grading; construction, maintenance.

Sec. 1. The city council shall have control of all sidewalks in the public streets and alleys of the city, and may prescribe the grade thereof, and change the same when deemed necessary. They shall have power to build, maintain and keep in repair sidewalks and crosswalks in the public streets and alleys, and to charge the expense of constructing and maintaining such sidewalks upon the lots and premises adjacent to and abutting upon such walks.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3187;—CL 1915, 3101;—CL 1929, 2025;—CL 1948, 103.1.

103.2 Sidewalks; required construction and repair by owners at public expense.

Sec. 2. The council shall also have authority to require the owners and occupants of lots and premises to build, rebuild and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials and manner of construction, and within such time as the council shall by ordinance or resolution prescribe, the expense thereof to be paid by such owner or occupant; or the council may, by a 2/3 vote of all the aldermen elect pay such part of the expense of building or rebuilding such walk as they may deem proper from the general street fund, or from the street district fund of any street district in which such walk may be located.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3188;—CL 1915, 3102;—CL 1929, 2026;—CL 1948, 103.2.

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103.3 Sidewalks; removal of snow, ice; repair, removal of obstructions.

Sec. 3. The council shall also have power, either by ordinance or resolution, to cause and require the owners and occupants of any lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to such lot and premises, and to keep the same free from obstructions, encroachments, encumbrances, filth and other nuisances: Provided, That the council may, by a 2/3 vote of all the aldermen elect, provide by ordinance for the rebuilding, maintaining and keeping in repair of all sidewalks within the city, and for the removing of all ice and snow therefrom, and for keeping the same free from encumbrances, and pay the expense thereof from the general street fund, or from the street district fund of any street district in which the same may be located.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3189;—CL 1915, 3103;—CL 1929, 2027;—CL 1948, 103.3.

103.4 Sidewalks; upkeep, failure of owner; work at owner's expense; assessment; suit.

Sec. 4. If the owner or occupant of any lot or premises shall fail to build, rebuild or maintain any particular sidewalk as mentioned and prescribed in the last 2 sections, or shall fail to keep the same in repair, or remove the snow, ice and filth therefrom, or to remove and keep the same free from obstructions, encroachments, encumbrances or other nuisances, or shall fail to perform any other duty required by the council or board of public works in respect to such sidewalks, within such time and such manner as the council shall require, the council may cause the same to be done, and such sidewalk to be built, rebuilt or repaired, and the expense, or such part thereof as the council shall have determined, shall be charged to such owner or occupant, and the council may cause the amount of such expenses incurred thereby, for which such owner or occupant shall have become liable, together with a penalty of 10 per cent in addition thereto, to be reported to the board of special assessors, to be levied by them as a special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review, after proper notice is given as in all other cases of special assessments provided for by this act, and such tax when confirmed shall be a lien upon such lot or premises the same as other special assessments, and the council shall order the supervisors of the ward in which such lot or premises are situated, to spread said amount, together with such penalty upon his roll as a special assessment upon such lot or premises, and the same shall be collected in the same manner as other city taxes; or the city may collect such amount, together with the penalty aforesaid, from the owner or occupant of such premises in an action of assumpsit, together with costs of suit.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3190;—CL 1915, 3104;—CL 1929, 2028;—CL 1948, 103.4.

103.5 Sidewalks; use regulated by council.

Sec. 5. The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts, and of other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures and excavations under the same; and to prohibit and prevent obstructions, encumbrances or other nuisances upon the walks.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3191;—CL 1915, 3105;—CL 1929, 2029;—CL 1948, 103.5.

CHAPTER XXIV
COST OF IMPROVEMENTS—SPECIAL ASSESSMENTS.

104.1-104.30 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

CHAPTER XXIVA
SPECIAL ASSESSMENTS.

104A.1 Special assessment for local public improvement or repair; resolution.

Sec. 1. The council may determine that the whole or part of the expense of a local public improvement or repair shall be defrayed by special assessments upon the property specially benefited and so declare by resolution.

History: Add. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

104A.2 Special assessment procedure; ordinance.

Sec. 2. The complete special assessment procedure to be used, including the time when special assessments may be levied, the kinds of local public improvements for which a hearing is required on the resolution levying the special assessments; the preparing of plans and specifications; estimated costs; the preparation, hearing, and correction of the special assessment roll; the collection of special assessments; the assessment of single lots or parcels; and any other matters concerning the making of improvements by the special assessment method, shall be provided by ordinance. The ordinance shall authorize additional assessments, if

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the prior assessment proves insufficient to pay for the improvement or is determined to be invalid, in whole or in part, and shall provide for the refund of excess assessments; however, if the excess is less than 5% of total cost as defined by ordinance, it may be placed in the general fund of the city.

History: Add. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

104A.3 Special assessment and interest thereon as lien and debt; delinquency.

Sec. 3. After the date of confirmation of any roll levying a special assessment, the full amount of the assessment and all interest thereon shall constitute a lien on the premises subject thereto and that amount shall also be a debt of the person to whom assessed until paid and, in case of delinquency, may be collected as delinquent city property taxes or by a suit against the person.

History: Add. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

104A.4 Action to contest or enjoin collection of special assessment; notice; time limitation; effect of illegality in assessment roll.

Sec. 4. An action of any kind shall not be instituted for the purpose of contesting or enjoining the collection of any special assessment unless, within 45 days after the confirmation of the special assessment roll, written notice is given to the council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal and unless that action is commenced within 90 days after the confirmation of the roll. If a portion of an assessment roll is determined to be illegal, in whole or in part, the council may revoke its confirmation, correct the illegality, if possible, and reconfirm it. Property which is not involved in the illegality shall not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon.

History: Add. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

104A.5 Bonds.

Sec. 5. The city council may borrow money and issue bonds of the city therefor in anticipation of the payment of special assessments in 1 or more special assessment districts, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the city. The city council may issue general obligation bonds to defray that portion of the cost and expense of any local public improvement chargeable to the city at large.

History: Add. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

CHAPTER XXV
APPROPRIATION OF PRIVATE PROPERTY.

105.1 Condemnation.

Sec. 1. Private property may be appropriated for public use in any city for the purpose of opening, widening, altering or extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures, for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters, and for the improvement of water courses; for sewers, drains and ditches; for public hospitals, pest houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3136;—CL 1929, 2060;—CL 1948, 105.1.

Former law: See CL 1897, §§ 3222 to 3246.

105.2 Condemnation; proceedings.

Sec. 2. If it shall become necessary to appropriate private property for the public uses or purposes specified in the preceding section, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the city either in the manner and with like effect as provided by the general laws of this state relating to the taking of private property for public use in cities and villages, or by instituting and prosecuting the proceedings for that purpose as hereinafter set forth.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3137;—CL 1929, 2061;—CL 1948, 105.2.

105.3 Condemnation; resolution of council; suit.

Sec. 3. Whenever the council shall have declared a public improvement to be necessary in the municipality and shall have declared that they deem it necessary to take private property, describing it, for such public improvement, designating it, and that the improvement is for the use or benefit of the public, they shall, by

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resolution, direct the city attorney to institute the necessary proceedings in behalf of the municipality, before the probate court as they may designate, to carry out the object of the resolution in regard to taking private property by the city for such public use.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3138;—CL 1929, 2062;—CL 1948, 105.3.

105.4 Condemnation; certified copy of resolution, delivery to attorney; petition, contents; filing; evidence.

Sec. 4. The city clerk shall make and deliver to such attorney, as soon as may be, a copy of such resolution certified under seal, and it shall be the duty of such attorney to prepare and file with such probate court in the name of the city, a petition signed by him in his official character and duly verified by him; to which petition a certified copy of the resolution of the council shall be annexed, which certified copy shall be prima facie evidence of the action taken by the council and of the passage of the said resolution. The petition shall state, among other things, that it is made and filed as commencement of judicial proceedings by the municipality in pursuance of this act to acquire the right to take private property for the use or benefit of the public, without consent of the owners, for a public improvement, designating it, for a just compensation to be made. A description of the property to be taken shall be given, and generally the nature and extent of the use thereof that will be required in making and maintaining the improvement shall be stated, and also the names of the owners and others interested in the property, so far as can be ascertained, including those in possession of the premises. The petition shall also state that the council has declared such public improvement to be necessary and that they deem it necessary to take the private property described in that behalf for such improvement for the use or benefit of the public. The petition shall ask that a jury be summoned and impaneled to ascertain and determine whether it is necessary to make such public improvement, whether it is necessary to take such private property as it is proposed to take for the use or benefit of the public, and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matter or things, and may pray for any other or further relief to which the municipality may be entitled, within the objects of this chapter.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3139;—CL 1929, 2063;—CL 1948, 105.4.

105.5 Probate court summons; contents.

Sec. 5. Upon receiving such petition it shall be the duty of the said probate court to issue a summons against the respondents named in such petition, stating briefly the object of said petition, and commanding them, in the name of the people of the state of Michigan, to appear before said probate court at a time and place to be named in said summons, not less than 20 nor more than 40 days from the date of the same, and show cause, if any they have, why the prayer of said petition should not be granted.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3140;—CL 1929, 2064;—CL 1948, 105.5.

105.6 Probate court summons; service; guardian ad litem; appearance order; alias, pluries summons; return, filing; evidence.

Sec. 6. Said summons shall be served by the city marshal, any member of the police force or any constable of the city, at least 5 days before the return day thereof, upon all the respondents found within the county, by exhibiting the original and delivering a copy to each of them. If any respondent who is a resident of the county cannot be found, the summons shall be served by leaving a copy thereof at his or her usual or the last place of abode, with some person of suitable age and discretion. If any minor or person of unsound mind is interested in the premises to be taken, service may be made on the guardian of such person, if any, and if there is no guardian, the probate court may appoint some discreet and proper person to be guardian ad litem of such person in such proceedings, and such guardian shall have authority to represent such person in said proceedings. The proceedings to appoint such guardian shall be the same as in other cases provided by statute. If it shall appear on the return day of the summons that any respondent cannot be found within the county and has not been served in the manner provided, or is non-resident and has not voluntarily appeared, the court may make an order requiring such respondent or respondents to appear and show cause why the prayer of the petition should not be granted, on a day to be named in the order, and not less than 30 days from the date thereof, and may require that a certified copy of such order be personally served on such respondents wherever found, if practicable, at least 6 days before the time named in order for appearance, or the court may make such order for appearance and require as to any or all such respondents who shall not have been personally served and have not appeared, that service be made by publishing a certified copy of such order for

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3 successive weeks, at least once in each week, in at least 1 newspaper published within the municipality, the last publication to be at least 6 days before the day fixed in the order for appearance. Alias and pluries summons may be issued, and the probate court may adjourn the proceedings from time to time as there shall be occasion, and as in other civil cases. Service of such order for appearance in either mode described shall be sufficient notice of the proceedings to bind the respondents and the property represented by them. The return of the officer upon the summons and an affidavit of the due service or the publication of the order for appearance, if any, shall be filed with such probate court before a jury shall be impaneled, and be sufficient evidence of service on the respondents and of the manner of service.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3141;—CL 1929, 2065;—CL 1948, 105.6.

105.7 Probate court; impaneling jury; composition of jury.

Sec. 7. On the return day of the summons, or on some subsequent day to which the proceedings are adjourned, if no sufficient cause to the contrary has been shown, the probate court shall make an order that a jury be impaneled in the case. Such jury shall be composed of 12 freeholders of the municipality and shall be selected and impaneled as follows: The city marshal or any constable or any member of the police force of such city shall, on the same day, or at an adjourned day, make a list of 24 resident freeholders of said city, and the city attorney and the respondents collectively, shall each have the right to strike 6 names from the list of persons written down as aforesaid, and subject to objection for cause; the 12 persons whose names are left on the list shall compose the jury for the trial of the cause and shall be summoned to attend at not less than 3 nor more than 10 days from the date of selecting such jury, by a venire issued by him and to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list, it shall be done by the probate judge, and in case any of the persons to be summoned cannot by him be found in the county, or being summoned do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officer, and the practice and proceedings under this chapter, except as herein otherwise provided, relative to impaneling, summoning and excusing jurors and talesmen and imposing penalties or fines upon them for non-attendance, shall be the same as the practice and proceedings of justice courts relative to jurors in civil cases in such courts.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3142;—CL 1929, 2066;—CL 1948, 105.7.

105.8 Probate court; oath of jurors, form; duties; instruction; verdict.

Sec. 8. The jurors so impaneled shall be sworn or shall affirm in substance as follows: “You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether there is a public necessity for making the proposed improvement and for taking for the use or benefit of the public the private property which the petition describes and prays may be taken, and if you shall determine that it is necessary to make such improvement, and to take said property, that then you ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and evidence, so help you God (or under the pains and penalties of perjury).” The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property proposed to be taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the probate judge, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by all jurors.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3143;—CL 1929, 2067;—CL 1948, 105.8.

105.9 Probate court; verdict of jury; contents, necessity, damages.

Sec. 9. The jury shall determine in their verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists, they shall separately award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3144;—CL 1929, 2068;—CL 1948, 105.9.

105.10 Probate court; jury to retire with petition, map, blank verdict; form of verdict.

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Sec. 10. To assist the jury in arriving at their verdict, the probate court may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement and of each and all parcels of property to be taken, and may also submit to them a blank verdict, which may be as follows:

PART I.

We find that it is ..... necessary to take the private property described in the petition in this cause, for the use and benefit of the public for the proposed public improvement.

PART II.

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Description of each of the several parcels of private property to be taken.	Owners, occupants and others interested in each parcel.	Compensation.	To whom payable.

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the probate court, before it is submitted to the jury, or it may be done by the jury.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3145;—CL 1929, 2069;—CL 1948, 105.10.

105.11 Probate court; amendments allowed.

Sec. 11. Amendments either in form or substance may be allowed in any paper, petition, process, record or proceeding, or in the description of property proposed to be taken, or the name of any person, whether contained in a resolution passed by the council or otherwise, whenever the amendments will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3146;—CL 1929, 2070;—CL 1948, 105.11.

105.12 Probate court; docket entries, copy; confirmation judgement on application, time; new proceedings; appeal.

Sec. 12. Upon filing the report and award made by any jury with said probate court he shall enter it upon the docket of his proceedings, and a copy thereof may be taken by the city attorney for the use of the council; and at any time thereafter, and within 40 days after the impaneling of the jury making the report, the probate court, upon the application of the city council, shall enter judgment of confirmation of the determination and awards therein made. Unless such application and confirmation shall be made within said 40 days, all proceedings upon that report and award shall be at an end, and a new jury and new proceedings may be had, as in the case of a disagreement of the jury. All parties interested in such report shall take notice of the confirmation thereof. Any such judgment of confirmation shall be final and conclusive as to all parties not appealing therefrom within the time hereinafter provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3147;—CL 1929, 2071;—CL 1948, 105.12.

105.13 Probate court; disagreement of jury; impaneling new jury.

Sec. 13. If such jury should be unable to agree upon a verdict, or for any cause should fail to render a verdict, said probate court shall, on the application of the city attorney, designate some day and hour when another jury may be impaneled, and such other jury shall be obtained, drawn, summoned, returned, bound to attend and serve, have the same qualifications, be sworn, and when sworn have the same powers and duties as the first jury. The same proceedings after they are sworn shall be had by them, and by and before said probate court as provided for above after the first jury is sworn.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3148;—CL 1929, 2072;—CL 1948, 105.13.

105.14 Juror; disability; procedure.

Sec. 14. If any juror, after being sworn, and before the hearing shall have been commenced, shall die, or

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from sickness or any other cause be unable to discharge his duties as a juror, said probate court may cause to be drawn another person to serve in his place, who shall be sworn, and shall have the like qualifications, powers and duties as those already sworn.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3149;—CL 1929, 2073;—CL 1948, 105.14.

105.15 Circuit court; appeal, procedure; bond.

Sec. 15. Any party aggrieved by the judgment of confirmation hereinbefore mentioned, may, within 10 days after the entry thereof, appeal therefrom to the circuit court of the county, by filing with the probate court a claim of appeal, in writing, under oath, in which he shall set forth a description of the land in which he claims an interest and a statement that he considers himself aggrieved by the proceedings and judgment of which he complains, and his objections, if any, to the amount of damages awarded, and at the same time filing with the probate court a bond to the city, in a penal sum of not less than 300 dollars, with sureties to be approved by said probate court, conditioned that he will prosecute his appeal to effect, and pay costs that may be awarded against him in the circuit court, and paying to the probate court the sum of 3 dollars for making his return to the appeal.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3150;—CL 1929, 2074;—CL 1948, 105.15.

105.16 Circuit court; probate court to return appeal.

Sec. 16. Within 10 days after taking such appeal said probate court shall make and certify a return to said appeal, setting forth a transcript from his docket of all the proceedings and the judgment of confirmation entered therein, and shall attach thereto the report of the jury, and all notices and papers filed with him, together with the bond and claim of appeal, and file the same with the clerk of such circuit court.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3151;—CL 1929, 2075;—CL 1948, 105.16.

105.17 Circuit court; jurisdiction; proceedings.

Sec. 17. Upon filing the return to the probate court, as mentioned in the preceding section, the circuit court shall have jurisdiction of the case. The parties may proceed to trial by jury without reference to any term of court upon the question as to the amount of damages to be awarded; but the finding of the jury before the probate court as to the necessity of taking the land shall be held to be conclusive. The appeal of 1 or more persons interested in any judgment of confirmation shall not in any way affect said judgment as to other persons interested therein who do not appeal.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3152;—CL 1929, 2076;—CL 1948, 105.17.

105.18 Circuit court jury; impaneling.

Sec. 18. The circuit judge shall make an order that a jury be impaneled in the case. Such jury shall be composed of 12 freeholders of the municipality or vicinity, and shall be selected and impaneled as follows: The city marshal or any member of the police force of such city shall, on the same day or at an adjourned day, make a list of 24 resident freeholders of said city or vicinity, and the city attorney and the respondents collectively shall each have the right to strike 6 names from the list of persons written down as aforesaid, and subject to objection for cause; the 12 persons whose names are left on the list shall compose the jury for the trial of the cause and shall be summoned to attend at not less than 3 nor more than 10 days from the date of selecting such jury, by a venire issued by him to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from the list, it shall be done by the circuit judge, and in case any of the persons to be summoned cannot by him be found in the county, or being summoned do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officer, and the practice and proceedings under this chapter, except as herein otherwise provided relative to impaneling, summoning and excusing jurors and talesmen, and imposing penalties or fines upon them for non-attendance, shall be the same as practice and proceedings of circuit courts relative to jurors in cases in such courts.

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3153;—CL 1929, 2077;—CL 1948, 105.18.

105.19 Circuit court; oath of jurors, form; duties; instruction.

Sec. 19. The jurors so impaneled shall be sworn or shall affirm in substance as follows: “You do solemnly swear (or affirm) that you will well and truly ascertain, determine and award the just compensation to be made for the taking for the use or benefit of the public the private property which the petition describes, and

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that you will faithfully and impartially discharge all other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and the evidence, so help you God (or under the pains and penalties of perjury).” The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the circuit judge, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and shall be signed by all jurors.

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3154;—CL 1929, 2078;—CL 1948, 105.19.

105.20 Circuit court; verdict of jury; contents, necessity, damages.

Sec. 20. The jury shall in their verdict separately award to the owners of such property, and others interested therein, such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just.

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3155;—CL 1929, 2079;—CL 1948, 105.20.

105.21 Circuit court; jury may retire with petition, map, blank verdict; form of verdict.

Sec. 21. To assist the jury in arriving at their verdict, the circuit judge may allow the jury, when they retire, to take with them the petition filed in the case, and a map showing the location of the proposed improvement and of each and all the parcels of property to be taken and may also submit to them a blank verdict which may be as follows:

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Description of each of the several parcels of private property to be taken.	Owners, occupants and others interested in each parcel.	Compensation.	To whom payable.

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the circuit judge, before it is submitted to the jury, or it may be done by the jury.

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3156;—CL 1929, 2080;—CL 1948, 105.21.

105.22 Circuit court; confirmation of proceedings; cost.

Sec. 22. Upon any dismissal of the appeal, or rendition of judgment after trial in the circuit court, said court shall confirm the proceedings and rights of the city to take and appropriate the lands of the appellant for the purpose mentioned in the resolution of the council. And unless the appellant shall recover judgment for at least 50 dollars more than the amount awarded to him before the probate court, he shall pay costs to the city; otherwise the court shall award such costs to him or to the city as shall be just.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3157;—CL 1929, 2081;—CL 1948, 105.22.

105.23 Circuit court; judgment of confirmation; records of city clerk; contents, evidence.

Sec. 23. It shall be the duty of the city clerk to procure copies of any judgment of confirmation of the circuit court or of the probate court after the same has become final, as well as of the report and findings of the jury, and the same shall be recorded in a book of records to be kept by him, and the docket of such probate court, or the judgment of said court, as well as the book of records of such proceedings kept by said clerk, or certified copies thereof, shall be presumptive evidence of the matters therein contained, and of the regularity of all the proceedings to appropriate the property sought to be acquired and to confirm the same.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3158;—CL 1929, 2082;—CL 1948, 105.23.

105.24 Verdict confirmed; sums awarded; procedure for collection; assessment; evidence; city purchaser at sale.

Sec. 24. When the verdict of the jury shall have been finally confirmed by the probate court and the time in

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which to take an appeal has expired, or, if an appeal is taken and the judgment has been confirmed, thereupon the proper and necessary proceedings, in due course, shall be taken for the collection of the sum or sums awarded by the jury. If the council believe that a portion of the city in the vicinity of the proposed improvement will be benefited by such improvement, they may by an entry in their minutes determine that the whole or any just proportion of the compensation awarded by the jury shall be assessed upon the owners or occupants of real estate deemed to be thus benefited, and thereupon they shall, by resolution, fix and determine the district or portion of the city benefited, and specify the amount to be assessed upon the owners or occupants of the taxable real estate therein. The amount of the benefit thus ascertained shall be assessed upon the owners or occupants of such taxable real estate, in proportion, as nearly as may be, to the advantage which such lot, parcel or subdivision is deemed to acquire by the improvement. The assessment shall be made and the amount levied and collected in the same manner and by the same officers and proceedings, as near as may be, as is provided in this act for assessing, levying and collecting the expense of a public improvement when a street is graded. The assessment roll containing said assessments, when ratified and confirmed by the council, shall be final and conclusive and prima facie evidence of the regularity and legality of all proceedings prior thereto, and the assessment therein contained shall be a lien on the premises on which the same is made until payment thereof. Whatever amount or portion of such awarded compensation shall not be raised in the manner herein provided shall be assessed, levied and collected upon the taxable real estate of the municipality, the same as other general taxes are assessed and collected therein. At any sale which takes place of the assessed premises or any portion thereof delinquent for non-payment of the amount assessed and levied thereon, the city may become a purchaser.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3159;—CL 1929, 2083;—CL 1948, 105.24.

105.25 Verdict confirmed; sums awarded; payment within year; raising of funds; treasurer, duties; right of entry; writ of assistance.

Sec. 25. Within 1 year after the confirmation of the verdict of the jury, or after the judgment of confirmation shall on appeal be confirmed, the council shall set apart and cause to be provided in the treasury, unless already provided, the amount required to make compensation to the owners and persons interested, for the private property taken, as awarded by the jury, and shall, in the resolution setting apart and providing said sum, if not already provided, direct the city to pay the persons respectively entitled to the money so set apart and provided, to each his or her portion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto, according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The council may provide the necessary amount by borrowing from any other money or fund in the treasury and repay the same from money raised to pay the compensation awarded by the jury when collected or otherwise, as they may provide. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of compensation awarded by the jury is actually in the treasury for payment of the private property taken in the case, giving the title of the case; he shall cause 1 of the certificates to be filed in the office of the probate court before whom such proceedings were had, or his successor, or in case an appeal has been had, then in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the city clerk, which certificate shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and thus secured to be paid, the council may enter upon and take possession of and use such private property for the purposes for which it was taken, and may remove all buildings, fences and other obstructions therefrom. In case of resistance or refusal on the part of any one to the council or their agents and servants entering upon and taking possession of such private property for the use and purpose for which it was taken, at any time after the amount of the compensation aforesaid is actually in the treasury, ready to be paid to those entitled thereto, the council, by the city attorney, may apply to the court, and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3160;—CL 1929, 2084;—CL 1948, 105.25.

105.26 Court proceedings; officers, jurors, witnesses; fees, compensation.

Sec. 26. Officers, jurors and witnesses in any proceedings under this chapter shall be entitled to receive the same fees and compensation as are provided by law for similar services in an ordinary action at law in the probate courts of this state, and in cases of appeals, the same fees and compensation as are provided by law for similar services in circuit courts.

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History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3161;—CL 1929, 2085;—CL 1948, 105.26.

105.27 Property; ownership; prima facie evidence.

Sec. 27. It shall be prima facie evidence as to who are owners of, and persons interested in, any property proposed to be taken in the proceedings instituted under this act, if the register or deputy register of deeds of the county shall testify in open court that he has examined the records and titles of his office, and states who such records show are the owners of, and persons interested in such property, and the nature and extent of such ownership and interest; and an abstract of the title of such property, or of any parcel or parcels thereof, certified by the register or deputy register of deeds shall also be prima facie evidence as to ownership, and persons having an interest in any such property, and the extent and nature of such interest.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3162;—CL 1929, 2086;—CL 1948, 105.27.

105.28 Property; sale of buildings; moneys, disposition.

Sec. 28. In case there is on the private property taken a building or other structure, the same shall be sold by or under direction of the council; the amount produced by this sale shall belong and be paid to the fund for paying the compensation awarded for the property taken, and the council shall cause such amount to be credited and applied in reduction pro rata of the assessment and apportionment made to pay for the property taken.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3163;—CL 1929, 2087;—CL 1948, 105.28.

105.29 Property; negotiation; purchase.

Sec. 29. Nothing in this chapter contained shall prevent any city from obtaining private property for any of the public uses herein specified by negotiation and purchase.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3164;—CL 1929, 2088;—CL 1948, 105.29.

CHAPTER XXVI
WATERWORKS.

106.1 City waterworks; uses.

Sec. 1. Any city incorporated or reincorporated under the provisions of this act shall have authority to purchase or construct new and to maintain and extend existing waterworks for the introduction of water into such city, and supplying the same and the inhabitants thereof with pure and wholesome water for the ordinary and extraordinary uses of the inhabitants thereof, the extinguishment of fires and for such other purposes as the council may prescribe.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3247;—CL 1915, 3165;—CL 1929, 2089;—CL 1948, 106.1.

106.2 Types of waterworks; construction; maintenance.

Sec. 2. Such city may acquire, purchase, erect and maintain such reservoirs, canals, aqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes and other apparatus, appurtenances and machinery, and may acquire, purchase, appropriate and own such grounds, real estate, rights and privileges as may be necessary and proper for the securing, construction and maintenance of such waterworks.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3248;—CL 1915, 3166;—CL 1929, 2090;—CL 1948, 106.2.

106.3 Constructing, purchasing, or extending waterworks; borrowing; expenditure.

Sec. 3. It shall be lawful for a city, subject to the provisions of this act, to borrow money to be used exclusively for the purpose of purchasing, constructing, or extending waterworks, as provided in sections 1 and 2 of this chapter. The total amount expended for constructing, purchasing, or extending such waterworks shall not exceed the estimate of expense provided for in section 4 of this chapter.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3249;—CL 1915, 3167;—CL 1929, 2091;—CL 1948, 106.3;—Am. 1969, Act 88, Eff. Mar. 20, 1970;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

106.4 Constructing, purchasing, or extending waterworks; estimate of expense; special assessment.

Sec. 4. Before any money shall be borrowed, appropriated, raised, or expended for the purchase, construction, or extension of waterworks in any city, the council shall direct the board of public works to

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cause to be made an estimate of the expense thereof. The council may determine to specially assess any portion of the cost of water improvements to property especially benefited thereby pursuant to this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3250;—CL 1915, 3168;—CL 1929, 2092;—CL 1948, 106.4;—Am. 1969, Act 88, Eff. Mar. 20, 1970;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: For provisions of section 5 of chapter 30, referred to in this section, see MCL 110.5.

106.5 Water pipes; private connections; repairs at owner's expense; permit.

Sec. 5. The connecting or supplying pipes leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the board of public works. All such connecting or supplying pipes shall be constructed and connected in the manner prescribed by such board.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3251;—CL 1915, 3169;—CL 1929, 2093;—CL 1948, 106.5.

106.6 Establishing of water rates; annual, approval of city council; furnishing of water outside corporate limits.

Sec. 6. The board of public works shall annually, on or before the first Monday in June, establish a scale of rates to be charged and paid for supply of water for the year next ensuing, to be called water rates, which rates shall be approved by the council and shall be appropriate to different classes of buildings in the city, with reference to their dimensions, value, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns and all other buildings, establishments and trades, yards, number of families or occupants or consumption of water, as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rates.

The board of public works, with the approval of the council, is hereby authorized to enter into any contract or contracts for the sale and delivery of water without the corporate limits of the city to an amount not to exceed 25 per cent of the water furnished by said board within the corporate limits of the city. Said board is hereby authorized to prescribe such terms and conditions in any such contract as shall be agreed upon.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3252;—CL 1915, 3170;—CL 1929, 2094;—Am. 1935, Act 204, Eff. Sept. 21, 1935;—CL 1948, 106.6.

106.7 Establishing waterworks; care, control ordinances.

Sec. 7. The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the waterworks and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter and the powers herein conferred in respect to the construction, management and control of such waterworks.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3253;—CL 1915, 3171;—CL 1929, 2095;—CL 1948, 106.7.

106.8 Establishing waterworks; property beyond corporate limits, control.

Sec. 8. When the council shall deem it for the public interest, such waterworks may be purchased, or may be constructed and maintained beyond the corporate limits of the city; and in such case the council shall have authority to enforce beyond the corporate limits of the city, within the county or counties in which such city is situated, and over the buildings, machinery and other property belonging to and connected with such waterworks, in the same manner and to the same extent as if they, or it, were within the city, all such ordinances and police regulations as may be necessary for the care, protection, preservation, management and control thereof.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3254;—CL 1915, 3172;—CL 1929, 2096;—CL 1948, 106.8.

106.9 Establishing waterworks; construction privileges, duties.

Sec. 9. For the purpose of operating, constructing, maintaining or extending such waterworks, the city shall have the right to lay conduits, pipes, aqueducts or other necessary works over or under any water-course, or under and along any street, alley, lane, turnpike, road, railroad or highway within such city, but not in such manner as to obstruct the same or impede or prevent travel thereon; and the city authorities may at all times enter upon and dig up such street, alley, road or highway to lay pipes thereon, or to construct works beneath the surface thereof, but they shall cause the surface of such street, alley, road or highway to be relaid and restored to its usual state, and any damage done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes upon like conditions.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3255;—CL 1915, 3173;—CL 1929, 2097;—CL 1948, 106.9.

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106.10 Establishing waterworks; condemnation of private property.

Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property either within or without the city for the construction and maintenance or for the due operation of waterworks, the right to occupy and hold the same, and the ownership therein and thereto may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public use.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3256;—CL 1915, 3174;—CL 1929, 2098;—CL 1948, 106.10.

106.11 Contract for water supply; time limitation; privileges extended to company.

Sec. 11. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such city and the inhabitants thereof with water upon such terms and conditions as may be agreed, and may grant to such person, persons or corporation, the right to the use of the streets, alleys, wharves and public grounds of such city as shall be necessary to enable such person, persons or corporation to construct and operate proper works for the supply of water for the use of such city and the inhabitants thereof upon such terms and conditions as shall be specified in such contracts.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3257;—CL 1915, 3175;—CL 1929, 2099;—CL 1948, 106.11.

CHAPTER XXVII
LIGHTING.

107.1 City lighting plant.

Sec. 1. It shall be lawful for any city incorporated or reincorporated under the provisions of this act to acquire by purchase or to construct, operate and maintain, either independently or in connection with the waterworks of such city, either within or without the city, works for the purpose of supplying such city and the inhabitants thereof, or either, with gas, electric or other lights at such times and on such terms and conditions as hereinafter provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3258;—CL 1915, 3176;—CL 1929, 2100;—CL 1948, 107.1.

107.2 City lighting plant; resolution of necessity; action of council.

Sec. 2. Whenever the council of any city shall, by resolution, declare that it is expedient for such city to acquire by purchase, or to construct, as the case may be, works for the purpose of supplying such city and the inhabitants thereof, or either, with gas, electric or other lights, then such council shall have power to take such action as shall be deemed expedient to accomplish such purpose.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3259;—CL 1915, 3177;—CL 1929, 2101;—CL 1948, 107.2.

107.3 City lighting plant; expense estimates; vote by electors.

Sec. 3. In case the council shall declare that it is expedient for such city to acquire by purchase or to construct, as the case may be, works for the purpose of supplying such city and the inhabitants thereof, or either, with electric or other lights, then the council shall direct the board of public works to cause to be made and recorded in their proceedings an estimate of the expense thereof, and the question of raising the amount required for such purpose shall be submitted to the electors of the city at its annual election, or at a special election called for that purpose by the council, as provided in this act, and shall be determined as 2/3 of the electors voting at such election by ballot shall decide.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3260;—CL 1915, 3178;—CL 1929, 2102;—CL 1948, 107.3.

107.4 City lighting plant; borrowing power, limit; manner of payment.

Sec. 4. It shall be lawful for any such city to borrow any sum of money not exceeding 5 per cent of the assessed value of the property in said city as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or constructing and maintaining such lighting works as provided in the preceding sections of this chapter. The council shall have power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the city therefor, but the rate of such interest shall not exceed 6 per cent per annum, and such bonds shall not be sold for less than their par value: Provided, That the total amount expended for the purchase or construction of such lighting works shall not exceed the amount of the estimate of expense thereof provided for in section 3 of this chapter.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3261;—CL 1915, 3179;—CL 1929, 2103;—CL 1948, 107.4.

107.5 City lighting plant; repairs, limit.

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Sec. 5. After lighting works have been purchased or constructed as aforesaid, in such city, the council may then raise and expend in making repairs or alterations, or in extending such works, such sum as it may deem advisable without submitting the question to the electors of the city; but the sum to be so raised in any 1 year shall be included in and shall not increase the total amount which by the provisions of section 5 of chapter 30 of this act the council is authorized to raise.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3262;—CL 1915, 3180;—CL 1929, 2104;—CL 1948, 107.5.

Compiler's note: For provisions of section 5 of chapter 30, referred to in this section, see MCL 110.5.

107.6 City lighting plant; lighting rates, annual determination.

Sec. 6. The board of public works subject to the approval of the council shall have the power to fix such just and equitable rates as may be deemed advisable for supplying the inhabitants of said city with lights, and shall annually on the first Monday in June fix such rates for the year next ensuing.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3263;—CL 1915, 3181;—CL 1929, 2105;—CL 1948, 107.6.

107.7 City lighting plant; condemnation of private property.

Sec. 7. If it shall be necessary in the judgment of the council to appropriate private property either within or without the city for the construction and maintenance or for the due operation of lighting works, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public use.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3264;—CL 1915, 3182;—CL 1929, 2106;—CL 1948, 107.7.

107.8 Contract for lighting; time limitation; privileges extended to company.

Sec. 8. The council may contract from year to year, or for a period of time not exceeding 10 years with any person or persons, or with any duly authorized corporation, for the supplying of such city or the inhabitants thereof, or both, with gas, electric or other lights upon such terms and conditions as may be agreed; and may grant to such person, persons or corporation the right to the use of the streets, alleys, wharves and public grounds of such city as shall be necessary to enable such person, persons or corporation to construct and operate proper works for the supplying of such light upon such terms and conditions as shall be specified in such contract.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3265;—CL 1915, 3183;—CL 1929, 2107;—CL 1948, 107.8.

107.9 City lighting plant; care and control ordinances.

Sec. 9. The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the lighting works, and all the fixtures, appurtenances, apparatus, buildings and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the erection, purchase, management and control of such works.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3266;—CL 1915, 3184;—CL 1929, 2108;—CL 1948, 107.9.

107.10 Repairs, alterations, and extensions; title retention contract providing for payment from available net revenues; construction.

Sec. 10. Repairs, alterations, and extensions may also be provided by the city council by contract for the making and installation of repairs, alterations, and extensions, which contract shall not impose a general obligation on the city, but which may provide for payment out of the net revenues, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses, as shall become available from the operation of the works after completion of the repairs, alterations, or extensions and for retention of title to materials furnished in the seller until paid for in full. However, a contract made pursuant to this section shall not be construed to deprive the people of the city of any right vested in them by the constitution or the laws of this state, to constitute the granting of any franchise or its operating equivalent, or to convey title to property to any person not possessed of the title prior to the execution of the title retaining contract.

History: Add. 1954, Act 110, Eff. Aug. 13, 1954;—Am. 1983, Act 45, Imd. Eff. May 12, 1983;—Am. 2002, Act 231, Imd. Eff. Apr. 29, 2002.

CHAPTER XXVIII
BOARD OF PUBLIC WORKS.

108.1 Board of public works; members, appointment, terms.

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Sec. 1. There may be created and constituted in every city, subject to the provisions of this act, a board of public works composed of 5 members, who shall be freeholders and electors of the city and shall serve without compensation. Such board shall, as near as may be, be non-partisan, no more than 3 members to be appointed from 1 political party, and shall be appointed by the mayor, by and with the consent of the council. One member shall be appointed for the term of 1 year, 1 member for the term of 2 years, 1 member for the term of 3 years, 1 member for the term of 4 years, and 1 member for the term of 5 years from the first Monday of May next thereafter, and on the 1st Monday of May of each year thereafter, 1 member shall be appointed for the term of 5 years, unless otherwise provided in this act: Provided, That it shall not be necessary for any city having a board of public works organized under the provisions of this act to reconstruct such board, but the existing board of public works shall continue unless abolished under the provisions of sections 11 and 12 of this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3267;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3185;—Am. 1921, Act 282, Eff. Aug. 18, 1921;—CL 1929, 2109;—CL 1948, 108.1.

Compiler's note: For provisions of sections 11 and 12, referred to near the end of this section, see MCL 108.11 and 108.12.

108.2 Board of public works; officers, election, duties; quorum.

Sec. 2. Said board shall, within 10 days after their first appointment and annually thereafter during the month of May, organize and elect 1 of their number president. A majority of the board shall constitute a quorum for the transaction of business. The city clerk shall be ex officio clerk of said board, but shall have no vote therein. It shall be his duty to perform all the clerical labor required by said board, and he shall have charge of all its books, records, accounts and papers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3268;—CL 1915, 3186;—CL 1929, 2110;—CL 1948, 108.2.

108.3 Board of public works; powers and duties.

Sec. 3. The said board of public works, subject to the direction of the council, is hereby charged and entrusted with the following duties, powers and responsibilities:

First, The construction, management, supervision and control of such waterworks as are or shall be owned by the city;

Second, The construction, management, supervision and control of such electric or other lighting plants as are or shall be owned by the city;

Third, The management and supervision of the sewers, sewerage system and drainage of such city, and of the construction thereof.

Fourth, Such other public improvements or works as the common council may, by ordinance, place under their management, supervision and control.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3269;—CL 1915, 3187;—CL 1929, 2111;—CL 1948, 108.3.

108.4 Board of public works; rules, by-laws, regulations.

Sec. 4. The said board shall have power to make and adopt all such by-laws, rules and regulations as they may deem necessary and expedient for the transaction of their business, not inconsistent with the ordinances of the city or the provisions of this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3270;—CL 1915, 3188;—CL 1929, 2112;—CL 1948, 108.4.

108.5 Board of public works; letting contracts, conditions.

Sec. 5. Whenever the expense of constructing or repairing any public work placed under the control of the board of public works shall not exceed the sum of 200 dollars, the work shall be done by such board in such manner as they may deem proper; but whenever such expense shall exceed the sum of 200 dollars, then the said board shall submit the plans, diagrams, profiles and estimates thereof to the council for their approval, and when so approved the board shall, subject to the approval of the council, cause such work to be done by contract, or otherwise in such manner as they may deem proper: Provided, That if the expense shall exceed the sum of 500 dollars, the board shall advertise for sealed proposals, and shall give such notice as the council may direct, and shall let the contract to the lowest responsible bidder who shall be deemed competent to do the work and give adequate security for the performance thereof, which contract and security shall be approved by the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3271;—CL 1915, 3189;—CL 1929, 2113;—CL 1948, 108.5.

108.6 Work done by board of public works; reports to council, contents; payment of claims.

Sec. 6. All work done under the supervision of said board shall be reported to the council from time to time, and no money shall be paid out of the treasury on account of any work so done until the council shall

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have authorized the same and ordered the same paid by warrant drawn on the city treasurer, and all claims or accounts against the city that in any manner relate to the works in charge of such board or that have been incurred by such board shall first be submitted to and approved by the said board of public works before the council shall be authorized to order such warrant drawn. It shall be the duty of the board to make an annual report to the council on the third Monday in Apr. of each year, which report shall embrace an itemized statement of the revenues and the expenditures relating to or connected with each of the works under their control, keeping a separate account of each fund, and a statement of the condition, progress and operation of said works. They shall also make such other reports and furnish such other information to the council as that body shall by resolution or ordinance provide.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3272;—CL 1915, 3190;—CL 1929, 2114;—CL 1948, 108.6.

108.7 Reports to council; expense estimate submitted to council, time.

Sec. 7. On or before the first Monday of September, or on or before the first Monday of May in each year where the council has decided to have the taxes levied and collected in 2 installments as authorized in section 2 of chapter 30, the board of public works shall submit to the common council careful estimates in detail of the amount of money, which, according to the judgment of the board, will be needed for the waterworks fund, the light fund and the sewer fund during the ensuing year, which estimates may be increased, modified or adopted by the said common council as in its judgment may seem justifiable.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3273;—CL 1915, 3191;—CL 1929, 2115;—CL 1948, 108.7.

Compiler's note: For provisions of section 2 of chapter 30, referred to in this section, see MCL 110.2.

108.8 Moneys received; disposition; statement, filing.

Sec. 8. The board of public works shall on the first Monday of each month pay into the city treasury to the credit of the water, light, sewer or other fund, as the case may be, all moneys received by them and belonging to any such fund, and shall file a detailed statement thereof, together with the receipt of the treasurer attached thereto, with the city clerk, who shall report the filing of such statement and receipt to the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3274;—CL 1915, 3192;—CL 1929, 2116;—CL 1948, 108.8.

108.9 Rate charges, payment; suit.

Sec. 9. The board of public works may provide when and to whom all water and light rates, and other moneys collectible by them shall be paid, and what steps shall be taken to enforce payment thereof, and may provide in case of non-payment that such water, light or sewerage connection be shut off or stopped as to any person neglecting or refusing to make such payment; and may also collect the same in an action of assumpsit on the common counts in any court of competent jurisdiction.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3275;—CL 1915, 3193;—CL 1929, 2117;—CL 1948, 108.9.

108.10 Board of public works; employment of operating personnel; appointment, compensation.

Sec. 10. The board of public works is hereby empowered, subject to the approval of the council, to employ all necessary officers, agents and employes that they may deem necessary to operate, carry on and improve all the public works and duties placed under their care and supervision, and subject to the approval of the council, to fix the salaries and compensation of such employes.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3276;—CL 1915, 3194;—CL 1929, 2118;—CL 1948, 108.10.

108.11 Board of public works abolished; procedure.

Sec. 11. The council of every city subject to the provisions of this act and the acts to which this act is amendatory, upon petition to them of 50 or more registered electors of the city praying that an election of the qualified voters of the city be called to determine whether the board of public works in the city shall be abolished, shall, by resolution, submit the question of abolishing the board of public works to the qualified electors of the city at the city election held in the month of April next following. The board of public works in the city shall not be abolished unless a majority of the electors voting on the proposition shall by ballot so determine.

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3195;—Am. 1921, Act 282, Eff. Aug. 18, 1921;—CL 1929, 2119;—CL 1948, 108.11;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

108.12 Board abolished; powers and duties transferred to council; committee established.

Sec. 12. If at any such election, a majority of the electors voting thereon shall vote to abolish the board of

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public works in such city, then such board of public works shall be abolished, and all the powers, rights and privileges now exercised by or vested in said board of public works, as well as all duties and obligations imposed upon such board of public works by this act and the act of which this is amendatory, shall be vested in, exercised and assumed by the council of such city; the board of public works in such city in all things appertaining to them as such board, shall be superseded by the council, and the council may appoint a committee of its own members more particularly to perform these duties, always under the direction of the council and subject to such rules and regulations as the council may determine.

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3196;—Am. 1921, Act 282, Eff. Aug. 18, 1921;—CL 1929, 2120;—CL 1948, 108.12.

108.13 Board of public works abolished; re-establishment procedure.

Sec. 13. In a city subject to this act, and in which the board of public works has been abolished as provided in this chapter, the council, on petition to them of 100 registered electors of the city praying for the re-establishment of the board of public works in the city, shall, by resolution, submit to the qualified electors of the city at the city election held in the month of April next following the proposition to re-establish the board of public works. If 2/3 of the electors voting on the proposition vote in favor of the board of public works, then the board of public works is re-established in the city and shall be constituted and selected in the same way and have the same qualifications, powers, and duties provided for boards of public works in the act of which this act is amendatory.

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3197;—CL 1929, 2121;—CL 1948, 108.13;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

108.14 Election of board; time, notice; form of proposition.

Sec. 14. An election under the provisions of this chapter cannot be held oftener than once in 2 years and notice of such election shall be given in the same manner and for the same length of time as is provided in the charter of such city for the calling special elections, and the vote shall be counted and canvassed and the return shall be made, and the result declared and determined in the same manner as is provided in such charter for the counting, canvassing and returning of votes, and the determining of the result thereof at special elections, and the propositions submitted shall be in the following language:

For the board of public works—Yes [ ]

For the board of public works—No [ ]

History: Add. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3198;—CL 1929, 2122;—CL 1948, 108.14.

CHAPTER XXIX
FIRE DEPARTMENT.

109.1 Fire protection; ordinances and regulations; fire department, establishment.

Sec. 1. The council of any city shall have power to enact such ordinances and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires, and to protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint firemen; to make and establish rules and regulations for the government of the department, the employes, firemen and officers thereof; and for the care and management of the engines, apparatus, property and buildings pertaining to the department; and prescribing the powers and duties of such employes, firemen and officers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3277;—CL 1915, 3199;—CL 1929, 2123;—CL 1948, 109.1.

109.2 Fire equipment; water supply.

Sec. 2. The council may purchase and provide suitable fire engines and such other apparatus, instruments and means for the use of the department as may be deemed necessary for the extinguishment of fires; and may sink wells and construct cisterns and reservoirs in the streets, public grounds and other suitable places in the city; and make all necessary provisions for a convenient supply of water for the use of the department.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3278;—CL 1915, 3200;—CL 1929, 2124;—CL 1948, 109.2.

109.3 Fire houses.

Sec. 3. The council may also provide or erect all necessary and suitable buildings for keeping the engines, carriages, teams and fire apparatus of the department.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3279;—CL 1915, 3201;—CL 1929, 2125;—CL 1948, 109.3.

109.4 Fire chief; duties; assistants.

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Sec. 4. The engineer of the fire department shall be the chief of the department, and, subject to the direction of the mayor, shall have the supervision and direction of the department and the care and management of the fire engines, apparatus and property, subject to such rules and regulations as the council may prescribe. And the council may appoint such assistant engineers and other officers of the department as may be necessary.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3280;—CL 1915, 3202;—CL 1929, 2126;—CL 1948, 109.4.

109.5 Fire chief; power to command aid at fire; refusal, penalty.

Sec. 5. The chief of the fire department, or other officer acting as such, may command any person present at a fire to aid in the extinguishment thereof and to assist in the protection of property thereat. If any person shall wilfully disobey any such lawful requirement or other lawful order of any such officer he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a period not exceeding 90 days, or by a fine not exceeding 100 dollars, or by both such fine and imprisonment, in the discretion of the court.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3281;—CL 1915, 3203;—CL 1929, 2127;—CL 1948, 109.5.

109.6 Fire wardens; appointment, duties.

Sec. 6. The council may provide by ordinance for the appointment of, and may appoint, such number of fire wardens as may be deemed necessary; and for the examination by them, from time to time, of the stoves, furnaces and heating apparatus and devices in all the dwellings, buildings and structures within the city; and in all places where combustible or explosive substances are kept; and to cause all such as are unsafe with respect to fire to be put in a safe condition.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3282;—CL 1915, 3204;—CL 1929, 2128;—CL 1948, 109.6.

109.7 Fire ordinances; limits on wooden structures, construction, regulation; escapes.

Sec. 7. The council may prescribe by ordinance, from time to time, limits of districts within the city within which wooden buildings and structures shall not be erected, placed, enlarged or repaired; and to direct the manner of constructing buildings within such districts, with respect to protection against fire and the material of which the outer walls and roofs shall be constructed. The council may provide by ordinance for proper fire escapes on buildings and compel the owners or occupants thereof to construct and maintain the same.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3283;—CL 1915, 3205;—CL 1929, 2129;—CL 1948, 109.7.

109.8 Trades within certain districts prohibited; combustibles, regulation.

Sec. 8. The council may also prohibit within such places or districts as they shall deem expedient, the location of shops; the prosecution of any trade or business; the keeping of lumber yards; and the storing of lumber, wood or other easily inflammable material, in open places, when, in the opinion of the council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils and other combustible and explosive substances and the use of lights in buildings; and generally, may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3284;—CL 1915, 3206;—CL 1929, 2130;—CL 1948, 109.8.

109.9 Prohibited structure; nuisance, abatement.

Sec. 9. Every building or structure which may be erected, placed, enlarged, repaired or kept, in violation of any ordinance or regulation made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3285;—CL 1915, 3207;—CL 1929, 2131;—CL 1948, 109.9.

109.10 Compensation of officers, fire fighters, and employees; compensation for injuries.

Sec. 10. The officers, fire fighters, and employees of the department shall receive compensation as the council may provide. The council may provide suitable compensation for an injury to person or property which a fire fighter receives in consequence of the performance of the fire fighter's duty at a fire.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3286;—CL 1915, 3208;—CL 1929, 2132;—CL 1948, 109.10;—Am. 1978, Act 14, Imd. Eff. Feb. 8, 1978.

109.11 Destruction of buildings at fires; damages, settlement; jury trial.

Sec. 11. The engineer in charge of the department at any fire, with the concurrence of the mayor or any 2 aldermen, may cause any building to be pulled down or destroyed, when deemed necessary, in order to arrest the progress of the fire. Whenever any building is so pulled down or destroyed, any person having an interest

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in such building may present his claim for damages to the council of such city, and it shall thereupon be the duty of the council to pay such claimant such damages as may be just under all the circumstances, taking into consideration the fact whether or not such loss would probably have occurred to such building if it had not been pulled down or destroyed, and whether the same was insured or not. If the council and such claimant shall not be able to agree upon the amount of damages to be paid such claimant, then the amount of such damages shall be ascertained by the appraisal of a jury, to be selected in the same manner as in cases of juries to appraise damages for taking private property for public use. Such jury may visit the premises and hear all the proofs in the case, and shall allow such claimant such amount of damages as they may deem proper under all the circumstances, as above stated. If such jury shall not be able to agree, a new jury shall be impaneled, as above provided, until a jury has been obtained that shall agree; and the city shall pay such claimant the amount of damages fixed by such jury. There shall be no appeal from the verdict of such jury, either by the city or any claimant.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3287;—CL 1915, 3209;—CL 1929, 2133;—CL 1948, 109.11.

109.12 Harbor fire ordinances.

Sec. 12. The council of any city located upon any of the navigable waters of the state may, by ordinance, prescribe such regulations to be observed by owners, masters and employes of steamboats and water craft as may be necessary for the prevention of fires in the harbor, and to prevent the communication of fire from such boats and craft; and may prescribe in such ordinances the manner of collecting any penalties imposed thereby.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3288;—CL 1915, 3210;—CL 1929, 2134;—CL 1948, 109.12.

CHAPTER XXX
FINANCE AND TAXATION.

110.1 Fiscal year.

Sec. 1. The fiscal year of cities subject to the provisions of this act shall commence on the first Monday of March in each year, or when the council has decided to have the taxes collected in 2 installments, as authorized by section 2 of chapter 30, the fiscal year shall commence on the first Monday of October of each year: Provided, That when the council shall so decide to collect the city taxes pursuant to said section 2 the next fiscal year shall continue to the first Monday of October.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3289;—CL 1915, 3211;—CL 1929, 2135;—CL 1948, 110.1.

110.2 Council's power of taxation; collection; installments.

Sec. 2. The council of any such city shall have authority, within the limitations herein prescribed, to raise annually by taxation within the corporation such sum of money as may be necessary to defray the expenses and pay the liabilities of the city and to carry into effect the powers in this act granted.

The council of any such city shall have authority to provide by ordinance that the taxes in such city shall be levied and collected in 2 installments, 1 of which installments shall be for the general taxes, and which shall be assessed, levied and payable as provided in the general tax laws of this state, where not inconsistent with the provisions of this act; the other installment of which shall be for city taxes and shall be payable on the first day of July in each year.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3290;—CL 1915, 3212;—CL 1929, 2136;—CL 1948, 110.2.

110.3 Tax revenues; division into funds.

Sec. 3. The revenues raised by general tax upon all the property in the city or by loan to be repaid by a general tax shall be divided into so many of the following general funds as are necessary:

(a) Contingent fund, for the contingent and other expenses of the city for the payment of which from some other fund no provision is made.

(b) Fire department fund, for purchasing grounds, erecting engine houses on the grounds, purchasing engines and other fire apparatus, and other expenses necessary to maintain the fire department of the city.

(c) General street fund, for opening, widening, extending, altering, vacating, grading, paving, curbing, graveling, improving, repairing, and clearing the streets, alleys, and public grounds of the city and for the construction, maintenance, and repair of sidewalks and crosswalks.

(d) General sewer fund, for sewers, drains, ditches, and drainage and for the improvement of watercourses.

(e) Bridge fund, for the construction and maintenance of bridges.

(f) Water fund, for maintaining and extending a system of waterworks, constructing reservoirs and cisterns,

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and providing other supplies of water.

(g) Public building fund, for providing for public buildings; for the purchase of land for public buildings; and for the erection, preservation, and repair of public buildings that the council is authorized to erect and maintain and that are not otherwise provided for in this act.

(h) Police fund, for the maintenance of the police of the city and for the arrest of or issuance of citations to persons violating the ordinances of the city and the imposition of sanctions on those persons.

(i) Cemetery fund.

(j) Interest and sinking fund, for the payment of the principal of and interest on the public debt of the city.

(k) Park fund, for the purchase of grounds for public parks and the maintenance and improvement of public parks.

(*l*) Light fund, for the construction, purchase, and maintenance of lights.

(m) Other funds that the council may constitute.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3291;—CL 1915, 3213;—CL 1929, 2137;—CL 1948, 110.3;—Am. 1994, Act 19, Eff. May 1, 1994.

110.4 Tax money; special funds.

Sec. 4. Revenues and moneys raised by taxation in special districts of the city shall be divided into the following special funds:

First, A street district fund, for each street district,—for defraying the expenses of grading, improving, repairing and working upon the streets therein, and for the payment of all street expenses, which the council shall charge upon the street district;

Second, A district sewer fund, for each main sewer district,—for the payment of the costs and expenses of sewers and drainage in, and chargeable to the main sewer district, when the city shall be divided into such districts;

Third, Special assessment funds; any money raised by special assessment levied in any special assessment district or special sewer district to defray the expenses of any work, paving, improvement, repairs, or drainage therein, shall constitute a special fund for the purpose for which it was raised.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3292;—CL 1915, 3214;—CL 1929, 2138;—CL 1948, 110.4.

110.5 Taxes for general fund; limitation on council.

Sec. 5. The aggregate amount which the council may raise by general tax upon the taxable real and personal property in the city for the purpose of defraying the general expenses and liabilities of the corporation, and for all purposes for which the several general funds mentioned in section 3 of this chapter are constituted (exclusive of taxes for schools and school house purposes) shall not, except as herein otherwise provided, exceed in 1 year 1 1/2%.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3293;—CL 1915, 3215;—CL 1929, 2139;—CL 1948, 110.5;—Am. 1957, Act 80, Eff. Sept. 27, 1957.

110.6 Tax raised in street district; purposes, limitation.

Sec. 6. The council may also raise by tax in each street district for defraying the expenses of working upon, improving and repairing and cleaning the streets of the district and for all purposes for which the street district fund above mentioned is constituted, a sum not exceeding in any 1 year 1/4 of 1 per cent on the assessed value of the taxable real and personal property in the district.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3294;—CL 1915, 3216;—CL 1929, 2140;—CL 1948, 110.6.

110.7 Special assessments; purposes; local improvements, street and drain construction.

Sec. 7. In addition to the above amounts, the council may raise by special assessment in sewer districts and special assessment districts, for the purpose of grading, paving, curbing, graveling and otherwise improving the streets and for constructing sewers and drains and making other local improvements chargeable upon the lands and property in the district according to frontage or benefits and for all other purposes for which the main sewer funds and special assessment funds are constituted, such sums as they shall deem necessary.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3295;—CL 1915, 3217;—CL 1929, 2141;—CL 1948, 110.7;—Am. 1969, Act 89, Imd. Eff. July 24, 1969.

110.8 Private sewer tax.

Sec. 8. A tax or assessment of not more than 2 dollars per year may be levied upon each lot or premises drained by a private sewer or drain leading into any public drain or sewer.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3296;—CL 1915, 3218;—CL 1929, 2142;—CL 1948, 110.8.

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110.9 Annual tax levy; purpose; credit for surplus moneys.

Sec. 9. The council shall also raise annually by taxation, an amount such that the estimated collections therefrom are sufficient to promptly pay when due the interest, that portion of the principal and all required sinking fund deposits on all outstanding bonds or other evidences of indebtedness, or assessments or contract obligations in anticipation of which bonds are issued, falling due prior to the time of the following year's tax collections which tax shall be without limitation as to rate or amount and in addition to any other tax the city may be authorized to levy but shall not be in excess of the rate or amount necessary to pay the principal and interest or assessments or contract obligations. If at the time of making any annual tax levy surplus moneys are on hand for the payment of principal or interest and provision has not been made for the disposition thereof, then credit therefor may be taken upon such tax levy for principal or interest as the case may be.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3297;—CL 1915, 3219;—CL 1929, 2143;—CL 1948, 110.9;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

110.10 Expense estimates of council; time, contents.

Sec. 10. It shall be the duty of the council to cause estimates to be made in the month of September, or in the month of May in each year, where the council has decided to have the taxes levied and collected in 2 installments as authorized in section 2 of chapter 30 of this act, of all the expenditures which will be required to be made from the several general funds of the city during the next fiscal year, for the payment of interest and debts to fall due, or for lands to be acquired, buildings to be erected or repaired, bridges to be built and for the paving of streets, the construction of sewers, making improvements, and for the support of the police and fire departments, and for defraying the current expenses of the year, and for every other purpose for which any money will be required to be paid from any of the several general funds during such fiscal year; and also, to estimate the amounts that will be required to be expended from street district funds during said next fiscal year, in working upon, improving and repairing the streets in the several street districts of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3298;—CL 1915, 3220;—CL 1929, 2144;—CL 1948, 110.10.

Compiler's note: For provisions of section 2 of chapter 30, referred to in this section, see MCL 110.2.

110.11 Expense estimate of council; deficiencies; installment levies.

Sec. 11. The council shall also in the same month determine upon the amount required to be raised in the next general tax levy to meet any deficiencies for the current year; also the amount or part of any special assessments which they required to be levied or reassessed in the next general tax rolls of the city, or upon the next city tax rolls of the city where the council have decided to have the taxes levied and collected in 2 installments as authorized in section 2 of chapter 30 of this act, upon lands in any main sewer, or special assessment district, or upon any parcel of land, or against any particular person as a special assessment.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3299;—CL 1915, 3221;—CL 1929, 2145;—CL 1948, 110.11.

Compiler's note: For provisions of section 2 of chapter 30, referred to in this section, see MCL 110.2.

110.12 Annual appropriation bill; purpose; contents.

Sec. 12. The council shall also in the said month of September, or in said month of May where the council has decided to have the taxes levied and paid in 2 installments as authorized in section 2 of chapter 30, pass an ordinance, to be termed the annual appropriation bill, in which they shall make provision for, and appropriate the several amounts required to defray the expenditures and liabilities of the corporation for the next fiscal year payable from the several general funds, and from the street district funds as estimated and determined upon, as provided in section 10 of this chapter, and order the same, or so much of such amounts as may be necessary, to be raised by tax with the next general tax levy, or with the city or July tax levy where the council has decided to have the taxes levied and collected in 2 installments, or by loans, or both, and to be paid into the several general funds and street district funds of the city; but the whole amount so ordered to be raised by tax or loan, or by both, shall not, except as herein otherwise provided, exceed the amount which the city is authorized by sections 5, 6 and 9 of this chapter, to raise by general tax during the year. The council shall specify in such ordinance the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose, and to each of the general funds and street district funds. The council shall also designate in the appropriation bill the sums, if any, required to be levied to meet any deficiency for the current year, and the amount or part of any special assessment, or other sum which they require to be levied or re-assessed as mentioned in section 11 of this chapter, and the disposition to be made of such moneys, and shall also designate in said bill any local improvements which they may deem advisable

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to make during the next fiscal year to be paid for in whole or in part by special assessments, and the estimated cost thereof.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3300;—CL 1915, 3222;—CL 1929, 2146;—CL 1948, 110.12.

Compiler's note: For provisions of section 2 of chapter 30, referred to in this section, see MCL 110.2.

110.13 Taxes certified to board of supervisors and ward supervisors; manner.

Sec. 13. All sums ordered in the annual appropriation bill, in any year to be raised for the several general funds (except in cases where the council have decided to have the taxes levied and collected in 2 installments, in which case such sums shall, by the board of review and equalization provided in section 5 of chapter 30, be apportioned on or before the fifteenth day of May, among the several wards of the city according to their assessed valuation) and all amounts reported to the council by the board of education to be raised for schools, library and schoolhouse purposes, as provided in chapter 32 of this act, shall be certified to the clerk of the board of supervisors of the county on or before the first Monday of October. All sums ordered in said bill to be levied or [re-assessed] assessed in street or sewer districts or as special assessments, and in case there is to be a July tax roll for the collection of city taxes, all sums ordered in the annual appropriation bill apportioned as aforesaid, shall, forthwith, be certified by the city clerk to the supervisors of the respective wards as provided in chapter 24, and all such sums shall be levied and collected on such July or city tax roll. If, however, there be no July or city tax or if any part of the taxes assessed and levied on the July roll are not paid, such sums shall be levied and collected with the state and county taxes next thereafter to be levied within such city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3301;—CL 1915, 3223;—CL 1929, 2147;—CL 1948, 110.13.

Compiler's note: For provisions of section 5 of chapter 30, referred to in this section, see MCL 110.5. Chapters 32 and 24, also referred to in this section, were repealed by Act 256 of 1964 and Act 345 of 1974, respectively.

110.14 Annual appropriation bill; raising of moneys after passage prohibited.

Sec. 14. After the passage of the annual appropriation bill, no further sums shall be used, raised or appropriated; nor shall any further liability be incurred for any purpose, to be paid from any general fund or street district fund, during the fiscal year for which the appropriation was made, unless the proposition to make the appropriation shall be sanctioned by a 2/3 vote of the electors voting upon the proposition at the next annual city election or at any special election called for that purpose. But this section shall not prohibit the council from making any necessary repairs or expenditure at a cost not to exceed 5,000 dollars, the necessity for which is caused by casualty or accident, happening after making the annual appropriation for the year or such necessity arising from an existing, evident and impending danger, and from borrowing the money therefor.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3302;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3224;—CL 1929, 2148;—CL 1948, 110.14.

110.15 Improvements prohibited unless appropriation made; expenditures only from appropriations.

Sec. 15. No improvement, work, repairs or expense, to be paid for out of any general fund, or street district fund, excepting as herein otherwise provided, shall be ordered, commenced or contracted for, or incurred in any fiscal year, unless in pursuance of an appropriation specially made therefor, in the last preceding annual appropriation bill, nor shall any expenditure be made, or liability be incurred, in any such year, for any such work, improvement, repairs, or for any purpose, exceeding the appropriation so made therefor; nor shall any expenditure be made, or money be paid out of any general, or street district fund, for any purpose, unless appropriated for that purpose in said bill.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3303;—CL 1915, 3225;—CL 1929, 2149;—CL 1948, 110.15.

110.16 Improvements financed by special assessments.

Sec. 16. Sections 14 and 15 of this chapter do not apply to appropriations, contracts, incurring of liabilities, expenditures and work in connection with any improvements financed by special assessments.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3304;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3226;—CL 1929, 2150;—CL 1948, 110.16;—Am. 1969, Act 89, Imd. Eff. July 24, 1969.

110.17 Improvement before tax levy prohibited.

Sec. 17. No public work, improvement or expenditure shall be commenced, nor any contract therefor be let

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or made, except as herein otherwise provided, until a tax or assessment shall have been levied to pay the cost and expense thereof, and no such work or improvement shall be paid for, or contracted to be paid for, except from the proceeds of the tax or assessment thus levied, or from the proceeds of bonds issued in anticipation of the collection of said tax.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3305;—CL 1915, 3227;—CL 1929, 2151;—CL 1948, 110.17.

110.18 Taxes and loans for capital improvements; bonds; limitation.

Sec. 18. Instead of levying a tax for the whole amount authorized by this act to be raised in that manner in any year, for the purpose of the capital improvements, the council may, in its discretion, raise a part thereof by tax and a part thereof by loan and issue bonds of the city therefor: Provided, That the aggregate amount of taxes and loans so raised and made, shall not exceed the amount for which a tax might be levied for the same year.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3306;—CL 1915, 3228;—CL 1929, 2152;—CL 1948, 110.18;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

110.19 Loan in anticipation of receipts from special assessments; purpose; limitation; bonds.

Sec. 19. The council shall also have authority to raise moneys by loan in anticipation of the receipts from special assessments for the purpose of defraying the costs of the improvement for which the assessment was levied. Such loan shall not exceed the amount of the assessment for the completion of the whole work. The council may issue bonds of the city for such loan, and may, in its discretion, pledge the full faith and credit of the city for their payment. Bonds for 2 or more improvements may be consolidated in a single issue.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3307;—CL 1915, 3229;—Am. 1929, Act 53, Eff. Aug. 28, 1929;—CL 1929, 2153;—CL 1948, 110.19;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

110.20 Tax or loan to raise greater amount; vote of electors; maximum amount; limitation on amount of indebtedness; fire, flood, or other calamity requiring emergency fund; exclusions from computation of net indebtedness; deducting resources of sinking fund; validation of bonds or contract or assessment obligations; calculating assessed value equivalent.

Sec. 20. (1) If a greater amount is required in any year for a lawful purpose than can be raised by the council under the provisions of this chapter, the amount may be raised by tax or loan, or partly by tax and partly by loan. The amount that may be voted or raised by tax, if approved by a majority vote of the electors at an annual or special city election, in any year under the provisions of this act, shall not exceed 2% of the assessed valuation of the real and personal property in the city as shown by the last preceding tax rolls made in the city.

(2) The amount of indebtedness incurred by the issue of bonds or otherwise, including existing indebtedness, shall not exceed 10% of the assessed valuation of the real and personal property within the city subject to taxation as shown by the last preceding assessment roll of the city.

(3) In case of fire, flood, or other calamity requiring an emergency fund for the relief of the inhabitants of the city, or for the repairing or rebuilding of any of its municipal buildings, works, bridges, or streets, the council may borrow money due in not more than 3 years and in an amount not exceeding 1/4 of 1% of the assessed valuation of the city, notwithstanding the loan may increase the indebtedness of the city beyond the limitations fixed by the city charter or in this act.

(4) In computing the net indebtedness the following shall be excluded:

(a) Bonds issued in anticipation of the collection of special assessments even though they are a general obligation of the city.

(b) Motor vehicle highway fund bonds even though they are a general obligation of the city.

(c) Revenue bonds.

(d) Bonds issued or contract or assessment obligations incurred to comply with an order of the water resources commission or a court of competent jurisdiction even though they are a general obligation of the city.

(e) Obligations incurred for water supply, sewage, drainage, or refuse disposal projects necessary to protect the public health by abating pollution even though they are a general obligation of the city.

(f) Mortgage bonds which are secured only by a mortgage on the property and revenues, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the franchise; which franchise shall not extend for more than 20 years after the date of the sale of the utility and franchise on foreclosure.

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(g) Bonds issued to acquire housing for which rent subsidies will be received by the city or an agency of the city under a contract with the United States government and used by the city to operate and maintain the housing and pay principal and interest on the bonds.

(5) The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of indebtedness.

(6) Bonds issued before the effective date of this subsection, or contract or assessment obligations incurred before the effective date of this subsection, are validated.

(7) In computing the net indebtedness determined under subsection (2) there may be added to the assessed value of real and personal property in a city for a fiscal year an amount equal to the assessed value equivalent of certain city revenues as determined under this subsection. The assessed value equivalent shall be calculated by dividing the sum of the following amounts by the city's millage rate for the fiscal year:

(a) The amount paid or the estimated amount required to be paid by the state to the city during the city's fiscal year for the city's use pursuant to section 13 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.913. The department of treasury shall certify the amount upon request.

(b) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3308;—CL 1915, 3230;—CL 1929, 2154;—CL 1948, 110.20;—Am. 1960, Act 17, Eff. Aug. 17, 1960;—Am. 1969, Act 88, Eff. Mar. 20, 1970;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974;—Am. 1979, Act 123, Imd. Eff. Oct. 19, 1979;—Am. 2007, Act 171, Imd. Eff. Dec. 21, 2007.

110.21 Bonds; approval of electors required; exceptions.

Sec. 21. Bonds shall not be issued, except special assessment bonds, bonds for the portion of the cost of local improvements to be paid by the city at large, not to exceed 40% of the cost of the improvements, bonds for capital improvements in the annual budget as provided in section 18 of this chapter, emergency bonds, and bonds which the council is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting thereon at any regular or special city election. The election shall be conducted in accordance with the general laws governing the conduct of elections.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3309;—CL 1915, 3231;—CL 1929, 2155;—CL 1948, 110.21;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

110.22 Accounting rules; moneys received.

Sec. 22. All moneys and taxes raised, loaned or appropriated for the purposes of any particular fund, shall be paid in and credited to such fund, and shall be applied to the purposes for which such moneys were raised and received, and to none other; nor shall the moneys belonging to 1 fund be transferred to any other fund, or be applied to any purpose for which such other fund is constituted, except when there shall be a surplus in any general fund at the close of any fiscal year. In such case the surplus may be transferred to the sinking fund, should there be a deficiency in that fund, otherwise the council may apply such surplus as they shall deem proper. Moneys not received or appropriated for any particular fund shall be credited to the contingent fund: Provided, That moneys raised or collected in any fund for operating expense, extension or construction of any municipally owned public utility, in excess of the expenditure requirements of that utility in any year, shall not be transferred to any other fund at the close of the fiscal year, except for the payment of bonds or obligations incurred on account of that utility, or to provide for replacements or extensions of that utility.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3310;—CL 1915, 3234;—Am. 1917, Act 168, Eff. Aug. 10, 1917;—CL 1929, 2156;—CL 1948, 110.22.

110.23 Moneys; procedure for disbursement.

Sec. 23. No money shall be drawn from the treasury, except in pursuance of the authority and appropriation of the council and upon the warrant of the clerk. Such warrant shall specify the fund from which it is payable, and shall be paid from no other fund.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3311;—CL 1915, 3235;—CL 1929, 2157;—CL 1948, 110.23.

110.24 Moneys; drawing upon exhausted funds; warrants on such funds declared void.

Sec. 24. No warrant shall be drawn upon the treasury, after the fund from which it should be paid has been exhausted; nor when the liabilities outstanding, and previously incurred and payable from such fund, are sufficient to exhaust it. Any warrant, draft or contract, payable by the provisions of this act from any particular fund, excepting bonds given for loans herein authorized and issued or made after such fund has

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been exhausted by previous payments or by previous liabilities payable from such fund, shall be void as against the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3312;—CL 1915, 3236;—CL 1929, 2158;—CL 1948, 110.24.

110.25 Loans; limitation; bonds.

Sec. 25. Loans shall not be made by the council, or by its authority, in any year exceeding the amounts prescribed in this act. For any loans lawfully made, the bonds of the city may be issued, subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, the bonds shall be executed in a manner as the council directs. Bonds previously issued or indebtedness previously incurred by any city are hereby validated.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3313;—CL 1915, 3237;—CL 1929, 2159;—CL 1948, 110.25;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974;—Am. 2002, Act 231, Imd. Eff. Apr. 29, 2002.

110.26 Annual accounts audit by council; statement, contents.

Sec. 26. Immediately upon the close of the fiscal year the council shall audit and settle the accounts of the city treasurer and other officers of the city, and the accounts also, as far as practicable, of all persons having claims against the city, or accounts with it not previously audited; and shall make out a statement in detail of the receipts and expenditures of the corporation during the preceding year, which statement shall distinctly show the amount of all taxes raised during the preceding year for all purposes, and the amount raised for each fund; the amount levied by special assessments and the amount collected on each; and the amount of money borrowed, and upon what time and terms, and for what purpose; also the items and amounts received from all other sources during the year, and the objects thereof, classifying the expenditures for each purpose separately. Said statement shall also show the amount and items of all indebtedness outstanding against the city, and to whom payable, and with what rate of interest; the amount of salary or compensation paid or payable to each officer of the city for the year, and such other information as shall be necessary to a full understanding of all the financial concerns of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3314;—CL 1915, 3238;—CL 1929, 2160;—CL 1948, 110.26.

110.27 Statement of receipts; filing, publication.

Sec. 27. Said statement, signed by the mayor and clerk, shall be filed in the office of the city clerk, and a copy thereof published in 1 of the newspapers of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3315;—CL 1915, 3239;—CL 1929, 2161;—CL 1948, 110.27.

110.28 Misappropriation of moneys; penalty.

Sec. 28. If any officer of the corporation shall, directly or indirectly, appropriate or convert any of the moneys, securities, evidences of value, or any property whatsoever, belonging to the corporation or any board thereof, to his own use, or shall directly or indirectly and knowingly, appropriate or convert the same to any other purpose than that for which such moneys, securities, evidences of value or property may have been appropriated, raised or received, or to any purpose not authorized by law, he shall be deemed guilty of willful and corrupt malfeasance in office, and may be prosecuted, tried and convicted therefor, and, on conviction, may be punished by fine not exceeding 1,000 dollars, or by imprisonment in the state prison for a period not exceeding 3 years, or both, in the discretion of the court.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3316;—CL 1915, 3240;—CL 1929, 2162;—CL 1948, 110.28.

110.29 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed section pertained to bonds.

CHAPTER XXXI
ASSESSMENT AND COLLECTION OF TAXES.

111.1 Tax assessment and collection by supervisors; city assessor, duties; rules.

Sec. 1. The supervisors of every city shall, in each year, make and complete an assessment of all the real and personal property within their respective wards liable to taxation under the laws of the state, and of all the property of any person liable to be assessed therein, in the same manner, and within the same time as required by law for the assessment of property in the townships of the state, and in so doing they shall conform to the provisions of law governing the action of supervisors of townships performing like services, and in all other respects within their respective wards, they shall, unless otherwise in this act provided, conform to the provisions of law applicable to the action and duties of supervisors in townships, in the assessment of property, the levying of taxes, and in the issuing of warrants for the collection and return thereof: Provided,

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That any city now incorporated, and which shall become re-incorporated under this act, now having an assessor for the assessment of property and the levying of taxes, such city may retain its present method of assessing property and levying taxes, and such assessor in office at the time this act shall take effect, shall remain in office until the expiration of the term for which he was appointed or elected and until his successor shall have been appointed and qualified. The council of any city re-incorporated under the provisions of this act may by ordinance provide for the appointment by the council upon the recommendation of the mayor, a city assessor who shall hold his office for 1 year from and after the first Monday in March of the year in which he shall have been appointed, and such appointment shall be made as aforesaid on or before the second Monday in April in each year. Such assessor shall make an assessment of all real and personal property within such city in the same manner, and have the same powers, and perform the same duties touching the assessment of such property and the levying of such taxes as are performed by supervisors in townships in such matters, which powers shall be exercised and duties shall be performed by such assessor instead of being executed and performed by the supervisor of the several wards in any such city as hereinbefore provided. Such assessor shall make his assessment of all such property in a single roll. Where, however, the council has decided to have the taxes levied and collected in 2 installments, such assessments shall be made in 2 separate rolls, 1 for the city taxes and special assessments to be known as the "city or July tax roll," the other for the state, county and school taxes, to be known as the "December tax roll," and in the making of such assessments and in the levying of taxes such city shall be treated as a whole or as 1 assessment district as townships are treated under the general tax laws of the state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3318;—CL 1915, 3242;—CL 1929, 2164;—CL 1948, 111.1.

111.2 Personal property; assessment; tax exemption.

Sec. 2. If any person residing in the city a part of the time during the year shall, in the opinion of any supervisor, unjustly or falsely claim exemption from taxation therein on the ground that he or she has a residence, and is taxed or liable to taxation elsewhere than in said city, the supervisor shall, notwithstanding, assess such person for such amount of personal property as in his opinion shall be just, and such assessment shall be conclusive as to the liability of such person to be assessed and to pay the tax levied in pursuance thereof, unless such person shall present to the treasurer, or officer requiring payment of such tax, a receipt duly signed and authenticated by the affidavit of some other collector of taxes, and also by the affidavit of the person charged with the tax, showing that such person has paid a tax upon all of the same property for the same year to such other collector or receiver of taxes.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3319;—CL 1915, 3243;—CL 1929, 2165;—CL 1948, 111.2.

111.3 Personal property; assessment; situs.

Sec. 3. All personal property found in any ward may be assessed therein, whether the owner thereof resides in such ward or elsewhere. If there shall be any doubt as to the ward in which any person shall be assessed for personal property belonging to such person, the board of review hereinafter mentioned may direct as to the ward in which the assessment shall be made, and any assessment so made shall be conclusive as to the liability of such person to be assessed in such ward for said property.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3320;—CL 1915, 3244;—CL 1929, 2166;—CL 1948, 111.3.

111.4 Property assessment; equalization.

Sec. 4. For the purpose of assessing all property equally in the whole city, the supervisors of the several wards shall meet and confer together from time to time, while making their assessments, and equalize their valuations in such manner as may be just.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3321;—CL 1915, 3245;—CL 1929, 2167;—CL 1948, 111.4.

111.5 Board of review; members, duties, compensation; equalization by county supervisors; apportionment.

Sec. 5. The supervisors of the several wards, the city assessor in cities providing for such officer, the mayor and the city attorney, shall constitute a board of equalization and review of the general assessment rolls of the several wards of said city, a majority of whom shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day. They shall have power, and it shall be their duty, to examine said assessment rolls, and they shall have authority to and shall correct any errors or deficiencies found therein, either as to the names, valuations or descriptions; and of their own motion, or on cause shown, may reduce or increase the valuation of any property found on said rolls, and shall add thereto any taxable property in said city that may have been omitted, and shall value the same; and to strike from said rolls any property

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wrongfully thereon, and generally to perfect said rolls in any respect by said board deemed necessary and proper, for which services such members of said board shall receive 2 dollars per day while actually employed. If on examination they shall deem the valuation of the several wards to be relatively unequal, they shall equalize the same by adding to or deducting from the total valuation of the taxable property in any ward such an amount as, in their judgment, will produce relatively an equal and uniform valuation of the real estate in the city; and the amount added to or deducted from the total valuation in any such ward shall be so stated in the certificate attached to the assessment roll of such ward; and all taxes for state, county, school, general city and sewer purposes shall be apportioned according to said equalization, in the manner hereinbefore provided, and said equalization shall not be changed with regard to the relative valuation of the several wards of said city, and the board of supervisors of the county in which such city is located shall equalize such city as a unit the same as a township is equalized, and any amount added to or deducted from the total valuation of such city as a unit, shall be apportioned by the clerk of the board of supervisors among the several wards, according to the equalized valuation of the real property in each ward as fixed by the board of review.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3322;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3246;—CL 1929, 2168;—CL 1948, 111.5.

111.6 Board of review; meetings of board; officers; proceedings; statement, form; endorsed rolls returned to supervisors; finality.

Sec. 6. The said board shall meet on the third Monday in May in each year, at the council rooms in such city, at 9 o'clock in the forenoon, at which time and place notice shall be given by the clerk at least 2 weeks prior to the time of meeting, by publishing a notice thereof in 1 or more of the newspapers of said city, and also by posting the same in 3 public places in each ward of said city, at which time and place the several supervisors shall submit to said board their respective general assessment rolls. They shall select 1 of their number as chairman, and shall continue in session at least 4 days successively, and as much longer as may be necessary to complete the review, and at least 6 hours in each day, during said 4 days or more; and any person or persons desiring so to do, may examine his, her or their assessment on said rolls, and may show cause, if any exists, why the valuation thereof should be changed and the said board shall decide the same, and their decision shall be final. They may examine on oath any person touching the matter of his or her assessment, and the chairman or any member of said board may administer oaths. They shall keep a record of their proceedings, and all changes made in said rolls, and the amount added to or deducted from the total valuation in each ward shall be entered upon such record, which record shall be deposited with the city clerk, who shall be clerk of said board.

The decision of a majority of the members of said board upon all questions shall govern. The rolls as prepared by the several supervisors shall stand as approved and adopted as the act of the board of review, except as changed as herein provided. Said board shall have the same power and perform the same duties in all respects as boards of review of townships, in reviewing and correcting assessments made by supervisors of townships, except as in this act otherwise provided.

After said board of review shall have completed the revision of said rolls, the clerk shall endorse and sign a statement upon each roll, to the effect that the same is the general assessment roll of the ward to which it applies for the year in which it has been prepared, as approved by the board of review. Such statement may be in the following form [viz.], namely:

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STATE OF MICHIGAN,)
                  )ss.
City of .........,)
```

I hereby certify that the board of review and equalization of the city of ..... have reviewed, equalized and corrected the within assessment roll, and have deducted (or added, as the case may be) ..... dollars from (or to, as the case may be), the valuation of the real estate made by the supervisor, and have determined the aggregate value of such real estate to be ..... dollars, and the total value of the personal estate to be ..... dollars for the year A.D. .....

```
Dated ..............................................................
..............................................................
                                    Clerk of the Board of  Review.
```

Upon the completion of such rolls, and their endorsement in manner aforesaid, they shall be returned to the several supervisors, and shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes mentioned in the general laws of the state, relating to the assessment of property and the levy and collection of taxes thereon. The omission of such endorsement, however, shall not affect the validity of any such roll.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3323;—CL 1915, 3247;—CL 1929, 2169;—CL 1948, 111.6.

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111.7 Assessment roll; certified copy delivered by supervisor to city clerk.

Sec. 7. Within 60 days after the confirmation, and where the council have decided to have the taxes levied and collected in 2 installments, and the roll is the city or July roll, on or before the first day of June following the confirmation of such rolls, as above provided, each supervisor shall deliver a certified copy of his assessment roll to the city clerk, to be filed in his office for the use of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3324;—CL 1915, 3248;—CL 1929, 2170;—CL 1948, 111.7.

111.8 Certification by city clerk to county clerk; contents.

Sec. 8. On or before the first Monday of October in each year, the city clerk shall certify to the county clerk of the county in which the city is located the aggregate amount of all sums which the council require to be raised for the next fiscal year for all city purposes, or where the council have decided to have the taxes paid in 2 installments, all sums for city purposes that have not been paid upon the July rolls, and for schools and library and school-house purposes, by general taxation upon all the taxable property of the whole city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3325;—CL 1915, 3249;—CL 1929, 2171;—CL 1948, 111.8.

111.9 Apportionment of amounts by board of supervisors; certification procedure.

Sec. 9. The board of supervisors of the county in which such city is located shall apportion the amounts to be raised as mentioned in the preceding section among the wards of the city, according to the equalized valuation of the property appearing upon the certificate of the several assessment rolls of the city for such year, as finally equalized by the board of supervisors, and the clerk of said board shall certify to the supervisor of each ward for assessment therein, the amount so apportioned to his ward; giving the amount apportioned for school, library and schoolhouse purposes in a separate sum, within 5 days after the board of supervisors of the county shall have completed the equalization of the valuation of the property in the county for the year. Said clerk of the board shall also certify to the city clerk the amounts apportioned to the several wards of the city, as aforesaid.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3326;—CL 1915, 3250;—CL 1929, 2172;—CL 1948, 111.9.

111.10 Certification of taxes by city clerk to ward supervisors.

Sec. 10. On or before the first day of October, or on or before the first Monday of June in each year where the council have decided to have the taxes levied and collected in 2 installments, the city clerk shall certify to the supervisors of each ward for the assessment therein, all amounts which the council require to be assessed or re-assessed in any street district, main or special sewer district, or other special assessment district, or upon any parcel of land, or against any particular person as a special assessment or otherwise within his district, together with a designation of the district, or description of the land or person upon whom or within which the several sums are to be assessed or re-assessed, with such further descriptions and directions as will enable such supervisor to assess the several amounts upon the property and person chargeable therewith.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3327;—CL 1915, 3251;—CL 1929, 2173;—CL 1948, 111.10.

111.11 Ward supervisors; duties as to tax levy.

Sec. 11. Each supervisor, shall, where the taxes are levied and collected on 1 tax roll, at the time of levying state and county taxes in his ward for the year, levy in the same roll upon all the taxable property in the ward, the amounts certified to him by the clerk of the board of supervisors as provided in section 9 of this chapter, to be raised for city, school and library purposes placing the city taxes in 1 column; and the school, library and schoolhouse taxes in another column, and he shall also levy, in the same roll, upon the lands, property, and persons chargeable therewith, all special assessments and sums reported to him by the city clerk, as provided in section 10 of this chapter, or in chapter 30 of this act, for assessment or re-assessment, in street districts, main or special sewer districts, or for other special assessments, placing all such special assessments in separate columns, and shall place the state and county taxes in other columns: Provided, That where the council has decided to have the taxes levied and collected in 2 installments, each supervisor shall, in the month of June in each year, levy in the July roll upon all taxable property in the ward, the amounts certified to him by the city clerk to be raised for city taxes, and special assessments, and he shall, at the time fixed in the general tax law, levy in the December roll, all sums to be raised for school, library and schoolhouse taxes, and all such taxes as were not paid on the fifteenth day of November next following the levy of such city taxes, and special assessments, together with interest thereon, from July first to December first, at 10 per cent per

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annum, placing said interest in a separate column headed “Penalty,” and said penalty shall, thereafter be treated in all respects as an item of taxes. Such item of taxes, and each special assessment shall be entered in a separate column in such rolls, and the total taxes shall be entered in the last column of said roll.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3328;—CL 1915, 3252;—CL 1929, 2174;—CL 1948, 111.11.

Compiler's note: For provisions of chapter 30, referred to in this section, see MCL 110.1 et seq.

111.12 Ward supervisors; delivery of roll to city clerk; amounts charged to treasurer, bond; collection procedure.

Sec. 12. Each supervisor [upon] on completing his roll shall certify to the city clerk the amounts of taxes levied in the roll for the state and county purposes, and for city and school taxes, special assessments and other purposes, and the clerk shall charge the said amounts to the city treasurer. The city treasurer shall give bond to the county treasurer in the same manner as township treasurers are required to do; and thereupon, and on or before the first Monday in December, and in case the city have 2 tax rolls, and the roll be the July roll, such roll shall be delivered to the city treasurer on or before the first day of July, each supervisor shall deliver a certified copy of the December tax roll, with the taxes extended therein as aforesaid, to the city treasurer, with his warrant for the collection of the taxes therein, annexed thereto.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3329;—CL 1915, 3253;—CL 1929, 2175;—CL 1948, 111.12.

111.13 Warrant annexed to roll; contents.

Sec. 13. The warrant annexed to each roll shall state the several amounts levied therein to be paid into the city and county treasuries respectively; and shall command the city treasurer to collect from the several persons named in the said roll the several sums named in the last column thereof opposite their respective names, and to pay over and to account for all moneys collected and specified in the roll as in the said warrant directed, on the first day of March then next ensuing. If, however, the council have decided to have the taxes levied and collected in 2 installments and the roll be the July roll, the warrant annexed thereto shall command the city treasurer to collect from the several persons named in said roll the several sums named in the last column thereof opposite their respective names, and to pay over and account for all moneys collected and specified in the roll as in said warrant directed, on or before the fifteenth day of September next following. Or, if the roll be the December roll, the warrant annexed thereto shall command the city treasurer to collect, pay over and account as aforesaid, within the time first above limited, as in cases in which the city has but 1 collection of taxes, and the several warrants shall authorize the treasurer, in case any person shall neglect to pay his tax, to levy the same by distress and sale of the goods and chattels of such person.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3330;—CL 1915, 3254;—CL 1929, 2176;—CL 1948, 111.13.

111.14 Taxes; lien on land.

Sec. 14. All taxes levied in any ward tax roll, shall be and remain a lien upon the lands upon which they are levied until paid.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3331;—CL 1915, 3255;—CL 1929, 2177;—CL 1948, 111.14.

111.15 City treasurer; duties; notice to taxpayers; collection fee.

Sec. 15. Upon receiving the several ward tax rolls as above provided, the city treasurer shall give notice immediately to the taxpayers of the city that such rolls have been delivered to him and that the taxes therein levied can be paid to him at his office at any time before the tenth day of January then next ensuing, without any charge for collection; or where the council have decided to have the taxes levied and collected in 2 installments, and the roll be the July roll, on or before the fifteenth day of September, without any charge for collection; but that 4 per cent collection fee shall be charged and collected upon all taxes remaining unpaid on said tenth day of January or fifteenth day of September, as the case may be. Said notice shall be given by publishing the same twice in 1 or more of the newspapers of the city and by posting copies thereof in 3 public places in each ward of the city; and it shall be the duty of the treasurer to be at his office at such times previous to the said tenth day of January and fifteenth day of September, as the council shall direct, and there receive payment of such taxes as may be offered to him. He shall collect no fees upon any taxes paid to him before the said tenth day of January, or where the council have decided to have the tax levied and collected in 2 installments and the roll be the July roll, on or before the fifteenth day of September, but in all other cases he shall collect both the tax and the 4 per cent collection fee.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3332;—Am. 1899, Act 136,

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Imd. Eff. June 21, 1899;—CL 1915, 3256;—CL 1929, 2178;—CL 1948, 111.15.

111.16 Unpaid taxes; collection; sale.

Sec. 16. For the collection of all taxes remaining unpaid on the general roll on the tenth day of January, and on the July roll, where there is a July roll, on the fifteenth day of September, the city treasurer shall proceed in the same manner as township treasurers are required by law to do for the collection of taxes in townships, and shall for that purpose have all the powers and authority conferred by law upon township treasurers for such purposes, and shall, when necessary, enforce the payment of the tax against any person by distress and sale of his goods and chattels, if any such can be found anywhere within the county, or any county adjoining thereto, and from which seizure no property shall be exempt.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3333;—CL 1915, 3257;—CL 1929, 2179;—CL 1948, 111.16.

111.17 Unpaid taxes; new warrants; suits.

Sec. 17. The county treasurer may issue new warrants to the city treasurer for the collection of taxes in the same manner and in the same cases, and with the same effect, as such new warrant may be issued to township treasurers. The city collector may, and it shall be his duty to proceed by suit in the name of the city, for the collection of unpaid taxes in the same cases, and under like circumstances in which township treasurers are authorized to proceed in that manner and all the provisions of law applicable to suits and evidence therein brought by township treasurers in the name of their township for such purposes, shall apply to suits brought by the city treasurer as aforesaid.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3334;—CL 1915, 3258;—CL 1929, 2180;—CL 1948, 111.17.

111.18 Assessment unit; city treasurer, duties.

Sec. 18. For the purpose of assessing and levying taxes in any city incorporated under this act, for state, county, school and library purposes, each ward shall be considered the same as a township, and all provisions of law relative to the collection of taxes levied in townships shall apply to the collection of taxes levied and assessed by the supervisors in such city, except as herein otherwise provided. For the purpose of collecting taxes and returning property for non-payment thereof, the city treasurer shall perform the same duties and have the same powers as township treasurers, except as herein otherwise provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3335;—CL 1915, 3259;—CL 1929, 2181;—CL 1948, 111.18.

111.19 Moneys received; disposition.

Sec. 19. The city treasurer shall, within 1 week after the time specified and directed in the warrants annexed to said several December tax rolls, pay to the county treasurer the sums required in said warrants to be so paid, either in delinquent taxes on lands, or in funds then receivable by law, and all lands upon which any unpaid tax shall be returned shall be sold therefor the same as lands returned for delinquent taxes by township treasurers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—Am. 1897, Act 239, Imd. Eff. June 2, 1897;—CL 1897, 3336;—CL 1915, 3260;—CL 1929, 2182;—CL 1948, 111.19.

111.20 Delinquent taxes; collection.

Sec. 20. All the provisions of law respecting delinquent taxes levied in townships shall apply to all taxes levied in any ward of the city, and be returned as delinquent to the county treasurer and the ward, in respect to taxes levied therein and returned to the county treasurer, as delinquent, shall, except as herein otherwise provided, be considered and treated as a township, and all provisions of law for the sale of lands for the payment of taxes levied for state, county and township purposes, and returned delinquent, shall apply to the return and sale of property for the non-payment of delinquent taxes levied in any ward of the city except as herein otherwise provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3337;—CL 1915, 3261;—CL 1929, 2183;—CL 1948, 111.20.

CHAPTER XXXII
EDUCATION.

112.1-112.20 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

CHAPTER XXXIII
FOURTH CLASS CITIES—MISCELLANEOUS.

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113.1 Reincorporation under act; procedure; city council; duty; resolution; declaration of reincorporation; filing; evidence.

Sec. 1. All cities heretofore incorporated under any general or special law of this state, and having a population of 10,000 or less, according to the last preceding census, are hereby reincorporated under and made subject to the provisions of this act, as cities of the fourth class, such reincorporation to take effect on the first day of January, in the year of our Lord 1896, and all acts by virtue of which such cities have been incorporated are hereby repealed from and after the said first day of January, in the year of our Lord 1896, except as hereinafter in this section provided. However, if 50 or more of the qualified voters of any city described in this section as a city of the fourth class, which city has been incorporated under a special act of the legislature, shall file with the city council, on or before the first day of November, in the year of our Lord 1895, a petition praying that an election of the qualified voters of such city be called to determine the question as to whether such city shall remain incorporated under the special act under which it was incorporated and by which it is governed at the time of the filing of the petition, or whether it shall become subject to the provisions of this act, thereupon it shall be the duty of the city council, within 10 days after the filing of the petition, to call a special election of the qualified voters of the city to determine the question. If a majority of all the votes cast at the election are in favor of remaining incorporated under the special act by which the city is governed at the time of the filing of the petition, then the city shall not be reincorporated under the provisions of this act, but shall remain incorporated under the special act, which shall remain in full force and effect as if this law had not been enacted. However, if a city of this state, when the population of the city is 10,000 or less, according to the last preceding state census even though the voters of the city previously elected to remain incorporated under the special act governing the city, may be incorporated under and made subject to the provisions of this act and the act of which this act is amendatory, as a city of the fourth class as provided in this section. If 100 or more registered electors residing within the city files with the city council, on or before the first day of July in any year, a petition praying that an election of the qualified voters of the city be called to determine the question as to whether the city shall become incorporated as a city of the fourth class under this act, then the city council shall within 10 days after the filing of the petition call a special election of the qualified voters of the city to determine the question. Except as otherwise provided in this section, an election held under this chapter shall be held upon such day, and at such time and in such places in the city as may be designated by a resolution of the city council. However, an election shall be held on or before the first day of December in the year in which the petition under this section is filed. Notice of the election shall be given in the same manner and for the same length of time as is provided in the charter of the city for the calling of special elections, and the votes shall be counted and canvassed, and the returns shall be made, and the result declared and determined in the same manner as is provided in the charter for the counting, canvassing, and returning of votes, and the determining of the result of the election at special elections. No new registration shall be necessary for the holding of the election, and only those whose names appear in the registration books used at the next previous annual city election shall be entitled to vote at the election. The ballots used at the election shall contain the instructions required by the general election laws of the state, and the proposition to be submitted shall be in the following language:

For becoming reincorporated under the general law -- Yes. []

For becoming reincorporated under the general law -- No. []

If a majority of the votes cast at the election shall be in favor of reincorporating under the provisions of this act, then the city shall become reincorporated under and made subject to the provisions of this act on the first day of January in the year following the special election. At the next regular meeting, the council shall, by a resolution to be entered in the record of their proceedings, recite that at the election, stating the date of the election, the question as to whether the city should be reincorporated as a city of the fourth class under the provisions of this act was submitted to a vote of the electors of the city, and that a majority of those voting upon the question, voted for reincorporation, and shall in the resolution declare that, in accordance with said vote, the city shall be and is reincorporated as a city of the fourth class; the clerk of the city shall record the same in the record of the proceedings of the council and shall make a copy of so much of the record of the proceedings of the meeting at which the resolution was adopted as may be necessary to show the time and place of holding the meeting, and the names of the members of the council who were present, and the passage of the resolution, including a true copy of the record. The clerk and the mayor of the city shall annex their certificate to the true copy of the record, under the corporate seal of the city showing the same to be a true copy of the record, which said certified copy of the record and resolution shall be designated as a “declaration of reincorporation” and shall be transmitted to, and filed and recorded in the office of the secretary of state, and the declaration of reincorporation filed in the office of the secretary of state, or the records of the secretary of state, or certified copies of such records shall be prima facie evidence of the due and legal

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reincorporation of the city as a city of the fourth class under the provisions of this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3358;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3282;—CL 1929, 2204;—CL 1948, 113.1;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

113.2 Reincorporation under act; property, assets, vesting; liabilities; cumulative remedies.

Sec. 2. All cities reincorporated under and made subject to the provisions of this act, as provided in the preceding section, shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and all the records, files, books and papers belonging to such cities as formerly incorporated, and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its reincorporation, under or subject to the provisions of this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the new corporation, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, That when a different remedy is given in this act which can be made applicable to any rights existing at the time of the incorporation of the city under or subject to this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3359;—CL 1915, 3283;—CL 1929, 2205;—CL 1948, 113.2.

113.3 Reincorporation under act; officers in office until successors qualify.

Sec. 3. All the officers in any such city, elected or appointed under the provisions of the former act of incorporation of such city, and in office at the time of such reincorporation under this act, shall continue to exercise their respective functions under the provisions of this act of reincorporation for the full term for which they were so elected or appointed, and until their successors shall have qualified and entered upon the duties of their office, unless herein otherwise provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3360;—CL 1915, 3284;—CL 1929, 2206;—CL 1948, 113.3.

113.4 Reincorporation under act; existing by-laws, ordinances.

Sec. 4. The by-laws and ordinances of any such city and the rules and regulations of the council, and of the board of health or other board or boards of such city heretofore in force and not inconsistent with this act shall remain in force after the passage of this act and are hereby declared to be reenacted by virtue of and under the powers conferred by this act until altered amended or repealed by the council or such board as the case may be.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3361;—CL 1915, 3285;—CL 1929, 2207;—CL 1948, 113.4.

113.5 Reincorporation under act; special assessments, enforcement.

Sec. 5. In cases where a special assessment has been made by authority of and confirmed by the council of any such city, and the same, or some part thereof, shall not have been collected when this act shall take effect, such city, as hereby reincorporated, shall have authority to enforce the payment thereof, and the same proceedings may be had therefor as are provided in this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3362;—CL 1915, 3286;—CL 1929, 2208;—CL 1948, 113.5.

113.6 Reincorporation under act; existing licenses.

Sec. 6. All licenses granted by any such city under its former act of incorporation shall be and remain in full force and virtue until the expiration of the time for which they were granted.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3363;—CL 1915, 3287;—CL 1929, 2209;—CL 1948, 113.6.

113.7 Reincorporation under act; first election of officers, procedure.

Sec. 7. The first election of officers for any such city reincorporated under the provisions of this act shall be held on the first Monday in April, in the year of our Lord, 1896, and notice thereof and of the officers to be elected thereat shall be given and the election held and conducted, the votes canvassed, the result determined and notice given to persons elected in the same manner and within the same time as herein provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3364;—CL 1915, 3288;—CL 1929, 2210;—CL 1948, 113.7.

113.9 Reincorporation under act; platting of lands; liability of city for new streets.

Sec. 9. No lands or premises shall hereafter be laid out, divided and platted into lots, streets and alleys within any such city, except by permission and approval of the council by resolution passed for that purpose; nor until the proprietor shall file with the city clerk a correct survey, plan and map of such grounds and the

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subdivisions thereof, platted and subdivided as approved by the council, and made to their satisfaction; showing also the relative position and location of such lots, streets and alleys with respect to the adjacent lots and streets of the city; nor shall any such plat and dedication of the streets and public grounds thereon be recorded in the office of the register of deeds of the county in which such city is located until a certificate has been endorsed thereon by the city clerk, under the seal of the city, showing that such plat and dedication has been approved by the council; nor shall the city by reason of such approval, be responsible for the improvement, care, and repairs of such streets and alleys excepting such as the council shall accept and confirm by ordinance or resolution as in this act provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3366;—CL 1915, 3289;—CL 1929, 2111;—CL 1948, 113.9.

113.10 City; definition.

Sec. 10. The term "city," whenever used in this act, shall be construed to mean a city incorporated under this act, or made subject to its provisions.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3367;—CL 1915, 3290;—CL 1929, 2112;—CL 1948, 113.10.

113.11 City not to own stock of incorporated companies.

Sec. 11. No such city shall become the owner or holder of stock or shares in any incorporated company.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3368;—CL 1915, 3291;—CL 1929, 2213;—CL 1948, 113.11.

113.12 Affidavit of notice; filing, evidence.

Sec. 12. When, by the provisions of this act, notice of any matter or proceeding is required to be published or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in his employ knowing the facts, if such notice was required to be made by publication, or by the person posting the same, when required to be by posting, shall be prima facie evidence of the facts therein contained: Provided, The same shall be filed with the city clerk within 6 months from the date of the last publication thereof, or of posting the same.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3369;—CL 1915, 3292;—CL 1929, 2214;—CL 1948, 113.12.

113.13 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed section pertained to bonds for payment of judgement or decree against city.

113.14 Reincorporation from fourth to third class cities.

Sec. 14. Whenever any city of the fourth class shall have a population of more than 10,000 according to the last preceding federal or state census, then such city shall be reincorporated as a city of the third class at the time and in the manner provided by law for the incorporation of cities of the third class.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3371;—CL 1915, 3294;—CL 1929, 2216;—CL 1948, 113.14.

113.16 Vacating incorporation of city; prerequisite, petition, procedure.

Sec. 16. Whenever the qualified electors of any incorporated city whose population has decreased since its incorporation to less than 500 inhabitants as shown by the last federal census and the qualified electors of such city show a desire to vacate the incorporation of the same, the city council upon petitions being presented to it at any regular or special meeting, signed by at least 1/4 of the legal voters of such city as shown by the registration list of the last preceding registration held in such city, praying that the incorporation of such city be vacated, shall immediately thereupon order a special meeting of the electors of such city to be held for the purpose of voting upon the question of vacating the incorporation of the same, and shall give 30 days' notice of the time and place of holding such meeting by posting up written or printed notices which shall state the object of such meeting by reciting the substance of such petition, in 6 of the most public places within the limits of such city.

History: Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.16.

113.17 Vacating incorporation of city; election, form of ballots, transcript of proceedings certified to county clerk; plats unaffected.

Sec. 17. At the time of holding such meeting, all persons voting thereon shall have written or printed on their ballots "Shall the city of ..... be vacated as a city of the 4th class?

Yes [ ]

No [ ]."

and such meeting shall be conducted and the votes shall be canvassed in the same manner as is provided for conducting elections in such city; and in case a 2/3 majority of the qualified electors of such city shall vote

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in favor of vacating the incorporation of the same, the city council, or a majority of them, shall, immediately thereafter, cause a transcript of all the proceedings in the case to be certified, under their hands, to the county clerk of the county in which such city or the principal part thereof is located: Provided, That nothing in this act contained shall authorize the qualified electors of any such incorporated city, or the board of supervisors, to vacate or alter any recorded plat of such city, or any street or alley in the same.

History: Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.17.

113.18 Vacating incorporation of city; certified transcript of proceedings; resolution of board of supervisors, contents; representative districts.

Sec. 18. Upon receiving the transcript of the proceedings in submitting to a vote of the electors the question of vacating the incorporation of any city, properly certified to as provided in the preceding section, the county clerk shall lay the same before the board of supervisors of the county at its next regular annual meeting, and it shall thereupon be the duty of the board of supervisors to pass a resolution vacating the incorporation of such city. Such resolution shall provide that the territory of such city shall revert to and become a part of the township or townships from which it was originally taken, and that the inhabitants thereof shall for all purposes be deemed residents of such township or townships except that the integrity of all representative districts shall be preserved.

History: Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.18.

113.19 Vacating incorporation of city; deposit of books and records with county clerk; bond or other indebtedness, procedure and time for payment.

Sec. 19. Upon the vacation of the incorporation of any city, under the provisions of the preceding sections, it shall be the duty of the officers of such city to forthwith deposit all books, papers, records, and files, relating to the organization of, or belonging to such city, which are in their custody as such officers, with the county clerk of the county in which such city or the principal part thereof is located, for safe keeping and reference. Upon the vacation or discontinuance of any city incorporation, under the preceding sections, the indebtedness of such city, whether bonded or otherwise, if any there be, shall be assessed, levied and collected upon the territory embraced within the boundaries of such city immediately prior to such vacation. It shall be the duty of the supervisor or supervisors of the township or townships in which the territory formerly embraced within the limits of any vacated city (within 1 year from the date of the vacation of such city, except when such indebtedness falls due at some specified time, in which case such assessment shall be made so as to meet such indebtedness when the same falls due), to levy upon the assessment roll or rolls of his township upon the property formerly embraced within the limits of such city, the indebtedness of such city, or such portion of the same as shall be apportioned to the part of the territory formerly constituting such city as lies within his township as hereinafter provided. The taxes so assessed and levied shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness and the manner of the payment of such indebtedness shall be fixed by the board of supervisors in the resolution to be passed by said board vacating the incorporation of such city.

History: Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.19.

113.20 Vacated territory in two or more townships or counties; division of indebtedness, procedure.

Sec. 20. In case the territory formerly embraced within such vacated city shall consist of territory of two or more townships in the same county, it shall be the duty of the board of supervisors to apportion, among the several townships, the amount of such indebtedness which each township shall bear; and in case such city was comprised of territory from 2 different counties, it shall be the duty of the boards of supervisors of the 2 counties to determine what portion of such indebtedness each county shall bear, using as a basis the last preceding assessment roll of such city prior to its vacation. Such indebtedness when so apportioned, shall be assessed, levied and collected as provided in the preceding section.

History: Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.20.

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