

That sections three thousand eight hundred forty-five (3845) and three thousand eight hundred forty-six (3846) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 8. Temporary sidewalks. They shall have power to provide for the laying, relaying, and repairing of temporary sidewalks upon any street, avenue, public ground, wharf, landing, or market place within the limits of such city or town, at a cost not exceeding sixty cents (60c) a linear foot, to prescribe a uniform width thereof, and to regulate the grade of the same, and to provide for the assessment of the cost thereof, on the property in front of which the same shall be laid.

Approved February 26, 1924.

CHAPTER 113

MUNICIPAL CORPORATIONS

S. F. 169

AN ACT to amend, revise, and codify sections three thousand eight hundred thirty-five (3835), three thousand eight hundred forty-four (3844), three thousand eight hundred fifty (3850) to three thousand eight hundred sixty (3860), inclusive, three thousand eight hundred seventy-three (3873) to three thousand eight hundred seventy-seven (3877), inclusive, three thousand eight hundred seventy-nine (3879) to three thousand eight hundred eighty-eight (3888), inclusive, three thousand eight hundred ninety (3890) to three thousand eight hundred ninety-six (3896), inclusive, three thousand eight hundred ninety-eight (3898) to three thousand nine hundred two (3902), inclusive, three thousand nine hundred four (3904), three thousand nine hundred six (3906), three thousand nine hundred seven (3907), three thousand nine hundred ten (3910), three thousand nine hundred eleven (3911), three thousand nine hundred sixteen (3916), three thousand nine hundred twenty (3920) to three thousand nine hundred twenty-five (3925), inclusive, three thousand nine hundred twenty-seven (3927), and three thousand nine hundred twenty-eight (3928) of the compiled code of Iowa, and sections three thousand eight hundred forty-nine (3849), three thousand eight hundred seventy-eight (3878), three thousand eight hundred eighty-seven - a one (3887-a1), three thousand eight hundred eighty-nine (3889), three thousand nine hundred three (3903), three thousand nine hundred twelve (3912) to three thousand nine hundred fifteen (3915), inclusive, three thousand nine hundred seventeen (3917), to three thousand nine hundred nineteen (3919), inclusive, three thousand nine hundred twenty-two-a one (3922-a1) to three thousand nine hundred twenty-two-a five (3922-a5), inclusive, and three thousand nine hundred twenty-six (3926) of the supplement to said code, relating to municipal corporations.

Be It Enacted by the General Assembly of the State of Iowa:

That sections three thousand eight hundred thirty-five (3835), three thousand eight hundred forty-four (3844), three thousand eight hundred fifty (3850) to three thousand eight hundred sixty (3860), inclusive, three thousand eight hundred seventy-three (3873) to three thousand eight hundred seventy-seven (3877), inclusive, three thousand eight hundred seventy-nine (3879) to three thousand eight hundred eighty-eight (3888), inclusive, three thousand eight hundred ninety (3890) to three thousand eight hundred ninety-six (3896), inclusive, three thousand eight hundred ninety-eight (3898) to three thousand nine hundred two (3902), inclusive,

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**Section one-half (1/2). Definitions.** The following words as used in chapter twenty-three (23) title thirteen (13) of the compiled Code, shall have the meanings as stated:

1. The word "cities" shall include towns.
2. The word "repair" shall include reconstruct and resurface.
3. The word "street" shall include highway, avenue, alley, and public place.
4. The word "lot" shall include tract or parcel of land.

**Section 1. Street improvements.** Cities shall have power:

1. To improve any street by grading, parking, curbing, paving, oiling, graveling, macadamizing, or guttering the same or any part thereof, or by constructing electric light fixtures along same, and to repair such improvements.

2. To establish districts, the boundaries of which may be changed as may be just and equitable, for the improvement or repair by paving or graveling of such streets within the corporation as in the judgment of the council constitute main traveled ways into and out of such cities.

**Sec. 2. Street improvements - limitation.** The construction of permanent parking, curbing, paving, graveling, macadamizing, or guttering shall not be done until the bed therefor shall have been graded, so that such improvement, when fully completed, will bring the street up to the established grade; but only so much of the cost of the removal of the earth and other material as lies between the sub-grade and the established grade shall be assessed to private property. The cost of preparing a street to receive oil shall be paid by the city, except that portion between the rails of any railway or street railway, and one (1) foot outside thereof.

**Sec. 3. Salvage.** Upon repaving, they may use the old material for such repair and dispose of the waste material and salvage from the old pavement as the council may by resolution direct. The value of the salvage so used for the proceeds derived from the sale thereof shall be equitably applied upon the cost of the new improvement. No salvage may be sold until the owner of property assessed for the original construction of the paving shall have been given ten (10) days' notice in writing requiring him to elect whether he desires such salvage, which notice shall be personally served on the owner or his agent, or, if neither be found, by posting in a conspicuous place on the property. The election, if made, shall be in writing and filed with the clerk. No owner electing to take salvage shall be entitled to a pro rata distribution derived from the proceeds of sale of salvage.

**Sec. 4. Gas and water and other connections.** They shall have power to require the connections from gas, water, and steam-heating pipes, sewers, and under-

ground electric construction, to the curb line of adjacent property, to be made before the permanent improvement of the street and, if such improvements have already been made, to regulate the making of such connections, fix the charges therefor, and make all needful rules in relation thereto, and the use thereof. If the owners of property on such streets fail to make such connections in the manner and within the time fixed by the council, it may cause the same to be made, and assess the cost thereof against the property for which they are made.

Sec. 5. Gas and water and other connections - certain cities. When any city having a board of waterworks trustees has ordered any street permanently improved by paving, graveling, or macadamizing, the council shall at once notify the board of the passage of the resolution of necessity. The board shall report to the council the lots and names of the owners and the requirements in respect to connections from any water mains or pipes to the curb line of the abutting and adjacent property. Thereupon the council shall pass a resolution requiring the respective owners of the said abutting or adjacent property to make said connections in the manner required by the rules of the board, and fixing a time therefor. Notice thereof shall be given by two (2) publications in some newspaper published in such city, the first of which shall be at least twenty (20) days prior to the time fixed in said resolution.

Sec. 6. Cost of installation specially assessed. If the owner fail to put in the said water connections before the time fixed or within such additional time, not exceeding thirty (30) days, as may be granted by the council, the board of water works trustees shall put in said connections and certify the actual cost thereof to the council. The council shall assess the same to the respective lots in the manner in which other special assessments are made.

Sec. 7. Sewers. Cities shall have the power to construct and repair sewers and catch basins in any street within their limits. Any city may by ordinance be divided into such sewer districts as the council may determine, numbering them consecutively, or the entire city may be included in one (1) district.

Sec. 8. Sewer outlets and purifying plants. They may construct outlets and purifying plants in connection with or as an addition to sanitary sewers, and such outlets and plants may be considered as a part of the sewer system, and the cost thereof may be assessed against property benefited thereby.

Sec. 9. Main sewer assessments - terms defined. In addition to other powers, cities having a population of less than forty-seven thousand (47,000) shall have power to assess the whole or any part of the cost of the construction of any main sewer or system of main sewers to the respective lots as adjacent property which are included within a district to be fixed by the council, which may include all territory within the drainage area of such main sewer or main sewer system. All such lots which may be furnished with sewer connections or drained by such main sewer or sewer system, shall be considered as adjacent property. A main sewer shall be held to mean any sewer that is commonly referred to by any one (1) of the following terms: "intercepting sewer, out-fall sewer, or trunk sewer."

Sec. 10. Sewers for state building. Any city in which any state building may be situated shall permit the officers in charge thereof and the persons constructing or improving the same, to construct sewers therefor through or under any of its streets, or to connect the same with its sewer system under the same regulations that are provided for private property owners.

Sec. 11. Condemnation. Cities shall have power to condemn in the manner provided for the condemnation of land for their needs, right of way through private property to and along ravines and natural watercourses sufficient for the con-

struction and maintenance of sewers. The cost of such right of way shall constitute a part of the expense of sewers and be assessed accordingly.

Sec. 12. Cross sewers. They shall have power to provide the terms and conditions on which cross and lateral sewers may be connected with main sewers. In cases where sewers have been paid for in whole or in part by special assessment, they may pay to the parties to whom the benefits have been assessed an equitable proportion of the money collected for the purpose of connecting such cross or lateral sewers.

Sec. 13. Resolution of necessity - street improvements and sewers. When the council shall deem it necessary to construct, reconstruct or resurface any street improvement or to construct or reconstruct any sewer, it shall in a proposed resolution, declare such necessity, stating the kinds of material proposed to be used and method of construction, whether private property will be assessed, and, in case of sewers, the kinds and size, and what adjacent property is proposed to be assessed therefor, and in both cases designate the location and terminal points thereof. It shall fix the time for the consideration of the proposed resolution of necessity, at which time the owners of property subject to assessment for the proposed improvement or sewer may appear and make objection to the boundaries of the proposed district, to the cost of improvement, to the amount proposed to be assessed against any lot, and to the passage of the proposed resolution. No resolution providing for the improvement of streets by paving shall be passed except by unanimous vote of the entire council, if at the time set for its consideration, a remonstrance shall have been filed with the council signed by sixty per cent (60%) of the property and by the owners of seventy-five per cent (75%) of the property subject to assessment. At the hearing the resolution may be amended and passed, or passed as proposed.

Sec. 13-a1. The council may, in addition to the requirements of the preceding section, incorporate in the resolution of necessity notice of its intention to issue bonds, as provided in section three thousand nine hundred fifty-six (3956) of the compiled Code, and may also provide that unless property owners at the time of the final consideration of said resolution have on file with the clerk objections to the amount of the proposed assessment, they shall be deemed to have waived all objections thereto. No special assessment against any lot shall be more than ten per cent (10%) in excess of the estimated cost.

Sec. 14. Plat and schedule. Before the resolution of necessity is introduced, the council shall prepare and file with the clerk a plat and schedule showing the boundaries of the district, if any; the streets to be improved and the width of such improvements; each lot proposed to be assessed; an estimate of the cost of the proposed improvement, stating the same for each different type of construction and kind of material to be used; and in each case the amount thereof which is estimated to be assessed against each lot. That the plat and schedule are on file in the office of the clerk shall be stated in the resolution. The cost of making the plat and schedule required to be filed with the resolution of necessity shall be paid from the improvement fund.

Sec. 15. Notice. It shall cause notice of the time when said resolution will be considered by it for passage to be given by two (2) publications in some newspapers published in the city, the last of which shall be not less than two (2) not more than four (4) weeks prior to the day fixed for its consideration; but if there be no such newspaper, such notice shall be given by posting copies thereof in three (3) public places within the limits of the city.

Sec. 16. Passage of resolution - record. After the passage of the resolution of necessity, the council by another resolution may order the construction, reconstruction or resurfacing of the improvement or the construction or reconstruction of the sewer. The record shall show whether the improvement of sewer was petitioned for or made on motion of the council. If the improvement or sewer is made on the motion of the council, such resolution shall require for passage the vote of three-fourths (3/4) of all the members of the council, or, in cities under the commission form of government having but three (3) members of the council, the vote of two (2) members; but if petitioned for by a majority of the resident owners of property to be assessed for the construction therefor, the resolution may be passed by a majority vote of the council. The final vote on the resolution of necessity and the vote on the resolution ordering the improvement or sewer shall be by yeas and nays and entered of record.

Sec. 17. Contract. When the construction or repair of any such street improvement or sewer is ordered, the council shall contract for furnishing labor and material and for the construction or repair, either of the entire work in one (1) contract, or for parts thereof in separate and specified sections; but no work shall be done under any such contract until a certified copy thereof shall have been filed in the office of the clerk. The city may oil the streets without letting a contract therefor.

Sec. 18. Contractor's agreement to repair. All contracts for the construction or repair of street improvements (except graveling, oiling, or repairs other than reconstruction or resurfacing), or sewers, shall contain a provision obligating the contractor and his bondsmen from the time of acceptance by the city to keep in good repair such street improvement for not less than four (4) years or such sewer for not less than two (2) years.

Sec. 19. Bids - notice. All contracts for the construction or repair of street improvements and for sewers shall be let in the name of the city, to the lowest bidder, by sealed proposals, upon giving notice by two (2) publications in a newspaper published in said city, the first of which shall be not less than fifteen (15) days before the date set for receiving bids, which notice shall state as nearly as practicable, the extent of the work, the kinds of materials for which bids will be received, when the work shall be done, the terms of payment fixed, and the time the proposals will be acted upon. If there be no such newspaper, such notice shall be given by posting the same in three (3) public places within the limits of such city.

Sec. 20. Security. All bids must be accompanied, in a separate envelope, by a check on an Iowa bank, certified by such bank and payable to the order of the treasurer, at his office, in a sum to be named in the notice for bids, as security that the bidder will enter into a contract for the doing of the work, and will give bond as required in the following section. Such checks shall be returned to the respective bidders whose bids have not been accepted. All bids may be rejected and new bids ordered.

Sec. 21. Bond. Each contractor for street improvements or sewers shall give bond to the city, with sureties to be approved by the council for the faithful performance of the contract, and suit on such bond may be brought in the county in which the council may hold its sessions.

Sec. 22. Filing of notice. After a contract has been made by any city for the construction or repair of any street improvement or sewer, the clerk shall certify as correct and file with the auditor of each county in which said city is situated, a copy of the resolution directing the construction or repair of said

improvement or sewer, and a copy of the plat and schedule referred to in the resolution of necessity and on file in his office. In all counties where taxes are collected in two (2) or more places, they shall be filed in the office of the auditor in the place where said special taxes are collected, and be preserved by him as a part of the records of his office. The auditor shall keep a book properly ruled for the purpose and enter thereon opposite each lot number the amount of the estimated assessment against the same.

Sec. 23. Lien of tax. Thereupon all special taxes for the cost thereof, or any part of said cost, which are to be assessed and levied against real property, or any railway or street railway, together with all interest and penalties on all of said assessments, shall become and remain a lien on such property from the date of the filing of said papers with the county auditor until paid, and such liens shall have precedence over all other liens except ordinary taxes, and shall not be divested by any judicial sale. Any holder of any special assessment certificate against a lot, or any holder of a bond payable in whole or in part out of a special assessment against a lot, which has been sold for taxes, either general or special, shall be entitled to an assignment of any certificate of tax sale of said property for any general taxes or special taxes thereon, upon tender to the holder or to the county auditor of the amount required to redeem therefrom.

Any such assessment against a railway or street railway shall be a first and paramount lien upon the track thereof within the limits of the city.

Sec. 24. Cost at intersections. Except for that part for which railways or street railways are liable, the whole or any part of the cost of any street improvement or sewer at the crossings of streets; may be assessed against privately owned property not exceeding one-half (1/2) of such cost at spaces opposite streets intersecting but not crossing, and at spaces opposite property owned by the city or the United States, may be assessed against privately owned property. In the case of sewers, such cost may be paid from the sewer fund or district sewer fund, or the general fund, as provided in the fourth succeeding section. In case of street improvements, such cost may be paid from the improvement fund.

Sec. 25. Cost of improvements - how paid. The cost of construction, reconstruction or resurfacing of any street improvement, except as provided in the preceding section, and except for that part for which railways or street railways are liable, shall be assessed as a special tax against all lots according to area, so as to include one-half (1/2) of the privately owned property between the street improved and the next street, whether such privately owned property abut upon said street or not. In no case except where the district method of assessment is used, shall property situated more than three hundred (300) feet from the street so improved be so assessed. Such assessment for improvements upon an alley shall be confined to privately owned property within the block or blocks improved, and if not platted into blocks, to property not more than one hundred fifty (150) feet from the improved alley.

Sec. 26. Railroad right of way subject to special assessment. The right of way of any railroad company shall be subject to special assessment for sidewalks and street improvements as is other private property, and such assessment shall constitute a debt due personally from the railroad company owning or leasing such right of way.

Sec. 27. Cost of paved roadway - how paid. Not more than one-half (1/2) of the cost of the construction of a roadway within an assessment district may be paid by the city, and the part of the cost not so paid shall be assessed against the lots embraced in the paving district established therefor.

Sec. 28. Cost of sewers. The cost, or any part thereof, of reconstructing or repairing sewers, including that provided for in the fourth preceding section, may be paid from the district sewer fund of the sewer district in which the same is situated, or from the sewer fund, or for main sewers from the main sewer fund, or from the general fund, and the portion thereof not so paid, and not in excess of three dollars (\$3.00) per linear foot of sewer, shall be assessed against the property abutting on such sewer in proportion to the number of linear front feet of each lot thereof, and upon adjacent property in proportion to the benefit there-to; but in estimating the benefits to result therefrom to adjacent property, each lot shall be considered as wholly unimproved. Said methods of assessment may be combined.

Sec. 29. Cost of repairs. The cost or any part thereof of the repair of any street improvement may be paid from the improvement fund or the general fund. The cost or any part thereof of the repair of any sewer may be paid from the sewer fund or district sewer fund, or for main sewers from the main sewer fund or the general fund, or part from each of said funds.

Sec. 30. Assessment of cost. When the construction or repair of any street improvement or sewer, or such part thereof as under the contract is to be paid for when done, shall have been completed, the council shall within thirty (30) days thereafter accept or reject the work, and after acceptance of the work shall, within thirty (30) days, ascertain the cost thereof, including the cost of the estimates, notices, inspection, and preparing the assessment and plat, and shall also ascertain what the proportion of such cost shall be, by law or the resolution of the council under which such improvement was made or sewer constructed, assessable upon private property, and shall within said time assess such portions upon and against such private property.

Sec. 31. Privately owned property - what constitutes. All property except streets, property owned by the United States, and property owned by the city, shall be deemed privately owned property.

Sec. 32. Exemption. The council may exempt the homestead of any honorably discharged soldier or sailor of the Mexican war or the war of the rebellion or his unmarried widow, from any charge or claim on account of such special assessment if such person is not the owner of sufficient nonexempt property to pay the special assessment. If such exemption is made, the special assessment shall be paid from the general fund.

Sec. 33. Special assessment - rate. When any city council levies any special assessment for any public improvement against any lot, such special assessment shall be in proportion to the special benefits conferred upon the property thereby and not in excess of such benefits. Such assessment shall not exceed twenty-five per cent (25%) of the actual value of the lot at the time of levy, and the last preceding assessment roll shall be taken as prima facie evidence of such value.

Sec. 34. Plat and schedule. In assessing that part of the cost of the construction or repair of any street improvement or sewer, or completed part thereof, which is assessable against private property, the council shall cause to be prepared a plat of the streets, or the parts thereof on which the same shall have been constructed and repaired, showing the separate lots, or specified portion thereof, subject to assessment, for such improvement, the names of the owners thereof so far as practicable, and the amount to be assessed against each lot, and against any railway or street railway, and shall file said plat and schedule in the office of the clerk, which shall be subject to public inspection.

Sec. 35. Report of cost of oiling streets. Upon the completion of the oiling of street, the officer designated by the council to have charge thereof shall, within thirty (30) days, file with the clerk a statement of the amount due, if the work was done by contract, or if done by the municipality, an itemized, verified statement of expenditures for materials and labor used in making such improvement.

Sec. 36. Estimates - city engineer. The city engineer, or other person employed by the council to discharge the duties of such office, shall, under its direction, make or assist in making all estimates for street improvements and sewers, furnish the necessary grades and lines, see that the work conforms thereto and is in accordance with the resolution of the council, and make or assist in making each required assessment, plat, and schedule.

Sec. 37. Notice of assessment - publication. After filing the plat and schedule for street improvements or sewers, or the report of cost of oiling streets, the council shall give notice by two (2) publications in each of two (2) newspapers published in the city, if there be that number, otherwise in one (1), and by handbills posted in conspicuous places along the line of such street improvement or sewer; but if no such newspaper is published within the limits of such city, then such notice shall be given by posting copies thereof in three (3) public places within its limits. Said notice shall state that said plat and schedule or report are on file in the office of the clerk, and that within twenty (20) days after the first publication all objections thereto, or to the prior proceedings, on account of errors, irregularities, or inequalities, must be made in writing and filed with the clerk. The council having heard such objections and made the necessary corrections, shall then make the special assessments as shown in said plat and schedule, as corrected and approved.

Sec. 38. Notice to common carrier. When any common carrier or railway, not including street railways, owning any land or property affected by any proposed assessment for public improvement in any city or county, shall have filed in the office of the clerk of said city, or with the auditor of said county, as the case may be, wherein such improvement is proposed, an instrument in writing giving a complete description of such land and designating the name and postoffice address of its agent in said state upon whom service of notice may be made, the clerk of said city, or the county auditor of said county, shall, not less than ten (10) days prior to the date set for the levying of assessments covering such improvement, mail a notice thereof in a registered letter addressed to such person or agent so designated. Failure to give such notice shall not delay or invalidate the proceedings of assessment.

Sec. 39. Objections. All objections to errors, irregularities, or inequalities in the making of said special assessments, or in any of the prior proceedings or notices, not made before the council at the time and in the manner provided in the second preceding section, shall be waived except where fraud is shown.

Sec. 40. Levy of assessment. The special assessments in said plat and schedule, as corrected and approved, shall be levied at one time, by resolution, against the property affected thereby, and, when levied and certified, shall be payable at the office of the county treasurer, within thirty (30) days after the date of such levy with interest at the rate of six (6) per cent per annum from the date of the levy until paid.

Sec. 41. Objections waived - installments. Unless the owner of any lot or railway or street railway, the assessment against which is embraced in any bond or certificate provided for by law, shall, within thirty (30) days from the date of such assessment, file written objection to the legality or regularity of



the assessment or levy of such tax upon and against his property, such owner shall be deemed to have waived objection on these grounds and shall have the right to pay said assessment, with interest thereon not exceeding six per cent (6%) per annum, in ten (10) equal annual installments. In no case shall the owner of any lot be liable for more than the value of the property included in such assessment. The cost of oiling the streets may not be paid in installments.

Sec. 42. Installments - payment - delinquency. The first installment, with interest on the whole assessment from date of levy by the council, shall mature and be payable thirty (30) days from the date of such levy, and the others, with interest on the whole amount unpaid, annually thereafter, at the same time and in the same manner as the March semiannual payment of ordinary taxes; provided that any or all installments not yet paid together with accrued interest thereon may be paid on the due date of any installment. All such taxes with interest shall become delinquent on the first day of March next after their maturity, and shall bear the same interest with the same penalties as ordinary taxes. Upon the payment of any installment, there shall be computed and collected interest on the whole assessment remaining unpaid up to the first day of April following.

Sec. 43. Filing certificate of assessment. A certificate of levy of such special assessment, stating the number of installments, the rate of interest, and when payable, certified as correct by the clerk, shall be filed with the auditor of the county, or of each of the counties, in which such city is located, and thereupon said special assessment as shown therein shall be placed on the tax list of the proper county.

Sec. 44. Payment. The owner of any property against which a street improvement or sewer assessment has been levied, shall have the right to pay the same, or the unpaid installments thereof, with all interest, as the case may be, up to the time of said payment, with any penalties and the cost of any proceedings for the sale of the property for such special assessment or installments. No part of the line of any railway or street railway shall be released from the lien for any part of any unpaid assessment which has been made against it for street improvements, until the whole assessment shall have been paid. If any owner of property subject to special assessments shall divide the same into two (2) or more lots, he may discharge the lien upon any one (1) or more of them, by payment of the amount unpaid, calculated by the ratio of square feet in area of such lot or lots to the area of the whole lot.

Sec. 45. Sale for assessment. Property against which a special assessment has been levied for street improvements or sewers may be sold for any sum of principal or interest due and delinquent at any regular or adjourned tax sale, in the same manner, with the same forfeitures, penalties and right of redemption, and certificates and deeds on such sales shall be made in the same manner and with like effect, as in case of sales for the nonpayment of ordinary taxes. At any such sale, where bonds have been issued in anticipation of such special taxes and interest, the city may be a purchaser, and be entitled to all the rights of purchasers at tax sales. The purchaser at such sale shall take the property charged with the lien of the remaining unpaid installments and interest. The proceeds subsequently realized from sales of any property so purchased by a city shall be covered into the improvement fund.

Sec. 46. Deficiencies - how paid. If the special assessment which may be levied against any lot shall be insufficient to pay its proportion of the cost of constructing or repairing a street improvement or sewer, the deficiency, if for a street improvement may be paid out of the general fund or the improvement fund, and if for a sewer may be paid out of the general fund or the sewer fund.

If there be property against which no special assessment can be levied, the proportion of the cost of the improvement or sewer which might otherwise be assessed against such property shall be paid in like manner.

Sec. 47. Levy for improvement fund. When the whole or any part of the cost of the construction or repair of any street improvement shall be ordered paid from the improvement fund, the city shall have the power, after the completion of the work, by resolution to levy at one time, such cost upon all the taxable property within such city, and determine the whole percentage of tax necessary to pay the same, and the percentage to be paid each year, not exceeding the maximum annual limit of said taxes, and the number of years, not exceeding ten (10) given for the maturity of each installment thereof.

Sec. 48. Levy for roadway in district. When part of the cost of constructing or repairing a roadway within an assessment district is to be paid by the city, it may levy an annual tax for such purpose upon all the taxable property in such city, except moneys and credits, but the aggregate of all such levies shall not exceed ten (10) mills except that in cities having a population of fifty thousand (50,000) or more, such levies shall not exceed fifteen (15) mill in the aggregate.

Sec. 49. Payment from primary road fund. If, in any city, extensions of primary roads are being improved or to be improved, under the provisions of subsection two (2) of section one (1) of this act, any or all of that portion of the improvement not specially assessable on the property within the assessment district and which would under the law have to be met by a tax on the city as a whole, may be paid from the primary road fund allotted to the county in which such city is located.

Sec. 50. Application for payment from primary road fund. Before proceeding with such improvement for which it is proposed to make part payment from the primary road fund, the city council shall by resolution make application to the board of supervisors therefor. This resolution shall specifically state:

1. The location of the improvement proposed giving the starting point and terminus thereof.
2. The approximate length thereof.
3. The width or widths of paving proposed.
4. An estimate of the cost of the proposed improvement.
5. An estimate of the amount that can be specially assessed against the property within the proposed district.
6. A statement of the amount to be borne by the city.
7. A statement of the amount proposed to be paid from the primary road fund.

The resolution shall be accompanied by a plat on which are indicated the road or street to be improved, the primary road connecting therewith, the location of other streets or roads in the vicinity, and the approximate boundaries of the assessment district which it is proposed to establish.

Sec. 51. Approval or disapproval by supervisors - review by highway commission. The board of supervisors shall examine said application and shall within thirty (30) days after the filing thereof with the county auditor, take action thereon. The board may approve said application in whole or in part or may wholly reject the same whereupon the resolution, together with a record of the board's action thereon, shall be forwarded to the state highway commission for final review. The said commission shall examine said resolution and the action of the board thereon, and shall within thirty (30) days make final determination thereof. It may approve the application in whole or in part or may wholly reject the same. If the application be approved in any part, the commission shall make an appropriation in aid of said improvement from the primary road fund allotted said county.

The city council and the board of supervisors shall be immediately notified of the action taken.

Sec. 52. Approval of plans - estimates - bills - payment. The plans and specifications for the improvement shall receive the approval of the state highway commission before the contract is let, or before it becomes effective. When the work or any substantial portion thereof is completed to the satisfaction of the state highway commission, payment of the pro rata share thereof, payable out of the primary road fund, may be made. The estimates payable from the said fund shall be prepared, approved, and paid in the usual manner for primary road bills generally, except that said bills shall be approved by the city council instead of the board of supervisors.

Sec. 53. No election required - limitation on payment. The provisions of section twenty-nine hundred fourteen (2914) of the supplement to the compiled Code, relative to voting on the question of hard surfacing the primary roads shall not apply to improvements made under the four (4) preceding sections; but in counties which have not authorized the hard surfacing of the primary roads, and in which the said primary roads have not all been built to finished grade and drained, the state highway commission shall give preference to such grading and draining projects, and not to exceed twenty (20) per cent of the annual allotment of the primary road funds may be spent under the provisions of the four (4) preceding sections.

Sec. 54. Levy for sewer fund. When the whole or any part of the cost of constructing or repairing any sewer shall be ordered paid from the sewer fund of any sewer district or from the sewer fund, or from the main sewer fund, the council may, after the completion of the work, by resolution levy at one time the whole or any part of such cost upon all the taxable real property within such sewer district or within the city, as the case may be, and determine the whole percentage of tax necessary to pay the same, and the percentage to be paid each year, not exceeding the maximum annual limit of said taxes, and the number of years, not exceeding ten (10) given for the maturity of each installment thereof.

Sec. 55. Certificates. Certificates of such levies shall be filed with the auditor of the county or counties in which the city is located, setting forth the amount or percentage and maturity of the tax, or each installment thereof, designating by reasonable description the real property upon which the tax is to be levied, certified as correct by the clerk, and thereupon the tax shall be placed upon the tax list of the proper county or counties.

Sec. 56. Construction of improvements by railways. All railway and street railway companies shall be required to construct and repair all street improvements between the rails of their tracks, and one (1) foot outside thereof, at their own expense, unless by ordinance of the city, or by virtue of the provisions or conditions of any ordinance of the city under which said railway or street railway may have been constructed, or may be maintained, it may be required to improve other portions of said street, and in that case, said railway or street railway shall construct and repair the improvement of that part of the street specified by such ordinance; and such improvement, or repair thereof, shall be of the material and character ordered by said city, and shall be done at the time the remainder of said improvement is constructed or repaired.

Sec. 57. Maintenance by railways and street railways. When an improvement is made, said companies shall lay, in the best approved manner, such rail as the council may require. They shall keep the part of the improvement they are liable to construct or maintain, up to grade.

Sec. 58. Cost may be assessed - when. If the owner of said railway or street railway shall fail or refuse to comply with the order of the council to construct or repair an improvement, such work may be done by the city, and the expense thereof shall be assessed upon the real estate and personal property of said railway or street railway company within said city, and against such railway or street railway company, in the manner hereinbefore provided for the assessment of such cost against private property and the owners thereof.

Sec. 59. Enforcing assessment against railways and street railways. Any special assessment made under this chapter against any railway or street railway shall be a debt due personally from such railway. Such special assessments and each installment thereof, and certificates issued therefor when due, may be collected by action at law, in the name of the city against such railway or street railway, or the lien thereof enforced against the property of such railway or street railway, on or against which the same has been levied, by action in equity, at the election of the plaintiff; and in any action at law where pleadings are required, it shall be sufficient to declare generally for work and labor done, or materials furnished, on the particular street, the levy of the tax and nonpayment of the same; and in any action in equity, it shall be sufficient to aver the same matters, together with a description of the property, or parts thereof, against which such lien is sought to be enforced.

Sec. 60. City may maintain action. Such action may be maintained by the city for the use of any person entitled thereto or any part thereof, upon filing a bond conditioned to pay all cost adjudged against the plaintiff and protect it from all liability therefrom or damages growing out of the same; the amount of the bond to be fixed by the court, or a judge thereof in vacation, and the sureties thereon to be approved by the clerk of said court.

Sec. 61. Cost of paving already laid. Before any street railway company shall lay its track upon any street that has been paved, and which at the time is not being repaved, it shall pay into the city treasury the value of all paving between its tracks, and one (1) foot outside thereof, which value shall be determined by the city council, but in no case shall exceed the original cost of the paving, and the money thus paid shall be refunded to the owners of the property assessed for said improvements in proportion to the amounts originally assessed against such property. The company or any person affected by or interested in such determination of the value of such pavement may appeal therefrom to the district court within thirty (30) days thereafter, in the manner by which appeals are taken from the levy of special assessments.

Sec. 62. Relevy. When by reason of nonconformity to any law or resolution, or by reason of any omission, informality, or irregularity, any special tax or assessment levied is invalid, or is adjudged illegal, the council shall have power to correct the same by resolution, and may reassess and relevy the same, with the same force and effect as if done at the proper time and in the manner provided by law or by the resolution relating thereto.

Sec. 63. Schedule - assessment void. Whenever any such special tax or assessment, upon property not by law exempt therefrom, shall be adjudged void for any jurisdictional defect, or other reason, and the city adjudged liable to pay the same, the council shall as to such property have power, by resolution, to cause to be prepared a schedule and proposed reassessment in proportion to and not in excess of benefits, and to cause notice thereof to be given, and to hear objections thereto and make necessary corrections, and thereupon the council shall reassess and relevy such special tax or special assessment as so corrected with the same force and effect as if jurisdiction had been acquired in the first

instance, and all subsequent proceedings had been regularly and legally had.

Sec. 64. Correction of assessments. When, in making any special assessment, any property is assessed too little or too much, the same may be corrected, and a reassessment and re levy made in conformity therewith; and any tax collected in excess of the proper amount shall be refunded to the person paying the same. Such corrected assessments shall be a lien on the lots the same as the original, and shall be certified by the clerk to the county auditor in the same manner, and shall, so far as practicable, be collected in the same installments, draw interest at the same rate, and be enforced in the same manner as the original assessment.

Sec. 65. Time waived. Any provision of law, resolution, or ordinance specifying a time when, or the order in which, acts shall be done in a proceeding which may result in a special assessment, shall be taken to be subject to the qualifications of the three (3) preceding sections.

Sec. 66. Appeal. Any person affected by the levy of any special assessment for street improvements or sewers may appeal therefrom to the district court. The person appealing shall be designated as plaintiff and the city or town as defendant.

Sec. 67. Perfecting appeal. Said appeal must be perfected:

1. By serving upon the mayor or clerk, in the manner in which original notices in ordinary actions are served, within fifteen (15) days from the date of said levy, a written notice of appeal signed by the plaintiff or by his agent or attorney, directed to the defendant, and designating with reasonable certainty the assessment appealed from and the property of plaintiff affected thereby, and

2. By filing within said fifteen (15) days in the office of the clerk of the district court, an appeal bond, approved by the clerk of said court, in an amount equal to five (5) per cent of plaintiff's assessment appealed from and in no event less than two hundred fifty dollars (\$250.00), conditioned for the payment of all costs which may be adjudged against plaintiff, and

3. By filing in the office of the clerk of the said court on or before noon of the second day of the first term of said court convening after the serving of said notice, a petition which shall briefly state the grounds of complaint against said assessment.

Sec. 68. Trial and judgment. Upon appeal, all questions touching the validity of said assessment or the amount thereof, and not waived, shall be heard and determined in equity. The court may make such assessment as should have been made, or may direct the making of such assessment by the council. Costs shall be taxed as in other actions.

Sec. 69. Right to pay installments after appeal or objection. When any special assessment has been reduced on appeal, the property owner may, within twenty (20) days after final determination of the appeal, pay an amount equal to the installments which would have matured under the revised assessment, had objections not been filed, together with interest on the entire revised assessment from the date of the original levy and shall be entitled to pay the remaining installments as provided in section forty-one (41) of this chapter.

In case objections are filed but no appeal is taken, if such objection be withdrawn within thirty (30) days from the date of the assessment or if said objection be overruled by the council at a hearing as in this chapter provided for, the property owner may pay the special assessment in the same manner as in this section provided in case of successful appeal.

Approved April 26, 1924.