

JOINT COMMITTEE SUBSTITUTE FOR SENATE FILE No. 2 AND HOUSE FILE No. 12.

A B I L L

FOR AN ACT TO REVISE, AMEND AND CODIFY THE STATUTES IN RELATION TO CITY
AND TOWN GOVERNMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

CHAPTER 1 OF TITLE V.

OF INCORPORATION.

SECTION 1. When the inhabitants of part of any county or of two or more counties lying
2 contiguous to each other, not embraced within the limits of any city or town, desire to become
3 incorporated as a town, they may apply to the district court of the proper county, by a peti-
4 tion in writing signed by not less than twenty-five of the qualified electors of the territory
5 proposed to be embraced in such town, which petition shall describe said territory and con-
6 tain or have annexed thereto, an accurate plat thereof, and shall state the name proposed for
7 such town. Proof of the residence and qualifications of the petitioners as electors shall be
8 made by affidavit or otherwise, as directed by the court. If the territory embraced within the
9 limits of said proposed town lies in more than one county, the district court of either of said
10 counties shall have jurisdiction of such proceedings, but that in which the petition for incor-
11 poration is first filed, shall have exclusive jurisdiction thereafter.

SEC. 2. Upon compliance with the provisions of the preceding section, the court shall at
2 once appoint five commissioners who shall at once give notice of an election, for incorpora-
3 tion, for not less than three successive weeks preceding the same, by posting notices in three
4 public places within the limits of the proposed town, and by publication in one or more news-
5 papers published in the county where the court is held; which notice shall state the time and
6 place of holding the election and a description of the limits of the proposed town, and that a
7 plat and description thereof is on file in the office of the clerk of the district court.

SEC. 3. The commissioners shall act as judges and clerks of the election, and shall qualify
2 as required by law, and the proposition to be submitted thereat shall be, "Shall the proposition
3 for incorporation be adopted?" and the commissioners shall have charge of the printing of the
4 ballots, and shall cause the proposition to be placed upon them, and the elector shall designate
5 his vote in the same manner provided with respect to like or similar propositions in the
6 chapter on elections. The commissioners shall promptly report the result of the election to
7 the court or judge thereof, which may be confirmed and approved, or set aside by said court

8 or judge in vacation. If it is set aside, the court or judge thereof may order a new election
9 with the same or other commissioners.

SEC. 4. If a majority of the ballots cast at such election be in favor of the incorporation,
2 and the same has been confirmed and approved as above provided, the court or a judge thereof
3 in vacation, shall order the election of a council, mayor, clerk and treasurer. The commis-
4 sioners shall give notice for two consecutive weeks of the time and place of holding the elec-
5 tion of councilmen and the aforesaid officers by publication in a newspaper published in the
6 county where the court is held, and by posting the same in five public places within the limits
7 of such town, at which the qualified electors residing within such limits shall elect such coun-
8 cilmen and officers, who shall hold their offices until the first regular election thereafter. Said
9 commissioners shall act as judges and clerks of the election and shall have the same power
10 and discharge the same duties as clerks in city or town elections, and such election shall be
11 conducted as far as practicable, in the manner prescribed by law for the election of town
12 councilmen and officers.

SEC. 5. Said commissioners shall promptly report the result of the election to the court
2 and it, or a judge thereof in vacation, may confirm and approve such election and report, or
3 set the same aside and order a new election with the same or other commissioners. Upon
4 the confirmation of such election and report a judgment shall be entered of record declaring
5 the town duly incorporated and confirming and approving the first election of officers, who,
6 after having qualified as provided for city officers, shall hold until the next annual election of
7 officers. The court or judge shall declare the office of any person elected and who fails to
8 qualify as such as aforesaid, vacant, and shall at once proceed to appoint some other person
9 to fill such vacancy. The clerk shall enter all the proceedings in the court in the matter of
10 such incorporation and election of officers in the "complete record book" and file a certified
11 copy of such entry in the office of the recorder of said county, who shall record the same, and
12 in the office of the secretary of state. The costs of all the aforesaid proceedings shall be paid
13 by the town; but if no judgment is entered establishing the town, they shall be paid by the
14 petitioners and judgment entered accordingly.

SEC. 6. Upon a petition of voters equalling twenty-five per cent of the number voting at
2 the last preceding municipal election, the district court of the county wherein such corpora-
3 tion is situated for the discontinuance of the same, shall, thirty days next prior to the next
4 annual corporation election, cause notice to be given that the question of discontinuing such
5 corporation will be submitted to the legal voters of the same at the next annual corpora-
6 tion election, by publication at least once a week in a newspaper, if any, published within the
7 limits of such city or town, and by posting the same in five public places within such limits.

8 The proposition to be submitted shall be: "Shall the proposition to discontinue the incor-
9 poration be adopted?" and the clerk of the city or town shall cause the ballots to be printed
10 and the proposition to be placed thereon and the elector shall designate his vote and the elec-
11 tion shall be conducted in the same manner provided with respect to like or similar proposi-
12 tions in the chapter on elections.

SEC. 7. The vote shall be taken and canvassed in the same manner as other municipal
2 elections and returns thereof made to the district court. If it finds that a majority of the
3 legal votes cast were for the discontinuance of the incorporation, then a judgment shall be
4 entered discontinuing the same, and upon the entry of said judgment its corporate powers
5 shall cease, and the court shall cause notice to be given in a manner to be prescribed by it,
6 requiring all claims against the corporation to be filed in said court within a time fixed in the
7 notice not exceeding six months, and all claims not so filed shall be forever barred. At the
8 expiration of the time so fixed, the court shall adjudicate said claims which shall be treated
9 as denied. Any citizen of such town or city at the time the vote was taken, may appear and
10 defend against any claim so filed, or the court may in its discretion appoint some person for
11 this purpose, in which event the proceedings shall conform as near as may be to those pre-
12 scribed for the prosecution of actions by ordinary proceedings.

SEC. 8. The court shall have full power to wind up the affairs of the corporation, to dis-
2 pose of its property, and to make provision for the payment of all indebtedness thereof, and
3 for the performance of its contracts and obligations, and shall order such taxes levied from
4 time to time as may be requisite therefor, which the board of supervisors shall levy against
5 the property within the corporation. Said taxes shall be collected by the county treasurer
6 like other taxes and paid out under the orders of the court, and any surplus shall be paid into
7 the temporary school fund of the district or districts where the same is levied.

SEC. 9. The books, documents, records, papers and corporate seal of any city or town so
2 discontinued shall be deposited with the county auditor of the county in which the council
3 last held its sessions, for safe keeping and reference in future. All court records of any mayor
4 or other officer shall be deposited with the nearest justice in the township in the county where
5 the office of mayor or other officer is situated, who shall have authority to execute and com-
6 plete all unfinished business standing on the same.

SEC. 10. When the incorporation of any city or town shall have been discontinued, the
2 clerk of the court shall cause a notice thereof to be published for four consecutive weeks in a
3 newspaper published in the county where the court is held, and shall also certify the fact to
4 the secretary of state and to the recorder of the county.

SEC. 11. All expenses of the election and of winding up the affairs of the corporation
2 shall be paid by it.

SEC. 12. When any city or town shall desire to annex any unplatted contiguous territory,
2 the council may, by an ordinance describing by metes and bounds the territory proposed to
3 be annexed, passed at least one month before the annual election, submit thereat the question
4 of annexation, to the qualified electors of such corporation. The proposition to be submit-
5 ted shall be, "Shall the proposition to annex the territory described in the ordinance of (giving
6 the date of its passage) be adopted?" The ballots shall be printed and the proposition sub-
7 mitted in the manner provided for in section six of this chapter. If a majority of those vot-
8 ing shall favor it, the council shall present to the district court a petition praying for such
9 annexation, which shall describe the territory proposed to be annexed and have attached
10 thereto a plat thereof, and like proceedings shall be had upon said petition as are provided for
11 the incorporation of towns, so far as may be applicable, and if the result of the election be
12 favorable to annexation, the same record and certified copies thereof shall be made and filed
13 as provided in case of incorporation. Should the annexed territory, or any part thereof, be in
14 a different county from that where the court is held, such certified copy shall be filed and
15 recorded in the office of the recorder of such county. Thereupon the territory proposed to be
16 annexed shall be included in said corporation.

SEC. 13. When any city or town shall desire to annex abutting and contiguous territory,
2 which has been laid out in lots or parcels, not within the limits of a city or town, the council
3 thereof may present to the district court of the county in which the city or town is situated, a
4 petition describing the territory to be annexed, and stating that the same had been laid out
5 as above mentioned, the facts constituting the desirability of annexation, the names of
6 each owner of any portion thereof, without describing at length, if there is more than one
7 such owner, and the particular portion of such territory owned by each, which petition shall
8 have attached thereto a plat thereof. Notice of the filing of such petition shall be served by
9 publication in one daily or weekly newspaper published in the city or town for four consecu-
10 tive weeks and by posting in five public places in the territory desired to be annexed for the
11 same period: the corporation shall be plaintiff, the owners defendants, and issues joined and
12 the case tried as an ordinary action as far as applicable, except that no judgment for costs
13 shall be rendered against any defendant who does not make defense. If the court finds the
14 allegations of the petition true, and that justice requires the annexation of said territory or
15 any part thereof, a decree shall be entered accordingly, and from that time the territory
16 therein described shall be included in such corporation. The same record and certified
17 copies shall be made and filed as provided in the preceding section.

SEC. 14. When any city or town desires to be annexed to another and contiguous city or
2 town, the council of each shall appoint three commissioners to arrange and report to the

3 respective councils the terms and conditions on which the proposed annexation can be made;
4 and if the council of each approve of the terms and conditions proposed, they shall by proper
5 ordinance so declare. Thereupon the council of each of such cities or towns by one publica-
6 tion of each of said ordinances in a newspaper, if any, published in each of such cities or
7 towns, and by posting the same in five public places in each of such cities or towns, at least
8 ten days prior to the general annual election, or at a special election therein, may submit the
9 question of annexation, upon the terms and conditions proposed to the electors of their
10 respective cities or towns. The proposition to be submitted at such election shall be, "Shall
11 the proposition for the annexation of (naming the city or town) to (naming the city or town)
12 be adopted?" The clerk of each city or town shall cause the ballots to be printed and the
13 proposition to be placed on the same and the elector shall designate his vote and the election
14 shall be conducted in the manner provided in like or similar cases in the chapter on elections.
15 If a majority of the votes cast in each city or town is in favor of annexation, the council of
16 each shall by ordinance so declare; and a certified copy of the whole proceedings for annexa-
17 tion of the city or town to be annexed being filed with the clerk of the city or town to which
18 the annexation is made, the latter shall file with the secretary of state and in the recorder's
19 office of the county, a certified copy of all proceedings had by both of such cities or towns in
20 relation thereto, and which shall be recorded in the recorder's office.

SEC. 15. When certified copies of the proceedings are so filed, the annexation shall be
2 complete, and the city or town to which the annexation is made shall have the power, and it
3 shall be its duty to pass such ordinance as will carry into effect such annexation, and there-
4 after the city or town annexed shall be a part of the city or town to which the annexation is
5 made. Any citizen of the annexed town or city may maintain legal proceedings to compel
6 the city or town and the council thereof to which annexation is made to execute such terms
7 and conditions, but such annexation shall not affect or impair any rights or liabilities then
8 existing for or against either of such cities or towns, and they may be enforced as herein-
9 after provided.

SEC. 16. All present indebtedness of the city to which annexation is made shall be paid
2 by such city by a tax to be levied, exclusively, upon the property subject to taxation within
3 the limits of the same as it existed prior to such annexation, and none of the real estate or
4 property embraced within the limits of the annexed city or town shall ever be subjected, in
5 any way, to the payment of any part of said indebtedness. The indebtedness of the city or
6 town annexed shall be paid by such city or town, and the council of the city as it exists after
7 annexation is authorized, and it is made its duty to provide for the payment of such indebted-
8 ness by the levy of taxes upon the property subject to taxation within the limits of such city

9 or town so annexed, and to continue such tax from year to year so long as the same shall be
10 necessary, but if such city or town owns any real estate, the fair market value thereof at the
11 time of its annexation shall be credited upon its said indebtedness and the amount of such
12 credit shall be assumed and paid by such city as it exists after annexation and such property
13 shall become the property of such city as enlarged. Suits to enforce claims or demands
14 existing at the time of annexation against the city or town annexed may be prosecuted or
15 brought against the city or town to which annexation is made and judgments obtained shall
16 be paid as hereinbefore provided for the payment of the indebtedness of such annexed city or
17 town.

SEC. 17. Any city or town may have its limits enlarged by resolution of the council fixing
2 the boundaries of the city or town, to the proposed extent, which shall as far as practicable,
3 be terminated by straight lines drawn parallel respectively to the corresponding lines of the
4 government survey and the question must then be submitted to the vote of the electors of the
5 city or town as thus proposed to be enlarged, on a day fixed by resolution of the council, and
6 notice thereof given by proclamation of the mayor of the time and place of holding the same,
7 setting forth the exact question to be presented to the electors for determination, which shall
8 be published in some newspaper published in said city or town for four weeks, consecutively.
9 The council shall select three judges and two clerks for said election, whose duties shall be the
10 same as prescribed by law for judges and clerks of election. If at such election a majority of
11 the votes cast are for such extension, the mayor shall issue a proclamation announcing that
12 fact, and from thenceforth the limits of said city or town shall be enlarged as proposed.

SEC. 18. No lands included within said extended limits which shall not have been laid off
2 into lots of ten acres or less, or which shall not subsequently be divided into parcels of ten
3 acres or less by the extension of streets and alleys, and which shall also in good faith be
4 occupied and used for agricultural or horticultural purposes, and no line of railway lying
5 within such extended limits except for such length as it runs through or contiguous to lands
6 subdivided into parcels of ten acres or less, shall be taxable for any city or town purpose,
7 except that they may be subjected to a road tax to the same extent as though they were
8 outside of the city or town limits, which tax shall be paid into the city or town treasury.

SEC. 19. When the inhabitants of a part of any county adjoining any city or town shall
2 desire to be annexed thereto, they may apply to the district court of the county in which the
3 land lies, by petition in writing, signed by not less than a majority of the electors residing
4 within the territory proposed to be annexed, which shall state at whose instance it is pre-
5 sented, and shall be accompanied by a plat of such territory.

SEC. 20. The proceedings shall be the same as in the incorporation of towns, as nearly
2 as applicable, and such election shall be held in the territory proposed to be annexed, not less
3 than three weeks notice of which shall be served on the mayor or other presiding officer of
4 the town or city to which the annexation is proposed.

SEC. 21. The council of said city or town may give consent to such annexation,
2 or may, in its discretion, provide by ordinance or resolution for submitting to the elec-
3 tors at the next annual election the question whether such annexation shall be made; and if
4 such consent be given, or if a majority of the electors at such election shall vote in favor
5 thereof, then, on the return of such vote to the proper authority of such city or town, a
6 resolution or ordinance shall be adopted declaring that the territory described in the petition
7 has been annexed, a copy of which consent or resolution or ordinance, duly certified by the
8 clerk of said city or town, and attested by the corporate seal, shall be by him filed in the pro-
9 ceedings in the district court in which the matter of annexation is pending. If the court, or
10 the judge thereof in vacation, approves and confirms said election and consent of such city or
11 town, in case such consent be given, said court or judge shall thereupon enter of record its
12 judgment declaring the territory described in the petition is annexed to such city or town,
13 and upon the entering of such judgment the clerk of said court shall make a complete record of such
14 proceedings including the consent of such city or town, or the resolution or ordinance declaring
15 the annexation, as the case may be, certified copies of which record shall be filed and recorded
16 as provided in the case of the incorporation of towns; whereupon, the territory proposed to
17 be annexed shall be a part of such city or town.

SEC. 22. When a resolution or ordinance declaring such annexation has been adopted,
2 and the copies recorded, the territory shall be a part of the city or town.

SEC. 23. When the owner or owners of lands adjoining any city or town shall desire to
2 have such lands brought within the same, they may apply to the council to have the limits
3 thereof extended so as to include such lands, and attach to the application a plat of such
4 lands, showing their situation with respect to the existing limits of the city or town. If the
5 council assent to the extension of the limits applied for, a minute thereof shall be endorsed
6 by the clerk upon the plat, and the same shall then be acknowledged by the owner and
7 recorded in the office of the recorder of deeds of the proper county and thereafter the limits
8 of the city shall be extended so as to conform to the line proposed and assented to by the
9 council.

SEC. 24. When the inhabitants of a part of any town or city, whether the same is or is
2 not laid out in lots and blocks, desire to have the part thereof in which they reside severed

3 therefrom, they may apply by petition in writing, signed by a majority of the resident prop-
4 erty holders of that part of the territory of such city or town, to the district court of the
5 county, which petition shall describe the territory proposed to be severed, and have attached
6 thereto a plat thereof, and shall name the person or persons authorized to act in behalf of
7 the petitioners in the prosecution of said petition.

SEC. 25. Notice of the filing of the same shall be given by publication in a newspaper
2 published in said city or town, or by posting a notice of the same in five public places therein,
3 four weeks previous to the succeeding term of court, which notice shall contain the substance
4 of said petition, and state the term of court at which the hearing thereof will be had.

SEC. 26. The hearing of said petition may be had by the court or either party may
2 demand a jury, and the proper authorities of such city or town, or any person interested in
3 the subject matter of said petition, may appear and contest the granting of the same. Affi-
4 davits in support of or against said petition may be submitted and examined by the court or
5 jury, and the court may, in its discretion, permit the agent or agents named in the petition to
6 amend or change the same, except that no amendment shall be permitted whereby the terri-
7 tory embraced in said petition shall be increased or diminished, without continuing the case
8 to the next term, and requiring new notice to be given as above provided.

SEC. 27. If the court or jury, after hearing the petition and evidence, shall be satisfied
2 that the petition has been signed by a majority of the property holders residing within the
3 limits of the part of the city described in the petition and plat, and that the limits have been
4 accurately described and a correct plat thereof filed, and that the prayer of the petitioners
5 should be granted, the court shall appoint three disinterested persons commissioners to adjust
6 the terms upon which such part shall be so severed as to any liabilities of such city or town
7 that have accrued during the connection of such part with such corporation. The commis-
8 sioners shall take and subscribe an oath that they will impartially perform their duties, and
9 the same shall be filed with the proceedings in such case.

SEC. 28. The commissioners shall, at a time by them fixed, hear the agent named in the
2 petition and also the proper authorities of the city or town in regard to the subject matter to
3 them submitted, and report to the next term of said court, their findings in the premises,
4 upon the filing of which report the court shall decree in accordance therewith and with the
5 prayer of the petition, unless for good cause and upon a proper showing, the court shall reject
6 or set aside said report, and appoint new commissioners, and continue the cause for further
7 action to be had thereon.

SEC. 29. The clerk shall forthwith make a complete record of all such proceedings, except the affidavits in support of or against such petition and the cross examination of the affiants, and file for record a certified transcript thereof in the office of the recorder of the county where the court is held and, of the county where the severed territory or any part thereof lies, if in a different county, and shall also file such transcript in the office of the secretary of state, and when so filed the severance shall be complete. The costs, except witness fees, shall be paid by the petitioners, but each party shall pay its own witnesses.

SEC. 30. The corporate name of any city or town may be changed as follows: The council may, by resolution, propose such change of name, setting forth therein the proposed new name, which shall not be the same as that of any city, town or po-toffice existing in the state at the time of the passage of such resolution. The question shall then be submitted to a vote of the qualified electors at the next annual election, or at a special election as the council may provide. Notice that a change of name is to be voted on at any election shall be published in a newspaper published in said city or town, or if there be none, then by posting in five public places, at least ten days before the election.

SEC. 31. The proposition to be submitted at such election shall be: "Shall the proposition to change the name of (here insert the name of the city or town) to (here insert the proposed name) be adopted?" And the proposition shall be printed and placed upon the ballots and the election shall be conducted in the same manner as provided with respect to like or similar propositions in the chapter on elections. If a majority of the votes cast is in favor of the proposed change, the clerk of the city or town shall enter upon the records thereof the result of such election, and set forth in such record the new name adopted as well as the original name thereof, and shall cause to be filed for record a certified copy of the entry so made in the office of the recorder of the county or counties in which such city or town is situated, and in the office of the secretary of state.

SEC. 32. When certified copies are made and filed as required by the preceding section, the change of name shall be complete, and the new name adopted shall be judicially recognized in all subsequent proceedings wherein said city may be interested.

SEC. 33. Any city or town incorporated by special charter may abandon its charter and organize under the provisions of the general law, with the same territorial limits, by pursuing the course hereinafter prescribed.

SEC. 34. Upon a petition of legal voters equalling ten per cent of the number voting at the last preceding municipal election, in any such city or town, to the council, praying that the question of abandoning its charter be submitted to the legal voters, the council shall immediately direct a special election to be held, at which such question shall be decided,

5 specifying at the same time the time and place of holding the same, and appointing the
6 judges and clerks of the election.

SEC. 35. The mayor, or in case there is no mayor, the president of the council
2 shall at once issue a proclamation giving notice of such election, of the question
3 submitted to the electors, and of the time and place of holding the election, which proclama-
4 tion shall be published for four consecutive weeks in some newspaper published in such city or
5 town, and if there is none published therein, then such proclamation shall be published by posting
6 a copy thereof in five public places within the corporate limits of such city or town, one of
7 which shall be on the door of the mayor's office.

SEC. 36. At such election the proposition to be submitted shall be, "Shall the proposition
2 to abandon the special charter of (naming the city or town) be adopted?" and the proposition
3 shall be printed and placed upon the ballots, and the election shall be conducted in the same
4 manner as provided with respect to like or similar propositions in the chapter on elections.
5 The abstract of votes shall be returned to the council or board of trustees, who shall canvass
6 the same and declare the result, which shall be entered on the journal.

SEC. 37. If a majority of the votes cast be in favor of the adoption of the proposition,
2 the charter shall be abandoned as herein provided. At the proper time prior to holding the
3 next succeeding municipal election as provided in the chapter on elections for cities and towns
4 organized under this title, the mayor shall issue his proclamation and an election shall be
5 held and officers chosen in such city or town under the provisions of the chapter relating to
6 elections for cities and towns of the class to which such corporation shall belong when the
7 charter shall be abandoned. On and after the election and qualification of such officers the
8 charter of such city or town shall be deemed abandoned and such city or town shall be con-
9 sidered organized under this title. All ordinances of such city or town in force at the time of
10 the abandonment of such charter, not inconsistent or in conflict with the laws of the state, shall
11 remain in force until amended or repealed by the council. If a majority of the votes be
12 against the proposition for abandonment of the charter, the question can not be again sub-
13 mitted until after the expiration of one year from the time of such election.

SEC. 38. In special charter cities or towns accepting the provisions of the general incor-
2 poration laws, all delinquent taxes remaining unpaid upon the tax-books thereof, except such
3 as were levied to pay indebtedness created to take stock, or aid in the building of railways
4 shall be certified at the time, collected and paid over as provided in the chapter relating to
5 taxation.

SEC. 39. All rights and property of every description which were vested in any such city
2 or town, under its former organization, shall vest in the same under the organization herein

3 contemplated, and no right or liability, either in favor of or against it, existing at the time, and
4 no suit or prosecution of any kind shall be affected by such change; but when a different
5 remedy is given by this title which can be made properly applicable to any right existing
6 at the time such change is made, the same shall be cumulative to the remedies before provided,
7 and may be used accordingly.

SEC. 40. All acts and parts of acts passed prior to the taking effect of this code, relating
2 to cities and towns, or to any or either of them, and applicable, both to such as are acting
3 under special charter and to such as are incorporated under the general laws of this state, are
4 repealed by this code only so far as they affect the latter, and not as they affect those acting
5 under special charter.

CHAPTER 2.

OF ORGANIZATION AND OFFICERS.

SECTION 1. The municipal corporations referred to in this title shall be divided into
2 cities of the first and cities of the second class, and incorporated towns. Town sites platted
3 and unincorporated shall be known as villages. Every municipal corporation now organized
4 as a city of the first class, or having a population of fifteen thousand or over, shall be a
5 city of the first class; every municipal corporation now organized as a city of the second class,
6 or having a population of two thousand, but not exceeding fifteen thousand, shall be
7 a city of the second class, and every municipal corporation having a population of less than
8 two thousand shall be deemed an incorporated town.

SEC. 2. Within six months after the publication of any state or federal census, the execu-
2 tive council shall cause a statement and list of each city or town affected thereby, in its class
3 as a municipal corporation, to be published in some newspaper at the seat of government, and
4 in each city or town the class of which is changed by an increase of population.

SEC. 3. At the next regular annual or biennial period for the election of officers after
2 such statement is published, showing a change of class of a city or town, the council shall
3 make and publish such ordinances, not inconsistent with law, as may be necessary to perfect
4 such organization in respect to the election, duties and compensation of officers. All the
5 assets and property of the corporation shall be held and administered as provided for its new
6 class as a corporation. Upon the change of a town to a city, for the purpose of holding the
7 first election, the council shall divide the same into wards as provided by law.

SEC. 4. Cities may be, by the council thereof, divided into wards, new ones created, or
2 the boundaries changed, but in all cases, whether it be the creation of wards or the changing
3 of the boundaries thereof, the same shall be laid off, as nearly as may be, in a rectangular
4 form, conforming the lines to the center of the streets or alleys, and giving to each ward, as

5 far as practicable, an equal population; but, in cities of the second-class, the number shall
6 not be increased beyond seven nor decreased to less than three.

SEC. 5. The regular municipal elections in cities and towns shall be held annually or
2 biennially as hereafter provided on the first Monday in April. The voting places shall be
3 fixed by the council, one polling place for each precinct, and the election shall be conducted
4 in the manner provided by law for general elections. Each qualified elector may vote thereat
5 who is a resident of the city or town, and at the time has been ten days a resident of the pre-
6 cinct in which he offers to vote.

SEC. 6. Every mayor, alderman-at-large, town councilman and officer elected by the
2 whole electorate of the city or town, or by its council, or appointed by the council, mayor or
3 other officer of any city or town, shall be a resident and qualified elector of the city in which
4 he shall be elected and shall reside within the limits of said city during his term of office.

SEC. 7. Every alderman, councilman and other officer elected by any ward or district of
2 any city or town, shall be a qualified elector of said city or town, residing within the limits of
3 the ward or district in which he shall be elected, and shall reside within the limits of said
4 ward or district during the term of his office.

SEC. 8. City and town councils shall be composed as follows: In cities of the first class
2 a mayor, two alderman-at-large and one alderman from each ward; in cities of the second
3 class a mayor, and two councilmen from each ward; in towns a mayor and six councilmen.

SEC. 9. On the organization of a city or town, or on its reorganization after the change of
2 its class, a council shall be elected at the first ensuing municipal election as follows:

3 1. By the election in cities of the first class of two aldermen-at-large, but if any city
4 embraces within its limits the whole or parts of two or more townships, two of which contain
5 one thousand or more electors, only one of the aldermen-at-large shall be chosen from any
6 one such township. There shall also be elected at the same time one alderman from each
7 ward who shall be chosen by the electors residing within the limits thereof. Thereafter the
8 successors of such aldermen-at-large and ward aldermen shall be chosen at the regular bien-
9 nial elections, and shall hold office for two years.

10 2. In cities of the second class, two councilmen shall be elected from each ward by the
11 electors thereof, and at the first regular meeting of the council after such election, one alder-
12 man for each ward shall be selected by lot to hold office for one year, and the other for two
13 years, and thereafter at each annual election, one councilman shall be elected from each ward
14 to serve for two years.

15 3. In towns six councilmen shall be elected by the electors thereof, who shall at the first
16 regular meeting of the council following their election, be divided by lot into three classes of

17 two each, the members of which classes shall hold office respectively for one, two and three
18 years, and at each annual election thereafter, two councilmen shall be elected to hold office
19 for three years.

SEC. 10. In all cities of the first class there shall be elected biennially, a mayor, solicitor,
2 treasurer, auditor, police judge, city engineer and assessor.

SEC. 11. In cities of the second class there shall be elected biennially, a mayor, solicitor,
2 treasurer and assessor.

SEC. 12. In towns there shall be elected annually, a mayor, clerk, treasurer, and bienni-
2 ally an assessor.

SEC. 13. Each officer named in this chapter shall hold his office until his successor is
2 elected and qualified; but the term of office of the assessor shall commence on the first day of
3 January, next ensuing his election.

SEC. 14. In cities of the first class the council, at the first meeting after the biennial
2 election, shall appoint a clerk, a physician a street commissioner, and when deemed nec-
3 essary, a wharf master. If there is a board of public works, such board shall appoint the
4 street commissioner. In cities of the second class and in towns, the council shall appoint a
5 clerk, and such other officers above named as are necessary, all to be appointed after the
6 organization of the new council.

SEC. 15. The mayor in each city and town shall appoint a marshal who, in cities of the
2 first class, shall be ex-officio chief of police, and shall appoint as many policemen as the coun-
3 cil, by general ordinance shall direct, and such officers shall hold their positions during the
4 pleasure of the mayor; he may also, in cases of emergency, appoint such number of special
5 policemen as he may think proper, reporting such special appointments to the council at its
6 next regular meeting, all such appointments to continue in force until such meeting unless
7 sooner terminated by the mayor.

SEC. 16. The marshal, in cities of the first class, may designate one or more members of
2 the police force to act as deputies; in cities of the second class and in towns, he may appoint
3 one or more deputies for whose official acts in each case he shall be responsible.

SEC. 17. In cities having a population of twenty-five thousand or more, for each station
2 house provided therein, for the detention or imprisonment of women or children under
3 arrest, the mayor shall appoint two or more women, residents of the city, as police matrons,
4 who shall be over thirty years of age. The appointees shall be, so far as applicable, subject
5 to the same regulations and restrictions as policemen, and hold their positions during good
6 behavior, unless by reason of age or infirmity they become incapacitated to perform the duties
7 of the position.

SEC. 18. Cities and towns, may by general ordinance, provide for the election at any
2 regular municipal election or for the appointment of such additional officers, including super-
3 intendent of markets, harbor masters, and port wardens, usual and proper for the regulation
4 and control of navigation, trade or commerce, or needful and proper for the good government
5 of the city or town, or the due exercise of its corporate powers, and fix their term of office as
6 they may deem necessary.

SEC. 19. The council may provide by ordinance for the appointment of a clerk of the
2 police court by the judge thereof, who shall hold his office subject to removal, the appoint-
3 ment or removal, when made, to be entered in the records of the court.

SEC. 20. All persons appointed to office in any city or town may be removed by the
2 officer or body making the appointment, unless otherwise provided.

SEC. 21. In cities and towns the mayor shall have powers and perform duties as follows:

2 1. He shall be a conservator of the peace, and within the limits of the same shall have
3 all the powers conferred upon sheriffs to suppress disorders. He shall be the chief executive
4 officer thereof, and it shall be his duty to enforce all regulations and ordinances; he may,
5 upon view, arrest anyone guilty of a violation thereof, or of any crime under the laws of the
6 state, and shall, upon information supported by affidavit, issue process for the arrest of any
7 person charged with violating any ordinance of the city; shall supervise the conduct of all
8 corporate officers, examine into the grounds of complaint made against them, and cause all
9 neglect or violation of duty to be corrected, or report the same to the proper tribunal, that
10 they may be dealt with as provided by law.

11 2. He shall keep an office at some convenient place in the city or town, to be provided
12 by the council, and keep the corporate seal thereof in his charge.

13 3. He shall sign all commissions, licenses and permits granted by the authority of the
14 council and do such other acts as by law or ordinance may require his signature or certificate.

15 4. He shall also perform such other duties compatible with the nature of his office as the
16 council may from time to time require.

17 5. He shall be a member and the presiding officer of the council, with the right to vote
18 only in case of a tie, or in case the affirmative vote of some specified proportion of the whole
19 council is necessary to the passage of any measure.

20 6. He shall, at the first regular meeting of the council in April, and at such other times
21 as he may deem expedient, report to it concerning the municipal affairs of the city or town,
22 and recommend such measures as to him may seem advisable.

23 7. Until a police judge shall be elected and qualified in cities entitled to elect such officer,
24 he shall have all the powers and jurisdiction of such judge and shall hold the police court in
25 such manner as is required of the police judge.

26 8. In all cities containing a population of twenty-five thousand or more, he shall desig-
27 nate one or more station houses within such city for the detention or imprisonment of all
28 women and children under arrest in said city, and see that provisions are made by which the
29 rooms or cells set apart for them shall be separate from and out of sight of the rooms or cells
30 in which male prisoners are imprisoned.

SEC. 22. The clerk in all cities and towns shall perform the following duties:

2 He shall attend all meetings of the council, but in no event have the right to vote on any
3 question before it; make an accurate record of all the proceedings had, rules and ordinances
4 adopted by the council, and the same shall at all times be open to the public; have the
5 custody of all by-laws and ordinances of the city or town, and perform such duties as may be
6 required by ordinance.

SEC. 23. The treasurer of cities and towns shall receive all money payable to the city or
2 town, and disburse the same only on warrants drawn and signed by the proper officer, sealed
3 with the city seal, and perform such other duties as may be prescribed by law or ordinance.
4 When a warrant drawn on the treasury is presented for payment, and not paid for want of
5 money, he shall endorse the fact thereon, with the date of presentation and sign it, and there-
6 after, it shall draw interest at six per cent per annum, unless issued under a resolution or
7 contract providing that it shall not draw interest, or shall draw interest at a lower rate. He
8 shall keep a record of all warrants drawn upon the treasury and presented in a book so ruled
9 as to show in separate columns, as to each warrant, the number, date, principal, name of
10 drawee, when paid, to whom paid, and the amount of interest paid, and all such warrants
11 shall be paid in the order of their presentation. He shall issue calls for outstanding war-
12 rants at any time he may have funds on hand for the payment thereof; shall give notice of
13 the number of the warrants which will be paid, by posting a written notice thereof in the
14 mayor's office, and in the treasurer's office when there is one, and at the expiration of ten
15 days from the date of the posting, interest on the warrants so named shall cease. When a
16 warrant which draws interest is taken up, he shall also endorse upon it the date and
17 amount of interest allowed, and such warrants shall be canceled and not reissued. He shall
18 make returns monthly, or oftener if required by the council, to the officer drawing such
19 warrants, showing the warrants paid and amount of principal and interest paid. He shall
20 make a written report under oath to the council at its first regular meeting in each month,
21 showing the financial condition of the city.

SEC. 24. All assessors elected by cities and towns shall perform the same duties as town-
2 ship assessors. They may appoint such number of deputies as the council shall authorize, such
3 appointments to be confirmed by the council.

SEC. 25. The marshal shall have the supervision and general direction of the police force; shall be the ministerial officer of the corporation, attend upon the sittings of the mayor's and police courts, execute within his county, and return all writs and other process directed to him from the mayor or police court, suppress all riots, disturbances, and breaches of the peace, arrest all disorderly persons in the city or town, and all persons committing any offense against the ordinances thereof, and forthwith bring such persons before the mayor, police court or other competent authority for examination or trial; shall diligently enforce all laws, ordinances, and regulations for the preservation of the public welfare and good order; and have the same powers and be subject to the same responsibilities as constables in similar cases.

SEC. 26. Deputy marshals may perform the duties of the marshal.

SEC. 27. The officers and members of the police force shall have such powers and perform such duties as provided by law or ordinance, and shall have the same powers to make arrests and suppress riots, disturbances and breaches of the peace as marshals.

SEC. 28. Police matrons shall have charge of all the women and children under arrest, accompanying such as may require such aid to court. They shall be subject to the authority of the marshal, and the rules and regulations prescribed by his authority; and in stations when on duty, shall be subject to the authority of the officers in command. In cities where work-houses are established for the detention of women, or where there are houses of detention, they shall have at all times the right of entering such establishments, and shall visit them whenever in their judgment such visits may be necessary. A suitable place shall be provided for the police matrons, when not on duty, for rest and refreshment.

SEC. 29. The solicitor, engineer, auditor, physician, superintendent of markets, street commissioner, wharf master, harbor master, port warden, and such additional officers as may be provided for, shall have such powers and perform such duties as are prescribed by law or ordinance.

SEC. 30. In all cities, each officer or board in charge of any department, shall furnish and file in the city clerk's office, thirty days before the beginning of each fiscal year, a sworn detailed statement of the supplies necessary for his or their department during the next fiscal year.

SEC. 31. All legislative and other powers granted to cities and towns shall be exercised by the councils, except those conferred upon some officer by law or ordinance. They shall perform the duties required in this code including the following:

1. The members of such council shall, on the first Monday after their election, assemble and organize the council.

6 2. In all cities or towns, a majority of the whole number of members to which such cor-
7 poration is entitled, including the mayor, shall be necessary to constitute a quorum.

8 3. They shall determine the time and place of holding their meetings, which shall at all
9 times be open to the public, and in the absence of the mayor or clerk, shall appoint a tem-
10 porary chairman or clerk from their own number, which appointment shall be entered of
11 record.

12 4. The mayor or any three members of the council shall call special meetings by notice
13 to each of the members personally served, or left at his usual place of residence, of which serv-
14 ice a record shall be made by the clerk.

15 5. They shall determine the rules of their own proceedings and keep a journal thereof,
16 which shall be open to the inspection and examination of any citizen.

17 6. They may compel the attendance of absent members in such manner and under such
18 penalties as they may prescribe.

19 7. Each council shall cause to be provided a seal, in the center of which shall be the
20 name of the city or town and around the margin the words, "city seal" or "town seal," as the
21 case may be, which shall be affixed to all transcripts, orders or certificates which it may be
22 necessary or proper to authenticate.

23 8. All appointments or elections of officers except for the purpose of filling vacancies in
24 offices not filled by election by the council, shall be made viva voce, and the concurrence of
25 a majority of the whole number of members of the council shall be required. On the vote
26 resulting in an election or appointment, the name of each member and for whom he voted
27 shall be recorded.

28 9. In selecting persons to fill vacancies in offices not filled by election by the council, it
29 shall vote by ballot, and the person receiving a majority of the votes of the whole number of
30 members shall be declared elected to fill such vacancy.

31 10. They shall fix by ordinance the terms of service, not exceeding one year, except in
32 cities holding biennial elections, where such term shall not exceed two years, of all officers
33 appointed or elected, whose terms are not prescribed by law.

34 11. They shall prescribe by ordinance the powers to be exercised and duties to be per-
35 formed by the officers appointed or elected so far as such powers and duties are not defined
36 by law.

37 12. They shall have power to establish a police force and to organize the same under
38 the general supervision of the marshal, and to provide one or more station houses.

39 13. They shall have the management and control of the finances and all the property,
40 real and personal, belonging to the city or town.

41 14. No member of any council shall, during the time for which he has been elected, be
42 appointed to any municipal office which shall be created, or the emoluments of which shall be
43 increased during the term for which he shall have been elected; nor shall he be interested,
44 directly or indirectly, in any contract or job for work, or the profits thereof, or services to be
45 performed for the corporation.

46 15. In cities having a population of twenty-five thousand inhabitants or more, the coun-
47 cil shall appropriate annually such sums as may be necessary for the arrangements needed to
48 secure separate care and confinement in the station houses of all women and children under
49 arrest, and for the appointment, salary and maintenance of police matrons.

50 16. In cities of the first class, the council shall make the appropriation for all the
51 different expenditures of the city government for each fiscal year at or before the beginning
52 thereof, and it shall be unlawful for it or any officer, agent or employe of the city to issue
53 any warrant, enter into any contract, or appropriate any money in excess of the amount thus
54 appropriated, for the different expenses of the city, during the year for which said appropria-
55 tion shall be made. Any such city shall not appropriate in the aggregate, an amount in
56 excess of its annual legally authorized revenue, but nothing herein shall prevent such cities
57 from anticipating their revenues for the year for which such appropriation is made, or from
58 bonding or refunding their outstanding indebtedness. The council of such cities shall adver-
59 tise in at least two newspapers published in said cities for three weeks, two insertions for
60 each week, for bids for furnishing all supplies of every kind for the several departments of
61 the city, not required to be advertised for by the board of public works; said advertisements
62 to be published two weeks before the beginning of each fiscal year.

SEC. 32. Members of the council in cities of the first class shall be paid an amount pre-
2 scribed by ordinance, not in excess of two hundred and fifty dollars per annum, which shall
3 be in full compensation of all services of such councilmen of every character connected
4 with their official duties, and in all other cities and towns they shall receive not to exceed
5 one dollar each for every regular or special meeting, and in the aggregate not exceed-
6 ing more than fifty dollars in any one year; but in such cities and towns the members shall
7 be paid in addition to the foregoing, for services as members of the board of equalization, an
8 amount not exceeding one dollar for each session of not less than three hours.

SEC. 33. Mayors of cities and towns, where no salary is provided by ordinance in lieu of
2 fees, shall receive, for holding a mayor's or police court, or discharging the duties of a justice
3 of the peace, the compensation allowed by law for similar services for such officers, to be paid
4 in the same manner.

SEC. 34. The police judge shall be entitled in all criminal cases prosecuted before him in
2 behalf of the state, to the same fees, to be collected in the same manner as a justice of the
3 peace, in like cases; in prosecutions before him in behalf of the city, to such fees not exceeding
4 those for services of like nature in state prosecutions as the council may by ordinance
5 prescribe.

SEC. 35. Police matrons shall receive not less in any case than the minimum salary paid
2 to policemen in the city in which they are appointed.

SEC. 36. The marshal shall receive, in criminal cases, arising under ordinances, the same
2 fees as constables receive for similar services, payable from the treasury of the city or town,
3 and in criminal cases arising under the state law the same fees as constables receive for sim-
4 ilar services, payable from the county treasury. In civil proceedings he shall receive the
5 same fees as constables receive for similar services, payable in the same way. The marshal
6 shall receive the same fees for services performed by a deputy marshal.

SEC. 37. City and town assessors and their deputies shall receive the same compensation
2 as township assessors, payable from the county treasury.

SEC. 38. It may be provided by ordinance that any city or town officer elected or appointed
2 shall receive a salary in lieu of all other compensation, and in such case, such officer shall not
3 receive for his own use any fees or other compensation for his services as such officer, but
4 shall collect the fees authorized by law or ordinance and pay the same as collected or as pre-
5 scribed by ordinance, into the city treasury.

SEC. 39. All officers elected or appointed in any city or town, whose compensation is not
2 fixed by law, shall receive such salary, compensation or fees for their services as the council
3 may by ordinance from time to time prescribe. For all attested certificates and transcripts,
4 other than those ordered by the council, the clerk shall be paid the same fees as are allowed
5 to county officers for like services.

SEC. 40. The fees, salary, compensation or emoluments of any officer whose election or
2 appointment is required or authorized by this chapter, shall not be increased or diminished
3 during the term for which he shall have been elected or appointed; nor shall any change of
4 compensation affect any officer whose office shall be created under the authority of this chap-
5 ter during his existing term, unless the office be abolished. No person who shall have
6 resigned or vacated any office shall be eligible to the same, during the time for which he was
7 elected or appointed when, during the same time, the emolument had been increased.

SEC. 41. The election of any person to a city or town office may be contested upon the
2 same grounds and in the manner provided for contesting elections to county offices so far as

3 applicable. The mayor shall be one of the court and the presiding officer thereof, and if his
4 election is contested the council shall select one of its members to act in his place.

SEC. 42. In the event of a tie vote for any city or town office the contestants shall deter-
2 mine the matter by lot.

CHAPTER 3.

OF ORDINANCES, COURTS, AND FINES.

SEC. 1. Municipal corporations shall have power to make and publish, from time to time,
2 ordinances, not inconsistent with the laws of the state, for carrying into effect or discharging
3 the powers and duties conferred by this title, and such as shall seem necessary and proper to
4 provide for the safety, preserve the health, promote the prosperity, improve the morals, order,
5 comfort, and convenience of such corporations and the inhabitants thereof, and to enforce
6 obedience to such ordinances by fine not exceeding one hundred dollars, or by imprisonment
7 not exceeding thirty days.

SEC. 2. No ordinance shall contain more than one subject, which shall be clearly
2 expressed in its title, and no ordinance or section thereof shall be revised or amended unless the
3 new ordinance contain the entire ordinance or section revised or amended, and the former
4 ordinance or section shall be repealed.

SEC. 3. Ordinances of a general or permanent nature, and those for the appropriation of
2 money, shall be fully and distinctly read on three different days, unless three-fourths of the
3 council shall dispense with the rule.

SEC. 4. No resolution or ordinance for any of the purposes hereinafter set forth, shall be
2 adopted without the concurrence of a majority of the whole number of members elected to
3 the council, to-wit:

- 4 1. To pass or adopt any by-law or ordinance;
- 5 2. To pass or adopt any resolution or order to enter into a contract;
- 6 3. To pass or adopt any ordinance for the appropriation or payment of money; but in
7 towns, by-laws, ordinances, and the resolutions and orders set forth in this section shall
8 require for their passage or adoption a concurrence of four councilmen or of three councilmen
9 and the mayor. On the passage or adoption of every by-law, ordinance, and every such reso-
10 lution or order, the yeas and nays shall be called and recorded. No money shall be appropri-
11 ated except by ordinance.

SEC. 5. No resolution or ordinance for any of the purposes hereinafter set forth shall be
2 adopted without the concurrence of two-thirds of the whole number of the members elected
3 to the council, to-wit:

- 4 1. Directing the opening, straightening, or widening of any street, avenue, highway, or
5 alley;
- 6 2. Directing the making of any improvement which will require proceedings to condemn
7 private property;
- 8 3. Directing any improvement or repair of a street, avenue, highway, or alley, the cost of
9 which is to be assessed upon the property, or against the owners thereof, unless two-thirds of
10 the owners to be charged therefor shall petition in writing for the same.

11 On the passage of every such ordinance or resolution, the yeas and nays shall be called
12 and recorded.

SEC. 6. The mayor shall sign every ordinance or resolution passed by the council, before
2 the same shall be in force, and if he refuses to sign any such ordinance or resolution, he shall
3 call a meeting of the council within fourteen days thereafter, and return the same with his
4 reasons therefor. If he fails to call the meeting within the time fixed above, or fails to
5 return the ordinance or resolution with his reasons as herein required, such ordinance or res-
6 olution shall become operative without such signature, and the clerk shall record it in the
7 ordinance book with a minute of the facts making it operative. Upon the return of any such
8 ordinance or resolution by the mayor to the council, it may pass the same over his objections
9 upon a call of the yeas and nays, by not less than a two-thirds vote of the whole number of
10 members elected to said council, the mayor not included, and the clerk shall certify on said
11 ordinance or resolution that the same was passed by a two-thirds vote of the council, and
12 sign it officially as clerk.

SEC. 7. All ordinances shall, as soon as may be after their passage, be recorded in a book
2 kept for that purpose and be authenticated by the signature of the presiding officer of the
3 council and the clerk, and all ordinances of a general or permanent nature, and those impos-
4 ing any fine, penalty or forfeiture, shall be published in some newspaper of general circulation
5 in the city or town, and it shall be a sufficient defense to any suit or prosecution for such fine,
6 penalty or forfeiture, to show that no such publication was made; but if no such newspaper
7 is published within the limits of the corporation, then such ordinances may be published by
8 posting up copies thereof in three public places within the limits thereof, two of which places
9 shall be the postoffice and the mayor's office of such city or town. When the ordinance is pub-
10 lished in a newspaper it shall take effect from and after its publication; when published by
11 posting it shall take effect five days thereafter. Immediately following the record of every
12 ordinance the clerk shall append a certificate stating therein the time and manner of publica-
13 tion thereof, which certificate shall be presumptive evidence of the facts therein stated.

SEC. 8. When any city or town shall cause or has heretofore caused its ordinances to be
2 published in book or pamphlet form, such book or pamphlet shall be received as evidence of
3 the passage and legal publication of such ordinances, as of the dates mentioned or provided
4 for therein, in all courts and places without further proof.

SEC. 9. The police court shall be a court of record, and have a seal to be provided by the
2 council with the name of the state in the center, and style of the court around the margin.
3 It shall be held in suitable rooms to be provided by the council, and shall always be open for
4 the dispatch of business. It shall have in all criminal cases, the powers and jurisdiction of
5 justices of the peace, and the jurisdiction of a mayor's court in the case of violation of the
6 city ordinances.

SEC. 10. The clerk of the police court shall not be in any way concerned as counsel or
2 agent in the prosecution or defense of any person before such court.

SEC. 11. Provision shall be made by ordinance for selecting, summoning and empannel-
2 ing jurors in the police court, who shall have the qualifications of jurors as provided by law,
3 and for all other matters touching said court that may tend to make it efficient. [807, 810]

SEC. 12. The mayor shall have exclusive jurisdiction of all actions or prosecutions for
2 violations of the city or town ordinances. He shall also have, in criminal matters, the juris-
3 diction of a justice of the peace co-extensive with the county, and in civil cases the same
4 jurisdiction within the city or town as a justice of the peace has within the township. None
5 of the jurisdiction referred to in this section shall be exercised by the mayors in cities having
6 a superior or police court. If the mayor or judge of the superior or police court is absent or
7 unable to act, the nearest justice shall hold his court and receive the statutory fees, to be paid
8 by the city or county as the case may be.

SEC. 13. The proceedings before a mayor or a police court shall be, as far as applicable,
2 in accordance with the law regulating similar proceedings before a justice of the peace, unless
3 otherwise provided, but there shall be no change of venue in actions or prosecutions under
4 ordinances, and the trial shall be by the court without a jury, except on appeal; appeals and
5 writs of error shall be taken from the mayor or the police court in the same time and man-
6 ner, and subject to the same restrictions. If a city or town is situated in two or more coun-
7 ties, the appeal or writ of error shall be taken to, or in the district court of the county in
8 which the mayor's court or police court is held. On the hearing of such appeal, or writ of
9 error, the court shall take judicial notice of the ordinances of the city or town.

SEC. 14. Fines and penalties may, in all cases, and in addition to any other mode pro-
2 vided, be recovered by action before a justice of the peace or other court of competent juris-
3 diction in the name of the proper municipal corporation and for its use. In any such action

4 where pleading is necessary, it shall be sufficient to declare generally for the amount claimed
5 to be due in respect to the violation of the ordinance, referring to its title and the date of its
6 adoption or passage, and showing as near as may be, the facts of the alleged violation.

SEC. 15. Whenever a fine and costs imposed for the violation of any ordinance are not
2 paid, the person convicted may, by the court having jurisdiction of the case, be committed
3 to jail until the fine and costs are paid, not to exceed thirty days.

CHAPTER 4.

OF GENERAL POWERS.

SECTION 1. Cities and towns are bodies politic and corporate under such name and style as
2 may be selected at the time of their organization, with the authority vested in the mayor and
3 a common council, together with such officers as are in this title mentioned or may be cre-
4 ated under its authority, and shall have the general powers and privileges granted and such
5 others as are incident to municipal corporations of like character, not inconsistent with the
6 statutes of the state, for the protection of their property and inhabitants, and the preserva-
7 tion of peace and good order therein, and they may sue and be sued, contract and be con-
8 tracted with, acquire and hold real and personal property, and have a common seal.

SEC. 2. They shall have power to prevent injury or annoyance from anything dangerous,
2 offensive or unhealthy, and to cause any nuisance to be abated; to provide for the destruction
3 of weeds and other noxious growths upon any of the lots therein; to provide for the imme-
4 diate seizure and destruction of tainted or unsound meat or other provisions; to establish all
5 needful regulations as to the management of packing and slaughter houses, renderies, tallow
6 chandleries, and soap factories, bone factories, tanneries, and manufactories of fertilizers and
7 chemicals, within the limits of such cities or towns; to regulate and restrain the deposit and
8 removal of all offensive material and substances, and the engendering of offensive odors and
9 sights therefrom, so as to protect the public against the same; to establish and regulate
10 slaughter houses; and in cities having five thousand or more inhabitants, to build and control
11 the same.

SEC. 3. They shall have power to regulate the burial of the dead; to provide without
2 the limits of the corporation, places for the interment of the dead; to cause any body interred
3 contrary to such regulations to be taken up and buried in accordance therewith; to exercise
4 over all cemeteries within their limits, and those without their limits established by their
5 authority, the powers conferred upon township trustees with reference to cemeteries; and to
6 authorize the establishment of crematories for the cremation of the dead, within or without
7 the limits of such corporation and to regulate the same.

SEC. 4. They shall have power to cause any lot of land within their limits, on which
2 water at any time becomes stagnant, to be filled up or drained in such manner and within
3 such time as may be directed by resolution of the council. Service of a copy of said resolu-
4 tion shall be made upon the owner of such lot, if residing in the county where the same is
5 situated; otherwise publication of such notice shall be made once each week for two consecu-
6 tive weeks in a daily or weekly newspaper published within such city or town, or if there be
7 no such newspaper, then by publication of the same in a newspaper published in said county.
8 On the failure of such owner to comply with such directions within the time fixed, it may be
9 done by said city or town, and the costs and expenses thereof assessed against said lot, which
10 shall be a debt due to said corporation from the owner of said lot, and shall, moreover, from
11 the time of the adoption of such resolution, be a lien thereon as provided in case of special
12 assessments.

SEC. 5. They shall have power to require the owner or lessee of any lot or tract of ground
2 within their limits extending into, across or bordering upon any hollow or ravine which con-
3 stitutes a drain for surface water, or a watercourse of any kind, who shall by grading or fill-
4 ing such lot or tract of ground, obstruct the flow of water through such watercourse, to con-
5 struct through such lot or land a sufficient drain or passage-way for water within such time
6 as the council may designate, notice of which action shall be given as in the preceding sec-
7 tion. Upon the failure of such owner or lessee to construct such drain or passage-way within
8 the time so fixed, the city or town may construct the same, and assess the costs and expenses
9 thereof on such lot or tract of ground, and the same shall be a lien thereon as provided in
10 case of special assessments.

SEC. 6. They shall have power to regulate, license and tax taverns, restaurants and eat-
2 ing houses; to regulate, license and tax sales by auctioneers, transient merchants, bankrupt
3 and dollar stores and the like, but the exercise of such power shall not interfere with sales
4 made by sheriffs, constables, coroners, marshals, executors, guardians, assignees of insolvent
5 debtors or bankrupts, or any other person required by law to sell real or personal property;
6 to regulate, license and tax peddlers, bill posters, itinerant doctors, itinerant physicians and
7 surgeons, junk dealers, scavengers, pawnbrokers and persons receiving actual possession of
8 personal property as security for loans with or without a mortgage or bill of sale thereon.

SEC. 7. They shall have power to prohibit pawnbrokers and junk or second-hand dealers
2 purchasing or receiving from minors any property, without the written consent of their
3 parents or guardians, and provide for the examination of the premises of such persons for the
4 purpose of discovering stolen property.

SEC. 8. They shall have power to regulate, license, tax, or prohibit billiard saloons, 2 billiard tables, pool tables, and all other tables kept for hire; nine pin, ten pin, or other pin 3 alleys and shooting galleries or places; to suppress, restrain or prohibit all gambling games or 4 devices; to authorize the destruction of all instruments or devices used for the purpose of 5 gaming or gambling and to punish gambling.

SEC. 9. They shall have power to regulate, license or prohibit circuses, menageries, 2 theaters, theatrical exhibitions, shows and exhibitions of all kinds; but lectures on scientific, 3 historical, or literary subjects shall not come within the provisions of this section.

SEC. 10. They shall have power to suppress, restrain, and prohibit disorderly houses, 2 houses of ill fame, opium or hop joints, or places resorted to for the use of opium or hasheesh, 3 and punish the keepers thereof, and persons resorting thereto.

SEC. 11. They shall have power to prevent and suppress any riots, noise, disturbance, or 2 disorderly assemblies, and to provide that before any association, company, society, order, 3 exhibition or aggregation of persons shall parade or march upon the streets of any city, they 4 shall first obtain from the mayor of such city a permit, when issued to be without charge, and 5 the same shall state the time, manner and condition of such parade or march, and to punish 6 any person engaged in riotous, noisy or disorderly conduct.

SEC. 12. They shall have power to restrain and regulate the running at large of cattle, 2 horses, swine, sheep and other animals or fowl, within the limits of the corporation, and to 3 authorize the distraining, impounding and sale of the same for the penalty incurred and the 4 costs of the proceeding.

SEC. 13. They shall have power to regulate, restrain, license or prohibit the running at 2 large of dogs within their limits, and to require them to be kept upon the premises of the 3 owners thereof, unless licensed to run at large, and to provide for the destruction thereof 4 when found at large contrary to and in violation of the provisions of any ordinance or by-laws 5 passed pursuant to the power herein granted.

SEC. 14. They shall have power to regulate, license or prohibit the sale of horses or other 2 domestic animals at auction in the streets, avenues, highways, alleys or public places thereof.

SEC. 15. They shall have power to require all buildings to be numbered by the owners 2 or lessees thereof, and in case of failure to comply with such requirement, to cause the same 3 to be done and to assess the cost thereof against the property or premises numbered.

SEC. 16. They shall have power to provide by ordinance for the repair, removal or 2 destruction of any building which is dangerous or which may be liable to fall, and to levy and 3 collect a special tax against the property and owner thereof for the expense thereof, as other 4 special taxes are levied and collected.

SEC. 17. They shall have power to make regulations against danger from accidents by
2 fire or electrical apparatus, to establish fire limits, and to prohibit within such limits, the
3 erection of any building or addition thereto, unless the outer walls be made of brick, iron,
4 stone, mortar, or other non-combustible material, with fire-proof roofs, and to provide for the
5 removal of any structure erected contrary to such prohibition.

SEC. 18. They shall have power to regulate and control the building, construction or
2 erection of chimneys, stacks, flues, fire-places, hearths, stove-pipes, ovens, boilers, and all
3 apparatus used for heating purposes, and the use of lights in stables, shops, and other places;
4 to regulate manufactories by providing against danger from fire; to regulate or prohibit bon-
5 fires, and the use of fire-works, fire-crackers, torpedoes, Roman candles, sky-rockets, and other
6 pyrotechnic displays; to prevent the deposit of ashes and combustible matter in unsafe places;
7 to require the construction of fire escapes to buildings, and regulate and control the same; to
8 cause all buildings, structures and enclosures that may be in such condition as to cause
9 danger from falling to be fixed, or from fire to be immediately made safe or removed, and to
10 provide for the collection of the costs and expenses incurred in any of the matters provided
11 for in this or the preceding section, in the manner authorized for the collection of special
12 assessments.

SEC. 19. They shall have power to provide for the inspection of steam boilers, and all
2 places used for the storage of explosive or inflammable substances or materials and to prescribe
3 the necessary means and regulations to secure the public against accidents and injuries there-
4 from, and to assess the costs and expenses of such proceedings against the property and own-
5 ers thereof in the manner provided for special assessments.

SEC. 20. They shall have power to regulate the transportation and keeping of gunpowder,
2 inflammable oils or other combustibles, and to provide or license magazines for storing the
3 same, and prohibit their location or maintenance within a given distance of the corporate
4 limits of such cities or towns.

SEC. 21. They shall have power to prohibit or regulate the piling or depositing of any
2 kind of wood, lumber or timber upon any lot or property within the city limits within a dis-
3 tance of one hundred yards of any dwelling house.

SEC. 22. They shall have power to organize, keep and maintain a fire department and
2 fire companies; to purchase or lease necessary ground and construct or lease buildings there-
3 for; provide engines, apparatus, and such other instruments as may be necessary, pay for
4 services rendered by members of the fire department at any fire, and cities having a population
5 of five thousand or more, may maintain a paid fire department.

SEC. 23. They shall have power to establish and regulate markets, and in cities having a
2 population of five thousand or more, to build market houses and establish and regulate the

3 same; to prevent forestalling; and prohibit or regulate huckstering in the markets; to pre-
4 scribe the kind and description of articles which may be sold in the markets and the stands
5 or places to be occupied by the vendors; to authorize the immediate arrest of any person vio-
6 lating its regulations and the seizure and removal from the market of any article of produce
7 in his possession. But no charge or assessment of any kind shall be made or levied on any
8 wagon or other vehicle, or the horses attached thereto, or the owner thereof, bringing produce
9 or provisions to any of the markets in the city, or through the streets contiguous thereto, for
10 standing in or occupying a place in any of the market spaces or in the streets contiguous
11 thereto, on market days and evenings previous thereto; and to provide for the measuring or
12 weighing of hay, coal or other articles of sale.

SEC. 24. They shall have power to establish, construct and regulate landing places,
2 wharfs, docks, piers, and basins; to use for such purposes any public building or any property
3 belonging to or under the control of the city, and the shore or bank of any lake or river not
4 the property of individuals, to the extent and in any manner that the state can grant such
5 use or control, and fix the rates for landing, wharfage and dockage.

SEC. 25. They shall have the exclusive power to establish, regulate and license ferries
2 from any landing place in such city; to impose reasonable terms and restrictions in relation
3 to the keeping thereof, the time, manner and rates of the carriage and transportation of per-
4 sons and property thereon; to provide for the revocation of any license, and for the punish-
5 ment by fines and penalties of the violation of any ordinance prohibiting unlicensed ferries,
6 or regulating those established and licensed.

SEC. 26. They shall have power to purchase, establish, erect, maintain and operate,
2 within or without the corporate limits of any city or town, water works, gas works or electric
3 light or electric power plants, with all the necessary reservoirs, mains, filters, streams,
4 trenches, pipes, drains, poles, wires, burners, machinery, apparatus and other requisites of
5 said works or plants, and lease or sell the same. They may also grant to individuals or pri-
6 vate corporations the authority to erect and maintain such works or plants for a term of not
7 more than twenty-five years, and may renew or extend the term of such grant, but no
8 exclusive franchise shall be thus granted, extended or renewed. No such works or plants
9 shall be authorized, established, erected, purchased, leased or sold, or franchise extended or
10 renewed, unless a majority of the legal electors voting thereon vote in favor of the same at a
11 general or special election.

SEC. 27. The council may order any of the questions provided for in the preceding section
2 submitted to a vote at a general election, or at one specially called for that purpose; or the
3 mayor shall submit said question to such vote, upon the petition of twenty-five property
4 owners of each ward in the city or of fifty property owners of any incorporated town. Notice

5 of such election shall be given in two newspapers published in said city or town, if there are
6 two, if not, then in one, once each week for at least four consecutive weeks. The party ask-
7 ing for a renewal or extension of such franchise, shall pay the cost incurred in holding such
8 election.

SEC. 28. They shall have power to condemn and appropriate so much private property
2 as shall be necessary for the construction and operation of said works or plants, as provided
3 for the condemnation of land for city purposes; to issue bonds for the payment of the cost of
4 establishing the same, including the cost of land condemned on which to locate them, and to
5 confer by ordinance the power to appropriate and condemn private property for such purpose
6 upon any individual or corporation authorized to construct and operate such works or plants.

SEC. 29. For the purpose of maintaining and protecting such works or plants from injury,
2 and protecting the water of such water works from pollution, the jurisdiction of such city or
3 town shall extend over the territory occupied by such works, and all reservoirs, mains, filters,
4 streams, trenches, pipes, drains, poles, wires, burners, machinery, apparatus and other requi-
5 sites of said works or plants used in or necessary for the construction, maintenance and oper-
6 ation of the same, and over the stream or source from which the water is taken for five miles
7 above the point from which it is taken.

SEC. 30. They shall have power when operating such works or plants to assess from
2 time to time, in such manner as they shall deem equitable upon each tenement or other place
3 supplied with water, gas, light or power, reasonable rents or rates fixed by ordinance, and to
4 levy a tax as hereafter provided, to pay or aid in paying the expenses of running, operating
5 and repairing such works or plants owned and operated by such city or town, and the interest
6 on any bonds issued to pay all or any part of the cost of its construction.

SEC. 31. They shall have power to require every individual or private corporation oper-
2 ating such works or plant, subject to reasonable rules and regulations, to furnish any person
3 applying therefor, along the line of its pipes, mains, wires, or other conduits, with gas, water,
4 light or power, and to supply said city or town with water for fire protection, and with gas,
5 water, light or power for other necessary public purposes, and to regulate and fix the rent or
6 rate for water, gas, light or power; to regulate and fix the rents or rates of water, gas and
7 electric light or power; to regulate and fix the charges for water meters, gas meters, electric
8 light or power meters, or other device or means necessary for determining the consumption
9 of water, gas, electric light or power, and these powers shall not be abridged by ordinance,
10 resolution or contract.

SEC. 32. They shall have power to provide by ordinance for the laying of temporary
2 sidewalks on public streets and highways in front of property abutting thereon, and used for
3 purposes of agriculture or horticulture and not divided into lots, and to assess a special tax,

4 not to exceed forty cents per linear foot upon said property, to pay for same. Such assess-
5 ment and improvement shall not be made or ordered to be made until three-fourths of the
6 members of the council shall, by vote, assent to the making thereof.

SEC. 33. Bonds issued under the provisions of this chapter shall mature in not more
2 than twenty years, be in sums of not less than one hundred, nor more than one thousand
3 dollars each and bear interest at a rate not exceeding six per cent per annum, payable annu-
4 ally or semi-annually.

SEC. 34. They shall have power to provide for the formation and maintenance of a free
2 public library, open to the use of all the inhabitants, under proper regulations, and may pur-
3 chase land and erect buildings, or hire buildings or rooms suitable for that purpose, and pro-
4 vide for the compensation of the necessary employes; may receive, hold or dispose of any and
5 all gifts, donations, devises and bequests that may be made to them for the purpose of estab-
6 lishing, increasing or improving any such library; and the council may apply the profits, pro-
7 ceeds, interest and rents accruing therefrom in such manner as will best promote the pros-
8 perity and utility of such library; but no money can be appropriated for such purpose until
9 the electors of such city or town shall, at a general or special election, have voted for the
10 establishment of such library.

SEC. 35. In any city or town in which a free library has been established, there shall be
2 a board of library trustees consisting of nine members, to be appointed by the mayor, by and
3 with the approval of the council. Of said trustees first appointed, one-third shall hold office
4 for two, one-third for four and one-third for six years, from the first day of July following
5 their appointment; and, at their first meeting, shall cast lots for the respective terms, report-
6 ing the result of such lot to the council. Biennially thereafter, before the first day of July,
7 the mayor shall appoint, by and with the approval of the council, three trustees to succeed
8 the trustees retiring on the following first day of July, each of whom shall hold office for six
9 years from such first day of July and until his successor is appointed and qualified. Vacan-
10 cies occurring in the board shall be filled by appointment by the mayor, such appointees to
11 fill out the unexpired term for which the appointment is made. Bona fide citizens and resi-
12 dents of the city or town, male or female, over the age of twenty-one years, are alone eligible
13 to membership. The removal of any trustee permanently from the city shall render his office
14 as a trustee vacant. Members of said board shall receive no compensation for their services.

SEC. 36. Said board of library trustees shall have and exercise the following powers: To
2 meet and organize by the election of one of their number as president of the board, and by
3 the election of a secretary and such other officers as the board may deem necessary; to have
4 charge, control and supervision of the public library, its appurtenances and fixtures and
5 rooms containing the same, directing and controlling all the affairs of such library; to employ

6 a librarian, such assistants and employes as may be necessary for the proper management of
7 said library, and fix their compensation; but prior to such employment, the compensation of
8 such librarian, assistants and employes shall be fixed for the term of employment by a major-
9 ity of the members of said board voting in favor thereof; to remove such librarian, assistants
10 or employes by a vote of two-thirds of such board for misdemeanor, incompetency or inat-
11 tention to the duties of such employment; to select and make purchases of books, pamphlets,
12 magazines, periodicals, papers, maps, journals, furniture, fixtures, stationery, and supplies for
13 such library; to make and adopt, amend, modify or repeal by-laws, rules and regulations not
14 inconsistent with law, for the care, use, government and management of such library and
15 the business of said board, fixing and enforcing penalties for the violation thereof; and to have
16 exclusive control of the expenditures of all taxes levied for library purposes as provided by
17 law, and of all other moneys belonging to the library fund. Said board shall keep a record
18 of its proceedings.

SEC. 37. All moneys received and set apart for the maintenance of such library shall be
2 deposited in the treasury of such city or town to the credit of the library fund, and shall be
3 kept by the treasurer separate and apart from all other moneys, and paid out upon the orders
4 of the board of trustees, signed by its president and secretary.

SEC. 38. The board of trustees shall, before the first day of August in each year, deter-
2 mine and fix the amount or rate to be appropriated for the ensuing year for the maintenance
3 of such library, and also the amount for the payment of interest on any indebtedness incurred
4 for the purchase of real estate and the erection of a building or buildings thereon for a public
5 library, and for the creation of a sinking fund for the extinguishment of such indebtedness,
6 and cause the same to be certified to the council, which shall levy said tax and certify the
7 per cent thereof to the county auditor with the other taxes for said year.

SEC. 39. Said board of trustees shall each year make to the council a report for the year
2 ending June thirtieth, a statement of the condition of the library, the number of books
3 added thereto, the number circulated, the number not returned or lost, the amount of fines
4 collected, and the amount of money expended in the maintenance thereof during such year,
5 together with such further information as it may deem important.

SEC. 40. Cities of the first class shall have power to establish and maintain, either
2 within or without the limits of the city, an infirmary for the accommodation of the poor of
3 the city, and to provide for the distribution of out-door relief.

SEC. 41. Cities shall have power to establish and maintain, either within their limits or
2 within the county in which they are situated, a house of refuge, or a house of correction and
3 a workhouse, or either of them, and place the same under the management and control of
4 such directors, superintendents and other officers as the council may by ordinance provide.

5 Persons sentenced for violation of any ordinance, if children under sixteen years of age, may
6 be committed to the city house of refuge, if there be one; if over sixteen years of age, to the
7 house of correction and workhouse.

SEC. 42. Cities and towns shall have power to erect, establish and maintain a city jail,
2 which shall be in the keeping of the marshal, under such rules and regulations as the council
3 shall provide. Any city or town shall have the right to use the jail of the county for the con-
4 finement of such persons as may be liable to imprisonment under the ordinances of such city
5 or town, but it shall be liable to the county for the cost of keeping such prisoners. Cities of
6 the first class shall have power to erect, lease, establish and maintain station houses for the
7 detention of persons arrested, which shall be under the control of the marshal.

SEC. 43. Cities and towns shall have power to provide by ordinance, or by provisions in
2 contracts for any work of public improvement, that the contractor shall, before receiving cer-
3 tificates or payment therefor, furnish the council, or board of public works, as the case may
4 be, vouchers showing that all sub-contractors and workmen who have furnished materials for
5 or performed labor upon such improvement have been fully paid for such materials or labor.

SEC. 44. They shall have power by ordinance to prescribe rules and regulations for all
2 plumbing connecting any building with sewers, and may prescribe the kind and size of
3 materials to be used in such plumbing, and the manner in which the same shall be done; and
4 to appoint an inspector thereof, and define his duties and powers; and to prescribe penalties
5 for the violation of such ordinance. Nothing herein shall be construed as authorizing the
6 annulment of any rules or regulations relating to such plumbing made by the local or state
7 board of health, but such ordinance shall conform to and enforce the same.

SEC. 45. Cities having less than five thousand population and incorporated towns shall
2 have power to construct sewers, or tile drains along streets and alleys therein and to levy
3 special taxes for the same against abutting property and the owners thereof, whenever the
4 resident owners of a majority of the linear front feet of the property subject to such assess-
5 ment petition therefor. If the assessment is made against property on one side of the street
6 or alley only, the sewer or drain shall be built on that side, and such property shall be entitled
7 to the benefits thereof, but if made against property on both sides of the street or alley the
8 same shall be so built and located as to be of the greatest benefit to all the property assessed
9 therefor.

SEC. 46. All the owners of property assessed for such sewers or drains shall have the free
2 use thereof, under reasonable rules and regulations adopted by the city or town. Such city
3 or town shall have power to regulate by ordinance, the size, kind and manner of construction
4 of any such sewer or drain, and to provide the terms and conditions under which the property
5 not taxed therefor may have the benefit of the same. The method of assessment, levy, col-

6 lection and payment of such special taxēs shall be the same as in cities of over five thousand
7 population, except that such tax shall not exceed one dollar per linear foot. The cost of
8 constructing sewers and drains in excess of one dollar per linear foot, and across intersecting
9 streets and alleys shall be paid from the general fund.

SEC. 47. Counties, cities, towns and other municipalities are authorized to take and hold
2 property, real and personal, derived by gifts and bequests, and when made for the establishing
3 of institutions of learning or benevolence and there is no provision made in the gift or bequest
4 for the execution of the trust, the court having charge of the probate proceedings in the
5 county shall appoint three trustees, residents of said county, who shall have charge and con-
6 trol of the same, and who shall continue to act until removed by the court. And they shall
7 give bond as required in case of executors, to be approved in the same manner as in case of
8 executors' bonds, and said trustees shall be subject to the orders of said court.

SEC. 48. Cities and towns may, by ordinance, prohibit the use of barbed wire to inclose
2 in whole or in part any lot or lots within the incorporate limits thereof, and provide for the
3 removal of such wire.

CHAPTER 5.

OF THE PURCHASE AND CONSTRUCTION OF WATER WORKS.

SECTION 1. Cities of the first class shall have power to levy, in addition to the regular
2 water tax authorized by law, a tax of two mills upon the dollar upon all the property within
3 the corporate limits of said cities, excepting lots greater than ten acres in area, used for hort-
4 icultural or agricultural purposes, for the purpose of creating a sinking fund to be used as
5 provided in this chapter for the purchase or erection of water works in such cities. The pro-
6 ceeds of such two-mill levy shall be deposited in one or more solvent banks or trust companies
7 of the city making such levy, at a rate of interest not less than four per cent per annum,
8 compounded semi-annually, and payable, principal and interest, on demand, after sixty days'
9 notice in writing. The city treasurer depositing the proceeds of such tax shall exact from
10 the bank or trust company wherein such money is deposited a satisfactory bond, payable to
11 the city, to be approved by the treasurer and mayor of such city, and to be filed in the office
12 of the city treasurer.

SEC. 2. Any member of the city council, or any officer of any city levying and collecting
2 taxes under the provisions of this chapter, who shall, in any manner, participate in, or advise,
3 the diversion of any part of said tax to any other purpose than that provided for in this chap-
4 ter, shall be deemed guilty of the crime of embezzlement, and shall be punished accordingly.

SEC. 3. Cities of the first class are hereby authorized to purchase or erect water works
2 under the provisions of this chapter for the purpose of supplying said cities and the inhab-
3 itants thereof with water, and are authorized to continue the levy of the two-mill tax herein

4 provided for until the purchase price, principal and interest, or the cost incurred in the erec-
5 tion of said works, is fully paid and discharged.

SEC. 4. Cities levying such sinking fund tax are hereby authorized to contract for the
2 purchase or erection of water works, and, upon the approval and adoption of such contract as
3 hereinafter provided, to apply such sinking fund upon the cost thereof, and are authorized to
4 pledge the proceeds of the continuing two-mill levy, provided for in this chapter, and the
5 regular water levy, and the net revenues derived from the operation of the water works, and
6 shall have the right to mortgage or bond such works, to secure the payment of the purchase
7 price or the cost of constructing such water works; but no part of the general fund of such
8 city shall be applied upon such contracts, bonds or mortgage. In the payment thereof the
9 city and the holders of the said contracts, bonds or mortgages, shall be restricted to the pro-
10 ceeds of the said taxes and the net revenues of the said water works as hereinbefore provided;
11 and such contracts or bonds shall not bear a higher rate of interest than five per cent per
12 annum, payable semi-annually.

SEC. 5. Said contract shall not be binding upon said city until the same shall have been
2 approved by the mayor and a majority of the city council at a regular meeting, or a special
3 meeting called for such purpose, and shall have been adopted by a majority of the electors of
4 said city voting at a special election which shall have been duly called after thirty days' notice
5 by said city. The proposition to be submitted at said election, and the form of ballot, shall be
6 "Shall the contract approved by the mayor and city council, in relation to water works, be
7 adopted?" The proposition shall be printed and placed on the ballots and the voter shall
8 designate his choice and the election shall be conducted in the manner provided in the chapter
9 on elections.

SEC. 6. The water works purchased or erected by such city shall be managed and
2 operated by a board of water works trustees, which shall be composed of three electors,
3 appointed for the term of six years by the district court of the county wherein such city
4 is located. Upon the approval of the contract for the purchase or erection of water works by
5 such city, the mayor of the city shall apply, within ten days thereafter, to said district court
6 for the appointment of such board of water works trustees, the first appointees thereto to hold
7 office for the following terms, namely: One for two years, one for four years and one for six
8 years. All vacancies occurring on such board, occasioned by expiration of term, by death,
9 resignation or removal, shall be filled by appointment of the district court, upon an applica-
10 tion made by the mayor of such city. The appointment of such board shall be approved by a
11 majority of the judges presiding over such district court. The compensation of the members
12 of such board of trustees shall be fixed upon the application of such board, by said district
13 court, in such amounts as the court may deem reasonable and proper, and shall not be changed

14 more frequently than once in two years. The district court shall require such trustees to
15 execute to said city good and sufficient bonds, to be approved by said court, and when exe-
16 cuted and approved to be filed and kept with the city treasurer. All such trustees shall be
17 subject to removal by the district court for malfeasance in office.

SEC. 7. The said board of trustees shall have the power to carry into execution the con-
2 tract for the purchase or erection of such water works, and to employ a superintendent and
3 such other employes as may be necessary and proper for the operation of such works, for the
4 collection of water rentals and for the conduct of the business incident to the operation
5 thereof. The said board of trustees shall require of the superintendent, and of the other
6 employes as they may deem proper, good and sufficient bonds, the amount thereof to be fixed
7 and approved by said board, for the faithful performance of their duty, such bonds to run in
8 the name of the city and to be filed with the city treasurer and kept in his office.

SEC. 8. The said board of water works trustees shall from time to time fix the water
2 rentals or rates to be charged for the furnishing of water, and such rates shall be sufficient,
3 together with the proceeds of the five-mill water levy and the sinking fund levy of two mills,
4 for the maintenance and operation of such works, the proper and necessary extension thereof,
5 for all repairs, and for the payment of the purchase money or cost, principal and interest,
6 incurred in the purchase or erection of such works, as the same falls due, according to the
7 tenor of the mortgage and bonds given to secure the payment of such purchase price or cost.
8 The said board of water works trustees shall make out and file in the office of the city clerk
9 quarterly statements giving full and complete reports of the receipts and disbursements
10 handled and disbursed by them in the administration of their trust, such reports to be filed
11 on the second Monday of January, April, July and October for the quarters preceding the first
12 days of said months. Such reports shall be audited by the board of public works of such city.
13 In the event, however, that said city may not have a board of public works, such reports
14 shall be audited by the city council.

SEC. 9. The powers conferred by this chapter are in addition to the powers elsewhere
2 granted in this code in respect to water works.

CHAPTER 6.

OF STREETS AND PUBLIC GROUNDS.

SECTION 1. Cities and towns shall have power to establish, lay off, open, widen, straighten,
2 narrow, vacate, extend, improve, and repair streets, highways, avenues, alleys, public grounds,
3 wharfs, landings, and market places within the limits of any city or town; but no street, ave-
4 nue, highway, or alley which shall hereafter be dedicated to public use by the proprietor of
5 ground in any municipal corporation shall be deemed a public street, avenue, highway, or
6 alley, or be under the use or control of such municipality, unless the dedication shall be

7 accepted and confirmed by an ordinance or resolution specially passed for such purpose. The
8 expenses of such repairs and improvements may be paid from the general fund or from the
9 highway or poll taxes of such cities or towns or partly from each of such funds.

SEC. 2. They shall have power to provide that the width of all streets, highways, ave-
2 nues, and alleys of all additions to any city or town shall conform to the width of the existing
3 streets, highways, avenues, and alleys of such cities and towns.

SEC. 3. They shall have the care, supervision, and control of all public highways, streets,
2 avenues, alleys, public squares, and commons within the city, and shall cause the same to be
3 kept open and in repair, and free from nuisances.

SEC. 4. They shall have power to regulate, license, and tax all carts, wagons, drays,
2 coachés, hacks, omnibusses, and every description of conveyance kept for hire; fix the rates
3 and prices for the transportation of persons and property from one part of the city to another
4 in the vehicles above named, and to require such persons to keep exposed to view in or upon
5 such vehicle, a printed table of the rates and prices so fixed; to establish stands for hackney
6 coaches, cabs, omnibusses, drays, and express wagons, and to enforce the observance and use
7 thereof; to prescribe the width of the tires of all wagons, drays, and other vehicles habitually
8 used in the transportation of persons or articles from one part of the city to another, or in
9 the transportation of coal, wood, brick, stone, or lumber in the city and require vehicles and
10 bicycles to carry lamps giving sufficient light.

SEC. 5. They shall have power to restrain and regulate the riding and driving of horses,
2 live stock, vehicles and bicycles within the limits of the corporation and prevent and punish
3 fast or immoderate riding or driving within such limits.

SEC. 6. They shall have power to light streets, avenues, alleys, highways, public places,
2 grounds, buildings, landings, market places and wharves.

SEC. 7. Cities shall have the care, supervision, and control of all public bridges and cul-
2 verts within the corporate limits thereof; shall cause the same to be kept open and free from
3 nuisances; and shall construct and keep in repair all public culverts within the limits of said
4 corporations. They may aid in the construction of any county bridge within the limits of
5 said city, or in the construction of any bridge contiguous to said city, on a highway leading
6 to the same, or in the construction of any bridge across any unnavigable river which divides
7 the county in which said city is located from another state, by appropriating a sum not exceed-
8 ing ten dollars per linear foot therefor.

SEC. 8. Cities having a population of seven thousand or over shall have full control of the
2 bridge fund levied and collected as provided by law, and shall have the right to use the same
3 for the construction of bridges, culverts, and approaches thereto, repairing the same and pay-
4 ing bridge bonds and interest thereon issued by such city, and shall be liable for defective con-

5 struction thereof, and failure to maintain the same in safe condition as counties now are with
6 reference to county bridges; and no county shall be liable for any such bridge, or injuries
7 caused thereby.

SEC. 9. Cities and towns may vote to aid in the construction of any county bridge when
2 the estimated cost of the same is not less than ten thousand dollars, to the extent of one-half
3 the estimated cost thereof, as fixed by the board of supervisors, and a city having a population
4 of five thousand or more may vote a tax not to exceed two per centum of the assessed value
5 of the taxable property in such city, to construct or aid any company which is or may be incorpo-
6 rated under the laws of this state in the construction of a highway or combination bridge
7 across any navigable boundary river of this state, commencing or terminating in such city, suit-
8 able for use as a highway or for both highway and railway purposes.

SEC. 10. Whenever a petition shall be presented to the council, signed by a majority of
2 the resident freehold tax-payers thereof, asking that the question of constructing or aiding in
3 the construction of a bridge as provided in the preceding section be submitted to the qualified
4 electors, it shall be its duty to immediately give notice of a special election, by publication in
5 some newspaper published therein, and also by posting copies of such notice in five public
6 places therein at least ten days before such election.

SEC. 11. Such notice shall specify the time and place of holding the election; the pro-
2 posed location of the bridge to be aided, the rate per cent of tax to be levied, the amount
3 which the board of supervisors is authorized to cause to be collected each year, and all the
4 conditions in the petition. In case of proposed aid to a private corporation, the notice shall
5 also state its name, the amount of work required to be done on such bridge, and any other condi-
6 tions which are to be performed before said tax or any part thereof shall become due and pay-
7 able. Such notice may also contain terms and conditions to be performed by said corpora-
8 tion receiving such aid after the completion of such bridge, which terms and conditions shall
9 be obligatory and binding upon it, its successors and assigns.

SEC. 12. At such election the question of taxation shall be submitted to the electors thereof.
2 If a majority of the votes be for taxation, the clerk of such city or town shall forthwith certify
3 to the county auditor of the proper county the result, the rate per cent of tax voted,
4 the year or years during which the same is to be collected, the amount to be collected each
5 year, the terms and conditions upon which the same when collected is to be paid, and if aid
6 is voted to a private corporation, its name, together with a copy of the notice under which
7 the election was held. The certificate shall be filed with the county auditor, who shall cause
8 the same to be recorded in the office of the recorder of deeds. The expenses of the giving of
9 the notice and holding the election shall be audited and paid out of the county treasury as
10 other claims against the county.

SEC. 13. After such certificate shall have been filed and recorded, the board of supervisors shall, at the time of levying the ordinary taxes, levy each year, on the taxable property of such city or town, the taxes voted as shown by said certificate.

SEC. 14. Said taxes shall be collected in the same manner, subject to the same penalties for non-payment after delinquent, and to the same laws after they are collected or collectible as other taxes, in conformity with the terms and conditions of the notice of election; when collected they shall be paid by the county treasurer, on the order of the board of supervisors, specifying the special bridge fund from which each order is payable, but in no case shall said board make such order until the conditions specified in the petition and notice have been complied with. Such taxes, when payable to the city or town, shall be paid over as other city or town taxes. When payable to a private corporation they shall be paid over by the county treasurer to such corporation upon the order of the president or a majority of the directors thereof, after said council shall have certified to the county treasurer that the conditions required as set forth in the notice for the special election at which the tax was voted have been complied with, and the council, or a majority of its members, shall make such certificate whenever such conditions shall have been so performed.

SEC. 15. Should any taxes levied under the provisions of the foregoing sections remain in the county treasury more than one year after the same shall have been collected, the right to them shall be forfeited, and they shall be refunded to the tax payers, and the board of supervisors shall cause any remaining levy to be canceled and stricken from the tax books, which cancellation shall remove all liens created thereby, and it shall make no further levies under said certificate.

SEC. 16. Cities situated on a river wholly in the state, or one forming its boundary line, and from which to the opposite shore a bridge has been or may be constructed by any railroad company, corporation, or person, shall have power to contract with the railroad company, corporation, or person owning such bridge, for the use of the same as a public highway; which contract may be for the joint use of such bridge, or for the sole use of such portion thereof as may be devoted or adapted to highway travel, and may assume the sole liability or any portion thereof for damages to persons or property by reason of their being on any portion of said bridge or approach to either end thereof, caused by the running of cars or locomotives thereon by any corporation, company, or person entitled to its use, whether the damage results from the negligence of the person engaged in running said cars or locomotives or otherwise, and to indemnify the owners of said bridge, and all others entitled to use the same, from liability or damage so caused to the extent or proportion thereof assumed in the said contract; and the city may thereafter and during the continuance of said contract, manage and control said bridge so far as necessary to regulate the highway travel thereon, and may reg-

15 ulate the same as a free or toll bridge, and prescribe such rates of toll as to it from time to
16 time shall seem proper, and make all necessary police regulations for the government of the
17 highway travel thereon, and levy the necessary tax, not exceeding in any one year ten mills
18 on the dollar, for the purpose of carrying out the terms of such contract.

SEC. 17. Cities and towns shall have the power to authorize or forbid the construction of
2 street railways within their limits and may define the motive power by which the cars thereon
3 shall be propelled; and to authorize or forbid the location and laying down of tracks for rail-
4 ways and street railways on all streets, alleys, and public places, but no railway track can thus
5 be located and laid down until after the injury to property abutting upon the street, alley,
6 or public place upon which such railway track is proposed to be located and laid down has
7 been ascertained and compensated for in the manner provided with reference to taking private
8 property for works of internal improvement.

SEC. 18. Every person, partnership, company or corporation owning or operating a street
2 railway in this state shall, from November first of each year to April first following, provide
3 all cars, except trailers used for the transportation of passengers, with vestibules enclosing
4 the front platform on at least three sides for the protection of employes operating such cars.
5 Any violation of this section shall be punished by a fine of not less than fifty dollars nor
6 more than one hundred dollars for each day said cars are operated in violation hereof.

SEC. 19. Cities having a population of five thousand or more shall have power to compel
2 railroad companies to erect, construct, maintain, and operate under such regulations as may
3 from time to time be provided by the council, suitable gates upon public streets at railroad
4 crossings, and cities and towns shall have power to regulate the speed of trains and locomo-
5 tives on railways running over the streets or through the limits of the city or town.

SEC. 20. Cities having a population of seven thousand or over, shall have power to
2 require any railroad company owning or operating any railroad tracks upon or across any
3 public streets of such city, to erect, construct, reconstruct, complete, and maintain to the
4 extent hereinafter provided, any viaduct upon or along such streets and over or under such
5 tracks, including the approaches thereto, as may be declared by ordinances of such city nec-
6 essary for the safety and protection of the public. The approaches to any such viaduct shall not
7 exceed a total distance of eight hundred feet, but no such viaduct shall be required on more than
8 every fourth street running in the same direction and no railroad company shall be required
9 to build or contribute to the building of more than one such viaduct with its approaches in
10 any one year, nor shall any viaduct be required until the board of railroad commissioners
11 shall, after examination, determine the same to be necessary for the public safety and conven-
12 ience and the plans of said viaduct, prepared as hereinafter provided, shall have been
13 approved by said board.

SEC. 21. When a viaduct shall be by ordinance declared necessary for the safety and protection of the public, the council shall provide for appraising, assessing, and determining the damages which may be caused to any property by reason of the construction of the same and its approaches. The proceedings for such purpose shall be the same as are provided in case of taking private property for works of internal improvement, and the damages assessed shall be paid by the city out of the general or bridge fund.

SEC. 22. The width, height, and strength of any viaduct and the approaches thereto and the material and manner of construction thereof, shall be such as may be required by the board of public works and approved by the mayor and council, but if there is no board of public works, then such as may be required by the council.

SEC. 23. When two or more railroad companies own or operate separate lines of track to be crossed by a viaduct, the proportion thereof, and the approaches thereto to be constructed by each or the cost to be borne by each, shall be determined by the council. After the completion thereof any revenue derived therefrom by the crossing thereon of street railway lines shall constitute a special fund, and shall be applied in making repairs to such viaduct. One-half of all ordinary repairs to such viaduct or its approaches, shall be paid out of such fund, or be borne by the city, and the remaining half by the railroad company, and if the track of more than one company is crossed the costs of such repairs shall be borne by such companies in the same proportion as was the cost of original construction.

SEC. 24. If any railroad company neglects or refuses for more than thirty days after such notice as may be prescribed by ordinance to comply with the requirements of any ordinance passed under the provisions of this chapter, the city may construct or repair the viaduct or approaches or any portion thereof, which such railroad company was required to construct or maintain, and recover the cost thereof from such company.

SEC. 25. Cities and towns shall have the power to authorize and regulate telegraph, district telegraph, telephone, street railway and other electric wires, and the poles and other supports thereof, by general and uniform regulation, and to provide the manner in which, and places where, the same shall be placed upon, along or under the streets, roads, avenues, alleys and public places of such city or town, and may divide the city into districts for that purpose.

SEC. 26. No franchise shall be granted, renewed, or extended by any city or town, for the use of its streets, highways, avenues, alleys, or public places, for any of the purposes named in the preceding section, unless a majority of the legal electors voting thereon, vote in favor of the same at a general or special election. The council may order the question of granting, renewal or extension of any such franchise submitted to a vote at a general election, or at one specially called for that purpose; or the mayor shall submit said question to such vote upon the petition of twenty-five property owners of each ward in a city, or fifty property]

8 owners of any incorporated town. Notice of such election shall be given in two newspapers
9 published in said city or town, if there are two; if not, then in one, once each week for at
10 least four consecutive weeks. The clerk shall prepare the ballots and the proposition shall be
11 submitted as provided for in the chapter on elections. The party applying for the franchise or
12 for a renewal or extension thereof, shall pay all expenses incurred in holding the election.

SEC. 27. They shall have power to provide for the laying, relaying, and repairing of
2 temporary plank sidewalks upon any street, highway, avenue, public ground, wharf, landing,
3 or market place within the limits of such city or town, at a cost not exceeding forty cents a
4 linear foot, to prescribe a uniform width thereof, and to regulate the grade of the same, and
5 to provide for the assessment of the cost thereof on the property in front of which the same
6 shall be laid.

SEC. 28. They shall have power to provide for the construction, reconstruction, and
2 repair of permanent sidewalks, upon any street, highway, avenue, public ground, wharf, land-
3 ing, or market place within the limits of such city; but the construction of permanent side-
4 walks shall not be made until the bed of the same shall have been graded so that, when
5 completed, such sidewalk will be at the established grade, and to assess the cost thereof on
6 the lots or parcels of land in front of which the same shall be constructed; but unless the
7 owners of a majority of the linear feet of the property fronting on said improvement petition the
8 council therefor, the same shall not be made unless three-fourths of all the members of the
9 council shall by vote order the making thereof.

SEC. 29. They shall have power to repair sidewalks without notice to the property
2 owner and assess the expense thereof on the property in front of which such repairs are made
3 and the same shall be certified and collected as other taxes.

SEC. 30. They shall have power to remove snow, ice or accumulations from abutting
2 property from the sidewalk without notice to the property owner, if the same has remained
3 upon the walk for the period of ten hours, and assess the expense thereof on the property
4 from the front of which such snow, ice or accumulations shall be removed; but the expense shall
5 not exceed one and one-half cents per front foot of any lot, and the same shall be certified and
6 collected as other special taxes.

SEC. 31. They shall have power to establish grades and provide for the grading of any
2 street, highway, avenue, alley, public ground, wharf, landing, or market place, the expense
3 thereof to be paid from the general or grading fund or from the highway or poll taxes of such
4 city or town, or partly from each of such funds.

SEC. 32. They shall have power to provide that the grading of all streets, highways,
2 avenues, alleys, public grounds, wharves, landings, or market places, of all additions to any
3 city or town, shall be done in the same manner and conform to existing streets, avenues, high-
4 ways, and alleys thereof.

SEC. 33. Cities of the first class shall have power to construct embankments where streets
2 cross ravines or where it is necessary that fills should be made for the purpose of retaining the
3 street at grade to the full width of the remaining portions thereof. Such cities may purchase
4 or condemn lands suitable for such purposes in the manner provided for condemning land by
5 cities, but when the abutting property shall be brought to grade, such city shall reconvey the
6 land so taken to the owner from whom the same was taken, or his grantees, upon payment by
7 him or them of the price originally paid by said city at the time said property was purchased
8 or condemned.

SEC. 34. When any city or town shall have established the grade of any street or alley,
2 and any person shall have made improvements on the same or lots abutting thereon accord-
3 ing to the established grade thereof, and such grade shall thereafter be altered in such a man-
4 ner as to damage, injure or diminish the value of such property so improved, said city or town
5 shall pay to the owner of such property the amount of such damage or injury.

SEC. 35. The amount of such damage or injury shall be determined and assessed by three
2 disinterested freeholders, one of whom shall be selected by the mayor, one by the owner of
3 the property and one by the two so appointed; or, in case of their disagreement, by the council.
4 If the owner fails to select an appraiser within ten days from the time of receiving notice to
5 select same, then the council shall select all such appraisers.

SEC. 36. The appraisers shall take an oath to faithfully and impartially discharge their
2 duties. They shall give ten days' notice in writing to the owner of the property affected, of
3 the time and place of their meeting to view the premises and make their assessment, if such
4 owner resides in the county, which notice shall be served in the same manner as original
5 notices in the district court. If the owner resides outside of the county, or his residence is
6 unknown, notice shall be given by publication once a week for three weeks in some newspaper
7 published in the city or town where the property is located.

SEC. 37. The appraisers shall view the premises, and, in their discretion receive evidence,
2 and may adjourn from day to day. When the appraisalment is completed the appraisers shall
3 sign and return the same to the council, which shall be done within thirty days from the date
4 of their selection.

SEC. 38. The council may, in its discretion, confirm or annul the appraisalment, and if
2 annulled, all proceedings shall be void and of no effect, but if confirmed, an order of confirma-
3 tion shall be entered by the clerk in the record of the proceedings of the council. No altera-
4 tion of grade shall be made until the damages assessed shall have been paid or tendered to
5 the owner of the property so injured or damaged.

SEC. 39. Any person interested may appeal from the order of confirmation to the district
2 court of the county in which such property is located, by giving written notice thereof to the

3 mayor, within twenty days after the order of confirmation is entered, On the trial of the
4 appeal all questions involved in the proceedings, including the amount of damages, shall be
5 open to investigation and the burden of proof shall, in all cases, be upon the city or town to
6 show that the proceedings are in accord with the provisions of this chapter. The cost of such
7 proceedings, incurred prior to the order of confirmation or annulment of the appraisalment
8 shall in all cases be paid by the city or town. If the person appealing recovers more dam-
9 ages than were awarded by the appraisers, he shall recover the costs of the appeal; if he
10 recovers the same or less than the award, the costs of the appeal shall be taxed to him.

SEC. 40. They may provide for or authorize the construction, reconstruction, and repair
2 of sewers and regulate their use and pay therefor out of the general or sewer fund.

CHAPTER 7.

OF STREET IMPROVEMENTS, SEWERS, AND SPECIAL ASSESSMENTS.

SECTION 1. Cities having a population of five thousand or over shall have power to
2 improve any street, highway, avenue, or alley by grading, parking, curbing, paving, gravelling,
3 macadamizing, and guttering the same or any part thereof, and provide for the making and
4 reconstruction of such street improvements, and to assess the costs on abutting property as
5 provided in this chapter; but the construction of permanent parking, curbing, paving, gravel-
6 ling, macadamizing, or guttering, shall not be done until after the bed therefor shall have
7 been graded so that such improvement when fully completed will bring the street, highway,
8 avenue, or alley up to the established grade; provided, that only so much of the cost of the
9 removal of the earth and other material, as lies between the sub-grade and the established
10 grade, shall be assessed to abutting property.

SEC. 2. The construction or reconstruction of such improvement shall not be ordered
2 made until three-fourths of all the members of the council shall by vote assent thereto,
3 unless the same be petitioned for by the owners of the majority of the linear front feet of the
4 property abutting thereon, but a majority of the council may provide for repairing said
5 improvements.

SEC. 3. They shall have power to provide for the making, reconstruction, and repair of
2 sewers and catch basins in any street, highway, avenue, alley, public ground, or market place
3 within the limits of said city, and may by ordinance divide such city into such sewer districts
4 as the council may determine, numbering them consecutively, or the entire city may be
5 included in one district; but such construction or reconstruction shall not be ordered made
6 until three-fourths of all the members of the council shall by vote assent thereto, unless the
7 same shall be petitioned for by the owners of a majority of the linear front feet of the prop-
8 erty abutting on such sewer, and a majority of the owners of adjacent property benefited
9 thereby and liable to assessment therefor; but a majority of the council may provide for

10 their repair. Any city in which any state building may be situated, shall permit the officers in
11 charge thereof, or of their construction, to construct sewers therefor, through or under any
12 of the streets, highways, avenues, alleys, or public places of said city, or to connect the same
13 with the city sewer system, under the same regulations that are provided for private property
14 owners.

SEC. 4. They shall have power in order to carry off flowing water, or for other reasons,
2 to follow ravines, and lay a main or lateral sewer to pass through private property, and con-
3 demn the same for the location thereof, in the manner provided for the condemnation of land
4 for city purposes, the costs of which shall constitute a part of the expenses of the sewer and
5 be assessed accordingly.

SEC. 5. They shall have power to provide by ordinance or resolution, terms and con-
2 ditions on which cross sewers may be attached to, or connected with, main sewers; and in
3 cases where sewers have been constructed in whole or in part by special assessment, may
4 pay to the parties who have been so assessed the money, or a part thereof, charged and col-
5 lected for the privilege of attaching such cross sewers.

SEC. 6. They shall have power to deepen, widen, straighten, wall, fill, cover, alter, or
2 change the channel of any water course or part thereof, flowing through the limits of such
3 city; to construct artificial channels, or covered drains, sufficient to carry the water thereto-
4 fore flowing in such water course, and divert it from the natural channel, and conduct the
5 same through such artificial channel or covered drain, and fill the old channel.

SEC. 7. When the council determines by resolution or otherwise, to exercise the powers
2 named in the preceding section, it shall direct the city engineer, if there is one, and if not,
3 one employed by it, to make the proper plans and specifications for doing the work, and pre-
4 pare an estimate of the cost thereof.

SEC. 8. If the council on receiving the plans, specifications, and estimate of the expenses
2 to be incurred, referred to in the last preceding section, shall still be of the opinion that the
3 work should be done as proposed, it shall call a special election to finally determine the same
4 question, and also the question of levying a special tax in addition to all other taxes now pro-
5 vided for by law for that purpose. If the council shall determine that the estimated cost is
6 greater than should be levied and collected in a single year, it may fix the yearly proportion
7 and determine in what years the same shall be levied and collected; and provide by ordinance
8 or resolution the time of submitting the question to a vote.

SEC. 9. If a majority of the votes cast shall be in favor of the proposition, the council
2 shall order the engineer to make a survey and plat of the stream or portion thereof proposed
3 to be widened, deepened, straightened, walled, filled, altered, changed, or diverted. The
4 plat shall show its condition, position, location, boundaries, and course at the time of the plat-

5 ting of the town site, as nearly as possible, its present condition, location, and course; any
6 changes that have occurred in its natural course, since the platting of the town site, all the
7 lots or tracts of land, by their description, abutting on said original or present channels, and
8 the names of all the owners thereof, which plat and notes of the survey the engineer shall file
9 in the office of the clerk, retaining a duplicate in his office.

SEC. 10. After the plat and notes of the survey are made and filed the council shall
2 appoint five commissioners, resident freeholders of the city not interested in any property
3 abutting on said stream, who shall be sworn faithfully and impartially to perform the duties
4 that may be required of them either by this chapter or any ordinance passed in pursuance
5 hereof, who shall determine what lot, lots, or lands abutting on said stream will be benefited
6 or damaged by doing the work, the amount of benefit or damages which will accrue to or be
7 sustained by each and every lot, lots, or lands and the owners thereof, and make report in
8 writing of their findings. In determining any question as to whether benefits accrue to or
9 damages are sustained by such lot, lots, or lands, or the owners thereof, the said commission-
10 ers shall consider the amount of land reclaimed or lost, the expense that will be incurred by
11 the owners thereof in doing said work, and the advantages accruing from the removal of the
12 easement of said water course, and any other matter that they may think proper to be con-
13 sidered for such purpose, but no damages shall be awarded for the cost of filling said channel.
14 The commissioners shall give notice of the time and place of their meetings to determine
15 what lot, lots, and lands are benefited or damaged, by publication thereof at least five days
16 successively prior thereto, in some newspaper of general circulation in said city, and for the
17 purpose of enabling them to determine the fact of benefit or damage, may take any compe-
18 tent evidence which the owner of any property affected may see fit to offer. The findings of
19 the commissioners shall be returned to the council and it may approve, reject, or modify the
20 same. Notice of the hearing before the council, upon the report so made, shall be given
21 by publication in a newspaper of general circulation in the city for five successive days, which
22 last publication shall be ten days before such hearing, and if after this hearing it shall con-
23 clude to reject the report, it shall resubmit the matter to other commissioners, who shall pro-
24 ceed as in the first instance. If the council shall approve or modify this second finding, it
25 shall proceed to assess the amount of benefits so found against said abutting lot, lots, or lands,
26 and the channel to be filled or reclaimed. Any person aggrieved by the action of the council
27 in making said assessment, may appeal therefrom to the district court of the county in which
28 it is made within twenty days from the date of the assessment, and also have the right to
29 review the action of the council in said court in the manner now provided by law.

SEC. 11. If it is proposed to divert a stream or part thereof from its course and
2 conduct it through a new channel or through a covered drain, the council shall have

3 power to order the old channel filled up, and if any part is not so filled by the owner or own-
4 ers within such time as may be prescribed by ordinance or resolution, the council may con-
5 tract for filling the same or any part thereof, and shall have power to assess the cost thereof
6 against the property abutting thereon, including that reclaimed therefrom, in proportion to
7 the number of cubic yards of fill required and made upon, against and in front of each of said
8 lots or tracts, and shall provide, by ordinance or resolution, the manner of ascertainment of
9 said cost and of adopting and making said assessments, notice to be given to said owners of
10 the time and place of making the same, and it may also provide by ordinance or resolution
11 when said special assessments for benefits and for the expense of filling the old channel shall
12 become due and payable, whether in one payment or in installments, the number of install-
13 ments, the rate of interest not exceeding six per cent per annum the deferred payments shall
14 draw, and the time when said special installments shall mature. Such assessments shall
15 become a lien and be collected as in case of special assessments for sewers.

SEC. 12. Streets and alleys intersecting the stream or old channel shall be projected
2 across it so as to make a continuous street or alley, and if such street or alley is shown upon
3 the recorded plat as terminating on one side of such stream or old channel, the plat shall be
4 corrected so as to show a continuous street or alley, and the expenses of filling all such streets
5 and alleys shall be paid by the city.

SEC. 13. Said cities may also condemn and appropriate so much private property as
2 shall be necessary to carry into effect the provisions of this chapter relating to change of
3 water courses in the manner provided for condemning land for city purposes.

SEC. 14. After the report of the commissioners to the council and final action thereon
2 by it, the council shall have authority to order the work of constructing a new channel or
3 covered way or part thereof, as hereinbefore provided, and may authorize different portions
4 of said work to be done in different years successively.

SEC. 15. The cost of doing any work authorized, or any part thereof, except so much of
2 the cost of filling an old channel as is to be assessed against abutting property, the compensa-
3 tion for private property condemned and appropriated for such uses, and the damages sus-
4 tained on account of such change in the channel of a stream, shall be paid by a special tax,
5 by the collection of special assessments for benefits to lots and lands abutting upon the old
6 water course, by other special assessments, if any, which may be made against the property
7 adjacent to the streets and alleys on which the new channel or covered way is located and
8 benefited thereby, and by appropriations from the general funds of the city available for that
9 purpose, which special tax herein authorized the council shall have power to levy, payable
10 yearly and in proportion as the proposed work is done.

SEC. 16. If a covered drain or new channel shall be constructed along any street or alley
2 and used by the city as a sanitary or storm water-way, the council shall have power to assess
3 upon the lots or lands adjacent to the line of such covered drain or new channel and benefited
4 thereby, a portion of the cost thereof, not exceeding the sum of two dollars per linear foot of
5 such drain or channel; which assessment shall be made and levied in the manner provided by
6 law relating to the cost of sewers.

SEC. 17. They may issue bonds in anticipation of such special tax, in the manner author-
2 ized with reference to sewer and city improvement funds, not in excess, however, of the tax
3 which shall have been levied.

SEC. 18. They shall have power to require the connections from gas, water and steam
2 heating pipes, sewer and underground electric connections to the curb line of adjacent prop-
3 erty to be made before the permanent improvement of the street, highway, avenue, alley,
4 public ground or place whereon they are located; and, where such improvements have already
5 been made, to regulate the making of such connections, and fix the charges therefor, and
6 make all needful rules and regulations in relation to such connections and the use thereof.
7 In case the owners of property on such streets shall fail to make such connections in the man-
8 ner and within the time fixed by the council, it may cause the same to be made, and assess
9 against the property in front of which they are made the cost and expense thereof.

SEC. 19. When the council of any such city shall deem it advisable or necessary to make
2 or reconstruct any street improvement or sewer authorized in this chapter, it shall, in a pro-
3 posed resolution, declare such necessity or advisability, stating the kind of material proposed
4 to be used and method of construction, whether abutting property will be assessed, and, in
5 case of sewers, the kind and size and what adjacent property is proposed to be assessed there-
6 for, and in both cases designate the location and terminal points thereof, and cause twenty
7 days' notice of the time when said resolution will be considered by it for passage to be given
8 by four publications in some newspaper of general circulation published in the city, the last
9 of which shall be not less than two nor more than four weeks prior to the time fixed for its
10 consideration, at which time the owners of the property subject to assessment for the same
11 may appear and make objection to the contemplated improvement or sewer and the passage
12 of said proposed resolution, at which hearing the same may be amended and passed or passed
13 as proposed.

SEC. 20. Upon compliance with the preceding section the council may, by ordinance or
2 resolution, order the making or reconstruction of such street improvement or sewer, but the
3 vote shall be by yeas and nays and entered of record, and the record shall show whether the
4 improvement was petitioned for or made on the motion of the council.

2 SEC. 21. When the making or reconstruction of any such street improvement or sewer is
3 ordered, the council or board of public works, where such board exists, shall contract for fur-
4 nishing labor and material and for the making or reconstruction, either of the entire work in
5 one contract or for parts thereof in separate and specified sections, but no work shall be done
6 under any such contract until a certified copy thereof shall have been filed in the office of the
7 clerk.

2 SEC. 22. All contracts for the making or reconstruction of street improvements and sew-
3 ers shall be let in the name of the city, to the lowest bidder, by sealed proposals, upon giving
4 notice for at least ten days by two publications in a newspaper published in said city, which
5 notice shall state as nearly as practicable the extent of the work and the kind of materials for
6 which bids will be received, when the work shall be done, the terms of payment fixed, and the
7 time the proposals shall be acted upon, but all bids may be rejected and new bids ordered.
8 All bids must be accompanied in a separate envelope, with a certified check payable
9 to the order of the treasurer, in a sum to be named in the notice for bids, as security that the
10 bidder will enter into a contract for the doing of the work, and will give the bond required in
11 the following section. All such checks, where the bid has not been accepted, shall be returned
12 to the respective bidders.

2 SEC. 23. Each contractor for street improvements and sewers shall give bonds to the
3 city, with sureties to be approved by the council or board of public works, where such board
4 exists, for the faithful performance of the contract, and suit on such bond may be brought in
5 the county in which the council may hold its sessions.

2 SEC. 24. After a contract has been made by any city for the making or reconstruction of
3 any street improvement or sewer, the clerk shall file with the auditor of the county or each
4 of the counties in which said city is situated, a written or printed copy of the notice of the
5 resolution provided for, with a true copy of the proof of publication thereof, together with a
6 certificate of the clerk that an ordinance or resolution has been adopted directing the making
7 or reconstruction of said street improvement or sewer. Thereupon all special taxes for the
8 cost thereof, or any part of said cost, which are to be assessed and levied against real prop-
9 erty, or any railway or street railway, together with all interest and penalties on all of said assess-
10 ments, shall become and remain a lien on such property from the date of the filing of said
11 papers with the county auditor until paid, and shall have precedence over all other liens
12 except ordinary taxes, which shall not be divested by any judicial sale, but such lien for street
13 improvements in case of abutting property shall not cover to exceed one hundred and fifty
14 feet in depth from the abutting line. 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. 25. The cost of any street improvement or sewer at the intersection of streets, highways, avenues and alleys, or any part of it, and one-half of the cost of the same at spaces opposite streets, highways, avenues and alleys, intersecting but not crossing, and at spaces opposite property owned by the city or the United States, or any part thereof, may be paid, in case of sewers, from the city sewer fund or the district sewer fund of such sewer district, or the general revenue of said city, or as provided in the second following section, and in case of street improvements, from the city improvement fund, except that part to be constructed by, paid for by, or assessed to railways and street railways; but the cost in whole or in part of such street improvement at the places designated in this section, excluding cost of that part embraced within the foregoing exception, may be assessed against the property abutting or fronting upon that portion of the street, highway, avenue or alley so improved in proportion to the linear front feet fronting or abutting upon such improvement.

SEC. 26. The cost of opening, widening, extending, and grading any street, highway, avenue, alley, public ground, or market place, shall be paid in whole or in part from the grading fund. The cost of making or reconstructing any street improvement authorized in this chapter, except that embraced within the preceding section, and that hereinafter provided to be paid by and assessed to railways or street railways, shall be assessed as a special tax against the property abutting thereon, in proportion to the number of linear front feet of each parcel so abutting.

SEC. 27. The cost or any part thereof of making or reconstructing sewers, including that provided for in the second preceding section, may be paid from the district sewer fund of the sewer district in which the same is situated, or from the city sewer fund, or from the general revenue, and the portion thereof not so paid, and not in excess of three dollars 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 parcel thereof, and upon adjacent property in proportion to the benefit thereto; but in estimating the benefits to result therefrom to adjacent property no account shall be taken of improvements, and each lot or parcel of land shall be considered as wholly unimproved. The city may combine any or all of said methods of assessment.

SEC. 28. When the making or reconstruction of any street improvement or sewer shall have been completed, or such part thereof shall have been completed as, under the contract, is to be paid for when done, the council or board of public works, where such board exists, shall ascertain the cost thereof, including the cost of the estimates, notices, inspection and preparing the assessment and plat, and shall also ascertain what portion of such cost shall be, by law and the ordinance or resolution of the council under which such street improvement was made or sewer constructed, assessable upon abutting property; and, in case of sewers, also upon adjacent property, and what portion shall be assessed upon such abutting property, and

9 in case of sewers, upon such abutting and adjacent property, for intersections and spaces oppo-
10 site property owned by the city, or the United States, and the council shall then assess such
11 portions upon and against such property as provided by law.

SEC. 29. In assessing that part of the cost of the making or reconstruction of any street
2 improvement or sewer, or completed part thereof, which is assessable against the lots or par-
3 cels of ground abutting thereon, or, in case of sewers, adjacent thereto, the council, or board
4 of public works, where such board exists, shall cause to be prepared a plat of the streets, ave-
5 nues, highways, alleys, or the part thereof on which the same shall have been made or recon-
6 structed, showing the separate lots or parcels of ground or specified portion thereof subject to
7 assessment for such improvement, the names of the owners thereof as far as practicable, and
8 the amount to be assessed against each lot or parcel of ground, and against any railway or
9 street railway, and shall file said plat and schedule in the office of the clerk, which shall be
10 subject to public inspection.

SEC. 30. The city engineer or other person employed by the council to discharge the duties
2 of such office shall, under its direction, or that of the board of public works, where such board
3 exists, make or assist in making all estimates for street improvements and sewers, furnish the
4 necessary grades and lines, see that the work conforms thereto and is in accordance with the
5 ordinance or resolution of the council, and make or assist in making each required assessment,
6 plat, and schedule.

SEC. 31. After filing the plat and schedule the council shall give at least ten days' notice
2 by two publications in each of two newspapers published in the city, if there be that number,
3 otherwise in one, and by hand bills posted in conspicuous places along the line of such street
4 improvement or sewer, that said plat and schedule are on file in the office of the clerk, and
5 that within twenty days after the first publication all objections thereto or to the prior pro-
6 ceedings on account of errors, irregularities, or inequalities, must be made in writing and
7 filed with the clerk; and the council having heard such objections and made the necessary
8 corrections shall then make the special assessments as shown in said plat and schedule, as
9 corrected and approved.

SEC. 32. All objections to errors, irregularities, or inequalities in the making of said
2 special assessments, or in any of the prior proceedings or notices, not made before the council
3 at the time and in the manner herein provided for shall be waived.

SEC. 33. The special assessments made in said plat and schedule as corrected and
2 approved, shall be levied at one time by ordinance or resolution against the property abutting
3 on such street improvement or sewer, and, in case of sewers, upon adjacent property, and;
4 when levied and certified, shall be payable at the office of the county treasurer. If the owner
5 of any lot or parcel of land or railway or street railway, the assessment against which is

6 embraced in any bond or certificate provided for in chapter eight of this title, shall, within thirty
7 days from the date of such assessment, promise and agree in writing endorsed on such bond
8 or certificate, or in a separate agreement, that in consideration of having the right to pay his
9 assessment in installments, he will not make any objection of illegality or irregularity as to
10 the assessment or levy of such tax upon and against his property and will pay said assessment with
11 interest thereon at such rate, not exceeding six per cent per annum, as shall by ordinance or
12 resolution of the council be prescribed, such tax so levied against the lot or parcel of land or
13 railway or street railway of such owner shall be payable in seven equal installments, the first
14 of which with interest, on the whole assessment, shall mature and be payable on the date of
15 such assessment, and the others, with interest on the whole amount unpaid, annually there-
16 after, at the same time and in the same manner as the March semi-annual payment of ordi-
17 nary taxes; but where no such promise and agreement in writing shall be made by the owner
18 of any lot or parcel of land or railway or street railway, within said time, then the whole of
19 said special assessment so levied upon and against the property of such owner shall mature at
20 one time and be due and payable, with interest, on the date of such assessment, and shall be
21 collected at the next succeeding March semi-annual payment of ordinary taxes. All such
22 taxes with interest shall become delinquent on the first day of March, next after their
23 maturity and shall bear the same interest with the same penalties as ordinary taxes.

SEC. 34. A certificate of levy of such special assessment, fixing the number of install-
2 ments and time when payable, certified as correct by the clerk, shall be filed with the auditor
3 of the county or of each of the counties in which such city is situated, and thereupon said
4 special assessment as shown therein shall be placed on the tax list of the proper county.

SEC. 35. Each installment of any special assessment shall bear interest from the date of
2 the assessment not to exceed six per cent per annum, which shall become due and payable at
3 the March semi-annual payment of ordinary taxes. If certificates or bonds issued to pay for
4 said street improvement or sewer bear a less rate of interest, the clerk shall certify to the
5 auditor of said county or counties such fact, and the installments shall draw such rate of
6 interest only. Upon the payment of any installment there shall be computed and collected
7 the installment and interest on the whole assessment remaining unpaid up to the first day of
8 April following.

SEC. 36. The owner of any property against which a street improvement or sewer assess-
2 ment has been levied shall have the right to pay the same or the unpaid installments thereof,
3 with all interest as the case may be, up to the time of said payment, with any penalties and
4 the cost of any proceedings for the sale of the property for such special assessment or install-
5 ments. No part of the line of said railway or street railway shall be released from the lien
6 for any part of any unpaid assessment which has been made against it for street improve-

7 ments until the whole assessment shall have been paid. If any owner of property subject to
8 special assessment shall so divide the same that the feet fronting upon such street improve-
9 ment or sewer are contained in two or more lots or parcels, he may discharge the lien in like
10 manner upon any one or more of them by payment of the amount unpaid, calculated by the
11 ratio of square feet in area of such lot or lots or parcel or parcels to the area of the whole lot.

SEC. 37. Property against which a special assessment has been levied for street improve-
2 ment or sewers may be sold for any sum of principal or interest due and delinquent at any
3 regular or adjourned tax sale in the same manner, with the same forfeitures, penalties, and
4 right of redemption, and certificates and deeds on such sales shall be made in the same man-
5 ner and with like effect as in case of sales for the non-payment of ordinary taxes. At any such
6 sale, where bonds have been issued in anticipation of such special taxes and interest, the city
7 may be a purchaser and be entitled to all the rights of purchasers at tax sales. The pur-
8 chaser at such sale shall take the property charged with the lien of the remaining unpaid
9 installments and interest. The proceeds subsequently realized from sales of any property so
10 purchased shall be covered into the city improvement fund.

SEC. 38. When the whole or any part of the cost of the making or reconstruction of any
2 street improvement shall be ordered paid from the city improvement fund, to be levied upon
3 all the property within any city, it shall have the power, after the completion of the work, by
4 ordinance or resolution, to levy at one time the whole or any part of the cost of said improve-
5 ment upon all the taxable property within such city and determine the whole percentage of
6 tax necessary to pay the same and the percentage to be paid each year, not exceeding the
7 maximum annual limit of said taxes, and the number of years, not exceeding ten, given for
8 the maturity of each installment thereof, but no part of such cost shall be levied against prop-
9 erty owned by the city or the United States. Certificates of such levies shall be filed with the
10 auditor of the county or counties in which said city is located, setting forth the amount or
11 percentage and maturity of said tax or each installment thereof upon the assessed valuation
12 of all the property in said city, certified as correct by the clerk, and thereupon said tax shall
13 be placed on the tax list of the proper county or counties.

SEC. 39. When the whole or any part of the cost of making or reconstructing any sewer
2 shall be ordered paid from the sewer fund of any sewer district or from the city sewer fund,
3 the council may, after the completion of the work, by ordinance or resolution levy at one
4 time the whole or any part of the cost of such sewer upon all the taxable real property within
5 such sewer district or within the city as the case may be, and determine the whole percentage
6 of tax necessary to pay the same, and the percentage to be paid each year not exceeding the
7 maximum annual limit of said taxes, and the number of years, not exceeding ten, given for
8 the maturity of each installment thereof, but no part of such cost shall be levied against prop-

erty owned by the city or the United States. Certificates of such levies shall be filed with the auditor of the county or counties in which said sewer district or city is located, setting forth the amount or percentage and maturity of said tax or each installment thereof, with a description of the boundaries of the particular sewer district or a sufficient description of the real property of the sewer district or city upon which the tax is levied, duly certified as correct by the clerk, and thereupon said tax shall be placed on the tax list of the proper county or counties.

SEC. 40. The cost of the repair of any street improvement or sewer or any part thereof, in case of sewers, may be paid from the city sewer fund or the district sewer fund of the sewer district in which said repair is made, or from the general revenue of said city, or part from each of said funds, and in case of street improvements, may be paid from the city improvement fund or the general revenue of said city.

SEC. 41. All special assessments levied against abutting property and railways and street railways for the payment of the cost of the making or reconstruction of street improvements or sewers shall be used for or appropriated to no other purpose than the payment in whole or in part of the cost of such work, or in payment of bonds or certificates issued to pay such cost, with the interest thereon.

SEC. 42. All railway and street railway companies shall be required to make, reconstruct, and repair all paving, graveling, or macadamizing between the rails of their tracks and one 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 bound to pave, gravel, or macadamize other portions of said street, and in that case said railway or street railway shall make, reconstruct, and repair the paving, graveling, or macadamizing of that part of the street specified by such ordinance; and such improvement, or the reconstruction or repair thereof, shall be of the material and character ordered by said city and shall be done at the same time that the remainder of said improvement is made, reconstructed, or repaired. When the same is made or completed, said companies shall lay, in the best approved manner, such rail as the council may require. They shall keep the paving, graveling, or macadamizing between said rails and one foot outside thereof, or such other part as they are liable to construct or maintain, up to grade and in good repair, using for such purpose the same material as is used for the original paving, graveling, or macadamizing, or such other material as the council may order. If the owner of said railway or street railway shall fail or refuse to comply with the order of the council to make, reconstruct, or repair such paving, graveling, or macadamizing, such work may be done by the city and the cost and expense thereof shall be assessed upon the real estate and personal property of said railway or street railway company within the

20 corporate limits of said city and against such railway or street railway company, in the man-
21 ner hereinbefore provided for the assessment of such cost against abutting property and the
22 owners thereof.

SEC. 43. Before any street railway company shall lay its track upon any street that has
2 been paved, and which at the time is not being repaved, it shall pay into the city treasury the
3 value of all paving between its tracks and one foot outside thereof, which value shall be
4 determined by the city council, but in no case shall exceed the original cost of the paving,
5 and the money thus paid shall be refunded to the abutting property owners on said street in
6 proportion to the amounts originally assessed against the property abutting thereon.

SEC. 44. When by reason of non-conformity to any law or ordinance, or by reason of any
2 omission, informality, or irregularity, any special tax or assessment is invalid or is adjudged
3 illegal, or in case of deficiencies, the council shall have the power to correct the same by resolu-
4 tion or ordinance and may reassess and relevy the same, as also an amount to make up such defi-
5 ciencies, with the same force and effect as if done at the proper time, in the proper amount,
6 and in the manner provided by law or by the resolution or ordinance relating thereto.

SEC. 45. When, in making any special assessment, any property is assessed too little or
2 too much, the same may be corrected and a reassessment and relevy made in conformity
3 therewith, and any tax collected in excess of the proper amount shall be refunded to the per-
4 son paying the same. Such corrected assessment shall be a lien on the lots and parcels of
5 land, the same as the original, and shall be certified by the clerk to the county auditor in the
6 same manner, and shall, so far as practicable, be collected in the same installments, draw
7 interest at the same rate and be enforced in the same manner as the original assessment.

SEC. 46. Any provision of law, resolution, or ordinance specifying a time when, or the
2 order in which acts shall be done in a proceeding which may result in a special assessment,
3 shall be taken to be subject to the qualifications of the two preceding sections.

SEC. 47. Any person affected by the levy of any special assessment provided for in this
2 chapter may appeal therefrom to the district court within ten days from the date of such levy
3 by serving written notice thereof upon the mayor or clerk and filing a bond for costs to be
4 fixed and approved by either of said officers. Upon such appeal all questions touching the
5 validity of such assessment, or the amount thereof, and not waived under the provisions of
6 this chapter, shall be heard and determined. The appeal shall be tried as an equitable action
7 and the court may make such assessment as should have been made, or direct the making of
8 such assessment by the council. The costs of the appeal shall be taxed as in other actions.

SEC. 48. All special assessments made under this chapter against any railway or street
2 railway, shall be a debt due personally from such railway. Such special assessments and each
3 installment thereof, and certificates issued therefor when due, may be collected in the district

4 or superior court by action at law in the name of the city or town against such railway or
5 street railway or the lien thereof enforced against the property of such railway or street rail-
6 way on or against which the same has been levied, by action in equity at the election of the
7 plaintiff, and in any action at law where pleadings are required, it shall be sufficient to declare
8 generally for work and labor done, or materials furnished on the particular street, avenue,
9 alley, or highway, the levy of the tax and non-payment of the same; and in any action in
10 equity, it shall be sufficient to aver the same matters, together with a particular description
11 of the property, or parts thereof, against which such lien is sought to be enforced. Such action
12 may be maintained in the name of the city or town, for the use of any person entitled thereto
13 or any part thereof, upon filing a bond conditioned to pay all costs adjudged against the
14 plaintiff and protect it from all liability therefrom or damages growing out of the same, the
15 amount of the bond to be fixed by the court or a judge thereof in vacation, and the sureties
16 thereon to be approved by the clerk of said court.

SEC. 49. All contracts for the making or reconstruction of street improvements or sewers
2 shall contain a provision obligating the contractor and his bondsmen, to keep such improve-
3 ment or sewer in good repair for not exceeding one year after the acceptance of the same by
4 the city, and the bond shall be so conditioned.

CHAPTER 8.

OF STREET IMPROVEMENT AND SEWER BONDS AND CERTIFICATES.

SECTION 1. The council may provide, by ordinance or resolution, for the issuance of
2 street improvement and sewer certificates, payable to bearer or to the contractors who have con-
3 structed any street improvement or sewer or completed part thereof within the meaning of chap-
4 ter seven of this title, in payment or part payment therefor, each of which certificates shall state
5 the amount of one or more assessments, or a part thereof, made against the property, desig-
6 nating it, including railways and street railways, and the owners thereof liable to assessment
7 for the cost of the same, and may negotiate the same. Such certificate shall transfer to the
8 bearer, contractor, or assigns, all the right and interest of the city in every such assessment
9 or part thereof described therein, and shall authorize such bearer, contractor, or assigns, to
10 collect and receive every assessment embraced in such certificate by or through any of the
11 methods provided by law for their collection, as the same mature. Said certificates shall bear
12 interest at a rate not exceeding six per cent per annum, payable annually or semi-annually, as
13 fixed by said council, and may be paid by the tax-payer to the county treasurer who shall
14 receipt for the same and cause the amount paid to be applied to the payment of the certificate
15 issued therefor. No certificate shall be issued or negotiated by the city for less than its par
16 value, with accrued interest up to the date of the delivery or transfer thereof.

SEC. 2. For the purpose of providing for the payment of the assessed cost of any street
 2 pr ovement or sewer which is to be or has been assessed upon property abutting thereon,
 3 including railways and street railways liable for the payment thereof, and, in case of sewers,
 4 also upon adjacent property, the council may, by ordinance or resolution, provide for the
 5 execution and delivery of bonds for the amount of so much of the assessed cost or any part
 6 thereof, in anticipation of the deferred payment of the assessments levied therefor, such
 7 bonds to be called "street improvement bonds" or "sewer bonds," and issued in amounts of
 8 one hundred dollars or multiples thereof, not exceeding one thousand dollars, except that one
 9 bond may be issued for the amount necessary to make up the exact amount of such cost,
 10 which shall not exceed one thousand dollars. Street improvement bonds shall not include
 11 any sewer assessments, nor sewer bonds any street improvement assessments.

SEC. 3. Street improvement and sewer bonds respectively issued for any one levy, shall
 2 all bear the same date and be divided into as many series as there are installment payments
 3 of said special assessments, and each series shall be as nearly equal in amount as practicable.
 4 Each series of said bonds shall mature on the first day of April of the years in which the
 5 installments of said special taxes come due; shall bear the name of the street, avenue, high-
 6 way, alley or district in which said street improvement or sewer is located, and shall bear
 7 interest at a rate not exceeding six per cent per annum, payable annually or semi-annually, and
 8 coupons for said interest shall be attached thereto. Said bonds and coupons shall be signed
 9 by the mayor, countersigned by the clerk, and sealed with the corporate seal, and shall be
 10 substantially in the following form, but subject to changes that will conform them to the
 11 ordinance (or resolution) of the council, to-wit:

The city of....., in the state of Iowa, promises to pay as hereinafter stated,
 12 to the bearer hereof, on the day of....., the sum of dollars,
 13 with interest thereon at the rate of per cent per annum, payable annually, on
 14 the presentation and surrender of the interest coupons hereto attached. Both principal and
 15 interest of this bond are payable at the bank in the city of, state of
 16, This bond is issued by the city of under and by virtue of chapter
 17 eight of title five, of the code of Iowa, and the ordinance (or resolution), of said city, duly
 18 passed on the day of....., 1.....

This bond is one of a series of bonds of like tenor, date and amount, numbered from.....
 20 to and issued for the purpose of defraying the cost of improving, curbing and paving a
 21 portion of street (or constructing a sewer on street), as described
 22 in said ordinance or resolution, in said city, which cost is payable by the abutting property
 23 along said improvements, and is made by said law a lien on all said abutting or adjacent prop-
 24 erty, and payable in seven annual installments, with interest on all deferred payments at the
 25

26 rate of six per cent per annum, and this bond is payable only out of the fund,
27 created by the collection of said special tax, and said fund can be used for no other purpose.

28 And it is hereby certified and recited that all the acts, conditions and things required to be
29 done, precedent to, and in the issuing of this series of bonds, have been done, happened and
30 performed, in regular and due form, as required by said law and ordinance (or resolution); and
31 for the assessment, collection and payment hereon, of said special tax, the full faith and dili-
32 gence of said city of is hereby irrevocably pledged.

33 In testimony whereof, the city of, by its city council has caused this bond to
34 be signed by its mayor, countersigned by its city clerk, with the seal of said city affixed, this
35 day of, 1.....

36
37 City clerk. Mayor.

38 No.....

39 On the day of, the city of, Iowa, promises to pay
40 to bearer, as provided in said bond, the sum of dollars, at the
41 bank in the city of, being months' interest due that day on its
42 improvement bond No....., dated, 1.....

43
44 Countersigned, Mayor.

45
46 City clerk.

SEC. 4. When such bonds have been issued they shall be delivered to the clerk, who shall
2 register them in a book or books to be kept for that purpose, countersign them and then
3 deliver the same to the city treasurer or some bank selected by the council, which may require
4 of the treasurer or bank such security or such additional security as it may think necessary to
5 secure the payment in full of the proceeds thereof. The city treasurer shall report to the
6 clerk the number of bonds delivered by him and the amount received therefor or for which
7 credit has been given by the contractor.

SEC. 5. The bonds may be sold at public or private sale, but shall not be sold or nego-
2 tiated for less than their par value with accrued interest from date to the time of delivery
3 thereof. All the proceeds of bonds and of certificates negotiated shall be paid to the city
4 treasurer and shall be used only to pay for the cost of street improvements or sewers included
5 in the assessment or assessments pledged to the payment thereof. All money received by
6 said treasurer as proceeds of said bonds or certificates shall be kept in the same manner and
7 subject to all the regulations regarding other money of the city, except that he shall keep an
8 account of each levy of such special assessments, and all interest received and paid shall be

9 credited and charged to such fund.

SEC. 6. No money received by the city treasurer from the sale of street improvement and
2 sewer bonds or certificates shall be paid out, nor shall any certificate be issued to the con-
3 tractor or sold except upon the resolution of the council ordering the same, and no such reso-
4 lution for the delivery of any bonds or certificates or the payment of any of the proceeds of
5 said bonds or certificates, shall be made until the certificate of the city engineer or other com-
6 petent person selected, or board of public works where such board exists, has been filed,
7 stating, that the work contracted for or a completed part thereof, as the case may be, has been
8 completed according to the terms and stipulations of the contract.

SEC. 7. Such street improvement and sewer certificates, bonds, and coupons shall be pay-
2 able out of funds derived from the special taxes and interest thereon pledged to the payment
3 of the same, and such certificates or bonds shall not be delivered in excess of the special taxes
4 levied; but such certificates, bonds and coupons shall not make the city liable in any way, except
5 for the proper application of said special taxes. If any interest shall become due on any of
6 said bonds when there is no fund from which to pay the same, the council may make a tem-
7 porary loan for the payment thereof, which loan shall be repaid from the special taxes and
8 interest pledged to secure said bonds, but in case of purchase by the city at tax sale of the
9 property on which such tax is levied, it shall then be repaid from the city improvement fund.

SEC. 8. Refunding bonds may be issued to pay off and take up bonds issued in payment
2 for street improvements and sewers made under prior laws or to refund any part thereof.
3 Bonds thus issued shall substantially conform to the provisions of this chapter and the face
4 amount thereof shall be limited to the amount of the unpaid special assessments, with the
5 interest thereon applicable to the payment of the bonds so taken up. Sewer refunding bonds
6 and street improvement refunding bonds thus issued must be kept separate. Said refunding
7 bonds or their proceeds shall be used only to pay street improvement or sewer bonds so
8 taken up.

SEC. 9. When refunding bonds shall be issued to pay street improvement or sewer bonds
2 issued under prior laws, all special assessments, taxes and sinking funds applicable to the pay-
3 ment of such bonds previously issued, shall be applicable in the same manner and to the same
4 extent to the payment of the refunding bonds issued hereunder, and all the powers and duties
5 to levy and collect special assessments and taxes, to create liens upon property, and to estab-
6 lish sinking funds in respect of the bonds previously issued, shall continue until all refunding
7 bonds shall be paid. The city shall collect the special assessments out of which the said
8 bonds are payable, and hold the same separate and apart in trust for the payment of said
9 refunding bonds, but it shall be in no way liable except for the proper application of said
10 assessments.

CHAPTER 9.

OF PARK COMMISSIONERS AND BOARD OF PUBLIC WORKS.

SECTION 1. There shall be elected at the regular city election in each city of the first class, containing a population of twenty-five thousand or over, three park commissioners whose terms of office shall be six years, one to be elected each even numbered year, but at the first election three shall be elected, and hold their offices respectively for two, four, and six years, who shall by lot determine their respective terms.

SEC. 2. The commissioners shall, within ten days after their election, qualify by taking the oath of office, and organize as a board by the election of one their number as chairman and one as secretary, but no bond shall be required of them. They shall also elect a treasurer, not one of their number, who shall give bonds in the sum of twenty-five thousand dollars, the penalty of which may be increased by the board. The treasurer shall receive and pay out all moneys under the control of said board as ordered by it, but shall receive no compensation for his services. Each of the commissioners shall receive, for services actually performed, compensation at the rate of five dollars per day, not to exceed one hundred days in any year, and be reimbursed for all actual expenses incurred or money paid out by him in connection with the discharge of his official duties. An itemized statement of all expenses and moneys paid out shall be made under oath and filed with the secretary, and allowed only by the affirmative vote of the full board.

SEC. 3. The board shall, on or before the first Monday in September of each year, certify to the county auditor the per cent of taxes it may fix for park purposes, not exceeding two mills on the dollar on all taxable property of the city, to be known as "park fund," when collected to be paid over to the treasurer of the board and by him paid out on its orders, which shall state the name of the payee and the amount, and the purposes for which such amount has been expended. No money of this fund shall be appropriated or expended for any purpose except as provided in this chapter. Such fund may be used in purchasing or acquiring real estate for park purposes, including streets or highways to connect one park with another, or to connect a park with streets or highways, or for other purposes necessary and incident to the establishment and maintenance of parks, and for the purpose of improving and maintaining the same and defraying necessary expenses connected therewith, including the compensation of the board, its officers and employes; but when any annual tax or part thereof has been pledged for the payment of any bonds or the interest thereon, such tax or part thereof shall be devoted to no other purpose.

SEC. 4. It may acquire real estate within the city for park purposes, by donation, purchase or condemnation and take the title to the members thereof as a board and their successors in office in trust for the public and hold the same exempt from taxation. It may sell

4 or exchange any real estate acquired by it which shall be found unfit or not desirable for such
5 purposes; shall keep a record of all transactions and have exclusive control of all the parks
6 and pleasure grounds acquired by it and of any other ground owned by the city and set apart
7 for like purposes; and may make contracts, sue and be sued, but shall incur no indebtedness
8 in excess of the amount of taxes already levied and available for the payment thereof, except
9 bonds hereby authorized. It shall make an annual detailed report of the amounts of money
10 expended and the purposes for which used to the council at the regular November meeting
11 and annually publish in some newspaper in the city an itemized statement of all moneys paid
12 out or expended by it and of all sums owing by it. For the purpose of paying for real estate
13 it may issue bonds in such sums and amounts as found necessary, but the aggregate annual
14 interest on all bonds issued by it and at any time outstanding shall not exceed four-fifths of
15 the amount of the annual tax authorized by this chapter.

SEC. 5. Bonds issued by the board shall mature in not less than twenty-five nor more
2 than fifty years from date; shall be in sums of not less than one hundred nor more than one
3 thousand dollars, bearing interest at a rate not exceeding six per cent per annum, payable
4 annually or semi-annually, reserving therein the right to pay one hundred dollars or any mul-
5 tiple thereof at any time with interest on the sum so paid, up to the time of such payment.
6 Said board after the issuance of any of such bonds, shall each year for fifteen years before the
7 maturity thereof, set aside, out of the tax levied by it, a sum equal to one-fifteenth of the prin-
8 cipal thereof, which sum shall be applied in payment of the principal whenever the amount
9 on hand shall be sufficient to pay one or more of said bonds.

SEC. 6. Bonds issued under the provisions of this chapter shall be a lien upon all the real
2 estate acquired by the commissioners therewith, or with the proceeds thereof, and such bonds
3 or proceeds shall be used for the purchase of real estate only. The board shall have power to
4 mortgage such real estate to a trustee, for the purpose of securing the payment of said bonds,
5 and after the issuance thereof, there shall be pledged for the payment of the interest thereon,
6 so much of the annual tax levied by virtue of this chapter as shall be necessary to make such
7 payment, and the residue of said tax may be used by the board in the purchase of real estate
8 or improvement of the parks and pleasure grounds of the city.

SEC. 7. The board may in writing prescribe rules and regulations for the government of
2 the parks or public grounds under their control and persons resorting thereto, which rules and
3 regulations shall be in force when entered in the record of the proceedings of the board and a
4 copy thereof signed by the commissioners has been posted at each gate or principal entrance
5 to any such park or public grounds, and a wilful violation thereof shall be a misdemeanor,
6 punishable by a fine not exceeding twenty-five dollars. Any one who shall cut, break or deface
7 any tree or shrub growing in any such park or public ground, without authority, shall be
8 guilty of a misdemeanor.

SEC. 8. The mayor on written request of the board shall furnish adequate police protection for such parks, and the city shall furnish such water supply as may be necessary therefor and properly light the same at its expense. The board shall be entitled to the services of the city engineer, when requested, without expense to it. It shall have the power to regulate or forbid the erection of poles or the stretching of wires by electric light, street railway, or other corporations or persons in such parks or in or along streets, highways, or over public places laid out or controlled by it.

SEC. 9. Where any such city shall contain more than one organized township, at least one commissioner shall be a resident of each of said townships; and unless all of the commissioners shall agree upon the location of one park for a whole city, each township shall constitute a separate park district, and the proceeds of any bonds shall be apportioned to and expended in each district, in proportion to the tax levied thereon; and all funds received from taxes collected shall be expended in the same manner. If said board and the owners of any property desired by it for park purposes cannot agree as to the price to be paid therefor, it may cause the same to be condemned in the manner provided for taking land for city purposes.

SEC. 10. In any city having a population of thirty thousand or more, the council may by ordinance establish a board of public works to consist of two members, residents of the city, to be appointed by the mayor with the approval of the council. Upon the establishment of said board, one member shall be appointed for two years and one for three years, and their successors shall be appointed for three years. The members shall hold office until their successors are appointed and qualified. Vacancies shall be filled by the mayor with the approval of the council. No member of the council or city officer shall be a member of such board.

SEC. 11. Each member of such board shall receive a salary of not less than fifteen hundred nor more than twenty-five hundred dollars, to be fixed by the council, and not be reduced during his term of office. He shall also, before entering upon the discharge of his duties, take an oath and give a bond to faithfully perform the duties of his office, which bond shall be in the sum of not less than twenty thousand dollars, with two or more sufficient sureties approved by the council. No such member shall be directly or indirectly interested in any contract entered into by the board on behalf of such city, nor in the purchase or sale of any material from or to the city, in connection with anything over which the board has any supervision or control.

SEC. 12. The board shall consult the city engineer regarding the plans, specifications, and advisability of doing or making contemplated improvements or work, and he shall from time to time furnish it with estimates of the cost of material and plans and specifications for any work to be ordered or advertised to be done, and report to the board when, and whether, such improvements or work is made and completed according to contract.

SEC. 13. Contracts for all public works and improvements made by the board shall be
2 drawn by the city solicitor who shall charge not less than three, nor more than ten dollars for
3 each contract, including a copy thereof and specifications for the use of the contractor, to be
4 collected by him from the contractor and paid monthly to the city treasurer.

SEC. 14. It shall advertise for bids and make all contracts on behalf of the city for all
2 work, and for material and work for public improvements in excess of two hundred dollars,
3 whenever the same shall be ordered by the council or voted for at any election. Proposals for
4 bids shall be published once each week for two weeks in two of the daily newspapers therein,
5 which shall be completed at least two weeks before the making of any contract, which proposals
6 shall state the amount and kinds of material to be furnished, the kind of improvement, and the
7 time and conditions upon which bids will be received, all of which may be rejected. All con-
8 tracts shall be made with the lowest responsible bidder, but it shall not be necessary before
9 proposals are published or bids received to determine specifically the kind of material to be
10 used. All contracts made by said board shall be subject to the approval of the council.

SEC. 15. Whenever it shall disapprove of the plans, specifications, or estimates furnished
2 by the city engineer, it shall at once report the same in writing to the council stating its
3 reasons for such disapproval.

SEC 16. It shall advertise for bids and make contracts for the lighting of the streets,
2 alleys, public grounds, and buildings and shall have entire control, management, and direction
3 of the lamps, lights, lighting material, and persons charged with the care thereof.

SEC. 17. It shall superintend and take charge of all public work, the cleaning of streets
2 and public places and the removal of garbage, all street improvements, sewers and other
3 improvements, bridges, viaducts, and public buildings, and the entire erection, making, recon-
4 struction, and repair thereof, approve the estimates of the city engineer which may be made
5 from time to time of the cost of such work, as the same progresses, accept any building
6 erected, work done, or improvement made when completed according to contract, and per-
7 form such other duties as may be required of it by ordinance or resolution. But where a
8 preliminary notice is required, all proceedings prior to and including the passage of the
9 resolution or ordinance shall be taken by the council, and the certificates of the city engineer
10 that work has been done or material furnished, shall be made to said board, and orders for the
11 payment therefor shall be drawn and signed by it and approved as provided in the next
12 section.

SEC. 18. It shall control and direct all expenditures to be made by its department, and
2 sign and draw orders for the same, and all orders given and bills and accounts created by it
3 shall first be endorsed by each of the members thereof or their reasons stated in writing for
4 not doing so, and approved by the council, before the same shall be ordered paid.

SEC. 19. It shall not order any extra work in excess of that contained in any contract, or
2 pay out any money for extras, without submitting and recommending the same to the council
3 and receiving its authority therefor.

SEC. 20. It shall have power to appoint agents and employes subject to the approval of
2 the council, necessary for the doing of its work, who shall be actually engaged in the con-
3 struction or improvement of the public works, and shall not include any assistants, superin-
4 tendents, bookkeepers, or secretaries, the duties of which last named officers shall be per-
5 formed by said board without extra compensation.

SEC. 21. It shall require plans and specifications for all buildings costing over five
2 thousand dollars to be submitted for its approval, with the advice of the city engineer, and no
3 such building shall be erected until the above requirements have been complied with. It shall
4 require any person, before erecting any building or improvement within the city, to obtain a
5 permit from it, and shall charge not more than one mill on the dollar of the cost of the
6 construction thereof, based on the architect's or builder's estimate, and the money derived there-
7 from shall be paid monthly to the city treasurer.

SEC. 22. It shall, with the advice of the city engineer, superintend the laying of all water,
2 gas, and steam heating mains and all connections therefor, and stretching or laying of tele-
3 phone, telegraph, district telegraph, and electric wires, in the manner provided by the
4 ordinances of such city.

SEC. 23. It shall regulate the size, number, and manner of construction of fire escapes,
2 doors, and stairways of theatres, tenement houses, audience rooms, and all public buildings,
3 whether now or hereafter built, used for the gathering of a large number of people, so that
4 there may be convenient, safe and speedy exit in case of fire.

SEC. 24. It shall on the first days of April and December and at the expiration of the
2 term of office of any member, submit a full, complete and detailed statement to the council of
3 all work done by it, giving the amount of expenditures, the names of the persons who
4 have received pay, the amount of such pay, for what the same was paid, the number of
5 permits issued, and the amounts received therefor. The report shall also state that since the
6 last report, no member of said board has been directly or indirectly interested in any contract
7 let by or work ordered or superintended by it, or in the sale or purchase of any material
8 used in the erection, making, reconstruction, or repair of said work or improvements, and that
9 neither of them has received or expects to receive any presents or compensation from any
10 contractor or other person interested in said work or improvement, and said report shall be
11 sworn to by each member of said board.

SEC. 25. It shall keep copies of all contracts, plans, maps, specifications, plats and rec-
2 ords of every kind whatsoever, growing out of any work or improvement made or superin-

3 tended by it, the number of all building permits issued, and the location and cost of such
4 buildings and improvements. All purchases of materials shall be made by written orders,
5 signed by at least one member of the board. The board shall keep an office furnished with
6 fuel, lights, stationery, apparatus, and all other needful utensils for the work, to be provided
7 at the expense of the city.

SEC. 26. Any member of such board may at any time be removed from office by a vote of
2 two-thirds of the council for sufficient cause, and the proceedings in that behalf shall be
3 entered in the records of the council, but the council shall previously cause a copy of the
4 charges against such member or members sought to be removed, to be served upon him
5 or them, together with a notice of the time and place of hearing the same at least ten days
6 previous to the time assigned, and give him or them an opportunity to make defense thereto.

CHAPTER 10.

OF CONDEMNATION AND PURCHASE OF LAND.

SECTION 1. Cities and towns shall have power to purchase or provide for the condemna-
2 tion of, pay for out of the general fund, enter upon, and take any lands, within or without the
3 territorial limits of such city or town, for the following purposes:

- 4 1. For parks, commons, cemeteries, crematories, or hospital grounds;
- 5 2. For establishing, laying off, widening, straightening, narrowing, extending, and light-
6 ing streets, avenues, highways, alleys, wharves, landing places, public squares, public grounds,
7 public markets and market places, and public slaughter houses;
- 8 3. For any other purposes provided in this title and in all cases where such purchase or
9 condemnation is now or may hereafter be authorized.

SEC. 2. Cities shall have the power to acquire real estate within and without their terri-
2 torial limits necessary for sewer outlets, by purchase or condemnation, as in this chapter pro-
3 vided, and the expense of such acquisition of real estate and outlets shall be paid out of the
4 general fund or out of the sewer fund of the sewer district of which the same is an outlet.

SEC. 3. They shall have power to acquire real estate, or an interest therein as a pur-
2 chaser at an execution sale, when judgment is entered in favor of such city or town, or is other-
3 wise interested in the proceeding.

SEC. 4. They shall have power to dispose of and convey lands unsuitable or insufficient
2 for the purpose for which they were originally acquired, but when such lands are so disposed
3 of enough thereof shall be reserved for streets to accommodate adjoining property owners.
4 Conveyances executed in accordance with this section shall extinguish all the rights and
5 claims of the city or town existing prior thereto. They shall have power also to dispose of
6 the title or interest of such corporation in any real estate, or any lien thereon, or sheriff's
7 certificate therefor, owned or held by it, including any street or portion thereof vacated or

8 discontinued, however acquired or held, in such manner and upon such terms as the council
9 shall direct.

SEC. 5. Proceedings for condemnation of land as contemplated in this title, shall be in
2 accordance with the provisions relating to taking private property for works of internal
3 improvement, except that the jurors shall have the additional qualification of being freehold-
4 ers of the city or town.

SEC. 6. They shall have power to acquire by purchase or condemnation, for the purpose
2 of donating, and to donate to any railway company owning a line of railroad in operation or
3 in process of construction, in such a city or town, sufficient land for depot grounds, engine
4 houses, and machine shops for the construction and repair of engines, cars, and other machin-
5 ery necessary to the convenient use and operation of said railroad.

SEC. 7. Such donation or appropriation of funds to procure lands therefor can only be
2 made upon a petition to the council, signed by a majority of the resident freehold taxpayers
3 of the city or town, asking the same and fixing the sum which shall be thus appropriated.
4 Upon the presentation of the petition, the council shall call a special election, at which the
5 question of the proposed donation shall be submitted to the voters. The clerk shall prepare
6 the ballots and the election shall be held in the manner provided for in the chapter on elec-
7 tions. If there shall be a two-thirds majority in favor of the donation, the council shall
8 determine the lands to be donated by metes and bounds, the amount to be appropriated for
9 procuring the same, not exceeding the sum named in the petition, and in the name of the city
10 or town may acquire the same by purchase, or by the payment of the estimated damages in
11 case the same or any part thereof shall be taken in the name of the railway corporation under
12 condemnation proceedings as authorized by law, and the council may also vacate and convey
13 all streets and alleys within the boundaries of such site and prescribe the terms and condi-
14 tions upon which the grant is made, which shall be binding upon the company accepting it,
15 but land set apart as a public park, square, or levee shall not be thus donated, nor shall lands
16 occupied with buildings used for business purposes or private residences be appropriated under
17 the provisions of this section, without the consent of the owner or owners first obtained.

CHAPTER 11.

OF TAXATION.

SECTION 1. The council of each city or town shall levy a tax for the year then ensuing,
2 for the purpose of defraying its general and incidental expenses, which shall not exceed ten
3 mills on the dollar.

SEC. 2. Cities having a population of seven thousand or more, may annually levy a tax not
2 exceeding three mills on the dollar, to be known as the city bridge fund.

SEC. 3. The council of any city or town shall have power to levy and collect a tax on
2 dogs and other domestic animals not included in the list of taxable property for state and
3 county purposes.

SEC. 4. All property subject to taxation in any city or town which, by law, is not subject
2 to taxation for general municipal purposes, and all personal property necessary for the use
3 and cultivation of agricultural or horticultural lands shall nevertheless be liable to taxation
4 for road purposes as may be provided by the council, not exceeding the rate of five mills upon
5 the dollar of the assessed valuation thereof, but it shall not be liable for any other city tax.

SEC. 5. Any city or town shall have power to provide that all able bodied male residents
2 of the corporation between the ages of twenty-one and forty-five years, between the first day
3 of January and the first day of September of each year, either by themselves or satisfactory
4 substitute, shall perform two days' labor of nine hours each upon the streets, avenues, alleys,
5 highways, or public grounds within such corporation, at such times and places as the proper
6 officer may direct upon three days' notice in writing given, or pay in lieu thereof in money a
7 sum to be fixed by such council, not exceeding one and a half dollars for each of such day's
8 labor. For each day's failure to attend and perform the labor, or pay said sum of money as
9 required at the time and place specified, unless excused by the supervisor of highways or
10 street commissioner, the delinquent shall forfeit and pay the sum of two dollars, not exceed-
11 ing four dollars in all. Any person excused shall be again notified to perform such labor or
12 pay said sum of money in lieu thereof, at any time prior to September first of said year.

SEC. 6. In case of failure to pay said sum of money in lieu of said labor, together with
2 such forfeit, to the supervisor of highways, street commissioner, or other officer of said corpo-
3 ration authorized to receive the same within ten days from the expiration of the time fixed
4 for the performance of such labor, said corporation may recover the same by action brought
5 in the name of such city or town before the mayor of said corporation or before any justice of
6 the peace in the proper township. No property or wages belonging to said person shall be
7 exempt to the defendant on an execution issued for said judgment and costs. The tax and
8 forfeit money so collected shall be expended upon the streets, avenues, highways, alleys, or
9 public grounds of said corporation. All of such tax and forfeit money remaining unpaid on
10 the first day of September in each year may be certified to the county auditor at any time
11 before the following first day of October and shall be entered by him upon the tax list of said
12 county and treated and collected as ordinary county taxes and shall be a lien on all the real
13 property of the delinquent.

SEC. 7. But the entry of such tax and penalty upon the tax list shall not prevent an action
2 being brought therefor as hereinbefore authorized. Such action, however, must be commenced
3 within one year from the first day of October following the giving of notice to perform the

4 labor. In event of judgment being rendered therefor, and paid in whole or in part, after
5 the same has been certified to the county auditor, the court receiving such payment shall
6 execute duplicate receipts, exclusive of costs if so requested, and upon filing such receipt or
7 duplicate with the county auditor he shall make the proper entries on the tax lists, showing
8 the full payment of such tax and penalty, or part thereof, as the case may be.

SEC. 8. Any city shall have power to levy annually the following special taxes:

2 1. A tax not exceeding, in any one year, three mills on the dollar for a grading fund, to
3 be used for the purpose of opening, widening, extending, and grading any street, highway, ave-
4 nue, alley, public ground, or market place.

5 2. A tax not exceeding, in any one year, five mills on the dollar, for a city improvement
6 fund, to be used for the purpose of paying the cost of the making, reconstruction, or repair of
7 any street improvements at the intersections of streets, highways, avenues, or alleys, and at
8 spaces opposite streets, highways, avenues, and alleys, intersecting but not crossing, and at
9 spaces opposite property owned by the city or the United States, and for the purpose of paying
10 the purchase price and subsequent taxes assessed against property purchased by the city at
11 tax sale.

12 3. A tax not exceeding, in any one year, two mills on the dollar on the assessed valua-
13 tion of all property therein, for a city sewer fund, when the entire city comprises one sewer
14 district, to be used to pay the cost of the making, reconstruction, or repair of any sewer at the
15 intersection of streets, highways, avenues, alleys, and at spaces opposite streets, highways,
16 avenues, and alleys intersecting but not crossing, and at spaces opposite property owned by
17 the city or the United States, and to pay the whole or any part of the cost of the making,
18 reconstruction, or repair of any sewer within the limits of said city; when a city has been
19 divided into sewer districts, a tax not exceeding two mills on the dollar on the assessed valu-
20 ation of all property in the sewer district for a district sewer fund, to be used to pay, in whole
21 or in part, the cost of the making, reconstruction, or repair of any sewer located and laid in
22 that particular district.

23 4. In cities and towns which have or may hereafter establish a free public library, when
24 the trustees of such library have made the certificate provided for in chapter four of this title,
25 a tax not exceeding in any one year one mill on the dollar to be used for the main-
26 tenance of such library, and in cities of the first-class, an additional tax not exceeding in any
27 one year, three mills on the dollar, to pay the interest on any indebtedness and for the pur-
28 chase of real estate and the erection of a building or buildings thereon for such library
29 purposes, and to create a sinking fund for the extinguishment of such indebtedness.

30 5. A tax not exceeding in any one year, five mills on the dollar, which, with the water
31 rates or rents authorized, shall be sufficient to pay the expenses of running, operating, and

32 repairing water works owned and operated by any city or town, and the interest on any bonds
33 issued to pay all or any part of the cost of the construction of such works; but such tax shall
34 not be levied upon property which lies wholly without the limits of the benefit and protection
35 of such works, which limits shall be fixed by the council each year before making the levy.

36 6. A tax not exceeding in any one year, five mills on the dollar, which with the rates or
37 rentals authorized, shall be sufficient to pay the expenses of running, operating and repairing
38 gas works and electric light or power plants owned by any city or town, and the interest on
39 any bonds issued to pay all or any part of the cost of the construction of such works or plants;
40 but such tax shall not be levied upon property which lies wholly without the limits of the
41 benefit of the same, which limits shall be fixed by the council each year before making the levy.

42 7. A tax not exceeding in any one year, five mills on the dollar, for the purpose of paying
43 the amount due or to become due to any individual or company operating water works for
44 water supplied under any contract, the levy to be limited to the property as in subdivision six
45 hereof; and if the same is insufficient to pay such amount the deficiency shall be paid out of
46 the general fund.

47 8. A tax not exceeding in any one year, five mills on the dollar, for the purpose of paying
48 the amount due or to become due to any individual or company operating gas works or elec-
49 tric light or power plants for all gas or power supplied under any contract, the levy to be
50 limited to the property as in subdivision six hereof.

51 9. A tax for the purpose of creating a bond fund sufficient to pay the interest to accrue
52 before the next annual levy on funding or refunding bonds outstanding, and such proportion
53 of the principal, that at the end of five years the sum raised shall equal at least twenty per
54 cent of the amount of the bonds issued, at the end of ten years at least forty per cent of said
55 amount at the end of fifteen years at least sixty-five per cent of said amount, and at or before
56 the date of the maturity of said bonds, a sum equal to the whole amount of the unpaid prin-
57 cipal and interest, which tax shall be used to pay such principal and interest and for no other
58 purpose.

59 10. A tax as authorized in the preceding subdivision to be levied in the proportions
60 therein set forth and to be used exclusively in payment of the principal of bonds issued for
61 the construction of water and gas works and electric light and power plants, which tax
62 shall not be levied upon property lying wholly without the limits of the benefit of such
63 works or plants, which limits shall be fixed by the council each year before making the levy.

64 11. A tax, not exceeding one-half of one mill on the dollar of the assessed valuation of
65 the property within the corporate limits, for the care, preservation and adornment of any
66 cemetery owned or controlled by the city.

SEC. 9. The board of supervisors shall at the time of levying county taxes, levy on all property within the city the tax certified to them by the park commissioners for said city. If such commissioners fail to certify a tax or a sufficient tax for the purpose of paying the interest on bonds issued by the commissioners for park purposes that may be due or will mature within the fiscal year next ensuing, the board of supervisors shall levy such tax as shall be necessary to pay such interest; and if such commissioners each year for fifteen years before the maturity of bonds issued by them as provided in chapter eight of this title, fail to certify a tax equal to one-fifteenth of the principal of such bonds over and above the amount necessary for the interest on the same, the board shall annually levy such tax as may be equal to one-fifteenth of the principal thereof, which tax shall be set aside by the commissioners in the same manner and for the same purpose as directed in said chapter eight.

SEC. 10. The board of supervisors of the county in which a city or town is situated shall levy a special tax on the assessable property in such city or town to aid in the construction of highway or combination bridges when such tax shall have been voted by the city or town under the provisions of the chapter on streets and public grounds.

SEC. 11. When a tax has been levied by any city or town to pay off a judgment against such municipality, or by any city or town or by the executive council, to pay the principal and interest or either of them, of funding or refunding bonds issued by such municipality, such tax shall not be held invalid, if the rate of tax levied raises a sum in excess of the amount sought for such specific object, but the excess shall go into the general city or town funds. Money so raised is especially appropriated for such purposes and constitutes a distinct fund in the hands of the treasurer until the obligation assumed is discharged.

SEC. 12. Loans may be negotiated or warrants issued by any municipal corporation in anticipation of its revenues for the fiscal year in which such loans are negotiated or warrants issued, but the aggregate amount of such loans and warrants shall not exceed the estimated revenue of such corporations for the fund or purpose for which the taxes are to be collected for such fiscal year.

SEC. 13. When a petition shall be presented to the council of any city or town, signed by one-third of the resident taxpayers thereof, asking that the question of aiding in the construction or repair of any highway leading thereto be submitted to the voters thereof, the council shall immediately give notice of a special election by posting a notice in five public places in said city or town at least ten days before said election, which shall give the time and place of holding the election, the particular highway proposed to be aided, and the proportion of the highway tax then levied and not expended, or next thereafter to be levied, to be appropriated. At this election a proposition for an appropriation of a portion of the highway tax to aid in the construction or repair of the particular highway and the proportion of such tax proposed

10 to be so appropriated shall be submitted to the voters of such city or town, and the clerk shall
11 cause the proposition to be printed and placed upon the ballots and the election shall be con-
12 ducted in the same manner as provided with respect to like or similar propositions in the
13 chapter on elections, and if a majority of the votes polled be for adoption of the proposition,
14 then the council may aid in the construction or repair of said highway to the extent of said
15 appropriation, which shall not exceed fifty per cent of such tax, in the same manner as they
16 otherwise would were said highway within the corporate limits of said city or town. No part
17 of such tax shall be used or expended more than three miles from the limits of such city or
18 town and not more than twenty-five per cent thereof more than two miles from such limits.

SEC. 14. The auditor, clerk, or other officer of cities and towns whose duty it is to draw
2 the warrants thereof, shall not draw any such warrant except upon the vote of the council,
3 and he shall draw no single warrant for an amount in excess of five hundred dollars. War-
4 rants issued by any city or town shall not be received by the county treasurer in payment of
5 the city or town taxes.

SEC. 15. The officer drawing such warrants shall, on the first Monday of each month,
2 furnish the council a sworn and complete list of all warrants, and the amount thereof, drawn
3 by him during the preceding month, which list shall state on whose account and the object
4 and purpose for which each warrant was drawn.

SEC. 16. All assessments and taxes of every kind and nature levied by the council, except
2 as otherwise provided by law, shall be certified by the clerk on or before the first Monday in
3 September, to the county auditor, and by him placed upon the tax list for the current year,
4 and the county treasurer shall collect all assessments and taxes so levied in the same manner
5 as other taxes, and when delinquent they shall draw the same interest and penalties. Sales for
6 such assessments and taxes when delinquent, shall be made at the same time and in the same
7 manner as such sales are made for other taxes, and should there be other delinquent taxes or
8 assessments due from the same person, and collectible by the county treasurer, the sale shall
9 be for all such delinquent assessments and taxes, and all the provisions of law relating to the
10 sale of property for delinquent taxes shall be applicable as far as may be to such sales. The
11 county treasurer shall pay over to the treasurer of the municipality all moneys collected by
12 him belonging thereto on the first Monday of each month.

SEC. 17. All the provisions of chapter eleven of title four hereof shall be applicable to
2 cities and towns, their officers and employes, subject only to such modification as may be
3 necessary therefor.

SEC. 18. Any councilman or officer of a city or town who shall participate in, advise, con-
2 sent to, permit, or allow any tax or assessment levied by such city or town, or by other lawful
3 authority for city or town purposes, to be diverted to any purpose other than the one for which

4 it was assessed and levied, or shall in any way become a party to such diversion, shall be guilty
5 of embezzlement.

CHAPTER 12.

OF BONDS.

SECTION 1. Cities and towns may settle, adjust, renew, or extend the legal indebtedness
2 they may have, or any part thereof, in the sum of one thousand dollars, or upwards, whether
3 evidenced by bonds, warrants, or judgments, and may fund or refund the same and issue cou-
4 pon bonds therefor, but no bonds shall be issued under this section for any other purpose than
5 is above authorized.

SEC. 2. Such bonds shall be issued in sums of not less than one hundred nor more than
2 one thousand dollars each, running not more than twenty years, bearing interest not exceed-
3 ing six per cent per annum, payable annually or semi-annually, and shall be substantially in
4 the following form, but subject to changes that will conform them to the ordinance (or resolu-
5 tion) of the council, to-wit:

6 The city or (town of)..... in the state of Iowa, for value received promises to pay
7 to bearer.....dollars, lawful money of the United States of America, on.....,
8 with interest on said sum from the date hereof until paid at the rate of per cent per
9 annum, payable.....annually on the first days of.....and.....in each year,
10 on presentation and surrender of the interest coupons hereto attached. Both principal and
11 interest payable at.....

12 This bond is issued by the city (or town) of.....pursuant to the provisions of sec-
13 tion....., chapter....., title....., of the Code of Iowa, and in conformity to an
14 ordinance (or resolution) of the council of said city (or town) duly passed.

15 And it is hereby certified and recited that all acts, conditions and things required by the
16 laws and constitution of the state of Iowa to be done precedent to and in the issue of this
17 bond have been properly done, happened and been performed in regular and due form as
18 required by law, and that the total indebtedness of said city, including this bond, does not
19 exceed the constitutional or statutory limitations.

20 In testimony whereof said city (or town) by its council has caused this bond to be signed
21 by its mayor and attested by its auditor (or clerk) with the seal of said city attached this
22day of.....

23
24 Mayor of the city (or town) of.....

25 Attest:
26
27 Clerk of the city (or town) of.....

(Form of coupon.)

28

29 The treasurer of the city (or town) of....., Iowa, will pay to
30 bearer.....dollars, on....., at....., for.....annual interest on its
31bond, dated,

32 No.....

33 Mayor of the city (or town) of.....

34 Attest:

35

36 Clerk of the city (or town) of

SEC. 3. Said bonds shall be numbered consecutively, signed by the mayor, and attested
2 by the auditor or clerk, as the case may be, with the seal of the city affixed. The interest
3 coupons attached thereto shall be executed in the same manner.

SEC. 4. All bonds issued under the provisions of this chapter shall be issued pursuant to,
2 and in conformity with a resolution adopted by the council of said city or town, which shall
3 specify the amount authorized to be issued, the purpose for which issued, the rate of interest
4 they shall bear, and whether payable annually or semi-annually, the place where the principal
5 and interest shall be payable and when to become due, and such other provisions, not incon-
6 sistent with law, in reference thereto, as the council shall think proper, which resolution
7 shall be entered of record upon the minutes of the proceedings of the council, and a true and
8 complete copy thereof printed on the back of each bond, which resolution shall constitute a
9 contract between the city or town and the purchasers or holders of said bonds.

SEC. 5. When bonds have been executed as aforesaid, they shall be delivered to the
2 treasurer of the city or town, and his receipt taken therefor, who shall register the same in a
3 book provided for that purpose, which shall show the number of each bond, its date, date of
4 sale, amount, date of maturity, and the name and address of the purchaser, and, if exchanged,
5 what evidences of debt were received therefor, which record shall at all times be open to the
6 inspection of the citizens of said city or town. The treasurer shall thereupon certify upon the
7 back of each bond as follows: "This bond, duly and properly registered in my office, this....
8 day of

9

10 Treasurer of the city (or town) of

11 and shall stand charged on his official bond, with all bonds so delivered to him, and the pro-
12 ceeds thereof. He shall report under oath to the council of said city or town, at each first
13 regular session thereof in each month, a statement of all such bonds sold or exchanged by
14 him since his last report, and the date of such sale or exchange, and when exchanged a
15 description of the indebtedness for which exchanged.

SEC. 6. He shall, under a resolution and the direction of the council, sell the bonds for
2 cash on the best available terms, or exchange them on like terms for legal indebtedness of
3 the city or town evidenced by bonds, warrants, or judgments, outstanding at the date of the
4 passage of the resolution authorizing the issue thereof, and the proceeds shall be applied and
5 exclusively used for the purposes for which said bonds are issued. In no case shall they be
6 sold or exchanged for a less sum than their face value and all interest accrued at the date of
7 sale or exchange. After registration, the treasurer shall deliver said bonds to the purchaser
8 thereof, and when exchanged for indebtedness of said city or town, he shall at once cancel all
9 warrants or bonds, or secure proper credits therefor on judgments.

SEC. 7. Cities and towns issuing funding or refunding bonds under this chapter shall
2 levy taxes for the payment of the principal and interest thereof, in accordance with the pro-
3 visions of the chapter relating to taxation.

SEC. 8. When an amount in the hands of the treasurer belonging to the bond fund, after
2 deducting the amount required to pay the interest on bonds maturing before the next levy,
3 shall be sufficient to pay one hundred dollars or any multiple thereof of the principal, with
4 interest accrued thereon to the date of such payment, he shall notify the owner of the bond
5 or bonds next in order that he is prepared to pay such sums with all interest accrued thereon,
6 and if not presented for payment or redemption within thirty days after the date of such
7 notice, the interest on such sum shall cease and the amount stated in such notice shall be set
8 aside for payment on said bonds when presented. All redemptions shall be made in the exact
9 order of their issuance, and the notice herein required shall be directed to the address of the
10 owner of said bonds, as shown by the record kept in the treasurer's office.

SEC. 9. Any city may anticipate the collection of taxes authorized to be levied for the
2 grading fund, city improvement fund, district sewer fund, and city sewer fund, and for that
3 purpose may issue certificates or bonds with interest coupons, to be respectively denominated
4 city grading certificates or bonds, city improvement certificates or bonds, district sewer cer-
5 tificates or bonds of the particular sewer district, and city sewer certificates or bonds of said
6 city, and all the provisions of this chapter shall apply to such certificates, bonds, and coupons,
7 with such changes only as are necessary to adapt them thereto. Said bonds and interest
8 thereon shall be secured by said assessments and levies and shall be payable only out of the
9 respective funds hereinbefore named pledged to the payment of the same, and no bonds shall
10 be issued in excess of taxes authorized and levied to secure the payment of the same. It
11 shall be the duty of said city to collect said several funds with interest thereon, and to hold
12 the same separate and apart, in trust, for the payment of said bonds and interest, and to
13 apply the proceeds of said funds pledged for that purpose to the payment of said bonds and
14 interest.

SEC. 10. No action shall be brought questioning the legality of any of the bonds
2 authorized by this chapter, water works bonds, gas works bonds, or electric light or power
3 plant bonds, from and after three months from the time the same are ordered issued by the
4 proper authority.

CHAPTER 13.

OF PLATS.

SECTION 1. Every original proprietor of any tract or parcel of land, who has subdivided,
2 or shall hereafter subdivide the same into three or more parts, for the purpose of laying out a
3 town or city, or addition thereto, or part thereof, or suburban lots, shall cause a plat of such
4 subdivisions, with references to known or permanent monuments, to be made, giving the
5 bearing and distance from some corner of a lot or block in said town or city, to some corner
6 of the congressional division of which said town, city, or addition is a part, which shall accu-
7 rately describe all the subdivisions thereof, numbering the same by progressive numbers,
8 giving their dimensions by length and breadth, and the breadth and courses of all the streets
9 and alleys established therein. Description of lots or parcels of land in such subdivisions,
10 according to the number and designation thereof on said plat, in conveyances, or for the pur-
11 poses of taxation, shall be valid. The duty to file for record a plat as provided herein, shall
12 attach as a covenant of warranty, in all conveyances of any part or parcel of such subdivisions
13 by the original proprietors against any and all assessments, costs, and damages paid, lost, or
14 incurred by any grantee or person claiming under him, in consequence of the omission on the
15 part of said proprietor to file such plat.

SEC. 2. Every such plat shall be accompanied by a statement to the effect that the sub-
2 division of (here insert a correct description of the land or parcel subdivided) as appears on
3 this plat, is with the free consent and in accordance with the desire of the proprietor, which
4 shall be signed and acknowledged by him, before some officer authorized to take the
5 acknowledgment of deeds. Such proprietor shall also procure from the treasurer of the
6 county in which the land lies, and file with the recorder, a certified statement that the land laid
7 out into lots, streets, and alleys is free from taxes, and a certified statement from the recorder
8 that the title in fee is in such proprietor, and that it is free from incumbrance; but if the
9 parcel of land so laid out shall be incumbered with a debt certain in amount, and which the
10 creditor will not accept with accrued interest to the day of proffered payment if it draws
11 interest, or with a rebate of interest at the rate of six per cent per annum if it draws no
12 interest, or if the creditor can not be found, then such proprietor, and if a corporation, its
13 proper officer or agent, may file with the recorder of such county an affidavit, stating either that
14 such proprietor has offered to pay such creditor the full amount of his debt, with interest, or
15 with a rebate of interest as the case may be, and that he would not accept the same, or that he

16 cannot be found, whereupon such proprietor may execute and file with the recorder a bond in
17 double the amount of such incumbrance, with three sureties who shall be freeholders of the
18 county, to be approved by the recorder and clerk of the district court, which bond shall run
19 to the county, and shall be for the benefit of the purchasers of any lots, and shall be condi-
20 tioned for the payment of such incumbrance and the cancellation thereof of record as soon as
21 practicable after the same becomes due, and for the holding of all purchasers and those claim-
22 ing under them forever harmless from such incumbrance. When such affidavit and bond
23 shall have been filed with the recorder, together with a certificate of the recorder that said
24 land is free from all incumbrance except as secured by said bond, and that the title in fee is
25 in such proprietor, and that of the treasurer that the land is free from taxes, said plat shall be
26 admitted to record, and be as valid as if such proprietor had filed with the recorder the cer-
27 tificate of such officer that said land was free from all incumbrance.

SEC. 3. All plats of additions to any city or town or subdivisions of any part or parcels of
2 lands lying within or adjacent to any city or town shall be divided by streets into blocks,
3 with alleys separating abutting lots, and such blocks, streets and alleys shall conform as nearly
4 as practicable to the size of blocks and the width of streets and alleys in such city or town
5 and such streets and alleys shall be extensions of the existing system of streets and alleys
6 thereof. All plats of such additions or subdivisions, except subdivisions of less than one block,
7 before being recorded shall be filed with the clerk of such city or town, and when so filed the
8 council, within a reasonable time, shall consider the same, and if it is found that such plat
9 conforms to the provisions hereof, the council shall direct the mayor and clerk to certify its
10 resolution of approval, which shall be affixed to the said plat before it shall be received for
11 record by the county recorder.

SEC. 4. When the statement and plat are accompanied with the certificates, affidavit and
2 bond, when so required, and have been entered on the plat books in the auditor's office, they
3 shall be admitted to record and not otherwise, and shall be of no validity until so filed for
4 record in the office of the recorder, and such acknowledgment and recording shall be equiva-
5 lent to a deed in fee simple of such portion of the premises platted as is set apart for streets
6 or other public use, or as is dedicated to charitable, religious, or educational purposes.

SEC. 5. Any such plat may be vacated by the proprietor thereof at any time before the
2 sale of any lots by a written instrument declaring the same to be vacated, executed, acknowl-
3 edged, and recorded in the same office with the plat to be vacated, and the execution and
4 recording of such writing shall operate to annul the plat so vacated, and to divest all public
5 rights in the streets, alleys, and public grounds described therein. In cases where any lots
6 have been sold, the plat may be vacated as in this chapter provided, by all the owners of lots
7 joining in the execution of the writing aforesaid.

SEC. 6. Any part of a plat may be thus vacated, provided it does not abridge or destroy
2 any right or privilege of any proprietor in said plat, but nothing contained in this section shall
3 authorize the closing or obstruction of highways. When any part of a plat is vacated, the
4 proprietors of the lots may enclose the streets, alleys, and public ground adjoining them in
5 equal proportion, except as provided in the next section. The recorder in whose office the
6 plats are recorded, shall write across that part of the plat so vacated, the word "vacated" and
7 make a reference on the same to the volume and page in which the instrument is recorded.

SEC. 7. Whenever the owners of any tract of land not less than forty acres in extent
2 which has been platted into town lots, and the plat of which has been recorded, shall desire to
3 vacate the plat or a part thereof, a petition, signed by all the owners of it or the part to be
4 vacated, shall be filed in the office of the clerk of the district court of the county in which the
5 land is situated, returnable at the ensuing term and notice thereof given at least four weeks,
6 by posting notices in three conspicuous places in the town where the vacation is prayed, and
7 one upon the door of the court house of the county. At the term of court next following the
8 filing of the petition and notice, the court shall fix a time for hearing the petition, and notice
9 of the day so fixed shall be given by the clerk in some newspaper published in the county at
10 least one week before the day appointed for the hearing. At the hearing of the petition, if it
11 shall appear that all the owners of lots in the plat or part thereof to be vacated desire the
12 vacation, and there is no valid objection thereto, a decree shall be entered vacating such por-
13 tion of the plat, and the streets, alleys, and avenues therein, and for all purposes of assessment
14 such portion of the town shall be as if it had never been platted into lots; but if any street as
15 laid out on the plat shall be needed for public use, it shall be excepted from the order of vaca-
16 tion and shall remain a public highway. Vacations made under this chapter shall not be con-
17 strued to affect any lands lying within an incorporated city or town, which have been dedi-
18 cated or deeded to the public for parks or other public purposes.

SEC. 8. The owner of any lots in a plat vacated, may cause the same and a proportionate
2 part of the adjacent streets and public grounds to be replatted, and numbered by the county
3 surveyor, in the same manner as is required for platting in the first instance, and when such
4 plat is acknowledged by such owner, and is recorded in the recorder's office of the county, such
5 lots may be conveyed and assessed by the numbers given them on such plat.

SEC. 9. Whenever the original proprietor of any subdivision of land has sold or conveyed
2 any part thereof, or invested the public with any rights therein, and has failed and neglected
3 to execute and file for record a plat as provided in this chapter, the county auditor
4 shall by mail or otherwise notify some or all of such owners, and demand its execution. If
5 such owners, whether so notified or not, fail and neglect for thirty days after the issuance of
6 such notice, to execute and file said plat for record, the auditor shall cause one to be made,

7 making any survey necessary therefor. Said plat shall be signed and acknowledged by the
8 auditor, who shall certify that he executed it by reason of the failure of the owners named to
9 do so, and file it for record, and when so filed it shall have the same effect as if executed,
10 acknowledged, and recorded by the owners. A correct statement of the costs and expenses
11 of such plat, survey, and record, verified by oath, shall be by the auditor laid before the first
12 session of the board of supervisors, which shall allow the same and order them paid out of the
13 county treasury, and he shall at the same time assess the amount pro rata upon the several
14 subdivisions of said tract, lot, or parcel so subdivided, and it shall be collected in the same
15 manner as general taxes, and shall go to the general county fund, or said board may direct
16 suit to be brought in the name of the county to recover from the original proprietor such cost
17 and expense.

SEC. 10. Whenever a congressional subdivision of land of forty acres or less, or any lot
2 or subdivision is owned by two or more persons in severalty, and the description of one or
3 more of the different parts or parcels thereof can not, in the judgment of the county auditor,
4 be made sufficiently certain and accurate for the purposes of assessment and taxation, with-
5 out noting the metes and bounds of the same, he shall cause to be made and recorded a plat
6 of such tract or lot with its several subdivisions in accordance with the provisions of this chap-
7 ter, proceeding as directed in the preceding section, and all of its provisions shall govern.

SEC. 11. Every conveyance of land in this state shall be deemed to be a warranty that
2 the description therein contained is sufficiently definite and accurate to enable the auditor to
3 enter the same on the plat book required to be kept; and when there is presented for entry
4 on the transfer book, any conveyance in which the description is not sufficiently definite and
5 accurate, the auditor shall note such fact on the deed with that of the entry for transfer, and
6 shall notify the person representing it that the land therein is not sufficiently described and
7 must be platted within thirty days thereafter. Any person aggrieved by the opinion of the
8 auditor, may within said thirty days, appeal therefrom to the board of supervisors, by giving
9 notice thereof in writing, and thereupon no further proceeding shall be taken by the auditor.
10 At its next session the board of supervisors shall determine said matter and direct whether
11 the plat shall be executed and filed and within what time. If the grantor in such conveyance
12 shall neglect for thirty days thereafter, to file for record a plat thereof and of the appropriate
13 congressional subdivision in which the same is found, duly executed and acknowledged as
14 required by the auditor, or in case of appeal as directed by the board of supervisors, then the
15 auditor shall proceed as is provided in this chapter, and cause such plat to be made and
16 recorded, and thereupon the same result shall follow as provided in the preceding section.
17 Such plat shall describe said tract and any other subdivisions of the smallest congressional
18 subdivision of which the same is part, numbering them by progressive numbers, setting forth

19 the courses and distances, the number of acres, and such other memoranda as is necessary;
20 and descriptions of such lots or subdivisions, according to the number and designation thereon
21 said plat, shall be deemed sufficient for all purposes.

SEC. 12. In all cases where the original plat of any city, town, or village, or any addition
2 thereto has been or may be lost or destroyed after the sale and conveyance of any subdivision,
3 block, or lot thereof by the original proprietor and before the same shall have been recorded,
4 any three persons owning real property within the limits of such plat may have the same
5 resurveyed and replatted, and such plat recorded as hereinafter directed, but in no case shall
6 such replat be made and recorded without the consent in writing, endorsed thereon, of the ori-
7 ginal proprietor, if he be alive and his place of residence known.

SEC. 13. The county surveyor of any county in which is situated any city, town, village,
2 or addition thereto as contemplated in this chapter, may, and upon payment of his legal fees
3 by any person desiring the same, must make a resurvey of such city, town, village, or addi-
4 tion, or any portion, and plat thereof, which plat shall conform as near as may be with the
5 original lines of the parcel or tract so resurveyed and be made in all respects in accordance
6 with the provisions of this chapter. In making a resurvey and plat, the surveyor may sum-
7 mon witnesses, administer oaths, and take and hear evidence touching the original plat lines
8 and subdivisions, whether the original proprietor is dead, and any other matter which may
9 assist in arriving at and establishing the true lines and boundaries, but no resurvey shall be
10 made, except upon four weeks' notice to be given by the surveyor by a publication of the con-
11 templated resurvey in some newspaper printed in the county.

SEC. 14. When the surveyor has completed the plat, he shall attach his certificate
2 thereto, to the effect that it is a just, true, and accurate plat of said city, town, village, or
3 addition so surveyed by him; which shall be filed for record in the office of the recorder of the
4 proper county, and from the date of such filing it shall be treated in all courts of this state as
5 though the same has been made by the original proprietor thereof.

SEC. 15. Any person may at any time within six months from the date of its filing for
2 record, commence an action in equity against the persons employing the surveyor, setting up
3 their causes of complaint and asking that such record be canceled. If it appear on the trial
4 that the city, town, village, or addition was originally laid out and platted; that the original
5 proprietor had sold any or all of the lots thereof, or that he intended to dedicate to the public
6 the streets, alleys, or public squares therein; that the plat thereof has never been recorded,
7 but is lost; that the proprietor is dead or his place of residence unknown; and that the resur-
8 vey and plat filed for record is a substantially accurate survey and plat of the original plat
9 of such city, town, village, or addition, then the action shall be dismissed at the costs of the
10 complainants, otherwise the court shall set aside said plat and cancel the same of record at
11 the costs of defendants.

SEC. 16. None of the provisions of this chapter shall be construed to require replatting
2 in any case where plats have been made and recorded in pursuance of law, and all plats here-
3 tofore filed for record and not subsequently vacated are hereby declared valid, notwith-
4 standing irregularities and omissions in the required statement or plat, or in the manner or
5 form of acknowledgment, or certificates thereof.

SEC. 17. Any person who shall dispose of or offer for sale or lease any lots in any town,
2 or addition to any town or city, until the plat thereof has been acknowledged and recorded as
3 provided in this chapter, shall forfeit and pay fifty dollars for each lot and part of lot sold or
4 disposed of, leased, or offered for sale.

SEC. 18. The people of any town located wholly within an independent school district,
2 wherein is situated a public square or plat of ground deeded or dedicated to the town or
3 public, may transfer or rededicate to said school district such square or plat for the purposes
4 of a public school lot, to be used for the erection thereon of a public schoolhouse, or for play
5 grounds in connection with such schoolhouse.

SEC. 19. When a plat or lot of the character described in the preceding section is located
2 in such town, and one-half of the resident voters thereof, according to the last census, shall
3 petition the mayor and council, asking them to submit to the voters of the town at a general
4 or special election, the question whether or not such public plat or lot shall be transferred to
5 such independent district and dedicated and used for school purposes, they shall submit the
6 question to the voters of the town, in accordance with the prayer of said petition, after giving
7 ten days' notice in writing or printing thereof, in which the proposition submitted shall be
8 clearly set forth and signed by the mayor, three of which notices shall be posted in public
9 and conspicuous places in the town, and one published in the last two issues preceding such
10 election, in a weekly newspaper published therein, or if there be none, then in the weekly
11 newspaper published elsewhere in the county having the largest circulation in said town. The
12 notice shall also state the manner of voting, which shall be by ballot. The ballot shall con-
13 tain the words, "Shall the proposition to transfer lot (or block, or square, as the case may be,
14 describing it), for the purposes of a public schoolhouse lot, be adopted?" Such election
15 shall be conducted as ordinary town elections are, under the supervision of the town
16 authorities, who shall canvass the vote as provided in other cases. If it shall appear that
17 two-thirds of the votes cast at such election are in favor thereof, then such transfer shall be
18 complete, and the lot, block, or square may be appropriated and used for the purposes indi-
19 cated by said vote, and shall be no longer held for any other purpose.