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## BOARD OF HEALTH

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### CHAPTER 63.

[H. B. No. 315—Johns]

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#### SANITARY REGULATIONS OF PUBLIC BUILDINGS.

**AN ACT** Relating to the Duties of Local School Boards and Sanitary Regulations of School Houses, Churches and Public Halls.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. LOCAL SCHOOL BOARDS, DUTIES.] Each local board of Health shall, at least once every thirty days, in such manner as it shall direct, cause to be adequately disinfected each school house, within its jurisdiction; provided this act shall not apply to school houses during vacation; provided, that except in case of emergency, the disinfection of school houses shall be made after school hours on Friday afternoon or on Saturday.

Approved March 6, 1911.

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## CITIES

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### CHAPTER 64

[S. B. No. 88—Elken]

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#### REPAIRS OF CITY SIDEWALKS

**AN ACT** To Amend Section 2768 of the Revised Codes of the State of North Dakota for 1905, Relating to the Repairs of City Sidewalks.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 2768. REPAIRS.] Whenever the necessary repair of sidewalks will not, in the judgment of the street commissioner, exceed in cost the sum of ten dollars for each twenty-five feet in front of land belonging to the same owner, he shall notify the city auditor thereof, and the city auditor shall forthwith prepare a notice in writing, which may be general as to the owner of the lot or parcel of land, but describing it specifically, requiring him to repair such sidewalk to the satisfaction of the street commissioner, within a time to be fixed in such notice not exceeding three days. The auditor shall deliver such notice

to the street commissioner, who shall forthwith serve it by delivering a copy thereof to the occupant or owner of the parcel of land, if the same is occupied, or by leaving such notice at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years residing therein, or if such lot or parcel of land is not occupied, by posting a copy of such notice in a conspicuous place thereon or immediately in front thereof, and if such sidewalk is not so repaired within the time fixed in such notice, the street commissioner shall, as soon as practicable, repair the same and certify the cost thereof, with his return of service of such notice to the city auditor; and the cost of such repairs shall be paid out of the "sidewalk special assessment fund."

Approved February 10, 1911.

#### CHAPTER 65.

[S. B. No. 107—Elken]

#### ELECTION DISTRICTS AND PRECINCTS

AN ACT to Amend Section No. 2743 of the Revised Codes of North Dakota for 1905 Relating to Election Districts and Precincts.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

That section No. 2743 of the Revised Codes of North Dakota be amended to read as follows:

§ 2743. ELECTION DISTRICTS AND PRECINCTS.] Each city in which aldermen are elected at large, shall constitute an Election district, and in all other cities each ward shall constitute an Election district; but whenever the number of legal voters in any ward shall exceed three hundred, the council may by ordinance divide such ward into two or more precincts for voting purposes, and whenever the number of legal voters in any two or more contiguous wards shall not exceed one hundred as determined by the last annual election, the council may, by ordinance, consolidate such two or more wards into one precinct for voting purposes; or if the council so elects, in any city of less than four hundred voters as determined by the last annual election, the council may by ordinance consolidate all the wards of such city into one precinct for voting purposes; provided, however, that in city elections separate ballot boxes and poll books shall be provided and kept for each ward; provided, that such ordinance shall be passed and take effect before the time of giving notice of an election; and such wards and precincts shall constitute election districts for all state, county, city and school elections.

Approved February 21, 1911.

## CHAPTER 66.

[S. B. No. 108—Elken]

## QUALIFIED VOTERS. REGISTRATION IN CITIES.

AN ACT to Amend Section 2744 of the Revised Codes of North Dakota for 1905, Relating to Qualified Voters and Registration in Cities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

That section 2744 of the Revised Codes of North Dakota is amended to read as follows:

§ 2744. QUALIFIED VOTERS. REGISTRATION.] Every legal voter of the county in which such city is situated, who shall have been a resident of the city ninety days next preceding a city election is declared a citizen of said city, and shall be entitled to vote at all city elections; provided, that the city council shall provide for the registration of all voters as required by the laws of the state in all cities of more than four hundred voters as determined by the last annual election, and in cities of four hundred voters or less, the city council may provide for the registration of all voters in accordance with the laws of the state at one polling place, and separate registration lists shall be provided and kept for each ward, and no person shall be entitled to vote in any other place than the ward or precinct where he resides, except where otherwise provided by law.

Approved February 21, 1911.

## CHAPTER 67.

[S. B. No. 56—Bessessen]

## CITIES UNDER COMMISSION FORM OF GOVERNMENT.

AN ACT to Enable Cities in This State That May Adopt or Have Adopted the Commission form of Government, as Provided in Chapter 45 of the Laws of 1907, to Recall Incompetent or Dishonest Elective Officers by Vote of the People, also Providing for the Initiative and Referendum in City Matters, Defining the Form of the Petition Required in the Law, and Prescribing the Manner in Which a City Which May Adopt or has Adopted the Commission Plan May Return to the Former System.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. RECALL.] The holder of any elective office in cities which may adopt or have adopted the commission plan of government as provided in chapter 45 of the laws of 1907, may be

removed at any time by the electors qualified to vote for a successor or such incumbent, the procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five per centum of the entire vote for all candidates for the office of President cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed, shall be filed with city auditor, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city auditor shall examine, and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the board of city commissioners shall allow extra help for that purpose, and he shall attach to said petition his certificate, showing the result of said examination. If by the auditor's certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The auditor shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition of the same effect. If the petition shall be deemed to be sufficient, the auditor shall submit the same to the board of city commissioners without delay. If the petition shall be found to be sufficient, the board of city commissioners shall order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the auditor's certificate to the board of city commissioners, that a sufficient petition is filed. The board of city commissioners shall make or cause to be made publication of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the result thereof declared, in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected.

At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office, the same method of removal shall be cumulative and additional to the methods heretofore provided by law.

§ 2. INITIATIVE.] Any proposed ordinance may be submitted to the board of city commissioners by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petitions under section one (1) hereof. If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty-five per centum of the votes cast for all candidates for president at the last preceding general municipal election and contains a request that the said ordinance be submitted to a vote of the people if not passed by the board of city commissioners, such board of city commissioners shall either

(a) Pass said ordinance without alteration within twenty days after attachment of the auditor's certificate to the accompanying petition, or

(b) Forthwith after the auditor shall attach to the petition accompanying such ordinance his certificate of sufficiency, the board of city commissioners shall call a special election, unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed such ordinance shall be submitted without alteration to the vote of the electors of said city. But if the petition is signed by not less than twenty-five per centum of the electors, as above defined, then the board of city commissioners shall, within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring not more than thirty days after the auditor's certificate of sufficiency is attached to said petition. The ballots used when voting upon said ordinance shall contain these words: "For the Ordinance" (stating the nature of the proposed ordinance) and "Against the Ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people, as long as the city is under the commission form of government.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section, but there shall not be more than one special election in any period of six months for such purposes.

The board of city commissioners may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be thereby repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city auditor shall cause such ordinance or proposition to be published once in each of the daily newspapers published in said city; such publication to be not more than twenty or less than five days before the submission of such proposition or ordinance to be voted on.

§ 3. REFERENDUM.] No ordinance passed by the board of city commissioners except when otherwise required by the general laws of the state or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency and is passed by a two-thirds vote of the board of city commissioners shall go into effect before ten days from the time of its final passage; and if during said ten days a petition signed by electors of the city equal in number to at least twenty-five per centum of the entire votes cast for all candidates for president at the last preceding general municipal election at which a president was elected, protesting against the passage of such ordinance, be presented to the board of city commissioners, the same shall thereupon be suspended from going into operation, and it shall be the duty of the board of city commissioners to reconsider such ordinance, and if the same is not entirely repealed, the board of city commissioners shall submit the ordinance as is provided by sub-section (b) of section two of this act, to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose; and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section two, except as to the percentage of signers, and be examined and certified to by the auditor in all respects as therein provided.

§ 4. FORM OF PETITION.] Petitions provided for in this act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city

stating that the signers thereof were, at the time of signing, legal voters of said city, and the numbers of signers at the time the affidavit was made.

§ 5. RETURN TO FORMER SYSTEM.] Any city which shall have operated for more than six years under the provisions of this act may abandon such organization hereunder, and accept the provisions of the general law of the state then applicable to cities of its population, or if now organized under special charter, may resume said special charter by proceedings as follows:

Upon petition of not less than forty per centum of the electors of such city a special election shall be called, at which the following proposition only shall be submitted: "Shall the city of (name of city) abandon its organization under chapter 45 of the laws of 1907 and become a city under the general law governing cities of like population?" If a majority of the votes cast at such special election be in favor of such proposition, the officers elected at the next succeeding biennial election shall be those then prescribed by the general law of the state for cities of like population and upon the qualification of such officers such city shall become a city under such general law of the state; but such change shall not in any manner or degree affect the property, rights or liabilities of any nature of such city, but shall merely extend to such change in its form of government.

The sufficiency of such petition shall be determined, the election ordered and conducted, and the results declared generally as provided by section one of this act, in so far as the provisions thereof are applicable.

§ 6. EMERGENCY.] Whereas, there is no law governing said recall for commission form of government, this act shall be in force from and after date of its passage and approval.

Approved February 28, 1911.

## CHAPTER 68.

[S. B. No. 87—Elken]

### LETTING OF CONTRACTS FOR SIDEWALKS IN CITIES.

AN ACT To Amend Section 2767 of the Revised Codes of North Dakota For 1905, Relating to the Letting of Contracts for Sidewalks in Cities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 2767. LETTING CONTRACTS FOR SIDEWALKS.] The City Auditor shall, on or before the fifteenth day of March in each year, advertise in the official newspaper of the city twice, once in each week for two consecutive weeks, for bids for the construction of the various kinds of sidewalks in the city during the ensuing

year, in accordance with the specifications of the ordinance provided for in section 2764, and such bid shall be received and opened and if accompanied by a check and bond as hereinafter provided, such contract shall be awarded to the lowest bidder, at the regular meeting of the city council in April and contracts may be awarded to different bidders for the different kinds of sidewalks required. But if the city Auditor shall have failed to advertise for bids as aforesaid before the Fifteenth day of March, and if the city council shall have failed to award contracts at their regular meeting in April, upon such showing being made and published together with notice for bids for two consecutive weeks prior to any regular meeting of the city council, the city council may thereupon at any such regular meeting after such publication, award such contracts to the best bidders for the different kinds of sidewalks required.

Approved February 27, 1911.

#### CHAPTER 69.

[S. B. No. 65—Welo]

##### CITIES TO LEVY AND COLLECT A TAX.

AN ACT to Authorize Cities to Levy and Collect a Tax to Pay Judgments Obtained Against Such Cities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. When any final judgment shall be obtained against any city within the state of North Dakota the city council of such city may by resolution provide for the levy and collection of an annual tax upon all the taxable property of such city, not exceeding the amount of ten mills on the dollar in any one year which shall be used in payment of such judgment. The county auditor shall make out, charge and extend upon the tax list against each description of real property and against all personal property of the city all such taxes for cities and judgments he is so notified have been levied by the city in which the property is situated and taxable in the same manner in which the county and state tax list is prepared, and deliver it to the county treasurer at the same time. The taxes so levied for the payment of any final judgment against such city may be levied in addition to such other taxes as are now or may hereafter be provided by law, and this act shall in no manner be construed as depriving the city council of any city in this state, from levying all such other taxes in such amounts as they are now permitted to levy under existing laws for other purposes.

§ 2. Inasmuch as there is now no law expressly authorizing a city council to levy a tax for the purpose of paying final judg-

ments against a city in addition to other taxes provided by law; and in due consideration of the fact that it is very desirable that such authority be granted, it is deemed that an emergency exists and this act shall go into effect on and after its passage and approval by the governor.

Approved March 3, 1911.

## CHAPTER 70

[S. B. No. 265—Kennedy]

### TO CREATE IMPROVEMENT DISTRICTS.

AN ACT To Amend Sections 2772, 2775, 2776, 2777, 2786, Revised Codes of 1905, Relating to the Creation of Improvement Districts and the Purpose for which Special Assessments may be Levied in this State.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 2772 of the Revised Codes of 1905 is hereby amended to read as follows:

§ 2772. TO CREATE IMPROVEMENT DISTRICTS.] Any city shall have power to create sewer, paving and water main districts, and districts for the purpose of grading, graveling, curbing, planting trees, constructing grass plats, sowing grass seed, constructing gutters, or for the purpose of making any one or more of the improvements herein mentioned, and maintaining the same within the limits of such city, which districts shall be consecutively numbered.

§ 2. AMENDMENT.] Section 2775 of the Revised Codes of 1905 is hereby amended to read as follows:

§ 2775. WATER MAIN AND OTHER DISTRICTS.] Such water main districts and districts for the purpose of grading, graveling, curbing, planting trees, constructing grass plats, sowing grass seed and constructing gutters, shall be of such size and number as the City Council, after consultation with the city engineer, shall decide most practicable.

§ 3. AMENDMENT.] Section 2776 of the Revised Codes of 1905 is hereby amended to read as follows:

§ 2776. POWER TO IMPROVE STREETS.] All cities shall have power to grade, curb, pave, repave, gravel, macadamize or gutter any street, highway, avenue, alley, or public place in such city, and to plant trees, construct grass plats or to sow grass seed thereon, and to maintain and preserve any one or more of such improvements by causing such trees or grass to be watered, the grass cut and trees trimmed, or otherwise maintaining and preserving the same as the city council shall deem suitable and proper, and to extend, improve, enlarge, relay or replace the

water mains and hydrants of such city and to lay new or additional water mains therein, and to defray the expense of all such work as hereinafter provided.

§ 4. AMENDMENT.] Section 2777 of the Revised Codes of 1905 is hereby amended to read as follows:

§ 2777. PLANS, SPECIFICATIONS AND ESTIMATES.] When the city council shall deem it necessary to construct or alter any sewer or to open, widen, extend, grade, curb, pave, repave, gravel, macadamize or gutter any street, highway, avenue, alley, lane or other public ground within the city limits or to plant trees, construct grass plats, or sow grass seed thereon, or to extend, improve, enlarge, relay or replace any water mains or hydrants within such city, the city council shall direct the city engineer, or in case the city has no competent city engineer, shall employ a competent engineer, to prepare plans and specifications for such work, including the grading of the street if not already established, if such grade is deemed necessary by such engineer, and all details of the work to be done, and make an estimate of its probable cost, which plans, specifications and estimates shall be approved by resolution of the city council which approval shall be deemed to establish the grade of the street as shown in such plans and specifications, if the grade of the street has not previously been established by ordinance, providing such grade has been included in such plans and specifications and estimates shall be approved by resolution of the city council, which approval shall be deemed to establish the grade of the street as shown in such plans and specifications, if the grade of the street has not previously been established by ordinance, providing such grade has been included in such plans and specifications. In case the improvement shall consist in paving or repaving any street, alley or public place, the city council may require such plans, specifications and estimates to be made of such different kinds of pavement as they may deem advisable. In case the improvement shall consist of planting trees, constructing grass plats, sowing grass seed thereon, or otherwise parking or beautifying any of the streets, highways, avenues, alleys, lanes or other public grounds within the city limits, the said city may require plans, specifications and estimates to be made of the probable cost of making, constructing or maintaining such improvements or any of them. Such plans, specifications and estimates shall be the property of the City and be filed in the office of the City Auditor and remain on file in his office subject to the inspection of all persons. The City Engineer shall retain a copy of such plans, specifications and estimates, and file the same in his office and shall furnish to any person applying therefore copies of the same, and may charge and receive for such copies at the rate of one dollar an hour for the time necessarily employed in making the same.

§ 5. AMENDMENT.] Section 2786 of the Revised Codes of 1905 is hereby amended to read as follows:

§ 2786. SPECIAL ASSESSMENT FUNDS. WARRANTS.] All special assessments levied under the provisions of this article shall constitute a fund for the payment of the cost of the improvement for the payment of which they are levied, and shall be diverted to no other purpose, and those for the payment of sewer improvement shall be designated respectively "Sewer District No.....Fund" and such fund shall be numbered according to the number of the sewer district in which it is raised. Those collected for paving improvements shall be designated as "Paving District No.....Fund," and such fund shall be numbered according to the paving district in which it is raised; and those levied for the payment of water mains shall be known as "Water Main District No.....Fund," and such fund shall be numbered according to the number of the water main districts in which it is raised; and those levied for the payment of grading, curbing, graveling, macadamizing, or guttering of any street, highway, alley, lane or public place in such city, or of planting trees, constructing grass plats or sewing grass seed thereon, or of maintaining and preserving any one or more of such improvements, shall be known as "Improvement District No.....Fund." and such fund shall be numbered according to the number of the improvement district in which it is raised, and in anticipation of the levy and collection of such special assessments the city may, at any time after the making of a contract for any such improvements, issue warrants on such funds, payable at specified times, and in such amounts as, in the judgment of the city council, the taxes and assessments will provide for, which warrants shall bear interest at the rate of not to exceed seven per cent per annum payable annually, and may have coupons attached representing each year's interest, provided that special assessments levied for maintaining grass plats or trees, parking or other improvements for the beautifying of the city streets shall be payable in a single amount. Such warrants shall state upon their face for what purpose they are issued and the fund from which they are payable, and shall be signed by the mayor, and counter-signed by the city auditor under the seal of the city and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making such improvements or may be sold for cash, at not less than the par value thereof, and the proceeds thereof credited to such fund, and used for paying such improvements. It shall be the duty of the City Treasurer to pay such warrants and interest coupons as they mature and are presented for payment, out of the district funds on which they are drawn, and to cancel the same when paid.

§ 6. EMERGENCY.] Whereas an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1911.

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## CHAPTER 71

[S. B. No. 296—Beasesen]

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AN ACT Authorizing Cities Incorporated under the Laws of this State to Regulate and Fix the Rate to be Charged by Persons, Firms or Corporations Furnishing Water, Light, or other Public Service or Utility to such Cities and the Inhabitants Thereof.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. POWERS OF CITY COUNCIL OR COMMISSION. MAXIMUM RATES AND CHARGES FOR PUBLIC SERVICES OR UTILITY.] The city council or commission of any city now or hereafter incorporated under the laws of this state, in which city any person, firm or corporation now is or hereafter may be exercising a franchise, right or license or privilege in or to any street, highway, alley or public place of such city for the furnishing of water, light or other public service or utility, to such city and the inhabitants thereof, is hereby empowered to prescribe by ordinance, maximum rates and charges for the service, commodity or utility so furnished, and to provide for the enforcement of such ordinance by suitable penalties; provided, that the rates and charges so fixed shall be just and reasonable, and when fixed, shall not be altered by the municipality oftener than once in five years; provided, further, that such rates and charges shall be fixed by the city council or commission after notice to the person, firm or corporation whose rates and charges are to be affected, and after reasonable opportunity to such person, firm or corporation to appear and be heard in relation to such matter in such manner as the city council or commission may by resolution determine, and on such hearing such city council or commission or its committee appointed for such purpose may by resolution require the production before it of all books of account, records and vouchers of such person, firm or corporation pertaining to the business, rates and charges under investigation; provided further, that the provisions of this act shall not apply to any person furnishing any public service or utility, the rates or charges for which may now or hereafter be placed under the control of the Board of Railroad Commissioners.

§ 2. FIXED RATES PRIMA FACIE, JUST AND REASONABLE. COURT DETERMINE REASONABLENESS. APPEAL.] All rates and charges

fixed hereunder shall, if the validity thereof be contested, be held to be prima facie just and reasonable, but any person, firm or corporation, aggrieved by any rate or charge fixed or established under the provisions of this act may by suit in the district court of the county, have the reasonableness of such rate or charge adjudicated, and may appeal from the decision of such court to the supreme court in the manner provided by law; provided, that no appeal from such rates or charges fixed by the city council or commission pursuant to this act shall be taken by any person, firm or corporation aggrieved thereby, nor shall any action or suit to annul such rates or charges or to enjoin their enforcement or otherwise be brought or maintained by any such person, firm or corporation in any court, if such person, firm or corporation has failed or neglected to comply with any demand made hereunder by the city council or commission or its committee, for the production and inspection by the city council or its committee of the books of account, papers, vouchers and records of such person, firm or corporation.

§ 3. MAY EMPLOY LEGAL COUNSEL AND ASSISTANCE. WHEN.] The city council or commission in exercising the right and powers hereby granted, may, by resolution, employ such legal counsel and other assistance as it may deem expedient.

§ 4. EMERGENCY.] Whereas, there is no law in the state touching the subject matter hereof, therefore, this act shall be in force from and after its passage and approval.

Approved March 3, 1911.

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#### PARTIAL VETO.

Bismarck, March 18, 1911.

To the Honorable, the Secretary of State:

I file herewith Senate bill No. 296, entitled an act authorizing cities incorporated under the laws of this state to regulate and fix the rate to be charged by persons, firms or corporations furnishing water, light or other public service or utility to such cities and the inhabitants thereof.

A part of this bill, like house bill No. 271, is in my judgment, unconstitutional; but under the rule of construction it is an independent provision that may be dropped if that which is left is fully operative as a law.

The objectionable part of Section 2 is as follows:

"Provided that no appeal from such rates or charges fixed by the city council or commission pursuant to this act shall be taken by any person, firm or corporation aggrieved thereby, nor shall any action or suit to annul such rates or charges or to enjoin

their enforcement or otherwise be brought or maintained by any such person, firm or corporation, in any court, if such person, firm or corporation has failed or neglected to comply with any demand made hereunder by the city council or commission or its committee for the production and inspection by the city council or its committee, of the books of accounts, papers, vouchers and records of such person, firm or corporation."

This provision is clearly a violation of Section 22 of the Constitution which reads as follows: "All courts shall be open and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law." Under this section no man can be deprived of his day in court for the protection of his personal or property rights.

*So. Pacific Co. v. Board of Railroad Commissioners of California* 18 Fed. Rep. 236.

*Ex parte Young*, 209 U. S. 715.

*Regan vs. Farmers Loan & Trust Co.*, 154 U. S. 1023.

In this last mentioned case the court says:

"It is a familiar law that one section or part of an act may be invalid without affecting the validity of the remaining portions of the statute. If independent the provision may be thus dropped if that which is left is fully operative as a law, unless it is evident from the consideration of all the sections that the legislature would not have enacted that which is within independently of that beyond its power. Applying this rule, and the invalidity of these two provisions may be conceded without impairing the force of the rest of the act."

Following this rule, I approve the act.

JOHN BURKE,  
Governor.

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## CHAPTER 72.

[H. B. No. 68—O'Connor]

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### VALIDATING SPECIAL ASSESSMENTS.

AN ACT Validating Special Assessments and Taxes Made or Levied in Cities and Villages Since 1903 and Establishing Certain Rules of Evidence Relating Thereto.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. SPECIAL ASSESSMENTS, VALIDATED.] Every special assessment or part thereof made or levied by the officers of any cities for any purpose authorized by law, heretofore and since the year 1903; and all taxes levied therefor by any board or officer author-

ized by law to make the same, is hereby legalized and made valid in all respects and purposes, without regard to any defects, errors, or omissions in the proceedings therefor, the same as if in all things made in conformity to the laws then in force.

§ 2. CONCLUSIVE EVIDENCE. WHAT IS.] In any action or proceedings where the legality or validity of any of the said taxes, assessments, or the warrants issued thereon, is called into question, the production of evidence that any such special assessment was duly approved and confirmed by the city council or board of village trustees, shall be deemed conclusive evidence that every step in the proceedings therefor has been duly and regularly made in the manner and form provided by law.

Approved February 20, 1911.

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## CHAPTER 73.

[H. B. No. 369—Stern]

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### POWERS OF CITY COUNCIL

AN ACT to Amend Subdivision 30 of Article 4 of the Political Code of North Dakota, being Subdivision 30 of Section Numbered 2678 of the Revised Codes of North Dakota for 1905.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That subdivision 30 of article 4 of the Political Code of North Dakota, being section numbered 2678 of the Revised Codes of North Dakota of 1905 be and the same is hereby amended to read as follows, to wit:

30. To license, tax, regulate, suppress and prohibit fortune tellers, astrologers and all persons practising palmistry, clairvoyancy, mesmerism and spiritualism, hawkers, peddlers, pawn brokers, keepers of ordinaries, theatricals and other exhibitions, shows and amusements, ticket scalpers and employment agencies, and to revoke such license at pleasure; provided, however, that the provisions of this section with reference to hawkers and peddlers shall not apply to persons selling or offering for sale the products raised or grown on lands within this state.

§ 2. EMERGENCY.] Whereas the present law is inadequate in relation to the subject matter of the foregoing amendment, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1911.

## CHAPTER 74.

[H. B. No 420—McClellan]

## EXTENSION OF CORPORATE LIMITS OF CITIES.

AN ACT To Amend Section 2826 of the Revised Codes of North Dakota for the year 1905, as amended by Chapter 58 of the Session Laws, for the year 1909, Relating to the Extension of Corporate Limits of Cities and to Provide a Method of Procedure for the Extension of Corporate Limits of Cities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota.*

§ 2826. PUBLICATION OF RESOLUTION.] The resolution of the city council shall be published in the official newspaper of the city three times, once in each week's issue for three successive weeks, and printed or type-written copies of said resolution shall also be posted in five of the most conspicuous places within the territory proposed to be annexed, and unless a written protest signed by a majority of the property owners of said proposed extension is filed with the city clerk or auditor within ten days after the last publication of such resolution, the territory described in the resolution shall be included within and become a part of said city. But in the event such written protest is filed, then the city council shall hear the testimony offered for or against such annexation, and if after hearing such testimony and after a personal inspection has been made of the territory proposed to be annexed, such city council is of the opinion that such territory ought to be annexed and if such city council by a resolution of the city council, passed by two-thirds of the entire members-elect thereof, orders that such territory shall be so included within the corporate limits of such city, it shall then make and cause an order to be made and entered, describing the territory so annexed, and the territory described in such resolution shall be included within, and become a part of said city; provided however, if the greater portion of said territory proposed to be annexed consists of lands used for farming or pasturing purposes, then said territory shall not be annexed.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 6, 1911.

## CHAPTER 75

[H. B. No. 118—Stern]

AMENDING SUBDIVISIONS FIVE (5), SIX (6), AND SEVEN (7) OF  
CHAPTER ONE HUNDRED SEVENTY-SIX (176) OF THE SES-  
SION LAWS OF 1909, RELATING TO THE POWERS  
OF PARK COMMISSIONERS.

AN ACT to Amend Sub-Divisions Five (5), Six (6), and Seven (7) of Chapter One Hundred Seventy-Six (176) of the Laws Passed by the Eleventh Session of the Legislative Assembly of the State of North Dakota, Being Chapter One Hundred Seventy-Six (176) of the Session Laws of 1909, Relating to the Powers of Park Commissioners.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That subdivision five (5), six (6), and seven (7) of chapter one hundred seventy-six (176) of the laws passed by the Eleventh Legislative Assembly of the state of North Dakota, being chapter one hundred seventy-six (176) of the session laws of 1909 of the state of North Dakota, be and the same are hereby amended to read as follows, to-wit:

5. To require the services of the city engineer of the city included in such park district, who shall be ex-officio engineer and surveyor of such commission, and to require the services of a clerk, and such clerk shall be paid by such commission for his services as clerk, a salary not to exceed twenty-five dollars (\$25.00) per month, to appoint other employees for the performance of manual labor, including such police force as may be deemed necessary.

6. To issue the negotiable bonds of the park district in a sum not to exceed one and one-half per cent of the taxable property therein situated, for the sole and exclusive purposes of purchasing and acquiring lands for such parks, boulevards, and ways, and for the permanent improvement thereof, including the erection and construction of buildings, pavilions, plays and pleasure fields; provided such bonds shall not bear a rate of interest to exceed six per cent; and provided further, that upon the affirmative vote of the electors of such district, as by law provided, such commission may be authorized to issue such bonds in any amount in the aggregate not to exceed five per cent of the value of the taxable property in such district.

7. To levy taxes upon all property within said district for the purpose of maintaining and improving said parks, boulevards and ways, and to defray the expenses of such board; provided, that such tax so levied shall in no year exceed the sum of three mills on each dollar of taxable property within said district.

§ 2. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the powers of the park commissioners in the issuance of bonds is too large, this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1911.

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## CHAPTER 76.

[H. B. No. 401—Knox]

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### AMENDING AND RE-ENACTING SECTION 2979 OF THE REVISED CODES OF 1905.

AN ACT to Amend and Re-Enact Section 2979 of the Revised Codes of North Dakota of 1905, Relating to Increasing the Debt Limit.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 2979 of the revised codes of North Dakota of 1905, is hereby amended and re-enacted to read as follows:

§ 2979. BONDED INDEBTEDNESS. FOR WHAT INCURRED. LIMIT OF.] Any city or municipal corporation in this state may incur a bonded indebtedness for the purpose of erecting public school buildings and other buildings for city purposes, purchasing fire apparatus, putting in water works, sinking public wells or cisterns and putting in sewers and improving streets, which said indebtedness, together with the indebtedness which then exists shall not, except as otherwise provided, exceed five per cent of the assessed valuation of the taxable property in such city or municipal corporation as shown by the return of the assessor for the year next preceding the time at which such indebtedness shall be incurred. Provided that any incorporated city may by a three-fourths vote of resident property owners increase such indebtedness three per centum on such assessed value beyond said five per cent limit.

Approved March 6, 1911.

## CHAPTER 77.

[H. B. No. 398—Williams]

## COMMISSION SYSTEM OF GOVERNMENT.

AN ACT To Provide for a Commission System of Government in Cities which shall Adopt the Provisions of this Act.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. CITIES INCORPORATED, HOW.] Any city in this state and any incorporated town or village therein having a population of not less than five hundred inhabitants may become incorporated, under this chapter, as a city in the manner following: Whenever one-tenth of the legal voters of such city, or one-tenth of the legal voters of such incorporated town or village, voting at the last preceding general election, shall petition the mayor and council of such city, or the president and trustees of such incorporated town or village, to submit the question as to whether such city, incorporated town or village shall become incorporated under this chapter, to a vote of the electors in such city, town or village, it shall be the duty of such mayor and council of such city, or president and trustees of such incorporated town or village, to submit such question accordingly, and to appoint a time and place or places at which such vote may be taken, and to designate the persons who shall act as judges and clerks at such election; but such question shall not be submitted oftener than once in four years.

Provided, that cities, towns or villages in this state which have heretofore voted upon and rejected the commission system of government shall not again vote upon the question within the period of four years after such rejection.

§ 2. NOTICE OF ELECTION.] The mayor of such city or president of such incorporated town or village shall give at least twenty days' notice of such election by publishing a notice thereof in one or more newspapers within such city, incorporated town or village, but if no newspaper is published therein, then by posting at least five copies of such notice in each ward or voting precinct of such city, town or village, if divided into wards and precincts; if not, then within such city, town or village.

§ 3. FORM OF BALLOTS.] The ballots to be used at such election shall be in the following form:

“For city charter under commission system of government, |  ;” “Against city charter under commission system of government.  ;” the elector to designate his choice by placing a cross in the square opposite his choice. The judges of such election shall make returns thereof to the city council of such

city, and trustees of such incorporated town or village, whose duty it shall be to canvass such returns, and cause the result of such canvass to be entered upon the records of such city, town or village.

If a majority of the votes cast at such election shall be for city organization under commission system, such city shall henceforth be deemed to be organized under this chapter, and the city, village or town officers then in office shall thereupon exercise the powers conferred upon like officials by this chapter, until their successors shall be elected and qualified.

§ 4. Within twenty days after the issuance of patent incorporating any city under the provisions of this act, it shall be the duty of the mayor or president of the city, town or village voting such incorporation to call a special election for the purpose of electing the first board of city commissioners provided for herein, such election to be held as provided in Section 14 of this act.

§ 5. COURT TAKES JUDICIAL NOTICE.] All courts in this state shall take judicial notice of the existence of cities organized under this chapter, and of the change of the organization of any city from its former organization to its organization under this chapter, and from the time of such organization the provisions of this chapter shall be applicable to such city, and all laws in conflict herewith shall no longer be applicable; but all laws or parts of laws not inconsistent with the provisions of this chapter shall continue in force and be applicable to any such city the same as if such change had not taken place.

§ 6. BODIES CORPORATE.] Cities organized under this Chapter shall be bodies politic and corporate under the name and style of "city of (Name)" and under such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for corporate purposes, have a common seal and change the same at pleasure, and exercise all the powers hereinafter conferred.

§ 7. VESTED RIGHTS.] All rights and property of every kind and description which were vested in any municipal corporation under its former organization, shall be deemed and held to be vested in the same municipal corporation upon its being incorporated under the provisions of this chapter, but no rights or liabilities, either in favor or against such corporation, existing at the time of so becoming incorporated under this chapter, and no action or prosecution of any kind shall be affected by such change, but the same shall stand and progress as if no change had been made; provided, that when a different remedy is given by this chapter, which may properly be made applicable to any right existing at the time of such city so becoming incorporated under this chapter the same shall be deemed cumulative to the remedies before provided and used accordingly.

§ 8. LEGAL IDENTITY OF CITIES NOT CHANGED.] All ordinances and resolutions in force in any city at the date of its organization under this chapter shall continue in full force and effect until repealed or amended, notwithstanding such change of organization, and such change of organization shall not change the legal identity of such city as a corporation.

§ 9. RESULT OF ELECTION. RETURNS OF.] If a majority of all the votes cast at such election shall be for a commission system, then said city shall adopt the form herein provided for: The result of the election as canvassed by the judges shall be returned to the town, city or village clerk, as the case may be, and if a majority of all the votes cast are in favor of a commission system of government said clerk shall certify the fact to the secretary of state, together with the result of the census taken, if any, and thereupon a patent shall be issued as hereinafter provided, which shall specify the boundaries of such city and the number and boundaries of the wards thereof.

§ 10. CERTIFIED TO SECRETARY OF STATE.] If said commission system of government be accepted the result shall be certified under the corporate seal of the city to the secretary of state, together with a copy of the proceedings relating thereto; thereupon the governor shall issue letters patent under the great seal, reciting the facts, defining the boundaries of the city, and constituting the same a body corporate and politic by the name of the city of..... (specifying the name of such city) and declaring that the same shall be governed by the provisions of this chapter.

§ 11. PATENT, WHERE RECORDED.] Any patent issued under the provisions of this chapter shall be recorded in the office of the secretary of state in a book kept for that purpose. Any patent so issued and recorded, the record thereof or a certified copy of such record shall be conclusive evidence in all courts and places of the due incorporation of the city mentioned and of all the facts therein recited.

§ 12. BOUNDARIES OF WARDS.] The number and the boundaries of the wards of any city organized under the provisions of this chapter may be changed by ordinance adopted by a majority vote of the city commissioners, provided said ordinance must be introduced at a regular meeting of the city commissioners in May and before final action is taken thereon shall be published in the official paper of the city, if any, otherwise in a newspaper designated by such ordinance, once in each week for four successive weeks, and when the boundaries of any wards are fixed by any ordinance the number of wards and boundaries thereof or of any of said wards shall not be again changed for a period of two years, except by adding thereto such territory as may at any time be added to the city limits; provided, further, that the territory of the wards shall be contiguous and compact and

that no ward having a population of less than one hundred shall be created.

§ 13. OFFICERS.] The officers of cities incorporated under this act shall be a president of the board of city commissioners and four city commissioners who, together, shall be known as the board of city commissioners of the city of.....; a treasurer, auditor, attorney, a police magistrate, one or more justices of the peace, one or more assessors, a physician, street commissioner, chief of fire department, city engineer, chief of police, a board of public works, one or more policemen, and such other officers or boards as the board of city commissioners may deem necessary; provided, that the board of city commissioners by a majority vote may dispense with the offices of street commissioner, engineer and board of public works, and provide that the duties thereof be performed by other officers or boards by the board of city commissioners or a committee thereof.

§ 14. ELECTIONS BIENNIAL.] Biennial Municipal elections in all cities shall be held on the first Tuesday in April at such place or places as the board of city commissioners shall designate. The polls of such election shall be opened at eight o'clock A. M. and closed at five o'clock P. M. Ten days' previous notice of the time and place of such election and of the officers to be elected shall be given by the city auditor by publication in the official city paper and by posting written or printed notices in three public places in the city; but the failure to give such notice shall not invalidate such election. In all other respects such elections shall be conducted as prescribed by general election laws, and for all general and special elections held under the provisions of this act in the city, for city officers and for other purposes, the Board of city Commissioners shall, at least ten days before any election is held, appoint in each precinct established in the city, one inspector and two judges of election.

§ 15. COMMISSIONERS. HOW ELECTED.] The president of the board of city commissioners and four city commissioners shall be elected by the legal and qualified voters in the city, in the following manner: The president of the board of city commissioners and the four city commissioners shall be elected at large and not by wards. Each voter shall be allowed to cast but one vote for the candidate for the office of president of the board of city commissioners. Each voter shall be allowed as many votes for the candidates of the office of city commissioners as there are commissioners to be elected, such votes to be distributed among the candidates as the voter shall see fit, but no voter shall be allowed to cast more votes than candidates to be elected.

§ 16. TERMS OF OFFICE.] Each of said four commissioners and the president of the board shall hold office for four years from and after the date of his qualification and until his suc-

cessor shall have been duly elected and qualified, except the first board, the two commissioners receiving the highest number of votes shall hold four years, the two receiving the next highest for two years.

§ 17. ELIGIBILITY OF OFFICERS.] No person shall be eligible to hold an elective office created by the provisions of this chapter who is not at the time of his election a citizen of the United States and of this state and resident elector of the city.

§ 18. TERMS BEGIN WHEN.] The term of office of the president and members of the board of city commissioners shall commence on the third Tuesday of April succeeding their election and qualification except in the case of their first election when their term of office shall commence within ten days succeeding such election. The term of all other officers shall commence on the first day of May succeeding their appointment unless otherwise provided by ordinance, and they shall hold for such term as has been provided for each respectively and until their respective successors are qualified.

§ 19. SUCCESSION.] The first president and the other members of the first board of commissioners appointed and elected under this act, shall be held and deemed, in law and in fact, the successors of the mayor and aldermen of said city, and upon the qualification of said president and other members of said board of commissioners, all the powers, rights and duties of the mayor and board of aldermen of said city shall cease; and whenever the said city has heretofore, under the decree of judgment of any court, or under any law, ordinance or resolution, been entitled to representation through the mayor of said city and one or more of the aldermen thereof, on the board of directors of any incorporated company in which the city may own stock or be interested, it shall hereafter be represented on any such board of directors by the president of said board of commissioners, and by two other members of said board, to be selected by said board.

§ 20. STYLE OF COMMISSION.] Said commissioners shall collectively constitute and be known as the "board of city commissioners of the city of....." They shall take an oath to faithfully perform the duties of their respective office and each shall receive such compensation for his services as may be provided by ordinance.

§ 21. OFFICIAL BONDS. APPOINTMENT OF SUBORDINATE OFFICERS.] Each commissioner, before entering upon the duties of his office, shall give bond payable to the governor of the state, for the use and benefit of said city, in the sum of three thousand dollars, for the faithful discharge of his duty, with two or more good and sufficient sureties to be approved by the judge of the county, and shall in addition to taking the oath prescribed by the constitution of the state, also take an oath that he is not

under any direct or indirect obligation to appoint or elect any person to the office of policeman or fireman, or any other office position or employment, under said government. The said commissioners shall by a majority vote of all the commissioners elected under this act have the power to appoint all officers and subordinates in all of the departments of said city, and to suspend and to discharge the same at will under the limitations hereinafter provided. Each commissioner elected under the provisions of this chapter shall qualify as provided by this section within ten days after the delivery to him of the certificate of his election.

§ 22. POWERS OF COMMISSION.] The president of said board shall have the right to vote as a member thereof, on all questions which may arise, but no right of veto. Said board of commissioners shall have the power to summon and compel the attendance of witnesses, and the production of books and papers before them, whenever it may be necessary for the more effective discharge of their duties; and shall have the power to punish for contempt of said board with the same fines and penalties as the county judge may punish for contempt of the county court. All process necessary to enforce the powers conferred, by this section, shall be signed by the president of the board, and attested by the city auditor thereof, and shall be served by any member of the police force of said city.

§ 23. CONTROL OVER DEPARTMENTS.] Said board of commissioners so constituted shall have control and supervision over all the departments of such city and to that end shall have the power to make all such rules as they may see fit and proper, concerning the organization, management and operation of such departments; and shall have power, under such rules and regulations as they shall make, to appoint, and for cause which to said board shall seem sufficient, and after an opportunity to be heard, to discharge all employes, including the chiefs of the departments respectively. Said commissioners shall have sole authority to pass and adopt all such rules and regulations concerning all of the departments of such city and the other agencies created by them for the administration of its affairs.

§ 24. DEPARTMENTS OF ADMINISTRATION.] In addition to the powers aforesaid, the said commissioners shall have the right, and it shall be their duty, by a majority vote of all the said commissioners elected, to designate from among their members one commissioner, who shall be known as "police and fire commissioner," and who shall have under his special charge the enforcement of all police regulations of such city and general supervision over the fire department of such city, and one commissioner to be known as the "commissioner of streets and of improvements," who shall have under his special charge the supervision of streets and alleys of such city, and be charged with

the duty of lighting such streets and keeping the said streets and alleys in clean and sanitary condition, and with the enforcement of all rules and regulations necessary to that end, for the preservation of the health of the inhabitants of such city, and who shall also have under his special charge the supervision of all public improvements, and shall see that all contracts therefor are faithfully complied with, and that the conditions of any grant of any franchise or privilege are faithfully complied with and performed, and one commissioner to be known as the "waterworks and sewerage commissioner," who shall have under his special charge the waterworks and sewerage department of such city, and shall see to the enforcement of all regulations with respect to said departments, and with respect to all the revenues pertaining thereto, and one commissioner who shall be known as the "commissioner of finance and revenue," who shall have under his special charge the enforcement of all laws for the assessment and collection of taxes of every kind and the collection of all revenues belonging to such city, from whatever source the same may be derived; and who shall also examine into and keep informed as to the finances of such city. Provided that by a majority vote of the commissioners the duties assigned in this section may be otherwise distributed.

§ 25. EXECUTIVE OFFICERS. FINANCIAL STATEMENT, PUBLISHED WHEN.] The president of said board of commissioners shall be the executive officer of said city and shall see that all the laws thereof are enforced. The commissioner named at the head of each department shall audit all accounts against it, but before payment, they shall be acted upon and approved by at least three members of said board of commissioners. Said board shall require a statement to be published in September, December, March and June of each year, in the official newspaper of said city, showing a full, clear and complete statement of all the taxes and other revenues collected and expended, indicating the respective sources from which the moneys are derived, and also the disposition made thereof. All legislative sessions of said board, whether regular or called, shall be open to the public.

§ 26. SPECIAL POLICE. AUTHORITY TO APPOINT.] Whenever the president of the board of city commissioners shall deem it necessary, in order to enforce the laws of the city, or to avert danger, or protect life or property, in case of a riot or any outbreak, or calamity or public disturbance or when he has reason to fear any serious violation of law or order, or any outbreak, or any other danger to said city or the inhabitants thereof, he shall summon into service, as a special police force, all, or as many of the citizens as in his judgment and discretion may be necessary and proper; and summons may be by proclamation or order, addressed to the citizens generally or those of any ward of the city or sub-division thereof, or such summons may be by personal notification. Such special police, while in service, shall

be subject to the orders of the president of the board of city commissioners, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said city, and any person so summoned, and failing to obey or appearing and failing to perform any duty that may be required by this act, shall be fined in any sum not exceeding one hundred dollars.

§ 27. DISABILITY OF PRESIDENT OF COMMISSION. PROCEDURE.] At the first meeting of the commissioners after each biennial election they shall elect one of their number as vice president, and such vice president shall in case of the absence or inability of the president to act, perform all the duties of the office of president, and in case of the absence or inability to act of both president and vice president the commissioners shall elect one of their number who shall be known as acting president, who shall during such absence or disability have all the powers and perform all the duties of the president.

§ 28. REGULAR MEETINGS.] Said board of commissioners shall meet at least once every week in regular meeting, at such time as shall be fixed by said board, at the city hall or other designated place in such city, to consider and take under advisement and act upon, such business as may come before them. A majority of such board as appointed and elected shall constitute a quorum for the transaction of all business, but no action of said commissioners shall be effective unless upon a vote of a majority of such quorum; and no final action shall be taken in any matter concerning the special department of any absent commissioner unless such business has been made a special order of the day, or such action is taken at a regular meeting of the board. Special meeting may be called by the president of such board, or by any two members thereof, at any time, to consider such matters as shall be mentioned in the call of such meeting, and written notice thereof shall be given to each member of said board.

§ 29. ORDINANCES.] The board of city commissioners of such city shall be vested with the power and charged with the duty of making all laws or ordinances not inconsistent with the constitution and laws of this state, touching every object, matter and subject within the local government instituted by this act. Every ordinance imposing any penalty, fine, imprisonment or forfeiture for a violation of its provisions shall, after the passage thereof, be published in one issue of the official paper and proof of such publication by the printer or publisher of such newspaper, made before any officer authorized to administer oaths, and filed with the clerk of the board of commissioners or any other competent proof of such publication shall in all courts be conclusive evidence of the legal publication and promulgation of such ordinances. Ordinances passed by the board

of commissioners and requiring publication, shall take effect and be in force from and after publication thereof, unless it be otherwise expressly provided for in such ordinance. Ordinances passed by the board of commissioners and not requiring publication, shall take effect and be in force from and after their passage unless it shall therein otherwise expressly be provided.

§ 30. ENACTING CLAUSE.] The style of all ordinances shall be "Be it ordained by the board of city commissioners of the city of ....., " but said caption may be omitted when such ordinances are published in book form or are revised and digested.

§ 31. OFFICERS. APPOINTMENT OF.] The board of city commissioners in all cities, at their first meeting after their qualification or as soon thereafter as possible, shall appoint the following officers, to-wit: A treasurer, auditor, attorney, one or more assessors, a physician, street commissioner, chief of the fire department, a board of public works, one or more policeman, and such other officers or boards as the board of city commissioners may deem necessary; provided, that the board of city commissioners, by a majority vote, may dispense with the offices which in its judgment are unnecessary.

§ 32. SALARIES, HOW FIXED.] The board of city commissioners shall by resolution provide such salary or compensation for the officers and employes of the city as it shall deem proper. All salaries heretofore fixed or established by law shall be and remain the salaries of such officers until the board of city commissioners shall otherwise determine.

§ 33. VACANCIES.] When any officer shall remove from the city or any such officer shall refuse or neglect for ten days after official notification of his appointment to qualify and enter upon the discharge of the duties of his office the office shall be deemed vacant. Whenever a vacancy shall occur in any office to be filled by appointment the same proceedings shall be had to fill such vacancy as are provided for in case of an appointment in the first instance.

§ 34. VACANCIES. ELECTIONS TO FILL.] Special elections to fill vacancies or for any other purpose shall be held and conducted by the inspectors and judges of election of the several precincts in the same manner and the returns thereof shall be made in the same form and manner as of the general municipal elections, and within such time as is prescribed by law.

§ 35. TENURE OF OFFICE.] Every person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term.

§ 36. OATH OF OFFICE.] Every person elected or appointed to any office shall, before he enters upon the discharge of the duties thereof, take and subscribe the oath of office provided for by the constitution and file the same with the city auditor

within ten days after notice of his election or appointment; and in case of his failure to do either the office shall be deemed vacant.

§ 37. BONDS. WHAT OFFICERS GIVE.] The treasurer, auditor, city or village justice of the peace, and such other officers as the board of city commissioners may direct shall, before entering upon the discharge of the duties of their respective offices execute and deliver to the city a bond in such sum as the board of city commissioners may determine, with two or more sureties, conditioned for the faithful discharge of the duties of their respective offices; and with such other conditions as the board of city commissioners may prescribe. The board of city commissioners may at any time require new and additional bonds of any officer; provided that in no case shall the treasurer's bond be fixed at a less sum than the amount of the estimated tax and special assessments for the current year. .

All bonds must be approved by the president of the board of city commissioners, and when so approved shall be filed in the office of the city auditor within ten days after the officer executing the same shall have been notified of his appointment, and when so approved and filed shall be recorded by the city auditor in a book kept for that purpose; such auditor shall annex to each such record a certificate that the same is a true copy of the original, and such record shall be prima facie evidence of the contents of such bond and in the absence of the original may be used as evidence in all courts.

§ 38. REMOVAL FROM OFFICE.] Every person elected to any office may be removed therefrom by a majority vote of all the members of the board of city commissioners, but no such officer shall be removed except for cause nor unless charges are preferred against him and an opportunity given him to be heard in his defense. The board of city commissioners may compel the attendance of witnesses and the production of papers when necessary for the purpose of such hearing, and shall proceed within ten days after the charges are filed with the city auditor to hear and determine the case upon its merits. The president of the board of city commissioners may suspend any officer against whom charges have been preferred until the disposition of the same and appoint any officer to fill the vacancy temporarily until the charges have been disposed of. Any officer appointed by the president of the board of city commissioners without confirmation under the provisions of this chapter may be removed by him when he deems it for the best interest of the city.

§ 39. CITY AUDITOR. POWERS AND DUTIES.] The city auditor shall have the care and custody of the corporate seal and all papers and records of the city. It shall be his duty to attend all meetings of the board of city commissioners and keep a full record of their proceedings; to record all ordinances and bonds

in a book kept for that purpose; to keep a record of all licenses granted, which record shall at all reasonable times be open to inspection by the public; to carefully preserve all receipts filed with him and draw and sign all orders upon the treasury, except as otherwise herein provided, in pursuance of an order or resolution of the board of city commissioners, and keep a full and correct account thereof in books provided for that purpose. He shall have such power and authority and perform such duties as auditors of cities and villages may be required to perform under the general laws. He shall keep an accurate account with the treasurer and charge him with all tax lists presented to him for collection and all sums of money paid into the treasury. He shall be ex-officio secretary of the board of public works and shall perform such duties as may be required of him by the board of city commissioners. Within thirty days after the close of each fiscal year he shall make and cause to be published in the city official paper a financial statement showing the receipts and disbursements on account of each fund during the last preceding year. Copies of any and all books, papers, documents or instruments duly filed and kept in his office and transcripts from the records of the proceedings of the board of city commissioners certified by him under the corporate seal of the city, shall be evidence in all courts and places in like manner and with the same force and effect as if the originals were produced. He shall also have power to administer oaths and affirmations authorized to be taken by and under these statutes. Every such auditor may with the consent and approval of the board of city commissioners in writing appoint a deputy and shall file such appointment in his office; such deputy shall aid in the performance of the duties under his direction and in case of his absence or disability or of a vacancy in his office shall perform all such duties during such absence, disability or the continuance of such vacancy; and every such auditor and his sureties shall be liable upon his official bond for the acts of such deputy.

§ 40. CITY ATTORNEY. ASSISTANT.] The city attorney shall conduct all the law business of the city and of the departments thereof and all law business in which the city shall be interested; he shall, when requested, furnish written opinions upon the subjects submitted to him by the board of city commissioners of any other department. He shall keep a docket of all the cases to which the city may be party in any court of record, in which shall be briefly entered all steps taken in such cause, which docket shall at all reasonable hours be open to public inspection. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances and such other instruments as may be required by the officers of the city; to examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes and to perform such other duties

as may be prescribed by the board of ordinances. He may, with the consent and approval of the board of commissioners, appoint an assistant who shall have power to do all the acts required by law of the city attorney, provided, that he shall be responsible to the city for the acts of such assistant, and that the city shall not be liable for nor have any authority to pay compensation to such assistant, provided that special counsel may be employed by the city commissioners when necessary.

§ 41. TREASURER. POWERS AND DUTIES.] The city treasurer shall receive all moneys belonging to the city, keep an accurate account of the same in suitable books prepared for that purpose, and pay over the money in his hands according to the law. He shall keep a detailed account of the money received and disbursed by him in such manner as the board of city commissioners shall direct; his books shall at all reasonable times be open to inspection by any voter of the city; he shall make a report to the board of city commissioners each month and as much oftener as required, which report shall embrace a statement of the receipts and disbursements in his office, and ten days preceding every biennial election he shall make and file in the city clerk's office a full and minute report of all moneys received and disbursed by him, of all tax certificates, vouchers and other effects of pecuniary value in his possession and of all other transactions relating to his office from the date of the like report of his predecessor to the date of the report required to be made out by him. He shall keep an accurate account of each of the separate funds in his custody. Except as herein otherwise provided he shall have such power and authority and perform such duties as treasurers in villages, cities and towns are required to perform under these statutes. He shall receive no fees or per diem except the salary fixed by the board of city commissioners prior to his election, but all fees collected by him shall be paid into the city treasury at the end of each month.

§ 42. ADDITIONAL DUTIES OF AUDITOR.] The auditor shall, on or before the first day of September of each year, file with the president of the board a detailed statement of the expenses of the city and the wards thereof during the last fiscal year, and such statement shall also contain an estimate of the expenses of the fiscal year and the income for that year from sources other than taxation. He shall countersign all contracts made with the city if the necessary funds shall have been provided to pay the liability that may be incurred thereunder and no such contract shall be valid until so countersigned. He shall make a list of all certificates for the payment of which special taxes are to be levied in each year in time for the same to be inserted in the tax roll in the form of a schedule of special taxes, and certify the correctness of the same, and such certified schedule shall be prima facie evidence of the legality and regularity of the taxes

levied in pursuance thereof; but no irregularity in the making of such lists shall invalidate any such special tax. He shall report monthly, in writing, to the board of city commissioners the condition of the several funds of the city and of the condition of all outstanding contracts and claims which may be payable out of such fund. He shall examine and countersign all city orders before the same shall be valid, but shall not countersign any order before the money is in the treasury to pay the same. He shall examine all claims presented against the city, whether founded on contract or otherwise and determine as to each whether it is properly itemized and sworn to; if on contract, whether the items charged are correct, whether such claim was incurred by proper authority and generally determine its correctness. For the above purposes he may swear witnesses to take testimony. If he does not find any objection to any claim he shall mark his approval thereon, if he disapproves or approves in part or disapproves in part, he shall report to the board of city commissioners his reasons therefor and in all cases shall report the evidence taken by him. No claim shall be considered by the board of city commissioners until it shall have been thus examined and reported on by the auditor. He shall examine each month the treasurer's accounts as reported and kept by him and report as to the correctness of the same, and also any violation by the treasurer of his duties in the manner of keeping his accounts or disbursing moneys. The auditor shall procure a claim book at the expense of the city in which all claims against it shall be entered as fast as the same are filed; said books shall be provided with an index and be in such form as to provide for the entry of the name of the claimant, number of the claim, date of filing, amount claimed, date of the report of the auditor, whether approved, and for how much, date of allowance or disallowance by the board of city commissioners, amount allowed, date of the order issued to pay the same, number of such order and date of the cancellation of the same. The auditor shall perform the duties of a member of the board of public works and such other duties as are required of him under the provisions of this chapter or by the board of city commissioners. In case the office of auditor is dispensed with, the duties pertaining thereunto shall be discharged by such officer or officers or board as the board of city commissioners shall designate by resolution or ordinance.

§ 43. OFFICIAL NEWSPAPERS.] The board of city commissioners, at its first meeting or as soon thereafter as may be, shall designate one newspaper printed in the city in which shall be published all the ordinances, notices and all other proceedings by law to be published and said board of city commissioners may establish by ordinance such rates for printing and publishing as to them may seem just and proper, provided, that the price of

such printing shall not exceed the legal rate for like work as the same now is or may be established by law.

§ 44. CERTIFICATE OF OFFICIAL PUBLICATION.] When any ordinance, notice, resolution or other proceeding shall have been published, a copy of such publication together with the affidavit of the printer or his foreman stating the length of time the same has been published, shall be filed with the city clerk and such affidavit shall be conclusive evidence of the publication thereof and the bill for such publication shall not be audited until such affidavit is so filed.

§ 45. DUTIES OF OFFICERS GENERALLY.] All other officers elected or appointed under and by virtue of the authority of this chapter shall perform such duties as are required to be performed by like officers under these statutes and also such as are prescribed by the board of city commissioners.

§ 46. RULES OF COMMISSIONERS. QUORUM, CONFIRMATIONS.] The board of city commissioners shall determine the rules of its own proceedings. A majority of the members thereof shall constitute a quorum, but a smaller number may adjourn; their sessions shall be open to the public; the ayes and nays may be required by any member; and on the adoption of any ordinance or resolution assessing or levying taxes or for the appropriation or disbursement of money or creating any liability or charge against the city or any fund thereof, the vote shall be taken by ayes and nays, and every such vote shall be entered at length upon the journal. The board of city commissioners shall be the judges of the election and qualifications of its own members, and may punish them or any persons present by fine for disorderly behavior; may compel the attendance of its members upon its meetings and may employ the police of the city for that purpose; may fine or expel any member for neglect of duty as such member, or for unnecessary absence from sessions of the board of city commissioners.

§ 47. CONTROL OF THE FINANCES. AUTHORITY OF COMMISSIONERS.] The board of city commissioners shall have the management and control of the finances and of all the property of the city, except as herein otherwise provided, and shall likewise, in addition to all other powers herein and elsewhere in these statutes vested in them, have full power and authority to enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such rules, by-laws and regulations for the government and the good order of the city, for the benefit of its trade and commerce, and health of the inhabitants thereof, for the prevention of crime and for carrying into effect the powers vested in said board as they shall deem expedient; such board shall have the power to declare and impose penalties and enforce the same against any person or persons who may violate any of the provisions of such ordinances, by-laws or regulations; and such

ordinances, rules, by-laws, regulations shall have the force of law, provided that they be not repugnant to the constitution of the United States or of this state or of the laws thereof, and for the aforesaid purposes such board of city commissioners shall have authority by ordinance, resolution, by-law or regulation.

§ 48. GENERAL POWERS OF COMMISSIONERS.] The board of city commissioners shall have power:

1. To control the finances and property of the corporation, to appropriate money for corporate purposes only, and provide for the payment of debts and expenses of the corporation.

2. To levy and collect taxes for general and special purposes on real and personal property.

3. To fix the amount, terms and manner of issuing and revoking licenses.

4. To borrow money on the credits of the corporation for corporation purposes, and to issue bonds therefor in such amounts and form and on such conditions as it shall prescribe, but no city shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, exceeding five per cent of the taxable property therein, as determined by the last preceding assessment; provided that any incorporated city may, by a two-thirds vote at any special or general election increase such indebtedness to an amount equal to three per cent of such assessed valuation beyond said five per cent limit and may issue bonds therefor; provided, further, that any city, when authorized by a majority vote at a general or special election, may become indebted in any amount not exceeding four per cent of such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing waterworks for the purpose of furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, but for no other purpose whatever, and such city may issue bonds therefor; provided, further, that no bonds issued under the provisions of this section shall be sold for less than their par value, and the city issuing such bonds shall, at or before the time of issuing the same or incurring the indebtedness for which the same are to be issued, provide for the collection of a direct annual tax sufficient to pay the interest on such debt or such bond when it falls due, and to pay and discharge the principal thereof when the same becomes due, and such provision for the collection of such annual tax shall be irrepealable until such debt is paid; provided, further, that none of the hereinbefore mentioned bonds shall be issued either for special or general purposes, except as by law otherwise provided, unless at an election after twenty days' notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of the city shall, by a majority vote, determine in favor of issuing such bonds;

provided, further, that no bonds issued under the provisions of this chapter shall be issued for a longer period than twenty years.

5. To lay out, open, alter, establish, widen, grade, pave, park or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds and vacate the same, and to regulate the planting of trees thereon; to prevent and remove obstructions and encroachments upon the same; to provide for the lighting of the same, and to provide for the furnishing of lights to the inhabitants of the city.

6. To provide for the cleaning and health of the city.

7. To regulate the laying of gas or watermains and pipes, and the building, laying or repairing of sewers, tunnels and drains, and erecting gas or electric light plants; provided, however, that any company heretofore organized under the general laws of this state or any association of persons organized or which may hereafter be organized for the purpose of manufacturing illuminating gas or electricity, to supply cities or the inhabitants thereof with the same, shall have the right, by the consent of the board of city commissioners, subject to existing rights, to erect gas or electric light works and lay down pipes or string wires on poles in streets or alleys of any city in this state, subject to such regulations as such city may by ordinance prescribe.

8. To regulate the use of sidewalks and all structures thereunder, and to require the owner or occupant of any premises to keep the sidewalks in front of or along the same free from snow or other obstruction.

9. To regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage or any other offensive matter, in, and to prevent injury to any street, avenue, alley or public ground.

10. To provide for and regulate crosswalks, curbs and gutters.

11. To regulate and prevent the use of streets, sidewalks, and public grounds for signs, signposts, awnings, telegraph or telephone poles, horse troughs, racks, posting hand bills, and advertisements.

12. To regulate and prohibit the exhibition or carrying of banners, placards, advertisements or hand bills in the streets or public grounds or upon the sidewalks.

13. To regulate and prevent the flying of flags, banners or signs across the streets or from houses.

14. To regulate traffic and sales upon the streets, sidewalks and public places.

15. To regulate the speed of horses and other animals, vehicles, cars and locomotives within the limits of the corporation.

16. To regulate the numbering of houses and lots.

17. To name and change the name of any street, avenue, alley or other public place.

18. To permit, regulate or prohibit the locating, constructing or laying of a track of any horse or other street railway in any

street, alley or public place; but such permission shall not be for a longer time than fifty years.

19. To provide for and change the location, grade and crossing of any railroad.

20. To require railroad companies to fence their respective railroads or any portion of the same and construct cattle guards, crossings of streets and public roads and keep the same in repair within the limits of the corporation.

21. To require railroad companies to keep flagmen at railroad crossings of streets and provide protection against injury to persons and property; to compel railroads to raise or lower their tracks to conform to any grade which may at any time be established by such city, and where such tracks run lengthwise of such street, alley or highway, to keep their tracks on a level with the street surface and so that such tracks may be crossed at any place on such street, alley or highway; to compel and require railroad companies to make and keep open and to keep in repair ditches, drains, sewers and culverts along and under their tracks so that filthy and stagnant pools of water cannot stand on their grounds or right-of-way and so that the natural or artificial drainage of adjacent property shall not be impeded.

22. To construct and keep in repair, bridges, viaducts and tunnels to regulate the use thereof.

23. To license, tax regulate, suppress and prohibit hawkers, peddlers, pawn brokers, keepers of ordinaries, theatricals, and other exhibitions, shows and amusements, ticket scalpers, and employment agencies, and to revoke such license at pleasure; provided, however, that the provisions of this section with reference to hawkers and peddlers shall not apply to persons selling or offering for sale the products raised or grown on lands within this state.

24. To license, tax and regulate hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen and all others pursuing like occupations, and to prescribe their compensation.

25. To license, tax, regulate and restrain runners for stages, cars, public houses or other things or persons.

26. To license, regulate, tax or prohibit and suppress billiard, bagatelle, pigeonhole, pin alleys, ball alleys, or any other tables or implements kept or used for a similar purpose in any place of public resort.

27. To license, tax and regulate plumbers and the business of plumbing and to provide the manner in which the plumbing shall be done, and for the inspection thereof, and the manner in which the connections thereof with the sewers and the watermains of the city may be made.

28. To establish markets and market houses, and to provide for the regulation and the use thereof.

29. To provide for the place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions and to regulate the selling thereof.

30. To regulate the sale of bread in the city, and prescribe the weight and quality of the bread in the loaf.

31. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions, and to license and regulate the sale of milk, provide for the inspection of same, and all dairies and premises wherever situated, from which any milk is offered for sale in such city, and to prohibit the sale of impure and diseased milk.

32. To regulate the inspection, weighing and measuring of lumber, firewood, coal, hay and any articles of merchandise.

33. To provide for the inspection and sealing of weights and measures.

34. To enforce the keeping and use of proper weights and measures by venders.

35. To regulate the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters.

36. To regulate places of amusement.

37. To prevent intoxicating, fighting, quarreling, dog fights, cock fights and all disorderly conduct.

38. To regulate partition fences and party walls.

39. To prescribe the thickness, strength and manner of constructing stone, brick and other buildings and for the construction of fire escapes therein, and to provide for the inspection of all buildings within the city limits.

40. To prescribe the limits within which wooden buildings shall not be placed or erected or repaired without permission, and to direct that all and any buildings within said limits which shall be known as the fire limits, when the same shall have been damaged by fire, decay or otherwise, to the extent of fifty per cent of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damages, and to provide for the removal of any structure or building erected contrary to such prescription, and to declare each day's continuance of such structure or building a separate offense, and to prescribe penalties therefor; and define fire proof material and by ordinance provide for issuing building permits and appointment of building inspectors.

41. To prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building or manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous.

42. To regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires.

43. To prevent the deposit of ashes in unsafe places, and to cause all such buildings and inclosures as may be in a dangerous state to be put in a safe condition.

44. To erect engine houses, and to provide fire engines, hose carts, hooks and ladders, and other implements for the prevention and extinguishment of fires, and to provide for the use and management of the same by voluntary fire companies or otherwise.

45. To regulate and prevent the storage of gun powder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, petroleum or any of the products thereof, and other combustible or explosive material and the use of lights in stables, shops, and other places, and the building of bonfires; also to regulate and restrain the use of fireworks, firecrackers, torpedoes, roman candles, sky rockets and other pyrotechnic display.

46. To provide for the inspection of steam boilers.

47. To establish and erect a city jail, house of correction and work house for the confinement and reformation of disorderly persons convicted of violating any city ordinance, and make rules and regulations for the government of the same, and appoint necessary jailors and keepers.

48. To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law and with the consent of the board of county commissioners; and to regulate the police of the city and pass and enforce all necessary police ordinances.

49. To prevent and suppress riots, routs, affrays, noises, disturbances and disorderly assemblies in any public or private place.

50. To prohibit and punish cruelty to animals.

51. To restrain and punish vagrants, mendicants and prostitutes.

52. To declare what shall be nuisance and abate the same, and impose fines upon persons who may create, continue or suffer nuisances to exist.

53. To erect and establish hospitals and medical dispensaries and control and regulate the same, and provide and enforce quarantine regulations against all contagious and infectious diseases.

54. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or for the suppression of disease.

55. To establish and regulate cemeteries within or without the corporation, and acquire lands therefor by purchase or otherwise and cause cemeteries to be removed, and prohibit their establishment within one mile of the corporation.

56. To regulate, restrain and prevent the running at large of horses, mules, cattle, swine, sheep, goats and geese; and provide for the establishment and maintenance of public pounds for

the impounding of any stock running at large or tethered in any street in the city in violation of its ordinances, and establish procedure for the impounding and discharging of stock so impounded and make the expenses thereof and fines imposed for the violation of ordinances passed under this subdivision, a lien upon such stock, and provide for the sale thereof to satisfy such liens.

57. To license, regulate or prohibit the running at large of dogs and injuries and annoyances therefrom, and to authorize their summary destruction when at large, contrary to any such prohibition or regulation.

58. To direct and locate and regulate the management and construction of packing houses, renderies, bone factories, slaughter houses, soap factories, livery stables and blacksmith shops within, or within one mile of the city limits of the corporation.

59. To prohibit any offensive or unwholesome business or establishment within, or within one mile of the limits of the corporation.

60. To compel the owner of any grocery, cellar, stable, pigsty, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, abate or remove the same, and to regulate the location thereof.

61. To provide for the taking of the city census, but no city census shall be taken oftener than once in three years.

62. To provide for the erection and care of all public buildings necessary for the use of the city.

63. To extend by condemnation or otherwise any street, alley or highway over or across or to construct any sewer under or through any railroad, tracks, right-of-way, or land of any railroad company within the corporate limits.

64. The city commissioners shall have the power to allow the use of or right to lay down any railroad tracks in any street of the city to any railroad company.

65. To tax, license and regulate auctioneers, lumber yards, public scales, money changers and brokers.

66. To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusements or practice having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams or horses.

67. To regulate or prohibit the keeping of any lumber yard and the placing or piling or selling of any lumber, timber, wood or other combustible material within fire limits of the city.

68. To provide by ordinance that all the paper, printing, stationery, blanks, fuel and other supplies needed for the use of the city shall be furnished by contract let to the lowest responsible bidder.

69. To tax, license and regulate second hand and junk stores and to forbid their purchasing or receiving from minors without

the written consent of their parents or guardians, any article whatever, and to prescribe punishment for the violation thereof.

70. To purchase, erect, lease, rent, manage and maintain any system or part of system of waterworks, hydrants and supply of water, telegraphing, fire signals or fire apparatus that may be of use in the prevention and extinguishment of fires, and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected and to fix and regulate the rates, use and sale of water.

71. To redistrict the city into wards and prescribe the boundaries thereof.

72. To adopt such other ordinances, not repugnant to the constitution and laws of the state, as the general welfare of the city may demand.

73. To pass all ordinances, rules and regulations proper or necessary to carry into effect the powers granted to cities, with such fines, penalties or forfeitures as the city commissioners may deem proper; provided that no fine or penalty shall exceed one hundred dollars and no imprisonment shall exceed three months for one offense.

74. To submit to a vote of the electors propositions for the issuing of bonds within the debt limit provided by law, for the erection of a municipal auditorium, public play grounds, a public gymnasium, public baths or other places or means of public amusement or entertainment, and in case a majority of the electors voting on any such proposition vote for the same at any regular election, or any special election called for that purpose, it shall be the duty of the board of city commissioners forthwith to issue said bonds and proceed to carry out said proposition so submitted.

75. To regulate the location of junk shops, coal yards, garages, machine shops, power laundries, hospitals and undertaking establishments, also to fix and establish building lines within said cities fixing the distance from the property line at which buildings may be erected.

§ 49. EXERCISE OF POWER THROUGH ORDINANCES.] When by this chapter the power is conferred upon the board of commissioners to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the board of commissioners may provide by ordinance the details necessary for the full exercise of such power.

§ 50. POWERS OF COMMISSIONER OF PUBLIC HEALTH.] The commissioner of public health shall have all the power and authority heretofore given or which hereafter may be given to boards of health by any general law and it shall be his duty to provide such additional rules and regulations as shall be proper and necessary for the preservation of the health of the people of the

city to prevent the spread of contagious diseases and to cause the removal of all objects detrimental to the health of such people and to enforce such rules and regulations as are hereinafter provided.

§ 51. HEALTH REGULATIONS.] All rules and regulations prepared by such commissioner shall be by him reported to the board of city commissioners and if the board of city commissioners shall approve the same by a vote of the majority of its members, such rules and regulations shall have the force and effect of ordinances, and the violation thereof may be prosecuted and punished as in the case of ordinances.

§ 52. SANITARY RECOMMENDATIONS.] The commissioner of public health shall also from time to time, recommend to the board of city commissioners such sanitary measures to be executed at the public expense as shall seem to him to be necessary for the preservation of the public health.

§ 53. SALARY OF COMMISSIONER OF PUBLIC HEALTH: ASSISTANTS.] It shall be the duty of the board of city commissioners to fix the salary of said commissioner, which shall be paid out of the city treasury. The commissioner may appoint, subject to confirmation by the president of the board of city commissioners, such assistants as may be necessary, and all such appointees shall receive such salary or compensation as the board of city commissioners may fix.

§ 54. AUTHORITY TO INSPECT PREMISES.] The commissioner of public health or any person acting under him shall have authority to enter into and examine at any time all buildings, lots and places of any description within the city for the purpose of ascertaining the condition thereof so far as the public health may be affected thereby, and any person refusing to allow entrance into or upon his premises at reasonable hours for such purpose, shall, on conviction thereof, be fined not less than ten dollars nor more than one hundred dollars; and in all cases in which the commissioner shall deem it necessary for the protection of the health of the city to abate or remove any nuisance, source of filth, or cause of sickness which shall be found on private property, he shall cause a notice to be served on the owner or occupant thereof, requiring him to remove the same at his own expense within a reasonable time, not less than twenty four hours; and if said owner or occupant shall refuse or neglect to comply with such notice, or if such nuisance, source of filth or cause of sickness exist on the property of non-resident owners or upon property the owners of which cannot be found, the commissioner shall cause the removal of such nuisance, source of filth, or cause of sickness under his direction at the expense of the city, and the costs thereof shall be charged against the lots, pieces or parcels of land upon which said work has been done, and shall be

assessed against said property in the manner provided for the assessment and certification of sidewalk assessments.

§ 55. CONTAGIOUS DISEASES. DUTIES OF PHYSICIANS.] It shall be the duty of every physician practicing in any city which has adopted this charter to report in writing to the commissioner of public health every patient he shall have who is sick with small pox, scarlet fever, diphtheria, typhoid fever, asiatic cholera, or any other dangerous contagious disease within twenty-four hours after he shall ascertain or suspect the nature of such disease. The report shall be in such form as may be prescribed by the state board of health and shall state the name, sex, age and place of residence of the person whose sickness is reported, the nature of the disease and such additional facts as said board may prescribe. Any practicing physician who shall neglect or refuse to perform the duties required of him by this section or who shall make a false return of the facts required shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense or by imprisonment in the county jail for a period of not exceeding sixty days, or by both fine and imprisonment.

§ 56. REPORTS TO STATE BOARD OF HEALTH.] The commissioner of public health shall also discharge such duties not herein enumerated, as may from time to time be imposed upon him by the board of city commissioners by ordinance or resolution, and shall make such reports to the state board of health and generally perform such duties as are or may be required of health officers by these statutes.

§ 57. DUTIES OF PEACE OFFICERS, AS TO HEALTH REGULATIONS.] It shall be the duty of the members of the police force of the city and all magistrates and other civil officers and all citizens to aid to the utmost of their power the commissioner of public health in the discharge of his duties, and on his requisition it shall be the duty of the chief of police to serve or detail one or more of the policemen to serve the notices issued by said commissioner and to perform such other duties as he may require.

§ 58. CITY FUNDS. CONTROL OF.] All funds in the city treasury, except school funds, funds created and set apart for the payment of interest and principal of the debt of the city, and funds collected on special assessments, shall be under the control of the board of city commissioners and be drawn out on the order of the president of the board of city commissioners, duly countersigned by the auditor, when authorized by a vote of the board of city commissioners. All orders drawn upon the treasurer shall specify the purposes for which they are drawn, and be payable out of the funds in the treasury on which they are drawn and shall be payable to the persons in whose favor they are drawn and may be transferred by endorsement.

§ 59. **TREASURER'S LIABILITY.]** The city treasurer shall not pay out the funds in his hands which shall be appropriated by law for any special purpose except for the purpose for which such funds are appropriated, any direction of the board of city commissioners to the contrary notwithstanding.

§ 60. **TREASURER'S STATEMENT.]** The treasurer shall on the first day of each month, deliver to the city auditor a statement showing the condition of the treasury at the close of the preceding month and a statement of all disbursements since the last report.

§ 61. **DEPOSITARY OF FUNDS.]** The board of city commissioners may designate by resolution the bank or banks where the money belonging to the city shall be deposited, and the security, to be approved by the president of the board of city commissioners and auditor to be given by such bank or banks, and when the money is so deposited the treasurer and his bondsmen shall not be liable for the loss thereof by reason of the failure of such bank or banks, and the interest arising therefrom shall be paid into the treasury; provided, such money shall not be deposited in any bank without this state.

§ 62. **INTEREST ON DEPOSITS.]** The board of city commissioners may contract with a bank receiving the city deposits for the payment of interest thereon.

§ 63. **MEANING OF PHRASES.]** Whenever in the laws not repealed by this act the words "town council, city council, or village board" appear, it shall mean board of city commissioners; the word "mayor" or "president" shall mean president of the board of city commissioners. Whenever the words "city commissioners" are used in this act they shall be construed to mean and include village commissioners.

§ 64. **SUCCESSION OF POWERS.]** All the provisions of law now in force or which may hereafter be passed by the legislative assembly in relation to the powers, duties or privileges of the president of boards of trustees of towns or villages, or mayors of cities, are hereby granted to the president of the board of city commissioners, and except where inapplicable all the provisions of law now in force or hereafter passed by the legislative assembly in relation to the powers, duties or privileges of town or village trustees, or other municipal boards thereof, or the powers, duties or privileges of city councils are hereby granted to the board of city commissioners provided for in this act; provided, cities incorporated under this act shall for all purposes according to their respective population retain the classification otherwise provided by law.

§ 65. **REPEAL.]** All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1911.

## CHAPTER 78.

[H. B. No. 133—DeLance]

## VACATION OF STREETS AND ALLEYS.

AN ACT to Amend Section 2763 of the Revised Codes of the State of North Dakota for the Year 1905, Providing for the Vacation of Streets and Alleys, Establishing the Procedure and Providing for an Appeal.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 2763 of the Revised Codes of the state of North Dakota for the year 1905, is hereby amended so as to read as follows:

§ 2763. VACATION OF STREETS AND ALLEYS. PETITION. APPEAL.] No public grounds, streets or alleys, or parts thereof, over, under or through which shall have been constructed, lengthwise, sewers or watermains of the city, or watermains, gas, steam or other pipes, or telephone or telegraph lines by the city's grantees of the right of way therefor shall be vacated unless such sewers or watermains had been abandoned and are not in use, and no other public grounds, streets or alleys, or parts thereof, within the city shall be vacated or discontinued by the city council except upon a petition of a majority of the owners of the property on the line of such public grounds, streets or alley, resident within the city. Such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets or alleys proposed to be vacated, and shall be verified by the oath of at least two of the petitioners, and the consent in writing of all the owners of the property adjoining the plat to be so vacated. The city council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed with the city auditor, who shall give notice of publication in the official newspaper of the city for four weeks, at least once each week, to the effect that such petition has been filed as aforesaid, and stating in brief its objects, and that said petition will be heard and considered by the council, or a committee thereof, on a certain day therein specified, not less than thirty days after the first publication of such notice. The city council, or such committee as may be appointed by it for the purpose, at the time and place appointed, shall investigate and consider the matter, and shall hear the testimony and evidence of persons interested. The city council thereupon after hearing the same, or upon the report of such committee favoring the granting of such petition, may, by resolution passed by a two-thirds vote of all of the members elect, declare such public grounds, streets or alleys, or highways, vacated; which resolution, before the same shall go into effect, shall be published as

in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city auditor, shall be filed for record and duly recorded in the office of the register of deeds of the county, and shall have the effect to convey to the abutting property owners, all the right and title of the city to the property so vacated. Any person aggrieved thereby may, within twenty days after publication of such resolution, appeal to the district court of the county, under the same regulations as in the case of opening streets and alleys, and the judgment of the court therein shall be final. All expenses incurred in vacating any such public grounds, streets, or alleys, must be paid by the petitioners, who shall deposit with the city treasurer, such sum as may be necessary therefor, before any such expense is incurred, and the amount so to be deposited shall be determined by the city council, and any part thereof not used for such expenses shall be returned.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is now no provision for the vacation of streets and alleys where the sewers and watermains have been abandoned, therefore, this act shall take effect and be in force from and after the date of its passage and approval.

Approved February 27, 1911.

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## CHAPTER 79.

[H. B. No. 270—Stern]

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### POWERS OF CITY COUNCILS.

AN ACT to Amend Article 4 Chapter 30 of the Political Code of North Dakota, being Section 2678 of the Revised Codes of North Dakota of 1905, Relating to Powers of City Councils.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That subdivision 39 of Article 4 of Chapter 30 of the Political Code of North Dakota, being subdivision 39 of Section 2678 of the Revised Codes of North Dakota of 1905, be, and the same is hereby amended to read as follows, to-wit:

39. To regulate the inspection, weighing and measuring of lumber, fire wood, coal, hay, and any article of merchandise, to establish one or more, city scales and to require dealers in hay, coal or fire wood to use such scales in the sale of such hay, coal or fire-wood.

§ 2. EMERGENCY.] Whereas the present law is inadequate in relation to the subject matter of the foregoing amendment, therefore, this act shall take effect and be in full force from and after its passage and approval.

Approved March 3, 1911.