

# Village Charter

**Act 3 of 1895**  
*as amended*

Published by the  
Michigan  
Municipal League  
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VILLAGE OF PELLSTON CHARTER  
June 5, 1907

ACT (593)

AN ACT to incorporate the village of Pellston, in the county of Emmet and to define its boundaries and powers.

The People of the State of Michigan enact:

SECTION 1. The following lands and territory in the townships of McKinley and Maple River, county of Emmet, and described as follows. to-wit: Commencing at the northeast corner of section thirty-four, township thirty-seven north, range four west: thence running west on the section line to the northwest corner of said section: thence south on the section line to the south line of said section thirty-four; thence west eighty rods on the section line; thence south to the northwest corner of the southeast quarter of the southeast quarter of section four, township thirty-six north, range four west; thence east to the section line on the east side of section three; thence north to the place of beginning is hereby constituted a village corporate by the name of the village of Pellston.

SECTION 2. The first election of officers of said village shall be held on the second Tuesday in June in the year nineteen hundred seven at Mocdy and Geiken's Hall in said village.

SECTION 3. Allen C. Wright, Charles R. Duggan, Herbert N. Crandall and Daniel L Allen are hereby constituted a board of registration for said first election to be held in said village, and who shall also act as inspectors of election at the first election. The said board of registration shall meet on the Saturday proceeding said first election, and shall remain in session the same hours required of boards of registration for general elections and register the names of all persons resident of said village presenting themselves for registration, and having the qualifications of voters at annual township meetings, due notice of the time and place of which registration shall be given by said board by the posting of notices thereof in five public places in said village, at least five days previous to said meeting.

Village of Pellston Charter Continued

SECTION 4. The said inspectors shall give notice of the time and place of holding such election and the officers to be elected at such election, by posting of written or printed notices thereof in at least five public places in such territory at least ten days previous to the day appointed for holding the same. At such election, the polls shall be opened at seven o'clock in the forenoon and shall close at five o'clock in the afternoon.

SECTION 5. The assessor of said village shall, for the year nineteen hundred seven, on or before July fifteen of said year, make an assessment roll containing a description of all the real property and the aggregate amount of all the personal property liable under the law of the State to taxation in the village, and the name of the owner, agent or person liable to pay taxes thereon if known, and the names of all persons liable to pay poll tax in the village, and shall set down in such roll the valuation of such property, at its true cash value, placing the value of the real and personal property in separate columns; and in so doing he shall conform to and be governed by the provisions of law governing supervisors of townships performing like services.

SECTION 6. The council, after an examination of the assessment roll, shall certify the same to the assessor, together with the amount which it requires to be raised by general tax, and for highway and other general purposes, which certificates, endorsed upon or annexed to the roll, shall be signed by the president and clerk.

SECTION 7. Upon receiving the assessment roll, with the certificate of the several amounts to be raised thereon as provided in the preceding section, the assessor shall proceed to estimate, apportion, and set down in columns opposite to the several valuations of real and personal property on the roll, in proportion to the individual and particular estimates and valuations, the respective sums in dollars and cents, apportionable to each; placing the general fund taxes and all general taxes, except those for highway purposes in one column; the general highway tax in another column; the street district taxes, if any, in a third column; all special assessment taxes in a fourth column; and shall also set down in another column on the roll one dollar opposite the name of every person liable to pay a poll-tax in the village; and the total of all taxes assessed to each valuation shall be carried into the last column of the roll. The assessor shall also foot up the amounts carried to the last column, as aforesaid, and certify upon the roll the aggregate amounts of the taxes levied therein.

Village of Pellston charter Continued

SECTION 8. After extending the taxes as aforesaid, and not later than the fourth Monday of July, nineteen hundred seven, the assessor shall cause said assessment roll, certified under his hand, to be delivered to the treasurer, with the warrant of the president of the village annexed thereto, directing and requiring him to collect from the several persons named in said roll the several sums mentioned therein opposite to their respective names, as a tax of assessment, and authorizing him, in case any person named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his, her or their goods and chattels, together with the costs and charges of such distress and sale, and directing him to collect all taxes by a certain day therein to be named, not less than thirty nor more than fifty days from the date of said warrant. The president may renew said warrant from time to time, by order of the council, and for such time as the council shall direct: Provided, That the time shall not be extended later than the third Monday of October, A.D. nineteen hundred seven.

SECTION 9. It shall be unlawful for any person, directly or indirectly, himself or by his clerk, agent or employee, to manufacture, sell, keep for sale, give away or furnish and vinous, malt, brewed, fermented, spirituous or intoxicating liquor, or mixed liquor or beverage, any part of which is intoxicating, or keeping a saloon or any other place where any such liquors are manufactured, sold, stored for sale, given away or furnished within the corporate limits of said village: Provided, however, That the provisions of this section shall not apply to druggist or registered pharmacists in selling any such liquor under and in compliance with the restrictions and requirements imposed upon them by the general laws of this State.

SECTION 10. Any person who himself, or by his clerk, agent or employee, shall violate any of the provisions of section nine of this act shall be deemed guilty of a misdemeanor and for the first offense, upon conviction thereof, be sentenced to pay a fine of not less than fifty dollars nor more than two hundred dollars, or imprisonment in the county jail not less than twenty days nor more than six months, in the discretion of the court. For the second and every subsequent offense so committed, he shall, upon conviction thereof in any court of competent jurisdiction, be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, and to imprisonment in the State house of Correction and Reformatory at Ionia for a term of not more than one year.

Village of Pellston Charter Continued

SECTION 11. The said village of Pellston shall, in all things not herein otherwise provided, including the time for the assessment, levying and collection of taxes after the year nineteen hundred seven, be governed by and its powers and duties defined by act number 3 of the laws of eighteen hundred ninety-five, entitled "An act to provide for the incorporation of villages within the State of Michigan, and defining their powers and duties," approved February nineteen, eighteen hundred ninety-five, and the acts amendatory thereof.

SECTION 12. In case the said officers of said village are not elected at the time designated in section two of this act, an election of officers may be had at any time within one year from the time designated in section two, on notice being given as provided herein for said first election for said village.

This act is ordered to take immediate effect.  
Approved June 5, 1907.

## FOREWORD

Officials of villages sometimes are perplexed to find that the village records do not contain a charter specially identified as the charter of their particular village. Of the 266 villages in Michigan only 46 are home rule villages which have individually drafted charters applicable solely to them. The other 220 villages in Michigan have as their charter Act 3 of 1895 of the State of Michigan, and such villages are usually known as "general law" villages. Most general law villages were incorporated before 1895, many by special act of the Legislature. These earlier special acts were voided, however, when Act 3 of 1895 was adopted. (See Chapter XIV, Section 7; MCL 74.7)

Act 3 of 1895 is the charter of each village organized under it. Although this Act can be amended by the Legislature, and frequently has been, it can also be amended and changed by any village so far as it affects that particular village. This amendatory power is granted by and carried out under the Home Rule Village Act (Act 278 of 1909, as amended). A general law village may not change its form of government by charter amendment, but only through reincorporation as a home rule municipality.

The Michigan Municipal League can supply suggested forms to be used when village charters are being amended. Also, suggestions are available for those villages contemplating incorporation as home rule villages or cities.

More than 17 years have passed since the Michigan Municipal League first published this document. This printing incorporates all changes through December, 1978, and was prepared by Carol E. Genco, League Librarian, with assistance with League Attorney Louis C. Andrews, Jr. The citations used, § 61.1. et seq., are from the Michigan Compiled Laws. The chapters and sections used are citations from Act 3, P.A. 1895. At the end of each section in parentheses is the citation of that section from Michigan Statutes Annotated (M.S.A.).

Any general law village which has heretofore adopted or hereafter adopts a charter amendment should make the necessary insertions in its copy of the Act showing the change, and it is requested that copies of such amendments be forwarded to League headquarters. This publication can thus be kept up-to-date in its entirety as it applies to each village maintaining a copy.

John M. Patriarche, Director

Fifth Printing  
July, 1980

TABLE OF CONTENTS

VILLAGE CHARTER  
(Act 3 of 1895, as amended)

		Page
Chapter I	Incorporation	1
Chapter II	Officers	5
	Vacancies in Office	6
Chapter III	Elections	9
Chapter IV	Duties of Officers	
	President	11
	Clerk	11
	Treasurer	12
	Marshal	12
	Surveyor	13
	Street Commissioner	13
	Assessor	13
	Compensation	13
Chapter V	Village Council	15
Chapter VI	Ordinances	17
Chapter VII	Powers of Council	
	Licenses	22
	Pounds	22
	Public Buildings, Grounds and Parks	22
	Streets and Sidewalks	22
	Paving and Improvements	25
	Street Regulations	25
	Sewers, Drains and Water-Courses	26
	Harbors, Wharves and Harbor Masters	27
	Ferries	28
	Markets	28
	Partition Fences	28
	Police	29
	Cemeteries	29
Charter VIII	Improvements and Assessments	31
Chapter IX	Finance and Taxation	33
Chapter X	Fires and Fire Departments	37
Chapter XI	Water Works	39

# INCORPORATION, POWERS AND DUTIES OF VILLAGES

(Act 3, P.A. 1895)

## TITLE

An act to provide for the incorporation of villages, to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages; to define the powers and duties of the municipal finance commission with regard thereto; to define the application of this act and provide for its amendment by villages subject thereto; and to validate prior amendments and certain prior actions taken and bonds issued by villages.

*Title Am 1974, Act 4.*

## CHAPTER 1.

### § 61.1 INCORPORATION OF VILLAGES.

Sec. 1. That all villages hereafter incorporated shall be incorporated under, and be subject to, the provisions of this act. (M.S.A. 5.1201)

See secs. 78.1 et seq.

§ 61.1a DEFINITIONS. Sec. 1a. As used in this act: The phrase "having a population," or any phrase or combination of words of like import, shall be construed to mean "now or hereafter having a population of." The words, "last," "latest," "preceding" or "last preceding" used in connection with a "federal" or "United States" or other census, or any words, phrases or combinations of words of like import, shall be construed to also include any such census taken after the enactment of the statute. (M.S.A. 5.1201(1))

§ 61.1b GENERAL VILLAGE ACT; CONSTRUCTION OF ACT, VALIDATION OF BONDS. Sec. 1b. No provision of this act shall apply or be construed as having heretofore applied to any village incorporated or reincorporated under Act No. 278 of the Public Acts of 1909, as amended, being sections 78.1 to 78.28 of the Compiled Laws of 1948, unless specifically adopted by the electors as a part of its village charter. The provisions of this act shall be deemed to be in the nature of charter provisions for any village incorporated thereunder or subject thereto and any such provisions may be altered or removed by amendment adopted by the electors as provided in Act No. 278 of the Public Acts of 1909, as amended, provided that the effect of the amendment is such as might legally be accomplished by charter provision in the case of a village operating under Act No. 278. All such amendments heretofore so adopted by any village incorporated under or subject to this act, and all actions heretofore taken and all bonds heretofore issued under or in accordance with such amendments,

are hereby validated to the same effect as if the foregoing provision had been in effect when such amendments were adopted. (M.S.A. 5.1201(2))

§ 61.2 POPULATION AND AREA NECESSARY. Sec. 2. Any part of a township or townships not included in any incorporated village, containing an area of not less than  $\frac{3}{4}$  of a square mile, and a resident population of not less than 250 persons, may be incorporated as a village as hereinafter provided: Provided, however, That in the upper peninsula of Michigan an area of less than  $\frac{3}{4}$  of a square mile may be incorporated as hereinafter provided. (M.S.A. 5.1202)

§ 61.3 APPLICATION. Sec. 3. Any number of legal voters, not less than 30 residing within such territory, may make application for the incorporation of such proposed village to the board of supervisors of the county in which such territory may be situated, at any regular session of such board. (M.S.A. 5.1203)

§ 61.4 SAME; CENSUS, CONTENTS. Sec. 4. Such persons shall within 60 days before making such application, cause an accurate census to be taken of the resident population of such territory, which census among other things, shall exhibit the name of every head of a family residing within such territory on such day, and the number of persons then belonging to such family; and it shall be verified by the affidavit of the person taking the same, written thereon or annexed thereto. (M.S.A. 5.1204)

§ 61.5 SAME; NOTICE, CONTENTS. Sec. 5. The persons intending to make such application shall give notice that they will apply to the board of supervisors of the county in which such territory shall lie, on some day therein specified, for an order incorporating such territory as a village; such notice shall

describe the boundaries of the territory proposed to be incorporated, and shall specify the township or townships in which it lies. (M.S.A. 5.1205)

§ 61.6 NOTICE, PUBLICATION. Sec. 6. If there be a newspaper printed within such territory, such notice shall be printed therein once in each week for 4 successive weeks immediately previous to the time therein specified for making such application; and if there shall be no such paper, such notice shall be printed in some newspaper if there be one printed in said county and having a general circulation therein and posted in at least 5 public places in such territory, at least 4 weeks immediately before the time so specified therein. (M.S.A. 5.1206)

§ 61.7 APPLICATION BY PETITION, CONTENTS; ANNEXED PAPERS. Sec. 7. Such application shall be by petition, subscribed by the applicants, who shall be residents of such territory and legal voters therein, giving the name of the proposed village, describing such territory and setting forth the number of persons residing therein according to such census; such census and the affidavit verifying the same, and a copy of the notice herein required, with an affidavit of posting or publishing the same as aforesaid, shall be annexed to such petition; and it shall be presented at the time specified in such notice, or as soon thereafter as the applicants can be conveniently heard in respect thereto. (M.S.A. 5.1207)

§ 61.8 BOARD OF SUPERVISORS, DUTIES; HEARING; DETERMINATION. Sec. 8. The board of supervisors shall hear all the parties interested therein, who shall appear and ask to be heard: it may adjourn the hearing from time to time; it may direct that a new census be taken, and appoint a person or persons to take the same; and it shall consider and determine the advisability of ordering such incorporation, and as to whether the whole or what portion of the territory included in the application shall be incorporated. (M.S.A. 5.1208)

§ 61.9 ORDER OF INCORPORATION, FILING, EVIDENCE; RECORDS OF BOARD, CONTENTS, FILING; FIRST ELECTION, PROCEDURE. Sec. 9. If such board, after hearing the parties, shall be satisfied that all the requirements of this act in respect to such application have been complied with, and that such territory as determined upon contains the population required by this act, it may make an order declaring that such territory as determined upon shall be an incorporated village, by the name specified in such application, or by such other name as to such

board shall seem proper; and said board shall in such order appoint the time and place of holding the first election; and shall also appoint 4 discreet persons, residents of such territory and qualified electors therein, who shall constitute a board of registration for said first election to be held in said village, and who shall also act as inspectors of election at said first election. The said board of registration shall meet on the Saturday next preceding said first election, and shall remain in session the same hours required of boards of registration for general elections, and register the names of all persons residents of said village, presenting themselves for registration, and having the qualifications of voters at annual township meetings, due notice of the time and place of which registration shall be given by said board, by posting notices thereof in 5 public places in said village, at least 10 days previous to said meeting. Such application and affidavit verifying the same, with copy of notice of hearing and proof of the posting or publishing of the same, and all the proceedings of such board of supervisors touching such incorporation shall be entered upon the records of said board, and all papers relating thereto shall be filed with the county clerk of the county in which such proceedings are had and taken, and the county clerk of said county shall thereupon transmit a certified copy of such order of incorporation to the secretary of state, who shall file and record the same in his office. The original order of incorporation, or a certified copy thereof by the county clerk of such county or a certified copy of the copy thereof on file in the office of the secretary of state, by the secretary of state, shall be prima facie evidence of such incorporation and of the regularity thereof in all courts and places. (M.S.A. 5.1209)

§ 61.10 ELECTION NOTICES; POLLS, OPEN HOURS. Sec. 10. The inspectors so appointed shall give notice of the time and place of holding such election, and the officers to be elected at such election, by posting up written or printed notices thereof in at least 5 public places in such territory, at least 3 weeks previous to the day appointed for holding the same, or by publishing the same in some newspaper printed in such territory for 3 successive weeks immediately preceding the time aforesaid. At such election the polls shall be opened at 7 o'clock in the forenoon, and shall close at 5 o'clock in the afternoon. (M.S.A. 5.1210)

§ 61.11 VOTING QUALIFICATIONS. Sec. 11. Every elector residing in such territory, and qualified to vote for township officers in the township in which such territory or some part thereof may be

situate, may vote at all elections in said village, and all the laws of this state in relation to the election of township officers, canvass of votes, certifying the election of officers, and notifying them of their election, shall apply to such first election of officers in such village, so far as the same may be applicable and not inconsistent with the provisions of this act. (M.S.A. 5.1211)

§ 61.12 VILLAGES INCORPORATED, BODIES POLITIC; POWERS. Sec. 12. All villages hereafter incorporated shall be bodies politic and corporate under and by the corporate name assumed by or designated for them as hereinbefore provided, and by such name may sue and be sued, contract and be con-

tracted with, acquire and hold real and personal property for the purposes for which they were incorporated, have a common seal, and change the same at pleasure, and exercise all the powers in this act conferred. (M.S.A. 5.1212)

§ 61.14 BOARD OF REGISTRATION, DUTIES; SESSION PERIODS, NOTICE; PER DIEM. Sec. 14. Repealed 1974, Act 4.

§ 61.15 REGISTRATION. Sec. 15. In making and completing any such registration, the board shall proceed in the same manner and conform to the same rules, as near as may be, as are provided by law for registering electors in townships. (M.S.A. 5.1214)

## CHAPTER II—OFFICERS

### § 62.1 VILLAGE OFFICERS; COUNCIL.

Sec. 1. In each village the following officers shall be elected, viz., a president, 6 trustees, 1 clerk, 1 treasurer, who shall be ex officio collector, and 1 assessor. The president and trustee shall constitute the village council. (M.S.A. 5.1215)

§ 62.2 OFFICERS APPOINTED BY VILLAGE PRESIDENT, MANNER. Sec. 2. The president shall, by and with the consent of the council, appoint a village marshal and a street commissioner and such other officers as shall be provided for by resolution or ordinance of the council and the council may from time to time provide by ordinance or resolution, for the appointment of such other officers whose election or appointment is not herein specifically provided for, as they shall deem necessary for the execution of the powers granted by this act and the powers and duties of such officers shall be prescribed by the council. In villages containing 500 inhabitants or less, the village president shall not be required to appoint a village marshal. The village marshal may also be appointed a street commissioner. (M.S.A. 5.1216)

§ 62.3 APPOINTMENTS, TIME. Sec. 3. Appointments to office, excepting appointments to fill vacancies, shall be made on the second Monday in April in each year, unless a different time shall be prescribed in the ordinance or resolution creating the office; but appointments which, for any cause, shall not be made on that day, or on the day provided in the ordinance or resolution creating the office, may be made at any subsequent regular or special meeting of the council. (M.S.A. 5.1217)

§ 62.4 VILLAGES; OFFICERS; TERM. Sec. 4. The president, clerk, treasurer and assessor shall hold their respective offices for the term of 2 years from the second Monday of March of the year when elected and until their successors are elected and qualified and enter upon the duties of their offices. *Am. 1971, Act 18.* (M.S.A. 5.1218)

### § 62.5 SAME; VILLAGE TRUSTEES. Sec. 5.

(1) Except as otherwise provided in this section, village trustees elected at the 1974 and subsequent biennial village elections shall hold their offices for the term of 4 years from the second Monday in March of the even numbered year when elected and until their successors are qualified and enter upon the duties of their offices. As an alternative, a village by

ordinance adopted by the village council prior to January 1, 1974, may provide that the term of office of village trustees shall be 2 years and that all 6 village trustees shall be elected at the biennial village elections. In either event, the term of office of trustees elected in 1973 is extended 1 year and such trustees shall serve until their successors elected at the 1976 village elections are qualified and enter upon the duties of their offices.

(2) A village may exempt itself from subsection (1) by council resolution adopted prior to January 1, 1974. In such event the village shall continue to elect its trustees annually on the second Monday in March with 3 trustees to be elected annually. The trustees shall hold their offices for the term of 2 years and until their successors are qualified and enter upon the duties of their offices.

(3) A village which originally exempts itself pursuant to subsection (2) may subsequently provide that the village shall elect trustees biennially by the adoption of an ordinance. The ordinance shall be applicable to the even year village election to be held not less than 6 months next following the adoption of the ordinance. The ordinance may provide that 3 trustees shall be elected for 4 year terms at each biennial election or, alternatively, the ordinance may provide that all 6 trustees shall be elected for 2-year terms at each biennial election. The ordinance may extend the terms of incumbent trustees for not more than 1 year where necessary to provide for the biennial election of trustees. In any event, a trustee shall serve until his successor is qualified and enters upon the duties of his office.

(4) A copy of each resolution and ordinance adopted pursuant to this section shall be forwarded to the director of elections of the department of state. *Am 1973, Act 148.* (M.S.A. 5.1219)

§ 62.6 APPOINTIVE OFFICERS; TERM, OATH, SECURITY. Sec. 6. All appointive officers, except officers appointed to fill vacancies in elective offices, shall hold their respective offices until the second Monday in April next after such appointment, and until their successors are qualified and enter upon the duties of their offices, unless a different term of office shall be prescribed in this act, or in the ordinance or resolution creating the office. Officers appointed to fill vacancies shall hold their office until the next annual election, and until their successors are elected or appointed and qualified. All persons elected or appointed to office shall enter upon the

duties thereof, upon taking the oath of office and filing the requisite security, if any is required of them. (M.S.A. 5.1220)

§ 62.7 QUALIFICATIONS FOR OFFICE; VOID VOTES: OATH. Sec. 7. No person shall be elected or appointed to any office unless she shall be an elector of the village. And no person shall be elected or appointed to any office in the village who has been or is a defaulter to the village or to any board of officers thereof, or to any school district, county or other municipal corporation of the state. All votes for or any appointment of any such defaulter shall be void. All officers of the village, elected or appointed, shall take and subscribe the oath of office prescribed by the constitution of the state, and file the same with the clerk, and in case of failure to do so, within 10 days after receiving notice of their election or appointment, shall be deemed to have declined the office. (M.S.A. 5.1221)

§ 62.8 OFFICIAL BONDS; DEPOSIT, TIME. Sec. 8. Every officer elected or appointed in the village, before entering upon the duties of his office, and within the time prescribed for filing his official oath, shall file with the village clerk such bond or security as may be required by law, or by any ordinance or resolution of the council, and with such sureties as shall be approved by the council, conditioned for the due performance of the duties of his office, except that the bond or security given by the clerk shall be deposited with the treasurer. (M.S.A. 5.1222)

§ 62.9 ADDITIONAL BONDS; REMOVAL FROM OFFICE. Sec. 9. The council may, at any time, require any officer to execute and file with the clerk additional or new official bonds, with such new or further sureties as said council shall deem requisite for the interest of the corporation. Any failure to comply with such requirement within 15 days shall subject the officer to immediate removal from office by the council. (M.S.A. 5.1223)

#### VACANCIES IN OFFICE

§ 62.10 RESIGNATIONS. Sec. 10. Resignations of officers shall be made to the council. (M.S.A. 5.1224)

§ 62.11 OFFICE VACATED. Sec. 11. If any officer shall cease to be a resident of the village during his term of office, the office shall be thereby vacated. If any officer shall be a defaulter, the office shall thereby be vacated. (M.S.A. 5.1225)

§ 62.12 SAME; DECLARATION OF COUNCIL. Sec. 12. If any person elected or appointed to office shall fail to take and file the oath of office, or shall fail to give the bond or security required for the due performance of the duties of his office, within the time herein limited therefor the council may declare the office vacant, unless previously thereto he shall file the oath and give the requisite bond or security. (M.S.A. 5.1226)

§ 62.13 VACANCIES, FILLING; SPECIAL ELECTIONS, PROCEDURE: EXPENSES. Sec. 13. Any vacancy occurring in the office of president, trustees or any other elective office shall be filled by appointment by the council, and such appointee shall hold his office until the next annual election thereafter. All vacancies in any other office shall be filled by the president, by and with the consent of the council. In any case where by reason of removal, death, resignation or otherwise, the membership of the council shall be reduced to less than the quorum of 4, the remaining trustees shall forthwith call a special election for the purpose of filling all vacancies in the office of trustee, if a petition therefor signed by not less than 10% of the qualified voters of said village is filed with the village clerk within 10 days after such vacancy or vacancies occur, if no such petition be filed within the time stated, then the remaining members of the council may either call such special election, or may proceed to appoint a sufficient number of trustees to constitute with those in office a quorum of the council, who shall then fill the remaining vacancies as herein first provided: Provided, That in any case where all the officers and trustees of any village heretofore incorporated under any general or local act shall have died or removed from such village, and no successors have been elected or appointed to fill the vacancies created thereby, it shall be the duty of the township clerk of the township within which such village is situated, upon petition of 10 per centum of the qualified voters residing in such village, to call a special election for the election of the officers and trustees of such village at a date and place to be fixed by such township clerk, which date shall be not more than 30 days after the receipt of such petition. The township board of such township shall perform all of the other duties with respect to such election as the village council might have done had such vacancies not existed, including the preparation of ballots, the appointment of election inspectors, the counting and canvassing of the ballots, and the certification of the persons elected to the offices for which the election was held. All of the expenses of such election shall be a charge upon the village. (M.S.A.

5.1227)

§ 62.14 SURETY NOT EXONERATED. Sec. 14. The resignation or removal of any officer shall not, nor shall the appointment or election of another to the office, exonerate such officer or his sureties from any liability incurred by him or them. (M.S.A. 5.1228)

§ 62.15 PROPERTY DELIVERED TO SUCCESSOR; MISDEMEANOR; PROCEDURE. Sec. 15. Whenever any officer shall resign or be removed from office, or the term for which he shall have been elected

or appointed shall expire, he shall, on demand, deliver over to his successor in office, all the books, papers, moneys, and effects in his custody as such officer, and in any way appertaining to his office; and every person wilfully violating this provision shall be deemed guilty of a misdemeanor, and may be proceeded against in the same manner as public officers generally for the like offense under the general laws of this state, now or hereafter in force and applicable thereto; and every officer appointed or elected shall be deemed an officer within the meaning and provisions of such general laws of the state. (M.S.A. 5.1229)

### CHAPTER III—ELECTIONS

See also Election Law: Act 116, P.A. 1954, § 168.1 et seq., CL 1948

§ 63.1 ANNUAL ELECTION. Sec. 1. Except with regard to villages that hold annual elections pursuant to section 5(2) of chapter 2, the election of officers shall be held biennially on the second Monday in March in each even numbered year. An election shall be held at such place in the village as the council shall designate. (M.S.A. 5.1230)

§ 63.2 SPECIAL ELECTION. Sec. 2. Special elections may be appointed by resolution of the council, and held at such times as they shall determine, the purpose and object of which shall be fully set forth in the resolution appointing such election. (M.S.A. 5.1231)

§ 63.3 ELECTION INSPECTORS; DUTIES, PER DIEM. Sec. 3. Repealed 1974, Act 4.

§ 63.4 ELECTION NOTICES; CONTENTS. Sec. 4. Repealed 1974, Act 4.

§ 63.5 BOARD OF ELECTION COMMISSIONERS, APPOINTMENT, DUTIES; BALLOT BOXES. Sec. 5. Repealed 1974, Act 4.

§ 63.6 OPENING AND CLOSING POLLS. Sec. 6. Repealed 1974, Act 4.

§ 63.7 CONDUCT OF ELECTION; PLACING OF TERM ON BALLOT. Sec. 7. All elections in said village shall be conducted as nearly as may be in the manner provided by law for holding general elections in the state, except as herein otherwise provided; and the inspectors of such election shall have the same powers and authority for the preservation of order, and for enforcing obedience to their lawful commands

during the time of holding the election and the canvass of the votes, as are conferred by law upon inspectors of general elections held in this state. If at any election vacancies are to be filled, or if any person is to be elected for less than a full term of office, the term shall be designated on the ballot. (M.S.A. 5.1236)

§ 63.8 PUBLIC CANVASS; RESULTS, CERTIFIED STATEMENT; RECORDS, DEPOSIT. Sec. 8. Repealed 1974, Act 4.

§ 63.9 RESULT OF ELECTION, DETERMINATION; FILING OF CLERK'S CERTIFICATE. Sec. 9. Repealed 1974, Act 4.

§ 63.10 TIE, DETERMINATION. Sec. 10. Repealed 1974, Act 4.

§ 63.11 ELECTED PERSONS, NOTIFICATION. Sec. 11. Repealed 1974, Act 4.

§ 63.12 FAILURE TO FILE BOND, REPORT TO COUNCIL. Sec. 12. Repealed 1974, Act 4.

§ 63.13 DIVISION OF VILLAGE INTO PRECINCTS. Sec. 13. The council of any village having more than 650 electors according to the poll list of the last preceding election, may cause such village to be divided into 2 or more voting precincts, and the manner of making such division, the registration, and holding of elections and of canvassing the votes, and all other matters pertaining to the division of villages into voting precincts, and of the holding of elections therein, shall be governed by the general laws of the state relating thereto. (M.S.A. 5.1242)

## CHAPTER IV—DUTIES OF OFFICERS

### PRESIDENT

#### § 64.1 VILLAGE PRESIDENT; DUTIES.

Sec. 1. The president shall be the chief executive officer of the village. He shall preside at the meetings of the council. He shall be deemed a member of the council, but he shall have no right to vote upon any question except in case of a tie, in which case he shall give the deciding vote. He shall from time to time give the council information concerning the affairs of the corporation, and recommend such measures as he may deem expedient. It shall be his duty to exercise supervision over the affairs of the village and over the public property belonging thereto, see that the laws relating to the village and the ordinances and regulations of the council are enforced. (M.S.A. 5.1243)

§ 64.2 SAME; DUTIES AS CONSERVATOR OF PEACE. Sec. 2. The president shall be a conservator of the peace, and may exercise within the village the powers conferred upon sheriffs to suppress disorder; and shall have authority to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the council, and to suppress riot and disorderly conduct. (M.S.A. 5.1244)

§ 64.3 SAME; POWER OF REMOVAL; INSPECTION OF OFFICES. Sec. 3. The President may remove any officer appointed by him at any time when he shall deem it for the public interest and may suspend any policeman for neglect of duty. He shall have authority at all times to examine and inspect the books, records and papers of any agent, employe, or officer of the corporation, and shall perform generally all such duties as are or may be prescribed by the ordinances of the village. (M.S.A. 5.1245)

§ 64.4 ACTING PRESIDENT. Sec. 4. In the absence or disability of the president, the president pro tempore of the council shall perform the duties of the president. (M.S.A. 5.1246)

### CLERK

§ 64.5 DUTIES; TEMPORARY CLERK. Sec. 5. The clerk shall keep the corporate seal and all the documents, official bonds, papers, files and records of the village, not by this act or the ordinances of the village entrusted to some other officer; he shall be clerk of the council, and shall attend its meetings. In case of the absence of the clerk, or if from any cause he shall be unable to discharge, or be disqualified from performing the duties required of him, then the

council may appoint 1 of their own number, or some other person, to perform the duties of the clerk for the time being. The clerk shall record all the proceedings and resolutions of the council, and shall record, or cause to be recorded, all the ordinances of the village. He shall countersign and register all licenses granted; he shall, when required, make and certify, under the seal of the village, copies of the papers and records filed and kept in his office; and such copies shall be evidence in all places of the matters therein contained, to the same extent as the original would be. He shall possess and exercise the powers of the township clerk so far as the same are required to be performed within the village, except as to the filing of chattel mortgages; and he shall have authority to administer oaths and affirmations. (M.S.A. 5.1247)

§ 64.6 SAME; GENERAL ACCOUNTANT; TAX REPORTS. Sec. 6. The clerk shall be the general accountant of the village; and all claims against the corporation shall be filed with him for adjustment. After examination thereof, he shall report the same, with all accompanying vouchers and counter-claims of the village, and the true balance as found by him, to the council for allowance, and when allowed shall draw his warrant upon the treasurer for the payment thereof, designating thereon the fund from which payment is to be made, and take proper receipts therefor; but no warrant shall be drawn upon any fund after the same has been exhausted. When any tax or money shall be levied, raised, or appropriated, the clerk shall report the amount thereof to the village treasurer, stating the objects and funds for which it is levied, raised, or appropriated, and the amounts thereof to be credited to each fund. (M.S.A. 5.1248)

§ 64.7 SAME; ACCOUNTS, MANNER; BONDS. Sec. 7. The clerk shall have charge of all the books, vouchers, and documents relating to the accounts, contracts, debts, and revenues of the corporation; he shall countersign and register all bonds issued, and keep a list of all property and effects belonging to the village, and of all its debts and liabilities; he shall keep a complete set of books, exhibiting the financial condition of the corporation in all its departments, funds, resources, and liabilities, with a proper classification thereof, and showing the purpose for which each fund was raised; he shall also keep an account with the treasurer, in which he shall charge him with all the moneys received for each of the several funds of the village, and credit him with all war-

rants drawn thereon, keeping an account with each fund. (M.S.A. 5.1249)

§ 64.8 SAME; FINANCIAL REPORT TO COUNCIL; CONTENTS. Sec. 8. The clerk shall report to the council, whenever required, a detailed statement of the receipts, expenditures, and financial condition of the village, of the debts to be paid, and moneys necessary to meet the estimated expenses of the corporation, and shall perform such other duties pertaining to his office as the council may require. (M.S.A. 5.1250)

#### TREASURER

§ 64.9 VILLAGE TREASURER; DUTIES. Sec. 9. The treasurer shall have the custody of all moneys, bonds other than official, mortgages, notes, leases, and evidences of value belonging to the village; he shall receive all moneys belonging to, and receivable by the corporation, and keep an account of all receipts and expenditures thereof; he shall pay no money out of the treasury, except in pursuance of, and by authority of law, and upon warrants signed by the clerk and president, which shall specify the purpose for which the amounts thereof are to be paid; he shall collect and keep an account of and be charged with all taxes and moneys appropriated, raised, or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in, or appropriated therefor, and shall pay every warrant out of the particular fund raised for the purpose for which the warrant was issued. (M.S.A. 5.1251)

§ 64.10 REPORTS, CONTENTS. Sec. 10. The treasurer shall render to the clerk on the first Monday of every month, if required, a report of the amounts received and credited by him to each fund, and on what account received, and the amounts paid out by him from each fund during the preceding month, and the amount of money remaining in each fund on the day of his report. He shall also exhibit to the council annually on the first Monday in March, and as often and for such period as the council shall require, a full and detailed account of the receipts and disbursements of the treasury since the date of his last annual report, classifying them therein by the funds to which such receipts are credited and out of which such disbursements are made, and the balance remaining in each fund; which account shall be filed in the office of the clerk, and shall be published in 1 of the newspapers of the village, if any be published therein. (M.S.A. 5.1252)

§ 64.11 VOUCHERS. Sec. 11. Said treasurer shall take vouchers for all money paid from the treasury, showing the amount and fund from which payment was made, which vouchers upon settlement with the proper officers of the village shall be surrendered and filed with the clerk. (M.S.A. 5.1253)

§ 64.12 HANDLING OF MONEYS; PRIVATE USE, FORFEITURE. Sec. 12. The treasurer shall keep all moneys in his hands belonging to the village separate and distinct from his own moneys, and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt in his custody or keeping, for his own use or benefit, or that of any other person; any violation of the provisions of this section shall work a forfeiture of his office, and the council, on proof of the fact, are authorized to declare the office vacant and appoint his successor for the remainder of his term. (M.S.A. 5.1254)

#### MARSHAL

§ 64.13 POLICE DUTIES; PROCESS SERVING. Sec. 13. The marshal shall be the chief of police of the village. As police officer he shall be subject to the direction of the president and council. It shall be his duty to see that all the ordinances and regulations of the council, made for the preservation of quiet, good order, and for the safety and protection of the inhabitants of the village, are promptly enforced. As peace officer he shall, within said village, be vested with all the powers conferred upon sheriffs for the preservation of quiet and good order. He shall have power to serve and execute all process directed or delivered to him, in all proceedings for violations of the ordinances of the village. Such process may be served anywhere within the county in which said village is located. (M.S.A. 5.1255)

§ 64.14 RECORDS. Sec. 14. The marshal shall keep a record of all arrests and the cause thereof, and shall enter therein, within 24 hours after any person shall be arrested, the name of the person so arrested, the cause of the arrest, the age and nationality of the person arrested, and if discharged without being taken before a court, the reason for such discharge, which record shall be the property of the village. (M.S.A. 5.1256)

§ 64.15 REPORTS TO COUNCIL; CONTENTS. Sec. 15. The marshal shall report in writing and on oath to the council at their first meeting in each month, all arrests made by him and the cause

thereof, and all persons discharged from arrest during the month; also the number remaining in confinement for breaches of the ordinances of the village; the amount of all fines and fees collected by him. All moneys collected or received by the marshal, unless otherwise directed by this act, shall be paid into the village treasury during the same week when received, and the treasurer's receipt therefor shall be filed with the clerk. (M.S.A. 5.1257)

§64.16 FEES. Sec. 16. The marshal may collect and receive the same fees for services performed by him as are allowed to constables for like services. (M.S.A. 5.1258)

#### SURVEYOR

§ 64.17 POWERS; DUTIES. Sec. 17. The village surveyor, if one is appointed, shall have and exercise within the village, the like powers and duties as are conferred by law upon county surveyors; and the like effect and validity shall be given to his official acts, surveys, and plats as are given by law to the acts and surveys of county surveyors. He shall make all necessary plats, maps, surveys, diagrams, and estimates required by the council or officers of the village, relating to the public improvements, buildings, grounds, and streets of the village; and all plats, maps, surveys, and diagrams made by him as such surveyor shall be the property of the village, and shall at the expiration of his term of office be delivered by him to his successor in office. (M.S.A. 5.1259)

#### STREET COMMISSIONER

§ 64.18 DUTIES. Sec. 18. It shall be the duty of the street commissioner to perform, or cause to be performed, all such labor, repairs, and improvements upon the highways, streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers, public grounds,

and parks within the village, as the council shall direct to be done by or under his supervision; and to oversee and whatever may be required of him in relation thereto by the council. (M.S.A. 5.1260)

§ 64.19 REPORTS TO COUNCIL; CONTENTS. Sec. 19. He shall make a report to the council, in writing and on oath once in each month, giving an exact statement of all labor performed by him, or under his supervision, and the charges therefor; the amount of material used, and the expense thereof, and the street or place where such material was used, or labor performed; and further showing the items and purpose of all expenses incurred since his last preceding report. (M.S.A. 5.1261)

#### ASSESSOR

§ 64.20 DUTIES. Sec. 20. The assessor shall perform such duties in relation to assessing property and levying taxes in the village as are prescribed by this act. (M.S.A. 5.1262)

#### COMPENSATION

§ 64.21 VILLAGE OFFICERS; COMPENSATION. Sec. 21. The president and trustees shall each receive such sum as shall be fixed by ordinance for each regular meeting of the village council by them respectively attended during their term of office, such payment to be made out of the general fund in the village treasury. Said officers shall receive no other compensation for services performed for and on behalf of said village during their term of office: Provided, That in no case shall such president or any trustee receive compensation for any meetings not actually attended. All other officers except where other provision is made herein or by law regulating fees for services shall receive such compensation as the council shall prescribe. *Am. 1954, Act 160.* (M.S.A. 5.1263)

## CHAPTER V—VILLAGE COUNCIL

§ 65.1 LEGISLATIVE AUTHORITY VESTED IN VILLAGE COUNCIL. Sec. 1. The legislative authority of villages shall be vested in a council consisting of the president and trustees. (M.S.A. 5.1264)

§ 65.2 VILLAGE COUNCIL; PRESIDENT. Sec. 2. The president shall be president of the council, and preside at the meetings thereof. (M.S.A. 5.1265)

§ 65.3 SAME; PRESIDENT PRO TEM. Sec. 3. On the second Monday in April in each year, or as soon thereafter as may be, the council shall appoint 1 of their number president pro tempore of the council, who in the absence of the president shall preside at the meetings thereof, and exercise the powers and duties of president. In the absence of the president and president pro tem., the council shall appoint 1 of their number to preside. (M.S.A. 5.1266)

§ 65.4 SAME; REGULAR MEETINGS; SPECIAL MEETINGS, NOTICE. Sec. 4. The council shall hold regular meetings for the transaction of business, at times as it shall prescribe, at least 1 shall be held in each month. The business which the village council may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The president or any 3 members of the council may appoint special meetings. *Am. 1977, Act 197.* (M.S.A. 5.1267)

§ 65.5 SAME; OPEN MEETINGS; PROCEEDINGS, RECORD, PUBLICATION; VOTE. Sec. 5 (1) The council shall prescribe the rules of its own proceedings, and shall keep a record of those proceedings. A majority of the trustees shall be a quorum for the transaction of business; a smaller number may adjourn from time to time and compel the attendance of absent members in a manner as shall be prescribed by ordinance. An office shall be not created or abolished; a tax or assessment imposed; a street, alley or public ground be vacated; real estate or any interest therein purchased, leased, sold, or disposed of; or a public improvement ordered, except by a concurring vote of 2/3 of the trustees elect. The vote shall be taken by yeas and nays, and entered in the journal. Money

shall not be appropriated except by ordinance or resolution of the council. An ordinance appropriating money shall not be passed, or a resolution appropriating money shall not be adopted, except by a concurring vote of 2/3 of the trustees elect. Within 15 days after a meeting of the council, the proceedings had or taken at the meeting, together with the vote of the various members of the board of trustees shall be published in a newspaper published in the village, if there is a newspaper circulated in the village. *Am. 1977, Act 197.* (M.S.A. 5.1268)

§ 65.6 repealed 1965, Act 317.

§ 65.7 SAME; AUDIT OF VILLAGE ACCOUNTS, PREREQUISITES; DEFENSES TO SUIT. Sec. 7. The council shall audit and allow all accounts chargeable against the village; but no account or claim or contracts shall be received for audit or allowance, unless it shall be accompanied with a certificate of an officer of the corporation, or an affidavit of the person rendering it, to the effect that he verily believes that the services therein charged have been actually performed or the property delivered for the village, that the sums charged therefor are reasonable and just, and that to the best of his knowledge and belief, no set-off exists, nor payment has been made on account thereof, except such as are endorsed or referred to in such account or claim. And every such account shall exhibit in detail all the items making up the amount claimed, and the true date of each. It shall be a sufficient defense in any court, to any action or proceeding for the collection of any demand or claim against the village for personal injuries or otherwise that it has never been presented, certified to or verified as aforesaid, to the council for allowance; or, if such claim is founded on contract, that the same was presented without the certificate or affidavit aforesaid and rejected for that reason; or, that the action or proceeding was brought before the council had a reasonable time to investigate and pass upon it. (M.S.A. 5.1270)

§ 65.8 Sec. 8. The council may employ a village manager. The manager shall serve at the pleasure of the council. The council may assign to the manager any duty or responsibility not required by law to be performed or carried out by another official of the village. (M.S.A. 5.1270(11)) Added 1974, Act 201.

## CHAPTER VI—ORDINANCES

§ 66.1 STYLE. Sec. 1. The style of all ordinances shall be: "The village of . . . ordains." All ordinances except as herein otherwise provided shall require, for their passage, the concurrence of a majority of the council. No ordinance imposing a penalty shall take effect in less than 20 days after its passage. (M.S.A. 5.1271)

§ 66.2 FINES AND PENALTIES. Sec. 2. Except as otherwise specifically provided in this act, the council of a village authorized to pass an ordinance, may prescribe a penalty for a violation of the ordinance. If a penalty is prescribed, it shall be prescribed in the ordinance. The ordinance may provide that a person who violates the ordinance may:

(a) Be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(b) Be ordered to pay court costs. *Am 1979, Act 36.* (M.S.A. 5.1272)

§ 66.3 RECORDING. Sec. 3. All ordinances, when regularly enacted, shall be recorded by the clerk of the council, in a book to be called "the record of ordinances," and it shall be the duty of the president and clerk to authenticate the same by their official signatures upon such record.

§ 66.3(a) Each village shall have the power, whether provided in its charter or not, to codify, recodify, and continue in code the village's municipal ordinances, in whole or in part, without the necessity of publishing the entire code in full. The ordinance adopting the code and ordinances repealing, amending, continuing, or adding to the code shall be published as required by law provided that notification states where a copy of the entire code can be reviewed and obtained. The ordinance adopting the code may amend, repeal, revise, or rearrange ordinances or parts of ordinances by references to the title only. *Am. 1979, Act 18* (M.S.A. 5.1273)

§ 66.4. Sec. 4. Within 15 days after the passage of an ordinance, it shall be published in a newspaper printed in the village, if one is published in the village, otherwise, copies of the ordinance shall, within the same time, be posted in 3 of the most public places in the village; and the clerk shall, immediately after publication or posting, enter in the record of ordinances, in a blank space to be left for that purpose under the record of the ordinance, a certificate under

his hand, stating the time and places of the publication or posting. The certificate shall be prima facie evidence of the due publication and posting of the ordinance. Each village shall have the power to adopt a plumbing code, electrical code, or building code which has been promulgated by this state or by a department, board, or other agency thereof, or by an organization or association which is organized or conducted for the purpose of developing a code by reference thereto in an adopting ordinance and without publishing the code in full. The code shall be clearly identified in the ordinance, a statement of the purpose of the code shall be published with the adopting ordinance, and printed copies of the code shall be kept in the office of the village clerk available for inspection by and distribution to the public at all times. The publication shall contain a notice to the effect that a complete copy of the code is available for public use and inspection at the office of the village clerk. *Am. P.A. 82, 1976.* (M.S.A. 5.1274)

§ 66.5 PROOF IN COURT. Sec. 5. Whenever it shall be necessary to prove any of the laws, regulations, or ordinances of any village, or any resolution adopted by the council thereof, the same may be read in all courts of justice and in all proceedings:

First, From a record thereof kept by the clerk;

Second, From a copy of the ordinance, or of the record thereof, certified by the clerk under the corporate seal of the village;

Third, From any volume of ordinances purporting to have been written or printed by authority of the council. (M.S.A. 5.1275)

§ 66.6 PROSECUTION OF VIOLATIONS. Sec. 6. Prosecutions for violation of the village ordinances shall be commenced not more than 2 years after the commission of the offense, and shall be brought in the district court or municipal court in the judicial district in which the village is located. That court may hear, try and determine all causes and actions arising under the ordinances of the village, and inflict punishment for violations of those ordinances thereof as provided in the ordinances. *Am. 1978, Act 189.* (M.S.A. 5.1276)

§ 66.7 PENALTIES, RECOVERY; WARRANT; PROCEEDINGS. Sec. 7. When a penalty shall be incurred for the violation of an ordinance, and a provision is not made for the imprisonment of the offender upon conviction of the violation, a penalty

prescribe. (M.S.A. 5.1281)

§ 66.12. SECURITY FOR COSTS; FILING BY PROSECUTOR, LIABILITY. Sec. 12. In all prosecutions for violations of the ordinances of the village, commenced by any person other than an officer of the village, the court may require the prosecutor to file security for the payment of the costs of the proceedings, in case the defendant is acquitted. But he shall not be liable for the payment of the costs if the magistrate before whom the complaint is made or trial is had, shall certify in his minutes that there was probable cause for the making of such complaint. (M.S.A. 5.1282)

§ 66.13 FINES, PAYMENT; TREASURER'S RECEIPT, FILING. Sec. 13. All fines imposed for violations of the ordinances of the village, if paid before the accused is committed, shall be received by the court or magistrate before whom the conviction was had. If any fine shall be collected upon execution, the officer or person receiving the same shall immediately pay over the money collected to said court or magistrate. If the accused be committed, payment of the fine and the costs imposed shall be

made to the sheriff or other keeper of the jail or prison, who shall within 30 days thereafter, pay the same to said court or magistrate, and the court or magistrate receiving any such fine or penalty or any part thereof, shall pay the same into the village treasury except such fines as by the constitution, are appropriated for library purposes, on or before the first Monday of the month next after the receipt of the same and take the treasurer's receipt therefor, and file the same with the clerk. (M.S.A. 5.1283)

§ 66.14 SUIT AGAINST COLLECTOR; FAILURE TO PAY OVER FINES, MISDEMEANOR. Sec. 14. If any person who shall have received any such fine or any part thereof, shall neglect to pay over the same pursuant to the foregoing provision, it shall be the duty of the council to cause suit to be commenced immediately therefor, in the name of the village, and to prosecute the same to effect. Any person receiving any such fine, who shall wilfully neglect or refuse to pay over the same as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly. (M.S.A. 5.1284)

## CHAPTER VII—POWERS OF COUNCIL

§ 67.1 GENERAL POWERS. Sec. 1. Every village subject to the provisions of this act, shall, in addition to such other powers as are conferred, have the general power and authority granted in this chapter, and the council may pass such ordinances in relation thereto as it may deem proper, namely:

First, To restrain and prevent vice and immorality;

Second, To punish vagrants, disorderly persons and common prostitutes;

Third, To abate nuisances and preserve the public health;

Fourth, To prohibit and suppress disorderly and gaming houses;

Fifth, To regulate, license, or suppress billiard tables and ball alleys, public dance-halls, and soft-drink emporiums;

Sixth, To suppress gaming;

Seventh, To suppress, or regulate, tax and license saloons for the sale of spirituous and intoxicating liquors, and license taverns and eating houses;

For control of sale of beer, liquors, etc., see Act 8, P.A. (ex. sess.), 1933, § 436.1 et seq., CL 1948.

Eighth, To regulate and license public shows and exhibitions;

Ninth, To license auctioneers, license and regulate hawkers and peddlers, and to regulate or prohibit sales of property at auction, except sales made pursuant to some order of court or public law; and also to require transient traders and dealers to take out licenses before engaging in business, and may regulate by ordinance the terms and conditions of issuing the same;

Tenth, To license and regulate hacks and other public vehicles;

Eleventh, To provide for and regulate the inspection of provisions;

Twelfth, To provide for the inspection and sealing of weights and measures, and to enforce the keeping and use of proper weights and measures by vendors;

Thirteenth, To regulate or prohibit bathing in the rivers, ponds, streams and waters of the village;

Fourteenth, To regulate or prohibit the selling, storing or transportation of combustible or explosive substances or materials within the village, and to regulate and restrain the making of fires in the streets or other open spaces in the village;

Fifteenth, To make ordinances for the organiza-

tion and regulation of the fire department and for the prevention and extinguishment of fires, and to establish and maintain definite fire limits;

Sixteenth, To license and regulate solicitors for passengers or for baggage for any hotel, tavern, public house, boat, or railroad; also draymen, carmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, carriages, sleighs, express vehicles and vehicles of every other description used and employed for hire, and to fix and regulate the amounts and rates of their compensation;

Seventeenth, To require horses, mules, or other animals attached to any vehicle, or standing in any of the streets, lanes or alleys in the village, to be securely fastened, hitched, watched or held;

Eighteenth, To prevent and punish horse-racing and immoderate driving in any street, park or alley, and to authorize the stopping and detaining of any person who shall be guilty of immoderate driving or riding in any street, park or alley in the village;

Nineteenth, To prevent the running at large of dogs, to require them to be muzzled, and to authorize their destruction if found at large, in violation of any ordinance of the village;

Twentieth, To establish lines and grades upon which buildings may be erected, and beyond which such buildings shall not extend;

Twenty-first, To prevent the erection and provide for the removal of all buildings deemed unsafe;

Twenty-second, To regulate the placing and provide for the preservation of horse or hitching posts;

Twenty-third, To declare and define the powers and duties of the officers of the village, whose powers and duties are not specifically prescribed in this act;

Twenty-fourth, To require the treasurer, marshal, and such other officers of the village as the council shall deem proper, to give bonds for the discharge of their official duties;

Twenty-fifth, To see that the several officers of the village perform their duties faithfully and that proper measures are taken to punish neglect of duty on the part of any of such officers;

Twenty-sixth, To provide for the care, custody and preservation of the public property of the village;

Twenty-seventh, To adopt such other ordinances and make such other regulations for the safety and good government of the village and the general welfare of its inhabitants as are not inconsistent with the general laws of this state. (M.S.A. 5.1285)

## LICENSES

§ 67.2 GRANTING, CONDITIONS; REVOCATION; PENALTY; SUPPORT OF POOR. Sec. 2. The council may prescribe the terms and conditions upon which licenses may be granted, and may exact and require payment of such sum for any license as shall be reasonable and proper. The person receiving the license shall, if required by the council or ordinance of the village, before the issuing thereof, execute a bond to the corporation in such sum as the council may prescribe, with 1 or more sufficient sureties, conditioned for a faithful performance of the laws relating to the corporation and the ordinances of the council, and otherwise conditioned as the council may prescribe. Every license shall be revocable by the council at pleasure; and when any license shall be revoked for non-compliance with the terms and conditions upon which it was granted, or on account of any violation of any ordinance or regulation passed or authorized by the council, the person holding such license shall, in addition to all other penalties imposed, forfeit all payment made for such license. And the council may provide for punishment, by fine or imprisonment, or both, of any person, who, without license, shall exercise any occupation or trade, or do anything for or in respect to which any license shall be required by any ordinance or regulation of the council. The council of any village may make such provisions as they shall deem expedient for the support and relief of poor persons residing in the village; and for that purpose may provide by ordinance, or resolution for the appointment of a director of the poor for the village, and may prescribe his duties and vest him with such authority as may be proper for the due exercise of his duties. (M.S.A. 5.1286)

## POUNDS

§ 67.3 POUNDS, POUND MASTERS; REGULATIONS; FEES, SALE OF ANIMALS. Sec. 3. The council may provide and maintain 1 or more pounds within the village, and may appoint pound masters, prescribe their powers and duties, and fix their compensation, and may authorize the impounding of all beasts and fowls found in the streets or otherwise at large, contrary to any ordinance of the village; and if there shall be no pound or pound master they may provide for the impounding of such beasts and fowls by the village marshal, in some suitable place, under his immediate care and inspection and may confer on him the powers and duties of pound master. The council may also prescribe the fees for impounding, and the amount or rate of expenses for keeping, and

the charges to be paid by the owner or keeper of the beasts or fowls impounded; and may authorize the sale of such beasts and fowls for the payment of such fees, expenses and charges, and for penalties incurred, and may impose penalties for rescuing any beast or fowl impounded. (M.S.A. 5.1287)

## PUBLIC BUILDINGS, GROUNDS AND PARKS

§ 67.4 VILLAGE OWNERSHIP; SALE OF PARKS. Sec. 4. A village may acquire, purchase, and erect such public buildings, as may be required for the use of the corporation, and may purchase, appropriate, and own such real estate as may be necessary for public grounds, parks, markets, public buildings, and other purposes necessary or convenient for the public good, and for the execution of the powers conferred in this act. Such buildings and grounds, or any part thereof, may be sold at public sale or private sale if pursuant to an ordinance, or leased, as occasion may require. A public park shall not be sold without the consent of a majority of the qualified electors of the village. *Am. 1974, Act 67* (M.S.A. 5.1288)

§ 67.5 PRISON OR HOSPITAL, LOCATION OUTSIDE LIMITS; REGULATIONS, ENFORCEMENT. Sec. 5. When the council shall deem it for the public interest, grounds and buildings for the village prison, hospital and pest-house, may be purchased, erected, and maintained beyond the corporate limits of the village; and in such cases the council shall have authority to enforce beyond the corporate limits of the village, and over such lands, buildings, and property, in the same manner and to the same extent as if they were within the village, all such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in such prison, pest-house, or hospital. (M.S.A. 5.1289)

§ 67.6 PUBLIC PARKS, POWERS OF COUNCIL. Sec. 6. The council shall have authority to lay out, establish, or vacate and discontinue public parks and grounds within the village, and to improve, light, and ornament the same, and to regulate the use thereof, and to protect the same and the appurtenances thereof from obstruction, encroachment and injury. (M.S.A. 5.1290)

## STREETS AND SIDEWALKS

§ 67.7 PUBLIC HIGHWAYS, BRIDGES, GROUNDS, SUPERVISION; LIABILITY FOR DAMAGES; BRIDGES, CARE. Sec. 7. The council

shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the village, and shall have the like authority over the same as is given by the general laws of the state. No village subject to the provisions of this act shall be liable in damages sustained by any person in such village, either to his person or property, by reason of any defective street, sidewalk, crosswalk, or public highway, or by reason of any obstruction, ice, snow or other incumbrance upon such street, sidewalk, crosswalk or public highway, situated in such village unless such person shall serve or cause to be served within 60 days after such injury shall have occurred a notice in writing upon the clerk or deputy clerk of such village, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold such village liable for such damages as may have been sustained by him: Provided, That the bridges within the limits of any village incorporated under this act in the highways leading into or through the said village which have been laid out or shall hereafter be laid out by the commissioner of highways of the township or townships in which said village may be located, or laid out by any other authority other than that of said village, shall be built, controlled and kept in repair by the township or townships in which the same may be located, the same as if said village were not incorporated and the fact that any such highways are laid out and used as such at the time of such incorporation of said village shall be deemed sufficient to make the same township highways, and the township or townships in which they may be located liable as aforesaid, and all other bridges in said village shall be built, controlled and kept in repair by said village. (M.S.A. 5.1291)

For General Highway Law, see § 220.1 et seq, CL 1948. See also Act 354, P.A. 1925 (§ 234.1 et seq., CL 1948), as to bridges.

**§ 67.8 SIDEWALKS: CONSTRUCTION, MAINTENANCE, EXPENSES, ALLOCATION.** Sec. 8. The council shall have control of all sidewalks in the public streets and alleys of the village and may prescribe the grade thereof, and change the same when deemed necessary. They shall have power to build, maintain and keep in repair sidewalks and cross walks in the public streets and alleys, and to charge the expense of constructing and maintaining such sidewalks upon the lots and premises adjacent to and abutting upon such walks. The council shall also have authority to require the owners and occupants of lots

and premises to build, rebuild and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction and within such time as the council shall, by ordinance or resolution, prescribe, the expense thereof to be paid by such owner or occupant; or the council may by a 2/3 vote of all the trustees elect pay such part of the expense of building or rebuilding such walk as they may deem proper from the general street fund, or from the street district fund of any street district in which such walk may be located. (M.S.A. 5.1292)

**§ 67.9 SAME; REMOVAL OF SNOW AND ICE; ORDINANCE AUTHORIZED.** Sec. 9. The council shall also have power, either by ordinance or resolution, to cause and require the owners and occupants of any lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to such lot and premises, and to keep the same free from obstructions, encroachments, incumbrances, filth and other nuisances: Provided, That the council may by a 2/3 vote of all the trustees elect provide by ordinance for the rebuilding, maintaining and keeping in repair of all sidewalks within the village, and for the removing of all ice and snow therefrom, and for keeping the same free from incumbrances, and pay the expense thereof from the general street fund, or from the street district fund of any street district in which such sidewalk may be located. (M.S.A. 5.1293)

**§ 67.10 SAME; FAILURE OF ABUTTING OWNER; ASSESSMENT, COLLECTION.** Sec. 10. If the owner or occupant of any lot or premises shall fail to construct or maintain any particular sidewalk, as mentioned and prescribed in the last section, or shall fail to keep the same in repair, or to remove the snow, ice, and filth therefrom, or to remove and keep the same free from obstructions, encroachments, incumbrances, or other nuisances, or shall fail to perform any other duty required by the council in respect to such sidewalks, within such time and such manner as the council shall require, the council may cause the same to be done, and such sidewalk to be constructed or repaired, at the expense of such owner or occupant, and the council may cause the amount of all expenses incurred thereby, together with a penalty of 10% in addition thereto, to be reported to the board of special assessors, to be levied by them as a special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review after

proper notice has been given as in all other cases of special assessments provided for by this act; and such tax when confirmed shall be a lien upon such lot or premises the same as other special assessments, and the council shall order the assessor of the village to spread said amount, together with such penalty, upon his roll as a special assessment upon such lot or premises, and the same shall be collected in the same manner as other village taxes; or the village may collect such amount, together with the penalty aforesaid, from the owner or occupant of such premises in an action of assumpsit, together with costs of suit. (M.S.A. 5.1294)

§ 67.11 SAME; REGULATION OF THINGS ON, OVER, UNDER. Sec. 11. The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts and other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures, and excavations under the same. (M.S.A. 5.1295)

§ 67.12 PUBLIC IMPROVEMENT POWERS OF COUNCIL; CONDEMNATION; EXPENSES, ASSESSMENT. Sec. 12. The council shall have power to lay out, establish, open, make, widen, extend, straighten, alter, close, vacate, or abolish any highway, street, lane, alley, sidewalk, sewer, drain, water course, bridge, or culvert in the village whenever they shall deem the same a public improvement, or necessary for the public convenience; and if in so doing it shall be necessary to take or use private property the same may be taken in the manner provided in this act. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, in the manner in this act provided for levying and collecting special assessments, or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general highway fund. (M.S.A. 5.1296)

§ 67.13 PUBLIC HIGHWAYS, GROUNDS; VACATION; OBJECTIONS, FILING; VOTE. Sec. 13. When the council considers it advisable to vacate, discontinue, or abolish a highway, street, lane, alley, or public grounds, or a part of a highway, street, lane, alley, or public ground, it shall by resolution declare its intent and appoint a time not less than 4 weeks after the date of the resolution, when it shall meet and hear objections to the resolution. Notice of the meeting, with a copy of the resolution, shall be given in the manner prescribed by Act No. 267 of the Pub-

lic Acts of 1976. An objection to the proposed action of the council may be filed with the clerk in writing, and if an objection is filed, the street, alley, or public ground, or a part of the highway, street, lane, alley or public ground, shall not be vacated or discontinued, except by a vote of 2/3 of the trustees elect. *Am. 1977, Act 197.* (M.S.A. 5.1297)

§ 67.14 SAME; SURVEY; VACATION RESOLUTION; RECORDING; EVIDENCE. Sec. 14. The council may cause all public streets, alleys, and public grounds to be surveyed, and may determine and establish the boundaries thereof, and cause the surveys and descriptions thereof to be recorded in the office of the clerk in a book of street records, and they shall cause surveys and descriptions of all streets, alleys, and public grounds opened, laid out, altered, extended, or accepted and confirmed by them to be recorded in like manner, and such record shall be prima facie evidence of the existence of such streets, alleys or public grounds, as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley or public ground shall also be recorded in said book of street records and the record shall be prima facie evidence of all matters therein set forth. (M.S.A. 5.1298)

§ 67.15 STREET GRADES; CONFORMITY WITH ADJACENT LANDS; RECORD, DIAGRAM. Sec. 15. The council shall have authority to determine and establish the grade of all streets, avenues, alleys and public grounds within the village, and to require improvements and buildings adjacent to, or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grade; and the council may change or alter the grade of any street, alley or public ground, or of any part thereof whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered a record and diagram thereof shall be made in the book of street records in the office of the clerk. (M.S.A. 5.1299)

§ 67.16 SAME; CHANGE IN; DAMAGE TO PROPERTY OWNER, PAYMENT. Sec. 16. Whenever the grade of any street or sidewalk shall have been heretofore, or shall hereafter be established, and improvements shall thereafter be made by the owner or occupant of the adjacent property in conformity to such grade, such grade shall not be changed without compensation to the owner for all damages to such property resulting therefrom, to be ascertained by a jury as provided in chapter 13 of this act, or said damages may be ascertained and agreed upon by and

between such village and the owner or occupant of such premises. Whenever such damage shall be ascertained or agreed upon, as heretofore provided, such damages or such part thereof as the council shall deem equitable and just, shall be paid by the village or the council may cause such damages, or such part thereof as may be just and proper, to be assessed upon such real estate as may be benefited by reason of the change of such grade, and whenever the council shall determine to assess such damages, or any part thereof, upon the property benefited, it shall determine and define a district in said village which in its judgment is benefited by the improvement out of which said damages arise, and shall cause the same to be assessed upon such district, which said assessment shall be upon the owners or occupants of the taxable real estate in said district, in proportion as nearly as may be to the advantage or benefit each lot, parcel, or subdivision is deemed to acquire by the improvement out of which such damages arise; but the property on account of which such damages were awarded shall not be included in said district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefited, in the grading and improvement of streets, as provided for in this act; and all of the provisions of chapter 8 of this act relative to special assessments and the collection thereof, shall apply thereto. Such damages when collected as aforesaid, or when determined upon by the village, shall be paid to the person entitled thereto. (M.S.A. 5.1300)

#### PAVING AND IMPROVEMENTS

§ 67.17 BRIDGES, CULVERTS, STREETS; CONSTRUCTION, MAINTENANCE. Sec. 17. The council shall have authority to construct and maintain bridges and culverts where needed; and to grade, pave, curb, gravel, plank, and otherwise improve and repair the highways, streets, lanes, avenues and alleys of the village. (M.S.A. 5.1301)

§ 67.18 SAME; EXPENSES, PAYMENT; TAX LEVY; PAVING CONSTRUED. Sec. 18. The expense of constructing and maintaining bridges, and the whole, or such part as the council shall determine, of the expense of improving and working, including grading and graveling upon the streets and highways, may be paid from the general highway fund, to be raised by tax upon all the property in the village; or, the village may be divided into street districts, and a part of the whole expense of improving and working the streets, in each district may be paid from a street district fund to be raised by a tax upon the property

in the district. The expense of grading, paving, graveling and planking any street may be defrayed by a special assessment upon the lots and premises abutting upon such improvement, in proportion to their number of feet front upon the street; or a part of such expense may be so paid, and the remainder may be paid from the general highway fund, or from the street district fund, as the council may decide. The lots and premises to be assessed according to their frontage upon a street improvement as aforesaid, shall constitute a special assessment district. The term paving shall include curbing and the construction of cross walks in the paved streets. (M.S.A. 5.1302)

§ 67.19 SAME; PRINCIPLES OF TAX APPORTIONMENT. Sec. 19. When expenses for any such improvement shall be assessed in a special assessment district, and there shall be lands belonging to the village, school buildings, or other public buildings or public grounds not taxable, fronting upon such improvement, such part of the expense of such improvement as in the opinion of the council or board of assessors making the special assessment would be justly apportionable to such public grounds, buildings, and city property, and to any interior squares or spaces formed by the intersection of streets, were they taxable, shall be paid from the general highway fund, and the balance of such expense shall be assessed upon the taxable lots and premises included in the special assessment district, in proportion to their number of feet frontage upon such improvement. When such assessment is to be made upon lots in proportion to their frontage upon the improvement, if from the shape or size of any lot an assessment thereon in proportion to its frontage would be unjust and disproportionate to the assessment upon other lots, the council or board of assessors making the assessment may assess such lot for such number of feet frontage as in their opinion will be just. (M.S.A. 5.1303)

#### STREET REGULATIONS

§ 67.20 OBSTRUCTIONS, ENCROACHMENTS, REMOVAL; OFFENDERS, PUNISHMENT. Sec. 20. The council shall have power to prohibit and prevent obstructions and incumbrances in and encroachments upon the public highways, streets, and alleys of the village, and remove the same; and to punish those who shall obstruct, encumber, encroach or maintain any encroachment, upon or in any such highway, street or alley; and to require all such persons to remove every such obstruction, incumbrance or encroachment. (M.S.A. 5.1304)

§ 67.21 TREES IN HIGHWAYS, REGULATION; STREET LIGHTING. Sec. 21. The council may provide for and regulate the planting of shade and ornamental trees in public highways, streets and avenues of the village, and for the protection thereof, and the trimming of all trees in or that overhang such highways, streets, or avenues, or which obstruct public lighting, and may light the streets and public places, and regulate the setting of lamps and lamp posts therein and protect the same. (M.S.A. 5.1305)

See Act 36, P.A. 1919 § 247.231-247.235, CL 1948, which authorizes villages, etc., to appropriate money for shade, etc., trees.

§ 67.22 PUBLIC STREETS; EXCAVATION, REGULATION. Sec. 22. The council may regulate the making of all openings in and removals of earth from public streets, for the laying or repair of sewers, drains, tunnels, gas pipes, water pipes, or for any other purpose; and may prohibit and prevent all such openings and removals of earth except by permission of the council, and at such times and upon such terms and regulations as they may prescribe. (M.S.A. 5.1206)

§ 67.23 SAME; REGULATION OF USE; ENFORCEMENT OF REGULATIONS; COUNCIL, POWERS. Sec. 23. The council may regulate the use of public highways, streets, avenues and alleys of the village, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or used for the transportation of persons or property for hire; to designate the places where loads of wood, coal, hay and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use or placing of signs, advertisements, banners, awnings, posts, poles or lamps in or over the streets; to regulate or prohibit all such sports, amusement proceedings and gatherings of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of beasts and fowls in the streets or elsewhere in the village, and to impose penalties upon the owners or keepers thereof permitting the same; to cleanse and purify the streets, and to prohibit, prevent, remove and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same, and to punish them for the creation or maintenance thereof, and generally to prescribe and enforce all such police regulations over and in respect to the public streets as may be necessary to secure good order and safety to persons and property in the

lawful use thereof, and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the villages as are conferred by law upon highway commissioners in townships. (M.S.A. 5.1307)

#### SEWERS, DRAINS AND WATER-COURSES

§ 67.24 SEWERS; DRAINS, WATER-COURSES, CONSTRUCTION; CONDEMNATION. Sec. 24. The council of any village may establish, construct and maintain sewers, drains and water-courses whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the village; and private property, or the use thereof, may be taken therefor in the manner provided by this act for taking private property for public use. But in all cases where the council shall deem it practicable, such sewer, drain and water-courses shall be constructed in the public streets and grounds. (M.S.A. 5.1308)

§ 67.25 VILLAGES; SEWERS, DRAINS AND WATER COURSES; METHODS OF PAYMENT. Sec. 25. The expense of constructing sewers, drains, and water courses may be paid by general tax upon all the taxable property in the village; or the expenses may be defrayed by special assessment upon the lands and premises benefited by the drainage, in proportion to the benefits resulting to each lot or parcel of land respectively; or such part of the expense as the council shall determine may be defrayed by special assessment, and the remainder may be paid by general tax. *Am 1974, Act 4.* (M.S.A. 5.1309)

§ 67.26 SAME; SPECIAL ASSESSMENT; MAP OF SEWER DISTRICT, CONTENTS, FILING WITH COST ESTIMATE; HEARING, NOTICE. Sec. 26. Before proceeding to the construction of any sewer, drain or water-course, the expense or any part of the expense of which is to be defrayed by special assessment, the council shall cause a map to be made of those lands and premises which in their opinion will be benefited by the drainage, and which they intend to assess for the cost of the sewer or drain. Said lands shall constitute a sewer district; and said map shall show the boundaries and divisions of all the lots and premises in the district, and the proposed route and location of the sewer through the same; also its depth, grade and dimensions. Said map, with an estimate of the cost of the proposed work, shall be deposited with the clerk, and notice shall be given by publication in a newspaper of the village for 2 weeks

or by posting copies of such notice for the same length of time, in 3 public places in the village, of the intention to construct the sewer or drain, and where the map and estimates aforesaid can be found, and appointing a time when the council will meet to hear any suggestions and objections from persons interested or liable to be assessed for the work. (M.S.A. 5.1310)

§ 67.27 SAME; DECLARATION BY RESOLUTION, CONTENTS; MAP, FILING. Sec. 27. Repealed 1974, Act 4.

§ 67.28 SPECIAL ASSESSMENT. Sec. 28. Special assessments for the purposes aforesaid shall be made in the manner provided in chapter 8 of this act. (M.S.A. 5.1312)

§ 67.29 PRIVATE DRAINS; CONSTRUCTION; REGULATION; FAILURE, WORK AT PRIVATE EXPENSE. Sec. 29. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon. (M.S.A. 5.1313)

§ 67.30 SAME; CONNECTION WITH PUBLIC SEWERS. Sec. 30. The owners and occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the council shall prescribe. (M.S.A. 5.1314)

§ 67.31 SAME; CONNECTION TAX. Sec. 31. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding \$2.00 per year, as they may deem just in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon. (M.S.A. 5.1315)

§ 67.32 DITCHES, WATER-COURSES; SPECIAL ASSESSMENT. Sec. 32. Such part of the

expense of providing ditches and improving water-courses, as the council shall determine, may be defrayed by special assessment upon the lands and premises benefited thereby in proportion to such benefits. (M.S.A. 5.1316)

§ 67.33 SAME; PUBLIC SEWERS; REPAIR EXPENSE. Sec. 33. The expenses of repairing public sewers, ditches, and water-courses may be paid by general tax. The expenses of reconstructing public sewers may be defrayed in the manner herein prescribed for paying the expenses of the construction thereof. (M.S.A. 5.1317)

§ 67.34 PUBLIC SEWER AND DRAIN ORDINANCES. Sec. 34. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to the drainage of the village. (M.S.A. 5.1318)

#### HARBORS, WHARVES AND HARBOR MASTERS

§ 67.35 PUBLIC WHARVES, PIERS, LEVEES; CONSTRUCTION, REGULATION, LEASING OF PRIVILEGES. Sec. 35. The council of any village located upon or adjacent to any of the navigable waters of the state shall have the power to establish, construct, maintain, and control public wharves, docks, piers, landing places, and levees, upon any lands or property belonging to or under the control of the village, including property at the foot or end of public streets; and the council may lease wharfing and landing privileges upon any of the public wharves, docks, or landings, but not for a longer time than 10 years, and in such manner as to preserve the right of all persons to a free passage over the same with their baggage. (M.S.A. 5.1319)

§ 67.36 SAME; CONFORMITY WITH GRADE; LINE LIMIT. Sec. 36. The council shall have authority also to require and cause all docks, wharves and landings, whether upon public grounds or upon the property of private individuals, to be constructed and maintained in conformity with such grade as may be established therefor by the council, and to prescribe the line beyond which any such wharf, dock, or landing shall not be constructed or maintained. (M.S.A. 5.1320)

§ 67.37 SAME; RATES AND CHARGES. Sec. 37. The council shall have authority to prohibit the encumbering of the public wharves and landings, and to regulate the use of all wharves, docks and land-

ing places within the village; to regulate the use and location of wharf-boats; and to regulate and prescribe the rates and charges for landing, wharfage, and dockage at all public wharves, docks and landings, and to collect wharfage and dockage from boats, water-craft, and floats landing at or using any public landing place, wharf, or dock within the village. (M.S.A. 5.1321)

§ 67.38 PRESERVATION OF PURITY OF WATER; REGULATION OF USE OF NAVIGABLE WATERS. Sec. 38. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the village, to control and regulate the anchorage, moorage, and management of all boats, water-craft, and floats within the jurisdiction of the village; and to regulate and prescribe by such ordinances, or through a harbor master or other officer, such location of any boat, craft, vessel, or float, and such changes of station in, and the use of the harbor as may be required to promote order therein, and the safety and convenience of all such boats, craft, vessels and floats, and to regulate the opening and passage of bridges; and generally to enact and enforce such ordinances and regulations not inconsistent with the laws of the United States, or this state, as in the opinion of the council shall be most conducive to the orderly, safe and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers and landing places within the village. (M.S.A. 5.1322)

§ 67.39 HARBOR MASTER; APPOINTMENT, DUTIES, COMPENSATION. Sec. 39. The council may also appoint a harbor master whose duty it shall be to enforce all such ordinances and regulations as the council may lawfully enact and prescribe in respect to, and over the navigable waters, harbors, wharves, docks, landings and basins within the village, and in respect to the navigation, trade and commerce of the village, and prescribe the powers and duties of such harbor master and fix his compensation. (M.S.A. 5.1323)

#### FERRIES

§ 67.40 LICENSE; RESTRICTIONS; PENALTIES. Sec. 40. The council of any village may regulate and license ferries from such village, or any place of landing therein, to the opposite shore, or from 1 part of the village to another; and may require the payment of such reasonable sum for such license as the council shall deem proper; and may impose such reasonable terms and restrictions, in relation to the keeping and management of ferries, and the time,

manner, and rates of carriage and transportation of persons and property as may be proper, and may provide for the revocation of any such license, and for the punishment, by proper fines and penalties, for violations of any ordinance prohibiting unlicensed ferries, or regulating those established and licensed. (M.S.A. 5.1324)

#### MARKETS

§ 67.41 ESTABLISHMENT; REGULATION. Sec. 41. The council of any village shall have the power to establish and regulate markets and market places, for the sale of meats, fish, vegetables, and other provisions and articles necessary for the sustenance and convenience of the inhabitants; to prescribe the times for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the vendors. (M.S.A. 5.1325)

§ 67.42 REGULATIONS; ADOPTION, ENFORCEMENT. Sec. 42. The council may adopt and enforce such regulations as may be necessary to prevent fraud and to preserve order in the markets; and may authorize the immediate arrest, and removal from the market, of any person violating such regulations, together with any article in his possession; and may authorize the seizure and destruction of tainted or unsound meats, or other provisions exposed for sale therein, or elsewhere in the village. (M.S.A. 5.1326)

#### PARTITION FENCES

§ 67.43 ORDINANCES AND LAWS; FENCE VIEWERS. Sec. 43. The council is authorized to enact all such ordinances and laws as it may deem proper relative to the building, rebuilding, maintaining and repairing of partition fences by the owners and occupants of adjoining lots, enclosures and parcels of land in the village; and relative to the assigning to the owners or occupants of such adjoining pieces of land, the portion of such partition fences to be maintained by them respectively; and may provide for the recording of such assignments and divisions when made; and may provide for the recovery of damages from any owner or occupant who shall fail to comply with the provisions and requirements of any ordinance relative to such partition fences. And the council may appoint fence-viewers and prescribe their duties and mode of proceeding in all cases relating to partition fences in the village. (M.S.A. 5.1327)

## POLICE

§ 67.44 VILLAGE POLICE FORCE. Sec. 44. The council of any village may provide for and establish a police force, and may authorize the president to appoint, by and with the consent of the council, from time to time such number of policemen and night watchmen as they shall deem expedient for the good government of the village, and for the protection of the persons and property of the inhabitants, and they may authorize the president of the village, in cases of emergency and danger, to appoint, temporarily, such number of policemen as in his judgment the occasion may require. (M.S.A. 5.1328)

§ 67.45 SAME; REGULATION; POWERS, DUTIES. Sec. 45. The council shall make all necessary rules for the government of the police, and prescribe the powers and duties of policemen and watchmen, and they may invest them with such authority as may be necessary for the preservation of quiet and good order in the village. (M.S.A. 5.1329)

§ 67.46 CHIEF OF POLICE; POLICE, POWERS, DUTIES. Sec. 46. The village marshal shall be the chief of the police, and subject to the president, shall have the direction of the police of the village. For the preservation of the peace, the police and watchmen shall have all the powers given by law to constables. It shall be their duty to suppress all riots, disturbances and breaches of the peace; to arrest all persons fleeing from justice, to apprehend upon view any person found in the act of committing any offense against the laws of the state, or violating the ordinances of the village in any manner involving a breach of the peace and to take the offender before the proper magistrate or officer, to be punished; to make complaints before the proper magistrate of any person known or believed by them to be guilty of crime or any violation of the ordinances of the council; and to serve all processes that may be delivered to them for that purpose, and generally to perform all such duties as may be required by the council for the good government of the village. (M.S.A. 5.1330)

§§ 67.47 to 67.54 Repealed by P.A. 1978, No. 368.

## CEMETERIES

§ 67.55 INTERMENTS, REGULATION. Sec. 55. Any village may acquire, hold and own such cemetery or public burial place or places, either with-

in or without the limits of the corporation as in the opinion of the council shall be necessary for the public welfare, and suitable for the convenience of the inhabitants, and may prohibit the further interment of the dead within the village, or may limit such interment therein to such cemetery or burial place as the council may prescribe. And the council may cause any bodies buried within the village, in violation of any rule or ordinance made in respect to such burials, to be taken up and buried elsewhere. (M.S.A. 5.1339)

§ 67.56 APPROPRIATION BY COUNCIL. Sec. 56. The council may, within the limitations in this act contained, raise and appropriate such sums as may be necessary for the purchase of cemetery grounds, and for the improvement, adornment, protection and care thereof. (M.S.A. 5.1340)

§ 67.57 BOARD OF CEMETERY TRUSTEES; APPOINTMENT, REMOVAL. Sec. 57. Whenever any village shall own, purchase or otherwise acquire any cemetery or cemetery grounds, there shall be appointed by the council, 3 trustees who shall be freeholders and electors of the village, and who shall constitute a "board of cemetery trustees." The 3 trustees so appointed shall hold their office for the term of 3 years, except that at the first appointment, 1 shall be appointed for 1 year, 1 for 2 years, and 1 for the term of 3 years from the second Monday in April of the year when appointed, and annually thereafter 1 trustee shall be appointed. The council may remove any trustee so appointed for inattention to his duties, want of proper judgment or skill in or for the proper discharge of the duties required of him, or other good cause. Said board shall serve without compensation. (M.S.A. 5.1341)

§ 67.58 SAME; CHAIRMAN, CLERK; POWERS, DUTIES. Sec. 58. The board of cemetery trustees shall appoint 1 of their number chairman and the village clerk shall be clerk of the board, and the council may by ordinance invest the board with such powers and authority as may be necessary for the care, management and preservation of such cemetery and grounds, the tombs and monuments therein and the appurtenances thereof and in addition to the duties herein mentioned, the board shall perform such other duties as the council may prescribe. (M.S.A. 5.1342)

§ 67.59 SAME; DUTIES; DIRECTIONS OF COUNCIL. Sec. 59. Said board subject to the directions and ordinances of the council shall have the care and management of any such cemetery or burial

place or places and shall direct the improvements and embellishments of the grounds, cause such grounds to be laid out into lots, avenues and walks, the lots to be numbered and the avenues and walks to be named and plats thereof to be made and recorded in the office of the village clerk. The board shall fix the price of lots and make the sales thereof. The conveyances of such lots shall be executed on behalf of the village by the clerk and he recorded in his office at the expense of the purchasers. (M.S.A. 5.1343)

§ 67.60 SAME; CEMETERY EMPLOYES; ORDINANCES, ENFORCEMENT; RULES. Sec. 60. Said board shall appoint the necessary superintendents and employes for the cemetery, expend the money provided for the care and improvement of the grounds, enforce the ordinances of the village made for the management and care thereof and make such regulations for the burial of the dead, the care and protection of the grounds, monuments and appurtenances of the cemetery and the orderly conduct of persons visiting the grounds, as may be consistent with the ordinances of the village and the laws of the state. (M.S.A. 5.1344)

§ 67.61 SAME; CEMETERY FUND; REPORTS TO COUNCIL, CONTENTS. Sec. 61. All moneys raised for any public cemetery authorized by this act, and all moneys received from the sale of lots therein, or otherwise therefrom, shall be paid into the village treasury and constitute a fund to be denominated the "cemetery fund." Said fund shall not be devoted or applied to any other purpose except the purposes of such cemetery. The board of trustees shall report to the council annually, on the first Monday in March, and oftener when the council shall so require, the amount of all moneys received into and owing to the cemetery fund, and from what source, and from whom, and the date, amount, items and purpose of all expenditures and liabilities incurred, and to whom paid, and to whom incurred, and such other matters as the council shall require to be reported, which report shall be verified by the oath of the clerk of the board. (M.S.A. 5.1345)

§ 67.62 NECESSARY ORDINANCES; ENFORCEMENT. Sec. 62. The council of any village owning a public burial ground or cemetery whether within or without the village may pass and enforce all ordinances necessary to carry into effect the provisions herein and to control or regulate such cemetery or burial place and the improvement thereof and to protect the same and the appurtenances thereof from injury and to punish violations of any lawful orders

and regulations made by the board of cemetery trustees. (M.S.A. 5.1346)

§ 67.63 CEMETERY TRUSTEES; POWER TO ACCEPT GIFTS, HANDLING. Sec. 63. The board of cemetery trustees created under this act shall have power to receive in trust moneys or property by way of gifts, grants, devises or bequests for cemetery purposes. All moneys and property which may be so received by said board of cemetery trustees by way of gifts, grants, devises or bequests for cemetery purposes, shall be held in trust by said board, subject to the terms and conditions on which the same may be given, granted, devised or bequeathed, and the same shall constitute a trust fund, and if in money, shall unless otherwise expressed by those making such gifts, grants, devises or bequests, be invested as permanent fund in undoubted real estate security, U.S. bonds, state bonds, or municipal bonds, the interest thereon after fulfillment of such conditions expressed, to be used in improving the cemetery under the control of said board, and no part of such gifts, grants, devises or bequests shall be used or appropriated for other than cemetery purposes. (M.S.A. 5.1347)

§ 67.64 SAME; RULES, BY-LAWS; TREASURER, DUTIES, BOND. Sec. 64. (1) The board of cemetery trustees may make all requisite and necessary rules and by-laws to carry into effect the powers vested and duties required by section 63, and the by-laws shall be recorded in a book to be kept for that purpose. The board of cemetery trustees shall also appoint a treasurer from their membership, whose duties shall be, under the direction of the board, to receive, account for and invest all moneys received by the board under section 63 of this act. The treasurer shall give and execute a bond to the board of cemetery trustees in a sum fixed by the council.

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

(3) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act 442 of the Public Act of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. *Am. 1977, Act 197.* (M.S.A. 5.1348)

CHAPTER VIII—IMPROVEMENTS AND ASSESSMENTS

§ 68.1 PUBLIC IMPROVEMENTS, GENERAL FUND; BOULEVARD LIGHTING ASSESSMENT. Sec. 1.

§ 68.2 BOARD OF ASSESSORS; MEMBERS, OATH, DUTIES; DISQUALIFYING INTEREST. Sec. 2.

§ 68.3 SPECIAL ASSESSMENT; RESOLUTION OF COUNCIL; EXPENSE, APPORTIONMENT. Sec. 3.

§ 68.4 SAME; EXPENSE ESTIMATES; PUBLIC EXAMINATION; NOTICE. Sec. 4.

§ 68.5 PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS, COSTS INCLUDED. Sec. 5.

§ 68.6 SAME; LEVY. Sec. 6

§ 68.7 SAME; APPORTIONMENT. Sec. 7.

§ 68.8 SAME; REPORT TO COUNCIL, FILING; HEARING; NOTICE. Sec. 8

§ 68.9 REVIEW OF ASSESSMENT; CONFIRMATION CERTIFICATE. Sec. 9.

§ 68.10 SPECIAL ASSESSMENT; CONCLUSIVE. Sec. 10.

§ 68.11 SAME; LIEN. Sec. 11.

§ 68.12 SAME; INSUFFICIENCY; EXCESS. Sec. 12.

§ 68.13 SAME; INVALIDITY; REASSESSMENT PROCEEDINGS. Sec. 13.

§ 68.14 SAME; COLLECTION PROCEEDINGS. Sec. 14.

§ 68.15 SAME; LEVY, SALE. Sec. 15.

§ 68.16 SALE PROCEEDS, DISPOSITION; ENTRIES ON ROLL. Sec. 16.

§ 68.17 RENEWAL OF WARRANT; REASSESSMENT. Sec. 17.

§ 68.18 SPECIAL ASSESSMENT, COLLECTION BY SUIT; EVIDENCE. Sec. 18.

§ 68.19 EXPENSE, SPECIAL ASSESSMENT; REPORT OF ACCOUNT TO COUNCIL. Sec. 19.

§ 68.20 COUNCIL TO DETERMINE CHARGE. Sec. 20.

§ 68.21 SPECIAL ASSESSMENT ROLL; PROCEEDINGS. Sec. 21.

§ 68.22 PAVING ASSESSMENTS, MANNER, INTEREST; BONDS; SINKING FUND; PAYMENT OF CONTRACTORS. Sec. 22.

All of the above are Repealed 1974, Act 4.

§ 68.31 Sec. 31. The council of the village by adopting a resolution may determine that the whole or a part of the expense of a local public improvement or repair shall be defrayed by special assessments upon the property specially benefited. Added 1974, Act 4. (M.S.A. 5.1370(1))

§ 68.32 Sec. 32. The complete special assessment procedure to be used, including the time when special assessments may be levied; the kinds of local public improvements for which a hearing is required on the resolution levying the special assessments; the preparing of plans and specifications; estimated costs; the preparation, hearing, and correction of the special assessment roll; the collection of special assessments; the assessment of single lots or parcels; and any other matters concerning the making of improvements by the special assessment method, shall be provided by ordinance. The ordinance shall authorize additional assessments, if the prior assessment proves insufficient to pay for the improvement or is determined to be invalid, in whole or in part, and shall provide for the refund of excess assessments; however, if the excess is less than 5% of total cost as defined by ordinance, it may be placed in the general fund of the village. The payment of future due installments of a special assessment against a parcel of land may be made at any time in full, with interest accrued to the due date of the next installment. Added 1974, Act 4, 1978, Act 29. (M.S.A. 5.1370(2))

§ 68.33 Sec. 33. From the date of confirmation of a roll levying a special assessment, the full amount of the assessment and the interest thereon shall constitute a lien on the premises subject thereto and that amount shall be a debt of the person to whom assessed until paid and, in case of delinquency,

may be collected as delinquent village property taxes or by a suit against the person. Added 1974, Act 4. (M.S.A. 5.1370(3))

68.34 Sec. 34. (1) An action may not be instituted for the purpose of contesting or enjoining the collection of a special assessment unless: (a) Within 45 days after the confirmation of the special assessment roll, written notice is given to the council indicating an intention to file such an action and stating the grounds on which it is claimed that the assessment is illegal; and (b) the action is commenced within 90 days after the confirmation of the roll.

(2) If a portion of an assessment roll is determined to be illegal, in whole or in part, the council may revoke its confirmation, correct the illegality, if possible, or reconfirm it. Property which is not in-

involved in the illegality may not be assessed more than was imposed upon the original confirmation without further notice and hearing thereon. Added 1974, Act 4. (M.S.A. 5.1370(4))

§ 68.35 Sec. 35. The village council may borrow money and issue bonds of the village therefor in anticipation of the payment of special assessments in 1 or more special assessment districts, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the village. The village council may issue general obligation bonds to defray that portion of the cost and expense of a local public improvement chargeable to the village at large. Added 1974, Act 4. (M.S.A. 5.1370(5))

CHAPTER IX—FINANCE AND TAXATION

§ 69.1 AUTHORITY OF COUNCIL TO LEVY TAXES; GENERAL EXPENSE. Sec. 1. The council shall have authority to raise, by general tax upon the real and personal property liable to taxation in said village (exclusive of taxes for highway and street purposes and not otherwise provided for in this act), such sum not exceeding in any 1 year  $1\frac{1}{4}$  of 1% of the assessed value of such property, as they shall deem necessary for the purpose of defraying the general expenses and liabilities of the corporation, and to carry into effect the powers in this act granted. The moneys so raised shall constitute a "general fund." (M.S.A. 5.1371) See Constitution, Art. 10, Sec. 21. See also Act 62, P.A. 1933, § 211.201, et seq., CL 1938; known as the "property tax limitation act."

§ 69.2 SAME; GENERAL HIGHWAY FUND. Sec. 2. The council shall also have power to raise, by general tax upon all real estate and personal property aforesaid, such sum not exceeding  $\frac{1}{2}$  of 1% of the assessed value of said property, as they shall deem necessary for highway and street purposes. Such moneys shall constitute a "general highway fund," and shall be expended exclusively for working and improving the highways, streets, lanes, and alleys of the village and for the construction and repair of bridges therein. (M.S.A. 5.1372)

§ 69.3 repealed 1958, Act 116.

§ 69.4 SAME; CEMETERIES, TAX LIMIT. Sec. 4. The council may for the purpose of purchasing grounds for a cemetery, raise by general tax a sum not exceeding in any 1 year,  $\frac{1}{4}$  of 1% of the assessed value of the property in the village: Provided, That the whole amount which may be so raised for the purchase of grounds for such purpose, shall not at any time exceed \$5,000.00. The council may, for the purpose of maintaining the cemetery, raise by general tax a sum not exceeding in any 1 year,  $\frac{1}{10}$  of 1% of the assessed value of the property in the village. (M.S.A. 5.1374)

§ 69.5 SPECIAL ASSESSMENTS FOR IMPROVEMENTS. Sec. 5. The council may raise by special assessment upon lands in sewer districts and special assessment districts, for the purpose of defraying the cost and expense of grading, paving, planking, and graveling streets, and for constructing drains and sewers, and for making other local improvements, charged upon the lands in the district in proportion

to frontage or benefits, such sums as they shall deem necessary to defray the costs of such improvements. Moneys raised by special assessments to pay the cost of any such local improvement shall be held as a special fund to pay such cost and expense, or to repay moneys borrowed therefor. *Am. 1969, Act 58.* (M.S.A. 5.1375)

§ 69.6 Sec. 6. The council shall raise annually by taxation an amount such that the estimated collections therefrom will be sufficient to promptly pay when due the interest, that portion of the principal, and the required sinking fund deposits on the outstanding bonds or other evidences of indebtedness, or assessments or contract obligations in anticipation of which bonds were issued, falling due prior to the time of the following year's tax collections which tax shall be without limitation as to rate or amount and in addition to any other tax the village may levy but shall not be in excess of the rate or amount necessary to pay the principal and interest or assessments or contract obligations. If at the time of making an annual tax levy, surplus moneys are on hand for the payment of principal or interest and provision for the disposition thereof was not made, then credit therefor may be taken upon the moneys for principal or interest as the case may be. The money so raised shall be used solely for the purpose stated in this section. *Am 1974, Act 4.* (M.S.A. 5.1376)

§ 69.7 ANNUAL AUDIT BY COUNCIL; FINANCIAL STATEMENT, FILING, PUBLICATION. Sec. 7. Within 2 weeks after an annual village election, the council shall audit and settle the accounts of the treasurer and other officers of the village, and so far as practicable, of all persons having claims against the village, and shall make out a statement in detail of the receipts and expenditures of the corporation during the preceding year, which statement shall distinctly show the amount of all taxes raised during the year for all purposes, and the amount raised for each fund; the amount levied by special assessment, and the amount collected on each; and the items and amounts received from all other sources during the year, the items of all expenditures made during the year, and the objects thereof, classifying the same for each purpose separately, and containing other information as shall be necessary to a full understanding of the financial concerns of the village. The statement, signed by the president and clerk, shall be filed in the office of the clerk, and a

copy of the statement shall be published in a newspaper of the village not less than 7 days before the next annual village election. *Am 1977, Act 197.* (M.S.A. 5.1377)

§ 69.8 VILLAGE TAXES; ANNUAL ASSESSMENT ROLL; CONTENTS; TIME. Sec. 8. The assessor of every village subject to the provisions of this act shall, in each year, at and within the same time as required by the general laws of this state for the assessment of property in the townships of this state, make an assessment roll containing a description of all the real property and the aggregate amount of all the personal property liable under the laws of the state to taxation in the village, and the name of the owner, agent or person liable to pay taxes therein if known, and the names of all persons liable to pay poll tax in the village, and shall set down in such roll the valuation of such property, at its value, as determined by the assessor of the township wherein the property is located, placing the value of the real and personal property in separate columns; and in so doing he shall conform to and be governed by the provisions of law governing supervisors of townships performing like services, unless otherwise in this act provided: Provided, That whenever in any year it shall not be necessary to raise any money by taxation in any village, the council of such village may so determine by resolution, and when so determined by the council they shall certify such determination to the assessor, and such assessor shall not make any assessment roll of property in such village for such year. *Am. 1967, Act 84.* (M.S.A. 5.1378)

§ 69.9 SAME; REVIEW NOTICE. Sec. 9. The board of review of the township wherein the properties of the village are located, shall review the assessment roll in the same manner, at the same time and place, and pursuant to the same processes as provided in sections 28 to 33 of Act No. 206 of the Public Acts of 1893, as amended, being sections 211.28 to 211.33 of the Compiled Laws of 1948. *Am. 1967, Act 84.* (M.S.A. 5.1379)

§ § 69.10 and 69.11 repealed in 1967, Act 84.

§ 69.12 ROLL CERTIFIED TO COUNCIL. Sec. 12. Immediately after the review of the assessment roll, the secretary of the board of review shall file the assessment roll with the council. *Am. 1967, Act 84.* (M.S.A. 5.1382)

§ 69.13 COUNCIL'S CERTIFICATE TO ASSESSOR; CONTENTS. Sec. 13. The council, after

an examination of the assessment roll, shall certify the same to the assessor, together with the amount which they require to be raised by general tax, for highway and other general purposes; and all amounts of special assessments which they require to be reassessed upon any lands, premises, or against any person, with a particular description of the lands and property to be reassessed, and the amounts to be reassessed upon each parcel of land, and the name or names, so far as known, of the persons chargeable with such tax, which certificate, endorsed upon or annexed to the roll, shall be signed by the president and clerk. (M.S.A. 5.1383)

§ 69.14 TAX APPORTIONMENT BY ASSESSOR. Sec. 14. Upon receiving the assessment roll, with the certificate of the several amounts to be raised thereon, as provided in the preceding section, the assessor shall proceed to estimate, apportion, and set down in columns opposite to the several valuations of real and personal property on the roll, in proportion to the individual and particular estimates and valuations, the respective sums in dollars and cents, apportionable to each; placing the general fund taxes and all general taxes, except those for highway purposes, in one column; the general highway taxes in another column; the street district taxes, if any, in a third column; all special assessment taxes in a fourth column; and shall also set down in another column on the roll \$1.00 opposite the name of every person liable to pay a poll-tax in the village; and the total of all taxes assessed to each valuation shall be carried into the last column of the roll. The assessor shall also foot up the amounts carried to the last column, as aforesaid, and certify upon the roll the aggregate amounts of the taxes levied therein. (M.S.A. 5.1384)

§ 69.15 ASSESSMENT ROLL DELIVERED TO TREASURER; COLLECTION WARRANT, RENEWAL. Sec. 15. After extending the taxes as aforesaid, and not later than the third Monday of June in each year or in case the council shall have fixed by resolution, in accordance with the proviso in section 8 of this chapter, not later than the first Monday in May the assessor shall cause said assessment roll, certified under his hand, to be delivered to the treasurer, with the warrant of the president of the village annexed thereto, directing and requiring him to collect from the several persons named in said roll the several sums mentioned therein opposite to their respective names, as a tax or assessment, and authorizing him, in case any person named therein shall neglect or refuse to pay such sums, to levy the same by distress and sale of his, her or their goods and

chattels, together with the costs and charges of such distress and sale, and directing him to collect all taxes by a certain day therein to be named, not less than 30 nor more than 50 days from the date of said warrant. The president may renew said warrant from time to time, by order of the council, and for such time as the council shall direct: Provided, That the time shall not be extended later than the third Monday of October in any year. (M.S.A. 5.1385)

§ 69.16 TREASURER TO COLLECT TAXES. Sec. 16. Immediately upon receiving the tax roll, with the warrant thereto annexed, as provided in section 15 the treasurer shall proceed to collect the taxes levied therein according to the direction of said warrant, together with such percentage thereon for collection fees as shall be authorized by the council. (M.S.A. 5.1386)

§ 69.17 SAME; LEVY, SALE; SUIT. Sec. 17. In case any person shall neglect or refuse to pay any tax imposed upon any real or personal property belonging to him, as aforesaid, the treasurer shall levy the same by distress and sale of the goods and chattels of the said person liable to pay the same, wherever such goods and chattels may be found, either in said village or elsewhere in the county where such village is located, or in any adjoining county, first giving public notice of such sale in the manner and for the time required by law in case of such sales made by township treasurers, and for such purpose and for the collection of the taxes aforesaid, the treasurer may bring suit therefor, and shall have all the powers and perform the like duties, so far as applicable, as are conferred upon or required of township treasurers, in the collection of taxes levied in townships. (M.S.A. 5.1387)

§ 69.18 SAME; UNPAID TAXES, RETURN; COLLECTION; REPORTS; LIEN. Sec. 18. Within 1 week after the expiration of the time limited in the warrant for the collection of the taxes levied in said roll, or within 1 week after the time to which said warrant may have been renewed or extended, if the treasurer has been unable to collect any of the taxes on his roll on real property, it shall be his duty to return all such unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers. The taxes thus returned shall be collected in the same manner as other taxes returned to such county treasurer are collected under the provisions of the general tax laws of the state, and the same rate of interest and amount of charges shall be collected thereon, and all taxes upon

lands so returned upon lands as delinquent shall be and remain a lien thereon until paid: Provided, That the county treasurer shall at the time that he makes his return to the auditor general of delinquent taxes assessed under the general tax law, also make a return of all village taxes that were returned delinquent to his office and remaining unpaid on the first day of March of the year in which the return is made. (M.S.A. 5.1388)

§ 69.19 TAX SALES; PROCEEDS, DISPOSITION. Sec. 19. Moneys received for such sale shall be paid over to the village treasurer. All of the provisions of the general tax law relative to the sale and redemption of lands returned for delinquent taxes shall apply to the sale and redemption of lands returned for delinquent taxes assessed under the provisions of this act. (M.S.A. 5.1389)

§ 69.20 COLLECTION SUIT, TAX ON PERSONALTY. Sec. 20. Whenever the treasurer shall be unable to collect any tax assessed upon personal property in the village it shall be lawful for the treasurer of the village to bring suit, in the name of the village, for the recovery thereof, against the person or persons against whom the tax was assessed, before any court of competent jurisdiction, and to take and use all lawful means provided by law for the collection of debts to enforce the payment of such tax; and in such cases all the provisions of law applicable to suits and the evidence therein, brought by township treasurers in the name of their township for such purposes, shall apply.

§ 69.21 MONEY BORROWED IN ANTICIPATION OF TAXES. Sec. 21. The council may borrow, in any year, in anticipation of the collection of taxes subject to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws, such sums as it deems necessary and give notes of the village therefor, *Am. 1974, Act 4*. (M.S.A. 5.1391)

§ 69.22. Sec. 22. (1) Should any greater amount be required in any year for any lawful purpose than can be raised by the council under the foregoing provisions of this chapter, such amount may be raised by tax or loan, or partly by tax and partly by loan. The amount that may be voted or raised, by tax, if approved by a majority vote of the electors at an annual or special village election, in any year, under the provisions of this section, shall not exceed 2% of the assessed valuation of the real and personal property within the village, as shown by the last preceding

assessment roll of the village.

(2) The amount of indebtedness incurred by the issue of bonds or otherwise, including existing indebtedness, may not exceed 10% of the assessed valuation of the real and personal property within the village subject to taxation as shown by the last preceding assessment roll of the village. Bonds issued in anticipation of the collection of special assessments even though the bonds are a general obligation of the village, motor vehicle highway fund bonds even though they are a general obligation of the village, revenue bonds, or bonds issued or contract or assessment obligations incurred to comply with an order of the water resources commission or a court of competent jurisdiction, even though they are a general obligation of the village and bonds issued or contract or assessment obligations incurred for water supply, sewage, drainage, or refuse disposal necessary to protect the public health by abating pollution even though they are a general obligation of the village, are not included in this limitation. Moneys on hand in a sinking fund limited to the payment of indebtedness may be treated as a reduction of the indebtedness to that extent. In case of fire, flood, or other calamity requiring an emergency fund for the relief of the inhabitants of the village, or for the repairing or rebuilding of any of its municipal buildings, works, bridges, or streets, the governing body of the village may borrow money due in not more than 3 years and in an amount not exceeding  $\frac{1}{4}$  of 1% of the assessed valuation of the village, notwithstanding that the loan may increase the indebtedness of the village beyond the limitations fixed by its charter or in this act. When a village is authorized to acquire or operate a public utility, the village may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law. The mortgage bonds issued beyond the limit of general indebtedness prescribed by law shall not impose any liability upon the village, but shall be secured only upon the property and revenues of the public utility, including its franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same; which franchise shall not extend for a period of more than 20 years from the date of the sale of the utility and franchise on foreclosure. All bonds heretofore issued, or contract or assessment obligations heretofore incurred, are hereby validated. *Am. 1974, Act 4.* (M.S.A. 5.1392)

§ 69.22a PUBLIC UTILITY; FRANCHISE. Sec. 22a. Whenever a village is authorized to acquire or operate any public utility, it may issue mortgage bonds therefor beyond the general limit of bonded

indebtedness prescribed by this act: Provided, That such mortgage bonds issued beyond the limit of general indebtedness prescribed by this act shall not impose any liability upon the village, but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same; which franchise shall in no case extend for a longer period than 20 years from the date of the sale of such utility and franchise on foreclosure. *Add. 1952, Act 168.* (M.S.A. 5.1392(1))

§ 69.23 Sec. 23. Bonds may not be issued, except special assessment bonds, bonds for the portion of the cost of local improvements, to be paid by the village at large not to exceed 40% of the cost of such improvements, emergency bonds, and bonds which the council is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting thereon at an annual or special village election. The election shall be conducted in accordance with the general laws governing the conduct of elections. This section does not apply to obligations incurred by the village evidenced by contracts, notes, or assessments. *Am. 1974, Act 4.* (M.S.A. 5.1393)

§ 69.24 DISBURSEMENTS, MANNER. Sec. 24. No money shall be drawn from the treasury except in pursuance of the authority and appropriation of the council, and upon the warrant of the clerk, countersigned by the president. Such warrant shall specify the fund from which it is payable, and shall be paid from no other fund. No warrant shall be drawn upon the treasury after the fund from which it should be paid has been exhausted. Any such warrant shall be void as against the village. (M.S.A. 5.1394)

§ 69.25 Sec. 25. A loan may not be made by the council or by its authority in any year, exceeding the amounts prescribed in this act. For a loan lawfully made, the bonds of the village may be issued subject to Act No. 202 of the Public Acts of 1943, as amended, bearing a rate of interest not exceeding the maximum rate permitted by Act No. 202 of the Public Acts of 1943, as amended. The bonds shall be executed in the manner as the council directs. Bonds heretofore issued or indebtedness heretofore incurred by a village are hereby validated. *Am. 1974, Act 4.* (M.S.A. 5.1395)

§ 69.26 and § 69.27. Repealed 1974, Act 4.

## CHAPTER X—FIRES AND FIRE DEPARTMENTS

§ 70.1 FIRE REGULATIONS, ENFORCEMENT; FIRE DEPARTMENT. Sec. 1. The council shall have power to enact such ordinances and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires and to protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint firemen; to make and establish rules and regulations for the government of the department, the employes, firemen and officers thereof; and for the care and management of the engines, apparatus, property, and buildings pertaining to the department. (M.S.A. 5.1397)

§ 70.2 FIRE EQUIPMENT; WATER SUPPLY. Sec. 2. The council may purchase and provide suitable fire engines and apparatus for the extinguishment of fires; and may sink wells and construct cisterns and reservoirs in the streets, public grounds and other suitable places in the village, and make all necessary provisions for a convenient supply of water for the use of the department. (M.S.A. 5.1398)

§ 70.3 NECESSARY BUILDINGS. Sec. 3. The council may also provide or erect all necessary buildings for keeping the engines, carriages, teams and fire apparatus of the department. (M.S.A. 5.1399)

§ 70.4 CHIEF; APPOINTMENT, DUTIES. Sec. 4. The council may provide by ordinance or resolution for the appointment of a chief of the fire department who shall be subject to the direction of the president and the regulations of the council; shall have the supervision and direction of the department and the care and management of the fire engines, apparatus and property. (M.S.A. 5.1400)

§ 70.5 COMMANDED AID, BYSTANDERS; REFUSAL PENALTY. Sec. 5. The chief of the fire department, or other officer acting as such, may command any person present at a fire to aid in the extinguishment thereof, and to assist in the protection of property thereat. If any person shall wilfully disobey any such lawful requirement or other lawful order of any such officer he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a period not exceeding 90 days, or by a fine not exceeding \$100.00 or by both such fine and imprisonment in the discretion of the court. (M.S.A. 5.1401)

§ 70.6 FIRE WARDENS; APPOINTMENT, DUTIES. Sec. 6. The council may provide by ordinance for the appointment of, and may appoint such number of fire wardens as may be deemed necessary; and for the examination by them from time to time, of the stoves, furnaces and heating apparatus and devices in all dwellings, buildings, and structures within the village, and in all places where combustible or explosive substances are kept, and to cause all such as are unsafe with respect to fire, to be put in a safe condition. (M.S.A. 5.1402)

§ 70.7 RESTRICTED CONSTRUCTION DISTRICTS. Sec. 7. The council may prescribe by ordinance from time to time, limits or districts within incorporated villages within which wooden buildings and structures shall not be erected, placed, or enlarged, and to direct the manner of constructing buildings within such district, with respect to protection against fire, and the material of which the outer walls and roofs shall be constructed. (M.S.A. 5.1403)

§ 70.8 SAME; DANGEROUS TRADES AND USER OF BUILDINGS, REGULATION. Sec. 8. The council may also prohibit within such places or districts as they shall deem expedient, the location of shops, the prosecution of any trade or business, the keeping of lumber yards, and the storing of lumber, wood, or other easily inflammable material in open places, when, in the opinion of the council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils, and other combustible and explosive substances, and the use of lights in buildings, and, generally, may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires. (M.S.A. 5.1404)

Act 319, P.A. 1929, § 125.551-125.575, CL 1948, provides for the regulation of the use, handling, storage, etc. of fuel oil and the construction, etc., of burners.

§ 70.9 SAME; VIOLATION A NUISANCE. Sec. 9. Every building or structure which may be erected, placed, enlarged, or kept, in violation of any ordinance or regulation lawfully made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council. (M.S.A. 5.1405)

§ 70.10 FIRE EMPLOYEES, COMPENSATION; INJURIES. Sec. 10. The officers, firefighters,

and employes of the department shall receive compensation as the council may provide. The council may provide suitable compensation for an injury to person or property which a firefighter receives in consequence of the performance of the firefighter's duty at a fire. *Am. 1978, Act 13.* (M.S.A. 5.1406)

§ 70.11 AUTHORIZED RAZING OF BUILDINGS; DAMAGES; SUIT, PROCEDURE. Sec. 11. The chief in charge of the department at any fire, with the concurrence of the president or any 2 trustees, may cause any building to be pulled down or destroyed, when deemed necessary in order to arrest the progress of the fire. Whenever any building is so pulled down or destroyed, any person having an interest in such building may present his claim for damages to the council of such village, and it shall thereupon be the duty of the council to pay such claimants such damages as may be just under all [of] the circumstances, taking into consideration the fact whether or not such loss would probably have occurred to such building if it had not been pulled down or destroyed, and whether the same was insured or not. If the council and such claimant shall not be able to agree upon the amount of damages to be paid such claimant, then the amount of such damages shall be

ascertained by the appraisal of a jury to be selected in the same manner as in cases of a jury to appraise damages for taking private property for public use. Such jury may visit the premises and may hear all the proofs in the case, and shall allow such claimant such amount of damages as they may deem proper under all the circumstances, as above stated. If such jury shall not be able to agree, a new jury shall be empaneled as above provided until a jury has been obtained that shall agree, and the council shall pay such claimant the amount of damages fixed by such jury. There shall be no appeal from the verdict of such jury either by the village or any claimant. (M.S.A. 5.1407)

§ 70.12 WATER CRAFT ON NAVIGABLE STREAMS, REGULATON. Sec. 12. The council of any village located upon any of the navigable waters of the state may by ordinance prescribe such regulations to be observed by owners, masters and employes of steamboats and water craft as may be necessary for the prevention of fires in the harbor and to prevent the communication of fire from such boats and craft, and may prescribe in such ordinances the manner of collecting any penalties imposed thereby. (M.S.A. 5.1408)

## CHAPTER XI—WATER WORKS

### § 71.1 WATER WORKS, FILTRATION PLANT; ESTABLISHMENT, MAINTENANCE. Sec. 2.

1. Any village having a resident population of 200 or over shall have authority to purchase or construct and maintain water works, for the introduction of water into the village and supplying the village and inhabitants thereof with pure and wholesome water, for the extinguishment of fires, the ordinary and extraordinary uses of the inhabitants thereof and for such other purposes as the council may prescribe; and may also construct and maintain a filtration plant for the purification of the water supply of the village. (M.S.A. 5.1409)

### § 71.2 SAME; AUTHORIZED ACQUISITIONS, CONSTRUCTION, MAINTENANCE. Sec. 2.

The village may acquire, purchase, erect and maintain such reservoirs, canals, aqueducts, sluices, buildings, engines, water wheels, pumps, hydraulic machines, distributing pipes and other apparatus, appurtenances and machinery, and may acquire, purchase, appropriate and own such grounds, real estate, rights and privileges as may be necessary and proper for the securing, constructing, rebuilding, repairing, extending and maintenance of such water works or filtration plants. (M.S.A. 5.1410)

### § 71.3 COUNCIL'S BORROWING POWER, LIMIT, PAYMENT; BONDS, ISSUANCE, TERMS. Sec. 3.

It shall be lawful for any village, subject to the provisions of this act, to borrow any sum of money, that will not make the total indebtedness of such village greater than the limitations imposed in chapter 9, to be used exclusively for the purpose of purchasing, constructing, repairing, rebuilding, extending and maintaining water works, or filtration plants as provided in the 2 preceding sections, and for the payment of any indebtedness incurred by the village in purchasing, constructing, repairing, rebuilding, extending, and maintaining water works or filtration plants. *Am. 1974, Act 4.* (M.S.A. 5.1411)

### § 71.4 WATERWORKS; ESTIMATE; REFERENCE; REPAIR LIMIT. Sec. 4.

Before any money shall be borrowed, appropriated, raised, or expended for the purchase, construction, repairing, rebuilding, or extending of water works or filtration plants in any village, or for the payment of any indebtedness incurred by the village, in purchasing, constructing, repairing, rebuilding, extending, and maintaining water works or filtration plants, the

council shall cause to be made an estimate of the expense thereof. The council may determine to specially assess any portion of the cost of water improvements to property especially benefited thereby pursuant to chapter 8. *Am 1974, Act 4.* (M.S.A. 5.1412)

### § 71.5 PRIVATE CONNECTIONS, MANNER, PERMIT; REPAIRS AT OWNER'S EXPENSE. Sec. 5.

The connecting or supplying pipes, leading from buildings or yards to the distributing pipes, shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from the council. All such connecting or supply pipes shall be constructed and connected in the manner prescribed by ordinance. (M.S.A. 5.1413)

### § 71.6 WATER RATES; ORDINANCE, TERMS. Sec. 6.

The council shall establish a scale of rates to be charged and paid for supply of water, to be called water rates, and which rates shall be appropriate to different classes of buildings in the village, with reference to their dimension, value, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns, and all other buildings establishments and trades, yards, number of families or occupants or consumption of water, as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rates; and the council may prescribe by ordinance, when and to whom such water rates shall be paid, and what steps shall be taken to enforce payment thereof, and may provide, in case of non-payment, that the supply of water may be shut off or stopped as to any person or persons neglecting or refusing to make such payment. (M.S.A. 5.1414)

### § 71.7 WATER WORKS; ORDINANCES. Sec. 7.

The council may enact such ordinances, and adopt such resolutions, as may be necessary for the care, protection, preservation, and control of the water works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the construction, management and control of such water works. (M.S.A. 5.1415)

### § 71.8 SAME; LOCATION OUTSIDE CORPORATE LIMITS, CONTROL BY COUNCIL. Sec. 8.

When the council shall deem it for the public interest, such water works may be purchased or may be constructed and maintained beyond the corporate limits of the village; and in such case the council shall have authority to enforce beyond the corporate limits of the village, within the county or counties in which such village is situated, and over the buildings, machinery, and other property belonging to and connected with such water works, in the same manner and to the same extent as if they, or it, were within the village, all such ordinances and police regulations as may be necessary for the care, protection, preservation, management, and control thereof. (M.S.A. 5.1416)

§ 71.9 SAME; USE OF STREET OR HIGHWAY. Sec. 9. For the purpose of operating or constructing and maintaining such water works, the village shall have the right to use the ground or soil under any street, highway, or road within the county or counties within which such village is situated for the purpose of introducing water into and through any and all portions of the village, on condition that it shall cause the surface of such street, highway, or road to be relaid and restored to its usual state without unnecessary delay, and any damage done thereto to be repaired, and such right shall be continuous for the purpose of repairing and relaying water pipes

upon like conditions. (M.S.A. 5.1417)

§ 71.10 SAME; CONDEMNATION. Sec. 10. If it shall be necessary, in the judgment of the council, to appropriate private property for the construction, and maintenance or for the due operation of water works, the right to occupy and hold the same and the ownership therein and thereto may be acquired by the village in the manner and with like effect as provided in this act for the taking of private property for public use. (M.S.A. 5.1418)

§ 71.11 WATER SUPPLY, CONTRACT; USER OF STREETS, WHARVES, PUBLIC GROUNDS. Sec. 11. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such village and the inhabitants thereof, with water, upon such terms and conditions as may be agreed; and may grant to such person, persons, or corporation the right to the use of the streets, alleys, wharves, and public grounds of such village as shall be necessary to enable such person, persons, or corporations to construct and operate proper works for the supply of water for the use of such village, and the inhabitants thereof, upon such terms and conditions as shall be specified in such contracts. (M.S.A. 5.1419)

## CHAPTER XII—LIGHTING

### § 72.1 AUTHORIZED VILLAGE LIGHTING.

Sec. 1. It shall be lawful for any village having a resident population of not less than 250 inhabitants, to acquire by purchase or to construct, operate and maintain either independently or in connection with the water works of the village, either within or without the village, works for the purpose of supplying such village and the inhabitants thereof, or either, with gas, electric or other lights, at such times and on such terms and conditions as the council of any such village shall direct. (M.S.A. 5.1420)

### § 72.2 SAME; POWER OF COUNCIL. Sec. 2.

Whenever the council of any village shall, by resolution, declare that it is expedient for such village to acquire by purchase, or to construct, as the case may be, works for the purpose of supplying such village and the inhabitants thereof, or either, with gas, electric, or other lights, then such council shall have power to take such action as shall be deemed expedient to accomplish such purpose. (M.S.A. 5.1421)

### § 72.3 SAME; ACQUISITION ESTIMATE, REFERENDUM; RESTRICTION ON COUNCIL.

Sec. 3. In case the council shall declare that it is expedient for such village to acquire by purchase, construction or reconstruction, as the case may be, works for the purpose of supplying such village and the inhabitants thereof, or either, with electric or other lights, then the council shall cause to be made and recorded in their proceedings, an estimate of the expense thereof and the question of raising the amount required for such purpose of such part of such estimate not in excess of limitations on indebtedness of such village provided by law and not exceeding such estimate, shall be submitted to the electors of the village at its annual election, or at a special election called for that purpose by the council as provided in this act, and shall be determined as 2/3 of the electors voting at such election by ballot shall decide: Provided, That when villages incorporated under this act, vote to raise a sum less than such estimate the council shall not have power to incur any indebtedness for such purpose on the general faith and credit of such village until the charter thereof shall have been so amended as to permit the issuance of mortgage bonds on such proposed lighting plant, its revenues and franchise, in excess of the general limitations on indebtedness as provided by this act, in an amount equal to the difference between the indebtedness authorized by this act, and such estimate. (M.S.A. 5.1422)

### § 72.4 SAME; BORROWING POWER, PAYMENT; BONDS, TERMS. Sec. 4.

It shall be lawful for any such village to borrow any sum of money not exceeding 5% of the assessed value of the property in said village as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or constructing and maintaining such lighting works as provided in the preceding sections of this chapter. The council shall have power to fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and to issue bonds of the village therefor, but the rate of such interest shall not exceed 6% per annum, and such bonds shall not be sold for less than their par value: Provided, That the total amount expended for the purchase or construction of such lighting works shall not exceed the amount of the estimate of expense therefor provided for in section 3 of this chapter. (M.S.A. 5.1423)

### § 72.5 REPAIRS, AUTHORIZED TAX; ELECTORS' APPROVAL OF LOAN, BONDS. Sec. 5.

After lighting works have been purchased or constructed as aforesaid, in such village, the council may then raise and expend in making repairs or alterations, or in extending such works, such sum as it may deem advisable without submitting the question to the electors of the village: Provided, That the sum to be so raised, in any 1 year, shall be included in, and shall not increase the total amount which, by the provisions of section 1 of chapter 9 of this act, the council is authorized to raise: Provided further, That in lieu of raising such funds by tax, the council may by contract, which shall not impose a general obligation on the village, provide for such repairs, alterations or extensions. Such contract shall provide for payment therefor out of the net revenues which, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses thereof, shall become available from the operation of such works after completion of such repairs, alterations or extensions and shall provide for the retention of title to materials furnished in the seller until paid for in full: Provided further, That no contract made pursuant to this section shall be so construed as to deprive the people of the village of any right vested in them by the constitution or the laws of this state, or be so construed as to constitute the granting of any franchise or its operating equivalent, or to convey title to property to any person not possessed of such title prior to the execution of such title retaining contract:

And provided further, That said title retaining contract be approved by the municipal finance commission prior to the same becoming binding upon the village. The municipal finance commission shall determine their approval or disapproval upon the following factors: (a) whether such contract conforms to the provisions of this act; (b) whether after payment of legitimate and necessary operating and other expenses, and payments due or to become due on any existing obligations, the probable revenues pledged to the payment of such contract will be sufficient to pay the principal and interest on such contract when due; and (c) whether the cost of the repairs, alterations or extensions to be paid by such contract are excessive: And provided further, That upon approval of 3/5 of the electors of such village, the council may, in lieu of raising such funds by tax, as is provided by section 1 of chapter 9, or in lieu of using such funds available from the operation of such works, as provided in this section, borrow money and issue bonds for such repair, alteration or extension of such lighting works, under the same provisions of section 3 as apply to the acquiring or construction of such works. *Am. 1954, Act 119.* (M.S.A. 5.1424)

§ 72.6 LIGHT RATES. Sec. 6. The council shall have the power to fix such just and equitable rates as may be deemed advisable for supplying the inhabitants of such village with lights. (M.S.A. 5.1425)

§ 72.7 CONDEMNATION. Sec. 7. If it shall be necessary in the judgment of the council to appropriate private property for the construction and maintenance, or for the due operation of lighting

works, the right to occupy and hold the same, and the ownership therein and thereto may be acquired by the village in the manner and with like effect as provided in this act for the taking of private property for public use. (M.S.A. 5.1426)

§ 72.8 CONTRACT FOR LIGHTING; USER OF STREETS, WHARVES, PUBLIC GROUNDS. Sec. 8. The council may contract from year to year, or for a period of time not exceeding 10 years, with any person or persons, or with any duly authorized corporation, for the supplying of such village or the inhabitants thereof, or both, with gas, electric or other lights, upon such terms and conditions as may be agreed; and may grant to such person, persons or corporation the right to the use of the streets, alleys, wharves and public grounds of such village as shall be necessary to enable such person, persons or corporation to construct and operate proper works for the supplying of such light upon such terms and conditions as shall be specified in such contract. (M.S.A. 5.1427)

§ 72.9 LIGHTING WORKS; CONTROL AND PRESERVATION REGULATIONS. Sec. 9. The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation and control of the lighting works, and all the fixtures, appurtenances, apparatus, buildings, and machinery connected therewith or belonging thereto, and to carry into effect the provisions of this chapter, and the powers herein conferred in respect to the erection, purchase, management and control of such works. (M.S.A. 5.1428)

## CHAPTER XIII—APPROPRIATION OF PRIVATE PROPERTY

§ 73.1 CONDEMNATION. Sec. 1. Private property may be taken and appropriated for public use in any such village for the purpose of opening, widening, altering and extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures; for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters, and for the improvement of water courses; for sewers, drains and ditches, for public hospitals, pest houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses. (M.S.A. 5.1429)

For constitutional principles involved in the appropriation of private property for the use of the public, see § 213.71 et seq., CL 1948.

§ 73.2 SAME; ACQUISITION OF PROPERTY. Sec. 2. If it shall become necessary to take and appropriate private property for the public uses or purposes specified in the preceding section, the right to occupy and hold the same, and the ownership therein and thereto, may be acquired by the village either in the manner, and with like effect, as provided by the general laws of this state relating to the taking of private property for public use in cities and villages, or by instituting and prosecuting the proceedings for that purpose as hereinafter set forth. (M.S.A. 5.1430)

General Laws: For general law above referred to, see § 213.71-213.94, CL 1948.

§ 73.3 SAME; PROCEEDINGS INSTITUTED, MANNER. Sec. 3. Whenever the council of any such village shall have declared a public improvement to be necessary in the village, and shall have declared that they deem it necessary to take private property, describing it, for such public improvement, designating it, and that the improvement is for the use or benefit of the public, they may by resolution, direct the village attorney to commence the necessary proceedings in behalf of the village, before a justice of the peace of the county in which such village is located, as they may designate or they may by resolution direct that such proceedings be commenced in the circuit court of such county, to carry out the objects of the resolution in regard to taking private property by the village for such public use. (M.S.A. 5.1431)

§ 73.4 SAME; PROCEEDINGS BEFORE JUSTICE OF PEACE; DELIVERY OF RESOLUTION COPY TO PROSECUTOR; PETITION, CON-

TENTS. Sec. 4. In case the council shall direct that such proceedings be commenced before a justice of the peace, the village clerk shall make and deliver to such attorney, as soon as may be, a copy of such resolution certified under seal, and it shall be the duty of such attorney to prepare and file with such justice, in the name of the village, a petition signed by him in his official character and duly verified by him; to which petition a certified copy of the resolution of the council shall be annexed, which certified copy shall be prima facie evidence of the action taken by the council, and of the passage of said resolution. The petition shall state, among other things, that it is made and filed as commencement of judicial proceedings by the village in pursuance of this chapter, to acquire the right to take private property for the use or benefit of the public, without consent of the owners, for a public improvement, designating it, for a just compensation to be made. A description of the property to be taken shall be given and generally the nature and extent of the use thereof that will be required in making and maintaining the improvement shall be stated, and also the names of the owners and others interested in the property, so far as can be ascertained, including those in possession of the premises. The petition shall also state that the council has declared such public improvement to be necessary and that they deem it necessary to take the private property described in that behalf for such improvement for the use or benefit of the public. The petition shall ask that a jury be summoned and impaneled to ascertain and determine whether it is necessary to make such public improvement, whether it is necessary to take such private property as it is proposed to take for the use or benefit of the public, and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matter or thing and may pray for any other or further relief to which the village may be entitled within the objects of this chapter. (M.S.A. 5.1432)

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

said petition should not be granted. (M.S.A. 5.1433)

§ 73.6 SAME; SERVICE; GUARDIAN AD LITEM; ORDER FOR APPEARANCE, SERVICE; ALIAS, PLURIES SUMMONS; ADJOURNMENTS; OFFICER'S RETURN, EVIDENCE. Sec. 6. Said summons shall be served by the village marshal or any constable of the county in which such village is located, at least 5 days before the return day thereof, upon all the respondents found within the county, by exhibiting the original and delivering a copy to each of them. If any respondent who is a resident of the county cannot be found, the summons shall be served by leaving a copy thereof at his or her usual or last place of abode, with some person of suitable age and discretion. If any minor or person of unsound mind is interested in the premises to be taken, service may be made on the guardian of such person, if any, and if there is no guardian the justice may appoint some discreet and proper person to be guardian ad litem of such person in such proceedings, and such guardian shall have authority to represent such person in said proceedings. The proceedings to appoint such guardian shall be the same as in other cases provided by statute. And if it shall appear on the return day of the summons that any respondent cannot be found within the county and has not been served in the manner provided, or is a non-resident and has not voluntarily appeared, the court may make an order requiring such respondent or respondents to appear and show cause why the prayer of the petition should not be granted on a day to be named in the order, not less than 30 days from the date thereof, and may require that a certified copy of such order be personally served on such respondents wherever found, if practicable, at least 6 days before the time named in the order for appearance, or the court may make such order for appearance and require, as to any or all such respondents who shall not have been personally served and have not appeared, that service be made by publishing a certified copy of such order for 3 successive weeks, at least once in each week, in at least 1 newspaper published within the village, if there be 1, and if not, then in some newspaper published at the county seat of the county in which such village is located, the last publication to be at least 6 days before the day fixed in the order for appearance. Alias and pluries summonses may be issued and the justice may adjourn the proceedings from time to time as there shall be occasion. Service of such order for appearance in either mode prescribed shall be sufficient notice of the proceedings to bind the respondents and the property represented by them. The return of the officer upon the summons and an affidavit of the due service

or the publication of the order for appearance, if any, shall be filed with such justice before a jury shall be empaneled and be sufficient evidence of service on the respondents and of the manner of service. (M.S.A. 5.1434)

§ 73.7 JURY, EMPANELING; TALESMEN, SUMMONING, EMPANELING. Sec. 7. On the return day of the summons, or on some subsequent day to which the proceedings are adjourned, if no sufficient cause to the contrary has been shown, the justice shall make an order that a jury be empaneled in the cause. Such jury shall be composed of 12 freeholders of the village residing in the vicinity of the property to be taken described in the petition. The said jury shall be selected and empaneled as follows: The village marshal or any constable of the county shall on the same day, or at an adjourned day, pursuant to the order of the justice, make a list of 24 of such freeholders, and the village attorney and the respondents collectively shall each have the right to strike 6 names from the list of persons written down as aforesaid, and, subject to objection for cause, the 12 persons whose names are left on the list shall compose the jury for the trial of the cause, and shall be summoned to attend not less than 3 nor more than 10 days from the date of selecting such jury, by a venire issued by the justice and to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list it shall be done by the justice, and in case any of the persons to be summoned cannot be found by such officer in the county, or being summoned do not attend, or shall be excused for cause, or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such officers, and the practice and proceedings under this chapter, except as herein otherwise provided, relative to empaneling, summoning and excusing jurors and talesmen, and imposing penalties or fines upon them for non-attendance, shall be the same as the practice and proceedings of justices' courts relative to jurors in civil cases in such courts, except that preemptory challenges shall not be allowed. (M.S.A. 5.1435)

§ 73.8 OATH OF JURORS, FORM; DUTIES; INSTRUCTIONS BY JUSTICE; VERDICT, MANNER. Sec. 8. The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether there is a public necessity for making the proposed improvement and for taking for the use or benefit of the public the private property which the petition describes and prays

may be taken, and if you shall determine that it is necessary to make such improvement, and to take such property, that then you will ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all such other duties as devolve upon you in this case, and unless discharged by the court, a true verdict give, according to the law and evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property proposed to be taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the justice, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by all the jurors. (M.S.A. 5.1436)

§ 73.9 VERDICT, CONTENTS. Sec. 9. The jury shall determine in their verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists they shall separately award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement, or other lien, estate or interest, they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just. (M.S.A. 5.1437)

§ 73.10 JURY USE OF PETITION, MAP; BLANK VERDICT. Sec. 10. To assist the jury in arriving at their verdict the justice may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement and of each and all the parcels of property to be taken, and may also submit to them a blank verdict which may be as follows:

PART I

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

PART II

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows: (See chart at bottom of page.)

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the justice, before it is submitted to the jury, or it may be done by the jury. (M.S.A. 5.1438)

§ 73.11 AMENDMENTS ALLOWED. Sec. 11. Amendments either in form or substance may be allowed by the justice or by the circuit court in any paper, petition, process, record or proceeding, or in the description of property proposed to be taken, or in the name of any person, whether contained in a resolution passed by the council, or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury. (M.S.A. 5.1439)

§ 73.12 VERDICT, ENTRY ON RECORD, COPY BY VILLAGE ATTORNEY; JUDGMENT OF CONFIRMATION, FINALITY; NEW JURY. Sec. 12. Upon filing the verdict rendered by any jury, with said justice, he shall enter the same upon the docket of his proceedings, and a copy thereof may be taken by the village attorney, for the use of the council and at any time thereafter, and within 40 days after the rendition of such verdict, the justice, upon the appli-

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

cation of the village attorney shall enter judgment of confirmation of the determination and awards therein made. Unless such application and confirmation shall be made within said 40 days, all proceedings upon that verdict and award shall be at an end, and a new jury and new proceedings may be had, as in the case of a disagreement of the jury. All parties interested in such verdict shall take notice of the confirmation thereof. Any such judgment of confirmation shall be final and conclusive as to all parties not appealing therefrom, within the time hereinafter provided. (M.S.A. 5.1440)

§ 73.13 FAILURE TO RENDER VERDICT; NEW JURY, PROCEEDINGS. Sec. 13. If such jury should be unable to agree upon a verdict, or for any cause should fail to render a verdict, said justice shall, on the application of the village attorney, designate some day and hour when another jury may be empaneled; and such other jury shall be obtained, drawn, summoned, returned, bound to attend and serve, have the same qualifications, be sworn, and when sworn, have the same powers and duties as the first jury. The same proceedings, after they are sworn, shall be had by them, and by and before said justice, or some other justice of the county in which such village is located as provided for above after the first jury is sworn. (M.S.A. 5.1441)

§ 73.14 NEW JUROR. Sec. 14. If any juror, after being sworn, shall die or from sickness or any other cause be unable to discharge his duties as a juror, said justice may cause to be drawn another person to serve in his place, who shall be sworn, and shall have the like qualifications, powers and duties as those already sworn. (M.S.A. 5.1442)

§ 73.15 APPEAL TO CIRCUIT COURT; BOND. Sec. 15. Any party aggrieved by the judgment of confirmation hereinbefore mentioned, may, within 10 days after the entry thereof, appeal therefrom to the circuit court of the county, by filing with the justice a claim of appeal, in writing under oath, in which he shall set forth a description of the land in which he claims an interest and a statement that he considers himself aggrieved by the proceedings and judgment of which he complains, and his objections, if any, to the amount of damages awarded. In case there shall be any objection to the process, petition or other proceedings and to the decision of the justice thereon which would not be allowed to be made on the trial of the appeal, the same may be set forth specifically in such claim of appeal. At the time of filing such claim of appeal the appealing party shall also file with

the justice a bond to the village, in a penal sum of not less than \$300.00, with sureties to be approved by said justice, conditioned that he will prosecute his appeal to effect, and pay any costs that may be awarded against him in the circuit court, and he shall also pay to the justice the sum of \$3.00 for making his return to the appeal. (M.S.A. 5.1443)

§ 73.16 RETURN OF APPEAL BY JUSTICE. Sec. 16. Within ten days after the filing of said claim of appeal said justice shall make and certify a return to said appeal setting forth a copy of the petition, processes, returns, affidavits, report of the jury, judgment of confirmation and all papers filed with him, and also a transcript of his docket entries relating to the proceedings in the cause, together with the bond and claim of appeal, and file the same with the clerk of the circuit court. (M.S.A. 5.1444)

§ 73.17 JURISDICTION OF CIRCUIT COURT; PROCEEDINGS; JURY TRIAL. Sec. 17. Upon filing the return of the justice, as mentioned in the preceding section, the circuit court shall have jurisdiction of the case. Said circuit court shall proceed to hear and dispose of said case with all convenient speed. Said court or judge shall have power to adjourn the hearing from time to time as may be necessary. The circuit court shall decide upon the special objections set forth in the claim of appeal but shall not dismiss the case or render judgment therein against the village on account of any error or defect in the proceedings which can be properly corrected by amendment as in section 11 of this chapter provided, or which can be corrected on the trial of the case in the circuit court. If judgment is not rendered against the village on account of errors of law or defects in the proceedings and if the appeal is not dismissed, the parties may proceed to trial by jury without any reference to any term of court in the manner herein provided for trials in the circuit court. (M.S.A. 5.1445)

§ 73.18 DELIVERY OF RESOLUTION COPY TO ATTORNEY; PETITION. Sec. 18. In case the council shall as hereinbefore provided, direct that such proceedings be commenced in the circuit court the village clerk shall make and deliver to such attorney as soon as may be, a copy of the resolution mentioned in section 3 of this chapter, certified under seal, and it shall be the duty of such attorney to prepare and file with the clerk of said circuit court in the name of the village, a petition signed by him in his official character, and duly verified by him, said petition shall be addressed to the circuit court but in all other respects shall be the same in substance and

effect as the petition required to be filed with a justice of the peace in cases where the proceedings are commenced before such justice. (M.S.A. 5.1446)

§ 73.19 SUMMONS, ALIAS AND PLURIES SUMMONS; CLERK, POWERS, DUTIES. Sec. 19. Upon receiving such petition it shall be the duty of the clerk of said court to issue a summons against the respondents named in such petition, stating briefly the objects of said petition and commanding them in the name of the people of the state of Michigan to appear before said circuit court at a time and place to be named in said summons, not less than 20 nor more than 40 days from the date of the same and show cause, if any they have, why the prayer of said petition should not be granted. Alias and pluries writs of summons may be issued by said clerk under like circumstances as provided in a case commenced before a justice. All such writs shall be signed by the clerk and his official seal shall be impressed thereon. The said clerk shall possess all the authority and discharge all the duties in respect to such case as in an ordinary civil action at law. (M.S.A. 5.1447)

§ 73.20 SHERIFFS, CIRCUIT JUDGE; POWERS; CIRCUIT COURT PROCEEDINGS. Sec. 20. In a case so commenced in the circuit court the sheriff, under sheriff or any deputy sheriff of the county shall in respect to the service of summons or any other process issued or in respect to any other matter or proceeding therein, possess all the authority and discharge all the duties of a village marshal or a constable in a case commenced before a justice of the peace; and in the case so commenced in the circuit court the circuit court or circuit judge shall in respect to appointment of a guardian ad litem for any of the respondents, the making of an order for the appearance of any of the respondents, and in respect to any other matter or proceeding therein, possess all the jurisdiction and authority and discharge all the duties of a justice of the peace in a case commenced before such justice; and in the case so commenced in the circuit court the order for the appearance of any of the respondents may be served or published in the same manner, the case adjourned from time to time, writs and process issued, as in a case commenced before a justice of the peace and in general all the proceedings in the case commenced in the circuit court shall be substantially the same, and shall have the same force and effect in all respects as in this chapter prescribed in relation to a case commenced before a justice of the peace, except as in this chapter otherwise provided. (M.S.A. 5.1448)

§ 73.21 TRIAL OF CASE. Sec. 21. On the return day of the summons in such case, or on some subsequent day to which the proceedings are adjourned, either by order of the circuit court or circuit judge, if no sufficient cause to the contrary has been shown, the circuit court, without reference to any term of court, shall proceed to try the case, and thereupon the case shall be tried and the proceedings had as are herein prescribed in respect to the trial of a case before a jury in a case appealed from a justice to the circuit court. (M.S.A. 5.1449)

§ 73.22 EMPANELING JURY, CIRCUIT COURT. Sec. 22. If, pursuant to the provisions of this chapter, a jury trial in the circuit court becomes necessary, the circuit judge or circuit court shall make an order that a jury be empaneled to try the case. Such jury shall be composed of 12 freeholders of the village residing in the vicinity of the property to be taken described in the petition. Said jury shall be selected and empaneled as follows: The sheriff, under-sheriff or any deputy sheriff of the county on the return day of the summons, or if the case is one that has been appealed from justice's court, then on the day fixed for the trial and disposition thereof, or at an adjourned day shall, pursuant to the order of the judge or court, make a list of 24 of such freeholders and the village attorney or his assistant and the respondents collectively shall each have the right to strike 6 names from the list of persons written down as aforesaid, and, subject to objection for cause, the 12 persons whose names are left on the list, shall compose the jury for the trial of the cause and shall be summoned to attend at such trial as the judge or court shall direct by a venire issued by the clerk of the court, and be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list it shall be done by the judge of the court and in case any of the persons to be summoned cannot be found in the county or, being summoned, do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such sheriff or sheriff's officer, and the practice and proceedings under this chapter relative to empaneling, summoning and excusing jurors and talesmen and imposing penalties or fines upon them for non-attendance, shall be the same as the practice and proceedings of the circuit courts of the state relative to petit jurors in civil cases in such courts, except that peremptory challenges shall not be allowed, and except as herein otherwise provided. (M.S.A. 5.1450)

§ 73.23 JURORS, OATH, DUTIES; INSTRUCTIONS; VERDICT. Sec. 23. The jurors so impaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will, well and truly ascertain and determine whether there is a public necessity for making the proposed improvement and for taking for the use or benefit of the public the private property which the petition describes and prays may be taken, and if you shall determine that it is necessary to make such improvement and to take such property that then you will ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all such other duties as devolve upon you in this case, and unless discharged by the court a true verdict give according to the law and evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties, and shall go to the place of the intended improvement, in the charge of an officer, and upon or as near as practicable to the property taken, and examine the premises. They shall be instructed as to their duties and the law of the case by the circuit judge, and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and shall be signed by all jurors. (M.S.A. 5.1451)

§ 73.24 VERDICT, CONTENTS. Sec. 24. The jury shall determine in their verdict the necessity for the proposed improvement and for taking such private property for the use or benefit of the public for the proposed improvement, and in case they find such necessity exists, they shall separately award to the owners of such property and others interested therein such compensation therefor as they shall deem just. If any such private property shall be subject to a mortgage, lease, agreement, or other lien, estate or interest they shall apportion and award to the parties in interest such portion of the compensation as they shall deem just. (M.S.A. 5.1452)

§ 73.25 JURY USE OF PETITION, MAP:

BLANK VERDICT. Sec. 25. To assist the jury in arriving at their verdict the circuit judge may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement, and of each and all the parcels of property to be taken, and may also submit to them a blank verdict which may be as follows:

PART I

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

PART II

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows: (See chart at bottom of page.)

The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in said blank verdict, under the direction of the judge, before [it] is submitted to the jury, or it may be done by the jury. (M.S.A. 5.1453)

§ 73.26 NEW TRIAL, PROCEEDINGS; AMENDMENT; JUDGMENT OF CONFIRMATION. Sec. 26. The verdict of the jury may be set aside by the circuit court and a new trial ordered as in civil actions at law. Said court may allow amendments either in form or substance as may be necessary and in that behalf exercise all the powers hereinbefore granted. Motions for a new trial or to arrest the proceedings shall be made within 2 days after the rendition of the verdict unless further time is allowed by the court, and if no such motion is made, or being made, is overruled, the court shall enter an order or judgment confirming the verdict of the jury, and such

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

judgment of confirmation unless reversed by the supreme court, shall be final and conclusive as to all persons interested therein. (M.S.A. 5.1454)

§ 73.27 CONFIRMATION, ENTRY; APPEAL COSTS; DISCONTINUANCE RESOLUTION, FILING, COSTS; NEW PROCEEDINGS. Sec. 27. Upon dismissal of an appeal, or on rendition of verdict favorable to the village in any case after a trial in the circuit court, said court shall enter judgment and confirm the proceedings and rights of the village to take and appropriate the lands of the appellant for the purpose mentioned in the resolution of the council. In cases appealed from a justice unless the appellant shall recover a verdict and judgment for at least \$50.00 more than the amount awarded to him before the justice, he shall pay costs to the village; otherwise the court shall award such costs to him or to the village as shall be just. If the verdict or judgment rendered in any case tried in the circuit court shall be against the village upon the question of the necessity of taking the property described in the petition for public use, or for the benefit of the public, or if for any other reason the village council shall deem it best to discontinue such cause and not to take further proceeding therein, they may, by resolution so declare, and thereupon the village clerk shall make and certify a copy of such resolution and deliver the same to the village attorney, who shall file such certified copy of resolution with the clerk of the circuit court. Upon the same being so filed said cause shall be deemed to be discontinued and no further proceedings therein shall be taken, except that the village shall pay all costs awarded against it by the court. The village council may institute new proceedings for the taking of such lands or any part thereof at any time thereafter. (M.S.A. 5.1455)

§ 73.28 SETTLEMENT OF CASE BY CIRCUIT JUDGE; APPEAL TO SUPREME COURT; BOND; TRANSFER OF RECORD COPIES. Sec. 28. The judge of the circuit court shall at the request of either party in said cause in the circuit court within a time to be fixed by said court or judge thereof, settle a case according to the usual practice of said court, showing the material evidence and instructions given to the jury, and the proceedings had upon any disputed point to which exception was taken, and the objections, rulings and exceptions in the case, which shall be signed by the circuit judge and filed with the clerk of said court. Either party to said cause in the circuit court may, within 15 days after the filing of said case, made or if no steps be taken to make and settle a case, then within 15 days after the entry of

judgment in the circuit court, appeal therefrom to the supreme court by filing with the clerk of the circuit court and serving upon the opposite party or his attorney, a notice and claim of appeal. Such notice shall specify the objections to the proceedings had in the premises and all other objections, if any, shall be deemed to have been waived. If the appeal is taken by either of the respondents he shall, within the time allowed for the giving of such notice, file a bond in said circuit court to be approved by the judge thereof, conditioned for the prosecution of his appeal to judgment and the payment of all costs, damages and expenses that may be awarded against him in case the judgment shall be confirmed. In case of an appeal by the village no bond shall be required. In case of such appeal the clerk of the circuit court on payment of his legal fees and charges, shall transmit to the supreme court such case made and a certified copy of the necessary files, records and proceeding in the cause. (M.S.A. 5.1456)

§ 73.29 PROCEEDINGS ON APPEAL; COSTS; DAMAGES. Sec. 29. The said appeal may be brought on for hearing at any term of the supreme court by notice thereof being given according to the rules and practice of the court. Said court shall pass only upon such objections as are specified in the written notice of appeal, and may confirm or for any substantial error reverse the judgment, and may grant a new trial in the circuit court. The said court shall allow the prevailing party his reasonable costs and expenses to be taxed, and give judgment as in other civil cases, and all costs, damages and expenses awarded to the village, if it so elect, may be applied on or deducted from the compensation if any, to be paid, or execution may issue on the judgment; damages may be awarded against a party appealing without reasonable cause. (M.S.A. 5.1457)

§ 73.30 VILLAGE CLERK; RECORD OF VERDICT AND JUDGMENT; EVIDENCE. Sec. 30. If a verdict and judgment in such cause shall be rendered in favor of the village, either by a justice of the peace or in the circuit court and after the same shall become final unless the cause shall have been discontinued as hereinbefore provided, it shall be the duty of the village clerk to procure copies of the judgment of the circuit court or of the justice of the peace as well as of the verdict of the jury, and the same shall be recorded in a book of records to be kept by him, and the docket of such justice, or the judgment of said circuit court, as well as the book of records of such proceedings kept by said clerk, or certified copies thereof, shall be presumptive evidence

of the matters therein contained, and of the regularity of all the proceedings to appropriate the property sought to be acquired, and to confirm the same. (M.S.A. 5.1458)

§ 73.31 BENEFITED DISTRICT; APPORTIONMENT; ASSESSMENT; ROLL. EVIDENCE; LEVY, SALE. Sec. 31. After the recording by the village clerk of the final judgment and verdict as provided in the last preceding section the proper and necessary proceedings in due course may be taken by the village council for the collection of the sum or sums awarded by the jury. If the council believe that a portion of the village in the vicinity of the proposed improvement will be benefited by such improvement, they may, by an entry in their minutes, determine that the whole or any just proportion of the compensation awarded by the jury, and of the costs and expenses incurred in connection with the proceedings, shall be assessed upon the owners or occupants of real estate deemed to be thus benefited, and thereupon they shall, by resolution, fix and determine the district or portion of the village benefited, and specify the amount to be assessed upon the owners or occupants of the taxable real estate therein. In determining the amount of such costs and expenses the council may include all costs and expenses incurred or paid for jurors' fees, expenses of abstracts, all surveys and maps and all other necessary expenses. The amount of the benefit thus ascertained shall be assessed upon the owners or occupants of such taxable real estate, in proportion, as nearly as may be, to the advantage which each such lot, parcel or sub-division is deemed to acquire by the improvement. The assessment shall be made and the amount levied and collected in the same manner and by the same officers and proceedings, as near as may be, provided in and by the act, entitled "An act to provide for the incorporation of villages within the state of Michigan and defining their powers and duties," approved February 19, 1895, as amended, of which this act is amendatory, for assessing, levying and collecting the expense of public improvement. The assessment roll containing said assessments when ratified and confirmed by the council, shall be final and conclusive and prima facie evidence of the regularity and legality of all proceedings prior thereto, and the assessment therein contained shall be and continue a lien on the premises on which the same is made until payment thereof. Whatever amount or portion of such awarded compensation costs and expenses shall not be raised in the manner herein provided shall be assessed, levied and collected upon the taxable real estate of the village, the same as other general taxes are assessed and col-

lected therein. At any sale which takes place of the assessed premises or any portion thereof delinquent for nonpayment of the amount assessed and levied thereon, the village may become a purchaser. (M.S.A. 5.1459)

§ 73.32 JUDGMENT SUM TO BE IN TREASURY WITHIN YEAR; PAYMENT; DEPOSIT CERTIFICATE, FILING; RIGHT TO POSSESSION, WRIT OF ASSISTANCE. Sec. 32. Within 1 year after the judgment in said cause shall become final the council shall set apart and cause to be provided in the treasury, unless the cause shall have been discontinued and unless already provided, the amount required to make compensation to the owners and persons interested for the private property taken as awarded by the jury, and shall in the resolution setting apart and providing said sum if not already provided, direct the village to pay to the persons respectively entitled to the money so set apart and provided, to each his or her proportion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The council may provide the necessary amount by borrowing from any other money or fund in the treasury and repay the same from money raised to pay the compensation awarded by the jury, when collected, or otherwise, as they may provide. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates verified by his oath, showing that the amount of compensation awarded by the jury is actually in the treasury for payment of the private property taken in the case, giving the title of the case; he shall cause 1 of the certificates to be filed in the office of the justice before whom such proceedings were had, or his successor, or in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the village clerk, which certificates shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and thus secured to be paid, the council may enter upon and take possession of and use such private property for the purposes for which it was taken and may remove all buildings, fences and other obstructions therefrom. In case of resistance or refusal on the part of any one to the council, or their agents and servants entering upon and taking possession of such private property for the use and

purpose for which it was taken, at any time after the amount of the compensation aforesaid is actually in the treasury ready to be paid to those entitled thereto, the council, by the village attorney, may apply to the justice or other proper court and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property. (M.S.A. 5.1460)

§ 73.33 COMPENSATION AND FEES. Sec. 33. Officers and witnesses in any proceeding under this chapter shall be entitled to receive the same fees and compensation as are provided by law for similar services in an ordinary action at law in the court where the case is tried. Persons summoned to serve as jurors before a justice shall be entitled to a fee of \$2.00 per day and also 10 cents per mile for each mile actually traveled in going to the place of trial. All said fees and mileage shall be paid by the village. Persons summoned to serve as jurors in the circuit court shall be entitled to receive the same per diem fee and the same mileage as is allowed by law for jurors in the circuit court; such fees and mileage of the persons so summoned as jurors shall be paid in the first instance by the county, but shall be repaid to the county by the village. (M.S.A. 5.1461)

§ 73.34 EVIDENCE OF OWNERSHIP. Sec. 34. It shall be prima facie evidence as to who are owners of and persons interested in any property proposed to be taken in the proceedings instituted under

this chapter, if the register or deputy register of deeds of the county shall testify in open court that he has examined the records and titles in his office, and states who such records show, are the owners of, and persons interested in such property, and the nature and extent of such ownership and interest; and an abstract of the title of such property, or of any parcel or parcels thereof, certified by the register or deputy register of deeds, shall also be prima facie evidence as to ownership, and persons having an interest in any such property, and the extent and nature of such interest. (M.S.A. 5.1462)

§ 73.35 BUILDINGS, SALE; PROCEEDS, DISPOSITION. Sec. 35. In case there is on the private property taken a building or other structure, the same shall be sold by or under the direction of the council; the amount produced by the sale shall belong and be paid to the fund for paying the compensation awarded for the property taken, and the council shall cause such amount to be credited and applied in reduction pro rata of the assessment and apportionment made to pay for the property taken. (M.S.A. 5.1463)

§ 73.36 CHAPTER CONSTRUED; PURCHASE OF PROPERTY. Sec. 36. Nothing in this chapter contained shall prevent any village from obtaining private property for any of the public uses herein specified by negotiation and purchase. (M.S.A. 5.1464)

## CHAPTER XIV—MISCELLANEOUS

§ 74.1 VILLAGE; CONSTRUED. Sec. 1. The term village whenever used in this act shall be construed to mean a village incorporated under this act or subject to its provisions. (M.S.A. 5.1465)

§ 74.2 SAME; NOT TO OWN STOCK. Sec. 2. No village shall become the owner or holder of stock or shares in any incorporated company. (M.S.A. 5.1466)

§ 74.3 AFFIDAVIT OF PUBLICATION; FILING, EVIDENCE. Sec. 3. When, by the provisions of this act, notice of any matter or proceeding is required to be published or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in his employ knowing the facts, if such notice was required to be by publication, or by the person posting the same, when required to be by posting, shall be prima facie evidence of the facts therein contained: Provided, The same be filed with the village clerk within 6 months from the date of the last publication thereof, or of posting the same. (M.S.A. 5.1467)

§ 74.4 JUDGMENTS OR DECREES, BONDS FOR PAYMENT. Sec. 4. Repealed 1974, Act 4.

§ 74.5 BOARD OF TRUSTEES. CONSTRUED. Sec. 5. Whenever in any other act than this the governing body of a village is described as the board of trustees, the trustees, or common council, it shall be construed to mean the body herein described as the village council. (M.S.A. 5.1469)

§ 74.6 CHANGING BOUNDARIES; ORDER, COPY TO SECRETARY OF STATE, EVIDENCE. Sec. 6. Whenever the council of any village shall determine by resolution to alter the boundaries of such village, either by taking in lands and premises adjoining thereto or by taking out any lands and premises included in such village, or both, they shall petition the board of supervisors of the county in which such lands and premises affected thereby are situated to make such change. Such petition shall contain a description by metes and bounds of the lands and premises proposed to be added to or taken out of such village, and shall set forth the reasons for the proposed change, and shall contain a copy of the resolution of the council in relation thereto, and shall be signed by the president and clerk of such village.

Before such petition shall be presented to the board of supervisors notice shall be given by the clerk of the time and place when the same will be presented for consideration, by publishing the same in a newspaper published in such village for at least 3 weeks immediately preceding the presentation of the same, and if no newspaper is published in such village then by posting the same in at least 3 of the most public places within the village, and in at least 3 of the most public places of the territory directly affected thereby. Such notice shall also contain a description of the premises proposed to be taken in or out of the boundaries of such village. At the time of presenting such petition all parties interested may appear before such board of supervisors and be heard touching the proposed boundaries of such village and after such hearing and due consideration of such petition, it shall be the duty of the board of supervisors to order and determine as to whether the prayer contained in the petition or any part thereof shall be granted, and they shall make an order of such determination, which order shall be entered upon their records, and thereupon the boundaries of such village shall be fixed and shall exist as provided in such order, and a certified copy thereof shall be transmitted to the clerk of such village and to the secretary of state, and such order shall be prima facie evidence of such change of boundaries of such village and of the regularity of such proceedings in all courts and places. (M.S.A. 5.1470)

§ 74.7 RE-INCORPORATION OF VILLAGES; REPEAL. Sec. 7. All villages heretofore incorporated under any general or special law of this state, are hereby re-incorporated under and made subject to the provisions of this act, such re-incorporation to take effect on the twenty-fifth day of February, A.D. 1895, and all general or special laws by virtue of which such villages have been incorporated are hereby repealed from and after the said twenty-fifth day of February, A.D. 1895. (M.S.A. 5.1471)

As to incorporating villages into cities, see § § 117.6-117.15, CL 1948.

§ 74.8 SAME; RIGHTS, OBLIGATIONS; REMEDIES. Sec. 8. All villages re-incorporated under and made subject to the provisions of this act, as provided in the preceding section, shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and all the records, files, books and papers belonging to such villages as

formerly incorporated, and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its reincorporation, under or subject to the provisions of this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the new corporation, and all taxes levied and uncollected at the time of such change shall be collected, the same as if such change had not been made: Provided, That when a different remedy is given in this act, which can be made applicable to any rights existing at the time of the incorporation of the village under or subject to this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly. (M.S.A. 5.1472)

§ 74.9 SAME; PRESENT OFFICERS. Sec. 9. All the officers in any such village, elected or appointed under the provisions of the former act of incorporation of such village, and in office at the time this act shall take effect, shall continue to exercise their respective functions under the provisions of this act of re-incorporation for the full term for which they were so elected or appointed, and until their successors shall have qualified and entered upon the duties of their offices, unless herein otherwise provided for. (M.S.A. 5.1473)

§ 74.10 SAME; EXISTING BY-LAWS, ORDINANCES, RULES AND REGULATIONS. Sec. 10. The by-laws and ordinances of any such village, and the rules and regulations of the council and of any board of such village heretofore in force and not inconsistent with this act, shall remain in force after the passage of this act, and are hereby declared to be reenacted, by virtue of and under the powers conferred by this act, until altered, amended or repealed by the council or board as the case may be. (M.S.A. 5.1474)

§ 74.11 SAME; SPECIAL ASSESSMENTS, COLLECTION. Sec. 11. In cases where a special assessment has been made by authority of and confirmed by the council of any such village, and the same, or some part thereof, shall not have been collected when this act shall take effect, such village, as hereby re-incorporated, shall have authority to enforce the payment thereof, and the same proceedings may be had therefor as are provided in this act. (M.S.A. 5.1475)

§ 74.12 SAME; GRANTED LICENSES. Sec. 12. All licenses granted by any such village under its former act of incorporation shall be and remain in full force and virtue until the expiration of the time for which they were granted. (M.S.A. 5.1476)

§ 74.13 SAME; FIRST ELECTION, TIME, MANNER. Sec. 13. The first election of officers for any such village re-incorporated under the provisions of this act shall be held on the second Monday in March, A.D. 1895 and notice thereof and of the officers to be elected thereat shall be given and the election held and conducted, the votes canvassed, the result determined, and notice given to persons elected, in the same manner and within the same time as herein provided. (M.S.A. 5.1477)

Section 14 was repealed by the Judicature act of 1915. For mode of service of process against villages, See Secs. 600.1855, .1925, and .6737.

§ 74.15 SAME; PLATS, REQUIRED APPROVAL, REQUISITES. Sec. 15. No lands or premises shall hereafter be laid out, divided and platted into lots, streets, and alleys, within any such village, except by permission and approval of the council by resolution passed for that purpose; nor until the proprietor shall file with the village clerk a correct survey, plan, and map of such grounds and the subdivisions thereof, platted and subdivided as approved by the council, and made to their satisfaction; showing also the relative position and location of such lots, streets, and alleys with respect to the adjacent lots and streets of the village; nor shall any such plat and dedication of the streets and public grounds thereon be recorded in the office of register of deeds of the county in which such village is located until a certificate has been endorsed thereon by the village clerk, under the seal of the village, showing that such plat and dedication has been approved by the council; nor shall the village by reason of such approval, be responsible for the improvement, care and repairs of such streets and alleys excepting such as the council shall accept and confirm by ordinance or resolution. (M.S.A. 5.1478)

See "the plat act," § 560.1 et seq., CL 1948.

Sec. 16. (Repealing clause.)

§ 74.17 VACATION OF VILLAGE INCORPORATION, PROCEDURE. Sec. 17. When the qualified electors of an incorporated village desire to vacate the incorporation of the village, the village council upon a petition being presented to the council at a regular or special meeting, signed by at least  $\frac{1}{4}$  of the

electors of the village as shown by the registration list of the last preceding registration held in the village, praying that the incorporation of the village be vacated, shall order a special meeting of the electors of such village to be held for the purpose of voting upon the question of vacating the incorporation of the village. The village council shall give 20 days' notice of the time, date, and place of holding the meeting by posting in 6 of the most public places within the limits of the village in compliance with Act 267 of the Public Acts of 1976, which state the object of such meeting by reciting the substance of the petition. The business which the electors may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976. *Am. 1977, Act. 197. (M.S.A. 5.1480)*

§ 74.18 SAME; BALLOT; VOTES; TRANSCRIPT OF PROCEEDINGS, FILING; LIMITATION. Sec. 18. At the time of holding such meeting, all persons voting in favor of vacating the incorporation of such village shall have written or printed on their ballots "In favor of vacating," and those voting against vacating the incorporation of such village shall have written or printed on their ballots "Against vacating"; and such meeting shall be conducted and the votes shall be canvassed in the same manner as is provided for conducting elections in such village; and in case a 2/3 majority of the qualified electors of such village shall vote in favor of vacating the incorporation of the same, the trustees or common council of such village, or a majority of them, shall, immediately thereafter, cause a transcript of all the proceedings in the case to be certified, under their hands, to the county clerk of the county in which such village or the principal part thereof is located: Provided, That nothing in this act contained shall authorize the qualified electors of any such incorporated village, or the board of supervisors, to vacate or alter any recorded plat of such village, or any street or alley in the same. (M.S.A. 5.1481)

§ 74.19 SAME; VACATION RESOLUTION, BOARD OF SUPERVISORS. Sec. 19. Upon receiving the transcript of the proceedings in submitting to a vote of the electors the question of vacating the incorporation of any village, properly certified to as provided in the preceding section, the county clerk shall lay the same before the board of supervisors of the county at its next regular annual meeting, and it shall thereupon be the duty of the board of supervisors to pass a resolution vacating the incorporation of such village. (M.S.A. 5.1482)

§ 74.20 SAME; DISPOSAL OF VILLAGE PROPERTY; INDEBTEDNESS, ASSESSMENT. Sec. 20. Upon the vacation of the incorporation of any village, under the provisions of the preceding sections, it shall be the duty of the officers of such village to forthwith deposit all books, papers, records and files, relating to the organization of, or belonging to such village, which are in their custody as such officers, with the county clerk of the county in which such village or the principal part thereof is located, for safe keeping and reference. Upon the vacation or discontinuance of any village incorporation, under the preceding sections, the indebtedness of such village, whether bonded or otherwise, if any there be, shall be assessed, levied and collected upon the territory embraced within the boundaries of such village immediately prior to such vacation. It shall be the duty of the supervisor or supervisors of the township or townships in which the territory formerly embraced within the limits of any vacated village (within 1 year from the date of the vacation of such village, except when such indebtedness falls due at some specified time, in which case such assessment shall be made so as to meet such indebtedness when the same falls due), to levy upon the assessment roll or rolls of his township upon the property formerly embraced within the limits of such village, the indebtedness of such village, or such portion of the same as shall be apportioned to the part of the territory formerly constituting such village as lies within his township as hereinafter provided. The taxes so assessed and levied shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness and the manner of the payment of such indebtedness shall be fixed by the board of supervisors in the resolution to be passed by said board vacating the incorporation of such village. (M.S.A. 5.1483)

§ 74.21. SAME; APPORTIONMENT OF INDEBTEDNESS, VILLAGE IN MORE THAN 1 TOWNSHIP, COUNTY. Sec. 21. In case the territory formerly embraced within such vacated village shall consist of territory of 2 or more townships in the same county, it shall be the duty of the board of supervisors to apportion, among the several townships, the amount of such indebtedness which each township shall bear; and in case such village was comprised of territory from 2 different counties, it shall be the duty of the boards of supervisors of the 2 counties to determine what portion of such indebtedness each county shall bear, using as a basis the last preceding assessment roll of such village prior to its vacation.

Such indebtedness, when so apportioned, shall be assessed, levied and collected as provided in the preceding section. (M.S.A. 5.1484)

§ 74.22 PLACING PROPERTY OUTSIDE CORPORATE LIMITS, PROCEDURE; RESOLUTION, BOARD OF SUPERVISORS. Sec. 22. In case any person or persons want their property placed without the corporate limits of any village, they may make application to the board of supervisors of the county in which such village is located, to change the boundaries thereof in such manner as will place the property of the person or persons applying therefor without the corporate limits of such village. Such application shall be filed with the county clerk of

each county at least 10 days prior to the annual session in October of such board of supervisors, and shall be signed by 100 taxpayers of the village, or by 1/10 of the taxpayers of such village. Any person intending to apply to the board of supervisors to have his property placed without the corporate limits of any village shall give or cause to be given at least 15 days' notice of such application to the clerk of said village and by posting the same in at least 3 conspicuous public places within such village. Upon receiving the application aforesaid, the board of supervisors shall have power, by resolution, to change the boundaries of such village, as described and mentioned in such application. (M.S.A. 5.1485)

CHAPTER XV—ELECTIONS FOR BORROWING MONEY AND ISSUING BONDS;  
ISSUANCE OF BONDS AND LEVY OF A TAX  
TO PAY PRINCIPAL AND INTEREST THEREOF

Entire chapter repealed 1974, Act 4.

INDEX TO CHARTER

	Section		Section		Section
<b>A</b>		<b>Board of Cemetery Trustees</b>		<b>Claims</b>	
Accounts		Appointment,		Filed with Clerk	64.6
Audit by Council	65.7	powers	67.55 et seq	<b>Clerk</b>	
Actions		Gifts to	67.63	Authenticates ordinances	66.3
Taxes, for recovery of	69.20	Meetings	67.64	Bonds, countersigns	64.7
Advertisements		<b>Board of Review</b>		Books, custody of	64.7
(see Signs)		Membership, duties	69.9 et seq	Boundary changes	74.6
Alleys		<b>Board of Supervisors</b>		Cemetery Board duties	67.58
Establishing	67.12	Vacating incorporation	74.19	Claims against Village	64.6
Grading	67.17	<b>Boats</b>		Duties, generally	64.5
Regulating Use	67.20	Regulation of	67.38	Financial report by	64.8
Vacating	67.13	<b>Bonds</b>		Inventory, to keep	64.7
Animals		Amount	69.22 et seq	Records ordinances,	
Impounding	67.3	Clerk to sign	64.7	proceedings	64.5, 66.3
Running at large	67.23	Elections for issuing	69.23	Treasurer, report to	64.10
Annexation		Indebtedness	69.22	Vouchers, filed with	64.11
(see Boundaries)		Lighting works	72.4	<b>Compensation</b>	
Appeals		Officials		Fire Department	70.10
Appropriation of		Bonds required	62.8, 67.1	Officers of Village	64.21
private property	73.15-36	Payment	69.6	<b>Condemnation</b>	
Ordinance violations	66.12	Special Assessment	68.35	Generally	73.1 et seq
Apportionment		Treasurer to have custody	64.9	Lighting works	72.7
Tax, by Assessor	68.15	<b>Boundaries</b>		Water works	71.10
Aqueduct		Altering	74.6	<b>Contracts</b>	
Erection of	71.2	<b>Bridges</b>		With Council Members	65.7
Arrests		Condemnation land		<b>Council</b>	
Record of	64.14	for	93.1 et seq	Appropriation for cemetery	67.56
Assessment		Construction	67.12, 67.18	Assessment roll	69.13
Apportionment of, for		Control over	67.7	Accounts, audit by	65.7
streets	67.19	<b>Buildings</b>		Audit, annual	69.7
Review of, Board	69.9	Acquisition of	67.4	Buildings, fire stations	70.3
Roll		Condemnation for	73.2 et seq	Buildings, fire limits	70.7
Preparation of	69.12	Firehouse, erection of	70.3	Cemetery Board,	
Delivery to Treasurer	69.15	Razing to arrest fire	70.11	appointment	67.57
Assessor		Wooden, fire limits	70.7	Cemetery, control of	67.62
Assessment roll, to make	69.8			Certification of	
Duties	64.20			assessment roll	69.13
Tax apportionment by	69.14	<b>C</b>		Chief, Fire, appointment	70.4
Auctioneers		<b>Canals</b>		Clerk, report by	64.8
Licensing	67.1	Acquisition of	71.2	Clerk, records proceedings	64.5
Audit		<b>Cemeteries</b>		Fence Viewers,	
Annual, by Council	69.7	Acquisition	67.55 et seq	appointment	67.43
Avenues		Condemnation of land for	73.1	Ferries, licensing	67.40
(see Streets)		Employees	67.60	Fire Department,	
		Funds	67.61	establishing	70.1
		Purchase of land for	67.57	Fire Wardens,	
		Tax for	69.4	appointments	70.6
<b>B</b>		Chief, Fire		Harbor master,	
Banners		Appointment, duties	70.4	appointment	67.39
(see Signs)		Commanding aid	70.5	Highway fund, raising	69.2
Billiard Tables		Chief of Police		Inflammable materials,	
Licensing	67.1	Marshal	67.46	regulating	70.8

	Section		Section		Section
Council (contd.)		Dance Halls		Fire	
Legislative authority	65.1	Licensing	67.1	Apparatus, purchase of	70.3
Liability, street defects	67.7	Disorderly Houses		Chief, appointment	70.4
Licensing powers	67.2	Prohibiting	67.1	Department, establishment	70.1
Lighting, may provide	72.8	Ditches		Department, organization	67.1
Lighting, rate fixing	72.6	Repairing, tax	67.31	Employees, compensation	70.10
Loans by	69.22	Special assessments	67.32	Prevention	67.1
Loans, limit	69.25	Docks		Prevention, harbors	70.12
Markets, establishment	67.41	Construction	67.35	Regulations	67.1, 70.9
Marshal, report arrests	64.15	Land condemnation	73.1, et seq	Wardens, appointment	70.6
Meetings, notice of	65.4	Dogs		Funds	
Meetings, to be public	65.4	Regulation	67.1	Of Village	69.1, et seq
Members, interest in		Drains			
contracts	65.7	Establishment	67.12, 67.24 et seq	G	
Parks	67.4	Excavations for	67.22	Gambling, suppression of	67.1
Partition fences, regulating	67.43	Private, tax from		General Fund	69.1, et seq
Paving streets	67.18	owners	67.29		
Penalties, may prescribe	66.2	Private, construction	67.29	H	
Plats, approval by	74.15	Private, sewer connection	67.30	Harbor	
Police force, establishing	67.44			Fire prevention	70.12
Poor, relief of	67.2	E		Harbor Master	67.39
Powers, generally	67.1	Elections		Regulation	67.37
President, trustees		Conduct of	63.7	Highways	
constitute	62.1	Date	63.1	(see Streets)	
Prison, maintaining	66.11	Elector's qualifications	61.11	Hospitals	
Proceedings	65.5	Generally	63.1, et seq	Establishment, outside	
Public improvements	67.12	Electric Power		limits	67.5
Resignations of officers	62.10	Supplying	72.1	I	
Sewer ordinances	67.34	Encroachments		Indebtedness	
Sidewalks, regulation	67.8	Streets, prohibiting	67.20	Apportion on disincorporation	74.20
Sidewalks, snow removal	67.9	Excavations		Generally	71.3
Street Commissioner,		Streets, regulating	67.22	Inflammables	
report by	64.19	Explosives		Regulating storage of	70.8
Street, grade establishment	67.15	Regulations	67.1	Injuries	
Street regulations	67.7, 67.22	F		Firemen, compensation	70.10
Street vacating	67.12	Fees		Intoxicating liquor	
Taxation, levy	69.1	Impounding animals	67.3	Regulating sale	67.1
Term	62.5	Marshal	64.16	Investments	
Tree regulations	69.21	Witness, condemnation		Corporate stock ownership	74.2
Water, purity maintenance	67.38	cases	73.33	J	
Water rates, establishing	71.6	Fence Viewers		Jail	
Water works, outside		Appointment	67.43	County, use by Village	66.8
Village	71.8	Ferries		Jurors	
Wharves, establishing	67.35	Licensing	67.40	Oath, condemnation	
Culverts		Finance and Taxation		cases	73.8, 73.23
Construction	67.12, 67.17	Generally	69.1, et seq		
D		Fines			
Damages		Collection by suit	66.14		
Liability, defective streets	67.7	Ordinance violation	66.13		
Street grade charges	67.16				

	Section		Section		Section
Council (contd.)		Dance Halls		Fire	
Legislative authority	65.1	Licensing	67.1	Apparatus, purchase of	70.3
Liability, street defects	67.7	Disorderly Houses		Chief, appointment	70.4
Licensing powers	67.2	Prohibiting	67.1	Department, establishment	70.1
Lighting, may provide	72.8	Ditches		Department, organization	67.1
Lighting, rate fixing	72.6	Repairing, tax	67.31	Employees, compensation	70.10
Loans by	69.22	Special assessments	67.32	Prevention	67.1
Loans, limit	69.25	Docks		Prevention, harbors	70.12
Markets, establishment	67.41	Construction	67.35	Regulations	67.1, 70.9
Marshal, report arrests	64.15	Land condemnation	73.1, et seq	Wardens, appointment	70.6
Meetings, notice of	65.4	Dogs		Funds	
Meetings, to be public	65.4	Regulation	67.1	Of Village	69.1, et seq
Members, interest in		Drains			
contracts	65.7	Establishment	67.12, 67.24 et seq	G	
Parks	67.4	Excavations for	67.22	Gambling, suppression of	67.1
Partition fences, regulating	67.43	Private, tax from		General Fund	69.1, et seq
Paving streets	67.18	owners	67.29		
Penalties, may prescribe	66.2	Private, construction	67.29	H	
Plats, approval by	74.15	Private, sewer connection	67.30	Harbor	
Police force, establishing	67.44			Fire prevention	70.12
Poor, relief of	67.2	E		Harbor Master	67.39
Powers, generally	67.1	Elections		Regulation	67.37
President, trustees		Conduct of	63.7	Highways	
constitute	62.1	Date	63.1	(see Streets)	
Prison, maintaining	66.11	Elector's qualifications	61.11	Hospitals	
Proceedings	65.5	Generally	63.1, et seq	Establishment, outside	
Public improvements	67.12	Electric Power		limits	67.5
Resignations of officers	62.10	Supplying	72.1	I	
Sewer ordinances	67.34	Encroachments		Indebtedness	
Sidewalks, regulation	67.8	Streets, prohibiting	67.20	Apportion on disincorporation	74.20
Sidewalks, snow removal	67.9	Excavations		Generally	71.3
Street Commissioner,		Streets, regulating	67.22	Inflammables	
report by	64.19	Explosives		Regulating storage of	70.8
Street, grade establishment	67.15	Regulations	67.1	Injuries	
Street regulations	67.7, 67.22	F		Firemen, compensation	70.10
Street vacating	67.12	Fees		Intoxicating liquor	
Taxation, levy	69.1	Impounding animals	67.3	Regulating sale	67.1
Term	62.5	Marshal	64.16	Investments	
Tree regulations	69.21	Witness, condemnation		Corporate stock ownership	74.2
Water, purity maintenance	67.38	cases	73.33	J	
Water rates, establishing	71.6	Fence Viewers		Jail	
Water works, outside		Appointment	67.43	County, use by Village	66.8
Village	71.8	Ferries		Jurors	
Wharves, establishing	67.35	Licensing	67.40	Oath, condemnation	
Culverts		Finance and Taxation		cases	73.8, 73.23
Construction	67.12, 67.17	Generally	69.1, et seq		
D		Fines			
Damages		Collection by suit	66.14		
Liability, defective streets	67.7	Ordinance violation	66.13		
Street grade charges	67.16				

	Section		Section		Section
Jury			N		P
Verdict, condemnation cases	73.10, et seq	Newspaper		Parks	
Justice Courts		Ordinances, publication	66.4	Establishing	67.4
Condemnation cases before	73.3	Proceedings of Council, publication	65.5	Sale of	67.4
Ordinance violations	66.6	Night Watchmen		Site acquisition	
Ordinances, proof of	66.5	Appointment	67.44	Condemnation	73.1, et seq
		Notices		Purchase	67.4
L		Affidavit of publication	74.3	Penalties	
		Assessment roll, review of	69.9	Animals, releasing from pound	67.3
Levees		Assessances		Effective date of ordinance	66.1
Construction	67.35, et seq	Abatement	67.1, 67.20	Recovering	66.7
Licenses		Buildings, fire hazard	70.9	Sidewalks, failure to repair	67.10
Auctioneers	67.1			Pier	
Clerk to sign	64.5	O		Construction	67.35, et seq
Generally	67.2	Officers		Plats	
Saloons	67.1	Appointment by President	62.3	Approval by Council	74.15
Shows	67.1	Bonds, filing	62.8	Poles	
Vehicles, public	67.1	Compensation of	64.21	In street, regulation	67.23
Lighting		Powers and duties	67.1	Police	
Contracting for	72.5	Property, delivery to successor	62.15	Appointment, duties	67.44
May provide	72.1	Qualifications	62.7		
Plants		Removal	64.3	Poor	
Acquisition	72	Resignation	62.10	Relief of	67.2
Control	72.9	Sureties, effect of resignation	62.14	Pound	
Repairs	72.5	Terms	62.5	Animal	67.3
Rates	72.6	Village	62.1	Precincts	
Loans		Oil		Village	63.13
Council may make	69.22	Storage	70.8	President	
Limit	69.25	Ordinances		Authentication ordinances	66.3
Lumber		Appeals, conviction	66.10	Books, examination	64.3
Storage, regulation	70.8	Code	66.3a	Compensation	64.21
		Fines, payment of	66.13	Duties	64.1
M		Imposing penalty, effective date	66.7	Election	62.1
Manager	65.8	Jury trial	66.9	Officers appointed by	62.2
Map		Penalties, recovery of	66.7	Presiding officer	65.2
Condemnation jury	73.10, 73.25	Proof of	66.5	Removal of officers	64.3
Market		Publication, certification	66.4	Resignation by	62.10
Establishment	67.41	Recording	66.3	Term	62.5
Site acquisition		Security for costs, prosecution	66.12	Warrants, signed by	69.24
Condemnation	73.1, et seq	Sewer, drain ordinances	67.34	President Pro Tem	
Purchase	67.4	Style of	66.1	Appointment	65.3
Marshall		Suits, statement of cause	66.9	Duties	64.4
Arrest record	64.14	Violation, prosecution, time, venue	66.2, 66.6	Prison	
Chief of Police, as	67.46	Water works, protection	71.7	Erection, maintenance	66.11
Fees	64.16			Beyond limits	67.5
Police duties	64.13			Property	
President to appoint	62.2			Condemnation of	
				Generally	73.1, et seq



	Section
Water (cont'd)	
Rates	71.6
Special Assessments	71.4
Supply	71.1, 71.11
Wells	70.2
Works	71.1, et seq
Weights and Measures	
Regulation	67.1
Wells	
May sink	70.2
Wharfage	
Collection of	67.37
Wharves	
Construction	37.35, et seq
Site condemnation	73.1, et seq