

CHAPTER 412

STATUTORY CITIES

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NOTE: For special laws relating to specific statutory cities, see TABLE 1, Vol. 4.

412.01 [Repealed, 1949 c 119 s 110]

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412.011 [Repealed, 1969 c 1146 s 20]

412.012 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

412.013 ADDITIONAL POWERS. Any statutory city containing within its limits a plant for the concentration of taconite, either under construction or in operation, by resolution of its council may lease or purchase from the owners thereof sewer or water facilities or both and operate the same. Any such lease made by such city prior hereto, by action of the council, is hereby validated and such city may continue to provide sewer and water services to its inhabitants thereunder.

[1957 c 72 s 1; 1959 c 686 s 12; 1973 c 123 art 2 s 1 subd 2]

412.014 POWER TO OPERATE TELEPHONE LINES. Any statutory city heretofore or hereafter incorporated, in the territory of which previous to such incorporation telephone lines have been constructed and operated by a town as author-

ized by Sections 237.33 to 237.40, is hereby authorized to continue to operate such telephone lines and the city shall have all the powers granted to towns and the council shall have all of the powers granted to boards of supervisors under Sections 237.33 to 237.40.

[1957 c 58 s 1; 1973 c 123 art 2 s 1 subd 2]

412.015 UNIFORM CODE OF MUNICIPAL GOVERNMENT. Subdivision 1. **Legislative findings; policy.** The legislature finds that the laws relating to villages, boroughs and cities without home rule charters are characterized by unnecessary duplication and inconsistency of treatment; that confusion as to the application of such laws exists because of the imprecision of the terms village, borough and city; and that it is desirable that all such municipalities be governed by a uniform code of statutes in order to provide them with a modern form of local government and to reduce the volume of special legislation relating to municipal government.

Subd. 2. **Legislative intent.** It is the intention of Laws 1973, Chapter 123 to simplify the statutes relating to municipal government by bringing the basic laws relating to all villages, boroughs and cities without home rule charters under a single code of statutes and to effect the transition with a maximum recognition of the desires of the citizens of such municipalities.

Subd. 3. **Limitations upon uniform code.** The legislature does not intend by Laws 1973, Chapter 123:

(1) to affect, alter, repeal, or otherwise modify any law of special application other than special or general acts of incorporation and amendments thereto;

(2) to modify the application of other statutory codes relating to municipal government; or

(3) to impose new substantive powers and duties on cities, villages or boroughs.

Subd. 4. **Liberal interpretation.** Laws 1973, Chapter 123 shall be interpreted liberally to carry out the intention set forth in this subdivision.

[1973 c 123 art 1 s 1-4]

412.016 APPLICATION; STATUTORY CITIES. Subdivision 1. **Application and definition.** This chapter applies to any city which has not adopted a home rule charter pursuant to the constitution and the laws of this state. Such a city is defined as a "statutory city," and the term includes every city which was a village on January 1, 1974.

Subd. 2. **Use of the term village.** Except as provided in Laws 1973, Chapter 123, Article 4, the term "village" shall not be applied to any municipal corporation operating under the authority of this chapter. In the next and subsequent editions of Minnesota Statutes the revisor of statutes shall delete the term "village" from this chapter except where necessary to effect the provisions of Laws 1973, Chapter 123, Article 4.

[1973 c 123 art 2 s 1]

412.017 APPLICATION OF LAWS RELATING TO CLASSES OF CITIES TO MUNICIPALITIES WHICH WERE VILLAGES. Subdivision 1. Except as provided in subdivision 2, no general law in effect on December 31, 1973, which by its terms applies to second class cities, or to third class cities, or to both second and third class cities, applies to any statutory city which was a village on December 31, 1973.

Subd. 2. The provisions of section 415.11 shall apply to any statutory city which was a village on December 31, 1973.

[1973 c 123 art 5 s 1]

412.018 CITIES UNDER GENERAL OR SPECIAL INCORPORATION ACTS. Subdivision 1. **Termination of government under incorporation acts.** On July 1, 1975, any city incorporated under and governed by General Statutes 1894, Sections 1045 to 1195, Laws of 1895, Chapter 8, or Minnesota Statutes 1971, Chapter 411; and the cities and borough of Belle Plaine, Special Laws 1868, Chapter 36; Chaska, Special Laws 1891, Chapter 2; Henderson, Special Laws 1891, Chapter 3; St. Peter, Special Laws 1891, Chapter 5; New Prague, Special Laws 1891, Chapter 46; Shakopee, Special Laws 1875, Chapter 6; and St. Charles, Special Laws 1879, Chapter 57, shall cease to be governed by the general or special incorporation acts specified in this subdivision and will thenceforth be governed and controlled and derive their corporate legislative and other powers from the laws applicable to statutory cities generally and from such other special laws as may be applicable to them.

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Subd. 2. **Option for early change.** The governing body of any city or borough described in subdivision 1 may, at any time prior to July 1, 1975, choose to be no longer subject to its general or special incorporation act by an appropriate resolution enacted by a majority of its members and filed with the county and state auditor and the secretary of state. After the filing of the resolution the city or borough shall be governed by the laws applicable to statutory cities generally to the same degree as it will be after July 1, 1975.

Subd. 3. **Fiscal year; former cities.** In any city which was a statutory city or borough prior to 1973, and in which the fiscal year has not coincided with the calendar year, the calendar year shall become the fiscal year in 1976. The clerk, subject to the direction of the council, shall make such adjustments for accounts and reports during the transitional year as are necessary to provide the basis for accurate and comparable accounting and reporting.

[1973 c 123 art 5 s 3 subds 2, 3, s 4; 1974 c 406 s 103]

412.02 M.S. 1945 [Repealed, 1949 c 119 s 110]

412.02 CITY ELECTIONS; OFFICERS, TERMS, VACANCIES. Subdivision 1. The following officers shall be elected for the terms and in the years shown and in the cities described in the table.

Officer	Number of years in Term	Year Elected	City Elected
Mayor	Two or four	Every two years except where four years is other- wise provided pursuant to statute	Every statutory city
Clerk	Four	Every four years in year when treasurer is not elected	Every statutory standard plan city in which there is no clerk-treasurer
Treasurer	Four	Every four years in year in which clerk is not elected	Every statutory standard plan city in which there is no clerk-treasurer
Clerk- Treasurer	Four	Every four years in year in which one councilman is elected	Every statutory standard plan city where such office exists pursuant to subdivi- sion 3
Three Councilmen	Four	Two every four years and one in alternative election	Every statutory standard plan city
Four Councilmen	Four	Two each election	Every statutory optional plan city
One Justice of the Peace	Two	At each election	Every statutory city in which the office is permit- ted by law and has not been abolished pursuant to subdivision 5

Subd. 2. Terms of elective officers shall commence on the first business day of January following the election at which the officer is chosen. All officers chosen and qualified as such shall hold office until their successors qualify. Vacancies in office shall be filled for the remainder of the term by the council. In case of a tie vote on such appointments the mayor shall fill the vacancy by appointment for the unexpired term.

NOTE: For appointment to fill vacancy in office of municipal judge, see Constitution, Article VI, Section 11, and Minnesota Statutes, Section 488.06, Subdivision 5.

Subd. 3. In cities operating under the standard plan of government the council may by ordinance adopted at least 60 days before the next regular city election combine the offices of clerk and treasurer in the office of clerk-treasurer, but such an ordinance shall not be effective until the expiration of the term of the incumbent treasurer or when an earlier vacancy occurs. After the effective date of the ordinance, the duties of the treasurer and deputy treasurer as prescribed by this chapter shall be performed by the clerk-treasurer or his duly appointed deputy. The offices of clerk and treasurer may be re-established by ordinance. If the offices of clerk and treasurer are combined as provided by this section, the council shall provide for

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an annual audit of the city's financial affairs by the state auditor or a public accountant in accordance with minimum auditing procedures prescribed by the state auditor.

Subd. 4. [Repealed, 1973 c 34 s 7]

Subd. 5. In cities without a municipal court, the council may by ordinance adopted at least 60 days before the next regular city election abolish one or both of the offices of justice of the peace. The ordinance shall be effective upon the expiration of the term of the justice of the peace whose office has been abolished or when an earlier vacancy occurs. The office of justice of the peace so abolished may be re-established by ordinance.

[1959 c 675 art 6 s 30; 1961 c 230 s 1; 1963 c 799 s 5; 1963 c 811 s 1; 1965 c 417 s 1-4; 1967 c 289 s 2; 1973 c 34 s 1; 1973 c 123 art 2 s 1 subd 2, 2; 1973 c 492 s 7; 1974 c 337 s 5]

412.021 OFFICERS. Subdivision 1. **Election.** Upon the filing of the certificate with the secretary of state, if the vote is in favor of incorporation, the judges of election appointed by the municipal commission or the county board as the case may be, shall fix a day at least 15 and not more than 30 days thereafter and a place for the holding of an election for officers. The judges shall also fix the time, not less than three hours, during which the polls shall remain open at the election and shall post a notice setting forth the time and place of such election in three public places in the city for at least ten days preceding the election.

Subd. 2. **Officers to be elected.** There shall be elected at such election a mayor and, where otherwise permitted by law, a justice of the peace, each for a term expiring the first business day of January of the next odd-numbered year; and four councilmen, for terms so arranged that two expire the first business day of January of the next odd-numbered year and two the first business day of January of the second odd-numbered year. No candidate for councilman shall run for a particular term but the number of years in the term of each successful candidate shall be determined by his relative standing among the candidates for office, the longest terms going to the two candidates receiving the highest number of votes. If the election occurs in the last four months of the even-numbered year, no election shall be held in the city on the annual city election day that year, and the next following year shall be disregarded in fixing the expiration of terms of officers chosen under this subdivision at the initial election.

Subd. 3. [Repealed, 1969 c 1146 s 20]

Subd. 4. [Repealed, 1969 c 1146 s 20]

Subd. 5. **Initial salaries.** After the qualification of its members, the council may by ordinance fix the salaries of the mayor and councilmen. Notwithstanding the provisions of section 415.11, subdivision 2, the ordinance shall not become effective for at least ten days after publication in the official newspaper; and if, before the end of that time a petition asking for an election on the ordinance signed by voters equal to ten percent of the number of voters at the incorporation election is filed with the clerk, the ordinance shall not become effective until it is approved by a majority of the votes cast on the question at a regular or special election.

[1949 c 119 s 5; 1951 c 378 s 1; 1959 c 686 s 13; 1965 c 417 s 5; 1965 c 856 s 1; 1967 c 289 s 3; 1973 c 34 s 2; 1973 c 123 art 2 s 1 subd 2; 1974 c 337 s 6, 7]

412.022 BIENNIAL ELECTIONS. Subdivision 1. **Procedure.** The council may, by ordinance, establish four-year terms for the offices of mayor, clerk, treasurer, or clerk-treasurer, and councilman and provide for holding regular city elections in every odd-numbered year or every even-numbered year; but the ordinance shall not become effective without the approval of a majority of the electors voting on the ordinance at a general or special election. When so approved, the ordinance shall govern elections thereafter, applying to the first ensuing election to which it can apply by its terms, except that it shall not apply to the election in the year in which it is adopted unless it is approved by the voters at least four weeks before the closing date for the filing of affidavits of candidacy for such election.

Subd. 2. **Terms.** No more than three council members shall be elected at any biennial election. The term of every incumbent elective officer expiring in January following a year in which there is no election shall be extended to the succeeding year unless such extension will cause more than three council members to be elected at any election, in which case the term of every such officer shall be shortened to the preceding year. Any city which has adopted a biennial election system under this

section and which elects more than three council members at any such election shall by ordinance provide that one or more such officers be elected for a shorter term in order to comply with the requirement that no more than three council members be elected at each biennial election. No such ordinance need be submitted to the voters for approval. At each biennial election, successors to incumbents whose terms will expire in the following January shall be chosen for four-year terms, except in the case of justices of the peace, if any, who shall serve for two-year terms.

Subd. 3. Annual election re-establishment. Any city holding biennial elections may re-establish the system of annual elections and corresponding terms of office in the manner provided in subdivision 1 for adoption of the biennial election system. Terms of incumbents shall not be curtailed by the change, but wherever necessary, terms shall be extended in order to provide for the same election schedule as provided by section 412.02, subdivision 1.

[1967 c 289 s 16; 1969 c 238 s 1; 1973 c 34 s 3; 1973 c 123 art 2 s 1, subd 2]

412.023 TRANSITION SCHEDULE. Subdivision 1. **Former villages.** In any city which was a village on January 1, 1974 and which has not, by timely action in 1974 or earlier, provided for biennial odd-numbered year elections there shall be a municipal election on November 5, 1974, at which there shall be elected the officers who would be elected at that election under the election schedule previously in effect, but they shall be elected for the terms specified in section 412.02, subdivision 1. If, at the 1974 or subsequent election three councilmen are to be elected in any statutory city, and contrary ordinance regulations have not been adopted under subdivision 3, the two persons receiving the highest vote shall serve for terms of four years and the person receiving the third highest number of votes shall serve for a term of two years. In any former village which has provided for biennial elections under section 412.022, subdivision 1, prior to 1974, the election schedule shall not be changed by the adoption of Laws 1973, Chapter 123.

Subd. 2. Former cities and boroughs. In each municipality now operating under a general or special law providing for a biennial election, the city election shall continue to be held in the year in which the election would have been held if this law had not been enacted, but after Laws 1973, Chapter 123 takes effect in the city, the city election shall be held on the first Tuesday after the first Monday in November and terms of officers elected shall conform to the provisions of section 412.02, subdivision 1. In any such municipality heretofore holding annual elections, a city election shall be held at the time previously prescribed until the application of Laws 1973, Chapter 123 to the city, and thereafter the city election shall be held on the first Tuesday after the first Monday in November; but terms of officers chosen at those elections shall be those specified in section 412.02, subdivision 1. In any such municipality previously holding biennial elections, the city elections held after January 1, 1974 shall be held in the same year as previously, unless election in a different year is provided hereafter in accordance with section 205.07, subdivision 1.

Subd. 3. Transition intent. Whenever the establishment of the biennial system provided by Laws 1973, Chapter 123 results in the expiration of any current term of office at a time when no city election is held in the months immediately prior thereto, each term is extended until the date for taking office following the next scheduled city election. It is the intent of Laws 1973, Chapter 123 to put into effect as soon as practicable a state-wide system of biennial elections in statutory cities and to do so without shortening terms of incumbents or lengthening those terms for more than one year plus the number of months required in any statutory city to move its election date from spring to November. To the extent necessary to provide for an orderly transition to the biennial election plan and schedule provided for in this section, the council may adopt supplementary ordinances regulating initial elections, officers to be chosen at such elections, and the terms of incumbents and those so elected.

Subd. 4. Officers to be elected in former statutory cities. In any statutory city previously operating as a city or borough under a general or special law providing for the election of a clerk or a treasurer, or a clerk-treasurer, the city shall be deemed to be operating under optional plan A after the expiration of the term of the incumbent clerk or at such earlier time as a vacancy occurs in that office. Notwithstanding any other provision of Laws 1973, Chapter 123 or the statutory city code, any statutory city previously operating under a law providing for five or more

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councilmen or for the election of some or all of the councilmen by wards may continue to have as many councilmen as formerly and to elect councilmen by wards to the extent formerly authorized, but the mayor shall serve as a member of the council and act as its chairman as in other statutory cities. The mayor shall serve a two year term except where a four year term is provided pursuant to statute and councilmen shall serve four-year terms as in statutory cities generally. The council of any such city may by ordinance adopted prior to September 1 and effective no earlier than the following January, abolish the ward system and provide for a council constituted as in statutory cities generally.

Subd. 5. **Other officers.** Any statutory city previously operating as a city or borough under a general or special law which did not require the election of a justice of the peace or constable or in which such officers did not exist, is not required by Laws 1973, Chapter 123 to appoint such officers. Any such city which has established the office of city administrator by ordinance may continue such office in existence notwithstanding the provisions of Laws 1973, Chapter 123.

[1973 c 123 art 2 s 3; 1974 c 337 s 8-10]

412.03 [Repealed, 1949 c 119 s 110]

412.031 [Repealed, 1973 c 123 art 2 s 4]

412.04 [Repealed, 1949 c 119 s 110]

412.041 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

412.05 [Repealed, 1949 c 119 s 110]

412.051 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

412.06 [Repealed, 1949 c 119 s 110]

412.061 [Repealed, 1957 c 151 s 2]

412.07 [Repealed, 1949 c 119 s 110]

412.071 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

412.08 [Repealed, 1949 c 119 s 110]

412.081 SEPARATION FROM TOWN. Subdivision 1. **Election, assessment districts.** Any statutory city hereafter organized shall be constituted an election and assessment district separate from the town in which it lies immediately upon incorporation, except that if the incorporation occurs between March 15 and July 1 the town assessor shall assess the property in the city that year and the city assessor shall not assume his duties until the following year. Where the town assessor makes the assessment, the city shall pay such proportion of the cost of the assessment as its assessed valuation bears to the assessed valuation of the town, including the city.

Subd. 2. **Separate districts.** Any existing city not heretofore constituted a separate election and assessment district may become such by the vote of a majority of its electors casting their ballots upon the question at a special election called for that purpose or at a general election in the notice of which the question is plainly submitted. The council may submit the question of separation to the electors on its own motion and shall do so upon presentation of a petition of electors equal in number to 25 percent of those voting at the last preceding city election. A certificate giving the result of the vote shall be presented by the judges of election to the council. The clerk shall then file a similar certificate with the county auditor of the county in which the city is situated, and, if the election is favorable to separation, he shall file a copy with the secretary of state. The separation shall take effect 30 days from the date of the election. The council shall then appoint an assessor to serve until the first business day of January in the next odd-numbered year.

Subd. 3. **Distribution of assets, tax levy, joint property.** Upon separation of an existing city from the town or upon incorporation of a city hereafter, if there is any money in the town treasury in excess of its then floating indebtedness, such proportion of the excess as the total assessed valuation of the real and personal property within the city bears to the entire valuation of the town, including the city, shall belong to the city and shall be paid to the city treasurer by the town treasurer. All town taxes levied upon property within the city before separation and not yet collected or not yet distributed by the county treasurer shall be paid to the city when so distributed. If the town has any bonded debt, the property within the city shall continue to be taxed to retire the bonds and to pay the interest

thereon until the bonds are fully paid. Any personal property belonging to the town at the time of separation, and any real estate situated within the city and belonging to the town at that time shall remain the joint property of the city and town with the interest of each being proportional to its assessed valuation at the time of separation; but either the city or the town may purchase the interest of the other in such real or personal property and become its sole owner. Meetings and elections of the town may be held in the city and any town officer may maintain his office in the city notwithstanding such separation.

[1949 c 119 s 11; 1951 c 378 s 3; 1953 c 7 s 1; 1955 c 867 s 3; 1973 c 123 art 2 s 1 subd 2]

NOTE: As to election districts, see also section 203.061.

412.09 [Repealed, 1949 c 119 s 110]

412.091 DISSOLUTION. Whenever a number of voters equal to one-third of those voting at the last preceding city election shall petition the council therefor, a special election shall be called to vote upon the question of dissolving the city. The ballots used at such election shall bear the printed words, "For Dissolution" and "Against Dissolution," with a square before each phrase in which the voter may express his preference by a cross. If a majority of those voting on the question favor dissolution, the city clerk shall file a certificate of the result with the secretary of state and the county auditor of the county in which the city is situated. Six months after the date of such election, the city shall cease to exist as such and shall become a part of the town in which it lies. Within such six months, the council shall audit all claims against the city, settle with the treasurer, and other city officers, and apply the assets of the city to the payment of its debts. If any debts remain unpaid, other than bonds, the city clerk shall file a schedule of such debts with the county treasurer and the council shall levy a tax sufficient for their payment, the proceeds of which, when collected, shall be paid by the county treasurer to the creditors in proportion to their several claims until all are discharged. The principal and interest on outstanding bonds shall be paid when due by the county treasurer from a tax annually spread by the county auditor against property formerly included within the city until the bonds are fully paid. All city property and all rights of the city shall, upon dissolution, inure in the town as the legal successor to the city. If the city lies in more than one town, surplus cash assets shall be distributed to the respective towns in proportion to the assessed valuation of that portion of the city lying in each; and the city council shall determine the disposition of other unsold city property in such cases.

[1949 c 119 s 12; 1973 c 123 art 2 s 1 subd 2]

412.092 INVALIDLY INCORPORATED STATUTORY CITY, PROPERTY OF. Subdivision 1. Except where otherwise provided by law, any property, assets, or money held in the name of a city whose incorporation has been set aside by the supreme court of Minnesota is the property, assets, or money of the town from which the territory sought to be incorporated as a city belongs.

Subd. 2. The town officers of any town entitled to the property, assets, or money in the name of the city whose incorporation has been set aside as provided in subdivision 1 shall take possession of such property, assets, or money for the town. The town may use such property, assets, or money for any lawful town purpose.

Subd. 3. Subdivisions 1 and 2 of this section shall apply to the property, assets, or money in the name of any city whose incorporation has been set aside either prior or after the passage of Laws 1959, Chapter 33.

[1959 c 33 s 1, 2; 1973 c 123 art 2 s 1 subd 2]

412.093 DISSOLUTION SECURED BY CLAIMANTS. Subdivision 1. **Grounds.** Whenever a duly incorporated city has, for two consecutive years, failed to hold city elections as provided by law and one or more bonds or claims against the city remain unpaid, any bondholder or claimant may proceed to secure dissolution of the city and payment of the bonds and claims in accordance with this section.

Subd. 2. **Sheriff's certificate.** Such claimant may apply to the sheriff of the county in which the city lies for a certificate directed to the district court stating that he has been unable to find more than two members of the city council residing within the city. If the sheriff finds that the facts so warrant, he shall execute such a certificate and deliver it to the claimant.

Subd. 3. Proceedings before district court. Within 30 days after receiving the sheriff's certificate, the claimant may petition the district court for a formal dissolution of the city and the liquidation of its affairs, attaching the certificate to the petition. The court shall thereupon issue an ex parte order providing for a hearing on the dissolution of the city and the liquidation of the affairs of the city, and limiting the time within which bonds and claims against the city shall be filed with the court. The court shall order such published notice to be given of the hearing and of the time when bonds and claims must be filed, and shall provide for such other notice to parties interested as it may deem proper.

Subd. 4. Determination by court. At the time and place specified, the court shall hear the evidence of all parties interested and consider the validity of bonds and claims against the city filed within the time specified in the court order. If it determines that the city has ceased to function and it is not in the public interest for the city to continue in existence, it shall order the city dissolved on the day fixed in the order. At the same time, or at a subsequent time fixed by the court, it shall examine, adjust and allow, in whole or in part, all bonds and claims filed within the time prescribed, and shall appoint the county auditor of the county in which the former city was situated as receiver to make the necessary tax levies, pay the bonds and claims allowed by the court, collect any debts owing to the city, and generally to liquidate the affairs of the city. A copy of the court's order shall be sent to the county auditor.

Subd. 5. Tax levy. The court shall provide for the spreading of a tax levy on all the taxable property within the former city over such period of years, not exceeding 30, as the court directs, taking into account the amount of the bonds and claims and the total taxable value of the property to be taxed.

Subd. 6. Collection and disposition of taxes. The county auditor shall spread a levy against the property in the former city in accordance with the order of the court. The county treasurer shall deposit the proceeds of such tax, when collected, in a special account in the county treasury. After paying the cost of the dissolution proceedings, the county auditor shall apply the proceeds of the tax after each tax apportionment to the payment of principal and interest of outstanding bonds of the city until all such bonds and interest thereon shall have been paid in full. Thereafter the county auditor shall apply the proceeds of the tax after each tax apportionment to the various other creditors in proportion to their several claims until all have been discharged, but interest on any such claim shall be allowed and paid only from the date of the court order allowing such claim.

Subd. 7. Property and rights of statutory city. All city property and all rights of the city shall upon dissolution inure in the town as the legal successor to the city. If the city lies in more than one town, surplus cash assets shall be distributed to the respective towns in proportion to the assessed valuation of that portion of the city lying in each; and the court shall determine the disposition of other unsold city property in such cases.

[1959 c 433 s 1-7; 1973 c 123 art 2 s 1 subd 2]

412.10 [Repealed, 1949 c 119 s 110]

OFFICERS, EMPLOYEES

412.101 PEACE OFFICERS. Except in a city operating under Optional Plan B the mayor and other members of the council shall be peace officers and may suppress in a summary manner any riotous or disorderly conduct in the streets or other public places of the city and command the assistance of all persons under such penalties as may be prescribed by ordinance. The council may designate one or more of its police officers or members as a process officer, who shall have all the powers and duties of town constable. The council may require process officers to pay into the city treasury all fees received by them for performing the duties of constables.

[1949 c 119 s 13; 1953 c 715 s 2; 1967 c 289 s 4; 1973 c 34 s 4; 1973 c 123 art 2 s 1 subd 2]

412.11 [Repealed, 1949 c 119 s 110]

412.111 DEPARTMENTS, BOARDS. The council may create such departments and advisory boards and appoint such officers, employees, and agents for the city as may be deemed necessary for the proper management and operation of city affairs. The council may prescribe the duties and fix the compensation of all officers, both appointive and elective, employees, and agents, when not otherwise prescribed by law. The council may require any officer or employee to furnish a bond con-

ditioned for the faithful exercise of his duties and the proper application of, and payment upon demand of, all moneys by him officially received. Unless otherwise prescribed by law the amount of such bonds shall be fixed by the council. The bonds furnished by the clerk, treasurer, and justices of the peace shall be corporate surety bonds. The council may provide for the payment from city funds of the premium on the official bond of the justices of the peace and any officer or employee of the city. The council may, except as otherwise provided, remove any appointive officer or employee when in its judgment the public welfare will be promoted by the removal; but this provision does not modify the laws relating to veterans preference or to members of a city police or fire civil service commission or public utilities commission.

[1949 c 119 s 14; 1951 c 378 s 4; 1973 c 123 art 2 s 1 subd 2]

412.12 [Repealed, 1949 c 119 s 110]

412.121 ACTING MAYOR. At its first meeting each year the council shall choose an acting mayor from the councilmen. He shall perform the duties of mayor during the disability or absence of the mayor from the city or, in case of vacancy in the office of mayor, until a successor has been appointed and qualifies.

[1949 c 119 s 15; 1969 c 9 s 83; 1973 c 123 art 2 s 1 subd 2]

412.13 [Repealed, 1949 c 119 s 110]

412.131 ASSESSOR; DUTIES, COMPENSATION. The city assessor shall assess and return as provided by law all property taxable within the city, if a separate assessment district, and the assessor of the town within which the city lies shall not include in his return any property taxable in the city. Any assessor may appoint a deputy assessor as provided in Section 273.06. The assessor may be compensated on a full-time or part-time basis at the option of the council but his compensation shall be not less than \$100 in any one year, if fixed on an annual basis, or not more than \$20 per day, if fixed on a per diem basis. If his compensation is not fixed by the council the assessor shall be entitled to compensation at the rate of \$20 per day for each day service necessarily rendered, and mileage at the rate of seven and one half cents per mile for each mile necessarily traveled in going to and returning from the county seat of the county to attend any meeting of the assessors of the county legally called by the county auditor, and also for each mile necessarily traveled in making his return of assessment to the proper county officer and in attending sectional meetings called by the county assessor, except when mileage is paid by the county. In addition to other compensation, the council may allow the assessor seven and one half cents per mile for each mile necessarily traveled in his assessment work.

[1949 c 119 s 16; 1951 c 166 s 1; 1965 c 186 s 2; 1969 c 9 s 84; 1973 c 123 art 2 s 1 subd 2]

412.14 [Repealed, 1949 c 119 s 110]

412.141 TREASURER'S DUTIES. The treasurer shall receive and safely keep all moneys belonging to the city, including moneys received in operations of any municipal liquor dispensary maintained by the city, and shall promptly enter in a book provided for the purpose an account of all moneys received and disbursed by him as treasurer, showing the source and objects thereof with the date of each transaction. He shall pay out money only upon the written order of the mayor and clerk, or such other officers of independent boards or commissions as are authorized to issue orders in the case of board or commission operations. Such orders when paid and canceled he shall retain as his vouchers. Such accounts and vouchers shall be exhibited to the council upon its request. He shall deliver to his successor all books, papers and money belonging to the city. The treasurer shall immediately after the close of the calendar year make out and file with the clerk for public inspection a report of his balances, receipts and disbursements by funds for the year. The treasurer may, with the consent of the council appoint a deputy treasurer for whose acts he shall be responsible and whom he may remove at pleasure. In case of the treasurer's absence from the city or disability, the council may appoint a deputy treasurer, if there is none, to serve during such absence or disability. The deputy may discharge any of the duties of the treasurer.

[1949 c 119 s 17; 1951 c 378 s 5; 1973 c 123 art 2 s 1 subd 2]

412.15 [Repealed, 1949 c 119 s 110]

412.151 DUTIES OF CLERK. The clerk shall give the required notice of each regular and special election, record the proceedings thereof, notify officials of their election or appointment to office, certify to the county auditor all appointments and the results of all city elections. He shall keep (1) a minute book, noting therein all proceedings of the council; (2) an ordinance book in which he shall record at length all ordinances passed by the council; and (3) an account book in which he shall enter all money transactions of the city including the dates and amounts of all receipts and the person from whom the money was received and all orders drawn upon the treasurer with their payee and object. Ordinances, resolutions, and claims considered by the council need not be given in full in the minute book if they appear in other permanent records of the clerk and can be accurately identified from the description given in the minutes. The city clerk shall act as the clerk and bookkeeper of the city, shall be the custodian of its seal and records, shall sign its official papers, shall post and publish such notices, ordinances and resolutions as may be required and shall perform such other appropriate duties as may be imposed upon him by the council. For certified copies, and for filing and entering, when required, papers not relating to city business, he shall receive the fees allowed by law to town clerks; but the council may require the clerk to pay such fees into the city treasury. With the consent of the council, he may appoint a deputy for whose acts he shall be responsible and whom he may remove at pleasure. In case of the clerk's absence from the city or disability, the council may appoint a deputy clerk, if there is none, to serve during such absence or disability. The deputy may discharge any of the duties of the clerk, except that he shall not be a member of the council.

[1949 c 119 s 18; 1951 c 378 s 6; 1953 c 735 s 3; 1973 c 123 art 2 s 1 subd 2]

412.16 [Repealed, 1949 c 119 s 110]

412.161 [Repealed, 1973 c 34 s 7]

412.17 [Repealed, 1949 c 119 s 110]

412.171 DUTIES OF JUSTICES OF THE PEACE. City justices of the peace shall possess all the powers of town justices and shall be governed by the same laws except that their official bonds shall run to the city and shall be approved by the council. They may hear and determine accusations made against persons for the violation of any ordinance of the city and upon conviction may impose the penalties prescribed. Whenever a city is situated in more than one county, each justice may exercise his authority and shall file his bond or a duplicate thereof in both counties.

[1949 c 119 s 20; 1973 c 123 art 2 s 1 subd 2]

412.18 [Repealed, 1949 c 119 s 110]

412.181 Subdivisions 1-9. M.S. 1949 [Repealed, 1953 c 49 s 2]

Subd. 10. M.S. 1965 [Repealed, 1967 c 289 s 18]

412.181 M.S. 1971 [Repealed, 1973 c 123 art 2 s 4]

412.19 [Repealed, 1949 c 119 s 110]

COUNCIL, POWERS

412.191 MEMBERS; POWERS, DUTIES. Subdivision 1. **Composition of city council.** The council in a standard plan city shall consist of the mayor, the clerk, and the three councilmen. In optional plan cities the council shall consist of the mayor and the four councilmen. Three members shall constitute a quorum although a smaller number may adjourn from time to time.

Subd. 2. Meetings of the council. Regular meetings of the council shall be held at such times and places as may be prescribed by its rules. Special meetings may be called by the mayor or by any two members of the council by writing filed with the clerk who shall then mail a notice to all the members of the time and place of meeting at least one day before the meeting. The mayor or, in his absence, the acting mayor, shall preside. All meetings of the council shall be open to the public. The council may preserve order at its meetings, compel the attendance of members, and punish non-attendance and shall be the judge of the election and qualification of its members. The council shall have power to regulate its own procedure.

Subd. 3. Publication of council proceedings. The council may publish all or any part of the official council proceedings in the official newspaper. In the case of

partial publication, the published proceedings shall indicate in what respects they are incomplete.

Subd. 4. Enactment of ordinances. Every ordinance shall be enacted by a majority vote of all the members of the council except where a larger number is required by law. It shall be signed by the mayor, attested by the clerk and published once in the official newspaper. Proof of the publication shall be attached to and filed with the ordinance. Every ordinance shall be recorded in the ordinance book within 20 days after its publication. All ordinances shall be suitably entitled and shall be substantially in the style. "The City Council of ordains:".

Subd. 5. Codification and revision of ordinances. Any city may revise and codify and print in book, pamphlet or newspaper form any general and special laws, ordinances, resolutions and rules in force in the city. Such codification shall be a sufficient publication of any ordinance included in it and not previously published in a newspaper if a substantial quantity of the codification is printed for general distribution to the public. A notice that copies of the codification are available at the office of the clerk shall be published in the official newspaper for at least two successive weeks.

[1949 c 119 s 22-26; 1967 c 289 s 6; 1973 c 123 art 2 s 1 subd 2]

412.20 [Repealed, 1949 c 119 s 110]

412.201 EXECUTION OF INSTRUMENTS. Every contract, conveyance, license or other written instrument shall be executed on behalf of the city by the mayor and clerk, with the corporate seal affixed, and only pursuant to authority from the council.

[1949 c 119 s 27; 1973 c 123 art 2 s 1 subd 2]

412.21 [Repealed, 1949 c 119 s 110]

412.211 GENERAL STATUTORY CITY POWERS. Every city shall be a municipal corporation having the powers and rights and being subject to the duties of municipal corporations at common law. Each shall have perpetual succession, may sue and be sued, may use a corporate seal, may acquire, either within or without its corporate limits, such real and personal property as the purposes of the city may require, by purchase, gift, devise, condemnation, lease or otherwise, and may hold, manage, control, sell, convey, lease, or otherwise dispose of such property as its interests require. The powers listed in this act are not exclusive and other provisions of law granting additional powers to cities or to classes of cities shall apply except where inconsistent with this chapter.

[1949 c 119 s 28; 1973 c 123 art 2 s 1 subd 2]

412.22 [Repealed, 1949 c 119 s 110]

412.221 SPECIFIC POWERS OF THE COUNCIL. Subdivision 1. Books; stationery; printing. The council shall have power to procure the books to be kept by the officers, and such furniture, property, stationery, printing and office supplies as are necessary for city purposes.

Subd. 2. Contracts. The council shall have power to make such contracts as may be deemed necessary or desirable to make effective any power possessed by the council. The city may purchase personal property through a conditional sales contract and real property through a contract for deed under which contracts the seller is confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price, which shall be payable over a period of not to exceed five years. When the contract price of property to be purchased by contract for deed or conditional sales contract exceeds one percent of the assessed valuation of the city, the city may not enter into such a contract for at least ten days after publication in the official newspaper of a council resolution determining to purchase property by such a contract; and, if before the end of that time a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular city election is filed with the clerk, the city may not enter into such a contract until the proposition has been approved by a majority of the votes cast on the question at a regular or special election.

Subd. 3. Buildings. The council shall have power to construct or acquire structures needed for city purposes, to control, protect, and insure the public buildings, property, and records.

Subd. 4. [Repealed, 1963 c 798 s 16]

Subd. 5. **Actions at law.** The council shall have power to provide for the prosecution or defense of actions or proceedings at law in which the city may be interested and it may employ counsel for the purpose.

Subd. 6. **Streets; sewers; sidewalks; public grounds.** The council shall have power to lay out, open, change, widen or extend streets, alleys, parks, squares, and other public ways and grounds and to grade, pave, repair, control, and maintain the same; to establish and maintain drains, canals, and sewers; to alter, widen or straighten water courses; to lay, repair, or otherwise improve or discontinue sidewalks, paths and crosswalks. It shall have power by ordinance to regulate the use of streets and other public grounds, to prevent encumbrances or obstructions, and to require the owners or occupants of buildings and the owners of vacant lots to remove any snow, ice, dirt, or rubbish from the sidewalks adjacent thereto and in default thereof to cause such encumbrances, obstructions, or substances to be removed and the cost to be assessed against the property as a special assessment.

Subd. 7. **Lighting streets.** The council shall have power to provide for lighting the streets, buildings, or grounds by gas, electricity or other means, and to contract with anyone engaged in the business of furnishing gas or electric service for the supply of such service to the city and its inhabitants.

Subd. 8. **Parks, trees.** The council shall have power to provide for, and by ordinance regulate, the setting out and protection of trees, shrubs, and flowers in the city or upon its property.

Subd. 9. **Cemeteries.** The council shall have power to acquire by purchase, gift, devise, condemnation or otherwise, hold and manage cemetery grounds, to enclose, lay out and ornament such grounds and sell and convey lots therein. It may by ordinance regulate cemeteries and the disposal of dead bodies.

Subd. 10. **Markets.** The council shall have power to establish markets, provide public scales, and appoint a weighmaster. It may by ordinance regulate markets and the use of scales and restrain sales in streets.

Subd. 11. **Waterworks.** The council shall have power to provide and by ordinance regulate the use of wells, cisterns, reservoirs, waterworks and other means of water supply.

Subd. 12. **Harbors, docks.** The council shall have power to establish harbor and dock limits and by ordinance regulate the location, construction and use of piers, docks, wharves, and boat houses on navigable waters and fix rates of wharfage. The council may construct and maintain public docks and warehouses and by ordinance regulate their use.

Subd. 13. **Ferries.** The council shall have power to acquire and operate ferries across any river flowing through or by the city.

Subd. 14. **Tourist camps; parking facilities.** The council shall have power to acquire, improve and operate, and by ordinance regulate tourist camps and automobile parking facilities.

Subd. 15. **Music.** The council shall have power to provide free musical entertainment.

Subd. 16. **Hospitals.** The council shall have power to provide hospitals. The council of any city operating a municipal hospital may by ordinance establish a hospital board with such powers and duties of hospital management and operation as the council confers upon it; and the council may, by vote of all five members, abolish any board so established. The board shall consist of five members, each appointed by the mayor with the consent of the council for a term of five years. Terms of the first members shall be so arranged that the term of one member expires each year. Any vacancy shall be filled for the unexpired portion of the term in which it occurs. Any member may be removed by the mayor with the consent of the council for cause after a hearing.

Subd. 17. **Fire prevention.** The council shall have power to establish a fire department, appoint its officers and members and prescribe their duties, and provide fire apparatus. It shall have power to adopt such ordinances as are reasonable and expedient to prevent, control or extinguish fires.

Subd. 18. **Naming and numbering streets.** The council shall have power by ordinance to name or rename the streets and public places of the city and to

number or renumber the lots and blocks of the city, or any part thereof. It may make and record a consolidated plat of the city.

Subd. 19. **Transient dealers.** The council shall have power by ordinance to restrain or license and regulate auctioneers, transient merchants and dealers, hawkers, peddlers, solicitors, and canvassers.

Subd. 20. **Taxicabs; baggage wagons.** The council shall have power by ordinance to license and regulate baggage wagons, draymen, taxicabs, and automobile rental agencies and liveries.

Subd. 21. **Animals.** The council shall have power by ordinance to regulate the keeping of animals, to restrain their running at large, to authorize their impounding and sale or summary destruction, and to establish pounds, and to license and regulate riding academies.

Subd. 22. **Health.** The council shall have power by ordinance to prohibit or regulate slaughterhouses; to prevent the bringing, depositing, or leaving within the city of any unwholesome substance, to require the owners or occupants of lands to remove unwholesome substances therefrom and in default thereof to provide for its removal at the expense of the owner or occupant, which expense shall be a lien upon the property and may be collected as a special assessment; to provide for or regulate the disposal of sewage, garbage, and other refuse, to provide for the cleaning of, and removal of obstructions from, any waters in the city and to prevent their obstruction or pollution. The council may establish a board of health with all the powers of such boards under the general laws.

Subd. 23. **Nuisances.** The council shall have power by ordinance to define nuisances and provide for their prevention or abatement.

Subd. 24. **Noise and disorder.** The council shall have power by ordinance to regulate and prevent noise or other disorder.

Subd. 25. **Amusements.** The council shall have power by ordinance to prevent or license and regulate the exhibition of circuses, theatrical performances, amusements, or shows of any kind, and the keeping of billiard tables and bowling alleys, to prohibit gambling and gambling devices, and to license, regulate or prohibit devices commonly used for gambling purposes.

Subd. 26. **Vice.** The council shall have power by ordinance to restrain and punish vagrants, prostitutes, and persons guilty of lewd conduct.

Subd. 27. **Dances.** The council shall have power by ordinance to license and regulate the operation of public dance halls and the conduct of public dances.

Subd. 28. **Regulation of buildings.** The council shall have power by ordinance to regulate the construction of buildings.

Subd. 29. [Repealed, 1965 c 670 s 14]

Subd. 30. **Restaurants.** The council shall have power by ordinance to license and regulate restaurants and public eating houses.

Subd. 31. **Sewer and water connections.** The council shall have power by ordinance to require the owner of any property abutting on or adjacent to any street in which sewer and water mains have been laid to install a toilet in any dwelling or commercial establishment upon such property and connect it with the sewer and water mains and in default thereof to provide for the installation of such toilet and charging the cost against the property as a special assessment.

Subd. 32. **General welfare.** The council shall have power to provide for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by such ordinances not inconsistent with the constitution and laws of the United States or of this state as it shall deem expedient.

Subd. 33. **Advisory elections in certain cases.** When the council has sole authority to decide whether the city should join a special district or similar independent governmental body having taxing powers within the city, the council shall have authority to submit to the voters at a regular or special election the question of whether the municipality should join such a body. The results of the election on the question so submitted shall be advisory to the council only and shall have no binding effect upon its decision to join or withdraw from the special district or similar independent body.

[1949 c 119 s 29; 1955 c 270 s 1; 1961 c 230 s 2, 3; 1967 c 289 s 7; 1973 c 35 s 69; 1973 c 123 art 2 s 1 subd 2]

412.222 PUBLIC ACCOUNTANTS IN STATUTORY CITIES. The council of any city may employ public accountants on a monthly or yearly basis for the purpose of auditing, examining, and reporting upon the books and records of account of such city. For the purpose of this section public accountants are defined as any individuals who for a period of five years prior to the date of such employment have been actively engaged exclusively in the practice of public accounting. All expenditures for these purposes shall be within the statutory limits upon tax levies in such cities.

[1937 c 215 s 1-3; 1953 c 535 s 1; 1973 c 123 art 2 s 1 subd 2] (1186-5, 1186-6, 1186-7)

412.223 [Repealed, 1949 c 119 s 110]

412.231 PENALTIES. The council shall have the power to declare that the violation of any ordinance shall be a penal offense and to prescribe penalties therefor. No such penalty shall exceed a fine of \$300 or imprisonment in a city or county jail for a period of 90 days, or both, but in either case the costs of prosecution may be added.

[1949 c 119 s 30; 1969 c 735 s 1; 1973 c 123 art 2 s 1 subd 2]

412.224 [Repealed, 1949 c 119 s 110]

TAXATION, FINANCE

412.241 COUNCIL TO CONTROL FINANCES. The council shall have full authority over the financial affairs of the city, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public moneys.

[1949 c 119 s 31; 1973 c 123 art 2 s 1 subd 2]

412.225 [Repealed, 1949 c 119 s 110]

412.251 ANNUAL TAX LEVY. The council shall make its annual tax levy by resolution within the per capita limits established by statute. The amount of taxes levied for general city purposes shall not exceed eleven and two-thirds mills on each dollar of the assessed valuation of the property taxable in the city in cities having an assessed valuation of less than \$500,000 and 10 mills on each dollar in cities having an assessed valuation of more than \$500,000. In calculating such limit property used for homestead purposes shall be figured as provided in section 273.13, subdivision 7a. The following taxes may be levied in addition to the levies above authorized:

(1) A tax for the payment of principal and interest on outstanding obligations of the city as provided by sections 475.61, 475.73 and 475.74.

(2) A tax for the payment of judgments as authorized by section 465.14.

(3) A tax for the support and relief of the poor, as authorized by section 261.064.

(4) A maximum of one-third of one mill but not to exceed \$500 to provide musical entertainment to the public in public buildings or on public grounds.

(5) A tax for band purposes as authorized by section 449.09.

(6) A tax for the support of a municipal forest, as authorized by section 459.06.

(7) A tax for advertising purposes, as authorized by sections 465.56 and 465.57.

(8) A tax for forest fire protection in any city in a forest area, as authorized by section 88.04.

(9) A maximum of one and two-thirds mills for the utilities fund in any city whose utilities are under the jurisdiction of a public utilities commission. Such tax shall be levied for the purpose of paying the cost of the utility service or other services supplied to the city.

(10) A tax for the support of a public library, as authorized by section 134.07.

(11) A tax for firemen's relief association purposes as authorized by section 424.30, or other statutes.

(12) Such other special taxes as may be authorized by law.

Nothing in this section shall be construed to reduce levies of any municipality below the per capita levy spread in 1970.

[1949 c 119 s 32; 1951 c 104 s 1; 1973 c 123 art 2 s 1 subd 2; 1973 c 389 s 2; 1973 c 773 s 1]

412.226 [Repealed, 1949 c 119 s 110]

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412.261 TAX ANTICIPATION CERTIFICATES. At any time after the first day of the year following the making of an annual tax levy, the council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected. The total of all certificates issued against any fund for any year with interest thereon until maturity, together with all orders outstanding against the fund, shall not exceed the total current taxes for the fund uncollected at the time of issuance plus the cash on hand in the fund. If certificates are issued against the anticipated tax levy for any fund, any unpaid orders outstanding against the fund shall be redeemed from the proceeds of the certificates. All tax anticipation certificates shall be negotiable and shall be payable to the order of the payee and shall have a definite due date but may be payable on or before that date. No certificate shall be issued to become due and payable later than the 1st day of April of the year following the year of issuance. Certificates shall be sold for not less than par and accrued interest and shall bear interest at a rate not to exceed seven percent per annum, payable at maturity or at such earlier times as the council may determine. Each certificate shall state upon its face the fund for which the proceeds of the certificate shall be used, the total amount of the certificates so issued against the fund, and the total amount embraced in the tax levy for that fund. They shall otherwise be issued on such terms and conditions as the council may determine. The proceeds of the taxes assessed on account of the fund against which tax-anticipation certificates are issued and the full faith and credit of the city shall be irrevocably pledged for the redemption of the certificates in the order of issuance against the fund.

[1949 c 119 s 33; 1953 c 735 s 4; 1967 c 761 s 3; 1971 c 25 s 79; 1973 c 123 art 2 s 1 subd 2]

412.27 [Repealed, 1949 c 119 s 110]

412.271 DISBURSEMENTS. Subdivision 1. **Method.** No disbursement of city funds, including funds of any municipal liquor dispensary operated by the city, shall be made except by an order drawn by the mayor and clerk upon the treasurer. Except when issued for the payment of judgments, salaries and wages previously fixed by the council or by statute, principal and interest on obligations, rent and other fixed charges, the exact amount of which has been previously determined by contract authorized by the council, and except as otherwise provided in subdivisions 4 and 5, no order shall be issued until the claim to which it relates has been audited and allowed by the council.

Subd. 2. **Claims, payment.** Except for wages paid on an hourly or daily basis, where a claim for money due on goods or services furnished can be itemized in the ordinary course of business the person claiming payment, or his agent, shall prepare the claim in written items and sign a declaration that the claim is just and correct and that no part of it has been paid; but the council may in its discretion allow a claim prepared by the clerk prior to such declaration by the claimant, if the declaration is made by an endorsement on the order-check by which the claim is paid as provided below. Whenever work for which wages are to be paid on an hourly or daily basis is done by employees of the city, the clerk shall keep a payroll giving the name of each employee and the number of hours or days worked by him and the timekeeper, foreman, or other officers or employee having knowledge of the facts shall sign a declaration that the facts recited on the payroll are correct to the best of his information and belief; and when any claim for wages listed on a payroll is paid, the employee shall sign a declaration, which may be a part of the payroll, to the effect that he has received the wages and done the work for which wages have been paid. The declarations relating to claims or payrolls shall be in substantially the following form: "I declare under the penalties of perjury (here insert, if claimant: that this claim is just and correct and no part of it has been paid; if timekeeper, foreman, officer or employee having knowledge of the facts; that to the best of my information and belief the items of this payroll are correct; if employee who has been paid: that I have received the wages stated on this payroll opposite my name and have done the work for which the wages were paid.)

.....
Date

.....
Signed"

The effect of this declaration shall be the same as if subscribed and sworn to under oath.

Subd. 3. Endorsement on claims. The clerk shall endorse on each claim required to be audited by the council the word "disallowed" if such be the fact, or, "allowed in the sum of \$.....," if approved in whole or in part, specifying in the latter case the items rejected. Each order shall be so drawn that when signed by the treasurer in an appropriate space, it becomes a check on the city depository. Such order-check may have printed on its reverse side, above the space for endorsement thereof by the payee, the following statement: "The undersigned payee, in endorsing this order-check, declares that the same is received in payment of a just and correct claim against the city of, and that no part of such claim has heretofore been paid." When endorsed by the payee named in the order-check, such statement shall operate and shall be deemed sufficient as the required declaration of the claim. Any order presented to the treasurer and not paid for want of funds shall be so marked and paid in the order of its presentation with interest from the date of presentation at the rate of five percent or such lower rate as is fixed by the council prior to its issuance.

Subd. 4. Immediate payment of claims. When payment of a claim based on contract cannot be deferred until the next council meeting without loss to the city through forfeiture of discount privileges or otherwise, it may be made immediately if the itemized claim is endorsed for payment by at least a majority of all the members of the council. The claim shall be acted upon formally at the next council meeting in the same manner as if it had not been paid, and the earlier payment shall not affect the right of the city or any taxpayer to challenge the validity of the claim.

Subd. 5. Imprest funds. The council may establish one or more imprest funds for the payment in cash of any proper claim against the city which it is impractical to pay in any other manner, except that no claim for salary or personal expenses of an officer or employee shall be paid from such funds. The council shall appoint a custodian of each such fund and he shall be responsible for its safe-keeping and disbursement according to law. Money for the operation of such fund shall be secured by a transfer from the general fund. A claim itemizing all the various demands for which disbursements have been made from the fund shall be presented to the council at the next council meeting after the disbursements have been made. The council shall act upon it as in the case of other claims and an order shall be issued to the custodian for the amount allowed. The custodian shall use the proceeds of the order to replenish the fund; and if the council fails to approve the claim in full for any sufficient reason, he shall be personally responsible for the difference.

Subd. 6. Independent boards, powers. Subdivisions 4 and 5 shall apply to any independent board or commission of the city having authority to disburse funds without approval of the council. In such case references in these subdivisions to the council shall be considered to be to the board or commission and the money for the fund may be secured from any undedicated fund under its jurisdiction.

[1949 c 119 s 34; 1951 c 378 s 10; 1953 c 319 s 5; 1955 c 867 s 5; 1973 c 123 art 2 s 1 subd 2]

412.28 [Repealed, 1949 c 119 s 110]

412.281 ANNUAL FINANCIAL STATEMENT. When the treasurer shall file his annual report in the office of the clerk, as provided in section 412.141, the clerk shall prepare a detailed statement of the financial affairs of the city for the preceding year, showing all money received, with the sources, and respective amounts thereof; all disbursements for which orders have been drawn upon the treasurer, to whom and for what purposes; the amount of outstanding and unpaid orders; the amount of money remaining in the treasury; also all other items necessary to show accurately the financial position of the city. Such statement shall be prepared under the style and form prescribed by the state auditor. The clerk shall file the statement in his office for public inspection and present it to the council not later than February 15. He shall publish the statement not later than the last day of February in a newspaper published in the city. If there is no newspaper in the city, he may, with the approval of the council, publish this statement in the official newspaper published elsewhere. If the statement is not published, the clerk shall post copies in three of the most public places in the city. If council proceedings are published monthly or quarterly, showing to whom and for what purpose orders are drawn upon the treasurer, the annual

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financial statement required by this section may be summarized in such form as the state auditor may prescribe. One copy of the statement, together with an affidavit of publication or posting, shall be furnished promptly to the state auditor and shall be in lieu of the report required by section 3.976.

[1949 c 119 s 35; 1957 c 11 s 1; 1973 c 123 art 2 s 1 subd 2; 1973 c 492 s 7]

412.29 [Repealed, 1949 c 119 s 110]

412.291 FISCAL YEAR. The fiscal year in cities shall be the calendar year.

[1949 c 119 s 36; 1973 c 123 art 2 s 1 subd 2]

412.30 [Repealed, 1949 c 119 s 110]

412.301 FINANCING PURCHASE OF CERTAIN EQUIPMENT. The council may issue certificates of indebtedness within existing debt limits for the purpose of purchasing fire or police equipment or ambulance equipment or street construction or maintenance equipment. Such certificates shall be payable in not more than five years and shall be issued on such terms and in such manner as the council may determine. If the amount of the certificates to be issued to finance any such purchase exceeds one percent of the assessed valuation of the city, excluding money and credits, they shall not be issued for at least ten days after publication in the official newspaper of a council resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular municipal election is filed with the clerk, such certificates shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on such certificates as in the case of bonds.

[1949 c 119 s 37; 1957 c 90 s 1; 1969 c 333 s 3; 1973 c 123 art 2 s 1 subd 2]

412.31 [Repealed, 1949 c 119 s 110]

412.311 CONTRACTS. Except as provided in sections 471.87 to 471.89, no member of a council shall be directly or indirectly interested in any contract made by the council. Every contract for the purchase of merchandise, materials or equipment or for any kind of construction work undertaken by the city which requires an expenditure of \$2000 or more, except a contract for a local improvement made under section 429.041 or any other law having an inconsistent provision relating to contracts for local improvements, shall be let to the lowest responsible bidder, after notice has been published once in the official newspaper at least ten days in advance of the last day for the submission of bids.

[1949 c 119 s 38; 1951 c 378 s 11; 1951 c 379 s 5; 1953 c 735 s 5; 1957 c 429 s 1; 1965 c 175 s 1; 1973 c 123 art 2 s 1 subd 2]

NOTE: See section 471.345.

412.32 [Repealed, 1949 c 119 s 110]

UTILITIES

412.321 MUNICIPAL UTILITIES. Subdivision 1. **Authority to own and operate.** Any statutory city may own and operate any waterworks or gas, light, power, or heat plant for supplying its own needs for utility service or for supplying utility service to private consumers or both. It may construct and install all facilities reasonably needed for that purpose and may lease or purchase any existing utility properties so needed. It may, in lieu of providing for the local production of gas, electricity, water, or heat, purchase the same wholesale and re-sell it to local consumers. After any such utility has been acquired, the council, except as its powers have been limited through establishment of a public utilities commission in the city, shall make all necessary rules and regulations for the protection, maintenance, operation, extension, and improvement thereof and for the sale of its utility products.

Subd. 2. **Vote on establishment.** No gas, light, power, or heat utility shall be constructed, purchased, or leased until the proposal to do so has been submitted to the voters at a regular or special election and been approved by five-eighths of those voting on the proposition. Such proposal shall state whether the public utility is to be constructed, purchased, or leased and the estimated cost or the maximum amount to be expended for that purpose. This proposal and a proposal to issue bonds to raise money therefor may be submitted either separately or as a single question. The proposal for the acquisition of the public utility may include

authority for distribution only or for generation or production and distribution of a particular utility service or group of services. Approval of the voters shall be obtained under this section before a city purchasing gas or electricity wholesale and distributing it to consumers acquires facilities for the manufacture of gas or generation of electricity unless the voters have, within the two previous years, approved a proposal for both generation or production and distribution.

Subd. 3. **Extension bond limitations.** Any city may, except as otherwise restricted by this section, extend any such public utility outside its limits and furnish service to consumers in such area at such rates and upon such terms as the council or utility commission, if there is one, shall determine; but no such extension shall be made into any incorporated municipality without its consent. The sale of electricity, other than surplus, outside the limits of the city shall be subject to the restriction of Section 455.29.

Subd. 4. **Lease, sale, or abandonment.** Any such utility may be leased, sold, or its operation discontinued wholly or in part, by ordinance or resolution of the council, approved by two-thirds of the electors voting on the ordinance or resolution at a general or special election. If the utility is under the jurisdiction of a public utilities commission, the ordinance or resolution shall be concurred in by the public utilities commission. Such action may be taken with respect to any specific part of the utility, which part shall be named in the ordinance or resolution; but it shall not be necessary to submit the ordinance or resolution to the voters in such case if the action proposed will not result in depriving any customer inside the corporate limits of any type of municipal utility service available to him before the sale, lease or discontinuance of operation.

[1949 c 119 s 39-42; 1955 c 266 s 1; 1961 c 275 s 1; 1973 c 123 art 2 s 1 subd 2]

412.33 [Repealed, 1949 c 119 s 110]

412.331 **ESTABLISHMENT OF COMMISSION.** Any statutory city may by ordinance expressly accepting the provisions of sections 412.331 to 412.391 establish a public utilities commission with the powers and duties set out in those sections. Any water, light, power and building commission now in existence in any statutory city shall hereafter operate as a public utilities commission under sections 412.321 to 412.391.

[1949 c 119 s 43; 1973 c 123 art 2 s 1 subd 2]

412.34 [Repealed, 1949 c 119 s 110]

412.341 **COMMISSION; MEMBERSHIP, ORGANIZATION.** Subdivision 1. **Membership.** The commission shall consist of three members appointed by the council. No more than one member may be chosen from the council membership. Each member shall serve for a term of three years and until his successor is appointed and qualified except that of the members initially appointed in any city, one shall serve for a term of one year, one for a term of two years, and one for a term of three years. Residence shall not be a qualification for membership on the commission unless the council so provides. A vacancy shall be filled by the council for the unexpired term.

Subd. 2. **Rules; officers, salary.** The commission shall adopt rules for its own proceedings which shall provide among other things for at least one regular meeting by the commission each month. It shall annually choose a president from among its own members. It shall also appoint a secretary for an indefinite term. The secretary need not be a member of the commission and may be the city clerk. No member of the commission shall receive a salary except as fixed by the council. The secretary shall receive a salary fixed by the commission.

[1949 c 119 s 44; 1951 c 378 s 12; 1973 c 123 art 2 s 1 subd 2]

412.35 [Repealed, 1949 c 119 s 110]

412.351 **COMMISSION, JURISDICTION.** The council shall, in the ordinance establishing the commission, decide which of the following public utilities shall be within the commission's jurisdiction: (1) the city water system; (2) light and power system, including any system then in use or later acquired for the production and distribution of steam heat; (3) gas system; (4) sanitary or storm sewer system or both, including the city sewage disposal plant; (5) public buildings owned or leased by the city. As used subsequently in sections 412.351 to 412.391, the term "public utility" means any water, light and power, gas or sewer system, or

public buildings thus placed by ordinance under the jurisdiction of the public utilities commission. Any public utility not placed under the jurisdiction of the public utilities commission by the ordinance establishing the commission may be placed under the jurisdiction of the commission by an amendment to the original ordinance.

[1949 c 119 s 45; 1951 c 378 s 13; 1973 c 123 art 2 s 1 subd 2]

412.36 [Repealed, 1949 c 119 s 110]

412.361 SPECIFIC POWERS. Subdivision 1. The commission shall have power to extend and to modify or rebuild any public utility and to do anything it deems necessary for its proper and efficient operation; and it may enter into necessary contracts for these purposes. The provisions of section 412.311 relating to advertisement for bids shall apply to contracts of the public utilities commission.

Subd. 2. The commission shall have power to employ all necessary help for the management and operation of the public utility, prescribe duties of officers and employees and fix their compensation.

Subd. 3. The commission shall have power to buy all fuel and supplies, and it may purchase wholesale electric energy, steam heat, gas or water, as the case may be, for municipal distribution.

Subd. 4. The commission shall have power to fix rates and to adopt reasonable rules and regulations for utility service supplied by the municipally owned public utilities within its jurisdiction.

Subd. 5. The commission shall have power to enter into agreements with the council for payments by the city for utility service, compensation for the use by either the commission or the city of buildings, equipment, and personnel under the control of the other, payments to the city in lieu of taxes, transfers of surplus utility funds to the general fund, and also agreements on other subjects of relationships between the commission and the council.

[1949 c 119 s 46; 1953 c 735 s 6; 1973 c 123 art 2 s 1 subd 2]

412.371 PUBLIC UTILITY FUND AND DISBURSEMENTS. Subdivision 1. A separate fund or a separate account shall be established in the city treasury for each utility. Into this fund or account shall be paid all the receipts from the utility and from it shall be paid all disbursements attributable to the utility.

Subd. 2. The commission shall, in the same manner as the council under section 412.271, subdivision 1, and to the same extent, audit claims to be paid from the public utilities fund. The secretary of the commission shall draw his order upon the treasurer for the proper amount allowed by the commission. Upon counter signature by the president of the commission and presentation orders shall be paid by the treasurer.

[1949 c 119 s 47; 1973 c 123 art 2 s 1 subd 2]

412.381 REPORTS. The accounting officer of the commission shall make such monthly or annual statements of operation as the commission may require. A copy of each such report shall be filed in the office of the city clerk. An annual financial report shall be made and a copy filed with the clerk at the close of the calendar year and shall be included as part of the annual financial statement of the clerk in conformity with section 412.281. The cost of publication of any other official statement required by law to be published shall be paid from public utility funds.

[1949 c 119 s 48; 1973 c 123 art 2 s 1 subd 2]

412.391 ABOLITION OF COMMISSION. Subdivision 1. The public utilities commission of any statutory city may be abolished or its jurisdiction over any particular utility transferred to the council by following the procedure prescribed in this section.

Subd. 2. The council may, and upon petition therefor signed by voters equal in number to at least 15 percent of the electors voting at the last previous city election shall submit to the voters at a regular or special election the question of abolition of the public utilities commission. The question on the ballot shall be stated substantially as follows: "Shall the public utilities commission be abolished?"

Subd. 3. Upon like presentation of a petition for election on the question of transfer to the council of the jurisdiction of the commission over any one or more of the utilities previously placed under its jurisdiction, the council shall, in the same manner as under subdivision 2, submit the question to the voters. The question on

the ballot shall be stated substantially as follows: "Shall jurisdiction over (Name of public utility) be transferred from the public utilities commission to the council?"

Subd. 4. If a majority of the votes cast on a proposition submitted to the voters under subdivision 2 or 3 is in the affirmative, the provisions of sections 412.331 to 412.381 shall cease to apply to the city, in the case of an election under subdivision 2, or to the particular utility mentioned in the proposition submitted to the voters, in the case of an election under subdivision 3. Such change shall take place 30 days after the election.

[1949 c 119 s 49; 1953 c 735 s 7; 1973 c 123 art 2 s 1 subd 2]

412.401-412.481 [Repealed, 1953 c 398 s 13]

PARKS, PARK BOARDS

412.491 PARKS; PARKWAYS; RECREATIONAL FACILITIES. Any statutory city may establish, improve, ornament, maintain and manage parks, parkways, and recreational facilities and by ordinance protect and regulate their use.

[1949 c 119 s 61; 1973 c 123 art 2 s 1 subd 2]

412.501 PARK BOARD IN CERTAIN STATUTORY CITIES; CONTINUANCE OF EXISTING BOARD; OFFICERS; COMPENSATION. The council of any city of more than 1,000 population may by ordinance establish a park board and it may by ordinance adopted by unanimous vote of all members of the council abolish any board thus established. Any park board now in existence in any city shall hereafter operate as a park board under this chapter until abolished as provided in this section. The park board shall consist of three members appointed by the mayor with the consent of the council. One member of the original board shall serve for a term of one year, one for a term of two years, and one for a term of three years, and thereafter one shall be appointed each year for a term of three years. Vacancies shall be filled for the remainder of the original terms. Each member shall serve until his successor is appointed and qualifies. Members shall serve without compensation unless the council authorizes compensation which may not exceed \$100 per year for each member. Any member may be removed by the mayor with the consent of the council for cause after a hearing. The board shall choose one of its members as chairman and may select a secretary either from among its own members or otherwise and fix his compensation at not to exceed \$500 per year. The board may adopt and from time to time amend rules of procedure. It shall make quarterly reports of its activities to the council. The city attorney, if there is one, shall act as attorney for the board. An annual statement of its receipts and disbursements shall be filed with the clerk immediately after the close of the calendar year and shall be included as part of the annual financial statement of the clerk in conformity with section 412.281.

[1949 c 119 s 62; 1973 c 123 art 2 s 1 subd 2]

412.511 ACQUISITION AND CONTROL OF PARK PROPERTY. Either the park board or the council may acquire land for park purposes but the park board shall have full, absolute and exclusive control over all property set aside for park purposes.

[1949 c 119 s 63; 1973 c 123 art 2 s 1 subd 2]

412.521 POWERS OF BOARD. Subdivision 1. **Generally.** In order to carry out the general powers granted in section 412.511, the park board shall have the powers granted in the following subdivisions.

Subd. 2. **Employment.** The park board may employ necessary personnel and fix their compensation.

Subd. 3. **Construction; contracts.** The park board may construct roadways, paths, buildings, fountains, docks, boathouses, bathhouses, refreshment booths, amusement halls, pavilions, and other necessary structures and improvements in parks. The board may, with the consent of the council, make contracts and leases for the construction and operation of these facilities for terms not exceeding ten years. Every such contract and lease shall provide that the structure shall be operated for the public use and convenience, and that the charges shall be reasonable and it shall reserve to the park board power to prescribe reasonable rules and regulations from time to time for the conduct of the privilege.

Subd. 4. **Purchase of supplies; equipment, and services.** The park board may purchase all necessary materials, supplies, equipment, and services.

Subd. 5. Maintenance. The park board shall maintain, beautify and care for park property.

Subd. 6. Permit club to use navigable waters; limitations. The park board may lease to private clubs the privilege of occupying limited areas in the bed of any navigable lake adjacent to a park for clubhouse purposes for not more than ten years. No clubhouse shall be so located as to interfere with navigation. Every such lease shall reserve to the board full power and authority to make from time to time reasonable rules and regulations with respect to the use of the leased property. The lessee shall have power to retain the clubhouse for the use of its own members and guests.

Subd. 7. Entertainment. The park board may provide musical and free entertainment for the general public.

Subd. 8. Ice. The park board may regulate the taking of ice from any pond, lake or other body of water in any park.

Subd. 9. Additional powers. The park board may perform whatever other acts are reasonable, necessary and proper to carry out the powers granted in section 412.511.

[1949 c 119 s 64; 1973 c 123 art 2 s 1 subd 2]

412.531 PARK FUNDS. Subdivision 1. **Establishment, transfer; tax levies.** For the purpose of carrying out the powers of the park board there shall be established in the city treasury a special fund to be called a park fund. The council may transfer to the park fund such moneys as it shall consider necessary for park purposes. No later than September 1 of each year the park board shall present to the council in such detail as the council shall require its estimate of the financial needs of the board for the ensuing fiscal year. In any county having a population of more than 200,000 the council of any city, whether having a park board or not, may annually at the time of levying other taxes levy a special tax of not to exceed two-thirds of one mill for park purposes. The proceeds of this tax shall be placed in the park fund.

Subd. 2. Audit; withdrawals. The park board shall, in the same manner as the council under section 412.271, subdivision 1, and to the same extent, audit claims to be paid from the park fund. The secretary of the board shall draw his order upon the treasurer for the proper amount allowed by the board. Upon counter signature by the president of the commission and presentation, orders shall be paid by the treasurer.

[1949 c 119 s 65; 1951 c 378 s 14; 1971 c 462 s 1; 1973 c 123 art 2 s 1 subd 2; 1973 c 773 s 1]

OPTIONAL PLANS, STATUTORY CITY GOVERNMENT

412.541 OPTIONAL PLANS. Subdivision 1. **Optional Plan "A".** Any statutory city may provide for the appointment of its clerk and treasurer, or clerk-treasurer and the election of an additional councilman as hereinafter provided in this chapter. These departures from the standard form of government are referred to hereafter as Optional Plan A.

Subd. 2. Optional Plan "B". Any statutory city of more than 1,000 population may provide for the council-manager plan of government hereinafter provided in this chapter and referred to as Optional Plan B.

Subd. 3. [Repealed, 1967 c 289 s 18]

Subd. 4. Adoption or abandonment; standard form. Any one of such plans may be adopted or abandoned in a city by following the procedures set forth in section 412.551. Until the adoption of an optional plan, and except as provided in section 412.572, every city shall operate under the standard form of government earlier provided in this chapter under which the voters elect the treasurer, if there is one, and a council consisting of a mayor, three councilmen, and the clerk or clerk-treasurer.

[1949 c 119 s 66; 1965 c 417 s 6, 7; 1967 c 289 s 8, 9; 1973 c 123 art 2 s 1 subd 2]

412.551 ADOPTION OF SPECIFIC PLAN. Subdivision 1. **Submission to voters; one plan only; three year limitation on solicitation.** The council may, and upon petition therefor signed by voters equal in number to at least 15 per cent of the electors voting at the last previous city election, shall, submit to the voters at a regular or special election the question of adoption by the city of

Optional Plan A or B. Only one plan shall be so submitted at any one election, except that any such plan shall be submitted at the election on incorporation of a city if the incorporation petition so requests and the population of the proposed city, when the submission of Optional Plan B is proposed, is more than 1,000. No plan, except a Home Rule Charter submitted under chapter 410, shall be submitted in any city in which another optional plan is already in effect until the latter plan has been in effect for at least three years.

Subd. 2. Election; form of ballot. The proposals for the adoption of optional plans shall be stated on the ballot substantially as follows:

"Shall Optional Plan A, modifying the standard plan of city government by providing for the appointment by the council of the clerk and treasurer be adopted for the government of the city?"

"Shall Optional Plan B, providing for the council-manager form of city government, be adopted for the government of the city?"

If the city has combined the offices of clerk and treasurer, the word "clerk-treasurer" shall be substituted for the words "clerk and treasurer" in the question on the ballot on adoption of Optional Plan A. In any of these cases, the question shall be followed by the words, "Yes" and "No" with an appropriate square before each in which a voter may record his choice.

Subd. 3. Adoption by affirmative vote. If a majority of the votes cast on the question of adoption of Optional Plan A or B is in the affirmative, the plan so voted upon shall be adopted in the city and, once placed in effect as subsequently provided in this chapter, shall remain in effect until abandoned by a similar majority at subsequent election at which the question of abandonment or adoption of another optional plan is submitted.

Subd. 4. Three-year limitation; abandonment of plan. At any time more than three years after the adoption of an optional plan in a city, the question of abandonment of such plan may be submitted to the voters, in the same manner as provided in the foregoing sections for the submission of the question of adoption, except that in the statement of the question on the ballot, the word "abandoned" shall be substituted for the word "adopted." If a majority of the votes cast on the question is in favor of abandonment, the plan shall be abandoned; and, subject to the special provisions for transition back to the standard form of government contained in subsequent sections of this chapter, the standard plan of government shall be resumed in the city and all the provisions of law applicable to cities in which an optional plan is not in operation shall henceforth apply to the city.

Subd. 5. Report by city clerk and county auditor. Whenever the question of adoption or abandonment of an optional plan is submitted in any city and results in a majority vote in favor of the question submitted, the clerk shall promptly file with the county auditor and with the secretary of state a certificate stating the date of election, the question submitted, and the vote on the question.

[1949 c 119 s 67-71; 1965 c 417 s 8; 1967 c 289 s 10; 1973 c 123 art 2 s 1 subd 2]

412.561 APPLICABLE LAWS AND ORDINANCES; RIGHTS PRESERVED.

Subdivision 1. All laws of the state applicable to a city before the adoption of an optional plan and not inconsistent with the provisions relating to such plan shall apply to and govern the city after the adoption of any optional plan.

Subd. 2. Any ordinance or resolution in effect at the time of adoption of such plan shall continue in effect until duly amended or repealed, notwithstanding the adoption of such optional plan.

Subd. 3. No valid and legally subsisting right or liability and no judicial proceeding shall be affected by any such change of government, unless otherwise provided.

[1949 c 119 s 72; 1967 c 289 s 11; 1973 c 123 art 2 s 1 subd 2]

412.571 CONTINUANCE IN OFFICE; ELECTIONS. **Subdivision 1. Composition of council.** When an optional plan is first adopted in any city in which the standard plan of government is then in operation, the council shall continue as then constituted until the expiration of the term of the incumbent clerk. At the city election preceeding expiration of the term of the incumbent clerk, and at the election every third year thereafter, two councilmen shall be elected and at intervening elections, one councilman shall be elected, each for a three-year term. If the optional

plan is adopted at the annual election at which the office of clerk is to be filled, the candidate elected to that office at the election shall not assume his office of clerk in January, but shall become the fourth councilman unless he is appointed clerk under the optional plan, in which case the unfilled office of councilman shall be considered vacant.

Subd. 2. Incumbent clerk and treasurer serve their terms. When an optional plan is first adopted in any city in which the standard plan is then in operation, the incumbent clerk and treasurer, or clerk-treasurer, shall continue to serve until the expiration of their respective terms.

Subd. 3. Abandonment of plan; members of council. When an optional plan is abandoned and another optional plan is adopted in its place, incumbent members of the council shall continue to serve until the expiration of their respective terms, and the election schedule shall not be affected by the change.

Subd. 4. Abandonment; incumbent councilmen continue. When any optional plan is abandoned and the standard form of government is resumed, terms of then incumbent councilmen shall not be affected by the abandonment; but until the first business day of January of the next year in which the terms of two councilmen expire, the clerk shall not serve as a member of the council. At the election preceding that date only one councilman shall be elected. If the optional plan is abandoned at an annual election, the offices that would be filled at that election only in standard plan cities shall be filled conditionally at the election and the ballot shall indicate that the successful candidate for each such office will assume his office only if the optional plan is abandoned as a result of the election.

Subd. 5. Abandonment; incumbent clerk and treasurer continue. When any optional plan is abandoned and the standard form of government is resumed, the term of the incumbent clerk, or clerk-treasurer shall continue until the first business day of January in the next odd-numbered year and the term of the incumbent treasurer if any shall continue until the first business day of January in the next even-numbered year; and their successors shall be chosen at the annual election immediately preceding.

[1949 c 119 s 73; 1951 c 373 s 15-17; 1965 c 417 s 9, 10; 1967 c 289 s 12; 1973 c 123 art 2 s 1 subd 2]

OPTIONAL PLAN A

412.572 CONVERSION TO OPTIONAL PLAN "A". Subdivision 1. Assumption of Plan A. Except as otherwise provided by this section, on January 1, 1970, every statutory city operating under the standard plan of government shall assume the Plan A form of government as prescribed by chapter 412 in the same manner as if the change to Optional Plan A form of government had been approved by the voters in the manner prescribed by that chapter.

Subd. 2. Referendum on petition. Prior to January 1, 1970, the city council may, and upon petition therefor signed by voters equal in number to at least 15 per cent of the electors voting at the last previous city election, shall, submit to the voters at a regular or special election the question of adopting Optional Plan A. Subdivision 1 shall not be effective in any city where such an election is held unless a majority of the votes cast on the question in such an election are in the affirmative. If the majority of votes cast on the question are not in the affirmative, such a city shall remain a standard plan city. The question on assuming Optional Plan A shall be that provided by section 412.551, subdivision 2.

Subd. 3. Adoption and abandonment of Plan A after January 1, 1970. Nothing in this section shall prevent an Optional Plan A city from abandoning such plan in the manner provided in section 412.551. Nothing in this section shall prevent any standard plan city from adopting an optional plan after January 1, 1970.

[1967 c 289 s 17; 1973 c 123 art 2 s 1 subd 2]

412.581 OPTIONAL PLAN "A"; OFFICERS. In any city operating under Optional Plan A except a city having a larger council under section 412.023, subdivision 4, the council shall be composed of five members consisting, except during the initial period of its operation as provided in section 412.571, of the mayor and four councilmen and, except as provided in that section, the clerk and treasurer or clerk-treasurer shall be appointed by the council for indefinite terms.

[1949 c 119 s 74; 1965 c 417 s 11; 1967 c 289 s 13; 1974 c 337 s 11]

412.591 OPTIONAL PLAN "A"; DUTIES OF CLERK. Subdivision 1. The clerk shall perform all the duties imposed on the clerk in cities generally but he

shall not be a member of the council, except that when Optional Plan A is first adopted in any city, the incumbent clerk shall continue to be a member of the council until the expiration of his term. The duties of the treasurer if that office exists shall not be affected by adoption of Optional Plan A.

Subd. 2. Cities operating under Optional Plan A may, by an ordinance effective after the expiration of the term of the incumbent treasurer at the date of adoption of Optional Plan A, combine the offices of clerk and treasurer in the office of clerk-treasurer and thereafter the duties of the treasurer as prescribed by this chapter shall be performed by the clerk-treasurer. The offices of clerk and treasurer may be re-established by ordinance. If the offices of clerk and treasurer are combined as provided by this section, the council shall provide for an annual audit of the city's financial affairs by the state auditor or a public accountant in accordance with minimum procedures prescribed by the state auditor.

[1949 c 119 s 75; 1961 c 230 s 4; 1965 c 417 s 12; 1973 c 123 art 2 s 1 subd 2; 1973 c 492 s 14]

OPTIONAL PLAN B

412.601 APPLICATIONS OF SECTIONS 412.601 TO 412.751. Sections 412.601 to 412.751 shall apply only to statutory cities operating under Optional Plan B.

[1949 c 119 s 76; 1973 c 123 art 2 s 1 subd 2]

412.611 COUNCIL-MANAGER PLAN. The form of government provided in Optional Plan B shall be known as the council-manager plan. The council shall exercise the legislative power of the city and determine all matters of policy. The city manager shall be the head of the administrative branch of the government and shall be responsible to the council for the proper administration of all affairs relating to the city.

[1949 c 119 s 77; 1973 c 123 art 2 s 1 subd 2]

412.621 BOARDS AND COMMISSIONS. Subdivision 1. **Limitation as to creation of boards; powers of council.** In any such city there shall be no board of health, library board, park board, public utilities commission, or any other administrative board or commission, except for the administration of a function jointly with another political subdivision. The council shall itself be and perform the duties and exercise the powers of the board of health and shall govern and administer the library, parks, and utilities as fully as other municipal functions for the administration of which no independent boards are authorized by statute for cities generally. The council may, however, create boards or commissions to advise the council with respect to any municipal function or activity or to investigate any subject of interest to the city.

Subd. 2. **City manager to succeed boards; civil service commission excepted.** Any such boards and commissions in existence in any city when Optional Plan B is adopted shall continue to operate in all respects as formerly until the qualification of the first city manager, at which time they shall cease to exist and their powers shall be vested in the city council. Any existing civil service commission shall not be affected by the change. After abandonment of the plan in any such city and the establishment of the standard plan or Optional Plan A, any board or commission authorized by statute in cities generally may be established in the same manner as in other cities.

[1949 c 119 s 78; 1973 c 123 art 2 s 1 subd 2]

412.631 COMPOSITION OF COUNCIL. In any city operating under Optional Plan B, the council shall, except as provided in sections 412.023, subdivision 4, and 412.571, be composed of a mayor and four councilmen.

[1949 c 119 s 79; 1967 c 289 s 14; 1974 c 337 s 12]

412.641 MANAGER. Subdivision 1. The city manager shall be chosen by the council solely on the basis of his training, experience, and administrative qualifications and need not be a resident of the city at the time of his appointment. The manager shall be appointed for an indefinite period and he may be removed by the council at any time, but after he has served as manager for one year he may demand written charges and a public hearing on the charges before the council prior to the date when his final removal takes effect. Pending such hearing and removal the council may suspend him from office. The council may designate some properly qualified person to perform the duties of the manager during his absence or disability.

Subd. 2. As soon as practicable after the adoption of Optional Plan B in any city, the council shall appoint the first city manager under subdivision 1.

[1949 c 119 s 80; 1973 c 123 art 2 s 1 subd 2]

412.651 STATUTORY CITY MANAGER; POWERS AND DUTIES. Subdivision 1. **Generally.** The city manager shall have the powers and duties set forth in the following subdivisions.

Subd. 2. **Enforcement.** He shall see that statutes relating to the city and the laws, ordinances and resolutions of the city are enforced.

Subd. 3. **Appointment of personnel upon council approval.** He shall appoint upon the basis of merit and fitness and subject to any applicable civil service provisions and, except as herein provided, remove the clerk, all heads of departments, and all subordinate officers and employees; but the appointment and removal of the attorney shall be subject to the approval of the council.

Subd. 4. **Control.** He shall exercise control over all departments and divisions of the administration created under Optional Plan B or which may be created by the council.

Subd. 5. **Attendance at council meetings.** He shall attend all meetings of the council with the right to take part in the discussions but not to vote; but the council may in its discretion exclude him from any meetings at which his removal is considered.

Subd. 6. **Recommend ordinances and resolutions.** He shall recommend to the council for adoption such measures as he may deem necessary for the welfare of the people and the efficient administration of the affairs of the city.

Subd. 7. **Advise; annual budget.** He shall keep the council fully advised as to the financial condition and needs of the city and he shall prepare and submit to the council the annual budget.

Subd. 8. **Code of administrative procedure.** He shall, when directed to do so by the council, prepare and submit to the council for adoption an administrative code incorporating the details of administrative procedure, and from time to time he shall suggest amendments to such code.

Subd. 9. **Additional duties.** He shall perform such other duties as may be prescribed by the statutes relating to Optional Plan B cities or required of him by ordinance or resolutions adopted by the council.

[1949 c 119 s 81; 1973 c 123 art 2 s 1 subd 2]

412.661 LIMITATION OF POWERS OF MEMBERS OF COUNCIL. Neither the council nor any of its members shall dictate the appointment of any person to office or employment by the manager, or in any manner interfere with the manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service; but this shall not be construed to prohibit the council from passing ordinances for establishing a merit system governing city employment. Except for the purpose of inquiry, the council and its members shall deal with and control the administrative service solely through the manager, and neither the council nor any of its members shall give orders to any subordinate of the manager, either publicly or privately.

[1949 c 119 s 82; 1973 c 123 art 2 s 1 subd 2]

412.671 CREATION OF DEPARTMENTS; DIVISIONS AND BUREAUS. The council may create such departments, divisions, and bureaus for the administration of the affairs of the city as may seem necessary, and from time to time may alter their powers and organization. It may, in conjunction with the manager, prepare a complete administrative code for the city and enact it in the form of an ordinance, which may be amended from time to time by ordinance.

[1949 c 119 s 83; 1973 c 123 art 2 s 1 subd 2]

412.681 CLERK AND TREASURER SUBORDINATE TO MANAGER; OFFICES COMBINED OR ABOLISHED. There shall be a clerk, a treasurer, and such other officers subordinate to the manager as the council may create by ordinance. The clerk shall be subject to the direction of the manager and shall have such duties in connection with the keeping of the public records, the custody and disbursement of the public funds, and the general administration of the city's affairs as shall be ordained by the council. He may be designated to act as secretary of the council. The treasurer shall have the powers and perform the duties imposed upon treasurers under the laws relating to cities generally. The council may by ordinance abolish offices which have been created by ordinance and it may combine the duties

of various offices as it may deem fit. The council may provide for the performance by the manager of the duties of any officer except the treasurer.

[1949 c 119 s 84; 1955 c 867 s 6; 1973 c 123 art 2 s 1 subd 2]

412.691 MANAGER THE CHIEF PURCHASING AGENT; LIMITATION; AUDIT AND APPROVAL. The manager shall be the chief purchasing agent of the city. All purchases for the city and all contracts shall be made or let by the manager when the amount of the purchase or contract does not exceed \$1,000; but all claims resulting therefrom shall be audited and approved by the council as provided in section 412.271. All other purchases shall be made and all other contracts let by the council after the recommendation of the manager has first been obtained. All contracts, bonds and instruments of every kind to which the city is a party shall be signed by the mayor and the manager on behalf of the city and shall be executed in the name of the city.

[1949 c 119 s 85; 1959 c 526 s 1; 1973 c 123 art 2 s 1 subd 2]

412.701 BUDGETING. The manager shall prepare the estimates for the annual budget. The budget shall be by funds and shall include all the funds of the city, except the funds made up of proceeds of bond issues, utility funds, and special assessment funds, and may include any of such funds at the discretion of the council. The estimates of expenditures for each fund budgeted shall be arranged for each department or division of the city under the following heads:

(1) ordinary expenses (for operation, maintenance, and repairs); (2) payment of principal and interest on bonds and other fixed charges; (3) capital outlays (for new construction, new equipment, and all improvements of a lasting character). Ordinary expenses shall be sub-divided into: (a) salaries and wages, with a list of all salaried offices and positions, including the salary allowance and the number of persons holding each; (b) other expenses, with sufficient detail to be readily understood. All increases and decreases shall be clearly shown. In parallel columns shall be added the amounts granted and the amounts expended under similar heads for the past two completed fiscal years and the current fiscal year, actual to date and estimated for the balance of the year. In addition to the estimates of expenditures, the budget shall include for each budgeted fund a statement of the revenues which have accrued for the past two completed fiscal years with the amount collected and the uncollected balances together with the same information, based in so far as necessary on estimates, for the current fiscal year, and an estimate of the revenues for the ensuing fiscal year. The statement of revenues for each year shall specify the following items: sums derived from (a) taxation, (b) fees, (c) fines, (d) interest, (e) miscellaneous, not included in the foregoing, (f) sales and rentals, (g) earnings of public utilities and other public service enterprises, (h) special assessments, and (i) sales of bonds and other obligations. Such estimates shall be printed or type-written and there shall be sufficient copies for each member of the council, for the manager, for the clerk, and three, at least, to be posted in public places in the city. The estimates shall be submitted to the council at its first regular monthly meeting in September and shall be made public. The manager may submit with the estimates such explanatory statement or statements as he may deem necessary, and during the first three years of operation under Optional Plan B he shall be authorized to interpret the requirements of this section as requiring only such comparisons of the city's finances with those of the previous government of the city as may be feasible and pertinent.

[1949 c 119 s 86; 1973 c 123 art 2 s 1 subd 2]

412.711 CONSIDERATION OF BUDGET; TAX LEVY. The budget shall be the principal item of business at the first regular monthly meeting of the council in September and the council shall hold adjourned meetings from time to time until all the estimates have been considered. The meetings shall be so conducted as to give interested citizens a reasonable opportunity to be heard. The budget estimates shall be read in full and the manager shall explain the various items thereof as fully as may be deemed necessary by the council. The annual budget finally agreed upon shall set forth in detail the complete financial plan of the city for the ensuing fiscal year for the funds budgeted and shall be signed by the majority of the council when adopted. It shall indicate the sums to be raised and from what sources and the sums to be spent and for what purposes according to the plan indicated in section 412.701. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The council shall adopt the

budget not later than the first day of October by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund. The tax levy resolution shall be certified to the county auditor in accordance with law not later than October 10. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

[1949 c 119 s 87; 1953 c 735 s 8; 1973 c 123 art 2 s 1 subd 2]

412.721 BUDGET PROVISIONS, ENFORCEMENT; BUDGET ALLOWANCE, PENALTY FOR EXCEEDING. It shall be the duty of the manager to enforce strictly the provisions of the budget. He shall not approve any order upon the treasurer for any expenditure unless an appropriation has been made in the budget resolution, nor for any expenditure covered by the budget resolution unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and incumbrances. No officer or employee of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution or for any amount in excess of the amount therein authorized shall be a personal obligation upon the person incurring the expenditure.

[1949 c 119 s 88; 1953 c 735 s 9; 1973 c 123 art 2 s 1 subd 2]

412.731 MODIFICATION OF BUDGET. After the budget resolution has been adopted the council shall have no power to increase the amounts fixed in the budget resolution, by the insertion of new items or otherwise, beyond the estimated revenues unless the actual receipts exceed the estimates and then not beyond the actual receipts. The council may at any time by resolution approved by a four fifths vote of all the members of the council reduce the sums appropriated for any purpose by the budget resolution or authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

[1949 c 119 s 89; 1953 c 735 s 10; 1974 c 337 s 13]

412.741 REGULATIONS RELATING TO DISBURSEMENT OF FUNDS. The provisions of section 412.271 shall apply to cities operating under Optional Plan B except that orders shall be signed by the mayor and manager and no order shall be marked *not paid for want of funds* and except as otherwise provided in this section. Every resolution or motion authorizing a disbursement and every order shall specify the purpose for which the disbursement is made and indicate the fund from which it is to be paid. No order shall be issued until there is money to the credit of the fund from which it is to be paid sufficient to pay the order together with all then outstanding encumbrances upon the fund. The manager shall specify on each contract requiring the payment of money by the city the particular fund out of which the same is to be paid, and shall cause a suitable notation to that effect to be made on each such contract. The council may by ordinance make further regulations for the safekeeping and disbursement of the funds of the city.

[1949 c 119 s 90; 1973 c 123 art 2 s 1 subd 2]

412.751 EMERGENCY DEBT CERTIFICATES. If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city or if any calamity or any other public emergency should subject the city to the necessity of making extraordinary expenditures, the council may authorize the sale by the city treasurer of emergency debt certificates to run not to exceed two years and to bear interest at not more than seven percent per year. A tax sufficient to redeem all such certificates at maturity shall be levied as part of the budget for the following year. The authorization of an issue of such emergency debt certificates shall be given by an ordinance approved by all the members of the council.

[1949 c 119 s 91; 1974 c 337 s 14]

412.761 [Repealed, 1967 c 289 s 18]

412.771 [Repealed, 1967 c 289 s 18]

412.781 [Repealed, 1967 c 289 s 18]

412.791 [Repealed, 1967 c 289 s 18]

- 412.801 [Repealed, 1967 c 289 s 18]
 412.811 [Repealed, 1967 c 289 s 18]
 412.821 [Repealed, 1967 c 289 s 18]

GENERAL AND MISCELLANEOUS

412.831 OFFICIAL NEWSPAPER. The council shall, annually at its first meeting of the year, designate a legal newspaper of general circulation in the city as its official newspaper, in which shall be published such ordinances and other matters as are required by law to be so published and such other matters as the council may deem it advisable and in the public interest to have published in this manner.

[1949 c 119 s 100; 1973 c 123 art 2 s 1 subd 2]

412.841 DESTRUCTION OF CITY RECORDS. Subdivision 1. The clerk with the approval of the council may destroy the following records:

- (1) Claims and vouchers paid by the city more than ten years prior to such destruction;
- (2) Receipts, miscellaneous papers, and correspondence bearing dates more than ten years prior to destruction.

Subd. 2. The treasurer, with the written approval of the council, may destroy the following records:

- (1) City orders paid more than ten years prior to destruction;
- (2) Bonds, bond coupons, and other evidences of indebtedness which have been printed but have not been used;
- (3) After the expiration of one year from the date of replacement, temporary bonds, bond coupons, and other temporary evidences of indebtedness which have been replaced by definitive bonds;
- (4) Bonds, bond coupons, and other evidences of indebtedness which have been paid and cancelled or otherwise retired more than six years prior to destruction.

Subd. 3. The approval of the council shall be in the form of a resolution listing the classes of records or the bonds, bond coupons, or other evidences of indebtedness authorized to be destroyed and the range of dates of the records in each class. Bonds and other evidences of indebtedness shall be listed by serial number and amount. Bond coupons shall be listed by setting forth the serial numbers of the bonds from which the coupons have been clipped. A copy of the resolution consenting to the destruction of such records may be sent to the Minnesota state archives commission. If no petition or application requesting the records under Section 138.17 is received by the city within 30 days after mailing of the resolution, the records shall be destroyed by the clerk or treasurer, as the case may be.

[1949 c 119 s 101; 1953 c 735 s 11; 1961 c 494 s 1, 2; 1965 c 45 s 57; 1973 c 123 art 2 s 1 subd 2]

412.851 VACATION OF STREETS. The council may by resolution vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the council. No such vacation shall be made unless it appears in the interest of the public to do so after a hearing preceded by two weeks' published and posted notice. After a resolution of vacation is adopted, the clerk shall prepare a notice of completion of the proceedings which shall contain the name of the city, an identification of the vacation, a statement of the time of completion thereof and a description of the real estate and lands affected thereby. The notice shall be presented to the county auditor who shall enter the same in his transfer records and note upon the instrument, over his official signature, the words "entered in the transfer record." The notice shall then be filed with the register of deeds. Any failure to file the notice shall not invalidate any such vacation proceedings.

[1949 c 119 s 102; 1953 c 735 s 12; 1957 c 383 s 1; 1967 c 289 s 15; 1969 c 9 s 85; 1973 c 123 art 2 s 1 subd 2; 1973 c 494 s 11]

412.861 PROSECUTIONS, VIOLATIONS OF ORDINANCES. Subdivision 1. **Complaint.** All prosecutions for violation of ordinances shall be brought in the name of the city upon complaint and warrant as in other criminal cases. If the accused be arrested without a warrant, a written complaint shall thereafter be made, to which he shall be required to plead, and a warrant shall issue thereon. The warrant and all other process in such cases shall be directed for service to any

police officer, marshal, process officer, court officer, if there is a municipal court in the city, or constable of any town or city in the county, to the sheriff of the county, or all of them.

Subd. 2. Form and contents of complaint. It shall be a sufficient pleading of the ordinances or resolutions of the city to refer to them by section and number or chapter. They shall have the effect of general laws within the city and need not be given in evidence upon the trial of civil or criminal actions. Judgment shall be given, if for the plaintiff, for the amount of fine, penalty, or forfeiture imposed, with costs; and the judgment shall direct that, in default of payment, the defendant be committed to the county jail for such time, not exceeding 90 days, as the court shall see fit. The commitment shall state the amount of judgment, the costs, and the period of commitment. Every person so committed shall be received by the keeper of the jail and kept, at the expense of the county, until lawfully discharged. The committing court may release the defendant at any time upon payment of the fine and costs.

Subd. 3. Appeal to district court. Appeals may be taken to the district court in the same manner as from judgments of justices of the peace in civil actions; but, if taken by the defendant, he shall give bond to the city, to be approved by the court, conditioned that, if the judgment be affirmed in whole or in part, he will pay the judgment, and all costs and damages awarded against him on the appeal. In case of affirmance, execution may issue against both defendant and his sureties. Upon perfection of the appeal, defendant shall be discharged from custody.

[1949 c 119 s 103; 1953 c 735 s 13; 1955 c 867 s 7; 1973 c 34 s 5; 1973 c 123 art 2 s 1 subd 2]

412.871 FINES AND PENALTIES. All fines, forfeitures, and penalties recovered for the violation of any statute or ordinance to which the city is entitled by law shall be paid into the city treasury. Every court or officer receiving such moneys, shall make return thereof under oath in accordance with law, and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the city clerk.

[1949 c 119 s 104; 1967 c 62 s 2; 1974 c 337 s 15]

412.881 PRESIDENT AND RECORDER DEFINED. Whenever the term "president" or "president of the council" is used in a statute applying to any statutory city, the term means the mayor of the statutory city and the term "recorder" as so used means the city clerk.

[1949 c 119 s 105; 1973 c 123 art 2 s 1 subd 2]

412.891 INCONSISTENCY WITH CASH BASIS LAW. Any provision in this chapter inconsistent with any provision of Laws 1929, Chapter 208, Laws 1933, Chapter 211, Laws 1937, Chapter 356, or Laws 1943, Chapter 526, shall not apply to any city to which any such act applies.

[1949 c 119 s 106; 1973 c 123 art 2 s 1 subd 2]

412.901 APPLICATION. This chapter shall apply to every statutory city, irrespective of the law under which it was originally incorporated.

[1949 c 119 s 109; 1973 c 123 art 2 s 1 subd 2]

412.911 [Expired]

412.921 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]