

CHAPTER 212

TOWN, VILLAGE, AND CERTAIN CITY ELECTIONS

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TOWN MEETINGS

212.01 FIRST TOWN MEETING. The first town meeting in each new town shall be held within 20 days after it is organized, at a time and place to be designated by the county board, and the county auditor shall cause ten days' posted notice thereof to be given in each such town. The voters present at such meeting, between 9:00 a. m. and 10:00 a. m., shall choose one of their number as moderator, two others as judges of election, and one as clerk who shall severally take and subscribe the oath required of judges and clerks of a general election, which may be administered to the judges and clerk by the moderator, and to the moderator by either of the judges. They shall thereupon conduct the proceedings of such meeting, and the voters shall possess the same powers as at other town meetings.

[1939 c. 345 part 11 c. 1 s. 1] (601-11(1))

212.02 ANNUAL TOWN MEETING; DATE OF. There shall be an annual town meeting held in each town on the second Tuesday of March at the place of holding the last town meeting, or at such other place in the town, or in a city or village within or adjoining the same, designated by the annual town meeting. The clerk shall give ten days' published notice in a qualified newspaper having general circulation within the town, or by posted notice, or both, as the voters at the annual town meeting may direct, specifying the time and place, but if the town meeting shall fail to direct the manner of giving such notice, the town board shall direct the manner of giving notice and all town officers required by law to be elected shall be chosen thereat, and such other business done as is by law required or permitted.

[1939 c. 345 part 11 c. 1 s. 2] (601-11(1)a)

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212.03 SPECIAL TOWN MEETINGS TO FILL VACANCIES. Special town meetings may be held for the purpose of electing officers to fill vacancies or transacting any other lawful business whenever the supervisors, town clerk, and justices of the peace, or any two of them, together with at least 12 other freeholders of the town, file in the office of the town clerk a written statement setting forth the reasons and necessity for such meeting and the particular business to be transacted thereat and that the interests of the town require that such meeting be held.

[1939 c. 345 part 11 c. 1 s. 3] (601-11(1)b)

212.04 NOTICES; PUBLICATION. When such statement is so filed, the clerk shall record the same, and cause ten days' posted notice thereof to be given, specifying the purpose for which it is to be held, and if a newspaper is published in the town, cause one week's published notice of such meeting to be given. If vacancies in office are to be filled, the notice shall specify in what offices they exist, how they occurred, who was the last incumbent, and when the legal term of such office expires.

[1939 c. 345 part 11 c. 1 s. 4] (601-11(1)c)

212.05 HOW MEETING ORGANIZED. The voters present any time between 9:00 a. m. and 10:00 a. m. on the day of the annual or any special town meeting shall be called to order by the town clerk, if present; if not, the voters present may elect a chairman by acclamation. They shall then in the same manner choose a moderator of such town meeting. The moderator may be paid \$2.50 for such work, or such amount as may be allowed by the town board.

[1939 c. 345 part 11 c. 1 s. 5] (601-11(1)d)

212.06 CLERK OF MEETING. The town clerk shall be clerk of the town meeting, and keep full minutes of its proceedings, in which he shall enter at length every order or direction and all rules and regulations made by the meeting. If the town clerk is absent, the voters present shall elect a clerk of the meeting. The minutes of such meeting shall be subscribed by the clerk of the meeting and judges, and filed in the office of the town clerk within two days after the meeting.

[1939 c. 345 part 11 c. 1 s. 6] (601-11(1)e)

212.07 ORDER OF BUSINESS. At the opening of every town meeting the moderator shall state the business to be transacted, which in case of a special meeting shall be limited to the business specified in the notice of such meeting, and the order in which it will be entertained, and no proposition to vote a tax shall be acted on out of the order of business stated by the moderator; and no proposition to reconsider any vote shall be entertained at any town meeting unless made within one half hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the election register at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting, and the moderator shall ascertain and declare the result on each question.

[1939 c. 345 part 11 c. 1 s. 7] (601-11(1)f)

212.08 WHO MAY VOTE. Every person qualified to vote at a general election may vote at any town meeting in the town where he resides. If a voter is challenged, the judges shall proceed thereupon as in the case of challenges at a general election, adapting the oath to the circumstances of the case.

[1939 c. 345 part 11 c. 1 s. 8] (601-11(1)g)

212.09 JUDGES OF ELECTION. The supervisors of each town shall be the judges of election at the town meetings, but, if there be a vacancy in the board, or any supervisor is absent, the electors may choose judges to fill their places from the qualified voters of the town.

[1939 c. 345 part 11 c. 1 s. 9] (601-11(1)h)

212.10 HOURS POLLS OPEN. The polls shall be opened anytime between 9:00 a. m. and 1:00 p. m., and shall close at 5:00 p. m. The town board may by resolution at least 30 days before the election fix a later hour for closing the polls, which shall not be later than 8:00 p. m.

[1939 c. 345 part 11 c. 1 s. 10; 1943 c. 562 §. 1] (601-11(1)i)

212.11 OFFICERS TO BE ELECTED BY BALLOT; EXCEPTIONS. The supervisors, treasurer, town clerk, assessor, justices of the peace, and constables in each town shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen by yeas and nays, or by division, as the electors determine.

[1939 c. 345 part 11 c. 1 s. 11] (601-11(1)j)

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212.12 ELECTION REGISTERS. When an election is by ballot an election register shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received. The ballots shall be handed to one of the judges and by him forthwith deposited in a box provided for that purpose.

[1939 c. 345 part 11 c. 1 s. 12] (601-11(1)k)

212.13 JUDGES TO CANVASS VOTES. When an election by ballot is closed, the judges shall publicly canvass the votes, which canvass, when begun, shall continue without adjournment or interruption until completed.

[1939 c. 345 part 11 c. 1 s. 13] (601-11(1)l)

212.14 MANNER OF CANVASSING. The canvass shall be conducted by taking a ballot at a time from the ballot box, and counting until the number of ballots is equal to the number of names on the election register, and, if there are any left in the box, they shall be immediately destroyed. The person having the highest number of votes for any office shall be declared elected, but if two or more persons have an equal and the highest number of votes for any office, the judges shall at once publicly determine by lot which of such persons shall be declared elected. If, on opening the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy them immediately.

[1939 c. 345 part 11 c. 1 s. 14] (601-11(1)m)

212.15 CLERK TO RECORD RESULTS. When the canvass is completed, a statement of the result shall be entered at length by the clerk of the meeting in the minutes of its proceedings, and publicly read by him to the meeting. Such reading shall be notice of the result of the election to every person whose name is entered on the election register as a voter.

[1939 c. 345 part 11 c. 1 s. 15] (601-11(1)n)

212.16 CLERK TO REPORT TO COUNTY-AUDITOR. Immediately after the annual town meeting each town clerk shall report to the auditor of his county the name and post-office address of each town officer who was elected and for what term elected.

[1939 c. 345 part 11 c. 1 s. 16] (601-11(1)o)

212.17 NOTICE TO SPECIFY EACH PROPOSITION TO BE VOTED ON. Every proposition to be voted upon by ballot at a town meeting, other than the election of officers, shall be specified in the notice of such meeting. The ballots cast upon such proposition shall be deposited in a separate box, and a separate election register kept of the electors voting thereon, and shall be counted and canvassed, and the result ascertained, declared, and certified, in like manner as in the case of ballots cast for officers.

[1939 c. 345 part 11 c. 1 s. 17] (601-11(1)p)

212.18 MEETINGS MAY BE ADJOURNED. Any town meeting may be adjourned to any other day, and from time to time, for the purpose of transacting any business of the town except the election of officers.

[1939 c. 345 part 11 c. 1 s. 18] (601-11(1)q)

212.19 FAILURE TO ELECT OFFICERS. When any town fails to organize or to elect town officers at the time fixed by law, 12 freeholders thereof may call a town meeting for such purpose by giving ten days' posted notice thereof, setting forth its time, place, and object. If no such notice is given in such case within 30 days after the time for holding annual town meetings, the county board, on the affidavit of any freeholder of such town, filed with the county auditor, setting forth the facts, shall appoint officers for such town, who shall have all the powers of officers duly elected, and hold their offices until their successors qualify.

[1939 c. 345 part 11 c. 1 s. 19] (601-11(1)r)

212.20 OFFICERS ELECTED AT ANNUAL MEETING. There shall be elected at the annual town meeting in each town three supervisors as hereinafter provided. The supervisors now in office shall hold their office for the full term for which they were elected according to the provisions of the laws of 1903. One supervisor shall be elected in the year 1906 for a term of three years, and at each annual town meeting thereafter there shall be one supervisor elected for a term of three years to fill the place of the one whose term expires at that time. After the expiration of the term for which any supervisor has been elected chairman under the provisions of the amended act of 1903, the supervisors shall, at their first meeting after the annual

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town meeting thereafter elect by ballot one of their number chairman for a term of one year, and each year thereafter shall in the same manner elect their chairman for one year, but a vacancy may be filled by an election for the unexpired term at any meeting of the supervisors. There shall also be elected at the annual town meeting one town clerk, one treasurer, one assessor and one overseer of highways for each road district in the town, as provided by section 163.07, two justices of the peace and two constables, each to hold office for a term of two years and until their successors are elected and qualified, except a vacancy may be filled by election at any annual town meeting. Where a new town has been or may be organized and supervisors have been or may be elected for such town at a town meeting prior to the annual town meeting, such supervisors shall serve only until the next annual town meeting at which meeting three supervisors shall be elected, one for three years, one for two years, and one for one year, so that one shall go out each year. The number of years for which each is elected shall be indicated on the ballot, and at each annual town meeting thereafter one supervisor shall be elected for three years to fill the place of the one whose term expires at that time. Town assessors in all towns, except those operating under special laws, shall be elected in odd-numbered years and hold their office for two years and until their successors qualify. All terms, except as herein otherwise provided, shall commence on the first secular day of April following the election.

[1939 c. 345 part 11 c. 1 s. 20] (601-11(1)rr)

212.21 CERTAIN TOWNS MAY BE DIVIDED INTO DISTRICTS. The town board in any town in this state having within the boundaries thereof one or more villages which are a part of such town for election and assessment purposes, and having within the boundaries thereof an unincorporated contiguous platted area, in which platted area reside not less than 60 legal voters, may, by resolution adopted 30 days in advance of the annual town meeting, provide for the division of such town into not more than three districts for the purpose of electing town officers; and, in such resolution, shall designate a polling place for each district established and fix the hours of voting for candidates for town officers at such election; and shall appoint two judges to serve in each district as an election board. Such division shall be only for the purpose of electing candidates for town offices and shall not change the manner of transacting other business at town meetings. The notice of the annual meeting in such case shall describe the different districts and the polling places in each and shall state that candidates for town offices will be voted on only at such polling places and that all other business of the annual meeting will be transacted at the usual place of meeting, the time and place of which shall be specified in such notice.

[1939 c. 345 part 11 c. 1 s. 21] (601-11(1)s)

212.22 DISTRICT ELECTION BOARDS TO CERTIFY TO TOWN BOARD. Each election board, established as provided in section 212.21, shall count the votes cast, proclaim the results, and submit returns, signed by its members, to the town board; and, within two days after the election, the town board shall meet as a canvassing board and declare the results appearing from these returns. In case of a tie the election shall be determined by lot under the direction of the canvassing board. Proper ballots, ballot boxes, and election supplies shall be prepared by the town clerk and furnished to the several election boards in advance of the election. All the provisions of the laws now in force relating to the counting and preserving of ballots at general elections shall apply, except that the town clerk shall be the final custodian of such ballots.

[1939 c. 345 part 11 c. 1 s. 22] (601-11(1)ss)

212.23 TOWN CLERK TO GIVE NOTICE OF ELECTION. The town clerk of each town, within ten days after any election, shall transmit to each person elected to a town office notice of his election.

[1939 c. 345 part 11 c. 1 s. 23] (601-11(1)t)

212.24 OFFICERS TO TAKE OATH OF OFFICE. Every person elected or appointed to a town office, within ten days after receiving notice of his election or appointment, shall take and subscribe the oath required by law. If taken before the town clerk or a justice of the peace, such oath shall be administered and certified without fee.

[1939 c. 345 part 11 c. 1 s. 24] (601-11(1)tt)

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212.25 SHALL FILE OATH AND BOND. Before entering upon his duties, the person taking such oath shall file the same with the town clerk. Failure to file his oath and bond within the time prescribed by law shall be deemed a refusal to serve.

[1939 c. 345 part 11 c. 1 s. 25] (601-11(1)u)

212.26 CERTAIN OFFICERS TO FILE ACCEPTANCES WITH TOWN CLERK. Every person elected or appointed to the office of overseer of roads or poundmaster, before he enters upon his duties, and within ten days after he is notified of his election or appointment, shall file his acceptance with the town clerk.

[1939 c. 345 part 11 c. 1 s. 26] (601-11(1)v)

212.27 PENALTY FOR ASSUMING OFFICE WITHOUT FILING OATH. Any town officer who enters upon the duties of his office before taking the oath required by law shall forfeit to the town the sum of \$50.00.

[1939 c. 345 part 11 c. 1 s. 27] (601-11(1)w)

VILLAGE ELECTIONS

212.28 PRESENT LAWS TO GOVERN VILLAGE ELECTIONS. Until reorganized as provided in section 413.01, the boroughs existing at the time of the taking effect of the Revised Laws of 1905, and in all things continue to be governed by such special laws. The villages existing at the time of the taking effect to the Revised Laws of 1905 under special legislative charter or under any general law and not reincorporated in the manner provided by 413.01, shall be governed by the provisions of the statutes applicable to villages incorporated under the Revised Laws of 1905, Chapter 9, as amended.

[1939 c. 345 part 11 c. 2 s. 1; 1943 c. 117 s. 1] (601-11(2))

212.285 TERMS OF CERTAIN VILLAGE OFFICERS EXTENDED. In each village heretofore holding its municipal election at a time other than the first Tuesday after the first Monday in December each year, the officers thereof shall continue in office until the first secular day of January, 1944, and be governed in the discharge of their official duties, so far as practicable, by the provisions of the statutes applicable to villages incorporated under the Revised Laws 1905, Chapter 9, as amended. No regular municipal election shall be held in any such village before December 7, 1943. A municipal election shall be held therein on December 7, 1943, under the laws relating to village elections generally, except that in each such village there shall be elected a president for a term of two years, a clerk for a term of one year, a treasurer for a term of one year, one justice of the peace for a term of two years, three trustees and two constables. In each such village the candidate for trustee receiving the highest number of votes at such election shall serve for a term of three years, the candidate receiving the second highest number of votes shall serve for a term of two years, and the candidate receiving the third highest number of votes shall serve for a term of one year; the candidate for constable receiving the highest number of votes shall serve for a term of two years and the candidate receiving the second highest number of votes shall serve for a term of one year. At the election held on December 5, 1944, there shall be elected in each such village one trustee for a term of three years and a clerk, treasurer, constable, and justice of the peace, and, if the village is a separate assessment district, an assessor, each for a term of two years. The officers elected under this section shall take office on the first secular day of January in the year following their election and shall serve until their successors qualify. Any proceedings or actions now pending in any village affected by Laws 1943, Chapter 117, as amended, shall be completed under the laws under which they were begun. All special assessments heretofore made by any such village shall be collected and the lien thereof enforced as if Laws 1943, Chapter 117, as amended, had not been passed.

[1943 c. 117 ss. 3, 4; 1943 c. 222 s. 2]

212.29 JUSTICES OF THE PEACE. All incorporated villages within the state, whether incorporated under general or special laws, shall hereafter elect two justices of the peace, whose terms of office, powers and duties, shall be such as are now or may be hereafter prescribed by law.

[1939 c. 345 part 11 c. 2 s. 2] (601-11(2)a)

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212.30 ELECTIONS TO BE BY AUSTRALIAN BALLOT. All elections of town and village officers in all towns and villages shall be held and conducted under the so-called "Australian ballot system," as provided by law for general elections in this state as far as practicable. This shall relate to no preliminaries of such elections except the filing of candidates and the preparation of ballots, as hereinafter provided.

[1939 c. 345 part 11 c. 2 s. 3] (601-11(2)b)

212.31 CANDIDATES SHALL FILE AFFIDAVIT OF CANDIDACY; FEE. Candidates for such offices shall file an affidavit at least two weeks before election with the town clerk or village recorder, as the case may be, or application on behalf of any qualified voter of the municipal corporation whom they desire to be a candidate may be made and filed by not less than five voters thereof; provided, that service of a copy of the application shall be made on such candidate and proof of service endorsed on the application before filing, paying to such officer a fee of \$1.00. Such affidavit shall be substantially as provided by section 202.03 relating to non-partisan offices. There shall be no primary election, but the filing of such affidavits shall be a prerequisite to having the name of the candidate placed on the official ballot for the general town or village election. The town clerk or village recorder shall prepare and have printed, at the expense of his municipal corporation, the necessary tally books and ballots for such election. The ballots shall be printed on yellow tinted paper, but without the facsimile of the signature of the county auditor. The ballots shall contain no political party designation of any candidate, and the names of the candidates for each office shall be arranged on the ballot alphabetically, according to the surname of each candidate. The ballots shall be counted and preserved as in general elections, except that the town clerk or village recorder shall be the final custodian of such ballots for his municipal corporation. A sample ballot shall be posted at the place of election, at least two days before such election, by the officer whose duty it is to preserve such sample ballot.

[1939 c. 345 part 11 c. 2 s. 4] (601-11(2)c)

212.32 PROVISIONS OF GENERAL ELECTION LAW TO APPLY. All of the provisions of laws now in force relating to offenses and penalties in connection with general elections are hereby made applicable to town and village elections.

[1939 c. 345 part 11 c. 2 s. 5] (601-11(2)d)

212.33 APPLICATION OF SECTIONS 212.34 AND 212.35. The provisions of sections 212.34 and 212.35 shall apply to all villages in this state organized under any of the laws thereof.

[1939 c. 345 part 11 c. 2 s. 6] (601-11(2)e)

212.34 VILLAGE OFFICERS. In all of the villages of this state the resident electors shall choose the following named officers under the provisions of chapters 200 to 212: a treasurer, two constables, and a council composed of a president, a clerk, and three trustees; and, if said village is a separate election district, an assessor, who shall be elected in each even numbered year; and, if there be no municipal court established in such village, two justices of the peace, provided that the term of all village assessors now in office shall extend to and expire on the first secular day of January, 1945, and no village assessors shall be elected in 1943. All officers chosen and qualified as such shall hold office until their successors qualify. Vacancies in office may be filled, for the remainder of the term for which said respective officers were elected, by the council; if the council because of equal division of the vote is unable to fill the vacancy then the president of the council shall fill the vacancy by appointment for the unexpired term.

[1939 c. 345 part 11 c. 2 s. 7; 1943 c. 222 s. 1] (601-11(2)f)

212.35 DATE OF ELECTION; TERMS. All village elections for the terms and in the manner herein provided shall be held annually on the first Tuesday after the first Monday of December in each year at which the officers specified in section 212.34 shall be elected for the terms following: President, for a term of two years; one trustee, for a term of three years; and all other such officers, each for a term of two years. All terms, except as herein otherwise provided, shall commence on the first secular day of January following the election.

Municipal judges shall be elected for four-year terms, commencing on the first secular day in January following the election and until their successors are elected and have qualified. The existing succession of terms of municipal judges elected

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under the provisions of Laws 1925, Chapter 4, or any amendments thereto, shall be continued, and successors to such municipal judges shall be elected for four-year terms at the elections in December preceding the expiration of the term of such municipal judges, respectively.

[1939 c. 345 part 11 c. 2 s. 8; 1941 c. 13] (601-11(2)g)

212.36 CANVASSING OF VOTES. The judges for village elections shall forthwith count the votes cast, proclaim the results, and record the same in a tally book provided for the purpose. Such tally book, with the ballots cast, shall thereupon be returned to the village clerk. Within two days after the election the village council shall meet as a canvassing board, and declare the results appearing from said returns. A plurality of votes shall elect; and, in case of a tie, the election shall be determined by lot, in the presence of the canvassing board and under its direction. The village clerk shall forthwith give written notice to each person chosen of his election to the office named, and shall certify the results of the election to the county auditor.

[1939 c. 345 part 11 c. 2 s. 9] (601-11(2)h)

212.37 SPECIAL ELECTIONS. Special village elections may be ordered by the village council, upon its own motion or upon the petition of 50 resident voters, of which at least ten days' posted and one week's published notice in one or more legal newspapers published in the village, if there be one, shall be given, clearly setting forth the questions submitted. Judges and clerks shall be appointed, the vote taken, and the results ascertained, declared, and certified as in the case of annual village elections. No proposal so submitted shall be deemed carried without such a majority in its favor as may be required by law in the particular instance. In case of a tie the proposal shall be deemed lost.

[1939 c. 345 part 11 c. 2 s. 10] (601-11(2)i)

212.375 HOURS OF ELECTION IN CERTAIN VILLAGES. In all villages and towns, however organized, located in any county now or hereafter having a population of more than 400,000, the polls shall be kept open at any special or local election from six o'clock in the forenoon until eight o'clock in the afternoon, unless the governing body of such village or town shall, by resolution duly adopted and posted more than 30 days prior to the election, fix a different time for opening the polls, which time shall be stated in such resolution but shall not be later than nine o'clock in the forenoon.

[1941 c. 28 s. 1]

212.38 TOWN MEETING LAWS APPLY. Except as otherwise provided in section 213.37, all village elections shall be conducted, and the results ascertained, in the manner provided by law for town meetings; and, except as so modified, all laws regulating the holding of town meetings, canvassing and certifying the results thereof, and relating to the duties of judges and clerks, and to voting and the challenging of votes, and every statute prescribing or punishing offenses in respect to illegal voting, bribery, fraud, corruption, official delinquency, or other offenses at or concerning elections, which are applicable to town meetings, are hereby extended to village elections.

[1939 c. 345 part 11 c. 2 s. 11] (601-11(2)j)

212.381 PRIMARY ELECTIONS IN CERTAIN VILLAGES. Subdivision 1. **Adoption.** Any village with a population of not less than 1,400 may hold an election of nominees, hereinafter designated as the "primary election" for the purpose of nominating candidates for village offices by adopting one of the following methods:

1. By resolution of a four-fifths vote of the governing body of the village; or
2. By a petition signed by at least ten per cent of the voters of said village, addressed to the governing body of said village, requesting that said governing body submit to the voters thereof the determination of the question as to whether said village shall have a primary election system for the purpose of nominating candidates for village offices of such village at a special election to be held for that purpose. Within 15 days after receiving such a petition, the governing body shall provide for such special election and shall give not less than ten or more than 15 days posted notice thereof. The form of question to be voted on shall be as follows: "Shall the Village of adopt the primary election system for the nomination of candidates for Village offices." If a majority of the voters at

such special election shall vote in the affirmative, such primary election system shall be deemed to be in force and effect.

Subd. 2. **Date.** The primary election shall be held not less than ten days nor more than 14 days preceding the village election to be determined by the governing body. The clerk or recorder of such village shall give at least ten days posted notice or notice published in the official newspaper of the time and place of holding the same, of the hours during which the polls will be open, and of the offices for which candidates are to be nominated. All voting at the primary election shall be by ballot. The clerk or recorder of the village shall, at least one week before the primary election, cause to be published a sample of the village primary ballot in the official newspaper of such village, or if there is no newspaper therein in the official newspaper of the county in which said village is situated, and shall also post a sample printed copy in his office for public inspection. The judges and clerks of election shall certify the results of said primary election to the governing body of the municipality, which shall forthwith canvass the vote and shall issue certificates of nomination to the two candidates for each office receiving the highest number of votes. Thereafter, the names of the two candidates receiving the highest number of votes shall be placed upon the ballot for the general election.

Subd. 3. **Affidavit of candidacy; filing.** At least 20 days before the primary election any party eligible and desirous of having his name placed on the primary ballot as a candidate for any village office, shall file his affidavit with the clerk or recorder, stating his residence, that he is a qualified voter of such village, and the office for which he desires to be candidate. Upon payment by such candidate of \$2.00 to the clerk or recorder of such village, the clerk or recorder shall place the name of such candidate upon the primary election ballot of such village.

Subd. 4. **Compensation of election officials.** The judges and clerks of said election shall receive the same compensation as is provided for the judges and clerks at the regular village election.

Subd. 5. **Election laws of state to apply.** All of the election laws of this State shall apply to elections held pursuant to this section so far as the same are applicable.

[1945 c. 179]

SPECIAL ELECTIONS, CITIES OF THIRD CLASS

212.39 SPECIAL ELECTIONS. Special elections for any purpose shall be held and conducted in the same manner and the returns thereof made in the same form and manner as in general and biennial elections and within such time as may be prescribed by resolution of the council.

[1939 c. 345 part 11 c. 3 s. 1] (601-11(3))

212.40 TO FILL VACANCIES. When a special election shall be required in any city of the third class to fill any vacancy in the offices of such city and the charter of such city shall not provide by whom or by what body such special election may or shall be ordered, then in every such case, such special election may be ordered by the council of such city.

[1939 c. 345 part 11 c. 3 s. 2] (601-11(3)a)

212.41 NOMINATION OF CANDIDATES. When a special election shall be ordered in any city of the third class to fill any vacancy in any office of such city, and its charter shall require such special election to be ordered and held within ten days after such vacancy shall occur, candidates for election at such special election shall not be required to be nominated at a primary election, but may be nominated by certificates in the manner provided by law relating to nominations by petition or certificate of voters; provided, that all certificates of nomination of candidates for election at such special election shall be filed with, and the nomination fee fixed by law paid to, the city clerk of such city on or prior to the third day before the day appointed for holding such special election.

[1939 c. 345 part 11 c. 3 s. 3] (601-11(3)b)

212.42 NOMINATION FEES TO BE PAID TO CITY TREASURER. All nomination fees received by any city clerk under the provisions of this chapter shall be forthwith paid by him to the city treasurer of such city. The city clerk shall cause the necessary ballots for use at such special election to be prepared, printed,

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and bound in the form and manner provided by law relating thereto, and shall furnish the same to the judges for use at such special election, but such city clerk shall not be required to prepare or post any sample ballot in relation to such special election.

[1939 c. 345 part 11 c. 3 s. 4] (601-11(3)c)

212.43 JUDGES OF GENERAL ELECTION TO ACT AS JUDGES OF SPECIAL ELECTION. It shall not be necessary to appoint judges for such special election, but the judges at the last general election in every district shall continue to be judges for such special election and vacancies of judges may be filled the same as in case of general elections. Such judges shall constitute the election board for their respective districts for such special elections.

[1939 c. 345 part 11 c. 3 s. 5] (601-11(3)d)

212.44 COMPENSATION OF OFFICIALS. The compensation for services at such special election shall be the same as provided by law for similar services at elections and with other expenses thereof shall be paid as provided by law relating to the payment of expenses at general elections.

[1939 c. 345 part 11 c. 3 s. 6] (601-11(3)e)

212.45 ELECTION GOVERNED BY GENERAL LAWS. Except as otherwise provided in this chapter, or in the charter of the city in which such special election shall be ordered, the nomination of candidates for such special election and such special election and all things pertaining thereto, shall be in accordance with and controlled by the laws of this state.

[1939 c. 345 part 11 c. 3 s. 7] (601-11(3)f)

212.46 ELECTIONS MAY BE HELD UNDER PRIMARY ELECTION SYSTEMS. The council of any city of the second or third class operating under a home rule charter may, by resolution or ordinance adopted at least four weeks before the date of any municipal election for city officers to be held therein, resolve or ordain that all municipal elections for city officers in the city shall be held and conducted under the primary election system provided for hereby, and thereafter the mode of nomination and election of elective officers of the city to be voted for at any municipal election shall be as follows. The provisions of this chapter shall not apply to any city whose boundaries extend into more than one county of the state.

[1939 c. 345 part 11 c. 3 s. 8] (601-11(3)g)

212.47 DATE OF PRIMARY. On a day two weeks preceding the municipal charter election held for the purpose of electing city officers in any city of the second or third class, an election of nominees to be designated "city primary election" shall be held in such city for the selection of candidates for elective offices within such city.

[1939 c. 345 part 11 c. 3 s. 9] (601-11(3)h)

212.48 FILING BY CANDIDATES. Not less than ten days preceding the city primary election any eligible person desirous of having his name placed upon the city primary election ballot as a candidate for an elective city office shall file an affidavit with the city clerk, stating his residence, that he is a qualified voter in such city and naming the office for which he desires to be a candidate. Upon payment by such candidate of a fee of \$1.00 to the clerk, that officer shall place the name of such candidate upon the city primary ballot without any political party designation, except that where only two persons have filed for any one office the names of such persons shall not be placed upon said primary ballot but shall be placed upon the charter election ballot as the nominees for the office named. Only the names of candidates who have filed, as herein provided, shall be printed on the primary ballot and there shall be no political party designation or mark in such ballot indicative of the source of the candidacy or the support of any candidate.

[1939 c. 345 part 11 c. 3 s. 10] (601-11(3)i)

212.49 CONDUCT OF PRIMARY, CANVASS. The city primary election shall be held and conducted so far as practicable in the manner provided in the charter of the city for municipal elections of city officers; provided, that there shall be no blank space on such ballots for writing in names of candidates, and votes cast for candidates whose names have not been duly placed on such ballots shall not be counted as to such office. The results of the municipal primary election shall be canvassed by the council and the two candidates for each office who shall receive the highest

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number of votes shall be declared to be the nominees for the office named and their names shall be certified to the city clerk, who shall place them on the charter election ballots without any political party designation.

[1939 c. 345 part 11 c. 3 s. 11] (601-11(3)j)

212.50 VACANCIES AFTER PRIMARY. When a vacancy occurs in any nomination made at a city primary election the same may be filled by petition, as provided in sections 202.01 to 202.04, but no candidates defeated at the city primary election shall be eligible for nomination by petition, and after one nominating petition for each such vacancy shall have been duly filed no other nominating petition for the same office shall be received.

[1939 c. 345 part 11 c. 3 s. 12] (601-11(3)k)

ELECTIONS, CERTAIN CITIES OF FOURTH CLASS

212.51 APPLICATION OF SECTIONS 212.52 TO 212.64. The provisions of sections 212.52 to 212.64 shall only apply to such cities of the fourth class as now are incorporated, or hereafter may incorporate, in accordance with the provisions of Laws 1921, Chapter 462, as amended by Laws 1931, Chapter 289, and Laws 1933, Chapter 203.

[1939 c. 345 part 11 c. 4 s. 1] (601-11(4))

212.52 ELECTIONS; WHEN HELD. In each city of the fourth class there shall be a biennial election for elective officers hereinafter provided held on the first Tuesday after the first Monday of November of each odd-numbered year at such place in each ward as the council shall designate, and the polls shall be kept open from 9:00 a. m. until 5:00 p. m. and ten days preceding, notice shall be given by the council of the time and place of holding such election and of the officers to be elected by posting notices thereof in three public places in each ward.

[1939 c. 345 part 11 c. 4 s. 2] (601-11(4)a)

212.53 NUMBER OF WARDS. Each city of the fourth class shall be divided into not less than two wards; and each ward shall contain, as nearly as practicable, an equal number of legal voters.

[1939 c. 345 part 11 c. 4 s. 3] (601-11(4)b)

212.54 ELECTIVE OFFICERS. The elective officers of each city of the fourth class shall be mayor, treasurer, recorder, one justice of the peace who shall be styled city justice, all of whom shall be qualified voters of the city, and two aldermen in each ward who shall be qualified voters therein.

[1939 c. 345 part 11 c. 4 s. 4] (601-11(4)c)

212.55 REMOVAL FROM OFFICE. In any city of the fourth class any person elected to any office by the people may be removed from said office by a vote of two-thirds of all the aldermen authorized to be elected. No such officer shall be removed except upon cause, after he shall have been furnished with a written statement of the charges against him and afforded a reasonable opportunity to defend against such charges. The council shall fix a time and place for the trial of such officers, of which not less than ten days' notice shall be given, and shall have power to compel the attendance of witnesses and the production of books and papers and to hear and determine the case; and, if said officer shall neglect to appear and answer the charge against him, the council may declare the office vacant.

[1939 c. 345 part 11 c. 4 s. 5] (601-11(4)d)

212.56 VACANCIES IN OFFICE OF ALDERMAN. When a vacancy shall occur in the office of alderman by death or removal or resignation or otherwise, the common council shall have power and it shall be their duty to declare the office vacant by resolution entered upon their minutes. Such vacancy shall be filled by a new election, held only in the ward which has been deprived of representation on the council by the creation of such vacancy, which shall be ordered by the common council within ten days after the vacancy is declared, and held within 20 days after such declaration, and reasonable notice of such election shall be given. Any vacancy occurring in any other office shall be filled by a resolution of the common council adopted by a majority vote of the remaining members of the council within 15 days after such vacancy occurs unless otherwise provided for. A person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof, for the unexpired term and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

[1939 c. 345 part 11 c. 4 s. 6] (601-11(4)e)

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212.57 ELECTIONS, BALLOT, TIE VOTE. All elections by the people shall be by ballot and each ballot shall contain the names of the persons voted for with a proper designation of the office written or printed thereon and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council at such time and in such manner as they shall direct.

[1939 c. 345 part 11 c. 4 s. 7] (601-11(4)f)

212.58 WHO MAY VOTE AT ELECTIONS. All persons entitled to vote for state and county officers and who shall have resided in the city for three months next preceding the election and ten days in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this chapter and to hold any office hereby created; and the different wards established by law shall constitute election districts for state and county as well as city elections and the mode of conducting all state and county elections in the city shall be in the manner as by law provided.

[1939 c. 345 part 11 c. 4 s. 8] (601-11(4)g)

212.59 JUDGES OF ELECTION. The elections in the city shall be held and conducted by three judges of election to be appointed by the common council and who take the usual oath or affirmation as prescribed by the general laws of the state to be taken by judges and shall have power to appoint clerks of such elections and to administer the necessary oaths. These elections shall be held and conducted in the same manner and under the same penalties as required by the laws of this state regarding elections.

[1939 c. 345 part 11 c. 4 s. 9] (601-11(4)h)

212.60 RETURNS AND CANVASS. When a city election shall be closed and the number of votes for each person voted for shall have been counted and ascertained, the said judges shall make returns thereof, stating therein the number of votes for each person for each and every office and shall deliver or cause to be delivered such returns to the city recorder within three days after any election, and the common council shall meet and canvass the returns and declare the results as it appears from the same within three days thereafter. The city recorder shall forthwith notify the officer or officers elected of their election by written notice served upon such officer in person or left at their usual place of abode with some person of suitable age and discretion.

[1939 c. 345 part 11 c. 4 s. 10] (601-11(4)i)

212.61 GENERAL ELECTION LAWS TO COVER SPECIAL ELECTION. Special elections for any purpose shall be held and conducted in the same manner and the returns thereof made in the same form and manner as in general and biennial elections and within such time as may be prescribed by resolution of the common council.

[1939 c. 345 part 11 c. 4 s. 11] (601-11(4)j)

212.62 WHEN OFFICE IS DEEMED VACANT. Any officer removing from the city or ward for which he is elected or any officer who shall refuse or neglect for ten days after notice of his election or appointment to enter upon the discharge of the duties of his office shall be deemed to have vacated his office and the common council shall proceed to fill the vacancy as herein prescribed.

[1939 c. 345 part 11 c. 4 s. 12] (601-11(4)k)

212.63 TERMS OF ELECTIVE OFFICERS. The term of every elective officer elected hereunder shall commence on the first Tuesday after the first Monday in January next succeeding his election, and shall continue for two years and until his successor is elected and qualified.

[1939 c. 345 part 11 c. 4 s. 13] (601-11(4)l)

212.64 FAILURE TO ELECT. Should there be a failure by the people to elect any officer therein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place being given.

[1939 c. 345 part 11 c. 4 s. 14] (601-11(4)m)

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ELECTIONS, CITIES OF THIRD AND FOURTH CLASSES

212.65 CITIES OF THIRD AND FOURTH CLASSES. In all cities of the third and fourth classes the election of all officers required to be chosen by the voters of the city shall be held and conducted as hereinafter prescribed, unless otherwise provided by the law under which the city is organized and operating, or by the charter of the city, if organized under the Constitution, Article 4, Section 36.

[1939 c. 345 part 11 c. 4 s. 15; 1943 c. 59 s. 1] (601-11(4)n)

212.66 AFFIDAVIT OF CANDIDACY. In any city of the third class which has not adopted a primary election system under authority of statute and in any city of the fourth class, not less than 15 days preceding the city election, any eligible person desirous of having his name placed upon the official election ballot as a candidate for an office to be voted for at such election by the voters of such city, shall file an affidavit with the city clerk, stating his residence, that he is a qualified voter in such city and the name of the office for which he desires to be a candidate; and, upon payment of a fee of one dollar to the city clerk, that officer shall accept such affidavit and place the name of such candidate upon the official election ballot without any political party designation. There shall be no primary election, but the filing of such affidavit shall be prerequisite to having the name of the candidate placed on the official ballot for the city election.

[1939 c. 345 part 11 c. 4 s. 16; 1943 c. 59 s. 2] (601-11(4)o)

212.67 BALLOTS; PREPARATION; PRINTING. In any city of the third or fourth class the city clerk shall prepare and cause to be printed at the expense of the city necessary election registers, tally books and ballots for such election. The ballots shall be printed on red paper but need not bear the facsimile of the signature of any officer. Each ballot shall be headed, "City Election Ballot," and shall state the name of the city, the date of the election and, except as herein otherwise provided, shall conform to the state ballot used at general elections. Names of candidates shall be arranged thereon alphabetically according to surnames without any party designation.

[1939 c. 345 part 11 c. 4 s. 17; 1943 c. 59 s. 3] (601-11(4)p)

212.68 POLLS; JUDGES; NOTICES OF ELECTION. In every city of the third or fourth class, not less than ten days before the day of the city election, the council shall select and designate one polling place for each district in the city; and, not less than five days before such election, the city clerk shall post in three conspicuous places in said city, and publish once in a qualified newspaper in such city, if there be one, otherwise in a qualified newspaper in the county, a notice of the election, stating the time and place thereof, the location of each polling place, the names of the candidates, the offices to which they desire to be chosen, and also any question or proposal which may be voted on at such election; and the city clerk shall also post and publish in the same manner samples of the official ballot.

[1939 c. 345 part 11 c. 4 s. 18; 1943 c. 59 s. 4] (601-11(4)q)

212.69 TO USE AUSTRALIAN BALLOT SYSTEM. In every city of the third or fourth class, the city election shall be held and conducted under the Australian ballot system as provided by law for general elections. Except in every city in which a system for the permanent registration of voters is in effect, the name and residence of each person voting at such election shall be entered by the judges on an election register. The ballots shall be counted and preserved as at general election, except that the clerk shall be the final custodian thereof. After the ballots have been counted, the election board shall publicly announce the results and certify the same, together with the ballots, to the council. The results of the election shall be canvassed by the council and the candidate for each office who receives the highest number of votes therefor shall be declared elected thereto and shall be given a certificate of election by the city clerk.

[1939 c. 345 part 11 c. 4 s. 19; 1943 c. 59 s. 5] (601-11(4)r)

212.70 GENERAL ELECTION LAWS TO APPLY. So far as practicable, all the provisions of chapters 200 to 212 relating to general elections, including the provisions relating to the arrangement of polling places, peace officers, challengers, procuring ballots, boxes and supplies, and all laws defining offenses and fixing penalties at general elections are hereby made applicable to city elections held in any city of the third or fourth class.

[1939 c. 345 part 11 c. 4 s. 20; 1943 c. 59 s. 6] (601-11(4)s)