

contract therefor to be at their [its] first meeting annually. Except that, if the board determine that the best interests of the districts would be served thereby, the publication may be in two or more newspapers of the district, provided in such event the total cost of such publication shall not exceed *the fees for publication of legal notices prescribed by Minnesota Statutes 1945, Section 331.08, as amended by Laws 1947, Chapter 318.*

Approved March 14, 1949.

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CHAPTER 119—H. F. No. 4

[Coded as Sections 412.011 to 412.112]

*An act relating to village government; codifying and revising the village laws; providing for optional plans of village government; amending and repealing certain laws.*

Be it enacted by the Legislature of the State of Minnesota :

**FORMATION, CHANGE IN STATUS OF TERRITORY,  
AND DISSOLUTION**

[412.011] **Section 1. Formation of village.** Subdivision 1. **Incorporation.** Territory containing a resident population of not less than 100 persons may become incorporated as a village in the manner hereinafter prescribed if it is not included within the limits of any incorporated municipality. Such territory shall include land which has been platted into lots and blocks in the manner provided by law and may include unplatted lands adjoining such platted area if so conditioned as properly to be subjected to village government.

**Sec. 2. Subd. 2. Petition for incorporation.** Three or more voters residing within an area proposed to be incorporated as a village may take a census of the resident population of the area. They shall make a census list showing the buildings in the area used for residences and the number of people living in each. If the population is found to be within the limits prescribed by section 1, a petition may be prepared and submitted to the board of county commissioners of the county in which the whole or the larger part of such lands are located

requesting the board to call an election on the question of incorporation. The petition shall be attached to the census list and shall set forth the boundaries of the territory, the quantity of land embraced in it, the number of actual residents, and the proposed name of the village. It shall be signed by at least 25 voters who have resided continuously within the territory proposed to be incorporated for at least two years prior to the date of the petition, and it shall be verified by the oaths of the census takers declaring that the census was accurately taken, specifying the dates when it was begun and completed, and that the statements in the petition are true.

**Sec. 3. Subd. 3. Election; incorporation.** If the petition complies with the requirements of section 2, the county board shall by resolution fix a day not less than 20 days nor more than 30 days after the passage of such resolution when an election shall be held at a place designated by the county board within the area described in the petition. The board shall cause a copy of the petition together with a notice of the election to be posted not less than 20 days before the election in three public places in the area described in the petition, and if there is a qualified newspaper published in the area, it shall give two weeks' published notice of the election. The board shall also by resolution appoint three electors resident in the area to act as judges of election and shall fix the time, not less than six hours and until at least 7 o'clock P. M., when the polls shall be open at the election. The judges shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory described in the petition shall be entitled to vote. The ballot shall bear the words "For Incorporation" and "Against Incorporation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided by the petitioners.

**Sec. 4. Subd. 4. Filing of incorporation document.** Immediately upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition; and they shall then file the certificate with the county auditor. The auditor shall attach it to the original petition with a copy of the resolution fixing the time and place for the election, the resolution appointing the judges and the original proofs of the

posting of the election notice, and he shall file the whole as one document in his office. If the certificate shows that a majority of the votes cast were "For Incorporation," the auditor shall forthwith make and transmit to the secretary of state a certified copy of the document to be then filed as a public record. The incorporation shall be deemed complete upon the date of such filing. If territory in another county is embraced within the new village, he shall also make and forward to the auditor of that county a similar certified copy of the document, which shall be filed in his office. If the vote is adverse, no subsequent petition to incorporate the same territory shall be entertained by the county board within one year after the election; and the expenses of the attempted incorporation shall be borne by the petitioners. If the vote is favorable, all proper expenses incurred in the incorporation shall be a charge upon the village.

[412.021] Sec. 5. Subdivision 1. **Election of officers; time; place.** 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 county board shall fix a day at least fifteen and not more than thirty days thereafter and a place for the holding of an election for village 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 village for at least ten days preceding the election.

Subd. 2. **Optional plan; officers to be elected.** Unless such village has adopted an optional plan of government as provided in Article VIII, there shall be elected a mayor, treasurer, constable and justice of the peace, each for a term expiring the first business day of January of the next even-numbered year; a clerk, assessor, constables, and justice of the peace, each for a term expiring the first business day of January in the next odd-numbered year; and three trustees, for terms so arranged that one term expires the first business day of January of each of the three years following. If the village has adopted Optional Plan A, B, or C there shall be elected at such election a mayor, constable and justice of the peace, each for a term expiring the first business day of January of the next even-numbered year; a constable and justice of the peace, each for a term expiring the first business day of January in the next odd-numbered year; and four trustees, for terms so arranged that one expires the first business day of January of

each of the three years following except that the terms of two trustees shall expire the year following the year in which the term of the mayor expires. No candidate for trustee 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 the office, the longest term going to the candidate receiving the highest number of votes. If the election occurs in the last four months of the year, no election shall be held in the village on the annual village 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. Nomination; Australian ballot system.** Nominations of candidates at such election shall be made under the Australian ballot system applicable at the annual village election, except that duties imposed upon the village clerk in connection with the annual village election shall be performed by the inspectors of election, the filing fees shall be used by them to provide ballots, and nominations shall be made at least one week before the election. Any excess in the expense of providing ballots over receipts from filing fees shall be a charge against the village along with other expenses of the election; any excess of receipts shall be deposited in the village treasury.

**Subd. 4. Changes of election; clerk; qualifications.** The election board at such election shall consist of the judges of election appointed by the county board for the election on incorporation. The board shall select two of its members to act as judges and one as clerk of the election. If any member of the board is disqualified or is unable or unwilling to serve, the remaining members shall appoint a substitute meeting the qualifications of judges and clerks of annual village elections. The judges and clerks shall be governed in the conduct of the election, so far as practicable, by the laws regulating the annual village election. They shall give to each officer elected a certificate of his election, and such officer, after qualifying according to law, shall forthwith assume his official duties.

[412.031] **Sec. 6. Reincorporation.** Any borough may relinquish its charter and become a village by adoption of a council resolution proposing such relinquishment and approval by a majority of the electors voting on the resolution at an annual or special borough election. The ballot used shall bear

the printed words, "For Reincorporation as a Village" and "Against Reincorporation as a Village" with a square before each in which the voter may insert a cross to express his choice. If the proposition is so approved, the council shall declare the result by resolution, a certified copy of which shall be filed with the county auditor and another with the secretary of state. Thereupon the former charter shall cease and the borough shall become a village. Until after the next village election the officers of the borough shall continue in the discharge of their official duties, being governed therein as far as practicable by the statutes relating to villages. The provisions of section 5, subd. 2, shall govern the initial village election.

[412.041] **Sec. 7. Annexation of territory.** Subdivision 1. **Abutting territory.** Territory abutting on any village and not included in any other village or in any city or borough may be added to the village in the manner prescribed in the following subdivisions if so conditioned as properly to be subjected to village government.

**Subd. 2. Territory owned by the village.** If the land is owned by the village, the council may by ordinance declare the land annexed to the village.

**Subd. 3. Within the village limits; notice and hearing.** If the land is completely surrounded by land within the village limits, the council may adopt a resolution stating its intention to annex the property and fixing a time and place for a hearing. A copy of the resolution shall be served in the manner provided for the service of a summons in a civil action upon all owners of the land to be annexed at least 10 days before the date of the hearing. If after such hearing the council determines that the annexation will be to the best interests of the village and of the territory affected, it may by ordinance declare the land annexed to the village.

**Subd. 4. Petition by owners for inclusion; ordinance; petition.** If the land is platted or, if unplatted, does not exceed 200 acres, the owner or a majority of the owners may petition the village council to have such land included within the village. If the council determines that the annexation will be to the best interests of the village and of the territory affected, it may by ordinance declare such land annexed to the village, but if the petition is not signed by all the owners of the land proposed to be annexed, the ordinance shall not be passed un-

til the council has held a hearing on the proposed annexation after at least 30 days' posted notice.

**Subd. 5. Resident population of 75 persons.** If the land contains a resident population of not less than 75 persons and no part of the land is more than one and one-half miles from the village limits, five or more of the legal voters of the area may take a census of the resident population and, if the census shows a population of the required number, may, within four weeks after the beginning of the census, file a petition with the village clerk requesting an election on the question of including such land in the village. The council shall provide for a place and time, not more than thirty days after the filing of the petition, for the holding of an election on annexation in the territory covered by the petition and shall give at least ten days' posted notice of such election. The council shall appoint three residents of the territory as judges of the election who shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory described in the petition shall be entitled to vote. The ballot shall bear the words "For Annexation" and "Against Annexation" with a square before each in which the voter may make a cross to express his choice. The village shall furnish the ballots and election supplies. Immediately after the election the judges shall canvass the ballots and forthwith make and file with the village clerk a certificate stating the time and place of the election, that they have canvassed the ballots cast and the numbers cast for and against annexation. The certificate shall be signed and verified by all the judges. The village clerk shall attach the certificate to the original petition with a copy of the resolution calling the election and appointing the judges and the original proofs of posting of the election notices. He shall file the whole as one document in his office. If a majority of votes cast is in the negative, no subsequent petition for annexation of the same area shall be entertained for two years after the election.

**Subd. 6. Certified copy of ordinance filed with county auditor.** In the case of annexation proceedings under subdivisions 2, 3, or 4, a certified copy of the ordinance annexing the land, and in the case of annexation proceedings under subdivision 5 when a majority of the votes cast are in favor of annexation, a certified copy of the document filed in the clerk's office shall be filed by the clerk in the office of the county auditor in which the land is situated and another certified copy of

the ordinance or document shall be filed in the office of the secretary of state. Thereupon the annexation shall be complete and the land shall be a part of the village as effectually as if it had been originally a part.

[412.051] **Sec. 8. Detachment of territory.** Subdivision 1. **Detachment by ordinance; effect; taxation.** Upon petition of the owner or owners of unplatted land situated within the corporate limits of any village but adjacent to the village boundary and occupied and used solely for agricultural purposes, the village council may by ordinance provide for the detachment of such land from the village. No such ordinance shall take effect until one certified copy of the ordinance has been filed in the office of the county auditor of the county or counties in which the land is situated and another certified copy has been filed in the office of the secretary of state. The detached tract shall thereupon be attached to and become a part of the town which it adjoins; if the tract adjoins more than one town it shall become a part of each town, being divided by projecting through it the boundary line between the towns. The detached tract shall be subject to taxation for the payment of interest and principal on all village bonded indebtedness outstanding at the time of detachment to the same extent as if it were still a part of the village.

**Subd. 2. Refusal to detach; appeal to district court.** If the council finds that the petition should not be granted because detachment would unreasonably affect the symmetry of the settled portions of the village or would injuriously affect the reasonable exercise of the powers and functions of the village or would reduce the number of inhabitants in the village below the minimum number required by law for the incorporation of a village or would not be for the best interests of the territory affected, it shall declare its findings by resolution and mail a certified copy to the petitioners. Any person aggrieved by such determination may appeal therefrom to the district court on the ground that such determination is contrary to fact. Such appeal shall be taken by serving a notice of appeal stating the grounds of objection upon the village clerk within 30 days from the council's determination. The appellant shall also execute and deliver to the village clerk a bond to the village in the sum of \$100 conditioned for the payment of all costs taxed against the appellant on such appeal. Such further proceedings shall be had upon appeal as upon other appeals from action of the village council.

[412.061] **Sec. 9. Adjustment of boundaries by the villages.** Territory in one village abutting on another may be detached from the first and annexed to the second in the following manner. The owner or owners of the affected land may petition the councils of both villages for such change. If the council of the village in which the land is located finds that the change will be for the benefit of the village and the land affected, it may by ordinance declare such land detached from the village and the detachment shall become effective at the date specified in the ordinance but not before the council of the other village has adopted an ordinance annexing the land to it. Copies of the annexation and detachment ordinances shall be filed with the county auditor and secretary of state as provided generally in cases of annexation and detachment. The land affected shall be subject to taxation for the payment of interest and principal on all preexisting bonded indebtedness of the village from which it was detached to the same extent as if it were still a part of that village.

[412.071] **Sec. 10. Consolidation. Subdivision 1. Coincident boundaries.** Whenever the boundary line of any village is coincident with the boundary line of any other village for any part of its length, such villages may be consolidated as one village according to the terms of the following subdivisions.

**Subd. 2. Resolution; approved incidental form; reference to electorate.** A resolution proposing consolidation shall be submitted to the councils of the two adjacent villages. If it is approved in identical form by the two councils, it shall be referred to the voters of each village at any general or special election for approval or rejection. If a majority of the voters in each village voting on the question vote in favor of the proposal, a certificate of the results of the election and a certified copy of the resolution shall be filed by the clerk of each village in the office of the county auditor of the county or counties in which the villages are located, and a similar certification shall be filed in the office of the secretary of state. The consolidation shall thereupon take effect in accordance with the terms of the resolution.

**Subd. 3. Contents of resolution.** Every resolution proposing consolidation shall contain: (1) the proposed name of the consolidated village; (2) the date when such consolidation shall be effective; (3) what happens to incumbent officers; (4) such other provisions relating to consolidation, not inconsis-



ent with this section, as the councils deem necessary to effect consolidation.

[412.081] **Sec. 11. Separation from town.** Subdivision 1. **Election and assessment districts.** Any village 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 village that year and the village assessor shall not assume his duties until the following year.

Subd. 2. **Separate districts.** Any existing village 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 per cent of those voting at the last preceding village election. A certificate giving the result of the vote shall be presented by the judges of election to the village council. The village clerk shall then file a similar certificate with the county auditor of the county in which the village 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 thirty 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 village from the township or upon incorporation of a village 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 village bears to the entire valuation of the town, including the village, shall belong to the village and shall be paid to the village treasurer by the town treasurer. All town taxes levied upon property within the village before separation and not yet collected or not yet distributed by the county treasurer shall be paid to the village when so distributed. If the town has any bonded debt, the property within the village shall continue to be taxed to retire the bonds and to pay the interest thereon until the bonds are fully paid. If there is within the

village at the time of separation any real estate purchased or improved by the town, it shall remain the joint property of the village and town; but the village may purchase the interest of the town in the real estate and become its sole owner. Personal property belonging to the town at the time of separation shall remain the joint property of the village and town. Meetings and elections of the town may be held in the village and any town officer may maintain his offices in the village notwithstanding such separation.

[412.091] Sec. 12. **Dissolution.** Whenever a number of voters equal to one-third of those voting at the last preceding village election shall petition the council therefor, a special election shall be called to vote upon the question of dissolving the village. 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 village clerk shall file a certificate of the result with the secretary of state and the county auditor of the county in which the village is situated. Six months after the date of such election, the village 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 village, settle with the treasurer, and other village officers, and apply the assets of the village to the payment of its debts. If any debts remain unpaid, other than bonds, the village 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 village until the bonds are fully paid. All village property and all rights of the village shall, upon dissolution, inure in the town as the legal successor to the village. If the village 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 village lying in each; and the village council shall determine the disposition of other unsold village property in such cases.

## OFFICERS AND EMPLOYEES

[412.101] **Sec. 13. Peace officers.** 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 village and command the assistance of all persons under such penalties as may be prescribed by ordinance.

[412.111] **Sec. 14. Officers and employees.** The council may create such departments and advisory boards and appoint such officers, employees, and agents for the village as may be deemed necessary for the proper management and operation of village 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 conditioned 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 village funds of the premium on the official bond of the justices of the peace and any officer who receives a salary from the village. 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 village police or fire civil service commission or public utilities commission.

[412.121] **Sec. 15. Acting mayor.** At its first meeting each year the council shall choose an acting mayor from the trustees. He shall perform the duties of mayor during the disability or absence of the mayor from the village or, in case of vacancy in the office of mayor, until a successor has been appointed and qualifies.

[412.131] **Sec. 16. Duties of the assessor.** The village assessor shall assess and return as provided by law all property taxable within the village, if a separate assessment district, and the assessor of the town within which the village lies shall not include in his return any property taxable in the village. Any assessor may appoint a deputy assessor as pro-

vided in Minnesota Statutes, Section 273.06. The compensation of the assessor shall be not less than \$100 in any one year or \$6 per day. If his compensation is not fixed by the council, the assessor shall be entitled to compensation at the rate of \$6.00 per day for each day's service necessarily rendered, not exceeding 90 days, and mileage at the rate of five 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 or county supervisor of assessments, except when mileage is paid by the county. In addition to other compensation, the council may allow the assessor five cents per mile for each mile necessarily traveled in his assessment work.

[412.141] **Sec. 17. Duties of the treasurer.** The treasurer shall receive and safely keep all moneys belonging to the village, including moneys received in operations of any municipal liquor dispensary maintained by the village, 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. 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 village. The treasurer shall immediately after the close of the calendar year make out and file with the clerk for public inspection a detailed account of his receipts and disbursements, with the sources and objects of each. 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. The deputy may discharge any of the duties of the treasurer.

[412.151] **Sec. 18. Duties of the 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 village 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 village 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. He shall act as the clerk and bookkeeper of the village, 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 village business, he shall receive the fees allowed by law to town clerks. 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. The deputy may discharge any of the duties of the clerk, except that he shall not be a member of the council.

[412.161] Sec. 19. **Duties of the constables.** The village constables shall be governed by the same laws as town constables. They shall obey all orders of the council or the mayor and enforce all laws and ordinances for the preservation of the peace. They shall have all the powers of a peace officer.

[412.171] Sec. 20. **Duties of Justices of the Peace.** Village 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 village and shall be approved by the council. They may hear and determine accusations made against persons for the violation of any ordinance of the village and upon conviction may impose the penalties prescribed. Whenever a village 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.

[412.181] Sec. 21. **Salaries of mayor and trustees.** Subdivision 1. The salaries of the mayor and trustees in villages shall be those fixed in the following subdivisions, but the council of any village may fix such salaries in a smaller amount for any year.

Subd. 2. In any village having a population of not less than 5,000 and an assessed valuation of not less than \$10,000,000, the salary of the mayor is fixed at \$200 per month and the salary of each trustee at \$150 per month.

Subd. 3. In any village not included in the foregoing class and having either (a) a population of not less than 1,500 and an assessed valuation of not less than \$3,000,000, or (b) a population of not less than 1,200 and an assessed valuation of not less than \$6,000,000, the salary of the mayor is fixed at \$80 per month and the salary of each trustee at \$60 per month.

Subd. 4. In any village not included in any of the foregoing classes and having a population of not less than 2,000 and an assessed valuation of not less than \$1,500,000, the salary of the mayor is fixed at \$50 per month and the salary of each trustee at \$35 per month.

Subd. 5. In villages not included in any of the foregoing classes and having (a) a population of not less than 300 and an assessed valuation of not less than \$925,000, or (b) a population of not less than 300 and an assessed valuation of not less than \$700,000, of which not less than 30 per cent is iron ore valuation, the salary of the mayor is fixed at \$35 per month and the salary of each trustee at \$25 per month.

Subd. 6. In any village not included in any of the foregoing classes and having (a) a population of not less than 5,000 and an assessed valuation of less than \$1,000,000, (b) a population of less than 600 and an assessed valuation of not less than \$1,000,000, (c) a population of more than 5,000, or (d) an assessed valuation of more than \$1,500,000, the salary of the mayor and each trustee is fixed at \$100 per year.

Subd. 7. In any village not included in any of the foregoing classes and having either (a) a population of more than 500 and an assessed valuation of not less than \$100,000 and situated in a county having a population of not less than 500,000 and an assessed valuation, exclusive of money and credits, of not less than \$280,000,000, or (b) a population of more than 1,000 and less than 2,000 and an assessed valuation of more than \$500,000, exclusive of money and credits, more than 70 per cent of which valuation consists of iron ore, the salary of the mayor is fixed at \$20 per month and the salary of each trustee at \$15 per month.

Subd. 8. In any village not included in any of the foregoing classes and having an assessed valuation of not less than \$300,000, and not more than \$700,000, exclusive of money and credits, more than 70 per cent of which is iron ore valuation, and having a population of not less than 225 and not

more than 450, the salary of the mayor is fixed at \$15 per month and the salary of each trustee at \$10 per month.

Subd. 9. In any village not included in any of the foregoing classes, the salary of the mayor is fixed at \$2 per day or meeting for each day's service necessarily rendered or meeting attended, with a maximum of \$30 per year, and the salary of each trustee is fixed at \$1.50 per day or meeting for each day's service necessarily rendered or council meeting attended, with a maximum of \$20 per year, except that in any village having a population of not less than 2,100 and an assessed valuation of not less than \$700,000, and a municipal electric light plant, the salary of the mayor may be increased to \$100 per year, and the salary of each trustee to \$60 per year by resolution adopted by unanimous vote of the council.

Subd. 10. The council of any village to which subdivision 9 applies may by resolution fix the salaries of the mayor and trustees at larger amounts than therein specified but not in excess of \$100 per year. No such resolution shall be effective until approved by a majority of those voting on the proposition at a regular or special village election. Salaries thus approved by the voters shall remain in effect until changed by similar action, unless decreased by the council as authorized in subdivision 1.

## THE COUNCIL AND ITS POWERS.

[412.191] Sec. 22. **The council and its powers.** Subdivision 1. **Composition of Village council.** The village council shall consist of the mayor, clerk and the three trustees. Three members shall constitute a quorum although a smaller number may adjourn from time to time.

Sec. 23. 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.

Sec. 24. 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.

Sec. 25. 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 Village Council of \_\_\_\_\_ ordains: "\_\_\_\_\_.

Sec. 26. Subd. 5. **Codification and revision of ordinances.** Any village 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 village. 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 village clerk shall be published in the official newspaper for at least two successive weeks.

[412.201] Sec. 27. **Execution of instruments.** Every contract, conveyance, license or other written instrument shall be executed on behalf of the village by the mayor and clerk, with the corporate seal affixed, and only pursuant to authority from the council.

[412.211] Sec. 28. **General village powers.** Every village 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 village 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 villages or to classes of villages shall apply except where inconsistent with this act.

[412.221] **Sec. 29. Specific powers of the council.**  
Subdivision 1. **Books; stationery; printing.** The village council shall have power to procure the books to be kept by the village officers, and such furniture, property, stationery, printing and office supplies as are necessary for village purposes.

Subd. 2. **Contracts.** The village 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 village may purchase property through a conditional sales contract under which the seller is confined to the remedy of recovery of the property in case of non-payment of all or part of the purchase price, which shall be payable over a period of not to exceed five years.

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

Subd. 4. **Liability insurance.** The village council shall have power to procure insurance against liability of the village or of its officers and employees for torts committed within the scope of their official duties, whether governmental or proprietary.

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

Subd. 6. **Streets; sewers; sidewalks; public grounds.** The village 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 village council shall have power to provide for lighting the village 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 village and its inhabitants.

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

Subd. 9. **Cemeteries.** The village council shall have power to purchase, 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 village 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 village 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 village 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 wharfrage. The council may construct and maintain public docks and warehouses and by ordinance regulate their use.

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

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

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

Subd. 16. **Hospitals.** The village council shall have power to provide hospitals. The council of any village 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 village 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 village council shall have power by ordinance to name or rename the streets and public places of the village and to number or renumber the lots and blocks of the village, or any part thereof. It may make and record a consolidated plat of the village.

Subd. 19. **Transient dealers.** The village 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 village council shall have power by ordinance to license and regulate baggage wagons, draymen, taxicabs, and automobile rental agencies and liveries.

Subd. 21. **Animals.** The village 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 village council shall have power by ordinance to prohibit or regulate slaughterhouses; to prevent the bringing, depositing, or leaving within the village 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 village 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 village council shall have power by ordinance to define nuisances and provide for their prevention or abatement.

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

Subd. 25. **Amusements.** The village 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 village council shall have power by ordinance to restrain and punish vagrants, prostitutes, and persons guilty of lewd conduct and to punish drunkenness.

Subd. 27. **Dances.** The village 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 village council shall have power by ordinance to regulate the construction of buildings.

Subd. 29. **Zoning.** The village council shall have power by ordinance to regulate the location, height, bulk, number of stories, size of buildings and other structures, the location of roads and schools, the percentage of lot which may be occupied, the sizes of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes. For these purposes it may divide the village into districts or zones of such numbers, shape and area as may be deemed best suited to carry out the purposes of this subdivision. All such regulations shall be uniform for each class and kind of buildings and for the use of land throughout each district, but the regulations in one district may differ from those in other districts.

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

Subd. 31. **Sewer and water connections.** The village 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 village council shall have power to provide for the government and good order of the village, 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 con-

stitution and laws of the United States or of this state as it shall deem expedient.

[412.231] **Sec. 30. Penalties.** The village council shall have 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 \$100 or imprisonment in a village or county jail for a period of 90 days, but in either case the costs of prosecution may be added.

### TAXATION AND FINANCE

[412.241] **Sec. 31. Council to control finances.** The council shall have full authority over the financial affairs of the village, 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.

[412.251] **Sec. 32. 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 village purposes shall not exceed two per cent of the assessed valuation of the property taxable in the village. In calculating such limit property used for homestead purposes shall be figured as provided in Minnesota Statutes, Section 273.13, Subdivision 7, Paragraph 2. The following taxes may be levied in addition to the two per cent herein authorized;

(1) A tax for the payment of principal and interest on outstanding obligations of the village as provided by Minnesota Statutes, Sections 475.26, 475.29, and 476.01.

(2) A tax for the payment of judgments as authorized by Minnesota Statutes, Section 465.14.

(3) A tax for the support and relief of the poor, as authorized by Minnesota Statutes, Section 263.05.

(4) A maximum of ten mills for street and bridge construction, maintenance, and repair in any village with an assessed valuation of less than \$500,000.

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

(6) A tax for band purposes as authorized by Minnesota Statutes, Section 449.09.

(7) A tax for the support of a municipal forest, as authorized by Minnesota Statutes, Section 459.06.

(8) A tax for advertising purposes, as authorized by Minnesota Statutes, Sections 465.56 and 465.57.

(9) A tax for forest fire protection in any village in a forest area, as authorized by Minnesota Statutes, Section 88.04.

(10) A maximum of five mills for the utilities fund in any village 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 village.

(11) A tax for the support of a public library, as authorized by Minnesota Statutes, Section 134.07.

(12) A tax for firemen's relief association purposes as authorized by Minnesota Statutes, Section 424.30 or other statutes.

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

[412.261] Sec. 33. **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 15th day of January 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 five per cent 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 village shall be irrevocably pledged for the redemption of the certificates in the order of issuance against the fund.

[412.271] Sec. 34. **Disbursements.** Subdivision 1. **Exceptions; excepted as to procedure.** No disbursement of village funds, including funds of any municipal liquor dispensary operated by the village, 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 2 and 3, no order shall be issued until the claim to which it relates has been audited and allowed by the council. Every such claim except for wages paid on an hourly or daily basis shall be made out in items and be verified by an attached affidavit that the claim is just and correct and that no part of it has been paid. Whenever work for which wages are to be paid on an hourly or daily basis is done by employees of the village, a payroll shall be kept giving the name of each employee and the number of hours or days worked by him and shall be certified to by the timekeeper, foreman, or other officer or employee having knowledge of the facts; and when any claim for such wages is paid, the employee shall sign a statement, which may be part of the payroll, to the effect that he has received the wages and has done the work for which the wages have been paid. 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 may be so drawn that when signed by the treasurer in an appropriate space, it becomes a check on the village depository. 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 per cent or such lower rate as is fixed by the council prior to its issuance.



Subd. 2. **Municipal liquor purchases.** When payment of a claim based on contract cannot be deferred until the next council meeting without loss to the village 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 village or any taxpayer to challenge the validity of the claim.

Subd. 3. **Petty cash.** The council may establish one or more inprest funds for the payment in cash of any proper claim against the village not exceeding \$10, except that no claim for salary or personal expenses of a village 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 safekeeping 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. 4. **Independent boards.** Subdivisions 2 and 3 shall apply to any independent board or commission of the village 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.

[412.281] **Sec. 35. Annual financial statement.** When the village treasurer shall file his annual report in the office of the village clerk, as provided in section 17, the clerk shall prepare a detailed statement of the financial affairs of the village 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 village. Such statement shall be prepared under the style and form prescribed by the public examiner. The clerk shall file the statement in his office for public inspection and present it to the council not later than January 15. He shall publish the statement not later than January 31 in a newspaper published in the village, which shall be the official newspaper, if the official newspaper is published in the village. If there is no newspaper in the village, he may, with the approval of the village 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 village. If council proceedings are published monthly or quarterly, showing to whom and for what purpose orders are drawn upon the treasurer, the annual financial statement required by this section may be summarized in such form as the public examiner may prescribe. One copy of the statement, together with an affidavit of publication or posting, shall be furnished promptly to the public examiner and shall be in lieu of the report required by Minnesota Statutes, Section 215.08.

[412.291] Sec. 36. **Fiscal year.** The fiscal year in villages shall be the calendar year.

[412.301] Sec. 37. **Financing street and fire equipment.** The village council may issue certificates of indebtedness within existing debt limits for the purpose of purchasing fire 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 per cent of the assessed valuation of the village, 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 per cent 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.

[412.311] **Sec. 38. Contracts.** No member of a village council shall be directly or indirectly interested in any contract made by the council except that the council by a four-fifths vote may purchase merchandise or materials in which a member of the council is interested in an amount of not more than \$50 a year. Every contract for the purchase of merchandise, materials or equipment or for any kind of construction work undertaken by the village which requires an expenditure of \$500 or more shall be let to the lowest responsible bidder, after ten days' public notice.

### MUNICIPAL UTILITIES

[412.321] **Sec. 39. Municipal utilities.** Subdivision 1. **Authority to own and operate.** Any village 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 village, shall make all necessary rules and regulations for the protection, maintenance, operation, extension, and improvement thereof and for the sale of its utility products.

**Sec. 40. Subd. 2. Vote on establishment.** No such public 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 village 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.

Sec. 41. Subd. 3. **Extension bond limitations.** Any village 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 village shall be subject to the restriction of Minnesota Statutes, Section 455.29.

Sec. 42. 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.

[412.331] Sec. 43. **Establishment of commission.** Any village may by ordinance expressly accepting the provisions of sections 43 to 49 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 village shall hereafter operate as a public utilities commission under Part V of this act.

[412.341] Sec. 44. **Membership and organization of commission.** Subdivision 1. **Membership.** The commission shall consist of three members appointed by the council. No more than one member may be chosen from the 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 village, 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 and regulations; 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 village 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.

[412.351] **Sec. 45. General powers of commission.** 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 village 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 village sewage disposal plant. As used subsequently in sections 45 to 49, the term "public utility" means any public utility thus placed by resolution under the jurisdiction of the public utilities commission. Any water, light and power, gas or sewer system subsequently acquired by the village may be placed under the jurisdiction of the commission by ordinance.

[412.361] **Sec. 46. 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 38 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 where the utility is engaged only in

distribution, 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 village council for payments by the village for utility service, compensation for the use by either the commission or the village of buildings, equipment, and personnel under the control of the other, payments to the village 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 village council.

[412.371] Sec. 47. **Public utility fund and disbursements.** Subdivision 1. A separate fund or a separate account shall be established in the village 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 34, 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 village 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.

[412.381] Sec. 48. **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 village clerk. An annual financial report shall be made and a copy filed with the village clerk at the close of the calendar year and shall be included as part of the annual financial statement of the village clerk in conformity with section 35. The cost of publication of any other official statement required by law to be published shall be paid from public utility funds.

[412.391] Sec. 49. **Abolition of commission.** Subdivision 1. The public utilities commission of any village 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 village 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 village 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 1 or 2 is in the affirmative, the provisions of sections 43 to 48 shall cease to apply to the village, in the case of an election under subdivision 1, or to the particular utility mentioned in the proposition submitted to the voters, in the case of an election under subdivision 2. Such change shall take place thirty days after the election.

## LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

[412.401] Sec. 50. **Local improvements; council powers.** The council of any village shall have power: (1) to acquire and to open any street, alley, or part of a street or alley, and to improve the same by installing parking strips, by laying and maintaining pavement, gutters, and curbs of any material which the council may deem suitable, or by widening, grading, graveling, oiling or otherwise; (2) to maintain and extend any existing storm or sanitary sewer system and appurtenances and to establish, construct, and maintain a general system of sewers, including outlets beyond the corporate limits of the village, to create sewer districts, and change, diminish or enlarge their boundaries from time to time; to establish and maintain sewage treatment plants and pumping stations when

deemed necessary; (3) to lay, re-lay and extend steam heating mains; (4) to install and extend street lights; (5) to construct or rebuild any sidewalk in a public street or way; (6) to lay water mains and appurtenances, such as valves and hydrants and service connections, for the purpose of supplying water to the inhabitants of the village; (7) to acquire and improve parks; (8) to plant and trim trees on streets.

[412.411] **Sec. 51. Preliminary plans; estimated cost; hearings on petition.** Subdivision 1. No action shall be taken for the making of any such improvement, other than for the preparation of preliminary plans and estimated cost, until after the council has held a public hearing on the proposed improvement following publication in the official newspaper of two weeks' notice stating the time and place of the hearing, the general nature of the improvement and the area proposed to be assessed. The hearing may be adjourned from time to time and a resolution ordering the improvement may be adopted at any time within six months after the date of the hearing by the council by a majority vote of all its members when the improvement has been petitioned for by the owners of not less than 35 per cent in frontage of the real property abutting on the street, alley, or part of the street or alley, which may be named in the petition as the location of the improvement. In every case where there has been no such petition the resolution may be adopted only by a vote of four-fifths of all the members of the council.

Subd. 2. When the improvement proposed to be made is the acquisition or improvement of a park, the resolution ordering the improvement may be adopted only by a four-fifths vote of the council. The resolution shall also be approved by the park board, if there is one.

[412.421] **Sec. 52. Council procedure.** Subdivision 1. **Plans and specifications; advertisement for bids.** Whenever the council of any village shall determine to make any such improvement, it shall cause plans and specifications of the improvement to be made, and if previously made to be approved and filed with the village clerk, and, if the estimated cost exceeds \$1,000, shall advertise for bids for such improvement in the official paper and such other papers and for such length of time as it may deem advisable. The advertisement shall specify the work to be done, shall call for bids on the basis of cash payment for the work, shall state the time when the bids will be opened and considered by the council, which shall



be not less than ten days after the first publication of the advertisement, and shall state that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit, bid bond, or certified check payable to the clerk, for such percentage of the amount of the bid as the council may specify.

**Subd. 2. Contracts; day labor.** In letting contracts for any such work, the council shall require the execution of a written contract and a bond in such sum as it may determine, conditioned as required by law. The council, if a contract is awarded, may award it to the lowest responsible bidder or it may reject all bids. If any bidder to whom the contract is awarded fails to enter promptly into the written contract and to furnish the required bond, the defaulting bidder shall forfeit to the village the amount of his cash deposit, bid bond, or certified check, and the council may thereupon award the contract to the next lowest responsible bidder. Whenever it appears to the council that the cost of the entire work projected will be less than \$1,000, or whenever no bid is submitted after proper advertisement or the only bids submitted are higher than the engineer's estimate, the council may directly purchase the materials for the work and do it by the employment of day labor. The council may have the work supervised by the village's engineer or other person, and shall have the work supervised by a registered engineer if done by day labor. In case of improper construction or unreasonable delay in the prosecution of the work by the contractor, it may order and cause the suspension of the work at any time and relet the contract, or order a reconstruction of any portion of the work improperly done; and where the cost of completion or the reconstruction necessary will be less than \$1,000 the council may do it by the employment of day labor.

**Subd. 3. Day labor; detailed report.** When the council has performed construction work by day labor after advertising for bids, it shall submit a detailed report to be filed with the village clerk and certified by the registered engineer in charge, showing in general the complete cost of the construction work and specifically the following:

- (a) final quantities of the various units of work done;
- (b) materials furnished for the project and the cost of each item thereof;
- (c) cost of labor, cost of equipment hired, and supervisory costs. The report shall contain a certificate by the reg-

istered engineer in charge that the work was done according to the plans and specifications, or, if there were any deviations from them, an itemized statement of those deviations.

**Subd. 4. Cooperation with state or federal government.** Whenever such work is done under a cooperative agreement with the state or another political subdivision by the terms of which the state or other subdivision is to act as agent for the village, it shall not be necessary to comply with subdivisions 1 and 2 provided the procedure followed in letting the contract for the work complies with the law applicable to the state or other political subdivision with which the agreement has been made by the village.

**Sec. 53. Subd. 5. Percentage payment on engineer's estimate.** In case the contractor properly performs the work, the council may, from month to month before the completion of the work, in its discretion, pay him 90 per cent of the amount already earned under the contract, upon the estimate of the engineer or other competent person selected by the council.

[412.431] **Sec. 54. Assessment of costs; general ad valorem levies; inclusion of connecting streets.** The cost of any such improvement, or any part thereof, may be assessed upon property benefited by the improvement, whether the property abuts on the improvement or not, based upon the benefits received. The council may pay such proportion of the cost of the improvement as the council may determine from general ad valorem levies. The improvement of two or more connecting streets or two or more types of improvement in or on the same street may be included in one proceeding and conducted as one improvement.

[412.441] **Sec. 55. Assessment procedure.** Subdivision 1. **Calculation of assessments.** At any time after a contract is let or the cost of the work is determined, the clerk, with the assistance of the engineer or other person selected by the council to perform the duties of engineer, shall forthwith calculate the proper amount to be specially assessed for the improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of section 54 of this act, and the proposed assessment so made up shall be filed with the clerk and be open to public inspection. The clerk shall thereupon under the council's direction publish notice of the time and place when and where the council will meet to pass upon

the proposed assessment, in the official paper at least 30 days prior to such meeting of the council. The notice shall state the general nature of the improvement and the area proposed to be assessed.

**Subd. 2. Hearings; lien; instalments.** At such meeting the council shall hear and pass upon all objections to the proposed assessment, if any, and may amend the proposed assessment as to any parcel. When the assessment is adopted by resolution, it shall constitute the special assessment against the lands named therein. The assessment, with the accruing interest thereon, shall be a lien upon the property included therein, concurrent with general taxes, and shall be payable in equal annual installments extending over such period, not exceeding 20 years, as the council determines. The first of the installments shall be payable the year following the adoption of the assessment. Any deferred installment shall bear interest at such rate as the council determines, not exceeding six per cent per annum, from the date of the resolution levying the assessment until August fifteenth of the year in which the installment is payable.

**Subd. 3. Certified duplicate of assessment transmitted to county auditor.** Immediately after adoption of the assessment, the clerk shall transmit a certified duplicate of the assessment, with each installment and interest set forth separately, to the county auditor of the county to be extended on the proper tax lists of the county. Such assessments shall be collected and paid over in the same manner as other village taxes, but the owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment against any parcel or any annual installment, with interest, to the village treasurer.

[412.451] **Sec. 56. Supplemental or re-assessment.**  
**Subdivision 1. Supplemental assessments.** Upon notice and hearing as provided for the original assessment, the council may make supplemental assessments to correct omissions, errors or mistakes in the assessment relating to the total cost of the improvement or otherwise.

**Sec. 57. Subd. 2. Re-assessment.** In any case where an assessment or any part of an assessment under this act is, for any reason whatever, set aside as to any parcel of land, or in event the council shall on advice of the village attorney determine that the assessment is or may be invalid for any

reason, the council may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment to defray the expenses of the improvement.

[412.461] **Sec. 58. Persons aggrieved; appeal to district court; procedure.** Within 20 days after the adoption of the assessment, any person aggrieved who appeared and filed objections may appeal to the district court by serving a notice upon the mayor or clerk of the village. The notice shall be filed with the clerk of the district court within ten days after its service. The village clerk shall furnish appellant a certified copy of objections filed in the assessment proceedings, the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal, the costs incurred shall be taxed by the court and judgment entered therefor.

[412.471] **Sec. 59. Financing.** Subdivision 1. **Improvement bonds or warrants; expense defined; single issue for plural improvements.** After the work has been ordered by day labor or a contract for the making of any such improvement has been entered into, the council may issue improvement bonds or warrants of the village in such amount as may be necessary to defray in whole or in part the expense incurred or to be incurred in making any such improvement. The word "expense" includes every item of cost of the improvement from its inception to its completion, and all fees and expenses incurred or to be incurred in connection therewith. More than one improvement may be financed by a single issue of improvement bonds or warrants without consolidation of the proceedings for such improvements.

Subd. 2. **Form and contents of obligations; anticipated collection; interest; execution of obligations.** The council shall determine by resolution the maturities, denominations, interest and form of the bonds or warrants. The maturities shall be such as, in the judgment of the council, are warranted by the anticipated collection of the assessments or ad valorem levies as herein provided. Interest shall be payable annually or semi-annually at a rate of not to exceed six per cent per annum and may be evidenced by appropriate coupons. Each improvement bond or warrant shall be signed by the mayor and countersigned by the clerk and shall state upon its face for

what purpose it is issued and specify the particular fund against which it is primarily drawn.

**Subd. 3. Full faith and credit.** The council may by resolution adopted prior to the issuance of such bonds pledge the full faith and credit of the village for the payment of the principal and interest of the bonds when the moneys on hand in the appropriate fund are insufficient for the purpose. In that case the council shall each year include in the tax levy a sufficient amount to take care of any accumulated or anticipated deficiency in the fund on which bonds are so issued, which levy shall not be subject to any statutory limitation applicable to the village. The council shall pay the principal and interest of any such bonds out of the funds in the treasury when the moneys on hand in the appropriate fund are insufficient to meet the payment of maturing principal and interest. Such obligations shall be known as improvement bonds. Any obligations issued under this section for the payment of which the full faith and credit of the village is not pledged shall be called improvement warrants; they shall be payable solely out of the proper special fund and it shall be the duty of the village treasurer on presentation to pay such maturing principal and interest on the warrants out of any funds on hand in the proper special fund and not otherwise.

**Subd. 4. Separate improvement fund.** A separate improvement fund shall be provided for each improvement financed by issuance of such obligations. The proceeds from the sale of any obligations issued on its account and all moneys collected on such special assessments shall be placed in such fund and shall be used only to defray the expenses and costs of the improvement and for the payment of principal and interest due upon such obligations.

**Subd. 5. Not included in net indebtedness.** The amount of any improvement bonds and warrants at any time outstanding shall not be included in determining the net indebtedness of any village under the provisions of any applicable law.

[412.481] **Sec. 60. Supplementary to existing laws.** The provisions of this act relating to the making of special assessments for local improvements are not exclusive but are supplementary to existing laws.

## PARKS AND PARK BOARDS

[412.491] Sec. 61. **Parks; parkways and recreational facilities.** Any village may establish, improve, ornament, maintain and manage parks, parkways, and recreational facilities and by ordinance protect and regulate their use.

[412.501] Sec. 62. **Park board in certain villages; continuance of existing board; officers; compensation.** The council of any village 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 village shall hereafter operate as a park board under this act 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 village council. The village 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 village clerk immediately after the close of the calendar year and shall be included as part of the annual financial statement of the village clerk in conformity with section 35.

[412.511] Sec. 63. **Acquisition and control of park property.** Either the park board or the village 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.

[412.521] **Sec. 64. Powers of board.** Subdivision 1. **Generally.** In order to carry out the general powers granted in section 63, 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, boat-houses, bathhouses, refreshment booths, amusement halls, pavilions, and other necessary structures and improvements in parks. The board may, with the consent of the village council, make contracts and leases for the construction and operation of these facilities for terms not exceeding 10 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 village 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 village 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 63.

[412.531] Sec. 65. **Park funds.** Subdivision 1. **Establishment; transfer of funds; tax levies.** For the purpose of carrying out the powers of the park board there shall be established in the village treasury a special fund to be called a park fund. The village 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 225,000 the council of any village having a park board may annually at the time of levying other village taxes levy a special tax of not to exceed two mills for park purposes. The proceeds of this tax shall be placed in the village park fund.

Subd. 2. **Audit; withdrawals.** The park board shall, in the same manner as the council under section 34, 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 village 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.

#### OPTIONAL PLANS OF VILLAGE GOVERNMENT

[412.541] Sec. 66. **Optional plans.** Subdivision 1. **Optional plan "A."** Any village may provide for the appointment of its clerk, treasurer, and, if the village is a separate election district, assessor, and the election of an additional trustee as hereinafter provided in this act. These departures from the standard form of village government are referred to hereafter as Optional Plan A.

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



**Subd. 3. Optional plan "C."** Any village of more than 1,000 population may provide for the commission plan of village government hereinafter provided in this act and referred to as Optional Plan C.

**Subd. 4. Adoption or abandonment; standard form.** Any one of such plans may be adopted or abandoned in any such village by following the procedure set forth in sections 67 to 71 of this act. Until the adoption of an optional plan, every village shall operate under the standard form of village government earlier provided in this act under which the voters elect the treasurer and assessor, if there is one, and a council consisting of the mayor, three trustees, and the clerk.

[412.551] **Sec. 67. Adoption of specific plan.** Subdivision 1. **Submission to voters; one plan only, three year limitation on solicitation.** The village 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 village election, shall, submit to the voters at a regular or special election the question of adoption by the village of Optional Plan A, B, or C. Only one plan shall be so submitted at any one election and no plan shall be submitted in any village in which another optional plan is already in effect until the latter plan has been in effect for at least three years, except that any such plan shall be submitted at the election on incorporation of a village if the incorporation petition so requests and the population of the proposed village, when the submission of Optional Plan B or C is proposed, is more than 1,000.

**Sec. 68. Subd. 2. Election; form of ballot.** The several 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 village government by providing for the appointment by the council of the clerk, treasurer and assessor, be adopted for the government of the village?"

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

"Shall Optional Plan C, providing for the commission form of government, be adopted for the government of the village?"

If the village is not then a separate assessment district, the phrase, "if the village should provide its own assessor" shall precede the word "assessor" 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.

Sec. 69. Subd. 3. **Adoption by affirmative vote.** If a majority of the votes cast on the question of adoption of Optional Plan A, B, or C is in the affirmative, the plan so voted upon shall be adopted in the village and, once placed in effect as subsequently provided in this act, shall remain in effect until abandoned by a similar majority at a subsequent election at which the question of abandonment or adoption of another optional plan is submitted.

Sec. 70. Subd. 4. **Three-year limitation; abandonment of plan.** At any time more than three years after the adoption of any optional plan in a village, 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 village government contained in subsequent sections of this act, the standard plan of village government shall be resumed in the village and all the provisions of law applicable to villages in which an optional plan is not in operation shall henceforth apply to the village.

Sec. 71. Subd. 5. **Report by village clerk and county auditor.** Whenever the question of adoption or abandonment of Optional Plan A, B, or C is submitted in any village and results in a majority vote in favor of the question submitted, the village clerk shall promptly file with the county auditor and with the secretary of state a certificate stating the date of the election, the question submitted, and the vote on the question.

[412.561] Sec. 72. **Applicable laws and ordinances; rights preserved.** Subdivision 1. All laws of the state applicable to a village before the adoption of Optional Plan A, B, or

C and not inconsistent with the provisions relating to such plan, shall apply to and govern the village 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 village government, unless otherwise provided.

[412.571] Sec. 73. **Continuance in office; elections.** Subdivision 1. **Council continue in office.** When Optional Plan A, B, or C is first adopted in any village in which the standard plan of village government is then in operation, the council shall continue as then constituted until the expiration of the term of the incumbent clerk. At the village election preceding expiration of the term of the incumbent clerk and at the election every third year thereafter, two trustees shall be elected and at intervening village elections, one trustee shall be elected, each for a three-year term.

Subd. 2. **Incumbent clerk, treasurer and assessor serve their terms.** When Optional Plan A, B, or C is first adopted in any village in which the standard plan is then in operation, the incumbent clerk, treasurer, and assessor, if any, shall continue to serve until the expiration of their respective terms.

Subd. 3. **Abandonment of plan; members of council.** When Optional Plan A, B, or C 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 trustees continue.** When any optional plan is abandoned and the standard form of village government is resumed, terms of then incumbent trustees shall not be affected by the abandonment; but until the first secular day of January of the year in which the terms of two trustees expire, the clerk shall not serve as a member

of the council. At the village election preceding that date, only one trustee shall be elected.

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

### OPTIONAL PLAN A

[412.581] **Sec. 74. Optional Plan "A"; Officers.** In any village operating under Optional Plan A, the council shall be composed of five members consisting, except during the initial period of its operation as provided in section 73, of the mayor and four trustees and, except as provided in that section, the clerk, treasurer, and assessor, if any, shall be appointed by the council for indefinite terms.

[412.591] **Sec. 75. Optional Plan "A"; duties of clerk.** The village clerk shall perform all the duties imposed on the clerk in villages generally but he shall not be a member of the council, except that when Optional Plan A is first adopted in any village, the incumbent clerk shall continue to be a member of the council until the expiration of his term. The duties of the village treasurer and assessor shall not be affected by adoption of Optional Plan A.

### OPTIONAL PLAN B

[412.601] **Sec. 76. Applications of Sections 76 to 91.** Sections 76 to 91 of this act shall apply only to villages operating under Optional Plan B.

[412.611] **Sec. 77. 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 village and determine all matters of policy. The village manager shall be the head of the administrative branch of the village government and shall be responsible to the council for the proper administration of all affairs relating to the village.

[412.621] **Sec. 78. Boards and commissions.** Subdivision 1. **Limitation as to creation of boards; powers of council.** In any such village 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 village's library, parks, and utilities as fully as other municipal functions for the administration of which no independent boards are authorized by statute for villages 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 village.

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

[412.631] **Sec. 79. Composition of council.** In any village operating under Optional Plan B, the council shall, except as provided in Section 73, be composed of a mayor and four trustees.

[412.641] **Sec. 80. Manager.** Subdivision 1. The village 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 village 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 village, the council shall appoint the first village manager under subdivision 1.

[412.651] Sec. 81. **Village manager; powers and duties.** Subdivision 1. **Generally.** The village manager shall have the powers and duties set forth in the following subdivisions.

Subd. 2. **Enforcement.** He shall see that statutes relating to the villages and the laws, ordinances and resolutions of the village 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 village clerk, all heads of departments, and all subordinate officers and employees; but the appointment and removal of the village attorney shall be subject to the approval of the village council.

Subd. 4. **Control.** He shall exercise control over all departments and divisions of the village 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 village.

Subd. 7. **Advise; annual budget.** He shall keep the council fully advised as to the financial condition and needs of the village, 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 villages or required of him by ordinance or resolutions adopted by the council.

[412.661] **Sec. 82. 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 village manager, or in any manner interfere with the village 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 village employment. Except for the purpose of inquiry, the council and its members shall deal with and control the administrative service solely through the village manager, and neither the council nor any of its members shall give orders to any subordinate of the village manager, either publicly or privately.

[412.671] **Sec. 83. Creation of departments; divisions and bureaus.** The council may create such departments, divisions, and bureaus for the administration of the affairs of the village as may seem necessary, and from time to time may alter their powers and organization. It may, in conjunction with the village manager, prepare a complete administrative code for the village and enact it in the form of an ordinance, which may be amended from time to time by ordinance.

[412.681] **Sec. 84. Clerk and treasurer; subordinate to manager; abolishment of office.** There shall be a village clerk, a village treasurer, and such other officers subordinate to the village manager as the council may create by ordinance. The village clerk shall be subject to the direction of the village 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 village'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 villages 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.

[412.691] **Sec. 85. Manager the first purchasing agent; limitation; audit and approval.** The village manager shall be

the chief purchasing agent of the village. All purchases for the village and all contracts shall be made or let by the village manager when the amount of the purchase or contract does not exceed \$500; but all claims resulting therefrom shall be audited and approved by the council as provided in section 34. 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 village is a party shall be signed by the mayor and the village manager on behalf of the village and shall be executed in the name of the village.

[412.701] **Sec. 86. Budgeting.** The village manager shall prepare the estimates for the annual budget. The budget shall be by funds and shall include all the funds of the village, 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 village 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 en-



terprises, (h) special assessments, and (i) sales of bonds and other obligations. Such estimates shall be printed or typewritten and there shall be sufficient copies for each member of the council, for the village manager, for the village clerk, and three, at least, to be posted in public places in the village. The estimates shall be submitted to the council at its first regular monthly meeting in September and shall be made public. The village 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 village's finances with those of the previous government of the village as may be feasible and pertinent.

[412.711] **Sec. 87. 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 village 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 village 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 86. 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 an ordinance which shall set forth the total of the budget and the totals of the major divisions of the budget for each department according to fund as described in section 86. The council shall also adopt an ordinance levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund. The tax levy ordinance 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 shall be appropriated by ordinance for the several purposes named in the budget and no other. The appropriation ordinance shall make the appropriations for each fund, segregated by departments, for ordinary expenses, showing the amount appropriated for salaries and wages and for other

purposes; for each payment of principal and interest on obligations and for each fixed charge; and for each capital outlay.

[412.721] **Sec. 88. Enforcement of budget provisions; penalty for exceeding budget allowance.** It shall be the duty of the village manager to enforce strictly the provisions of the budget. He shall not approve any order upon the village treasurer for any expenditure unless an appropriation has been made in the budget, nor for any expenditure covered by the budget 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 village shall place any order or make any purchase except for a purpose and to the amount authorized in the budget. Any obligation incurred by any person in the employ of the village for any purpose not authorized in the budget or for any amount in excess of the amount therein authorized shall be a personal obligation upon the person incurring the expenditure.

[412.731] **Sec. 89. Modification of budget.** After the budget has been adopted the council shall have no power to increase the amounts fixed in the budget, 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 four members of the council reduce the sums appropriated for any purpose by the budget or authorize the transfer of sums from unencumbered balances of appropriations in the budget to other purposes.

[412.741] **Sec. 90. Regulations relating to disbursement of funds.** The provisions of section 34 shall apply to villages operating under Optional Plan B except that orders shall be signed by the mayor and village 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 incumbrances upon the fund. The village manager shall specify on each contract requiring the payment of money by the village 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 village.

[412.751] **Sec. 91. 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 village or if any calamity or any other public emergency should subject the village to the necessity of making extraordinary expenditures, the council may authorize the sale by the village treasurer of emergency debt certificates to run not to exceed two years and to bear interest at not more than 6 per cent 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 five members of the council.

#### OPTIONAL PLAN C

[412.761] **Sec. 92. Application of sections 92 to 99.** Sections 92 to 99 of this act apply only to villages operating under Optional Plan C.

[412.771] **Sec. 93. Commission form of government.** The form of government provided in Optional Plan C shall be known as the commission plan. All discretionary powers of the village, both legislative and executive, shall be vested in a village council consisting, except during the initial period of operation of the plan, as provided in section 73, of a mayor and four commissioners.

[412.781] **Sec. 94. Administrative departments; powers.** The executive and administrative powers, authorities and duties not otherwise provided for in sections 73 to 99, shall be distributed among five departments as follows:

- (a) Department of Public Affairs
- (b) Department of Finance
- (c) Department of Public Works
- (d) Department of Public Health and Safety
- (e) Department of Public Utilities.

The distribution of duties among the departments shall, except otherwise provided in this act, be made, and may be changed by ordinance.

[412.791] **Sec. 95. Boards.** Subdivision 1. In any such village there shall be no board of health, library board, park board, or public utilities 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, as a council and through the respective commissioners as subsequently provided, govern and administer the library, parks, and utilities of the village as fully as other municipal functions for the administration of which no independent boards are authorized by statute for villages 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 village.

Subd. 2. Any such board and commission in existence in any village when Optional Plan C is adopted shall continue to operate in all respects as formerly until the first business day of January of the year following the first election after adoption of the plan at which time they shall cease to exist and their powers shall be transferred to the village council. Any existing civil service commission shall not be affected by the change. After abandonment of the plan in any such village and the establishment of the standard plan or Optional Plan A, any board or commission authorized by statute in villages generally may be established in the same manner as in other villages.

[412.801] **Sec. 96. Assignment of members of the council as department heads.** At the first regular meeting after the beginning of the term of any member of the council, the council shall designate one of its members to have charge of each department. This designation may be changed and a transfer of any member of the council from one department to another may be made whenever it appears to the council that the public service will be benefited by the reassignment. The head of each department shall have the supervision, direction and control of the affairs and property of his department, subject to the provisions of this act. The council shall prescribe the powers and duties of officers and employees, and may assign any officer or employee to one or more departments and may require him to perform duties in two or

more departments. The council may adopt whatever regulations are necessary and proper for the efficient and economical conduct of the business of the village.

[412.811] **Sec. 97. Officials.** Subdivision 1. **Appointment and removal.** At its first meeting in each even-numbered year the council shall appoint a clerk, a treasurer, and an assessor, and it may appoint an attorney. The council may remove any such officer at any time. Each commissioner shall have power to appoint and remove the administrative heads of the divisions of his department and also all other employees of his department, subject to any applicable civil service provisions; but the council by a four-fifths' vote may remove any appointee of any commissioner.

**Sec. 98. Subd. 2. Duties of clerk.** The clerk shall perform all the duties imposed on the clerk in villages generally except that he shall not be a member of the council, and except as otherwise provided in this act. The treasurer and assessor shall perform the duties of treasurers and assessors in villages generally, but they shall function as part of the Department of Finance.

[412.821] **Sec. 99. Estimates of financial requirements.** Not later than August 1 of each year, the mayor and commissioners shall send to the commissioner of finance a detailed estimate in writing of the amount of money which in their opinion will be required for the operation of their respective departments during the fiscal year. The estimates shall be arranged in so far as possible in accordance with the requirements set out in section 86 for the budget in villages operating under Optional Plan B. On or before September 1 the commissioner of finance shall submit to the council a proposed annual budget. Except as otherwise provided in this section the provisions of sections 86 to 91 relating to preparation, passage and enforcement of the budget, alterations in the budget, disbursements and emergency debt certificates shall apply to villages operating under Optional Plan C. Duties imposed upon the village manager by section 88 to enforce the provisions of the budget shall be performed in villages operating under Optional Plan C by the village clerk.

#### GENERAL AND MISCELLANEOUS

[412.831] **Sec. 100. Official newspaper.** The council shall, annually at its first meeting of the year, designate a le-

gal newspaper of general circulation in the village 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.

[412.841] **Sec. 101. Destruction of village records.** The clerk with the approval of the council may destroy the following village records:

(1) Claims and vouchers paid by the village more than 10 years prior to such destruction;

(2) Receipts, miscellaneous papers, and correspondence bearing dates more than 10 years prior to destruction.

The treasurer, with the written approval of the village council, may destroy village orders paid more than 10 years prior to destruction.

[412.851] **Sec. 102. Vacation of streets.** The council may by resolution vacate any street or alley or part thereof on petition of a majority of the owners of land abutting on the street or alley or part thereof to be vacated. No such vacation shall be made unless it appears for the interest of the public to do so after a hearing preceded by two weeks' published and posted notice.

[412.861] **Sec. 103. Ordinance prosecutions.** Subdivision 1. **Complaint.** All prosecutions for violation of ordinances shall be brought in the name of the village 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 to the village marshal, or the sheriff or any constable of the county or village, but the marshal shall serve no such process except within the village.

Subd. 2. **Form and contents of complaint.** It shall be a sufficient pleading of the ordinances or resolutions of the village to refer to them by section and number or chapter. They shall have the effect of general laws within the village 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 village, 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.

[412.871] **Sec. 104. Fines and penalties.** All fines, forfeitures, and penalties recovered for the violation of any ordinance shall be paid into the village treasury. Every court or officer receiving such moneys, within 30 days thereafter, shall make return thereof under oath and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the village clerk.

[412.881] **Sec. 105. President and clerk defined.** Whenever the term "president" or "president of the council" is used in a statute applying to any village, the term means the mayor of the village and the term "recorder" as so used means the village clerk.

[412.891] **Sec. 106. Inconsistency with cash basis law.** Any provision in this act 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 village to which any such act applies.

**Sec. 107.** Minnesota Statutes 1945, Section 212.34, as amended by Laws 1947, chapter 410, is amended to read:

**212.34. Elective officers and terms.** *Village elective officers shall consist of the following: in every village, the mayor*

and two constables; in every village where a municipal court has been organized, municipal judges as provided by law, and in every other village, two justices of the peace; in villages operating under the standard plan of village government, the clerk, treasurer, three trustees and, if the village is a separate assessment district, an assessor; and in villages operating under an optional plan of village government, four trustees. Municipal judges shall serve for terms of four years, trustees for terms of three years, and all other officers for terms of two years, each commencing 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, the mayor shall fill the vacancy by appointment for the unexpired term.

When a vacancy in the office of assessor is not filled by appointment as provided in this section before May first following its occurrence, the county auditor shall appoint some resident of the county as assessor for such village.

Sec. 108. Minnesota Statutes 1945, Section 212.35, is amended to read:

**212.35. Election date and where elected.** *Subdivision 1.* The regular village election shall be held annually on the first Tuesday after the first Monday of December in each year.

*Subd. 2.* The mayor, one constable, one trustee, and, if elective, the treasurer, shall be elected in each odd-numbered year. One constable, one trustee, and, if elective, the assessor and clerk shall be elected in each even-numbered year; and an additional trustee shall be elected in each alternate even-numbered year in every village operating under an optional plan of government. Terms of present incumbents not conforming to this schedule shall be extended for one year.

*Subd. 3.* The existing succession of terms of municipal judges and justices of the peace shall be continued, and their successors shall be elected at the village election preceding the expiration of their respective terms.

[412.901] Sec. 109. **Application.** This act shall apply to every village, irrespective of the law under which it was originally incorporated.



[412.911] Sec. 110. **Repeals.** Subdivision 1. The following laws are hereby expressly repealed: Minnesota Statutes 1941, section 367.05, subdivision 3, as amended by Laws 1945, chapter 481, section 2 and Laws 1947, chapter 420; Minnesota Statutes 1945, sections 212.28, 212.285, 212.29, 212.33; chapter 412; sections 413.01, 413.04 to 413.11, 413.27 to 413.293, 415.03, 415.045, 418.01 to 418.035, 426.01, 426.02, 426.06, 426.07, 426.075, 433.02, 435.01, 435.16, 436.01, 438.01, 440.01 to 440.07, 440.10, 441.253, 442.01, 442.02, 443.01, 444.01 to 444.07, 447.01 to 447.03, 448.01, 448.02, 448.27, 448.36 to 448.42, 449.01, 449.02, 451.03, 455.12, 455.33, 457.01, 457.09 to 457.11, 457.14 to 457.18, 458.01, 463.08; Laws 1939, chapter 326; Laws 1943, chapter 391, section 10; Laws 1945, chapter 360. Nothing in this act shall be construed as a legislative declaration that any law so enumerated has not been heretofore expressly or impliedly repealed.

Subd. 2. Any proceedings or actions commenced under any of the laws repealed in subdivision 1 before the effective date of this act shall be completed under the laws under which they were begun, notwithstanding such repeal.

[412.921] Sec. 111. **Certain statutes not to apply to villages.** The following statutes hereafter shall not apply to villages: Minnesota Statutes 1945, sections 413.12, 413.13, 413.14, 413.143, 438.02, 447.05 to 447.07, 448.43 to 448.48, 451.04 to 451.06, 453.01 to 453.10, 455.23 to 455.25, 456.32, 457.13, 461.01 and 273.04 as amended by Laws 1947, chapter 388. In preparing the next edition of Minnesota Statutes the revisor shall delete from the statutes cited in this section all references to villages.

[412.931] Sec. 112. **Effective date.** This act shall take effect July 1, 1949.

Approved March 10, 1949.

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CHAPTER 120—S. F. No. 51

*An act relating to Memorial Day exercises, and amending Minnesota Statutes 1945, Section 375.35.*

Be it enacted by the Legislature of the State of Minnesota :