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CHAPTER 412

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412.02 WHAT TERRITORY MAY BE INCORPORATED. Any district, section, or parts of sections not in any incorporated village, and in the state, which has been platted into lots and blocks, also the lands adjacent thereto, when the plat has been duly and legally certified according to the laws of this state, and filed in the office of the register of deeds for the county in which the lands, or the larger portion thereof, lie, the territory containing a resident population of not more than 10,000, nor less than 100, may become incorporated as a village in the manner hereinafter prescribed. The unplatted part of the territory must adjoin the platted portions and be so conditioned as properly to be subjected to village government. Any village, whose incorporation shall be declared void by judgment of court, may reincorporate under this chapter, notwithstanding the fact that such village does not contain 100 inhabitants; and, in such reincorporation, may include all or part of the territory embraced in the original incorporation; provided, that any district, section, or parts of sections, which has been platted into lots and blocks and which is contiguous to the state line and having a population of not less than 50, may, upon a petition of not less than ten voters, residents therein, become incorporated as a village in the manner hereinafter prescribed.

[R. L. s. 700; 1907 c. 235 s. 1; 1907 c. 270; 1919 c. 324; 1941 c. 39] (1111)

412.03 PETITION FOR ELECTION. Twenty-five or more of the voters who have resided within the territory continuously for a period of at least two years prior to the date of the petition may petition the county board of the county in which the whole or larger part of the lands are situated to call an election for the determination of the proposed incorporation. They shall first cause to be taken a census of the resident population; and, if found to be within the numbers specified in section 412.02, the petition shall be presented within eight weeks thereafter. It shall set forth the boundaries of such territory, the quantity of land embraced therein, the number of actual residents thereon, and the name of the village proposed. It shall be verified by the oaths of at least three of the petitioners declaring that the census was accurately taken within the dates specified and that the statements made in the petition are true.

[R. L. s. 701; 1907 c. 255 s. 2; 1941 c. 27] (1112)

412.04 NOTICE OF ELECTION. If the county board approve the petition, it shall cause a copy thereof, with a notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries described. The time shall be not less than 20, nor more than 30, days after such posting, and the place within the limits of the proposed village. If there be a qualified newspaper published within these limits, there shall also be two weeks' published notice of such election.

[R. L. s. 702] (1113)

412.05 INSPECTORS; RETURN. The county board shall appoint three inspectors, residents of the territory, who shall act as judges of the election, and conduct the same so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory shall be entitled to vote. The ballot shall bear the words, "For incorporation Yes—No," with a square after each of the last two words, in one of which the voter shall make a cross to express his choice. The inspectors shall at once make and file with the county auditor a certificate declaring the time and place of holding the election, that they have canvassed the ballots cast thereat, and the number cast both for and against the proposition. The certificate shall be signed and verified by at least two of the inspectors to the effect that the statements thereof are true.

[R. L. s. 703] (1114)

412.06 INCORPORATION, WHEN EFFECTED. The county auditor shall attach the certificate of the inspectors to the original petition, with a copy of the resolution appointing the inspectors, and the original proofs of the posting and publication of the election notice, and file the whole as one document in his office. If the certificate shows that the majority of the votes cast were in the affirmative, he shall forthwith make and transmit to the secretary of state a certified copy of the document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If territory in more than one county is embraced within such corporate limits, he shall also forthwith make and transmit to the auditor of each county in which the incorporated territory will be situate a certified copy of the document to be there filed as a public record and thereupon the incorporation shall be deemed complete. If the vote be adverse, no subsequent petition shall be entertained within one year next after the election.

[R. L. s. 704; 1907 c. 256 s. 3] (1115)

412.07 ELECTION OF OFFICERS; EXPENSES. Upon the filing of the certified copy of the document with the secretary of state, the inspectors of election shall give notice of a meeting of the resident voters for the organization of such village and the election of its officers, fixing therein the date and hour of the meeting, which shall be at least ten, and not more than 20, days thereafter. Such notice shall be published and posted as in case of the original election. The voters present at the appointed hour and place, by a majority vote taken viva voce, shall appoint two judges and one clerk of the election, who shall take the oath and be governed in the conduct of the election, so far as practicable, by the laws regulating the choice of town officers. They shall open the polls by proclamation and receive all lawful votes offered by resident voters during a period of at least six hours, and until 7:00 p. m. They shall give to each officer chosen a certificate of his election and such officers, having qualified according to law, shall forthwith assume their official duties. All proper expenses of the incorporation, organization, and election shall be a charge upon the village.

[R. L. s. 705] (1116)

412.075 GENERAL POWERS AND DUTIES. Villages so organized, and all others governed by this chapter, shall possess and may exercise, under their respective corporate names, the rights and powers, and be subject to the duties of municipal corporations at common law, with perpetual succession. Each shall be capable of contracting, of suing and of being sued, and of pleading and being impleaded in the courts, may have a common seal and alter the same at the pleasure of the council, and have power to take, purchase, lease, and hold such real and personal property, either within or without its corporate limits, as the purposes of the corporation may require, and may sell, lease, and convey any of such property when no longer needed for corporate use.

[R. L. s. 706] (1117)

412.08 INCLUDING TERRITORY NOT SUBJECT TO VILLAGE GOVERNMENT. When any village shall be incorporated under the provisions of Revised Laws 1905, Chapter 9, and the amendments thereof, which village shall include within its limits the platted portion of lands theretofore attempted to be incorporated as a village under chapter 9, but which attempted incorporation is invalid because it included territory not properly subject to the proposed village government, such village so to be incorporated shall be vested with all the rights, privileges, immunities, franchises, credits, and property that the village so attempted to be incorporated would have had if its incorporation had been legal and valid, and shall be liable for all the debts and obligations that the village so attempted to be incorporated would

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have been liable for if its incorporation had been valid, and all franchises and licenses granted and contracts made by the village so attempted to be incorporated shall be of force and effect in the newly incorporated village from the time of the granting of such franchises and licenses and the making of such contracts respectively by the village so attempted to be incorporated; it being the intention hereof to make such village so to be incorporated the successor to such village so wrongfully attempted to be incorporated, with all the property, rights, and credits that would have accrued to the village so attempted to be incorporated, if legal, by reason of its acts or by the operation of law, and liable for all the obligations of the village so attempted to be incorporated. Nothing in this section shall be construed to validate or legalize any taxes levied or attempted to be levied other than assessments on property adjacent to local improvements levied, for the purpose of paying the cost thereof and the damages occasioned thereby.

[1909 c. 148 s. 1] (1119)

412.09 PEACE OFFICERS. The president and the trustees 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 may command the assistance of all persons, under such penalties as may be prescribed by the by-laws and ordinances.

[R. L. s. 721] (1180)

412.10 ASSESSOR; TOWN TAXES. The assessor shall assess and return all property taxable within the village, if a separate assessment district, and the assessor of the town shall not include in his return any property taxable in such village.

[R. L. s. 716] (1173)

412.11 CLERK; BOND; DEPUTY. The clerk shall give bond to the village, conditioned for the faithful discharge of his official duties, in such sum as the council shall approve. With the consent and approved by resolution of the council, he may appoint a deputy, for whose acts he shall be responsible, and whom he may remove at pleasure. Such deputy may discharge any and all of the duties of the clerk, except that he shall not be a member of the council. The village council shall fix the salary of such deputy clerk and he shall be paid by the village. Such appointment of deputy shall be permissible in all villages of this state, however organized.

[R. L. s. 718; 1943 c. 71 s. 1] (1177)

412.12 DUTIES; COMPENSATION. The clerk shall give the required notice of each annual and special election, record the proceedings thereof, notify chosen officials of their election or appointment to office, and 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, all petitions and communications addressed thereto, all bills presented, and the full titles of all ordinances adopted;

(2) An ordinance book, in which he shall record at length all such ordinances, all by-laws, rules, and regulations passed by the council, and all commissions, permits, and licenses issued, and when so recorded, he shall enter upon the margin of the minute book, opposite the record of adoption, a reference to the book and page of such record; and

(3) A finance book, on which he shall enter all the money transactions of the village, including the dates and amounts of all receipts, and of all orders drawn upon the treasurer, with their respective sources and objects.

He shall act generally as the clerk, recorder, and bookkeeper of the village, be the custodian of its seal and records, countersign its official papers, post and publish notices, ordinances, and the like, and perform such other appropriate duties as may be imposed by ordinance or other direction of the council. For his services he shall receive such compensation as may be fixed at the beginning of his term by resolution of the council. For certified copies, and for filing and entering, when required, chattel mortgages and other papers not relating to village business, he shall receive the fees allowed by law to town clerks.

[R. L. s. 719] (1178)

412.13 CONSTABLES; DUTIES; COMPENSATION. Constables give bonds to the village, to be approved by the council, similar to those required of town constables, and be governed by the same laws. They shall obey all lawful orders of

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the council, or the president thereof, and diligently enforce all laws and ordinances for the preservation of the peace. They may arrest, with or without a warrant, and forthwith take before a village justice, any person engaged in the commission of a public offense, and may command, if necessary, the assistance of bystanders. They shall receive for their services the same fees allowed to other constables, and, for special services to the village, such compensation as the council may fix.

[R. L. s. 720] (1179)

412.14 JUSTICES OF THE PEACE; POWERS; DUTIES; FEES. Village justices of the peace shall possess all the powers of those elected by the towns and be governed in the exercise thereof by the same laws in all respects, except that their official bonds shall run to the village and be approved by the council. They may also hear and determine accusations made against persons for the violation of any ordinance, by-law, or regulation of the village; and, upon conviction, may impose the penalties prescribed. They shall have such other jurisdiction and authority as is by this chapter conferred or implied and receive for their services the fees allowed by law to justices of the towns; provided that in all cases where a village is situated in more than one county, the justices of the peace and constables of such village shall have and possess all powers and jurisdiction conferred on justices and constables of the towns in each of the counties in which such village is situated and may issue and serve processes in each of such counties and file their bonds in each of the counties.

[R. L. s. 722; 1907 c. 459 s. 1] (1181)

412.15 PROSECUTIONS BY VILLAGE. All prosecutions for violation of the ordinances, rules, or by-laws of any village 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.

[R. L. s. 723] (1182)

412.16 PLEADING; EVIDENCE; JUDGMENT. It shall be a sufficient pleading of the by-laws, rules, or ordinances of a village to refer to the section and number or chapter thereof. 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 the cost; and the judgment shall direct that, in default of payment, the defendant be committed to the common jail of the county 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 such fine and costs.

[R. L. s. 724] (1183)

412.17 APPEALS. 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 same, and all costs and damages awarded against him on such appeal. In case of such affirmation, execution may issue against both defendant and his sureties. Upon perfection of such appeal, defendant shall be discharged from custody.

[R. L. s. 725] (1184)

412.18 FINES; FEES. All fines, forfeitures, and penalties recovered for the violation of any ordinance, rule, or by-law of the village, and all moneys paid for licenses and permits, shall be paid into the village treasury. Every court or officer receiving the same, within 30 days thereafter, shall make return thereof under oath and be entitled to duplicate receipts therefor, one of which shall be filed with the village clerk.

[R. L. s. 726] (1185)

412.19 COUNCIL. Subdivision 1. **Members; powers.** The village council shall be composed of five members, of whom three shall be a quorum, and have power to adopt, amend, or repeal all such ordinances, rules, and by-laws as it shall deem expedient for the purposes set out in subdivisions 2 to 25.

Subdivision 2. **Procedure, salaries.** The village council shall have power to regulate the mode of its own procedure and fix the compensation of its employees when not otherwise prescribed.

Subdivision 3. **Books, stationery, furniture, printing.** The village council shall have power to procure the books required to be kept by village officers and such furniture, property, stationery, and printing as shall be necessary for village purposes.

Subdivision 4. **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 employ counsel therefor.

Subdivision 5. **Officials appointed.** The village council shall have power to appoint when necessary a village attorney, a poundmaster, a street commissioner, one or more keepers of cemeteries, one or more fire-wardens, a marshal, and one or more policemen. Every such appointee shall give such bond as the council may require, conditioned for the faithful discharge of his duties and the proper application and payment of all moneys by him officially received.

Subdivision 6. **Buildings.** The village council shall have power to control and protect the public buildings, property, and records and insure the same.

Subdivision 7. **Re-numbering, platting.** The village council shall have power to re-number the lots and blocks of the village, or any part thereof, and to cause a revised and consolidated plat of the same to be made and recorded.

Subdivision 8. **Fire prevention.** The village council shall have power to establish a fire department, appoint the officers and members thereof, and prescribe their duties; to provide fire engines and other fire apparatus, engine houses, pumps, water mains, reservoirs, and other water-works; to compel the inhabitants to aid in the extinguishment of fires, and to raze such buildings in the vicinity of a fire as any two or more members of the council present may direct, for the purpose of preventing its communication to other buildings; to establish fire limits within which wooden or other combustible buildings shall not be erected; to require owners or occupants of buildings to provide and keep on their premises suitable ladders and fire buckets, and, after reasonable notice to, and refusal by, such owner or occupant, to procure and deliver the same to him, and assess the cost thereof as a special tax upon such real estate, to be collected as other village assessments are collected; to regulate the storage of gunpowder and other dangerous materials; to require the construction and use of safe places for the deposit of ashes; to regulate the manner of putting up stove-pipes, and the construction and cleaning of chimneys; to prevent bonfires and the use of fireworks and firearms in the village; to authorize fire-wardens at all reasonable times to enter into and examine lots, enclosures, and buildings in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in a safe condition; and, generally, to take such measures for the prevention or extinguishment of fires as may be necessary or proper.

Subdivision 9. **Streets, sewers, sidewalks, public grounds.** The village council shall have power to lay out, open, change, widen, extend, or vacate streets, alleys, parks, squares, and other public ways and grounds, and to grade, pave, and repair the same; to establish and maintain drains, canals, and sewers, and to alter, widen, or straighten watercourses; to lay, repair, or otherwise improve, or to discontinue, sidewalks, paths, and cross-walks; to prevent the encumbering of streets or other public ways or grounds with vehicles, railway cars, or engines, building material, or other substances; to prevent racing or the immoderate riding or driving of animals or vehicles in the village, or the use of sidewalks for other than pedestrian purposes; to require the owners or occupants of buildings to remove snow, dirt, or rubbish from the sidewalks adjacent thereto; and, in default thereof, to authorize such removal at the owner's expense. No street or alley shall be vacated except upon petition as in this chapter provided.

Subdivision 10. **Sprinkling districts.** The village council shall have power to define sprinkling districts and to require owners or occupants of lots or lands abutting on any public street or alley to pay the proportionate share of the expense.

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of sprinkling with water or oil any such street or alley, and in default of such payment to provide for the assessment of such proportionate share against such lots or lands to be collected as other taxes are collected.

Subdivision 11. Animals, rates of speed, licenses. The village council shall have power to restrain the running at large of cattle, horses, mules, sheep, swine, poultry, and other animals, and to authorize the distraining, impounding, and sale thereof; to establish pounds, and to regulate and protect the same; to require the fastening or confinement of animals while in the streets or alleys of the village, and to prescribe the place and manner thereof; to regulate the speed of electric or steam engines or cars running in or through the village; to prevent the running at large of dogs, and authorize the destruction, in a summary manner, of such as are unlawfully at large; to license public porters, solicitors, or runners, cartmen, hackmen, omnibus drivers, and guides, and establish regulations for their conduct as such; and to prevent unnecessary noise or other disorder.

Subdivision 12. Markets. The village council shall have power to establish and regulate markets, provide public scales, appoint a weighmaster, and restrain sales in the streets.

Subdivision 13. Cemeteries; parks, trees; assessments. The village council shall have power to purchase and hold cemetery grounds within or without the village limits, to enclose, lay out, and ornament the same, and to sell and convey lots therein, such ground so acquired, or portion thereof as may be required for that purpose, shall be surveyed into lots of such size as it shall direct, with such avenues, alleys, and walks as it shall deem proper, and a map of such survey shall be filed in the office of the register of deeds of the county of the location of such cemetery; to establish public parks, parkways, and walks, and enclose, improve, ornament, and protect the same; to appoint a park board and provide for and regulate the setting out and protection of trees, shrubs, and flowers in the village or upon its property; and when any parkway is established or improved along the street frontage of private property, the special benefits, if any, resulting therefrom to lots and parcels of land fronting on such parkway may be assessed against the same and collected as other special assessments are collected.

Subdivision 14. Amusements; peddlers. The village council shall have power to prevent or license and regulate the exhibition of circuses, theatrical performances, or shows of any kind and the keeping of billiard tables, pigeon-hole tables, and bowling alleys; to restrain or license and regulate auctioneers, transient dealers, hawkers, and peddlers; and in all such cases to fix the price of the license and prescribe the term of its continuance, and to revoke such license when, in the opinion of the council, the good order of the village requires it; provided, that the council, in its discretion, may refuse to grant a license for any of the above purposes, and the term of no such license shall extend beyond the annual election next after the granting thereof.

Subdivision 15. Gaming and other vices; liquors. The village council shall have power to prohibit gift enterprises, all gambling devices, and all playing of cards, dice, or other games of chance or skill for the purpose of gaming; to restrain and punish vagrants, tramps, mendicants, prostitutes, and persons guilty of lewd conduct; to punish drunkenness; and to license and regulate or prohibit the selling, bartering, disposing of, or dealing in spirituous, malt, fermented, vinous, or mixed intoxicating liquors of any kind, and to revoke any license for the sale of such liquors already granted when the council, after a hearing of the case, shall deem it proper.

Subdivision 16. Libraries. The village council shall have power to establish and maintain public libraries and reading rooms, purchase books and periodicals therefor, and make needful rules for the safe-keeping and handling of the same.

Subdivision 17. Removal of officers. The village council shall have power to remove any officer appointed or elected by the council, when, in its judgment, the public welfare will be promoted thereby.

Subdivision 18. Jails. The village council shall have power to purchase, lease, or build, and to maintain, a watchhouse or other place for the confinement of offenders against the rules, ordinances, and by-laws, and for the temporary detention of suspected persons.

Subdivision 19. Board of health; hospitals; nuisances. The village council shall have power to establish a board of health, with all the powers of such boards under the general laws; to provide hospitals, and regulate the burial of the dead; to define

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nuisances, and prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous building or place, to remove, abate, or cleanse the same; to direct the location and management of slaughter-houses, and to prevent the erection, use, or occupation of the same, except as authorized; to prevent the bringing, depositing, or leaving within the village of any putrid carcass or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water, or other unwholesome matter therefrom; to provide for the cleaning of, and removal of obstructions from, any river, stream, lake, slough, or watercourse within the village; and to prevent the obstruction or retarding of the flow of waters therein, or the fouling of the same.

Subdivision 20. Reservoirs. The village council shall have the power to provide, and regulate the use of, wells, cisterns, reservoirs, water-works, and other means of water supply.

Subdivision 21. 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 thereof to the village and its inhabitants.

Subdivision 22. Harbors and docks. The village council shall have power to establish harbor and dock limits; to regulate the location, construction, and use of piers, docks, wharves, and boat-houses on navigable waters; and to fix rates of wharfage.

Subdivision 23. Taxes; bonds; fiscal statements. The village council shall have power to levy and collect taxes, including poll tax and assessments, audit claims against the village, and direct orders to issue for their payment; to refund, wholly or in part, any tax or special assessment unjustly or illegally collected; to authorize village bonds to be issued in the cases provided by law; and, generally, to manage the financial concerns of the village; and to prepare and cause to be publicly read at the annual village election a detailed statement showing the amount in the treasury at the beginning of the year, when and from what sources all moneys paid into the treasury during the year were derived, and when, to whom, and for what purpose all money expended was paid, with the balance then in the treasury, which statement shall be recorded in the minute book and preserved in the recorder's office.

Subdivision 24. General powers. 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 trade and commerce, and the promotion of health by such ordinances, rules, and by-laws not inconsistent with the constitution and laws of the United States or of this state as it shall deem expedient.

Subdivision 25. Regulation of construction of buildings. The village council shall have power to regulate the construction of buildings within the village.

Subdivision 26. Penalties for violations. The village council shall have power to declare that the violation of any ordinance, rule, or by-law herein authorized shall be a penal offense, and to prescribe penalties therefor; provided, that no such penalty shall exceed a fine of \$100 or imprisonment in a village or county jail for a period of three months, but, in either case, the costs of prosecution may be added; and, in default of payment of fine or costs, the person committed may be confined in such jail until payment is made or the period has expired.

Subdivision 27. County hospital, contribution for. In addition to the powers now vested in the village council, it may contribute a sum not to exceed \$15,000 towards the erection or equipment, or both, of a county hospital to be erected within the corporate limits of the village, when authorized by a majority of the voters of the village at any general election, or at a special election called to vote upon the question. Such election upon the question may be ordered by the council or may be called within ten days when petitioned by at least ten per cent of the legal voters of the village, based upon the total number of votes cast at the preceding election.

Such contribution may be made out of any available surplus in any village fund.

The water and light commission of any village may transfer available funds to the village for such purpose.

If funds are insufficient for such contribution, the council may issue and sell bonds of the village, upon such terms and conditions as it determines best for such purpose, and provide for tax levies to pay such bonds at maturity and the accrued

interest when due. The approval by the voters of such contribution shall be deemed authority for the issuance and sale of such bonds to provide the necessary funds.

[R. L. s. 727; 1909 c. 263; 1917 c. 406 s. 1; 1919 c. 478; 1923 c. 164; 1941 c. 70; 1945 c. 58 s. 1] (1186)

412.20 MEETINGS OF COUNCIL. Regular meetings of the council shall be held at such times as may be prescribed by the by-laws. Special meetings may be called by two members by writing filed with the clerk, who shall notify the members of the time and place thereof in the manner prescribed by the by-laws. The president shall preside, except that a president pro tempore shall be chosen from the trustees who shall preside in the absence of the president and who shall perform the duties of president during the president's disability or absence from the village. All meetings 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.

[R. L. s. 728; 1943 c. 99 s. 1] (1195)

412.21 CONTRACTS; MEMBERS EXCLUDED; BIDS. No member of a village council shall be directly or indirectly interested in any contract made by such council, and every violation hereof shall be a misdemeanor; provided, that any village council, otherwise having authority, may purchase merchandise or materials in which a member of such council is interested by four-fifths vote of such council, when the consideration for such purchase of such merchandise or materials does not exceed \$50.00 in any year. All contracts for the purchase of merchandise, materials or equipment or for any kind of construction work undertaken by the village which require an expenditure of \$100 or more, if not to be paid from road or poll tax, shall be let to the lowest responsible bidder, after public notice of the time and place of receiving bids.

[R. L. s. 731; 1935 c. 344 s. 1; 1939 c. 139] (1199)

412.22 ORDINANCES, HOW ENACTED. All ordinances, rules, and by-laws shall be enacted by majority vote of all the members of the council, shall be signed by the president and attested by the clerk, and published once in a newspaper in the county or, if there be none such, posted in three conspicuous places in the village. Proof of such publication, by affidavit of the printer or foreman in the office of the newspaper, or of such posting by the certificate of the village recorder, shall be attached to and filed with such ordinance and the same shall be prima facie evidence of the facts therein stated. All ordinances shall be suitably entitled, and in this style: "The village council of do ordain as follows."

[R. L. s. 729] (1196)

412.23 EXECUTION OF INSTRUMENTS. Every contract, conveyance, license, or other written instrument shall be executed on the part of the village by the president and clerk, with the corporate seal affixed, and only in pursuance of authority therefor from the council.

[R. L. s. 730] (1198)

412.24 CONTROL OF STREETS. Each village shall constitute one road district over which the officers of the town in which it is situated shall have no control. All poll and other road taxes raised within the village shall be expended under the direction of the council. The county or town board may make such appropriations from its road fund as it shall deem proper for the construction or repair of bridges within such village.

[R. L. s. 732] (1200)

412.25 VACATING STREETS. On petition of a majority of the owners of land abutting on any street or alley, or any part thereof, in any village, the council may by resolution vacate the same, or any part thereof, if it shall appear for the interest of the public so to do, first giving one week's published and posted notice of a hearing to be had thereon, but such vacation shall not become effective until a certified copy of such resolution shall be filed for record with the register of deeds.

[R. L. s. 733; 1909 c. 381 s. 1; 1927 c. 57 s. 1] (1201)

412.26 ASSESSMENTS FOR BENEFITS. The cost of laying out, widening, extending, or opening any street, lane, alley, square, or other public ground or place, of constructing, opening, altering, enlarging, or extending any drain, canal, or sewer, of widening or straightening any watercourse, or of improving any harbor, by any village governed by this chapter, including all damages and expenses

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incurred by the village in acquiring lands for such purposes by condemnation or otherwise, may be assessed, by a majority vote of the village council, upon such property within the village as it shall determine to be specially benefited by the improvement.

[R. L. s. 734] (1203)

412.27 STREET IMPROVEMENTS; ASSESSMENTS. The council of any village may cause any street therein, or any part thereof, to be graded, paved, or otherwise improved, or any sidewalk, sewer, curb, or gutter to be built, rebuilt, or repaired, or in part built and in part rebuilt or repaired, upon a petition therefor signed by a majority of all owners of real estate bounding both sides, and by the owners of at least one-half of the frontage of the street, or part of street, to be improved, or may order any sewer to be built on any street, or part of a street, or any sidewalk, curb, or gutter to be built, rebuilt, or repaired, or in part built and in part rebuilt or repaired, on one side of a street, or part of a street, upon like petition if signed by the owners of at least one-half the frontage on such side of the street, or part thereof, to be so improved; and, without any petition, it may order any sidewalk, curb, sewer, or gutter previously built to be put in repair, or rebuilt when necessary, and may upon petition, cause any street, or part of street, to be sprinkled when deemed necessary. The cost of such improvement or sprinkling, or any part thereof not less than half, may be assessed and levied, by resolution of the council, upon the lots or parcels of ground fronting on the street, part of the street, or side thereof, so improved or sprinkled and most benefited thereby.

[R. L. s. 735; 1911 c. 324 s. 1; 1915 c. 153; 1925 c. 309 s. 1] (1205)

412.28 ADDITIONAL TAX; INSTALMENTS; BONDS. If the tax so levied proves insufficient to pay the cost, or the proportion thereof assessed to such property, the council may levy an additional tax thereon to make good the deficiency. If the petitioners for the improvement so request in their petition, the council in its discretion may make such assessment payable in five annual instalments and may issue and sell bonds for the aggregate of such instalments, the proceeds thereof to be used in paying for the improvement.

[R. L. s. 736] (1206)

412.29 MODE OF ASSESSMENT OF BENEFITS AND COST OF STREET IMPROVEMENTS; COLLECTION. The assessments authorized in sections 412.26 to 412.28 shall be made by resolution of the council setting forth the purpose thereof, a description of each lot or parcel benefited, the name of its owner, if known, and the amount assessed thereon. Two weeks' published and posted notice shall be given of the contents of such resolution and of the time when the council will attend at its usual place of meeting to hear objections to the assessment, or any part thereof. At such time and place the council shall consider all objections made and for that purpose may adjourn from day to day, not exceeding three days, and by resolution may modify such assessment, or any part thereof. On October tenth next following, if any of the assessments be not previously paid to the village treasurer, the clerk shall certify the same to the county auditor, who shall extend all such unpaid amounts against the lands assessed and the same shall be enforced, collected, and paid over to the village treasurer as in the case of other village taxes; provided that the owner of the land assessed for a sidewalk improvement may discharge such assessment by laying or repairing the walk to the satisfaction of the council, unless the petitioners, in cases where the council proceeded upon petition, have waived such right.

[R. L. s. 737; 1925 c. 309 s. 2] (1207)

412.30 TAXPAYER'S APPEAL. No order shall be issued or signed for the payment of any claim until ten days after the allowance thereof, within which time any five taxpayers of the village may appeal from such allowance to the district court of the county. To effect such appeal, they shall pay to the clerk a fee of 50 cents, and serve upon him a notice setting forth the fact of the appeal, the claim referred to, and the date and amount of its allowance, and thereafter no order shall issue until the appeal is determined. The clerk shall forthwith file the copy of notice served, and transmit to the clerk of the court the original affidavit and claim, with a certified copy of the minutes of all council proceedings relating thereto.

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Upon proof being filed with the clerk of the service of the notice, the court shall have jurisdiction of the claim and of the parties thereto. Such appeal shall be tried and determined in the same manner as appeals from a decision of the county board.

[R. L. s. 739] (1223)

412.31 FINANCIAL REPORT. The council shall make an annual report showing the items and nature of all accounts and to whom allowed, together with a detailed statement of the financial concerns of the village. Such report shall be filed with the clerk and a copy shall be posted at the time and place of the annual election.

[R. L. s. 740] (1224)

412.32 TAX LEVY. Annually on or before September 15 the council shall determine by resolution the amount of corporation taxes to be assessed, which shall not exceed two per cent of the assessed valuation of the property taxable in the village. Before levying a tax for any special purpose, the council may submit the question of levying the same to the voters at a general or special election, and it shall be bound by the vote thereon. On or before October 10 each year, the clerk shall certify all such resolutions to the county auditor.

[R. L. s. 741] (1225)

412.33 DISSOLUTION, HOW ACCOMPLISHED. Any village governed by this chapter may be dissolved by a majority vote of its electors cast at a special election called for that purpose. Such election shall be duly held when a number of the voters equal to one-third of those voting at the preceding village election shall petition the council therefor. The ballots used shall bear the printed words "For dissolution," and "Against dissolution," with a square after each, in which the voter may indicate his preference by a cross. The election shall be called and conducted and the result thereof certified to the county auditor as required in the case of a vote upon a proposed issue of town or county bonds. If the dissolution be carried, the auditor shall certify the vote to the state auditor and to the secretary of state and at the end of six months after the date of such election the village shall cease to exist as such.

[R. L. s. 742] (1226)

412.34 SETTLEMENT OF AFFAIRS. Within six months after such special election the council shall dispose of the village property, adjust all claims against the village, settle with the treasurer and other village officers, and cause the assets of the village to be applied to the payment of its debts. If anything remain, it shall designate the manner in which the same shall be used and, if any debts be unpaid, shall levy a tax sufficient for such 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.

[R. L. s. 743] (1227)

412.35 FUNDS OF DISSOLVED VILLAGE CORPORATIONS. When any village heretofore existing under the laws of this state shall have been dissolved in the manner provided by sections 412.33 and 412.34 and the council of any such village shall have wholly failed and neglected to designate the manner in which the money assets of such village remaining after the payment of all debts of such village, and the settlement with the treasurer and other officers thereof, shall be used or otherwise disposed of, and funds belonging to the village shall remain in the hands of the last treasurer of the village, or to the credit of the treasurer of such village, or to the credit of such village, in the bank where such funds were on deposit at the time of the dissolution of such village, such treasurer or the bank where such funds were on deposit at the time of the dissolution of such village, is hereby authorized and directed to forthwith pay over all of such funds to the county treasurer of the county in which such village was located, and the receipt of such county treasurer shall be full and final receipt and release for such funds. Upon the receipt of any such funds the treasurer and auditor of such county shall credit such funds to such village on the books of their respective offices, and within six months thereafter the auditor of such county shall draw his warrant in favor of the towns in which such village so dissolved was located, for the full amount so received by such treasurer for the credit of such village, after deducting from the

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amount so received such overdrafts or other sums as may be due to such county from the village for tax refunds or otherwise, and the auditor shall forthwith deliver such warrant to the treasurer of such town who shall credit the proceeds thereof to the general fund of the town.

[1917 c. 193 s. 1] (1228)

412.36 MONEY IN HANDS OF TREASURER OF ILLEGALLY CONSTITUTED VILLAGE TO BE PAID INTO TOWN TREASURY. The moneys remaining in the hands of the person acting as treasurer of a village, the incorporation of which has heretofore or shall hereafter be declared to be illegal, shall, by the person acting as village treasurer, be paid to the treasurer of the town in which the territory attempted to be included in such village is situate and in case such territory is situate in more than one town then the money shall be paid to the town treasurers of these towns in such proportion as the assessed valuation of the real estate thereof, formerly included in such assumed, but illegal, village, bears to the assessed valuation of all the real estate formerly assumed to be included therein.

[1915 c. 57 s. 1] (1176)