

CHAPTER 97.

AN ACT

[S. B. 3]

To revise and codify the laws relating to municipal corporations; to repeal Sections 627 to 629 inclusive of Compiled Laws of Alaska, and all laws amendatory thereof and repealing all other laws inconsistent to this Act.

Be it enacted by the Legislature of the Territory of Alaska:

ARTICLE I.

METHOD OF INCORPORATING.

Section 1. **Who May Incorporate. Hearing.** Any ^{Incorporation of town.} community having four hundred or more permanent inhabitants may form a municipal corporation, termed a city, in the manner hereinafter provided.

A petition praying for such incorporation shall first be presented to the judge of the district court ^{Petition.} presiding in the judicial division in which the community seeking incorporation is located, which petition shall be signed by at least one hundred adult bona fide residents of such community, who are citizens of the United States, and shall specify the boundaries and give the number of inhabitants of the proposed corporation, as well as state the name by which it is to be known. Such petition shall also state such other facts as may tend to show good grounds for such incorporation. The ^{Order.} judge shall thereupon, by order, fix the time and place for considering said petition, which time shall not be less than thirty days after the date of such order. A printed or typewritten copy of said order shall be posted in three of the most public places within the limits of the territory proposed to be incorporated at least thirty days prior to time fixed for considering said petition. At the time and place fixed for ^{Hearing.} considering said petition, the judge shall give a fair hearing to those who are in favor of and to those who are opposed to the same; and if he be satisfied that it is for

Election.

Notice.

the best interest and welfare of the community to incorporate as a city, he shall, by order, so adjudge; and he may, by the order, change or modify the proposed boundaries. He shall also, by order, designate the name and the boundaries of the corporation and the time and place when and where an election shall be held to determine whether the people of the community desire to be incorporated; and he shall also, by said order, appoint three qualified voters to act as judges of said election. A printed or typewritten copy of said order shall be posted at three of the most public places within the limits of the proposed corporations at least thirty days prior to the day of the election, and such posting shall be deemed a sufficient notice of such election.

Qualifications
for voters.

Section 2. Vote on Question of Incorporating. Every person twenty one years of age who is a citizen of the United States and who has resided continuously one year next preceding the election in the Territory of Alaska, and six months preceding the election within the limits of the proposed corporation, shall be qualified to vote at said or any subsequent municipal election. Said election shall be by printed or written ballot in the following form, to-wit:

Ballot.

“For Incorporation of the City of
(name of proposed corporation)”

or,

“Against Incorporation of the City of
(name of proposed corporation)”

Election of
Members of
Council.

Section 3. Election of Members of Council. The qualified electors of the community proposed to be incorporated may also at said election, by a separate ballot, choose a council of seven members who shall be qualified electors of the community.

Judges of
Election.

Section 4. Duties of Judges of Election. The said judges of election shall, before entering upon the duties of their office, take an oath in writing to faithfully and

impartially discharge the duties of their trust, and they shall duly canvass and compile the vote cast and issue under their hands a certificate showing the number of votes cast in favor of incorporation and the number of votes cast against incorporation. Said certificate, together with all the ballots cast and the oaths of the judges of election, shall immediately be filed with the clerk of the district court in the division in which the community proposed to be incorporated is situated.

Certificates of votes, contents.

Section 5. **Declaration of Incorporation.** If it shall appear from the said certificate of election filed with the clerk of the district court, as aforesaid, that two thirds or more of the votes cast at said election were in favor of the incorporation and that the provisions of law relating to incorporation have been substantially complied with, then the district judge shall, by an order in writing entered in the records of the court, duly adjudge and declare that the community in which such election has been held is and shall be deemed to be a municipal corporation under the name of "the city of (here insert the name)," and the same shall from thenceforth be deemed a municipal corporation possessed of the powers and privileges hereinafter prescribed, and such other powers as may be given by law. Such order shall describe the boundaries and give the name of the corporation, and one certified copy thereof shall be filed in the office of the Secretary of the Territory and another in the office of the Commissioner of the precinct in which the corporation is situated.

Order of District Judge declaring incorporation.

Section 6. **Certificate of Election of Members of Council.** The said judges of election shall also canvass the votes given at said election for members of the council and shall declare the seven candidates who have received the greatest number of votes for such office duly elected and shall issue and deliver to them certificates of their election.

Canvass of Votes for Council.

Section 7. **Oath of Office of Members of Council.** In case the community in which said election has been

Oath.

held becomes incorporated as aforesaid, the members of the council chosen as aforesaid, as well as the members of such council chosen at subsequent elections, shall, before entering upon the duties of that office, severally take an oath in writing to honestly, faithfully, and impartially discharge the duties of their trust, which oaths shall be filed with the clerk of the city.

Section 8. Time of Subsequent Elections—Term of Office. An annual election shall be held each and every year on the first Tuesday of April in every city in the Territory for the election of members of the council, unless the time for such election be changed by the council as hereinafter provided. The members of the council chosen at the first election shall hold their office until the next annual election and until their successors are elected and qualified, and the members of the council chosen at subsequent elections shall hold their office for the term of one year, unless their term of office be increased to two years as hereinafter provided in Section Eleven (11) of this Act, and until their respective successors are elected and qualified.

ARTICLE II.

THE OFFICERS OF THE CITY.

Section 9. President of Council Ex-Officio Mayor. Until otherwise provided in conformity with section eleven (11) of this Act, the council shall elect one of their members president of the council, who shall also be ex-officio mayor of the city and who, when chosen, shall continue to hold the position of president and ex-officio mayor during the term for which the council was elected.

Section 10. Appointment of Other Officers. Until otherwise provided in conformity with the provisions of section eleven (11) of this Act, the council shall have power to appoint a clerk, a treasurer, an assessor, a municipal magistrate, a municipal attorney and chief of police, and such other officials and employees as

Annual
Election.

Term of
Councilmen.

President of
Council to be
mayor, when.

Other officers.

may be necessary; but none of such officers and employees shall be appointed for a period of time extending beyond the term of the council and not to exceed one year.

Section 11. Direct Election of Mayor and Other Officers. Two Year Term for Members of Council.

After the incorporation of a city and at any time after the election of the first council, the people of the municipality may annually elect a mayor by direct vote, and may elect six members of the council for a term of two years, three of whom shall be elected at each annual election, and the municipal clerk, municipal treasurer, and municipal attorney or any one or more of them

Election of mayor by direct vote, when.

Election of Council and other officers.

may be elected for a term of one year by direct vote of the people at the general election; provided, however, that no such system shall be adopted until the council shall have first passed an ordinance adopting such system or part of such system, and such ordinance shall have been ratified by a majority of the electors voting on that subject at some general election or at some special election called for that purpose; provided further, that immediately after the council shall be assembled in consequence of the first election held under the system provided for by this section, they shall by lot be equally divided into two classes. The seats of councilmen of the first class shall be vacated at the end of one year and when their successors are elected and qualified, and the seats of the councilmen of the second class at the end of two years and when their successors are elected and qualified, so that three members of the council shall be elected annually thereafter for a term of two years.

How direct elections may be instituted.

Two classes of councilmen.

Provided, further, that if the city shall have adopted in whole or in part the method of electing members of the council, the mayor, the municipal clerk, the municipal treasurer and the municipal attorney, or any of them, as in this section provided, and shall be desirous of repealing the same, it may do so in whole or in

City may repeal method of electing members.

part in the same manner as herein provided for the adoption of such method.

ARTICLE III.

GENERAL. POWER AND JURISDICTION OF THE COUNCIL.

Powers of Council.

Section 12. **General Authority of Council.** The council shall have and exercise the following powers:

Rules, etc.

First: To adopt rules and by-laws for their own proceedings.

Elections.

Second: To make suitable provisions for municipal and other elections, and shall appoint three judges and two clerks of election for each polling place in the city for each election.

Streets.

Third: To provide for the location, construction and maintenance of the necessary streets, alleys, crossings, sidewalks, sewers, wharves, aqueducts, dikes and water courses, and to widen, straighten, strengthen or change the channels for streams and water courses.

Public utilities.

Fourth: To purchase, construct or otherwise establish and maintain plants for the distribution and use in the city of light, heat and power by electricity, gas or otherwise. To similarly establish and maintain for use within the city telephone systems, water works, electric light and power plants, and other public utilities for the purpose of serving the city and the public. Provided, however, such public utilities as provided for in this sub-section shall not be operated or maintained by funds raised by taxation but from revenue collected for service rendered by such plants or utilities from the customers or users thereof.

Trails and roads.

Fifth: To provide for the location and construction, for a limited distance and to a limited extent, of trails and roads outside the limits of the city, but leading to and from the same, where such roads and trails are necessary for promoting the welfare and prosperity of

the city, but no money shall be expended for such purpose except upon the unanimous vote of the entire council unless the qualified voters of the town have at an annual election by ballot by two thirds vote declared in favor of such expenditures.

Sixth: To provide for fire protection, public health, police protection and the relief of the destitute and indigent. Fire, health and police protection.

Seventh: To assess, levy and collect a poll tax of not more than five (\$5.00) dollars per year on all men over twenty one and under fifty years of age. Such tax shall be a lien upon and may be collected from any real or personal property of the person against whom the tax is levied, except wearing apparel and household furniture less than three hundred dollars in value. Poll tax.

Eighth: To levy a tax or license upon each dog against the person who keeps the same and provide for the impounding, selling, killing or otherwise disposing or [of] the dog in case the tax be not paid or in case the dog be vicious or dangerous to life or health or otherwise a nuisance. Dog tax.

Ninth: To assess, levy, and collect a general tax for school and municipal purposes not to exceed two per centum of the assessed valuation upon all real and personal property, and to enforce the collection of such lien by foreclosure, levy, distress and sale. Provided, however, that all property belonging to the municipality or to the Territory, and the household furniture of the head of the family or a householder, not exceeding two hundred dollars (\$200.00) in value, as well as all property used exclusively for religious, educational and charitable purposes shall be exempt. Provided further, that the laws exempting certain property from levy and sale on execution shall not apply to taxes or to the collection of the same, or to any taxes levied by a municipal corporation. General school tax.
Exemptions.

Tenth: To regulate, fix and establish and from time to time change, as they shall deem fit and proper, all Regulation of rates for public service corporations.

rates and charges that may be charged for services rendered to the municipalities or to the inhabitants thereof by any public service association, corporation or individual, including the right to regulate and provide what shall be a reasonable deposit for meters and security for service to be rendered, and to provide that interest be paid on such deposit; provided that all rates, charges and regulations shall be reasonable, and such as to permit a fair and reasonable return by way of interest or dividends on invested capital.

Provided, however, that in case of any franchise hereafter granted by any city in the Territory of Alaska to any person, firm or corporation furnishing public service and in which franchise the rates to be charged for such service are fixed, such rates shall not be lowered for the period of five years from and after the date on which such franchise goes into effect.

Fixed rates under franchise not to be lowered for 5 years.

Eleventh: To prohibit drunkenness, gambling houses or places of ill fame, disorderly conduct or conduct endangering the public peace, public health, public safety.

Drunkenness.

Twelfth: To prescribe the punishment for the violation of any municipal ordinance, but such punishment shall not exceed in any case a fine of one hundred dollars (\$100.00) or imprisonment in a municipal jail of thirty days, or both, in the discretion of the court, together with the costs of prosecution. All fines and costs imposed and collected for violation of municipal ordinances shall belong to the municipality and be paid over to its treasury.

Maximum punishment for violation of ordinances.

Thirteenth: To make due provisions for maintenance of a municipal jail and to provide the same with a keeper.

Jail, etc.

Fourteenth: To license, tax, restrain, or prohibit peddling, hawking on or in the streets of the city or at any public place therein; and the council may impose by ordinance a reasonable license tax on auctioneers, itinerant vendors and persons, their principals and

Petitioners, auctioneers and itinerant vendors.

agents, engaged in a temporary or transient business of vending or selling merchandise, stocks or bonds or other articles of commerce within the municipality; but the provisions of this subdivision shall not apply to orders taken by commercial travellers and in the usual course of business or to bona fide sales of merchandise or goods by sample for future delivery.

Fifteenth: By ordinance, after authorization therefor by a majority vote of the qualified electors of the city given at an annual general election or a special election called for that purpose, to establish, maintain, and operate for public convenience and welfare, wood, coal, oil and fuel yards as well as lighterage plants, and to provide for the operation, maintenance and upkeep of the same, and for the sale of wood, coal, oil, and fuel therefrom. Funds raised by taxation may be used for the operation, maintenance or upkeep thereof. Wood, coal, oil or fuel shall not be sold nor the service of lighterage be furnished or supplied, by the city at less than cost.

Establishment
of fuel yards
and lighterage
plants.

Sixteenth: To grant franchises for the construction and maintenance of electric light and power plants, water plants, telephone and other public service, and to permit the use of streets and other public places for a period of not to exceed twenty years, under such rules and regulations as may be prescribed by ordinance. Provided, however, no such franchise shall be valid until it has been submitted to the electors of the municipality and at least fifty five per centum of the votes cast at any municipal election or any election held for such purpose shall be in favor of such franchise. Provided, further, that of such election at least thirty days' notice shall be given in the same manner as is provided for notice of annual municipal elections and which notice shall specify therein the purpose of calling said election. And every ordinance granting such franchise shall therein provide for the submitting of the ratification thereof to the qualified electors of

Franchises for
public utilities.

Provido.

Notice of
Election.

Notice of
Election.

the city at either such annual or special election, and the result of the election thereon shall be canvassed publicly by the council and spread upon the records of the minutes thereof and the result declared and certified in the same manner as a general election.

Protection of health and safety of people.

Seventeenth: To take such other action by ordinance, resolution or otherwise as may be necessary to protect and preserve the lives, the health, the safety and the well-being of the people of the city.

Municipal offices may be combined.

Eighteenth: The council shall have the power to combine two or more of the offices provided for by section 10 of this Act, and when under the provisions of Section 11 any of the said combined offices are elective the ballot shall so designate.

Prohibition from issuing bonds.

Section 13. The city council shall have no authority to issue bonds or incur any bonded indebtedness, nor shall they have authority to incur a greater indebtedness or liability of any kind in any year than the current revenue of the municipality for that year. But this shall not be construed to prevent the municipality from incurring an indebtedness for the acquisition or installation of public service plants beyond the current revenues of the municipality for the year in which the plant is acquired or installed, provided such excess of indebtedness is a charge only against the plant so acquired or installed and such indebtedness be an incumbrance only upon such plant and payable only out of such plant or the revenues therefrom.

Proviso.

Time for elections may be changed.

Section 14. **May Change Time for Elections.** The time for municipal elections may be changed by the council by ordinance, but no such change shall be made so as to lengthen the term of office for any of those persons who were members of the council at the time such ordinance was passed.

Qualifications of Electors.

Section 15. In all elections for members of the council, mayor and other city officers as well as mem-

bers of the school board, the qualifications of the electors shall be as follows, to wit:

Every person above the age of twenty-one years who is a citizen of the United States, and who has resided continuously one year next preceding the election in the Territory of Alaska, and six months next preceding the election within the limits of the city, shall be entitled to vote at any such election.

Section 16. **Extra-Territorial Jurisdiction.** For the purpose of installing, acquiring, owning or operating plants for the supply of water, light, heat or power to the city or its people, or for the purpose of constructing and maintaining proper sewer system, a municipal corporation shall have power to acquire and own property outside the boundaries of the city and shall have jurisdiction by proper ordinance and the enforcement of the same to protect the sources of the supply of water for the city from contamination, interruption, interference or injury of any kind though the same be situated outside of the boundaries of the municipality, and it shall have the same extra-territorial jurisdiction to protect in the same manner all parks, cemeteries, and playgrounds, and all light, heat, power and water plants as well as sewers with all their dams, flumes, pipelines, electrical transmission lines and other equipment for serving the city or its inhabitants with light, heat, power or water or drainage through sewers, whether the same be owned by the city or by a public service company or institution.

ARTICLE IV.

METHOD OF TRANSACTING BUSINESS.

Section 17. **Duty of the Mayor.** It shall be the duty of the Mayor to preside at meetings of the council, to approve or disapprove of all ordinances or resolutions passed by the council, to sign all warrants drawn on the city treasury, to exercise a general supervision over the affairs of the city, and see that the ordinances and

resolves of the city are executed. In event he be elected as a member of the council and by the council elected as president of that body, he shall have a vote on all matters before the council, but in the event he may be elected as mayor by direct vote of the people pursuant to the provisions of section eleven (11), he shall have authority to vote only in case of a tie. He may veto any ordinance or resolution passed by the council, and any ordinance or resolution so vetoed shall be returned to the council at the next meeting or continued meeting held not less than two days after the ordinance or resolution was passed, together with a written statement from the mayor giving the reason for his veto. Any ordinance or resolution so vetoed by the mayor may be passed by a majority of all the members of the council, in which case it shall become effective without the signature of the mayor. If the mayor neither signs nor vetoes an ordinance or resolution before the next meeting or continued meeting of the council held more than two days after the passage, it shall become effective without his signature.

Veto power.

Section 18. **Quorum of Council.** At all meetings of the council five members or four members and the mayor, shall constitute a quorum for the transaction of business, but no ordinance or resolution shall be passed at any meeting unless it receives at least four votes. In case of the absence of the mayor, if a regular quorum of five be present, they shall elect one of their members to preside.

Quorum of Council.

Section 19. **Recording of Vote of Members.** All votes in the council on ordinances, resolutions and authorizations for the payment of money shall be by ayes and nays and the vote of each member shall be permanently recorded in the proceedings of the council.

Recording vote.

Section 20. **Duties of Municipal Clerk.** The municipal clerk shall attend the meetings of the council, keep a full record of all its proceedings and of all disbursements of public monies, and he shall also file and duly

Duties of Clerk.

keep all the records and public papers of the city, shall countersign all warrants drawn on the treasury, and shall to all intents and purposes be deemed to be the clerk and bookkeeper of the city and shall officiate as such.

Section 21. Duties of Municipal Treasurer. Bond.

The municipal treasurer shall be the custodian of all the monies of the city; provided, that said treasurer shall pay over to the treasurer of the school board all monies available for the maintenance of schools. He shall keep an itemized, full and correct account of all monies received and disbursed, and he shall pay out no money except upon an order signed by the mayor and countersigned by the clerk, and specifying the object and purpose of the payment and the page and book of the record of the council proceedings where such payment is shown to have been authorized, and no such order shall be issued except upon vote of four members of the council at a meeting in which five members, or four members and the mayor, are present. He shall, before entering upon the duties of his office, give his bond to the city with sufficient sureties to be approved by the council in such sum as the council may direct, not less, however, than twice the amount of the public money that may come into his hands as treasurer during the term which bond shall be conditioned that he will faithfully and honestly collect, keep and disburse all the monies belonging to the city, which bond shall be filed with and kept by the municipal clerk.

Duties of
Treasurer.

Bond.

Section 22. Duties of Municipal Assessor. The assessor shall once each year, at such time as the council may direct, duly list and assess all the taxable property of the city at its just and fair value. He shall file such list and assessment as soon as completed with the municipal clerk and shall serve a notice of the filing of the same upon each person residing in the city whose property has been assessed. The council may review and revise the assessment and may upon proper evi-

Duties of
Assessor.

Council to act
as Equalization
Board.

dence, and conformable to justice, increase or diminish the same in individual cases, and when so revised and reviewed and finally approved by the council, the same shall be deemed to be the true basis for the levy and assessment of taxes.

Duties of Municipal Attorney.

Section 23. Duties of Municipal Attorney. The municipal attorney shall be the legal adviser of the council and the other officers of the city in reference to their official duties, and he shall represent the city as attorney in all civil and criminal proceedings in which the city is interested.

Magistrate.

Section 24. Duties of Municipal Magistrate. The municipal magistrate shall have jurisdiction of all actions for violation of municipal ordinances and appeals shall lie from his judgments to the district court in the same manner as appeals from the judgments of a justice of the peace. The rules of proceeding before a municipal magistrate shall be as near as practicable the same as before a justice of the peace, unless otherwise prescribed by ordinance enacted by the council. The council may also by ordinance prescribe the costs to be taxed in proceedings before the municipal magistrate.

Oaths of office.

Section 25. Oaths of Office. All officers of the city shall, before entering upon the duties of their office, severally take on [an] oath in writing to honestly, faithfully and impartially perform the duties of their office, which oath shall be filed with the clerk of the city.

Council to fix salary of officers.

Section 26. Fixing of Salaries of Officers. Where the officers of the city are elected by direct vote at the general election, the council shall by ordinance fix the salary of each such office before the election is held, and where an officer is elected by the council, his salary shall be fixed by ordinance at the beginning of his term and before he enters upon the discharge of his duties. Such salary and compensation so fixed as herein provided shall be neither increased nor diminished during the term, nor shall any officer be entitled to receive in

any form or shape any other or additional compensation for any service to the city.

Section 27. **Procedure to Regulate Rates. Hearing Notice.** Whenever the city council shall deem it advisable to regulate, change or fix the rates to be charged by any public service corporation, association or individual, they shall order a hearing to be had before them at a time and place to be determined upon and notice of such hearing shall be given by publication in a newspaper of general circulation within the city, provided such paper is published within the city, for at least one publication; if no newspaper is published in the city by posting notices in three public places within the city, and by serving written notice upon the particular corporations, associations and individuals whose rates are to be regulated, fixed or changed, which said notices shall be published or posted and served at least fifteen days prior to the time of such hearing. Such written notice may be served in the same manner that summons are served.

Hearing before fixing or changing rates.

Notice of.

Upon such hearing before the city council, all public service corporations, associations or individuals affected by or interested in the matters to be heard, shall have a right to be present and to be represented by counsel; and the city or town as well as such interested parties shall have the right to produce witnesses and examine the same and introduce such evidence as may tend to prove or disprove any of the facts in issue or matters to be established or inquired into upon such hearing. All parties shall have the right to compel the attendance of witnesses, and subpoenas shall be issued by the municipal clerk under his hand and the seal of the city, requiring such attendance. Subpoenas duces tecum requiring the production of books and papers shall also be issued in like manner upon request. If any person shall fail to obey any subpoena so issued, whether the same require the attendance of a witness or witnesses or the production of books or papers, the party at whose request such subpoena was issued, may go before the

Procedure.

district court and ask for an order compelling the attendance of the witness or witnesses so disregarding or violating such subpoena, or for the production of the books or papers referred to in a subpoena duces tecum. The district court shall thereupon make an order compelling such witness or witnesses to appear and testify, or compel the production of such books or papers, and any violation of the order of the district court so made shall be a contempt of court and punishable as such. If any witness appears and refuses to testify concerning any matter or thing material to the facts inquired about at such hearing and to establish or determine which said hearing was had, an application may be made to the district court to compel such witness to testify and answer such questions as may be put to him concerning the matters inquired about and the relation in which said hearing was had, and the district court shall make an order compelling such witness to so testify, and the violation of such order shall be a contempt of court and punished as such.

Notice to state
time of com-
mencement.

Section 28. Commencement and Continuance of Hearing. Rates Fixed by Ordinance. The hearing to be had shall commence at the time stated in the notice but may be continued from time to time and not less than four councilmen shall be present at such hearing. At the conclusion of the hearing the parties interested may make such arguments before the council, either in person or by attorney as they deem proper, touching the matters at issue at said hearing, and thereafter the council shall proceed to regulate and fix the rates by an ordinance which shall be passed, approved and published as other ordinances. And the date upon which the rates fixed or regulated are to go into effect shall be stated in said ordinance and shall not be less than ten days after the passage and approval thereof.

Provision for
continuance.

Rates fixed.

ARTICLE V. SCHOOLS.

Section 29. Schools. How Financed and Maintained. Every city shall constitute a school district, and it

School
Districts.

shall be the duty of the council to provide the same with suitable school houses, and to provide the necessary funds to maintain public schools therein, but such schools when established shall be under the supervision and control of a school board of three members. The members of such board first elected shall hold their office for one, two, and three years, respectively, and until their successors are elected and qualified, and one member of said board shall be elected each year thereafter for a term of three years and until his successor is elected and qualified. They shall each, before entering upon the duties of their office, take an oath in writing to honestly and faithfully discharge the duties of their trust. Within seven days after each annual election the board shall organize and shall annually elect one of their members president, one treasurer, and one clerk of the board. In case a vacancy in membership of said board occurs from death, resignation, removal or other cause, such vacancy may be filled by appointment by the council of the city with the consent of the remaining members of the board, and in event the remaining members of the board do not consent to have the vacancy filled by the council, such vacancy shall be filled by special election upon at least ten days notice called by the council. When a vacancy is filled by appointment by the city council the appointee shall serve only until a successor is elected at the next general election.

Duties of Council with reference to.

School Board.

Vacancies how filled.

Section 30. **Same. Management of School Funds.** All money available for school purposes, except for the construction and equipment of school houses and the acquisition of sites for the same, shall be expended under the direction of said board, and the treasurer of said board shall be the custodian of said money, and he shall, before entering upon the duties of the office, give his bond with sufficient sureties to the city in such sum as the council may direct and subject to its approval, but not less than twice the amount that may come into his hands at any one time as treasurer, conditioned that

School Funds, how expended.

School Treasurer.

he will honestly and faithfully disburse and account for all money that may come into his hands as such treasurer, which bond shall be filed with the municipal clerk. He shall pay no money from the treasury except for the purpose authorized by law and on warrants signed by the clerk and countersigned by the president of the board. The said board shall have the power to hire and employ the necessary teachers, to provide for heating and lighting the schoolhouse and in general do and perform everything necessary for the due maintenance of a proper school.

Teachers.

Section 31. Report to Commissioner of Education.

The clerk of the school board shall from time to time make such reports to the Commissioner of Education as shall be by the latter or by the Territorial Board of Education required.

Clerk to report
to Commissioner
of Educa-
tion.

Section 32. Budget Submitted to Council. Money Available Determined. As soon as a city school board shall leave [be] organized after the annual election they shall estimate the amount of money necessary for school purposes for the ensuing school year and submit such budget to the city council. The city council shall then determine the amount of money to be made available for school purposes, and shall furnish the school board of the city a statement of such sum, and shall require the treasurer to pay the sum available for school purposes to the treasurer of the school board. The amount of money to be made available by the municipality for school purposes shall be determined by resolution of the council before the tax levy is made, and such amount may be levied as a separate tax or as a part of the municipal tax.

School budget
submitted to
Council.

Section 33. Report to Council. The school board shall whenever required by the city council, but not oftener than once each month transmit to the council a detailed report and statement of the moneys expended and for what and to whom paid.

Monthly Report
to Council by
School Board.

Section 34. Record of the Board. The clerk of the school board shall keep in permanent form the minutes of the meetings and a record of all the proceedings of the board. The treasurer of the school board shall keep accurate and full account of all the moneys received and expended by him, and shall preserve the proper vouchers for all expenditures. All the records and files of the school board shall be open to inspection by the public at all reasonable times.

Record of
Board.

ARTICLE VI.

TERMS OF OFFICE AND VACANCIES.

Section 35. When Term Begins. All municipal and school officers elected by direct vote shall take their respective offices on the first Monday after their election from which day their term of office shall be deemed to run.

Section 36. When Vacancy Occurs on Council or School Board. In event any member of the city council or of the school board shall depart from the city with the intent of remaining absent more than ninety days, or shall have failed to attend the meetings of the council or board for a period of ninety consecutive days, or he shall have attended less than five of the meetings of the council during any continuous period of five months, the council may declare the office of such member of the city council or school board vacant. A vacancy may also be created by the resignation of any member in writing duly accepted by the council, or by the death of a member, or his removal from office by the court, or if he shall fail after his election to qualify within thirty days after such election.

Section 37. How Vacancy on Council Filled. Whenever a vacancy occurs in the council the remaining members of the council may elect some qualified person to fill such a vacancy, which person so elected shall hold office until a successor be elected at the next annual election and qualified.

Vacancies.

Section 38. **How Vacancy in Office of Mayor Filled.** Whenever the office of mayor shall for any reason become vacant, such vacancy may be filled by the council.

Section 39. **When Vacancy Occurs in the Office of Mayor.** Whenever a person elected for the office of mayor fails to qualify as such within thirty days after his election, the office shall be deemed to be vacant.

Section 40. **Removal for Misconduct.** Any officer of the city, whether elective or appointive, as well as any member of the school board of such city, may be removed from office for malfeasance, misfeasance or nonfeasance in office by the district court in proceedings initiated upon the complaint of a taxpayer and in which the officer complained of shall have full opportunity to appear and defend himself, but this remedy shall not be considered exclusive.

Section 41. Officers appointed by the council shall be subject to removal by the council at the pleasure of the council. No officer removed for cause shall be qualified to hold a municipal office within two years thereafter.

Removed officer may not qualify for 2 years.

ARTICLE VII.

MISCELLANEOUS PROVISIONS.

Section 42. **Service of Food. Supervision Over.** It shall be the duty of every municipality to provide by ordinance for the inspection of all restaurants, lunch counters, bake shops, meat markets, fish markets and all other places where food is prepared, served or sold, and provide for the closing of all such places for the preparation, service or sale of food, which are not constantly kept cleanly and wholesome, and for the condemnation of articles of food and drink, whether prepared or otherwise, found to be impure, unwholesome, dangerous to health or otherwise unfit for human consumption. Any person who shall after any such articles shall have been so condemned by any municipal

Inspection of food, etc.

Penalty.

authority, sell or serve the same to any person, or keep, exhibit, or offer the same for sale for purpose of human food or human drink, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the federal jail for not more than six months, or by fine of not more than five hundred dollars (\$500.00), or by both fine and imprisonment.

Section 43. **Use of Streets and Public Places.** It shall be unlawful for any persons, copartnership or corporation to make use of the streets, alleys or other public places of a municipality for public service except under and pursuant to the provisions of this act, but this shall not apply to or in any way affect any franchise heretofore lawfully granted, nor shall this act be construed to legalize any franchise now claimed to have been granted by any municipality.

Use of streets for public service prohibited, except.

Section 44. **Obligations of Public Service Institutions.** It shall be the duty of every person or corporation operating within a municipality a public service plant or undertaking by such plant to supply the inhabitants of a city with telephone service, water, power, heat or light, or kindred public service, to serve everybody alike without discrimination, and without denial, except for good and sufficient cause, and every person and corporation undertaking to supply such public service shall establish and promulgate reasonable rules and regulations for the conduct of such business and the operation of such public service plant, which rules, together with the rates of charges for such service shall be given fair and reasonable publicity.

Obligations of Public Service Institutions.

It shall be unlawful for any person or corporation operating such public service plant to furnish, either directly or indirectly, to any person or corporation such service cheaper than at rates lawfully established by charter, city ordinance, or otherwise. or to grant or give to any person or corporation, either directly or indirectly, any rebate from any sum due, owing or earned for such service.

Penalty for violation.

Any person or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than ninety days or both in the discretion of the court.

Records of public service plant to be open to inspection.

Section 45. Records to Be Kept By. Filing Annual Statement. Every corporation, association and person installing, operating or maintaining a public service plant for the purpose of supplying the city or the inhabitants thereof with telephone service, water, power, heat or light, or rendering other kindred public service, shall keep correct books of account in permanent convenient form showing in detail the volume of business done, the character of the business done, the quantity and kind of service rendered, rates charged for same, and all expenses incurred in connection with the operation of the enterprise, showing the items of expense in detail, which said books shall be open to inspection by the mayor and the city council and by any duly accredited agent, auditor or representative appointed by the mayor or city council.

Annual statement, contents.

During the month of April of each year, each and every public service corporation, association and individual shall file with the city council a written statement under oath, sworn to by the person having the management and control of the business or some other person familiar with all the facts. Said statement shall contain a detailed list of all pieces and parcels of property employed by such corporation, association or individual in connection with the enterprise and shall give the valuation of each separate piece of property so listed. It shall also contain a statement of the receipts and disbursements during the year, of the profits made or losses sustained. The statement of disbursements shall show to whom each item was paid and what for. Said statement so sworn to and filed shall be for the calendar year preceding and shall be for

the use of the city council, but the city council in dealing with such public service corporation, association or individual or in fixing the rates to be charged by such corporation, association or individual shall not be bound by any statement in the statement so filed, but may inquire into the truth thereof.

ARTICLE VIII.

DISSOLUTION OF CORPORATION.

Section 46. Whenever the population of any city in the Territory of Alaska shall fall below five hundred in number, the council of such city, or if such council shall have ceased to function, twenty-five persons owning real property in such city may file with the district court in the division where such city is situated, a petition praying for an order to dissolve and vacate the incorporation of such city, and setting forth in such petition any good and substantial reasons why such corporation should be so dissolved and vacated. Upon the filing of such petition the court shall order an election upon the question as to whether or not the corporation should be so dissolved, and the court shall in said order fix the date of such election, prescribe the notice to be given, and appoint a judge and two clerks for such election; the order of the court shall also prescribe the form of ballot to be used at such election. Notice of such election shall be given by publication for a period of four weeks prior to such election if there be a newspaper published in the city, and if not, the notice may be given by the posting for said period of such notice in at least three public places in said city. The returns of said election shall be made to the clerk of the court, who shall file a certificate of the results thereof in the action for the dissolution of said corporation. And if from said certificate it appears that three-fifths of the persons voting at said election have voted in favor of the dissolution and vacation of said corporation, the court shall enter an order dissolving and vacating said corporation; Provided, how-

When dissolution of corporation may be effected.

Order for election.

Notice.

Order of Dissolution.

Proviso.

ever, that no city shall be entitled to disincorporate until all the indebtedness owing by said city shall have been fully paid and this fact must be proved to the satisfaction of the court before entry of the aforesaid order.

Assets dissolved
corporation go
to Territory.

Section 47. Assets of Dissolved Corporation Go to Territory. Any money belonging or owing to such corporation so dissolved and any and all property owned by such corporation shall become the property of the Territory of Alaska. All such monies shall be paid to the Treasurer of the Territory and the Governor of the Territory shall have authority to dispose of all property, both real and personal, in any manner that he finds proper, and transmit any monies received therefor to the Treasurer of the Territory.

Order of dis-
solution where
filed.

Section 48. Copies of Order of Dissolution Filed. Where. Certified copies of the order dissolving the corporation shall be filed, one in the office of the Secretary of the Territory and one in the office of the commissioner and ex-officio recorder in the precinct where the corporation is situated, at the expense of the petitioner.

Power in Dis-
trict Court to
annul incor-
poration.

Section 49. That the district court in and for the Territory of Alaska shall be and it hereby is vested with the power and authority to cancel, vacate and annul the incorporation of any city in the Territory of Alaska as in this act provided.

ARTICLE IX.

ANNEXATION AND EXCLUSION OF TERRITORY.

Territory may
be annexed or
excluded.

Section 50. Territory May Be Annexed or Excluded. Any territory not heretofore incorporated as a city but lying contiguous to any such corporation may be annexed thereto in the manner hereinafter provided, and when so annexed shall become a part of such city and be subject to all its laws and ordinances; provided that whenever such unincorporated territory is separated

from any city by water or by tide or shore lands, said unincorporated territory shall be deemed contiguous for all the purposes of this Act; and any territory within the corporate limits of any municipal corporation may be excluded therefrom in the manner hereinafter provided.

Section 51. **How Territory Annexed.** Whenever the council of any city shall desire to enlarge the limits of said city by annexing the territory contiguous thereto, they shall file in the district court for the judicial division wherein the city is located, a petition signed by a majority of the owners of substantial property interests in land or possessory rights in land, tidelands or improvements upon land or tide-land within the limits of the territory so proposed to be annexed, setting forth by metes and bounds the territory sought to be annexed to such city, and there shall be attached thereto a plat based upon an actual survey by a competent surveyor setting forth the limits and boundaries of the territory to be annexed by metes and bounds and stating the number of inhabitants therein, as well as the number of owners of property therein situate and such other facts as the court may require. Said petition shall be sworn to on behalf of the city and by at least one of the property owners herein provided for. Said petition may be presented in open court or to the judge of said court in chambers and said judge shall fix a time and place of hearing on the petition and shall cause notice of said hearing to be posted in at least three of the most public places in such city and in three places within the territory sought to be annexed, and if a newspaper be published in said city, then to publish such notice at least three times in such paper. Such notices shall be posted at least four weeks before the hearing and the first publication of such notice in the newspaper shall be at least four weeks before the hearing. The court shall make diligent inquiry as to the reasonableness and justice of the petition and if the court be satisfied from proofs and evidence that no private rights

How territory annexed.

Petition.

Notice of Hearing.

Order for election.

will be injured by granting the petition and if it is just and reasonable that the annexation take place, the court shall, unless it be shown that the petition is not bona fide or that one or more of the signers thereto are not owners of substantial property rights as herein provided or fails to comply with the requirements of this act in any other respect, order an election.

Elections, how conducted.

Section 52. **Elections.** The council of such city shall thereupon submit the question to the electors of such city and to the electors residing in the territory proposed by said petition to be annexed to such city. Such question shall be submitted at a special election to be held for that purpose, and such council shall give notice thereof, by publication in a newspaper of general circulation in such city and in such territory so proposed to be annexed or nearest thereto, for a period of four weeks prior to such election; also by posting notice thereof in three public places within such city and three public places in such territory for a like period. Such notices shall be posted and the first publication of such notice in the newspaper shall be at least four weeks before the election. Such notice shall distinctly state the proposition to be so submitted and shall designate specifically the boundaries of the territory so proposed to be annexed, and the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the words "for annexation to the city of" or "against annexation to the city of" or words equivalent thereto. Such council shall also designate the time and place or places at which the polls will be open within such city and in such territory so proposed to be annexed, which place or places shall be those usually used for that purpose within such city and also within such territory, if any such there be. Such council shall also appoint and designate in such notice the names of the judges and clerks of election. The judges and clerks before entering upon the discharge of their duties at such election shall each take and subscribe before an

Form of ballot.

officer authorized to administer the same, an oath for the honest and faithful discharge of his or her duties as such judge or clerk. In case of the absence or inability of any judge or clerk appointed to act at such election, the qualified electors present at the polls before proceeding to vote, may choose an elector to act in his or her place from among their number, who shall duly qualify as aforesaid before entering upon the discharge of his or her duties as judge or clerk at such election. Such council shall meet on the Monday next succeeding the day of such election at one o'clock p. m. and canvass the votes cast thereat, and the council shall issue under their hands, and the seal of the city, a certificate showing the number of votes cast in favor of annexation and the number of votes cast against the annexation, separately stating the number of votes for or against in the city and in the territory sought to be annexed. Said certificate together with all the ballots cast and the oaths of the judges and clerks of election shall immediately be filed with the clerk of the district court in the proceedings authorizing said election.

Section 53. Declaration of Incorporation. If it shall appear to the district court or the judge thereof from the certificate of election filed with the district court as aforesaid, that two-thirds of the votes cast at said election in the territory sought to be annexed were in favor of the annexation and that a majority of the votes cast in the city were also in favor of the annexation, and that the provisions of law relating to annexation have been substantially complied with, then the district judge shall by an order in writing entered in the records of the court duly adjudge and declare such annexation and the said territory shall, from thenceforth, be a part of the city. Such order shall describe the boundaries of the territory annexed and give the name of the city to which it is annexed.

Section 54. How Territory Excluded. Territory may be excluded from any city in the same manner and fol-

Declaration of
Incorporation.

How territory
excluded.

lowing the same procedure as in the case of annexation, except that if territory is to be excluded, the petition to be filed shall be signed by a majority of property owners as herein provided for, owning property within the territory sought to be excluded, and the electors shall be invited to vote upon such proposition by placing upon their ballots the words "for exclusion from the city of,," or "against exclusion from the city of,," and the votes shall be canvassed, the results of the election certified and all other steps taken in like manner as in this Article provided relating to the annexation of territory.

Form of
ballot.

Section 55. Fees and Costs. Liability For. In proceedings under this Article, the court, marshal and witnesses shall be entitled to the same fees as are allowed in the trial of civil actions in the district court, and subpoenas may be issued and the procedure provided for in civil actions shall be followed as far as practicable.

Procedure same
as in civil
actions.

Section 56. Recording of Order Changing Boundaries. Whenever the court shall by order annex any territory to a city or exclude any territory therefrom, a certified copy thereof shall be filed in the office of the Secretary of the Territory, another in the office of the commissioner of the precinct in which the corporation is situated and a third in the office of the city clerk of the city to which the territory has been annexed or from which the territory has been excluded.

Order changing
boundaries
where filed.

Section 57. Qualifications of Electors. The qualifications of an elector for election in this Article provided for, shall be as follows: He or she shall be a person of the age of twenty-one years or more and shall be the owner of substantial property interests in land, buildings or improvements on land or tideland within said city or within the territory proposed to be annexed to or excluded from said city.

Qualifications
of electors.

ARTICLE X.

LEVY OF TAXES AND ASSESSMENTS.

Section 58. **Power to Levy General Taxes Exercised by Ordinances.** The power granted to the council to assess, levy and collect a general tax for school and municipal purposes, shall be exercised by means of general ordinances duly passed by the councils of such corporations; provided, that the rate of levy and the date of equalization, and date when taxes shall become delinquent, may be fixed by resolution, and the levy for school and municipal purposes may be separately made and fixed, but the aggregate thereof shall not exceed two per cent of the assessed value of the property assessed.

Power to levy general taxes exercised by ordinances.

Limitation of tax rate.

Section 59. **What Ordinance May Provide.** The council is empowered by general ordinance to provide for the annual assessment and levy of such taxes upon all real and personal property within the limits of the corporation, and by such ordinance to fix the dates when such assessment shall be annually made; the mode and manner of assessment; when taxes may become due; to require the listing of property subject to taxation by the owner or agent thereof; to impose, fix and provide for the collection of penalties for non-payment of taxes when due, not to exceed fifteen per centum of such tax, and to fix the rate of interest on delinquent taxes and penalties, not to exceed twelve per centum per annum, and provide for the collection of such interest and penalties, and to provide generally such other matters and things relative to the assessment and levy of such taxes as may be proper. Provided, however, all assessments shall be equal and uniform and based upon the actual value of the property assessed, and prior to fixing the rates of levy said council shall sit and publicly [publicly] equalize the valuation of the property assessed.

What ordinances may provide.

Proviso.

General taxes shall be lien.

Section 60. General Taxes Shall Be Lien. All general taxes levied by the council shall be a lien upon the property assessed, and such lien shall be prior and paramount to all other liens or encumbrances against the property assessed.

Personal liability for taxes on personal property.

Section 61. Personal Liability for Taxes on Personal Property. The owner of personal property assessed shall be personally liable for the amount of taxes assessed against his personal property, and such tax, together with penalty and interest, may be collected after the same becomes due in a personal action brought in the name of the municipal corporation against such owner in the courts of the Territory.

Taxes on personal property enforced by Distrain, procedure.

Section 62. Taxes on Personal Property Enforced by Distrain. That in addition to the remedy given by the last section, which shall not be construed as exclusive, the lien of personal property taxes may be enforced by distrain and sale of the personal property of the person assessed. The procedure for such distrain and sale shall be provided for by the council, by general ordinance, but no seizure, levy or distrain shall be legal unless demand shall first have been made of the person assessed for the amount of the tax, penalty and interest, and no sale shall be valid unless made at public auction after at least ten days notice given by posting or publication. The same shall be made by virtue of a warrant issued by the municipal clerk to the chief of police or any other police officer of the corporation, directing him to forthwith seize, levy upon, distrain, and sell such personal property of the person assessed as the tax may have been levied upon. And if the same be not sufficient to satisfy the tax, penalty and interest, and costs and expenses of sale, such warrant may authorize the seizure, levy, distrain and sale of such other personal property of the person against whom the tax was assessed, as may be sufficient to satisfy the tax with the penalty, interest and costs of sale. The council may by such ordinance provide for the

payment of the costs and expenses of said proceedings Costs. from the proceeds of the property sold, but no excessive costs or expenses shall be provided for, taxed or allowed.

ARTICLE XI.

ASSESSMENT FOR LOCAL IMPROVEMENTS.

Section 63. Property Specially Benefited May Be Assessed For Cost of Local Improvements. When.

The council may assess against the real property specially benefited by such improvements two thirds of the cost of laying out, grading, constructing or repairing any street, alley or sidewalk, constructing or repairing any sewer or drain, acquiring and constructing parks or play grounds or making changes in channels of streams or water courses or constructing, erecting, strengthening or repairing, bulkheads, embankments or dikes for such streams or water courses. Such costs shall be assessed against the real property specially benefited in proportion to the benefits so received by each tract of land. Provided, however, that no such assessment shall be levied for any improvement unless such improvement be in writing requested of the city council by the owners of at least one half in value of the property to be so specially benefited by such improvement. The expense so assessed may include the cost to the city of acquiring premises for such improvements.

Costs of Local Improvements how assessed.

Section 64. Council Must Determine Necessity of Improvements and Sufficiency of Petition. When such

request is presented to the council the same shall be filed and the council shall determine (1) whether the improvement requested is necessary and should be made, (2) whether the request is signed by all the owners of at least one half in value of the property specially benefited by such improvement and shall pass a resolution containing the council's findings on such questions, which findings shall be conclusive save and except

Council must determine necessity of improvements and sufficiency of petition.

that anyone who signs the name of another to such request without written power of attorney so to do, or who shall procure, solicit, aid or abet or induce another to do so, shall be guilty of forgery and shall be punished accordingly.

When assess-
ment author-
ized.

Section 65. When Assessment Authorized. If the council find that the improvement is necessary and that the request has been signed by the owners of at least one half in value of the property to be specially benefited, the council may also decide that any part of the cost of such improvement, not, however, to exceed two-thirds thereof, shall be (the) assessed against the real property so benefited in proportion to the amount of such benefits received, by each tract of property.

How assess-
ment made.

Section 66. How Assessment Made. Notice of Hearing. When it has been decided to make such improvement and to levy such assessment, correct account shall be kept of all the expenses of such improvement, and, as soon as the latter shall be completed, the city council shall apportion such percentage of the cost as was so previously determined upon and shall assess the same against the various tracts of real estate in proportion to the benefit received by each. Such assessment roll shall contain a brief description or designation of each tract of property, the name of the owner or reputed owner thereof, and the amount of the assessment. When the same is complete the council shall fix a time at which to hear objections to such assessments. The municipal clerk shall then send a written notice by mail to each owner of a tract against which an assessment is made, which notice shall state the amount of the assessment against such particular tract and the time fixed by the council for hearing objections. Such notice shall be mailed at least fifteen days before the time of such hearing.

Notice of
Hearing.

Section 67. Hearing on and Correction of Assessment. At the time of such hearing all persons concerned shall have a right to present their objections if

any they have to the assessment or any part thereof and to point out errors and inequalities if any exist and submit such reasons for amendments and corrections as they may have and such hearing may be continued from time to time as the council shall decide. After the council have heard all objections and suggestions they shall correct all errors, if any, which they find to exist in the assessment roll as originally made, and when the same is finally settled the mayor shall sign the assessment roll certifying that it is the assessment roll as finally settled by the city council.

Hearing on and correction of assessments.

Section 68. **Delinquency, Penalty, Interest.** After the assessment has thus been completed the city council shall by resolution fix a time within which the same shall be paid and at which the assessments shall become delinquent, which time shall not be less than sixty days subsequent to such resolution. Any such assessment which shall not be paid before delinquency shall draw interest at the rate of twelve per cent per annum, and the council may by resolution fixing the time of delinquency also provide that after delinquency a penalty not in excess of ten per cent may be added to the delinquent assessment, which penalty shall also draw interest at the rate of twelve per cent per annum.

Delinquency, penalty and interest.

Section 69. **Notice of Time of Payment, Etc.** Within ten days after the resolution fixing the time of delinquency shall be adopted by the council, the municipal clerk shall mail with postage prepaid a notice to the owner of each property assessed, which notice shall designate the property, the amount of the assessment, the time of delinquency and the amount of penalty, if any.

Notice of time of payment, etc.

Section 70. **Proof of Notice.** Within five days after the notices above required to be mailed have been duly deposited in the post office, the municipal clerk shall file his affidavit setting forth such mailing, which affidavit shall be conclusive as to the facts therein set out, ex-

Proof of Notice.

cept in any proceedings against the clerk for perjury or for malfeasance, misfeasance or nonfeasance in office.

Section 71. Lien. How Enforced. The assessments herein provided for shall be a first, prior and paramount lien upon the property assessed and, when delinquent, may be enforced in the same manner which is hereinafter provided for the collection and enforcement of general taxes.

Assessments to be lien collect-able as general taxes.

Section 72. Assessment for Keeping Sidewalks Clear of Snow. The Council shall have authority by ordinance to require the owners of all real property in the city at their own expense to keep the sidewalks in front of their respective premises reasonably clear from snow, and, in event they fail to do so in conformity with ordinances enacted for that purpose, the council shall have authority to cause the snow to be removed from such sidewalk and assess the cost thereof against such premises in the manner provided by ordinance for that purpose. Such assessment shall be a paramount lien upon the premises against which it is assessed and may be collected and enforced as general taxes or special assessment for improvements are collected and enforced. The council may also provide for penalty and interest after delinquency to the extent authorized in case of assessment for local improvements as provided in this Article.

Assessment for keeping side-walks clear of snow.

ARTICLE XII.

ENFORCEMENT OF TAX LIENS.

Section 73. May Enforce Lien by Sale. That whenever the tax on real property shall not have been paid when due, the councils of municipal corporations, in addition to the remedies now allowed by law, may enforce the lien of such tax by the sale of the property assessed, such sale to be made under the special proceeding hereinafter set forth, by order of the District Court of the division wherein the property assessed is situated.

Councils may enforce lien by sale.

Section 74. **Delinquent Tax Roll. Notice of.** That whenever the city councils may elect to proceed under the provisions of this act to enforce the lien of taxes against real property, the assessor, or other officer of the municipality theretofore designated by ordinance or resolution, shall within such time after such taxes become due as the councils may direct, make up a roll in duplicate of all real property assessed and on which the tax has not been paid and is delinquent. Such roll shall show therein the property assessed, the amount of the tax due, penalty and interest, separately states, [stated] on each tract assessed, to whom each tract is assessed, if assessed as unknown, so stated. And thereon shall be endorsed under the hand of the clerk of the city and corporate seal, a certificate to the effect that said roll is a true and correct roll of the delinquent taxes of the city for the year (specifying it) and showing the date when said taxes became delinquent and the total amount of delinquent taxes, penalty and interest separately stated, and the aggregate of the whole thereof. If the taxes for more than one year or if special assessments for improvements be delinquent, such taxes and assessments, separately shown, may be included in said roll. Said roll so made up shall be known as the delinquent tax roll of the city for the year in which the same is made up, the original of which shall be filed with the municipal clerk and remain open to inspection of the public. As soon as convenient after the completion of the delinquent roll, the assessor or other officer designated by the council, shall under the direction of the council cause to be published in the official newspaper of the corporation, or in a newspaper of general circulation in the city, to be designated by the council, once each week for a period of four successive weeks; or if there be no such newspaper, cause to be posted in three public places in the city, one of which shall be at the front door of the post office, for a period of thirty days, a notice under the hand of the clerk of the city, setting forth that the

Delinquent tax roll.

Contents.

Notice.

delinquent tax roll of real property for the year, naming it, has been completed and is open for public inspection at the office of the municipal clerk, and on a certain day not less than thirty days after the completion of the publication, or posting, as the case may be, of such notice, the said roll shall be presented to the district court of the division for judgment and order of sale. Said notice shall describe each tract on the roll on which the tax has not been paid, the amount of tax, penalty and interest due thereon, and to whom assessed. During the time of the publication of notice and up to the time of the order of sale hereinafter provided for, any person may appear and make payment on any piece or tract set forth therein, together with the penalty and interest, and the clerk, of [or] other officer, shall make proper notice of such payment on both the original and duplicate delinquent tax roll.

Section 75. Presentation of Delinquent Tax Roll to Court. Order of Sale. On the date specified in said notice, or as soon thereafter as a hearing can be had before the court, the clerk, or other officer, shall present the delinquent tax roll so completed as aforesaid, together with proof of publication, or posting, of notice of application for order of sale, to the court of the division where in the city is situated, for an order of sale of all the real property therein listed on which taxes have not been paid and are delinquent, and thereupon the court at a time, or times, convenient to it shall hear, pass upon and determine the legality of said roll and any tax or assessment on property therein described, and if the taxes be legally assessed and valid and not paid, shall by general order direct the several tracts therein described to be sold by the municipal corporation to satisfy and discharge the lien of the tax thereon, together with penalty, interest and costs. A certified copy of such order of sale shall be attached to the duplicate delinquent roll and such roll filed with the clerk of the court and become a part of the records thereof, open to the inspection of the public, and when

Delinquent tax roll, etc., to be passed on by court.

Order of sale.

Delinquent tax roll open to inspection.

so filed with said order attached, shall have the same effect as an order of sale of real estate in a civil action. Provided, however, that sales of real property made pursuant to the provisions of this act need not be confirmed by the court.

Section 76. Proceedings in Court. That any person owning, or having any legal or equitable interest in, or a lien upon any tract listed in said duplicate delinquent roll, may appear and present at the time of hearing before the court, his objection to, and contest the validity of the assessment or tax on such property, or the granting of the order of the sale thereof. Such objection shall be in writing and specify the grounds of objection to the assessment or tax on the particular tract represented in such objection and the court will hear and determine such objection and render such decision thereon as may be legal and just. At such hearing the duplicate tax roll shall be prima facie evidence of the regularity and legality of the assessment and levy of the tax and that the same is unpaid, and no objection to the valuation of the property, the manner of the assessment and levy of the tax, or any of the subsequent proceedings shall be entertained by the court which does not effect the substantial rights of the party interposing the objection. If at such hearing the court shall find any tract to be over valued, or over assessed, the same shall be adjusted on equitable principles so that the same shall bear its just proportion of the levy, and the invalidity of the tax on any one tract shall not be considered as a presumption of the illegality of the tax on any other tract. Provided, however, that if the court shall find that the assessment of the value of the property of the party objecting was so high in proportion to other property assessed as to satisfy the court that the city council in equalizing the assessment had acted in bad faith, the entire tax of the objecting party shall be held void, and the costs shall be taxed against the city. If the court find that the assessment was fairly made and equalized according to

Proceedings in court for adjustment of assessments or taxes.

law, the tax duly levied and not paid when due and due notice given of the hearing as provided herein, it will be sufficient to authorize the issuance of the order of sale. Provided that where on account of objections filed and hearing had the court may enter judgment against and order sale of all property to the tax on which no objection is made before the determination of the subjects in controversy.

Section 77. Costs Taxed Against Properties. The costs of publication of notice and hearing before the court shall be taxed by the clerk of the court and paid by the municipal corporation, but the same shall be apportioned by the clerk of the court on the duplicate delinquent tax roll to the several tracts ordered sold proportionately to the number of tracts, so that each tract will bear its proportionate share of the costs of the hearing, and the same shall thereafter be a charge against the tract to which it is proportioned.

Section 78. Delinquent Roll Corrected and Sale Ordered. The clerk of the city shall immediately after the order of sale correct the original delinquent tax roll to correspond in all respects with the delinquent roll as passed upon and allowed by the court, inserting therein the costs allowed by the court, and thereafter at a time fixed by and under the direction of the council shall sell the property described in the order of sale.

Section 79. Sale How Made. That such sale shall be at public auction made by the clerk of the city, after notice given by him by publication in the official newspaper of the corporation, or in a newspaper of general circulation in the city to be designated by the council, once each week for four successive weeks, or, if there be no such newspaper, by posting in three public places in the city, one of which shall be at the front door of the post office, for a period of thirty days prior to the date of sale; such notice shall refer to the order authorizing the sale, giving the date thereof, containing a description of each tract to be sold, to whom the same is

Costs taxed
against prop-
erties ordered
sold.

Corrections and
costs to be in-
serted and sale
ordered.

Sale at public
auction, etc.

assessed, the amount of taxes due on each tract, including penalty and interest up to the date of the sale and costs, the time when and place where such sale will take place, and shall be signed by the clerk of the city as such. The sale shall be made at a public place in the city designated, and at the day and hour fixed in the notice of sale, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, commencing at the hour set in said notice and if not concluded on the day set, shall continue from day to day thereafter, over Sundays and holidays, until the property described in said notice of sale is disposed of. Each tract shall be sold separately, and be offered for the amount of the tax, penalty, interest and costs due thereon, and if sufficient is not bid to discharge the amount due on the same, the same shall be bid in by the clerk of the city for and on behalf of the municipality, for the amount of the tax, penalty, interest and costs, and notation thereof made on the delinquent tax roll.

Section 80. Redemption Certificate of Sale. Assignment of Certificate. Possession. All real property sold at such sale shall be sold to the highest bidder, subject to redemption within the period of two years from the date of sale and the municipality may become the purchaser at such sale. All sales shall be for cash except where the municipal corporation is the purchaser, such cash to be paid to and receipted for by the clerk of the city. If the property be sold for an amount in excess of all delinquent taxes, penalty, interest and costs due on the property sold, such excess shall be returned by the clerk of the city to the owner of the property, less any amount of personal, poll or license tax then due from him to the corporation. The purchaser of any tract at such sale, other than the municipality, shall receive from the clerk of the city a certificate of sale, which certificate shall be executed by the clerk of the city under the seal of the corporation, and describe the property sold, the amount paid, the aggregate amount

Terms of sale.

Certificate of Sale.

of taxes, penalty, interest and costs for which the property was sold, the years for which the delinquent taxes for which the property was sold was [were] levied, the date of the order of sale and the court issuing the same, the date of sale, and that said sale was made subject to redemption within two years by the owner. Each certificate of sale shall bear interest at the rate of fifteen per cent per annum from the date of sale upon the total amount of taxes, penalty, interest and costs due at the date of sale, and the same shall be assignable and in no instance shall more than one tract separately assessed be included in one certificate. Each certificate of sale issued by the clerk shall be numbered and a record thereof kept by the municipal corporation in such form as the city council may designate, showing the property sold, to whom and when sold, the amount due for taxes on such property and the amount of the purchase price. Should the municipal corporation become the purchaser as hereinabove provided, a notation thereof shall be made by the clerk on the original delinquent tax roll in lieu of a certificate of purchase, and at any time after thirty days thereafter the clerk of the city shall issue a certificate of purchase to any person paying to the municipal corporation the amount of taxes, penalty, interest due at the date of sale and costs, together with interest on such amount from the date of sale at the rate of fifteen per cent per annum unless the council by resolution duly adopted have decided to retain such tract or tracts. That from the date of sale and issuance of certificate of purchase and until redeemed, the holder of such certificate shall be entitled to the possession of the tract sold, together with the rents, issues, and profits thereof, and any person who after ten days' notice and demand of possession thereof by the holder of such certificate of purchase who withholds the possession of such tract, shall be deemed guilty of unlawful detainer.

Assignment of
Certificate.

Possession of
property under
certificate.

Section 81. **Method of Redemption.** The owner or any person having any interest, whether legal or

equitable, in any tract sold at such sale, may redeem the same from such purchaser or the holder of the certificate of sale by paying the amount of the taxes, penalty, interest and costs due at the date of sale, together with interest thereon at the rate of fifteen per cent per annum from such date and all accruing taxes thereafter paid by such purchaser, together with any excess sum paid by the said purchaser to the clerk of the city at the time of purchase, such payment to be made to the purchaser or to the clerk of the city and when so made the tract shall be considered redeemed, provided that if any payment be made to the purchaser the certificate of sale shall be by him surrendered to the redemptioner, who shall present the same to the clerk of the city and cause the fact of redemption to be noted on the delinquent tax roll and record of certificate of sale hereinabove provided. If payment be made to the clerk of the city the clerk will issue to the redemptioner a certificate of redemption, under his hand and seal of the corporation, showing the date of redemption, the amount paid on redemption, which certificate shall be prima facie evidence of redemption, and the sum so paid on redemption shall by the clerk be immediately paid to the holder of the certificate of sale, and the certificate surrendered for cancellation. A record of redemptions shall be kept by the clerk of the city for public inspection in the manner the council shall direct.

Method of redemption.

Section 82. Deed After Period of Redemption. After the expiration of two years from the date of the sale the holder of the certificate of sale shall be entitled to a deed to the tract described therein and sold on such sale and not redeemed. Such deed shall be issued by the clerk of the city upon presentation of the certificate of sale, on demand, by the holder and owner of the certificate, and shall refer to the ordinance, if any, under which the tax was levied, the year of the levy, when the tax became delinquent, the amount of the taxes, penalty, interest and costs for which the property was

Deed issued after 2 years.

Contents.

sold, the amount paid by the purchaser, the name of the purchaser, or his assigns, the date of the sale, the date of the order of sale and the court issuing the same, and shall be signed by the mayor and attested by the clerk under the seal of the corporation, and be acknowledged, and shall convey the tract therein described to the grantee therein named free and clear from any encumbrances or liens laid on such property prior or subsequent to the sale thereof by the delinquent owner or any person in privity with him, and shall operate to convey the legal and equitable title thereto to the grantee therein named, and such deed shall be prima facie evidence of such title in the courts of the Territory; provided, however that no deed shall be issued by the clerk if there be any taxes due on said property levied subsequently to the sale until the same is paid. Any tracts purchased or assigned to the municipal corporation at the sale hereinbefore mentioned and not redeemed, for which certificates of purchase may not have been issued after such sale, shall after the expiration of two years from such sale, be deemed the property of the municipal corporation, and a deed therefor may be issued by the mayor, or clerk thereof, to such corporation, which deed shall be of the same force and effect as the deed to a certificate holder.

How municipalities may obtain possession of property.

Section 83. Action to Recover from Holder Under Tax Title. In any action, suit, or proceeding for the recovery of lands sold for taxes under the provisions of this act, except the taxes have been paid or the lands redeemed as herein provided, the party claiming to be the owner against the holder of the tax title must with his complaint or answer tender and pay into the court the amount of taxes for the payment of which the lands were sold, and penalty and interest and costs of sale, and interest from the date of sale at the rate of fifteen per cent per annum to the date of the tax deed or certificate and also any taxes the grantee in said tax deed or certificate, or the purchaser, may have paid on said lands, with interest thereon at the rate of twelve

Action to recover from holder under tax title.

per cent per annum from the date of such payment to the date of the filing of his complaint or answer, the said sum to be for the benefit of the holder of the tax title in case the same should fail in such suit, action or proceeding and the court shall not consider any complaint, answer or other pleading until such tender or payment shall have been made.

Section 84. Real Property and Personal Property Defined. The term real property and lands when used in

this act shall be held to include not only the land itself whether laid out in lots or otherwise, but also all buildings, structures, improvements, fixtures of whatsoever kind thereon, and all possessory rights and privileges belonging to or in anywise appertaining thereto, and the word tract herein shall include all lands, pieces, or parcels of land which may be separately assessed, together with the fixtures and improvements thereon.

Definition of
real property.

The term personal property or personalty shall be considered to include all household goods, effects, furniture, chattels, goods, wares, merchandise, gold dust, money on deposit either within or without the corporation, boats or vessels owned or registered in the corporation, capital invested therein, all debts due or to become due from solvent debtors, whether on account, contract, note, mortgage, or otherwise, all public stocks, or stocks or shares in incorporated companies, and all property of every nature and kind not included in the term real property.

Definition of
personal prop-
erty or person-
alty.

Section 85. Penalty for Violation of Provisions of this Article. Any person who either for himself, or as agent for another, or as agent, officer, or manager of a corporation, shall make any false affidavit to any statement or list which may be required by any tax ordinance adopted by common councils, relative to the amount, kind or value of the personal property of himself, or such person or corporation subject to taxation by municipal corporations, with purpose or intent to avoid or evade the assessment or taxation of such

Penalty for
violation
Article XII.

property, or any part thereof, shall be deemed guilty of perjury, and on conviction thereof shall be imprisoned in the penitentiary not less than one year nor more than five years.

Section 86. General Taxes and Special Assessments Included in Same Proceeding. The word tax as used in this article shall apply to special assessments for improvements as authorized by Article XI of this Act, and both such delinquent special assessments as well as delinquent general taxes may be included in the same delinquent tax roll and in the notices for application for judgment, but when so included shall be stated separately and the penalties and interest due on each shall also be stated separately.

General taxes and special assessments may be included in same proceedings.

ARTICLE XIII.

REPEALS AND EXCEPTIONS.

Cities of second class not affected by act.

Section 87. The provisions of this act shall not apply to or effect [affect] cities of the second class.

Native villages not affected.

Section 88. Native Villages. The provisions of this Act shall in no manner effect [affect] Native Villages incorporated and existing under the provisions of Chapter 11 of the Laws of 1915 and acts amendatory thereof.

Repeal.

Section 89. Repeals. Sections 627 and 629, inclusive, of Compiled Laws of Alaska, together with all laws amendatory thereof, are hereby repealed, and all other statutes inconsistent with this Act are, to the extent of such inconsistency, repealed.

Approved May 4, 1923.