



ORDINANCES
OF
THE PROVINCE OF TRANSVAAL
1911 and 1912

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No. 1 OF 1911.]

[Came into operation 3rd March, 1911.

Ord. No. 1
of 1911.

AN

ORDINANCE

To apply a sum of money for the service of the Province of Transvaal for the period from the thirty-first day of May, 1910, to the thirty-first day of March, 1911.

(Assented to 20th February, 1911.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

1. The Provincial Revenue Fund of Transvaal is hereby charged towards the service of the said Province for the period from the thirty-first day of May, 1910, to the thirty-first day of March, 1911, both days inclusive, with the sum of one million two hundred and forty-four thousand seven hundred and sixty-five pounds.

Provincial
Revenue
Fund
charged with
£1,244,765.

2. The money granted by this Ordinance shall be applied to the purposes and for the services expressed in column 1 of the schedule annexed hereto according to the votes and sub-heads particularly specified and set forth in the estimates of expenditure for the said period as approved of by the Provincial Council.

How
money is to
be applied.

3. The said money shall only be issued under warrant signed by the Administrator and countersigned by the auditor, and shall not be issued or applied to any use, intent or purpose other than the particular service for which it is granted by this Ordinance: Provided that the Executive Committee may issue and apply a saving on any sub-head of a vote for any excess of expenditure on any other sub-head of the same vote except in the case of the purposes and services expressed in column 2 of the schedule annexed hereto.

How money
issued—
application
of savings.

4. This Ordinance may be cited for all purposes as the Appropriation (1910-11) Ordinance, 1911.

Short title.

Schedule.

Ord. No. 1
of 1911.

No. of Vote.	Service.	Column 1.	Column 2.
		£	£
I.	GENERAL ADMINISTRATION.....	24,338	
	Grants-in-aid of—		
	Health Committees.....		1,000
	Game Protection Association.....		45
	Pongola Reserve.....		100
	Fish Preservation.....		300
II.	EDUCATION.....	511,768	
	Grants-in-aid of—		
	Maintenance of blind and deaf mutes at Worcester Institute, including trans- port.....		725
	Advisory Committee for Polytechnic Affairs, Pretoria.....		225
	Transvaal Home Industries Board.....		3,750
	Potchefstroom Orphanage and Indus- trial School.....		8,322
	Langlaagte Orphanage.....		525
	<i>Native Education.</i>		
	Grants-in-aid of—		
	Training Institutions.....		3,600
	Mission Schools.....		8,000
	Vacation Courses.....		500
	Equipment Grants.....		400
	Johannesburg Census.....		100
III.	HOSPITALS AND CHARITABLE INSTITUTIONS	104,879	
	Grants-in-Aid of Hospitals—		
	Elim Hospital.....		600
	Bochem Hospital.....		825
	Springkell Sanatorium.....		3,750
	Queen Victoria Hospital for Women..		1,250
	Victoria Maternity Hospital, Pretoria.		1,100
	Hospital Committees—		
	Johannesburg, Pretoria, Boksburg, Barberton, Klerksdorp, Pietersburg, Lydenburg, Germiston, Krugers- dorp, and Leydsdorp Fever Hospital		66,645
	Grants-in-Aid of Charitable Institutions—		
	Rand Aid Association.....		3,000
	Pretoria Benevolent Society.....		750
	House of Mercy, Irene.....		188
	Rescue Home, Pretoria.....		188
	Vrouwen Zending Bond.....		75
	Children's Udenominational Home, Johannesburg.....		750
	Nazareth House, Johannesburg.....		563
	Pretoria Women's Co-operative Home Industries.....		75
	Domestic Training School, Pretoria....		375
IV.	ROADS AND LOCAL WORKS.....	603,780	
	New Works.....		267,597
	Purchase of Land.....		17,500
		£1,244,765	

No. 2 OF 1911.]

[Came into operation 7th April, 1911.

Ord. No. 2
of 1911.

AN

ORDINANCE

To apply a sum of money towards the service of the Province of Transvaal for the financial year ending the 31st day of March, 1912.

(Assented to 31st March, 1911.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

1. The Provincial Revenue Fund of Transvaal shall be and is hereby charged towards the service of the said Province for the financial year ending the thirty-first day of March, 1912, with a sum not exceeding two hundred thousand pounds sterling.

Provincial Revenue Fund charged with £200,000.

2. The said sum shall be applied towards the service of the said financial year in conformity with the Estimates of Expenditure for the financial year ending the thirty-first day of March, 1911.

How money to be applied.

3. The said money shall be issued only under warrant signed by the Administrator and countersigned by the Auditor.

How money to be issued.

4. This Ordinance may be cited as the Appropriation (Part 1911-1912) Ordinance, 1911 and shall have the force of law when assented to by the Governor-General-in-Council and promulgated by the Administrator.

Short title and date of operation.

No. 3 OF 1911.]

[Came into operation 11th August, 1911.

Ord. No. 3
of 1911.

AN

ORDINANCE

To apply a sum of money for the service of the Province of Transvaal for the period from the 1st day of April, 1911, to the 31st day of March, 1912.

(Assented to 26th July, 1911.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

1. The Provincial Revenue Fund of Transvaal is hereby charged towards the services of the said Province for the period from the 1st day of April, 1911, to the 31st day of March, 1912, both days inclusive, with a sum of one million four hundred and fifty-five thousand four hundred and fifty-five pounds.

Provincial Revenue Fund charged with £1,455,455.

APPROPRIATION (1911-12).
 ADDITIONAL APPROPRIATION (1911-12).

4

**Ord. No. 3
of 1911.**

How money is to be applied.

2. The money granted by this Ordinance shall be applied to the purposes and for the services expressed in the schedule annexed hereto according to the votes and sub-heads particularly specified and set forth in the estimates of expenditure for the said period as approved of by the Provincial Council.

How money applied—application of savings.

3. The said money shall not be issued or applied to any use, intent, or purpose other than the particular service for which it is granted by this Ordinance: Provided that the Executive Committee, subject to compliance with section *one hundred and eighteen* of the South Africa Act, 1909, may issue and apply a saving on any sub-head of a vote for any excess of expenditure on any other sub-head of the same vote.

How money issued.

4. Money shall be issued from the Provincial Revenue Fund only under warrant signed by the Administrator and countersigned by the Provincial Auditor.

Short title.

5. This Ordinance may be cited for all purposes as the Appropriation (1911-1912) Ordinance, 1911.

Schedule.

No. of Vote.	Service.	Amount.
		£
I.	General Administration	35,356
II.	Education	647,207
III.	Hospitals and Charitable Institutions	138,465
IV.	Roads and Local Works	634,427
		£1,455,455

**Ord. No. 4
of 1911.**

No. 4 OF 1911.] [Came into operation 24th November, 1911.

AN

ORDINANCE

To apply a further sum of money, not exceeding £98,638 for the service of the Province of Transvaal for the period from the 1st day of April, 1911, to the 31st day of March, 1912.

(Assented to 2nd November, 1911.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows:—

Provincial Revenue Fund charged with £98,638.

1. The Provincial Revenue Fund of Transvaal is hereby charged towards the services of the said Province for the period from the 1st day of April, 1911, to the 31st day of March, 1912, both days

inclusive, with a further sum not exceeding ninety-eight thousand six hundred and thirty-eight pounds in addition to the sum provided for by the Appropriation (1911-1912) Ordinance, 1911.

**Ord. No. 4
of 1911.**

2. The money granted by this Ordinance shall be applied to the purposes and for the services expressed in the schedule annexed hereto according to the votes and sub-heads particularly specified and set forth in the additional supplementary estimates of expenditure for the said period as approved of by the Provincial Council.

How money is to be applied.

3. The said money shall not be issued or applied to any use, intent, or purpose other than the particular service for which it is granted by this Ordinance; provided that the Executive Committee, subject to compliance with section *one hundred and eighteen* of the South Africa Act, 1909, may issue and apply a saving on any sub-head of a vote for any excess of expenditure on any other sub-head of the same vote.

How money applied—application of savings.

4. Money shall be issued from the Provincial Revenue Fund only under warrant signed by the Administrator and countersigned by the Provincial Auditor.

How money issued.

5. This Ordinance may be cited for all purposes as the Additional Appropriation (1911-1912) Ordinance, 1911.

Short title.

Schedule.

No of Vote.	Service.	Amount.
I.	General Administration	£900
II.	Education	4,300
III.	Hospitals and Charitable Institutions	2,330
IV.	Roads and Local Works	91,108
		£98,638

No. 5 of 1911.]

[Came into operation 1st January, 1912.

**Ord. No. 5
of 1911.**

AN

ORDINANCE

**To amend the Education Act, 1907 (Act No. 25 of 1907),
in respect of Questions of Language.***

(Assented to 12th October, 1911.)

BE IT ENACTED by the Provincial Council of the Transvaal with the assent of the Governor-General-in-Council, as follows :—

* For Instructions issued under this Ordinance see Administrator's Notice No. 264, *Provincial Gazette* dated 8th December, 1911.

Ord. No. 5
of 1911.

PRELIMINARY.

Repeal of
Chapter VI
of Act No. 25
of 1907.

1. Chapter VI of the Education Act, 1907, shall be and is hereby repealed, together with any other provision of that Act which is repugnant to or inconsistent with the provisions of this Ordinance.

Interpreta-
tion of terms.

2. In this Ordinance reference to language shall [except in sections *seven*, *eleven*, and *thirteen* (*g*)] be construed as a reference to the English or to the Dutch language or to both languages as the context requires but to no other language. Any expression defined in and for the purposes of the said Act shall when used in this Ordinance bear the same meaning as is in that Act assigned to it.

LANGUAGE AS THE MEDIUM OF INSTRUCTION.

Medium of
instruction
in public
schools up
to and
including
the fourth
standard.

3. (1) The medium of instruction of every pupil in all the standards of any public school up to and including the fourth standard shall be the home language of the pupil; provided that the parent of any pupil shall have the right to claim that the other language shall be gradually introduced, and thereafter regularly used, as a second medium of instruction in accordance with the intelligence of the pupil, and in such case provision shall be made for the instruction of such pupil accordingly.

(2) If, in the carrying out of the provisions of sub-section (1) hereof it be found that in any such standard aforesaid or group of such standards the medium of instruction of the majority of the pupils must be exclusively one language and that of the minority exclusively the other language, arrangements shall be made for the efficient instruction of that minority—

(a) by means of parallel classes, if the existing organization of the school permits;

(b) by means of parallel classes in every case in which the pupils forming the minority are not less than fifteen;

(c) in any case not described in paragraph (a) or paragraph (b), by means of teachers qualified to instruct in both languages.

Medium of
instruction
in public
schools in
standards
above the
fourth
standard.

4. (1) In all the standards of any public school above the fourth standard provision shall be made for the instruction of the pupils attending thereat through the medium of each language and the parent of any such pupil may choose for that pupil—

- (a) one of the languages as the sole medium of instruction ; or
(b) both of the languages as media of instruction.

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of 1911.

If the parent of any such pupil fail to exercise his right of choice under this section, that pupil shall be instructed through the language best known and understood by him, the other language being as far as possible used also as a medium of instruction for that pupil.

(2) For the purpose of carrying out the provisions of sub-section (1) the organization of the system of public schools shall be such as to provide—

- (a) schools in which the English language is the prevailing medium of instruction ;
(b) schools in which the Dutch language is the prevailing medium of instruction ;
(c) schools in which the English language is the medium of instruction in certain subjects and the Dutch language is the medium of instruction in certain other subjects,

but in all such cases due regard shall be had to the medium of instruction prescribed by section *three* for use in the standards up to and including the fourth standard.

(3) If in any public school in standards above the fourth, one of the two languages is the prevailing medium of instruction and a minority of pupils have to be instructed through the medium of the other language, provision shall be made for the instruction of the pupils forming that minority—

- (a) by means of parallel classes if the existing organization of the school permits ;
(b) by means of parallel classes in every case in which the pupils forming the minority are not less than ten ;
(c) in any case not described in paragraph (a) or paragraph (b) by means of teachers qualified to instruct in each of the two languages.

(4) Whenever in a public school described in sub-section (2) (c) of this section the one language is the medium of instruction in certain subjects and the other language the medium of instruction in certain other subjects the decision as to the number of subjects to be taught through the medium of each language and the selection of those subjects shall, subject to the approval of the

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of 1911.**

department, be made by the board or governing body (as the case may be) having the supervision of the school or, if there be no board or governing body, shall be made by the department. The wishes of the parent shall if possible, be met in carrying out the provisions of this sub-section provided no sacrifice of general educational efficiency be thereby involved.

If provision has to be made for the instruction of a minority of pupils solely through the medium of one or other of the languages arrangements similar to those described in sub-section (3) shall be made.

LANGUAGE AS A SUBJECT OF INSTRUCTION.

Teaching of language up to and including the fourth standard.

5. Every pupil in every standard of a public school up to and including the fourth standard shall be taught his home language, and adequate provision for the teaching of the other language shall be made in every public school, and such language shall be taught to every pupil in such school unless the parent of such pupil otherwise desires.

Teaching of language above the fourth standard.

6. Adequate provision shall be made for the teaching of both languages to every pupil in every standard above the fourth standard of a public school and both languages shall be taught to every pupil of such school unless the parent of such pupil otherwise desires.

GENERAL.

Latitude to be given temporarily in applying the provisions of Ordinance.

7. Reasonable latitude in giving effect to the provisions hereinbefore contained shall be allowed for a period of three years after the coming into operation of this Ordinance. If the application of the said provisions to any public school or section thereof involve a change in the existing system relative to the medium of instruction that change shall be made gradually so as not to interfere with the educational interests of the pupils affected.

Determination of difficulties in applying provisions of Ordinance.

8. In any case in which there is any doubt as to which of the two languages is to be considered the home language of any pupil, the parent's decision shall be final, and such decision shall be duly registered.

9. If a dispute or difficulty arises in connection with the application to any public school of the provisions of this Ordinance the department shall, subject to any rights conferred by law on any board or governing body having

supervision of the school, have power to deal with the dispute or difficulty, and it shall be the duty of the department to see that these provisions are carried out in such a way as to conduce as much as possible to the general efficiency of the school.

10. The inspection of public schools and the regulations relative to school examinations shall be in conformity with the provisions of this Ordinance and shall be such as to secure an equal standard of proficiency in both languages.

Inspection and examinations to conform to Ordinance.

11. Whenever the home language of a pupil is neither the English nor the Dutch language, the Department shall make such provision as may be necessary to satisfy the educational requirements of the case.

Provision where home language of pupil is neither English nor Dutch.

12. The provisions hereinbefore in this Ordinance contained, other than those of the last preceding section, shall apply *mutatis mutandis* in respect of any such schools, classes, and institutions described in sections *twenty-four*, *twenty-five*, and *twenty-six* of the Education Act, 1907: Provided that in the application of those provisions to those schools, classes, and institutions the right of choice exercisable thereunder by a parent shall be exercisable by the pupil or student.

Application of preceding provisions of Ordinance to trade schools, continuation classes, Normal Colleges, etc.

LANGUAGE QUALIFICATIONS OF TEACHERS.

13. In respect of the training and certification of teachers the following conditions shall apply, anything to the contrary notwithstanding in the Education Act, 1907, or any amendment thereof or any regulations made thereunder, that is to say:—

Training and certification of teachers as regards language.

(a) Both the languages shall be included in the course of instruction for all teachers' general certificates and shall be likewise included in the subjects of examination for such certificates, except in the case of the highest certificate where the examination is of a purely professional character.

(b) In all examinations other than for the highest certificate there shall be a higher and a lower test both oral and written in each language.

(c) As far as possible the two higher tests shall be of the same standard and the two

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lower of the same standard, corresponding tests carrying the same number of marks.

(d) Every candidate must pass the higher test in one or other language, must obtain forty per cent. of the aggregate maximum of marks, and not less than twenty per cent. of the marks obtainable in any subject if such marks are to count towards the aggregate minimum required for a pass.

(e) The candidate shall be entirely free to choose the medium of examination.

(f) The subjects in which the candidate passes and, in the case of the two languages, the grade (higher or lower) obtained, shall be endorsed on the certificate.

(g) The provisions hereinbefore contained shall not apply to the case of teachers in course of training for employment in schools in which the home language of the children is not one of the two languages.

(h) Whenever the provisions hereinbefore contained are not already operative, due notice of their introduction shall be given and they shall not apply to candidates who have already entered on a course of training.

Safeguarding
of rights of
existing
teachers.

14. With regard to teachers who are in the service of the department at the commencement of this Ordinance, the following conditions shall apply:—

(i) No English-speaking teacher shall be penalized on account of a lack of knowledge of Dutch, and no Dutch-speaking teacher shall be penalized on account of a lack of knowledge of English, provided he is fulfilling satisfactorily the duties for which he was appointed.

(ii) Facilities shall be offered whereby unilingual teachers shall have an opportunity of becoming qualified in both languages.

Short title
and date of
operation of
Ordinance.

15. This Ordinance may be cited for all purposes as the Education Act (Language) Amendment Ordinance 1911, shall be read as one with the Education Act, 1907 (Act No. 25 of 1907), or any amendment thereof, and shall commence and come into operation at a date to be fixed hereafter by the Administrator by Proclamation in the *Provincial Gazette*.*

* The date fixed was the 1st January, 1912 (see *Provincial Gazette* dated 8th December, 1911).

No. 6 OF 1911.] [Came into operation 3rd November, 1911. **Ord. No. 6 of 1911.**

AN

ORDINANCE

To Amend the Law relating to Public Roads.

Assented to 12th October, 1911.

BE IT ENACTED by the Provincial Council of The Transvaal with the assent of the Governor-General-in-Council as follows :—

1. In this Ordinance—

Interpreta-
tion of terms.

“ Administrator ” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act 1909 or any amendment thereof acting on the advice and with the consent of the Executive Committee of the Province ;

“ resident magistrate ” shall, in case of a detached sub-district, mean the detached assistant resident magistrate thereof ;

“ public road ” shall mean—

(a) any road proclaimed as such under this Ordinance or as a transport road under Law No. 1 of 1893 ;

(b) any road or path however created not running over land proclaimed under the Precious and Base Metals Act 1908 or any amendment thereof which at the commencement of this Ordinance has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than nine years ;

“ owner ” shall mean the owner lessee or occupier of any property or his lawful representative.

2. It shall be lawful for, the Administrator as he may deem advisable to proclaim, deproclaim, open, close or deviate any public road. He may further close any public road temporarily or partially for the purpose of repairs or for any other reason and may otherwise regulate the traffic thereupon.

Powers of
Administrator
re opening,
closing, and
deviating
public roads.

3. The Administrator or any person acting under his authority in that behalf may after notice to the owner or owners enter upon and take possession of so much of any land as may be required for the opening or construction of any public road other than land built upon or land under cultivation.

Powers of
Administrator
to take posses-
sion of land
for public
roads.

**Ord. No. 6
of 1911.**

Diversion of
public roads.

4. The owner of a farm or piece of land who desires to close, deviate or otherwise disturb any public road, shall send a written application to the resident magistrate of the district or sub-district in which the farm or piece of land is situated.

Administrator
to appoint a
commission
of inquiry.

5. The resident magistrate shall transmit the said application to the Administrator who shall thereupon appoint a commission of not more than three disinterested persons to inquire into the merits of the said application and report to him thereon.

Inquiry to be
held after
notice.

6. The said commission shall, after due notice given as prescribed by regulation, and requiring any person objecting to the granting of the said application to lodge his objection in writing with the resident magistrate within six weeks after the first publication of such notice, inspect the locality affected by the aforesaid application and make full inquiry into the merits thereof and the objections thereto and shall thereupon with as little delay as possible transmit to the Administrator their report thereon.

Administrator
may act on
report of
commission.

7. The Administrator may, on the recommendation of the commission by notice in the *Provincial Gazette*, declare the said public road to be closed or deviated as set forth in the said notice and the said notice shall include a sketch plan of the road closed or deviated as aforesaid.

Order as to
costs.

8. Any decision of the Administrator may include an order as to the costs of the investigation.

Penalty for
unauthorized
deviation or
obstruction of
public road.

9. Any person who, except as in this Ordinance is provided, shall close, deviate, disturb, obstruct or in any way encroach upon any public road shall be guilty of an offence and liable to the penalties hereinafter prescribed.

Penalty for
fencing or
encroaching
on an area of
100 feet along
public road.

10. Any person who shall, after the commencement of this Ordinance, erect any fences, walls, buildings or other structures along or adjacent to any public road so as to reduce the area available for public traffic to a width of less than one hundred Cape feet without the consent in writing of the Administrator shall be guilty of an offence and liable to the penalties hereinafter prescribed.

Opening of
new public
road.

11. A new public road may be opened on the petition of not less than fifty interested adult persons living in the ward or wards through which the road is desired and addressed to the resident magistrate, who shall on receipt of the petition refer it to a commission constituted in terms of section *five* of this Ordinance. The commission shall, after due notice given as prescribed by regulation, inspect the locality and hold an inquiry and thereafter forward

its recommendation with documents and sketch plan of the locality to the Administrator for his decision.

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of 1911.

12. Any person contravening any of the provisions of this Ordinance or the regulations framed thereunder shall on conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months. Penalties.

Courts of resident magistrate shall have jurisdiction to try any such offence against the provisions of this Ordinance or of the said regulations.

13. The Administrator may from time to time make alter and rescind regulations* not inconsistent with this Ordinance prescribing— Regulations.

- (a) the regulation of traffic over public roads including the limitation of the speed of vehicles ;
- (b) the manner in which any notice required by this Ordinance shall be given or served, and the nature and duration of such notices ;
- (c) the manner in which any inquiry prescribed by this Ordinance shall be conducted.

14. The provisions of this Ordinance shall not apply to any public road within the area of a municipality or township, or to any land held under mining title under the Precious and Base Metals Act 1908 or any amendment thereof. This Ordinance not applicable within municipalities or townships.

15. This Ordinance may be cited as the Roads Amendment Ordinance 1911. Short title.

No. 7 of 1911.] [Came into operation 3rd November, 1911. Ord. No. 7
of 1911.

A

PRIVATE ORDINANCE

To Confer Further Powers upon the Council of the Municipality of Germiston.

Assented to 19th October, 1911.

WHEREAS it is desirable to make further provision with regard to the borrowing powers of the council of the municipality of Germiston :

AND WHEREAS it is desirable to authorize the said council to raise by the issue of stock and otherwise a sum

* Regulations* were published in the *Provincial Gazette* of the 23rd February, 1912, page 224.

Ord. No. 7 of 1911. of four hundred thousand pounds sterling for the purposes of the said municipality as hereinafter set forth :

AND WHEREAS it is desirable to confer further powers upon the said council :

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

Interpretation of terms.

1. In this Ordinance, unless the context otherwise requires—

“ Administrator ” means the officer for the time being executing the office and functions of Administrator of the Province of Transvaal acting by and with the advice of the Executive Committee of the said Province ;

“ council ” means the council of the municipality of Germiston as by law established :

“ municipality ” means the municipality of Germiston as constituted for the time being ;

“ owner ” shall include any person receiving the rent or profits of any land or premises from any tenant or occupier thereof or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person entitled thereto or interested therein ;

“ street ” includes any road, street, square or thoroughfare vested in the council under the Municipal Corporations Statutes 1903–1906 ;

“ Town Engineer ” means the person for the time being lawfully acting in the capacity of town engineer of the municipality.

Section *sixty-five* of the Municipal Corporations Ordinance 1903 not to apply.

2. Section *sixty-five* of the Municipal Corporations Ordinance 1903 shall from the date of the coming into operation of this Ordinance cease to apply to the council : Provided, however, that nothing in this Ordinance contained shall affect anything duly done or any liability duly incurred by the council under the provisions of the said section and any agreement duly entered into by the council under the said provisions shall remain of full force and effect.

3. The council is hereby empowered to raise moneys by the issue of stock or bills for the purposes of the municipality subject to the provisions *mutatis mutandis* of the Johannesburg Municipality Borrowing Powers Ordinance 1903 and all the provisions of the said Ordinance not including the provisions of any Ordinance by which the said Ordinance has been amended shall apply to the council as if they were herein re-enacted in such terms and with such modifications as are necessary to make them applicable to the council: Provided that for the purpose of this Ordinance sub-section (1) of section *fifty-two* of the said Ordinance shall be deemed to be amended by the deletion therefrom of the words "or extend for a period of more than ninety days" and the substitution for such words of the words "or except with the sanction of the Administrator extend for a period of more than six months".

Power to raise moneys subject to the provisions *mutatis mutandis* of the Johannesburg Municipality Borrowing Powers Ordinance 1903.

**Ord. No. 7
of 1911.**

4. The council is hereby authorized to raise by the issue of stock or bills subject to the provisions of the preceding section the amount of four hundred thousand pounds sterling for the purposes set forth in the Schedule to this Ordinance and the stock issued in pursuance of this authority shall be redeemable within a period of thirty years from the issue thereof. The authority hereby conferred shall be deemed to be an authority conferred in accordance with the provisions of section *three* of the Johannesburg Municipality Borrowing Powers Ordinance 1903 as applied to the council and no further authority for the raising of the said amount shall be required under the said section.

Authority to raise four hundred thousand pounds for purposes specified in the Schedule.

5. The council shall apply the amount raised in pursuance of the authority conferred by section *four* of this Ordinance in accordance with the said Schedule for the purposes therein described in such order and at such times as the council may determine, provided that the council may, subject to the approval of the Administrator, vary the distribution of the amounts specified in the Schedule between the different purposes therein described and may further, subject to the like approval, apply any portion of the amounts specified in the said Schedule for purposes other than the purposes therein described.

Application of amount raised in pursuance of preceding section.

**Ord. No. 7
of 1911.**

The council may enter into contracts for the purchase of power and other purposes.

6. The council may with the approval of the Administrator enter into contracts with the holder of any licence granted under the Power Act 1910 of the Transvaal or any amendment thereof or any law substituted therefor—

- (a) for the purchase of power from such holder for the purpose of any municipal undertaking ;
- (b) for the lighting of the streets and public places of the municipality by such holder ;
- (c) for granting to such holder the right to supply light or power to any land or premises within the municipality ;

and the provisions of section *twenty-four* of the Municipal Corporations Ordinance 1903 shall not apply to any such contract.

Power at the request of the owner to execute drainage work on private premises and construct kerbs, gutters, and footways on portion of streets abutting on such premises and to recover the expense or make advances to the owner of any premises of the amount of expenses to be incurred in such works.

7. (1) The council may in its discretion at the request of the owner of any land or premises situated within the limits of the municipality—

- (a) carry out either by its own servants or through contractors any work in connection with the installation or improvement of any drainage or sewerage system on such land or premises and the connection of such land or premises with the council's drains or sewers and recover from the owner of such land or premises the expenses incurred in such work including a reasonable charge for supervision, and if the work is undertaken by the council without the interposition of a contractor may recover charges for the use of tools and plant ;

- (b) construct in such manner of such breadth and with such material as the council may think fit, either by its own servants or through contractors, kerbs, gutters and footways along the side of any street abutting upon the land or premises of any such owner, and recover from such owner the expenses incurred in such work including a reasonable charge for supervision and if the work is undertaken by the council without the interposition of a contractor recover charges for the use of tools and plant ;

- (c) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the execution of any such drainage or sewerage work or the

construction of any such kerb, gutter or footway, on or in respect of such land or premises.

(2) The council may agree to accept payment of such expenses and repayment of such advances in such instalments at such times and on such conditions as may to the council appear reasonable together with interest thereon at a rate not exceeding eight per centum per annum (which shall be charged from the date when the works are completed or the advances made) on such amount as remains for the time being outstanding.

(3) Such expenses and advances together with the interest thereon shall be a charge upon the land or premises in respect of which the same are incurred or made, and shall be paid to the council by the owner, and the same or the instalments thereof as they fall due respectively, shall be recoverable from the owner for the time being, or any future owner, of such land or premises in any competent court.

(4) The council shall keep at the municipal offices a register of all expenses incurred and advances made under this section and shall show in such register the total amounts thereof, the instalments (if any) in which the same are payable, the premises in respect of which the same have been incurred or made and the balances for the time being outstanding and shall keep such register open at all reasonable times for the inspection of any person free of charge, such register and any extract therefrom certified by the town clerk, or other person authorized by the council shall in any proceedings for the recovery of such expenses or advances or any interest due thereon or any instalments thereof be *prima facie* evidence of the matters therein contained.

(5) No transfer or cession of any land or premises situate within the municipality shall be passed before any registration officer until there shall have been produced to him a receipt or certificate signed by the town clerk, or other person authorized by the council, showing that all or any sums due on account of any expenses incurred or advances made by the council under this section in respect of such land or premises together with any interest due on the amount of such expenses or advances have been paid.

**Ord. No. 7
of 1911.**

Power to
compel
connection
with and
make charges
for the use of
sewers.

(6) Nothing in this section shall limit or affect the power of the council to execute any work which the council is by law, or under any by-law in force in the municipality, empowered to execute or to recover the cost of executing such work from any person who is liable therefor.

8. (1) The Council may compel the connection at the owner's expense of any land or premises with the Council's drains or sewers subject to the provisions of any by-laws or regulations made under section *nine* of this Ordinance or under the Municipal Corporations Statutes 1903-1906.

(2) The council shall have power to make such charges as may be fixed by by-laws or regulations for the use of the council's drains, sewers or sewerage works in respect of any land or premises which are connected therewith and such charges shall for all purposes be deemed to be charges for sanitary services, and shall be recoverable as such subject to the provisions of the Municipal Corporations Statutes 1903-1906 from the owner of any premises which are so connected.

Power to
make
by-laws.

9. (1) In addition to any by-laws or regulations which the council has power to make under the Municipal Corporations Statutes 1903-1906 the council shall have power to make, alter and revoke by-laws or regulations for any of the following purposes :—

(a) For regulating sewerage and drainage and for compelling the connection at the owner's expense of any land or premises with the council's drains or sewers and for regulating the construction by the council of all drains required for the purpose of such connection in so far as they connect with and extend from the main sewer to the boundary of the property concerned and for fixing the charges which may be recovered by the council from the owner for any such work ; provided that where the main sewer is not laid in the centre of a street the owners of land or premises on either side of such street may be required to pay for such work such amounts as would have been payable by them if the sewer had been so laid, but in no case shall the owner of any land or premises be required to pay more for such work than would have been payable by him if the sewer had been so laid.

(b) For providing that where in the opinion of the council greater expense would be incurred in connecting the drains of two or more properties abutting on any street with the sewer in such street than in constructing a combined drain for the use of such properties collectively the council may construct such combined drain from the sewer and connect the drains of such properties therewith, and may recover from the owners of any land or premises which may be connected or should in the opinion of the town engineer be connected with such combined drain such proportion of the expenses of construction as the town engineer may certify to be fairly chargeable to such land or premises together with the cost of connecting the same with such combined drain.

(c) For regulating the giving of notice and the deposit of plans and sections by persons intending to carry out any drainage or sewerage work on any land or premises and the approval or disapproval thereof by the council and the removal or alteration of any drainage or sewerage work begun or done in contravention of any by-law or regulation of the council and for the charging of fees for the examination of such plans.

(d) For fixing the charges which may be made for the use of the council's drains, sewers or sewerage works in respect of any land or premises which are connected therewith.

(e) For regulating the construction of kerbs, gutters or footways by the owner of any land or premises who undertakes such work on any portion of a street abutting on such land or premises and for regulating the construction by the council at the request of any owner of land or premises and at his expense of kerbs, gutters or footways in any portion of a street abutting on such land or premises and for fixing the charges which may be made by the council for any such work.

(2) No such by-law or regulation shall be contrary to the provisions of this Ordinance or of the Municipal Corporations Statutes 1903-1906 or of any other law in force within the municipality.

Ord. No. 7
 of 1911.

(3) The provisions of the Municipal Corporations Statutes 1903-1906 with respect to by-laws or regulations which may be made thereunder shall apply with respect to any by-law or regulation which may be made under this section in the same way as if power to make such by-law or regulation were conferred by the said Statutes.

Savings of rights of the Crown.

10. Nothing in this Ordinance contained shall in any way affect the rights of His Majesty the King, his heirs and successors, or of any person except such as are mentioned in this Ordinance, and those claiming by, from, and under them.

Short title and date of coming into operation.

11. This Ordinance may be cited as the Germiston Municipal Private Ordinance 1911 and shall come into operation on the date of its publication as an Ordinance in the *Provincial Gazette*.

Schedule.

	£	s.	d.
Tramway scheme.....	106,690	0	0
Sewerage scheme.....	142,320	0	0
Sewerage connections—			
(Fund for providing advances and expenses recoverable from owners).....	20,000	0	0
Kerbs, gutters, and footways—			
(Fund for providing advances and expenses recoverable from owners).....	6,150	0	0
Storm water drainage.....	39,960	0	0
Repayment of loans from Government.....	40,000	0	0
Bridges and other public works and expenses of flotation of loan.....	44,880	0	0
	£400,000	0	0

Ord. No. 1
 of 1912.

NO. 1 OF 1912.]

[Came into operation 10th May, 1912.

AN

ORDINANCE

To apply a sum of Money towards the service of the Province of Transvaal for the financial year ending the 31st day of March, 1913.

(Assented to 21st March, 1912.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

- | | | |
|---|---|--------------------------------|
| <p>1. The Provincial Revenue Fund of Transvaal shall be and is hereby charged towards the service of the said Province for the financial year ending the thirty-first day of March, 1913, with a sum not exceeding two hundred and fifty thousand pounds sterling.</p> | Provincial Revenue Fund charged with
£250,000. | Ord. No. 1
of 1912. |
| <p>2. The said sum shall be applied towards the service of the said financial year in conformity with the Estimates of Expenditure for the financial year ending the 31st day of March, 1912.</p> | How money to be applied. | |
| <p>3. The said money shall be issued only under warrant signed by the Administrator and countersigned by the Auditor.</p> | How money to be issued. | |
| <p>4. This Ordinance may be cited as The Appropriation (Part 1912-1913) Ordinance, 1912 and shall have the force of law when assented to by the Governor-General-in-Council and promulgated by the Administrator.</p> | Short title and date of operation. | |

No. 2 OF 1912.] [Came into operation 23rd August, 1912. **Ord. No. 2
of 1912.**

AN
ORDINANCE

To apply a further sum of money towards the service of the Province of Transvaal for the financial year ending the 31st day of March, 1913.

(Assented to 24th July, 1912.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

- | | | |
|---|---|--|
| <p>1. The Provincial Revenue Fund of Transvaal shall be and is hereby charged towards the service of the said Province for the financial year ending the thirty-first day of March, 1913, with a further sum not exceeding two hundred and fifty thousand pounds sterling.</p> | Provincial Revenue Fund charged with
£250,000. | |
| <p>2. The said sum shall be applied towards the service of the said financial year in conformity with the Estimates of Expenditure for the financial year ending the 31st day of March, 1912.</p> | How money to be applied. | |
| <p>3. The said money shall be issued only under warrant signed by the Administrator and countersigned by the Auditor.</p> | How money to be issued. | |

Ord. No. 2 of 1912. Short title and date of operation.

4. This Ordinance may be cited as "The Second Appropriation (Part 1912-1913) Ordinance, 1912," and shall have the force of law when assented to by the Governor-General-in-Council and promulgated by the Administrator.

Ord. No. 3 of 1912. No. 3 OF 1912.] [Came into operation 20th September, 1912.]

A

PRIVATE ORDINANCE

To empower the Council of the Municipality of Pretoria to grant pensions or gratuities to its officers or servants on retirement and to retire certain officers or servants.

(Assented to 22nd August, 1912.)

WHEREAS it is desirable to empower the Council for the Municipality of Pretoria to grant pensions or gratuities to officers or servants of the Council on their retirement from the Council's service or otherwise, and to retire such officers or servants of the Council whose appointments are made by the Governor in terms of section *four* of Proclamation (Transvaal) No. 7 of 1902, whenever the Council may so decide.

BE IT ENACTED by the Provincial Council of the Transvaal with the assent of the Governor-General-in-Council, as follows :—

Power to grant pensions.

1. It shall be lawful for the Council to grant pensions or gratuities to officers or servants of the Council on their retirement from the Council's service or otherwise.

Power to retire certain officers.

2. Notwithstanding anything to the contrary which may be contained in section *four* of Proclamation (Transvaal) No. 7 of 1902 it shall be lawful for the Council to retire from its service after resolution to that effect duly passed in open Council, any officer or servant of the Council whose appointment is made by the Governor in terms of the said section, to wit, the Town Clerk, Treasurer, and Town Engineer.

Short title and date of operation.

3. This Ordinance may be cited for all purposes as the Pretoria Municipal Private Ordinance 1912, and shall come into operation on the date of its first publication as an Ordinance in the *Provincial Gazette*.

NO. 4 OF 1912.] [Came into operation 13th September, 1912. **Ord. No. 4 of 1912.**

AN

ORDINANCE

To apply a sum of money for the service of the Province of Transvaal for the period from the 1st day of April, 1912, to the 31st day of March, 1913.

(Assented to 4th September, 1912.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows:—

1. The Provincial Revenue Fund of Transvaal is hereby charged towards the services of the said Province for the period from the 1st day of April, 1912, to the 31st day of March, 1913, both days inclusive, with a sum of one million eight hundred and one thousand nine hundred and forty-six pounds.

Provincial Revenue Fund charged with £1,801,946.

2. The money granted by this Ordinance shall be applied to the purposes and for the services expressed in the schedule annexed hereto according to the votes and sub-heads particularly specified and set forth in the estimates of expenditure for the said period as approved of by the Provincial Council.

How money is to be applied.

Immediately after the coming into operation of this Ordinance, the Appropriation (Part 1912-1913) Ordinance, 1912, and the Second Appropriation (Part 1912-1913) Ordinance, 1912, shall cease to have any effect, and issues made thereunder shall be deemed to be issued under this Ordinance.

3. The said money shall not be issued or applied to any use, intent, or purpose other than the particular service for which it is granted by this Ordinance; provided that the Executive Committee, subject to compliance with section *one hundred and eighteen* of the South Africa Act, 1909, may issue and apply a saving on any sub-head of a vote for any excess of expenditure on any other sub-head of the same vote.

How money applied—application of savings.

4. Money shall be issued from the Provincial Revenue Fund only under warrant signed by the Administrator and countersigned by the Provincial Auditor.

How money issued.

5. This Ordinance may be cited for all purposes as the Appropriation (1912-1913) Ordinance, 1912.

Short title.

Ord. No. 4
of 1912.

Schedule.

<i>No. of Vote.</i>	<i>Service.</i>	<i>Amount.</i>
I.	General Administration	£37,005
II.	Education	688,495
III.	Hospitals and Charitable Institutions	168,301
IV.	Roads and Local Works	908,145
		£1,801,946

Ord. No. 5
of 1912.

No. 5 OF 1912.]

[Came into operation 18th October, 1912.

AN

ORDINANCE

To Amend the Law relating to Public Roads and Outspans in this Province and to provide for the Establishment of Road Boards and for other Matters incidental thereto.

(Assented to 26th September, 1912.)

BE IT ENACTED by the Provincial Council of The Transvaal with the assent of the Governor-General-in-Council, as follows:—

Preliminary.

Repeal of laws.

1. The laws mentioned in Schedule I to this Ordinance shall be and are hereby repealed to the extent set forth in the second column of that Schedule together with the provisions of any other law repugnant to this Ordinance; provided that nothing in this Ordinance contained shall be construed as repealing, amending, or otherwise modifying or affecting the provisions of the Precious and Base Metals Act 1908 of the Transvaal or any amendment thereof or any rights acquired thereunder.

Interpretation of terms.

2. In this Ordinance unless inconsistent with the context—

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act, 1909, or any amendment thereof, acting on the authority of the Executive Committee of the Province;

“owner” shall mean the owner, lessee, or occupier of any property or his lawful representative;

“registered owner” shall mean the person registered in the Deeds Office as the owner of any property or his lawful representative;

“magistrate” shall, in the case of a detached sub-district, mean the detached assistant magistrate thereof;

“farm” shall include any piece of land registered as a farm or portion of a farm in the office of the Registrar of Deeds;

“public road” shall mean

(a) any road proclaimed as such under this Ordinance or which has been established or become a public road under this or any other Ordinance;

(b) any road or path however created (not running over any land proclaimed under or for the purpose of any law relating to mining for precious or base metals or precious stones or land held under mining title as by such law defined) which at the commencement of this Ordinance has been in the undisturbed use of the public or which the public has had the right to use during a period of not less than fifteen years;

provided that nothing in this Ordinance contained shall apply to any road within the area of a municipality;

“main road” shall mean a public trunk road or highway over or along which the general road traffic of the Province passes and which has been proclaimed a main road in terms of this Ordinance;

“branch road” shall mean any public road other than main and district roads or bridle paths;

“bridle paths” shall mean public paths existing or constructed for foot horse and pack saddle traffic.

CHAPTER I.

Public Roads.

3. For the purposes of this Ordinance the public roads in this Province shall be divided into the following classes:—

Classification of public roads.

**Ord. No. 5
of 1912.**

- (a) Main roads.
- (b) Branch roads.
- (c) Bridle paths.

Width of
public roads.

4. The width of public roads including unmade portions thereof shall be as follows :—

- (a) main roads, one hundred Cape feet ;
- (b) branch roads, fifty Cape feet ;
- (c) bridle paths, not exceeding fifteen Cape feet ;

provided that the Administrator may reduce such width when he is satisfied that it is necessary to do so.

Bridges and
drifts
considered as
portions of
public roads.

5. For the purposes of this Ordinance, bridges and drifts in the course of a public road shall be considered as portions of that public road.

Public roads
vested in
Adminis-
trator.

6. All public roads within this Province shall be vested in and remain under the control and charge of the Administrator.

Adminis-
trator
empowered
to open, close
or divert
roads and
regulate
traffic
thereon.

7. (1) The Administrator may from time to time as occasion requires by proclamation—

- (a) declare any road to be a public road ;
- (b) declare that a public road shall exist on land where no road was previously in existence or where a road has previously been in existence but has been closed, and define the course of that road after investigation and report by the road board to be constituted under section *eight* hereof ;
- (c) declare any public road to be a main road, branch road or bridle path as the case may be ; provided that he shall not declare any road running in the proximity of or in the same direction as another public road to be a bridle path ; and provided further that no road shall be declared to be a public road on any land proclaimed under the Precious and Base Metals Act 1908 of the Transvaal or any amendment thereof, or land held under mining title as by such law defined, unless the course of that road has been reserved for the purposes of a road under the provisions of that Act or amendment afore-
said ;
- (d) close or deviate any public road after investigation and report by the road board to be constituted under section *eight* hereof.

(2) The Administrator may as and when he thinks necessary temporarily or partially close

any public road for the purpose of repairs or for any other reason and may otherwise regulate the traffic on any public road.

**Ord. No. 5
of 1912.**

(3) The Administrator or any person acting under his authority in that behalf may after notice to the owner or owners enter upon and take possession of so much of any land as may be required for the opening or construction of any public road or any other purpose subsidiary to the discharge of the duties or powers conferred and imposed by this Ordinance in respect of such road.

8. The Administrator shall constitute at least one Road Board in each magisterial district, to consist of the magistrate or other person appointed by the Administrator and the field cornets, if any, of the several wards of the district. The Administrator may appoint one or more additional members of the Road Board as and when he may deem fit.

District Road Boards.

9 Wherever it may appear to the Administrator necessary he may constitute one or more additional Road Boards in a magisterial district and appoint a chairman and members thereof and assign an area of jurisdiction thereto. Provided that the field cornet or field cornets of the ward or wards over which such additional board is constituted shall be *ex officio* a member or members thereof.

Appointment of additional Road Boards.

10. The Road Boards shall assist and advise the Administrator on all matters relating to public roads within their respective districts or areas, and shall obtain and transmit to the Administrator any information that may be required by him and generally carry out all such functions as may from time to time be assigned to them by the Administrator.

Road Board to assist and advise Administrator.

11. Three members of a Road Board, including the chairman, shall form a quorum.

Road Board quorum.

12. The Administrator may appoint one or more road inspectors in each district and fix their emoluments.

Appointment of road inspectors.

13. The Administrator shall by notice in the *Provincial Gazette*, as soon as possible after the commencement of this Ordinance, proclaim and define the main roads in the Province.

Proclamation of main roads.

*Making, Maintenance, Opening, Closing, and
Deviation of Public Roads.*

- Making and maintenance of main roads. **14.** The Administrator shall have the power and is charged with the making and maintaining from the funds legally provided of all main roads, either departmentally or through contractors, as may appear best or most expedient.
- Making and maintenance of branch roads. **15.** The Administrator may, when funds permit, construct or repair branch roads in the same manner as provided in section *fourteen* for main roads.
- Manner in which repairs to branch roads, and bridle paths may be effected. **16.** In case any branch road, or bridle path is required to be repaired the inhabitants residing within the immediate vicinity of that road may make a representation to that effect through the Road Board to the Administrator who shall thereupon cause the approximate costs of repairing such road to be estimated, and may, if such repairs be carried out by such local inhabitants, agree to contribute up to one-half of the actual cost thereof, or the Administrator may carry out the work if the Road Board shall satisfy him that the inhabitants of the locality have contributed or have given approved security that they will contribute not less than one-half of the amount so estimated, either in cash, labour, or other manner, approved by the Administrator.
- Obtaining materials from farms or lands through which roads pass. **17.** The Administrator shall have the right to take and convey from every farm or cause to be taken and conveyed therefrom, any material necessary for making and maintaining the public roads within the limits of that farm.
- Obtaining materials from farms or other adjoining lands. **18.** If a farm does not contain a sufficient or suitable supply of material, the Administrator shall be entitled to take and convey such material from the adjoining land, or from any other farm, or from any town lands (other than surveyed erven) on which the material shall be obtainable.
- Administrator may select suitable site for obtaining material. **19.** (1) It shall be lawful for the Administrator to select any place or places which he may deem suitable on such farm or town lands as the case may be from which to take such material, provided that the owner shall if he so desires be entitled to point out another place or places for the said purpose and in case such last-mentioned place or places shall be found by the Administrator to be accessible as regards distance and suitable

as regards quantity and quality of materials as the place selected by him the materials shall be taken from the said place or places as selected by the owner.

(2) The Administrator shall not be entitled to take possession of any such material on which the owner has expended any manual labour, or to take stones or other material from any house, kraal, or walls or werf and shall not be entitled to convey such material for a greater distance than four miles without compensation.

Adminis-
trator not
entitled to
take material
on which
owner has
expended
manual or
other labour.

20. For the purposes of obtaining such material as aforesaid, the Administrator shall have the right, where necessary, to make openings in fences and roads to quarries and other places; provided that such openings be effectively closed against trespass or straying of stock during the operations and the fence properly restored on the completion of the work and that any quarry or other excavation made in the course of the work which may be a source of danger shall on the completion of the work be either securely fenced off, filled in, or otherwise made safe; and provided further that no damage be done to cultivated lands, gardens, trees, fences, and other erections, or constructions of the owner of such private lands over which the material is being conveyed.

Opening of
fences and
making
roads to
quarries, etc.

21. The Administrator shall further have the right

Erection of
tents, etc., on
private lands.

(a) where other accommodation is not available to erect tents or other temporary dwellings or stores and equipment on private land for the accommodation of servants or labourers engaged or employed on roads or any work appertaining thereto; provided that the area required for such accommodation shall be selected in consultation with the owner;

(b) when sufficient grazing is not available within the limits of the road or outspan to graze upon any private land at a locality to be pointed out by the owner within a reasonable distance from the work such animals as may be required for the prosecution of the work, provided that the animals be grazed at a reasonable distance from any camps or enclosures and so as not to interfere or intermingle with the stock of the owner of the property or do damage to the lands, crops, gardens, or orchards of such owner;

Grazing of
animals for
prosecution
of works.

**Ord. No. 5
of 1912.** Water for the
works, etc.

Cutting down
of trees, etc.
making roads
on cultivated
lands.

Contractors
may exercise
rights granted
to Adminis-
trator.

Construction
and
maintenance
of pons and
approaches
thereto and
to charge fees
for transport
thereby.

Owner may
make
application
for deviation
of main road.

When farm
owner wishes
to close or
divert public
road other
than main
road.

Adminis-
trator to
appoint
a commission
of inquiry.

Inquiry to be
held after
notice.

(c) to take and otherwise make provision for water necessary for the proper execution of the work, provided it shall not be taken from any artificial dam or well or borehole save with the consent of the owner ;

(d) to cut down and remove trees or bush where necessary for the construction of public roads, provided that such trees when cut down shall belong to the owner of the property from which the said trees were cut.

22. The rights granted to the Administrator according to the provisions of the last five preceding sections may be exercised by contractors engaged in the construction or repair of roads in his behalf ; provided that in case of any damage done by a contractor any compensation payable under this Ordinance may be recovered from the Administrator who may thereafter recover in turn from the contractor.

23. The Administrator shall have the right to construct and maintain pons across rivers and to make the necessary landings and anchorages inside or outside the limits of the road, and the necessary approaches thereto. He shall also have the right to charge fees to be fixed from time to time for transport thereby of travellers and stock. He shall further have the right to accept contracts for the construction, maintenance, letting or hiring of pons on such conditions as regards tariff as he may think fit.

24. The owner of a farm who desires to deviate any main road thereon may make application to the Administrator who, after consultation with the owner and the Road Board and after such further inquiry as he may think necessary, may agree to such deviation on such terms as he may deem fit.

25. The owner of a farm who desires to close, deviate or otherwise disturb any public road other than a main road, shall send a written application to the magistrate of the district or sub-district in which the farm is situated.

26. The magistrate shall transmit the application in the last section mentioned to the Administrator, who shall thereupon appoint a commission of not more than three disinterested persons to inquire into the merits of the said application and report to him thereon.

27. The said Commission shall, after due notice given as prescribed by regulation, and requiring any person objecting to the granting of the said

application to lodge his objection in writing with the magistrate within six weeks after the first publication of such notice, inspect the locality affected by the aforesaid application and make full inquiry into the merits thereof and the objections thereto and shall thereupon with as little delay as possible transmit to the Administrator their report thereon.

28. The Administrator may on the recommendation of the Commission by notice in the *Provincial Gazette* declare the said public road to be closed or deviated as set forth in the said notice and the said notice shall include a sketch plan of the road closed or deviated as aforesaid:

Administrator may act on report of Commission.

29. All costs and expenses of the commission shall in the first instance be borne by the Provincial Administration, but on the conclusion of the inquiry the Administrator may order that the whole or such portion of the costs and expenses as he may deem reasonable shall be paid to the Administration by the applicant or any objectors in such proportion as he may deem equitable, having regard to the result of the inquiry, and on such order having been made the amount so payable may be recovered in any court of competent jurisdiction.

As to costs.

30. Notwithstanding anything in the preceding five sections contained:

Deviations within limits of an owner's property.

(1) It shall be lawful for the registered owner of any land who desires to make a deviation in the course of a public road other than a main road within the limits of his property to apply in writing to the Administrator who having satisfied himself after inquiry that the interests of the travelling public will not be prejudiced thereby shall have the power to authorize the said owner to make a deviation in such a direction as the road inspector shall point out: Provided always that before he closes the old road the said owner shall put the new road in proper order to the satisfaction of the road inspector.

(2) No such deviation shall be effected unless notice of the same shall have been given by the owner in the *Provincial Gazette* at least six weeks previously.

31. Notwithstanding anything in this Ordinance contained in any case of deviation or closing of a public road on land held under mining title the provisions of Part III of the Local Authorities Roads Ordinance 1904 or any amendment thereof shall *mutatis mutandis* apply.

Closing or deviation of roads on land held under mining title.

Ord. No. 5 of 1912. Penalty for unauthorized deviation or obstruction of public road.

32. Any person who, except as is in this Ordinance provided, shall close, deviate, disturb, obstruct or in any way encroach upon any public road shall be guilty of an offence and liable to the penalties hereinafter prescribed.

Opening new public roads.

33. A new public road may be opened on the petition of not less than twenty-five interested adult white persons living in the ward or wards through which the road is desired and addressed to the magistrate who shall on receipt of the petition refer it to a commission constituted in terms of section *twenty-six* of this Ordinance. The commission shall after due notice given as prescribed by regulation, inspect the locality and hold an inquiry and thereafter forward its recommendations with documents and sketch plan of the locality to the Administrator for his decision.

CHAPTER III.

Outspans.

Servitude of outspan on farms.

34. (1) Every farm in this Province which is registered in the office of the Registrar of Deeds at the date of the commencement of this Ordinance, and every farm not heretofore surveyed as such which is granted by the Crown subsequent to that date (except any farms which are less than one hundred morgen in extent) shall be subject to a servitude of outspan in favour of the public.

(2) In case of every farm as aforesaid which exceeds three thousand seven hundred and fifty morgen in extent each three thousand seven hundred and fifty morgen or fraction thereof of the extent of that farm shall be regarded as a separate farm for the purposes of this Chapter and for determining the outspan rights thereon.

(3) In the event of any farm as aforesaid being sub-divided into two or more portions subsequent to the commencement of this Ordinance or subsequent to the Crown grant as aforesaid, as the case may be, the said right shall attach only to one portion of the farm so subdivided, to be determined as hereinafter provided.

Area of outspan.

35. The said servitude of outspan shall extend over an area of one seventy-fifth part of the extent of every such farm; provided that in no case shall such area be less than five morgen.

Fixing of outspans.

36. The Administrator shall have the power, in consultation with the registered owners, to determine and beacon off the outspans on farms

over which public roads pass, with due regard to the interests and rights both of the owners of the farms and of travellers respectively, and consideration being had to the presence of water and other requirements.

37. No outspan shall be situated on land on which any building exists, nor (subject to any rights acquired under mining title) shall it be lawful for any person to build upon, plough, or otherwise interfere with the grazing rights of any outspan beaconed off under this Ordinance: Provided that nothing in this section contained shall be deemed to prohibit the owner from grazing stock upon the outspan.

Places where
outspans may
not be
situated.

38. (1) It shall be lawful for any owner, who desires to fence his outspan, to do so provided he affords sufficient access to the outspan for the travelling public.

Fencing of
outspans.

(2) The owner who desires to fence off an outspan may make application to the Administrator for a contribution towards the cost of the fence. The Administrator may thereupon agree with the owner as to the nature of the fence to be erected and the gates therein and the cost of the same, and if the fence and gates be erected in accordance with that agreement the Administrator shall contribute one-half of the cost of the material of the fence and gates.

39. (1) The Administrator may from time to time as circumstances may require, after consultation with the owner, change the locality of an outspan on any farm and beacon off a new outspan; provided that where the outspan has been surveyed and registered, such survey and registration shall be cancelled and the new outspan shall be surveyed and registered in place thereof.

Changing of
position of
outspans.

(2) Any person who, except as aforesaid, shall change the locality or alter the beacons of any outspan duly beaconed off under this Ordinance shall be guilty of an offence and liable to the penalties hereinafter prescribed.

40. The Administrator shall cause to be kept a registry of all outspans beaconed off as aforesaid in which shall be indicated the farms on which such outspans are situated, the area of the outspans and such other particulars as may be prescribed by regulation.

Administra-
tor's Registry
of Outspans.

Ord. No. 5 of 1912. Survey of outspans on sub-division of a farm.

41. Whenever after the commencement of this Ordinance any farm, which is subject to the servitude of outspan and on which the site of the outspan has not been surveyed and registered as hereinafter provided, shall be surveyed for the purpose of sub-division and transfer of a portion or portions thereof.

(1) In case the outspan has been beaconed off under this Ordinance a survey shall be made of the said outspan and a diagram thereof framed and approved by the Surveyor-General, whether the outspan be situated on a portion of the farm about to be transferred or on a portion which is not about to be transferred. The outspan when surveyed shall be laid down by the Surveyor-General on the diagram, if any, of the portion of the farm on which it is situated.

(2) In case the outspan has not been beaconed off the owner shall, before the land be surveyed for the purpose of sub-division, give notice through the magistrate to the Administrator who shall thereupon, in consultation with the owner, cause the outspan to be beaconed off and the outspan so beaconed off shall be duly surveyed and a diagram thereof framed and dealt with as in the last preceding sub-section provided.

(3) The cost of the survey of any outspan as aforesaid shall be borne by the Provincial Administration.

Production of certificate and diagram of surveyed outspan for registration purposes.

42. (1) Before the transfer of any sub-divided portion of a farm as mentioned in the last preceding section shall be passed there shall be produced to the Registrar of Deeds a certificate from the Administrator to the effect that the site of the outspan has been duly beaconed off on the said farm and also the approved diagram of the said outspan surveyed as aforesaid.

(2) So soon as the transfer of the said sub-division shall have been passed the Registrar of Deeds shall register the said certificate against the title of the sub-division on which the outspan is situate and shall endorse on the titles of the remaining sub-divisions that they are no longer subject to a servitude of outspan.

Grazing and watering on outspans.

43. Every person travelling over a public road shall be entitled to graze and water his stock on all outspans. If an outspan has no proper water the Administrator shall take reasonable measures to provide sufficient water thereon, and until

such water shall have been supplied such travellers shall be entitled, in consultation with the owner, to water his stock from any river, stream or other natural water supply situate nearest such outspan. Until an outspan has been beaconsed off in terms of this Ordinance the owner of a farm shall have the right to point out a place for outspan.

Where no
outspan
beaconsed off.

44. No traveller shall remain within the boundaries of the outspan for longer than twenty-four hours unless unable to proceed on account of accident, swollen rivers, or other unavoidable causes. In addition to any penalty which may be imposed for contravention of this section the animals of such travellers so remaining over for more than twenty-four hours may be impounded.

Time
travellers
may remain
on outspan.

CHAPTER IV.

Trekking and Grazing Rights.

45. (1) The provisions of this chapter and the rights and obligations conferred and imposed thereby shall extend only to trekkers' roads as hereinafter defined.

Application of
this chapter.

(2) The expression "trekkers' roads" shall mean such public roads as at the commencement of this Ordinance are and had been for the previous five years in general use for the purpose of driving stock from summer to winter grazing grounds and *vice versa*.

(3) The several road boards shall as soon as possible after the commencement of this Ordinance ascertain which public roads in their respective districts are and had been in general use as in the preceding sub-section mentioned, and shall report to the Administrator to that effect. The Administrator shall publish the said report in the *Provincial Gazette* and, when no objection thereto in writing has been lodged with him within six weeks from the date of the first publication of the report, shall by proclamation declare those roads to be trekkers' roads. In case any such objection be lodged in respect of any such road the matter shall be referred to a commission appointed as in section *twenty-six*, who shall make full inquiry into the matter and shall report to the Administrator, whereupon the Administrator if the commission find that the road falls within the definition of a trekkers' road as aforesaid shall by Proclamation declare that road to be a trekkers' road.

**Ord. No. 5
of 1912.**

(4) The Administrator may, if he finds after inquiry by a commission appointed as provided in section *twenty-six* that any trekkers' road is or has become unnecessary, by proclamation declare that road to be no longer a trekkers' road.

(5) When it shall appear to be necessary that a road shall be used as a trekkers' road, the procedure laid down in section *thirty-three* hereof shall *mutatis mutandis* be followed, and after receiving the report of the commission the Administrator may by proclamation declare such road to be a trekkers' road.

(6) Nothing contained in this chapter shall disturb or take away any existing rights as regards trekking until such time as such proclamation as is contemplated therein shall have been effected.

Grazing rights
for travelling
stock.

46. (1) Whenever any public road as in the last preceding section described runs over any farm not less than three hundred morgen in extent the owner of the farm shall provide facilities for the grazing of loose stock travelling along the said road in proportion to the area of his farm. The area which shall be left available for grazing as aforesaid shall extend over a strip of land along the course of the road of the width set forth in Schedule II, inclusive of the width of the public road itself and according to the area of the farm as indicated in the said Schedule; Provided that such travelling stock shall proceed continuously in the direction of its ultimate destination shall not remain stationary or unless delayed by swollen rivers or other unavoidable cause travel at a rate of less than five miles a day.

(2) Any person travelling with loose stock who shall drive or depasture such stock outside the limits of the public road and in contravention of the provisions of this section shall be guilty of an offence and liable to the penalties herein after prescribed, and the owner of the land may cause such stock to be impounded.

Cultivated
land may be
excluded from
grazing area.

47. Notwithstanding anything in the last preceding section contained it shall be lawful for the owner of any farm to exclude from the said grazing area any extent thereof, not being within the margin of the public road, which he may *bona fide* require for cultivation or for orchards, plantations, or gardens; Provided that—

(a) the extent so required be fenced in by a substantial stock-proof fence, as defined in the Fencing Act, 1912, or any amendment thereof; and

(b) in case the land be required for cultivation as arable land the same shall be cultivated and be used for the raising of crops and in case it be required for orchards or gardens it shall be laid out and planted as such; and

(c) unless the whole of the said grazing area, exclusive of the public road, on any farm be dealt with as is described in provisos (a) and (b) hereof, the remainder thereof which is not so dealt with shall be left accessible for grazing to the persons entitled thereto on behalf of their travelling stock.

48. In addition to the grazing rights before mentioned it shall be lawful for the owner or person in charge of loose stock travelling along any public road to water the same at any river, stream, pool, or other natural water supply lying within the aforesaid grazing area; provided always that no stock shall be watered except with the owner's consent at any dam, well or furrow or other artificial source, or at any natural spring or fountain on any farm used for the purpose of irrigating gardens, orchards or arable lands on the said farm.

Water rights
for travelling
stock.

49. The owner of any farm shall have the right if he so desires, and with the consent of the Road Board, to set aside for the grazing of travelling stock as aforesaid a strip of land of the width prescribed by Schedule II, not being adjacent to the public road, provided that the same follows the general direction of the road and is fully accessible both at the ingress and egress of the road at the boundaries of the farm or at the points where the said strip diverges from the road and is practicable and convenient for stock to travel on. In such case the said owner need provide no further grazing facilities along the actual course of the public road than are comprised within the width of the road itself.

Alternative
strip of graz-
ing ground.

CHAPTER V.

Fencing of Roads.

50. It shall be lawful for the owner of any farm or portion of a farm to erect a fence on one side, or both sides, of the limits of a public road,

Fencing along
public roads.

Ord. No. 5
of 1912.

Fencing
across
public roads.

with due regard to the provision of the lawful outspan and the grazing rights mentioned in the last preceding Chapter, and further provided that the consent of the Administrator be first obtained.

51. It shall be lawful for any owner of a farm or portion of a farm to erect a fence or wall across any public road crossing his ground on condition that such fence shall be made in accordance with the provisions of section *twenty-eight* of the Fencing Act, 1912.

Posts for
securing
animals.

52. Within twenty feet on each side of every gate so constructed there shall be erected by the owner in a convenient position a post with rings or hooks to secure animals while the gate is being opened and closed.

Locking and
leaving gates
open.

53. It shall not be lawful for any person to lock or otherwise secure any gate across any public road against passage without the consent of the Administrator. Any person who opens any such gate whether for the purpose of passing through or not shall securely close and fasten it again, and any person who finds such gate open shall, after passing through, similarly close it. Any person contravening the provisions of this section shall be liable to the penalties hereinafter prescribed.

Adminis-
trator may
order removal
of gates.

54. The Administrator may order the removal of fences, gates, or other enclosures or obstructions across or alongside any public road, if constructed contrary to the provisions of this Ordinance or the Fencing Act, 1912, or any amendment thereof or may cause the same to be removed at the expense of the owner, or person who caused such obstruction.

Gates not to
be placed in
unsuitable
positions.

55. It shall not be lawful to place a gate at any spot on a public road not suitable for a halt.

Gates
necessitated
owing to
deviation.

56. All gates that are necessary in existing fences owing to deviations of roads or making of new roads by the Administrator shall be provided and erected by the Provincial Administration.

CHAPTER VI.

Furrows and Watercourses.

Construction
of furrows
across public
roads.

57. Any person wishing to lead water over, under or across a public road shall do so at his own expense and cost, after having obtained the

approval of the Administrator who may decide on the class of culvert or other conduit which shall be used.

Provided that, in case of any furrow or other conduit existing at the commencement of this Ordinance for the purpose of leading water, any culvert or other work required for carrying the road across such furrow or conduit shall be constructed at the expense of the Provincial Administration.

58. It shall not be lawful for any person by any means to raise the level of the water of a river, stream or spruit so as to interfere with a public road or drift without the consent of the Administrator.

Raising of water levels in drifts.

59. It shall be lawful for the Administrator to divert storm water from or under any public road into private property, not being land occupied by buildings, orchards or gardens, and he shall not be liable for any damage caused by means of such diversion. In case it be found necessary to divert such water on to lands under cultivation, other than as aforesaid, and damage be caused thereby the owner of such lands shall be entitled to such compensation as may be agreed upon by the parties or, failing agreement, as may be determined by arbitration in manner hereinafter provided.

Disposal of storm water.

CHAPTER VII.

Provisions as to traffic by Vehicles.

60. It shall be lawful for the Administrator by notice fixed in conspicuous places at either end of any bridge to prohibit the passage over that bridge of any traction engine or other locomotive or of any vehicle of a kind described in such notice, or so laden as to exceed any weight therein set forth.

Heavy traffic prohibited over bridges.

Any person contravening the terms of such notice shall be guilty of an offence, and liable to the penalties hereinafter prescribed.

61. No person shall drive or cause to travel any traction engine or other heavy engine mechanically propelled or any wagon or vehicle laden with more than eight thousand pounds weight along any public road unless special permission to that effect shall first have been obtained from the chairman of the Road Board of the district.

Special permission for heavy traffic over roads.

Ord. No. 5
of 1912. Offences.

62. It shall not be lawful

(1) to lock the wheels of any vehicle when travelling on any public road ;

(2) to use or draw any sledge on any public road ;

(3) to make use of metal plates or shoes (skids) on any public road unless absolutely essential for safety on exceptionally steep grades, and in no case unless the plates or shoes are not less than six inches wide ;

(4) to make use of brakes when passing over bridges on public roads ;

(5) to leave on any public road stones, boulders, tree stumps, heaps of ashes, or other dangerous obstructions, or any glass, earthenware, tins, or pieces of metal.

Holes made
by vehicles.

63. In the event of any hole or excavation having been made in any public road for the purpose of extricating any vehicle therefrom, the person in charge of that vehicle shall forthwith repair the damage caused in the road and leave it in good order.

Vehicles
crossing to
have leader.

64. No owner or person in charge of a wagon or other vehicle drawn by oxen or other animals not controlled by reins shall cause or allow such vehicle to pass any other vehicle or to travel along any public road other than a natural veld track without a leader (or voorlooper). All

Travellers to
keep to the
left, or inside
when coming
down
mountain
slopes.

travellers along public roads shall when meeting any vehicle keep to the left of the road except where the road runs along the slopes of mountains in which case a wagon coming down such slopes and passing another, shall keep to the in or upper side.

Any person contravening any of the provisions of this or the three preceding sections shall be guilty of an offence and liable to the penalties hereinafter prescribed.

Owner's
name on
vehicles.

65. The owner of every wagon or other vehicle shall paint or cause to be painted in legible letters upon a conspicuous place on the right or off side thereof or upon some board or plate affixed to such side his name and place of residence together with the name of the district in which he resides, and every owner of any wagon or other vehicle who shall use or allow the same to be used on any public road without having his name, residence, and district painted thereon as aforesaid or after the same have become illegible shall be guilty of an offence and liable to

the penalties hereinafter prescribed. Provided that nothing in this section contained shall be construed to extend to any wagon or other vehicle on springs and used solely for the conveyance of passengers or other persons.

**Ord. No. 5
of 1912.**

CHAPTER VIII.

General.

66. Where it becomes necessary in the interests or the safety of the public to deviate or reconstruct any existing public road owing to the fact that the ground has been undermined subsequent to the creation of the public road the Administrator shall have the right to instruct the mining company or owner of mining property concerned or other person responsible for such undermining to provide for the reconstruction of the old road or the construction of a new road at the expense of such person and failing compliance with such instructions within a reasonable time, the Administrator shall have the right to undertake the work at the expense of the mining company or owner or other person as aforesaid.

Undermined ground.

67. Outspanning, camping out, or making fires on the portions of public roads generally used for traffic is prohibited, and any person doing so shall be guilty of an offence and liable to the penalties hereinafter prescribed.

Outspanning and making fires on public roads prohibited.

68. In the event of any animal dying on a public road the owner or person in charge thereof shall remove the carcass of such animal within six hours of its death, and in the event of his failing to do so, the Administrator shall be empowered to have the carcass removed at the cost and expense of the owner of such animal.

Animals dying on public roads.

69. The Administrator shall have the right or may authorize the owner to plant trees or otherwise generally to improve the areas within the road. Any one wilfully damaging such trees or improvements shall be guilty of an offence and liable to the penalties hereinafter prescribed.

Planting of trees and general improvements.

70. The Administrator shall not be liable for the construction or maintenance of bridges or crossings of any description over drains or water-courses made for carrying off flood water or for the protection of public roads.

Construction and maintenance of crossings over water furrows, etc.

**Ord. No. 5
of 1912.**

Roads and
fences, etc.,
existing prior
to this
Ordinance.

Term
"Adminis-
trator"
includes any
person
authorized by
him or acting
on his behalf.

Penalty.

Power to
make
regulations.

71. Notwithstanding the provisions of this Ordinance all roads and fences heretofore constructed or erected in accordance with the laws in force before the commencement of this Ordinance shall be considered to be lawfully constructed or erected.

72. Wherever in this Ordinance any rights or powers are given to the Administrator the term "Administrator" shall include any person duly authorized by the Administrator or lawfully acting on his behalf.

73. Any person contravening any of the provisions of this Ordinance or the regulations framed thereunder or failing to perform any duty thereby prescribed shall on conviction be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Magistrates' courts shall have jurisdiction to try any such offence against the provisions of this Ordinance or of the said regulations.

74. (1) The Administrator may from time to time make alter or rescind regulations* (not inconsistent with this Ordinance) prescribing—

(a) the regulation of traffic over public roads including the limitation of speed of vehicles;

(b) the powers, duties, and functions of Road Boards established under section *eight*;

(c) the control, management, and working of pons and a tariff of charges in respect thereof;

(d) the duties and conditions of employment of road inspectors;

(e) the manner in which any notices required by this Ordinance shall be given or served and the nature and duration of such notices;

(f) the apparatus to be used for the braking or scotching of wagons;

(g) the method of keeping a registry of outspans and the particulars to be inserted therein and the rights of the public as to inspection thereof;

(h) generally for better carrying out the objects of this Ordinance.

(2) All such regulations or any alteration or rescission thereof shall be published in the *Provincial Gazette* and shall within seven days

* Regulations published in the *Provincial Gazette* of the 8th November, 1912, page 224.

after such publication be laid upon the table of the Provincial Council, if the Council be then in session, or if it be not then in session within seven days after the commencement of the next ensuing session.

75. Whenever in the course of the opening construction or maintenance of any public road or of a pont by or on behalf of the Administrator any direct damage be done to any orchard garden or plantation or to any crops or cultivated trees, but not otherwise, the owner thereof shall be entitled to compensation as may be agreed upon by the parties, or failing such agreement as may be determined by arbitration in manner provided by the "Expropriation of Lands and Arbitration Clauses Proclamation, 1902".

Compensation for damages to orchards, gardens, trees and crops.

76. This Ordinance may be cited for all purposes as the Roads Ordinance 1912 and shall come into operation on such date as the Administrator shall declare by Proclamation in the *Provincial Gazette*.

Short title and date of operation.

SCHEDULE I.

<i>Law.</i>	<i>Extent of Repeal.</i>
Law No. 7 of 1889 ... ..	... The whole.
First Volksraad Resolution of 14th May, 1891 ...	... Article No. 55.
Law No. 1 of 1893 ... ..	... The whole.
Law No. 9 of 1893 ... ..	... The whole.
Law No. 22 of 1894 ... ..	... Articles 3 and 4.
Law No. 8 of 1897 ... ..	... The whole.
Ordinance No. 6 of 1911 ... ..	... The whole.

SCHEDULE II.

GRAZING AREA ON PUBLIC ROADS.

<i>Area of Farm.</i>	<i>Width of Grazing Area.</i>
300 morgen and over, but less than 500 morgen ... ..	... 50 yards.
500 " " " 1000 " ... ..	... 65 "
1000 " " " 1500 " ... ..	... 80 "
1500 " " " 2000 " ... ..	... 100 "
2000 " " " 2500 " ... ..	... 120 "
2500 " " " 3000 " ... ..	... 140 "
3000 " " " 3500 " ... ..	... 160 "
3500 " " " 3750 " ... ..	... 180 "
3750 " " " ... ..	... 200 "

Ord. No. 6
of 1912.

No. 6 OF 1912.]

[Came into operation

AN

ORDINANCE

**To consolidate and amend the Law relating to the Levying
of Rates by Local Authorities.**

(Assented to

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

Repeal of laws.

1. From and after the taking effect of this Ordinance the laws mentioned in the First Schedule hereto shall be and are hereby repealed.

Application of Ordinance.

2. The provisions of this Ordinance shall apply to all municipalities already established, and to all municipalities hereafter established, except such as are or may hereafter be exempted under section *one hundred and forty-four* of the Local Government Ordinance 1912 from the operation of those provisions; provided always that the valuation rolls already made and in use in the various municipalities shall remain of force and effect for the period for which they were originally framed, and provided further that any rate imposed for the current year under the provisions of the Local Authorities Rating Ordinance 1903, or any amendment thereof, made prior to this Ordinance, shall be collected and payable as if it was a rate imposed under the provisions of this Ordinance.

Definition of terms.

3. In this Ordinance the following expressions shall have the meanings placed opposite to them unless the context clearly requires a different meaning :—

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act 1909 or any amendment thereof, acting on the advice and with the consent of the Executive Committee of the Province.

“Agricultural land” shall mean arable, meadow, or pasture land, market gardens, poultry

farms, nursery gardens, plantations, and orchards, but shall not include :—

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of 1912.**

- (a) land occupied as a park together with a house thereon ; or
- (b) land used as a garden other than as aforesaid ; or
- (c) land kept or reserved for the purposes of sport, athletics, or recreation, or used as a racecourse ;

Interest in land” for the purposes of the definition of “rateable property” under (B) shall mean and include :—

- (1) land or the usufruct thereof ;
- (2) the right in and over land under a stand licence ;
- (3) any lease of land for a period of not less than ten years or for the natural life of any person mentioned therein, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period thereof amount in all to not less than ten years ;
- (4) any servitude over land ;
- (5) any user of land held under a claim licence or other mining title for residential purposes or for purposes not incidental to mining operations ;
- (6) any lease of land from the Crown or any lease of a trading stand which has been granted by the board constituted in accordance with section *eighty-three* of the Precious and Base Metals Act 1908 ;
- (7) any lease of a trading stand or any right acquired under the Trading on Mining Ground Regulation Act 1910, or any amendment thereof, to carry on business upon a trading site.

“Land” shall include any buildings thereon.

“Local authority” shall mean any town council constituted under the provisions of Chapter I of the Local Government Ordinance 1912, and any village council constituted under Chapter VIII of that Ordinance except those village councils which under that Ordinance are or may hereafter be specially exempted from the provisions of this Ordinance.

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of 1912.

“Mayor” shall mean the mayor or deputy-mayor of any town council, or the chairman or deputy-chairman of any village council, constituted under the Local Government Ordinance 1912.

“Municipality” shall mean the area or district under the control and jurisdiction of a town or village council.

“Occupier” shall mean and include any person in actual occupation of rateable property without regard to the title under which he occupies.

“Owner” shall mean and include—

(1) the person or persons in whose name shall be registered the legal title to any rateable property as above defined ;

(2) the holder of any lease of a trading stand or any right acquired under the Trading on Mining Ground Regulation Act, 1910, to carry on business upon a trading site ;

(3) in cases where the person in whom the legal estate is vested is insolvent or dead the person in whom the administration of such property is vested as trustee, executor, administrator, or otherwise ;

(4) in the case of any land held under a stand or claim licence or any other mining title issued under any law relating to mining for precious stones or for metals the registered holder of such licence or title ;

(5) in any case where property situated in a district in which the definition of rateable property under (A) is applicable is held under lease from the Crown or under any lease for not less than fifty years or for a period renewable from time to time at the will of the lessee indefinitely or for periods which, together with the first period thereof, amount in all to not less than fifty years the lessee thereof :

(6) in any case where property situated in a district in which the definition of rateable property under (B) is applicable is held under lease from the Crown, or in the case of a trading

stand held under a lease which has been lawfully granted by the board constituted in accordance with section *eighty-three* of the Precious and Base Metals Act, 1908, the lessee thereof.

“Rateable property” shall mean and include :—

(A) [In every municipality not included in (B)].

All land within the district save and except

(1) land the property and in the occupation of the Crown ; provided that all property vested in the Governor-General-in-Council for railway purposes shall so far as the same is used for residential purposes by persons employed by the South African Railways be deemed to be “rateable property” ;

(2) land used exclusively for public worship or for schools registered in the office of the Department of Public Education or for both public worship and education or for charitable institutions supported entirely by voluntary contributions ;

(3) land held under a licence or any other mining title to dig or prospect for precious metals and precious stones or base metals and any land held or occupied exclusively for the exercise of the rights under such licence or title ; provided that no land or buildings used for residential purposes or for purposes not incidental to mining operations whether by persons engaged in mining operations or otherwise shall be deemed to come within this exception.

(B) (The magisterial districts of Boksburg, Germiston, Johannesburg, and Krugersdorp, the Municipality of Klerksdorp and in every municipality to which the Administrator may by Proclamation in the *Provincial Gazette* apply the definition of rateable property hereunder.)

Every interest in land as hereinbefore defined, with the following exceptions :—

(1) any interest in land held by the Crown ; provided that all property

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vested in the Governor-General-in-Council for railway purposes shall so far as the same is used for residential purposes by persons employed by the South African Railways be deemed to be "rateable property";

(2) any interest in land used exclusively for public worship or for schools registered in the office of the Department of Public Education or for both public worship and education or for charitable institutions supported entirely by voluntary contributions in so far as such interest is held for such purposes as aforesaid;

(3) any licence or right to dig for or prospect for precious stones or metals on any portion of land assigned for that purpose; and any portion of land held or occupied exclusively for the exercise of such rights; provided that no land or buildings used for residential purposes or for purposes not incidental to mining operations whether by persons engaged in mining operations or otherwise shall be deemed to come within the exception.

"Town clerk" and "town treasurer" shall mean the persons for the time being lawfully acting respectively in the capacities of town clerk and town treasurer for the municipality.

It shall be lawful for the Administrator by Proclamation in the *Provincial Gazette* to apply the definition of rateable property under the heading (B) in this section to any municipality on a resolution to that effect by two-thirds of the members present at a meeting of the local authority called for that purpose.

General
valuation.

4. The local authority shall from time to time but not less than once in every three years cause a valuation of all rateable property within the district to be made by one or more competent persons who shall be appointed by resolution of the said authority before he or they shall enter upon his or their duty.

Declaration
of valuer.

5. Every valuer shall, before entering upon the valuation entrusted to him, make before some

Justice of the Peace a solemn declaration in the terms following:—

“ I,.....do solemnly and sincerely declare that I will to the best of my skill and knowledge and without favour and prejudice truly and impartially appraise and value all such rateable property as I shall be required to value for the purpose of assessment, and that I will conscientiously value the same at and for the full and fair value thereof. And I make this solemn declaration conscientiously intending to fulfil the same.

Declared at..... this.....
day of.....

Before me..... ”

And every such declaration shall be lodged with and preserved by the local authority.

6. The valuer or valuers shall prepare the said valuation (herein referred to as the valuation roll) in writing in such manner as to show to the best of his or their knowledge and opinion—

Provisional
valuation
roll.

- (1) the name and address of the owner ;
- (2) the name of the occupier (or if the properties are unoccupied that fact shall be stated) ;
- (3) description and situation of the property valued ;
- (4) nature of the interest of the owner ;
- (5) rateable value of the property (showing the value of the land and buildings thereon separately) ;
- (6) any deductions to be made from the rateable value under this Ordinance or any other law.

7. (1) The amount or sum at which the valuer or valuers shall value for the purposes of the valuation roll any rateable property shall be the full and fair price or sum which the same would in his or their judgment be likely to realize if brought at the time of valuation to voluntary sale and offered for sale upon the usual terms and conditions applicable to property of such kind ; provided that no lease of land which is not included in the definition of “ interest in land ” under sub-section (B) of section *three* of this Ordinance shall in any manner be taken into account in valuing any rateable property in the land the subject of any such lease.

Basis of
valuation.

**Ord. No. 6
of 1912.**

(2) It shall be the duty of every valuer in carrying out the duties imposed upon him by this section to deduct in respect of any rateable property any value accruing to such property by reason of the presence of precious stones or precious metals or base metals or minerals thereon or therein.

Special valuation of agricultural land, etc., for purposes of rating.

8. (1) Notwithstanding anything contained in sections *six* or *seven* of this Ordinance, any area of land, not less than three morgen in extent, which is bona fide used exclusively as agricultural land shall be treated by the valuer or valuers as if that area were subject to the perpetual servitude of being used solely as agricultural land, and the amount or sum at which that area shall be valued for the purposes of the valuation roll shall be the full and fair price or sum which the same would, in the valuer's or valuers' opinion, realize if brought to voluntary sale encumbered by that servitude; that sum shall include the value of all dwellings, other buildings or erections, and any improvements thereon used in connection with the exclusive purpose for which the area is used.

(2) The provisions of sub-section (1) shall not apply to areas of land within a township unless the local authority shall by resolution declare, before the commencement of any valuation, that those provisions shall apply in the case of any township by reason of its remote situation from the centre of the municipality and by reason of the small percentage of the lots therein occupied for residential purposes. A special valuation under this section shall be made only in respect of an area of not less than three morgen in extent which, being in a township, is composed of contiguous lots in that township not separated by squares, streets, or sanitary passages.

Valuer to have power of entry and inspection.

9. (1) Every valuer provided with written authority signed by the mayor or town clerk shall for the purpose of making any valuation as aforesaid have power to enter at all reasonable hours in the daytime into and upon any land or buildings within the municipality and shall also have power to inspect and make extracts from all registers or other records or any deeds or instruments belonging to or in the custody or possession of any Government official or any person in which are contained particulars of any rateable property whether such person is or is not interested in such rateable property.

Any person who shall wilfully obstruct the valuer from exercising the powers conferred on him under this section shall be liable to the penalties in the next succeeding sub-section provided.

(2) Every such valuer shall be entitled to call upon the owner or occupier of rateable property for such written particulars in regard to such rateable property as may be necessary for enabling such valuer to make a correct valuation thereof; and any owner or occupier who shall neglect within fourteen days after being called upon as aforesaid to supply such written particulars when called upon to do so shall be liable to a penalty not exceeding twenty pounds in respect of each offence and any person who shall furnish to any valuer a false statement of value or any other particulars as aforesaid shall be liable on conviction to a penalty not exceeding fifty pounds in respect of each offence.

10. When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom. The local authority shall by notice published in the *Provincial Gazette* and in one or more newspapers circulating in the municipality call upon all persons interested to lodge in writing with the town clerk within a specified time not less than fourteen days from the first publication of such notice in the form set forth in the Second Schedule notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property and whether held by the person objecting or by others or in respect of any other error omission or misdescription. No person shall be entitled to urge any objections before the valuation court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

Inspection of
provisional
roll.

Objections.

11. (1) After the expiration of the time specified in such notice the local authority shall appoint a valuation court consisting of not less than three persons who may or may not be members of the local authority. Such persons shall before the first sitting of the court appoint a

Valuation
court; duties
and
proceedings.

Ord No. 6
of 1912.

president from among themselves. The town clerk or some other person appointed by the local authority shall act as clerk to the said court.

(2) Such court shall thereafter at meetings duly called by the president or clerk proceed to consider the valuation roll and the objections made as aforesaid, and shall be entitled to make such alterations or amendments in the valuation roll, either by way of reduction, increase, addition, or omission as to it may seem expedient; provided that no alteration or amendment by way of increase or addition shall be made unless and until the person appearing to be directly affected thereby shall have had at least seven days' previous notice from the clerk of the date of sitting of the court at which any proposal for such increase or addition will be considered, and such person so affected may either forward any objections to such increase or addition in writing to the president or clerk before such date or present the same for consideration at such sitting, and the valuation court shall duly hear and consider all such objections.

(3) At every sitting of such court three members personally present shall constitute a quorum, and the president thereof, if present, shall preside, and, if absent, the members of the court present shall elect a person from among themselves to act as president during such absence as aforesaid. All decisions of such court shall be arrived at by the vote of a majority of the members personally present, and in case of an equality of votes, the president or the member acting as such shall also have a casting vote.

(4) No person shall sit on the hearing of any matter in which he shall be directly interested or concerned as being primarily liable to pay the rates in question or any part thereof.

(5) In case for any reason there shall be vacancies in the said court or incapacity to act so that a quorum cannot be formed the local authority may at once and without any notice appoint other persons temporarily or otherwise to fill up such vacancies or the places of the members incapable of sitting.

(6) The town clerk, by publication in the *Provincial Gazette* and in one or more newspapers circulating in the municipality, shall give not less than seven days' previous notice of the date fixed for the first sitting of such court.

(7) At every sitting of such court the local authority and any person who has lodged any

objection to any valuation, and any person the valuation of whose property is objected to or proposed to be increased or whose property it is proposed to add to the roll, may appear either in person or by counsel, solicitor, or admitted and licensed law agent.

(8) At every sitting of such court it shall be competent for the court to call and examine any witnesses on oath and call for the production of all such papers or documents as it may deem necessary and every valuer by whom any valuations under consideration shall have been made shall attend such court and answer on oath all questions which may be put to him by or through the court in regard thereto.

(9) The said court shall keep a record of its proceedings and a note of the assessment objection and finding in regard to each objection, and such court shall cause any deposition taken before it to be taken down in writing and signed by the deponent, and shall authenticate it by the signature of the chairman as having been taken before such court, and every such deposition so taken down and authenticated shall be deemed and taken to be good evidence in a prosecution for perjury.

12. When the valuation court has completed its examination of the valuation roll, and has made such alterations and amendments therein as it may deem necessary, the president of the court shall sign and certify the same. He shall further cause an advertisement to be inserted in the *Provincial Gazette* and in one or more newspapers circulating in the municipality not less than twice within a period of one week, informing all persons interested of the completion thereof, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such notice, not being less than one month from the date of the first publication of the aforesaid advertisement, appeal from the decision of the valuation court in manner provided in the next succeeding section.

13. It shall be lawful for any person who feels himself aggrieved by the value put upon any property owned or occupied by him to appeal within one month against such valuation from the decision of the court in the last preceding section mentioned to the court of the resident magistrate of the district and such last-mentioned court shall inquire into such valuation and its decision shall be final and conclusive; provided

Valuation
roll.

Right of
appeal from
decision of
valuation
court.

Ord. No. 6
of 1912.

however that if any question of law shall arise as to the principle upon which any valuation has been or should be made it shall be lawful for such resident magistrate instead of himself deciding such question at the request of the local authority or party objecting to reserve such question of law for decision by the Supreme Court and such question shall be stated in the form of a special case and may be argued before and determined by the Supreme Court and such court may make such order as to costs as to the court shall seem fit.

Power to remit rates on buildings not in existence, to cause buildings omitted to be valued and to cause revaluations, corrections, and apportionments to be made.

14. Notwithstanding anything in this Ordinance contained it shall be lawful for the local authority from time to time and at any time—

(a) to remit any rate imposed on any buildings in any case in which such buildings have been demolished since the date of the making of the valuation roll; and in such other cases as may be approved by the Administrator;

(b) to cause any buildings omitted from the valuation roll or new buildings to be valued by a valuer appointed as hereinbefore provided and to cause the current rate to be collected in respect thereof;

(c) to cause a valuation to be made by such valuer of any rateable property which is subdivided after the date when the valuation in respect of such property has become final and to cause the valuation to be apportioned by such valuer according to the sub-divisions of the said property, and to cause any rate due in respect thereof to be assessed and collected according to such sub-division;

(d) to cause a fresh valuation to be made by such valuer of any rateable property which from any cause particular to such property arising since the last valuation thereof has materially increased or decreased in value;

(e) to cause any error appearing in the valuation roll from time to time in force to be corrected by such valuer in any case where some clerical error or some error as to the nature of the interest valued has been made in such roll and to cause any rate due in respect thereof to be collected according to the corrected roll;

(f) where a part only of any rateable property not separately valued in any valuation roll is or may be subject to a special rate

under section *seventeen* of this Ordinance to cause such valuer to apportion the value of such property appearing in such roll as between the part thereof which is or may be subject to any special rate as aforesaid and the remaining part which is not subject to such special rate ; provided that

- (i) upon the making of any such interim valuation the same forms shall be observed and the same proceedings taken as nearly as can be *mutatis mutandis* as are hereinbefore set forth with regard to general valuations excepting that in the discretion of the local authority the prescribed notices may be served in writing upon the person interested instead of being published as aforesaid ;
- (ii) every such valuation, revaluation, correction, and apportionment shall be subject to any objection made thereto at the next succeeding valuation court which may be appointed by the local authority under this Ordinance and to the same right of appeal as is provided for in section *thirteen* ;
- (iii) in the case of any property which is added to the roll under the provisions of paragraph (*b*) hereof or the valuation of which is increased under paragraph (*e*) hereof if at the next succeeding valuation court the value of the said property be fixed at a sum less than that on which the last preceding rate has been levied the owner shall be entitled to a refund of any rate paid by him in excess of that which would have been paid if the rate had been levied on the valu as fixed by the said valuation court.

15. No valuation contained in any valuation roll framed under this Ordinance and no rate based thereon shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of any owner thereof ; and no valuation roll made up and authenticated in terms of this Ordinance shall be capable of being challenged or set aside by reason of any informality.

Valuation roll
not to be
challenged
or set aside.

16. It shall be lawful and competent for the local authority to impose a rate or rates in or for each and every year of such amount or amounts in the pound as it shall think fit ; provided that the

Power of
local
authority to
impose rates.

Ord. No. 6
of 1912.

minimum charge in respect of any property or interest for rates imposed under this section shall be two shillings and sixpence; and provided further that no rate or rates exceeding in the aggregate threepence in the pound on the value arrived at as aforesaid and as appears in the valuation roll of all rateable property within the municipality shall be imposed in any one year without the sanction of the Administrator.

Special rates.

17. Notwithstanding anything herein contained in case any abnormal or extraordinary expenditure shall be incurred by the local authority in respect of some particular area of rateable property over and above expenditure common to the whole municipality, the local authority may by resolution determine that such abnormal or extraordinary expenditure (and whether the outlay in respect thereof has or has not actually been made) shall be in whole or part a special charge upon the rateable property or some portion thereof within such particular area to the exclusion of the rest of the municipal area, and subject to the approval of the Administrator fix the amount of the special rate thereon and the persons and times by whom and when the same is payable.

Notice of rates.

18. Every rate imposed by the local authority shall become due and payable upon a day to be fixed by it, of which day and of the amount of which rate the local authority shall give at least thirty days' notice by advertisement in the *Provincial Gazette* and in a newspaper circulating in the municipality and in such other mode as it may by resolution direct.

Payment of rates.

19. (1) Whenever the local authority shall have given such notice as aforesaid of the day upon which such rate will become due and payable it shall be the duty of all persons liable for such rate to pay the amount thereof at the offices of the local authority, failing which defaulters will be liable to legal proceedings for the recovery of the amounts due by them respectively.

(2) It shall be competent for a council to allow discount, not however exceeding two and a half per cent. ($2\frac{1}{2}\%$), on any rates paid on or before the date on which such rate becomes due and payable under the last preceding section.

Enforcement of payment of rates.

20. If after the time fixed for the payment of any such rate as aforesaid any person fail to pay any rate due by him it shall be competent for the local authority to cause a printed or written

demand to be made upon such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had such demand delivered to him personally or left at his ordinary place of residence or place of business or office shall make default it shall be competent for the local authority to apply to the magistrate for a summary warrant to recover such rates from the persons liable to pay the same; which warrant the said magistrate shall grant on production of a list of the names and addresses of the persons so in default and the amount due by them with a certificate by the town clerk or town treasurer that they have been severally required to make payment of the said rates by notice as aforesaid and that such rates are due by them and do not exceed the maximum rates fixed by or under this Ordinance; and every such warrant shall contain every authority and be executed in all respects as though it were a writ of execution issued out of the court of the resident magistrate and the messenger of the court in executing the same shall conform to such rules and make such charges as are for the time being applicable to writs of execution of such court as aforesaid.

21. Notwithstanding the provisions of the last preceding section the local authority may at its discretion after the time fixed for the payment of any such rates as aforesaid recover from the person in default (without further notice or demand) the amount of the rates due by such person irrespective of the amount thereof by action in the court of the resident magistrate of the magisterial district whether the person liable for the same shall be resident within the jurisdiction of such court or not. In case it shall not be possible to effect service of summons within the limits of the jurisdiction of such court as aforesaid then such service shall be effected in such manner as the said court shall direct.

Recovery
of rates.

22. In case any person liable to pay any rate and who shall be in default as regards payment thereof shall not be resident within the jurisdiction of the court of the resident magistrate of the district it shall be lawful for the local authority at its option to make the demand referred to in section *twenty* hereof upon or to take proceedings under section *twenty-one* hereof against any person receiving any rents or profits

Proceedings
against
persons liable
for rates.

**Ord. No. 6
of 1912.**

of the rateable property in respect of which such rate is unpaid or who would receive the same if such rateable property were let or occupied.

Proceedings
for recovery
of rates
unpaid for
three months.

23. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable the local authority may at any time within twelve months after the imposing of the rate demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property to the extent of any rent due and payable by the tenant at the date of the demand, and on non-payment thereof may after one month from the date of such demand recover the same from such tenant or occupier in the same manner as though he were the owner. And every such tenant or occupier shall be entitled to deduct from any rent or other amount payable by him to such owner or his successors in title so much as was so paid by or recovered from him and the production of the receipts for such rates so paid by or recovered from such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

Evidence.

24. In any proceedings to impose or recover rates or consequent on the imposing or recovering of any rates, as well as in all other proceedings under the provisions of this Ordinance, the valuation rolls, rate-books, and records of the local authority and all entries made therein and extracts or certified copies thereof signed by the chairman or town clerk, and also all copies of any newspaper containing any notice necessary to be proved shall upon production thereof alone be *prima facie* evidence of the imposing of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Ordinance have been complied with; provided that it shall be competent for any party to any such proceedings to offer evidence to prove the contrary.

Owner liable
for rates.

25. The person who is the owner of any rateable property at the date when a rate becomes due and payable in respect of such property under section *eighteen* of this Ordinance shall be liable for payment of the amount of such rate, and in the case of joint owners of rateable property they shall be jointly and severally

liable for the rate due thereon; provided that in the case of the owner being absent from the Province the agent or person receiving the rent of such property shall be liable.

26. It shall not be lawful for any person primarily liable for payment of any rates imposed pursuant to this Ordinance in respect of any rateable property to render any person interested under or subsequent to himself as lessee of such rateable property or any part thereof liable absolutely or conditionally to pay such rates or any part thereof in lieu or stead of himself, and any contract, written or oral, made or entered into after the taking effect of this Ordinance imposing on any such subsequent lessee any liability for or in respect of such payment shall be wholly void.

Avoidance of contracts, stipulations, etc., intended to shift the incidence of rates.

27. The proceeds of the rate or rates levied under this Ordinance shall be applied for and towards such purposes of the municipality as the local authority shall from time to time think fit.

Application of rates.

28. Anything to the contrary in any law notwithstanding, there shall be cancelled the liability for payment of all rates or interest upon rates owing under this Ordinance to the Council of the Municipality of Potchefstroom by any person in respect of any such interest in land, as under the Transvaal Constitution Letters Patent, 1906, or the Land Settlement Act, 1907, has been or may be transferred or ceded to the Transvaal Land Settlement Board, and it shall not be necessary to produce any such receipt or certificate as is described in section *forty-seven* of the Local Government Ordinance 1912, in order that the cession or transfer of that interest in land may be passed before the Government official concerned.

Exemption of Mooibank settlers from past liability for payment of rates.

29. This Ordinance shall be cited as the Local Authorities Rating Ordinance 1912, and shall come into operation on the date of its first publication as an Ordinance in the *Provincial Gazette*.

Short title and date of operation.

First Schedule.

Section one.

LAWS REPEALED.

The Local Authorities Rating Ordinance (No. 43) of 1903.

The Local Authorities Rating Amendment Ordinance (No. 45) of 1904.

The Railway Dwellings Rating Ordinance (No. 29) of 1905.

The Local Authorities Rating Amendment Ordinance (No. 22) of 1906.

The Local Authorities Rating Further Amendment Act (No. 35) of 1909, except section *two* thereof.

Ord. No. 6
of 1912.

Second Schedule.

Section *ten.*

OBJECTIONS

Against an entry in the valuation roll made up under the provisions
of the Local Authorities Rating Ordinance 1912.

Year 191.....

To the Valuation Court of the }
 Municipality (or District) of }
 The following entry has been }
 made in the Valuation Roll }
 of the Municipality (or }
 District) of }
 Here insert the name of the }
 objector and copy of the }
 entry complained of. }
 I do hereby object to the said entry and ask that :—
 (The objector will here state }
 what entry he considers }
 should be substituted for }
 the above.) }
 On the following grounds :—
 (The objector will here state }
 the reason why he considers }
 the entry should be altered.) }

Signature of Objector.

.....day of.....191.....

VALUATION COURT.

Objection by :

Sec.
No.

Decision of Court.

.....day of.....191.....

Ord. No. 7
of 1912.

No. 7 of 1912.]

[Came into operation 18th October, 1912.

AN

ORDINANCE

**To amend further the Education Act, 1907 (Act No. 25
of 1907).**

(Assented to 2nd October, 1912.)

BE IT ENACTED by the Provincial Council of Transvaal
with the assent of the Governor-General-in-Council, as
follows :—

Ord. No. 7
of 1912.

1. Section *two* of the Education Act, 1907 (hereinafter referred to as the principal law) shall be and is hereby amended by the deletion of the definition of the term "year".

Amendment of section *two* of Act No. 25 of 1907.

2. Section *seven* of the principal law is hereby repealed and the following section substituted therefor :—

Repeal of section *seven* of Act No. 25 of 1907 and substitution of new section amending the constitution of Council of Education.

There shall be a Council of Education, constituted as follows :—

(1) The Director, who shall be the Chairman of the Council. In his absence the Council shall appoint one of its members to act as Chairman during such absence.

(2) Four other, non-official members, to be appointed by the Administrator for a period of three years, subject to the provisions of sections *eleven* and *twelve*, or any amendments thereof; provided that no person, with the exception of the Director of Education, who holds any position in or under the Department of Education or who receives any remuneration from the Department as a teacher shall be competent to sit as a member of the Council of Education.

3. Section *eight* of the principal law shall be and is hereby repealed and there shall be substituted therefor the following provisions :—

Repeal of section *eight* of Act No. 25 of 1907 and substitution of new section amending functions of Council of Education.

The functions of the Council shall be :

(i) either on its own initiative or at the request of the Administrator, to consider and make recommendations to the Administrator upon any matter connected with the educational needs of this Province, special regard being given to the suitability of the curricula to the agricultural, commercial, and industrial conditions of the Province ;

(ii) to advise the Administrator as to

(a) any expenditure not governed by regulation exceeding one hundred pounds on any one service or object out of moneys which have been voted by the Provincial Council for the carrying out of the principal law or amendments thereof ;

(b) the amount of moneys which may be allocated to any School Board for the purposes mentioned in section *sixty-two* of the principal law ;

(c) the amounts of any capitation grants made under section *seventeen* of the principal law ;

Ord. No. 7
of 1912.

(d) regulations to be made under section *ninety* of the principal law.

For the purposes aforesaid the Council shall have the right to call for departmental papers.

The Council shall furnish an annual report to the Administrator.

Dates of
appointment
of new
Council and
retirement of
old Council.

4. The members of the Council appointed under the principal law shall cease to hold office on the thirtieth day of September, 1912, anything in the said law notwithstanding, and a new Council shall be appointed under the provisions of section *two* hereof, to hold office from the first day of October, 1912. Retiring members shall be eligible for reappointment.

Section *ten* of the principal law shall be and is hereby repealed.

Amendment
of section
seventeen of
Act No. 25 of
1907.

5. Section *seventeen* of the principal law shall be and is hereby amended by

(a) the deletion of the following words:—

“Whenever there are at least ten children assembled for purposes of primary instruction at a place at which no primary school is or will be established the Director may make such annual capitation grant as may be from time to time determined by the Minister in respect of each such child of the age of five years and upwards actually attending such place for the purpose aforesaid”;

and the substitution therefor of the following words:—

“The Administrator may make a grant on behalf of each child of the age of six years and upwards on the roll of a school not established or maintained under any of the provisions of this Act whenever there is reasonable ground for believing that the number of children on the roll of such school will average not less than ten throughout the year the basis of calculation being the number on the roll at the end of each week during which the school is open.”

(b) The addition of the following words immediately after the word “school” in proviso No. (2)—

“at which children may reasonably be expected to attend.”

(c) The deletion of proviso No. (6) and substitution thereof of the following words—

“the continuance of such grant beyond the first year shall be dependent upon a satisfactory report on the instruction given at such place and the conditions under which the same is given made by an inspector of education.”

(d) The addition of a new proviso No. (8) as follows :—

“If the number of children on the roll of such school remains below an average of seven for any six months such average being calculated as aforesaid the Director may after first obtaining the opinion of the board of the district in which such school is situate order that such school be no longer recognized as an aided school; and thereupon such school shall cease to be an aided school for the purposes of this Act or any regulation.”

6. Section *nineteen* of the principal law shall be and is hereby amended by

Amendment
of section
nineteen of
Act No. 25
of 1907.

(a) the deletion of the word “fourteenth” in the third line of sub-section (1) thereof and the substitution thereof of the word “fifteenth”;

(b) the insertion of the word “reasonable” before the word “facilities” in sub-section (1) (b);

(c) the deletion of the word “fourth” in sub-section (1) (d) thereof and the substitution thereof of the word “fifth”;

(d) the deletion of sub-section (2) thereof and the substitution thereof of the following :—

“It shall be the duty of the parent of every white child who has either completed his fifteenth year or has satisfactorily completed a course prescribed for the fifth standard and remains on the school roll, to cause such child to attend regularly at school.”

**Ord. No. 7
of 1912.**

Amendment of section *twenty-two* of Act No. 25 of 1907.

7. Section *twenty-two* of the principal law shall be and is hereby amended by the deletion of the words "one month" in sub-section (1) thereof and the substitution therefor of the words "fourteen days".

Repeal of section *thirty-eight* of Act No. 25 of 1907 and section *one* of Act No. 28 of 1908 and section *five* of Act No. 3 of 1909 and substitution of new section therefor so as to provide for division of Province into school districts for changes in school districts.

8. Section *thirty-eight* of the principal law, section *one* of the Education Act Amendment Act, 1908, and section *five* of the Education Act Further Amendment Act, 1909, shall be and are hereby repealed and the following section substituted therefor:—

This Province shall be and is hereby divided into such school districts as shall be from time to time proclaimed by the Administrator, provided always that

- (1) such districts shall be composed of areas co terminous with one or more polling districts constituted under sections *thirty-seven* (1) and *forty-two* of the South Africa Act, 1909;
- (2) not less than three months' notice shall be given of any proposed change in a school district;
- (3) any Board the constitution of which would be affected by such proclamation may be newly constituted by election and appointment or may be required to continue in office until the expiry of the period for which the Board has been constituted whichever the Administrator may determine.

Amendment of section *fifty-four* of Act No. 25 of 1907.

9. Section *fifty-four* of the principal law shall be and is hereby amended by the deletion of the whole section and the substitution therefor of the following:—

- (1) Subject to the approval of the Director a secretary may be appointed; provided that
 - (a) if a member be appointed secretary he shall receive no remuneration for his services other than reasonable travelling expenses;
 - (b) if the person appointed to such office be not a member he shall receive such

remuneration (if any) as may be fixed by the Administrator.

Ord. No. 7
of 1912.

(2) In the case of a secretary appointed under the provisions of sub-section (1) hereof or an attendance officer appointed under the provisions of section *twenty-one* of the principal law or any other officer in the service of the Board such officer shall be engaged under the conditions prescribed by regulation and shall not vacate his office on the expiry of the Board's period of office.

10. Section *seventy-eight* of the principal law shall be and is hereby amended by

Amendment
of section
seventy-eight
of Act No. 25
of 1907.

(a) the deletion of the words "one or more" in the eighth line thereof and the substitution therefor of the words "at least two";

(b) the addition immediately after the word "post" in the ninth line thereof of the words "if there is more than one applicant";

(c) the omission of the second proviso at the end thereof;

(d) the addition of the following new sub-section:—

(2) If the Director declines to appoint any of the applicants recommended for appointment by the Board as provided in sub-section (1) hereof he shall report the case to the Administrator for decision.

Section *seventy-eight* as amended shall become sub-section (1);

(e) the addition of the following new sub-section:—

(3) Notwithstanding anything contained in the first sub-section hereof it shall be lawful for the Administrator to transfer a teacher from one school to another with or without the consent of the Board having the supervision of the school from which such teacher is to be transferred or the Board having the supervision of the school to which he is to be transferred; if the Administrator considers such transfer desirable in the interests of education.

**Ord. No. 7
of 1912.** Amendment
of section *one*
of Act No. 3
of 1909.

11. Section *one* of the Education Act Further Amendment Act, 1909, shall be and is hereby amended by the addition of the words "or advances" immediately after the word "grants" in the second line of paragraph (b) thereof.

Short title
and date
of operation.

12. This Ordinance may be cited for all purposes as the Education Act Further Amendment Ordinance, 1912, shall be read as one with the Education Act, 1907 (Act No. 25 of 1907) or any amendment thereof, and shall commence and come into operation at a date to be fixed hereafter by the Administrator by Proclamation in the *Provincial Gazette*.

**Ord. No. 8
of 1912.** No. 8 of 1912.]

[Date of operation, 1st January, 1913.]

AN

ORDINANCE

To Consolidate and Amend the Law relating to the election of Members of Town Councils in the Transvaal Province.

(Assented to 22nd October, 1912.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows :—

PRELIMINARY.

Repeal of
laws.

1. The laws mentioned in the First Schedule to this Ordinance shall be and are hereby repealed, but only in so far as they apply to municipal and not to parliamentary elections.

Interpre-
tation
of terms.

2. In this Ordinance unless inconsistent with the context :

"Administrator" shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act 1909 or any amendment thereof acting on the advice and with the consent of the Executive Committee of the Province ;

"commencement of this Ordinance" shall mean the date on which this Ordinance came into operation ;

“council” shall mean the council of a municipality constituted under and by virtue of the provisions of Chapter I of the Local Government Ordinance 1912;

“he,” “him,” “his,” and “himself” shall include the pronouns “she,” “her,” and “herself” respectively;

“magistrate” shall mean the magistrate of a magisterial district in which a municipality is situate, and in the case of a municipality situate within a portion of a magisterial district for which a detached assistant magistrate has been appointed, the term “magistrate” shall include also such detached assistant magistrate; and the term “magistrate” shall also include the person for the time being lawfully acting in that capacity or in the capacity of assistant magistrate or detached assistant magistrate;

“municipality” shall mean the area or district under the control and jurisdiction of a town council;

“rateable property” shall mean any property rateable under the provisions of the Local Authorities Rating Ordinance of 1903, or any amendment thereof;

“town clerk” shall mean the person for the time being lawfully acting in the capacity of town clerk of any municipality.

3. This Ordinance shall apply to the election of members of the councils of municipalities constituted town councils under Chapter I of the Local Government Ordinance 1912 and to the election of any council hereafter constituted, a town council under the provisions of that chapter.

Application
of Ordinance.

CHAPTER I.

TOWN COUNCILLORS.

4. Every white male person of full age, being a British subject, who is qualified to vote at elections of councillors under this Ordinance and who owns fixed property to the value of £250 or who has occupied property within the municipality to the value of £500 and who has resided within the municipality for a period of

Qualifications
of councillors.

Ord. No. 8
of 1912.

at least twelve months immediately preceding nomination shall be eligible to be elected a councillor, and qualified to hold office as such, but so long only as he shall continue to possess such qualification and shall not become disqualified under the terms of this Ordinance or otherwise.

Disqualifica-
tion.

5. No person whose estate shall be in liquidation, under assignment in trust for his creditors, no person whose estate shall be sequestrated as insolvent and who shall not have obtained his rehabilitation, no person not qualified to vote at elections under this Ordinance, no person of unsound mind declared as such by a competent court, and no person who is disqualified by this Ordinance shall be capable of being elected, or if elected of continuing to be, a councillor.

Further dis-
qualification.

6. No person holding any office or place of profit under or in the gift of the council shall be capable of being elected or of continuing to be a councillor.

Circum-
stances in
which
councillor
vacates his
office.

7. Any councillor who shall cease to possess the qualifications by this Ordinance required or who is a paid agent for a candidate at any municipal election under this Ordinance during his term of office, or who shall become disqualified under this Ordinance, shall *ipso facto* vacate his office and the mayor shall at the next meeting of the council declare any such vacancy which may have occurred; and in case any person elected a councillor shall die or become disqualified under the terms of this Ordinance, or cease to be qualified to be a councillor, or shall resign or shall refuse to accept the office of councillor, or in case of any vacancy occurring under Chapter IV of the Local Government Ordinance 1912, or in any manner whatever, then such vacancy shall forthwith be filled up in manner directed by this Ordinance, but subject nevertheless to the provisions hereinafter made as to vacancies occurring within three months of the annual election referred to in section *twenty-four*; provided always that a councillor whose seat shall have been declared vacant by the mayor may apply by motion to the Supreme Court Transvaal Provincial Division if the matter be within its jurisdiction, and if such courts be not sitting then to a judge of the

Supreme Court to have such declaration set aside; notice of the intention to make such application and the grounds thereof shall be given to the town clerk within two days after such declaration, and the application shall be made within fourteen days thereafter. Any councillor declared disqualified under the provisions of section *twenty-nine* of the Local Government Ordinance 1912 from continuing to be a councillor shall have the same right of appeal as is hereinbefore provided.

CHAPTER II.

VOTERS.

8. Every white person male or female being a British subject of the age of twenty-one years and upwards who is not disqualified under section *fifty-three* hereof and who is

Qualification
of voters.

(a) the owner of rateable property within the municipality of the assessed value of £100, or

(b) the occupier of rateable property within the municipality of the assessed value of £300 and who shall have resided within the municipality for a period of six months immediately preceding the publication of the notice mentioned in section *sixteen* of this Ordinance, or

(c) who shall have resided within the municipality for a period of twelve months immediately preceding the publication of the notice mentioned in section *sixteen* of this Ordinance

shall be entitled to be enrolled on the voters' roll for the municipality, provided that :

(1) no person shall be enrolled on the voters' roll in more than one ward or whenever any ward has been divided into polling districts, then in more than one such polling district ;

(2) every person enrolled on the voters' roll of a ward which has been divided into polling districts shall vote at the polling station provided for the district in which he or she is registered as a voter and at no other polling station ;

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of 1912.

(3) A husband and wife shall not be debarred from enrolment on the voters' roll in respect of the same premises, if the requirements of section *nine* of this Ordinance as to joint ownership or occupation are satisfied.

Provisions in case of joint owners or occupiers of property.

9. When more persons than one are, otherwise than as members of an association society or company, the owners or occupiers of any rateable property of the assessed value stated in section *eight* of this Ordinance, they shall, if not otherwise disqualified, be entitled to be enrolled on the voters' roll; provided that if in the case of joint owners the assessed value of the property when divided by the number of owners is less than one hundred pounds, and if in the case of joint occupiers the assessed value of the property occupied when divided by the number of such occupiers is less than three hundred pounds, only one of such owners or occupiers as the case may be to be named in writing by them all shall be entitled to be enrolled on the voters' roll.

Companies as voters.

10. Every society association or company owning or occupying property within the municipality of the assessed value mentioned respectively in section *eight* shall be entitled to be enrolled on the voters' roll with the same rights and subject to the same restrictions as are hereinbefore given to or imposed upon persons of full age, and shall be entitled to vote by a director, manager, secretary or other official of the society, association, or company duly authorized thereto whose name shall have been duly placed upon the voters' roll as representative of the society association or company.

Disqualifications.

11. The following persons shall not be qualified to vote at any election held under this Ordinance;

- (1) Persons at any time convicted of treason against the Crown or murder, or until the lapse of five years from the date of the expiration of the sentence of any crime for which the punishment is imprisonment with hard labour without the option of a fine, unless a free pardon shall have been granted;
- (2) persons whose names do not appear upon the voters' roll for the time being;

(3) persons disqualified under section *fifty-three* hereof during the period of their disqualification.

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of 1912.

CHAPTER III.

WARDS AND POLLING DISTRICTS.

12. (1) Every municipality shall be divided into wards, and whenever it shall become necessary to divide into wards a municipality which is not already so divided, the Administrator shall appoint a commission of one or more persons to prepare a scheme for determining the boundaries of such wards, and notice of the sitting of such commission shall be published in the *Provincial Gazette* and in a newspaper circulating in such municipality.

Division of
municipality
into wards.

(2) Every such scheme shall be published in the *Provincial Gazette* and in a newspaper circulating in the municipality once a week during three consecutive weeks, and when approved by the Administrator with or without modification, shall come into operation from a date to be notified by proclamation under this section.

(3) Whenever a municipality has been divided into wards, such wards may be increased in number or the boundaries of existing wards may be from time to time altered upon petition presented to the Administrator after a resolution of the council of such municipality passed at a special meeting called for the purpose, and whenever the council shall petition for any such increase or alteration of wards it shall with its petition transmit to the Administrator proposals for any apportionment of the existing councillors rendered necessary by such increase or alteration. Every such petition for an increase or alteration of wards with any proposals for apportionment of councillors may be approved by the Administrator with or without modifications, and subject to the provisions of sub-section (6) hereof shall take effect when so approved from a date to be notified by proclamation under this section, and from such date every councillor then in office shall hold office for the ward assigned to him for the remainder of the period for which he was elected.

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of 1912.**

(4) A council may in like manner petition the Administrator to decrease the number of wards of a municipality; provided that any decrease approved by the Administrator shall only take effect in respect of the next ensuing annual election; and provided further that the number of wards of a municipality shall not be so decreased as to affect the period of office for which any councillor shall have been elected. With any such petition the council shall transmit to the Administrator its proposals for:

- (a) the apportionment among the altered wards of such councillors as do not go out of office at the date of such annual election; and
- (b) the fixing of the wards in respect of which the said annual election shall be held.

Every such petition may be approved by the Administrator with or without modifications, and every councillor in office at the date of the election hereinbefore referred to shall hold office for the ward assigned to him for the remainder of the period for which he was elected.

(5) Notwithstanding anything in this section contained the Administrator whenever he shall exercise the powers conferred upon him by any law of altering the boundaries of a municipality or adjusting the boundaries of adjoining municipalities, may as consequential upon such alteration or adjustment, increase or decrease the number of wards or alter and adjust the boundaries thereof, and may subject to the provisions of sub-section (6) hereof apportion the councillors representing any wards so altered or adjusted among such wards; provided that unless the Administrator shall otherwise decide no such increase, decrease, alteration or adjustment of wards or apportionment of councillors shall take effect except upon a scheme prepared and published as provided in sub-sections (1) and (2) hereof.

(6) If the number of wards into which the municipality is divided is increased, and if on such increase the boundaries of the wards are altered, then on the occasion of every such increase and alteration the Administrator may by proclamation in the *Provincial Gazette* declare which wards shall be deemed to be new wards within the meaning of section *twenty-two* and the councillors holding

office at the date of such increase and alteration shall be apportioned among the altered wards (not being new wards) in accordance with the provisions of sub-section (3) or sub-section (5) hereof as the case may require; provided always that the period for which any councillor holds office shall not be affected by such apportionment.

(7) At the first election of councillors for any ward which is or has been declared to be a new ward, three councillors shall be elected for such ward. One of such councillors (being the one who stands first on the poll) shall continue in office until the day of the third annual election next ensuing and no longer and one of such councillors (being the one who stands second on the poll) shall continue in office until the day of the second annual election next ensuing and no longer and the remaining councillor (being the one who stands third on the poll) shall continue in office until the day of the first annual election next ensuing and no longer; and in case there are two or more candidates who have received an equal number of votes at the said poll, or in case there is no poll, the returning officer shall determine by lot which of the candidates shall be elected for a period terminating on the day of the first second or third of such annual elections respectively. For the purpose of this sub-section the last Wednesday in October shall be the day of the annual election.

(8) Every division of a municipality into wards, and every alteration or adjustment of the boundaries of such wards, and every increase in the number of wards under the powers of this section, shall be notified by proclamation of the Administrator in the *Provincial Gazette*.

13. (1) The Administrator may on the application of a council divide any ward into so many polling districts as he may deem necessary, and may in like manner from time to time increase or decrease the number of such districts, or alter or adjust the boundaries thereof.

(2) Every division of a ward into polling districts and every alteration or adjustment of the boundaries of such districts shall be notified by proclamation of the Administrator in the *Provincial Gazette*.

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of 1912.

Power of Administrator to order steps to be taken where matters unprovided for.

(3) The Administrator may appoint a commission of two or more persons to prepare a scheme for determining the boundaries of such districts and notice of the sitting of such commission shall be published in the *Provincial Gazette* and in a newspaper circulating in the municipality.

14. If in connection with the division of any municipality into wards or the division of wards into polling districts or the alteration of the boundaries of the wards or polling districts of any municipality, or the increase in the number of them or the apportionment of councillors among wards any matter shall arise for which this Ordinance does not sufficiently provide, the Administrator may order all such steps to be taken with regard to the election of councillors or otherwise as may be necessary to meet the circumstances of the case and may fix the period for which any councillor to be elected for any ward is to hold office so that the general intent and purpose of the Ordinance may have effect.

CHAPTER IV.

MAKING OF VOTERS' ROLL.

Provisions for making of voters' roll and amendment of such roll from time to time.

15. (1) (a) The council shall once every year in the month of May cause a list to be made of all persons qualified to be enrolled on the voters' roll under the provisions of this Ordinance; the said list shall be sub-divided into as many parts as there are wards of the said municipality and each part shall show in alphabetical order the full name, address, and qualification of every voter qualified to vote in respect of property within the ward to which such part refers.

(b) Whenever the number of wards of a municipality have been increased, decreased, or the boundaries altered or otherwise adjusted, the council shall as soon as possible after such increase, decrease, alteration or other adjustment cause such alterations of the voters' roll to be made as may be necessary to show in each part thereof (representing the various wards of the municipality) the particulars of voters resident in each ward.

(2) Whenever any ward has been divided into polling districts, or any increase, decrease, alteration or adjustment of such districts has been

made under the provisions of section *thirteen* hereof the council shall compile from the voters' roll of such ward a register of voters for each polling district, consisting of the voters of the ward resident in such polling district.

(3) Every person entitled to be registered as a voter and who shall be the owner or occupier of rateable property in more than one of the wards of the municipality, shall be entitled to elect the ward in which he will vote, and should he decline or fail to make such election he shall be registered as a voter in such of the said wards as the person framing the voters' roll shall decide.

(4) Notwithstanding anything in this section contained, it shall be competent for the council upon an application made by or on behalf of any person registered on the voters' roll of the municipality for the time being to transfer the name of such person from the voters' roll of any ward or polling district to the voters' roll of some other ward or polling district, upon proof to the satisfaction of the council that such person holds the necessary qualifications of a voter under this Ordinance in respect of the ward or polling district to the voters' roll of which he desires his name transferred; provided that no such transfer as is herein provided for shall be made upon an application received by the council after the publication of a notice of any election under section *thirty* of this Ordinance until such election shall have been held.

(5) The voters' roll in force in a municipality at the commencement of this Ordinance shall subject to the provisions of section *nineteen* hereof be the voters' roll of such municipality for the period for which it was originally framed.

16. The town clerk, shall cause every annual list framed under the provisions of sub-section (1)(a) of section *fifteen* hereof to be deposited in the municipal offices for inspection by the public, and shall cause to be published in one or more local newspapers a notice that all objections and claims to be enrolled will be heard and determined at some time and place to be therein stated; such time shall be not less than fourteen days after the publication of the said notice.

Notices of
objection to
list.

**Ord. No. 8
of 1912.**

Council to
appoint court
to determine
objections.

17. The magistrate, or some advocate of the Supreme Court to be appointed by the Administrator, shall hear and determine all claims and objections, and may enrol the names of any voters which have been omitted from the voters' roll, and strike out the names of all persons not entitled to be enrolled; provided that no person's name shall be struck out until such person shall have had two clear days' notice of the investigation of his qualification, and shall be heard in regard thereto should he so desire, either personally or by an advocate, solicitor, or duly admitted law agent. The hearing and determining of such claims and objections may be adjourned from time to time, and the decision on any such claim or objection may be brought on appeal by motion to the Supreme Court or any judge thereof if notice thereof be given by any interested person within two clear days after the declaration of such decision. The court or judge hearing such application may uphold or reverse the said decision, and may make such order as to costs as to such court or judge may seem right. The remuneration of the advocate appointed by the Administrator as aforesaid shall be fixed by the Administrator and shall be a charge on the funds of the municipality.

Roll to be
in force until
new one
framed.

18. Subject to the provisions of the next succeeding section the list when so settled and amended shall be the voters' roll for the municipality until the next roll shall in like manner be completed, and such roll shall be deemed and taken to be conclusive and the only proof of the right of every person enrolled therein to vote for the election of councillors.

Provisions for
addition of
names to
voters' roll.

19. Any person who is not on the voters' roll in force for the time being in a municipality, may at any time apply to the town clerk thereof, in the form prescribed in the Second Schedule hereof to be enrolled as a voter, and the council on being satisfied that such person is qualified under this Ordinance, or any amendment thereof, to be so enrolled, shall cause the name of such person to be placed on the voters' roll; provided always that:

(i) if the council shall refuse the said application such decision of the council shall be subject to appeal as if it were a decision of the magistrate or advocate given under section *seventeen* of this Ordinance;

(ii) no person shall be enrolled under this section as a voter in respect of any ward upon an application made after the first day of September in any year or in the case of by-elections after the publication of a notice of any election in such ward under section *thirty* of this Ordinance until such election shall have been held;

(iii) the non-enrolment of any voter upon an application made under this section shall not invalidate any election held after the date of such application.

20. Every voters' roll framed or amended under the provisions of this Chapter shall be deposited at the municipal office for inspection by the public during office hours.

Voters' roll deposited for inspection.

CHAPTER V.

ELECTION OF COUNCILLORS.

21. The council shall consist of three councillors for each ward elected in the manner hereinafter prescribed.

Election of councillors.

22. Should at any time the number of wards be increased under the provisions of this Ordinance, then upon such increase the number of councillors shall be increased by three for each ward by which the number of wards is increased, and the election of councillors for the new wards shall take place as soon as possible after such wards have been created, and on a date to be fixed by the Administrator by proclamation in the *Provincial Gazette* in manner hereinafter provided for the election of councillors at an annual election.

Provision for election of councillors to represent "new" wards.

23. The first election of councillors of any municipality to which the provisions of this Ordinance may hereafter become applicable shall take place in manner hereinafter prescribed on such date as may be notified by the Administrator

First election of councillors.

Ord. No. 8
of 1912.

by proclamation in the *Provincial Gazette* and three councillors shall be elected for each ward. One of such councillors (being the one who stands first on the poll) shall continue in office until the day of the third annual election held in accordance with the provisions of section *twenty-four* and no longer and one of such councillors (being the one who stands second on the poll) shall continue in office until the day of the second of such annual elections and no longer, and the remaining councillor (being the one who stands third on the poll) shall continue in office until the day of the first of such annual elections and no longer; and in case there are two or more candidates who have received an equal number of votes at the said poll, or in case there is no poll, the returning officer shall determine by lot which of such candidates shall be elected for a period terminating on the day of the first second and third of the said annual elections respectively.

Annual
election of
councillors.

24. After the first election of councillors as aforesaid and in the case of town councils presently elected under the Municipal Elections Ordinance of 1903 and amendments thereof there shall be an annual election of councillors which shall take place on the last Wednesday in the month of October of each and every year for the purpose of electing councillors to replace an equal number of councillors retiring from office on account of the expiration of their period of office and also for the purpose of filling up such casual vacancies as may be required to be filled up under the provisions of section *twenty-seven* of this Ordinance.

Duration of
office of
councillors
elected at
annual
elections.

25. (1) The councillors elected at every annual election to fill the vacancies caused by the retirement of councillors owing to the expiration of the period of office for which such last named councillors were elected shall continue in office until the day of the third annual election next ensuing and the councillors elected to fill a casual vacancy requiring to be filled up under section *twenty-seven* of this Ordinance whether such election shall take place at the annual election or not, shall hold office for the remainder of the

term for which the councillor who has vacated office and whom he shall succeed would have otherwise remained in office.

(2) In any annual election at which councillors are to be elected to fill casual vacancies the vacancies caused by the retirement of councillors due to the expiration of the period for which they were elected, shall be deemed to be filled by the candidates who receive the largest number of votes at the election. The other elected candidates shall be deemed to fill casual vacancies in order according to the number of votes cast for each, so that the councillor elected by the greatest number of votes shall be deemed to succeed the councillor who had he not vacated office would have remained longest in office. In case the matter cannot be determined as aforesaid owing to the equality in the votes of two or more candidates, or owing to there being no poll, it shall be determined by lot by the returning officer.

(3) For the purposes of sections *twenty-three*, *twenty-four* and *twenty-five* the date from which councillors hold office shall be the day fixed as the polling day, and if no polling takes place in respect of a particular vacancy then the day of nomination shall be the date of election.

26. Whenever a vacancy is caused by a councillor retiring or in any other way vacating his seat the ward represented by such councillor, in case the election of councillors is by wards, shall elect the councillor to fill the seat so vacated. Vacancy.

27. (1) A casual vacancy shall be deemed to be any vacancy except a vacancy caused by the retirement of a councillor on the expiry of the period of office for which he was elected, provided that where any councillor shall have vacated his seat prior to the expiration of his period of office and such vacancy is not filled under the provisions of this Ordinance prior to the date when such councillor would in the ordinary course have retired, such vacancy shall be deemed not to be a casual vacancy, but to be a vacancy caused by the retirement of such councillor due to the expiration of the period for which he was elected. Casual vacancies.

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of 1912.

(2) When and as often as any casual vacancy shall occur in the council, the councillor to be elected to fill such vacancy shall be elected in the manner provided for the election of candidates at the annual election; but if such vacancy shall occur within three months of the ensuing annual election then the vacancy shall not be filled up at a special election but shall remain until the holding of the annual election of councillors under this Ordinance; provided always that such vacancies do not exceed three in number, in which case they shall be filled up at a special election held for the purpose, and provided further that no casual vacancy shall be filled at any annual election which has not occurred prior to the first publication of the notice mentioned in section *thirty* of this Ordinance.

Notification
of vacation
of office by
councillor.

28. The occurrence of any casual vacancy in the council which is not required to be declared by the mayor at a meeting of the council under the provisions of section *seven* of this Ordinance shall be notified without delay by the town clerk by a notice signed by him and affixed in a conspicuous position in the municipal offices, and any casual vacancy shall be deemed to occur at the date when such vacancy is declared by the mayor under the said section or notified by the town clerk under this section.

Returning
officer.

29. The town clerk, or such other person as the Administrator may appoint, shall be the returning officer at all municipal elections and all such elections shall be held before such returning officer; provided always that no candidate for office at such election shall be capable of acting as returning officer thereat. In the case of a returning officer appointed by the Administrator the Administrator shall fix the fee to be paid to such officer by the council.

Notice of
nomination.

30. The town clerk, or such other person as the Administrator may appoint, shall not less than twenty-one days prior to any election of a councillor or councillors publish a notice of such election in one or more local newspapers and in such notice shall specify a day not being less than ten or more than fourteen days from the date of giving of such notice as the day of nomination and (where the election is by wards) shall specify the particular

ward or wards for which the election is to be held and shall require all candidates at such election to be nominated in manner hereinafter mentioned.

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of 1912.**

31. No person shall be a candidate at any election or qualified to be elected a councillor for any municipality or ward of a municipality unless he shall have received a requisition signed by at least twenty-five enrolled voters for such municipality or ward respectively and shall have transmitted such requisition with his acceptance thereof given under his own hand or that of his duly qualified agent to the person calling for nominations on or before the day appointed for receiving the same. If the number of candidates for any municipality or ward who are nominated as aforesaid do not exceed the number of councillors to be elected for such municipality or ward such candidates shall be deemed and taken to be elected on the day of nomination. If however there shall be less than the required number of candidates nominated then fresh nominations to fill the vacancies shall be called for and may be sent in to the person calling for them to within five days of the time fixed for the election. Should the requisite number of members not be elected it shall be lawful for the Administrator to appoint any duly qualified person to be a member of the council in order to make up the number of members required.

Manner of nomination:

32. In the event of the number of nominations for any municipality or ward where the election is by wards exceeding the number of councillors to be elected for such municipality or ward the town clerk or other person appointed to be returning officer as aforesaid shall forthwith cause a notice to be published in one or more local newspapers stating the names of the candidates nominated, the day upon which a poll will be taken for the election of councillors not being less than six days or more than fourteen days from the date of such notice nor less than twenty-one days from the date of the notice calling for nominations, the number of vacancies to be filled, and the places where the poll will be taken. And the poll shall take place accordingly and shall commence at eight o'clock in the forenoon and close at eight o'clock in the afternoon.

Notice of election.

Ord. No. 8
of 1912.

CHAPTER VI.

THE POLLING.

Election
arrange-
ments.

33. For the purpose of any election there shall be at least one polling station at some convenient place within each ward, or if such wards have been divided into polling districts there shall be one polling station only within each polling district. Notice shall be given by the returning officer in some paper circulating in the district and also by affixing it to the public door of the town office of the places where the polling stations shall be.

For all elections the returning officer shall provide such compartments desks ballot boxes ballot papers stamping instruments copies of register of voters and other things; appoint presiding officers and polling officers and do such other acts and things and make such arrangements to facilitate the taking of the poll as he may deem advisable for effectually conducting the election; and everything done by the returning officer shall be at the expense of the council and shall be paid out of the funds of the municipality.

Presiding
officer.

34. The presiding officer and other officers at the polling station shall keep order thereat shall regulate the number of voters to be admitted at a time and shall exclude all other persons except the returning officer the clerks the candidates the agents of the candidates and the constables on duty.

In case
candidate
desires
to retire
from contest.

35. If after a poll has been appointed at any election any candidate nominated for election shall be desirous of retiring from the candidature he may not later than three days before the day of polling sign and deliver a notice of his retirement to the returning officer who on receipt of such notice shall if the number of candidates is by such retirement reduced to the number of persons to be elected at such election declare the remaining candidates to be on that day duly elected and if the said number is not so reduced shall omit the name of the person so retiring from the list of candidates and such person shall not be capable of being elected at such election. If the number of candidates is by such retirement reduced below the number of persons to be elected

the provisions of section *thirty-one* of this Ordinance relating to the case of the number of persons nominated being less than the number of persons to be elected shall *mutatis mutandis* apply.

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of 1912.

36. Every candidate may, if he think fit, appoint by writing under his hand a person to represent him at the polling station to see that the votes are fairly taken and may also appoint in writing an agent to represent him at the counting of the votes by the returning officer.

Candidates' agents.

37. No inquiry shall be made at any election as to the right of any person to vote except that the polling officer shall put to every voter the following questions :

Inquiries as to right to vote.

(1) Are you the person whose name appears as A.B. on the voters' roll of voters in this ward ?

(2) Have you already voted at this election in the capacity in which you now claim to vote ?

And no person who shall refuse to answer any such questions or who shall not answer the first of such questions in the affirmative and the second of such questions absolutely in the negative shall be permitted to vote.

38. Any person who shall wilfully make a false answer to any of these questions shall be liable to a penalty not exceeding fifty pounds to be recovered in the court of the magistrate, or in default of payment to imprisonment for a term not exceeding three months.

Penalty for false answers.

39. Every voter coming to record his vote shall vote without undue delay and any voter who delays unduly in recording his vote may unless he shall forthwith proceed to vote upon being thereunto required by the presiding officer be compelled to hand to the presiding officer any ballot paper which he may have received and be removed from the polling station upon the instruction of the presiding officer. Such voter shall not be entitled to vote at the election, but such ballot paper shall be treated as a spoilt paper under section *forty-two* hereof.

Voter required to vote without delay at polling station.

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of 1912.** Number of
votes to be
given by
voter.

40. Every voter shall have and shall be obliged to record as many votes as there are candidates to be elected for the ward in which he is enrolled as a voter, but not more than one vote shall be given to any one candidate. Any ballot paper on which is not recorded the necessary number of votes under this section shall be invalid.

Manner of
voting.

41. The voting at all elections held under the provisions of this Ordinance shall be by ballot which shall be conducted in substance and as nearly as is material as follows :

(a) The presiding officer (hereinafter referred to as the presiding officer) at the polling station in each ward or polling district as the case may be shall ascertain that the person coming to vote is a voter enrolled upon the voters' roll for that ward or polling district and having ascertained that such person is so enrolled and his number on such roll, shall enter his number upon the counterfoil in the ballot paper book and shall then tear out the ballot paper corresponding to such counterfoil and having stamped the same with a perforated stamp provided for that purpose shall hand it to the voter. And every ballot paper shall be in the form set forth in the Third Schedule to this Ordinance with such printed instructions as the council may approve ;

(b) when the voter has received such ballot paper on which shall be printed in alphabetical order the names of all the duly nominated candidates at such election he shall take the same to the compartment and desk provided for that purpose and signify for whom he desires to vote by secretly placing a cross opposite the name of every candidate whom he wishes elected not exceeding the number to be elected at such election. He shall then fold the ballot paper so that the perforated stamp may be visible and having held up the ballot paper so that the polling officer can recognize the perforated mark shall drop the ballot paper in the ballot box placed in front of the polling officer ;

(c) should the voter either sign his name on the ballot paper or any mark or word by which his ballot paper would become recognizable then such voting paper shall be considered blank and not taken into account.

42. If a voter inadvertently spoils a ballot paper he may return it to the presiding officer who shall if satisfied of such inadvertence give him another paper and retain the spoiled paper and the spoiled paper shall be immediately cancelled and the fact of such cancellation shall be noted upon the counterfoil.

Spoiled
ballot papers.

43. Any presiding officer on the application of any voter who is unable to read or who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Ordinance shall before such agents of the candidates as may be present cause the vote or votes of such voter to be marked on a ballot paper or papers in manner directed by such voter and the ballot paper or papers to be placed in the ballot box and the name and number on the voters' roll of every voter whose vote is marked in pursuance of the terms of this section and the reason why it is so marked shall be entered on a list in this Ordinance called the "list of votes marked by the presiding officer".

Voters
incapacitated
by blindness
or other
physical
cause.

44. If a person representing himself to be a particular voter applies for a ballot paper after another person has voted as such voter, the applicant shall upon duly answering the questions permitted by this Ordinance to be asked of voters at the time of polling be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (hereinafter called a tendered ballot paper) shall not be put in the ballot box, but shall be given to the presiding officer appointed for that purpose and endorsed by him with the name of the voter and his number on the voters' roll, and set aside in a separate packet, and shall not be counted by the returning officer and the name of the voter and his number on the roll shall be entered in a list in this Ordinance called the "tendered votes' list".

Tendered
ballot papers.

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Sealing up
of ballot
boxes, etc.

45. Every presiding officer as soon as practicable after the close of the poll shall, before such agents of the candidates as shall be present, make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals—

(1) each ballot box entrusted to him unopened but with the key attached ;

(2) the unused and spoiled ballot papers placed together ;

(3) the tendered ballot papers ;

(4) the marked copies of the voters' roll and the counterfoils of the ballot papers ;

(5) the tendered votes' list and the list of votes marked by him as presiding officer and a statement of the number of voters whose votes are so marked by the presiding officer under the head "Physical incapacity" ;

and shall deliver such packets to the returning officer.

The packets shall be accompanied by a statement made by each presiding officer showing the number of ballot papers entrusted to him and accounting for them under the heads of ballot papers in the ballot box unused spoiled and tendered ballot papers.

Declaration
of poll.

46. Upon receipt of the aforesaid packets from such presiding officer by the returning officer the latter shall take charge of the same and shall in the presence of such agents of any of the candidates as may be in attendance open the ballot boxes and ascertain the result of the poll by counting the votes given to each candidate and shall forthwith declare the candidate or candidates who are elected under the provisions of this Ordinance according to the vacancies to be filled up. In the event of the number of votes being found to be equal for any two or more candidates all of whom cannot be declared elected to fill an ordinary or casual vacancy in the council as the case may be the returning officer shall by lot immediately determine the election. The decision of the returning officer shall be final subject to reversal on petition to or action in the Supreme Court praying that the election be set aside.

47. The returning officer shall reject and not count any ballot papers which :

What ballot papers shall be rejected.

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- (a) do not bear the official mark ;
- (b) give votes to more or fewer candidates than the voter is entitled and obliged to vote for ;
- (c) bear any writing or mark by which a voter can be identified otherwise than is in this Ordinance prescribed ;
- (d) are unmarked or void for uncertainty ;
- (e) are returned under section *thirty-nine* of this Ordinance ;
- (f) are invalid under section *forty*.

48. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid and shall add to the endorsement "rejection objected to" if an objection be in fact made by or on behalf of any candidate to his decision. He shall endorse "returned under section *thirty-nine* or *forty* of the Municipal Elections Ordinance" on any ballot papers returned under either of those sections.

Marking of rejected ballot papers.

49. The returning officer shall immediately after the declaration of the poll enclose in separate packets the counted and rejected ballot papers. He shall not open any sealed packet of tendered ballot papers or marked copy of the voters' roll and counterfoils but shall proceed, before such agents of the candidates as are present to reseal after examination each of the sealed packets received by him from the presiding officers. All the packets aforesaid together with a certificate stating the names of the councillors declared to be elected, shall be enclosed together in one sealed packet and delivered to the town clerk who shall safely keep such sealed packet for six months after the expiration whereof the said packet and all papers contained therein shall be destroyed in the presence of two councillors.

Sealing up of papers by returning officer.

50. No such sealed packet as aforesaid shall be opened during the said period of six months unless by order of the Supreme Court or any judge thereof ; and if any person shall contrary to the provisions hereof wilfully break the seal or open any such packet he shall upon conviction be liable to a penalty of fifty pounds and to

Sealed papers to remain unopened.

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imprisonment with or without hard labour for a period not exceeding three months, and on failure to pay the fine to a further period of imprisonment for three months.

The Administrator may make regulations and issue instructions.

51. The Administrator shall have power from time to time to issue instructions and make regulations for the purpose of more effectually carrying out the provisions of this Ordinance as to the proceedings for election by ballot provided that such instructions and regulations are not inconsistent with its terms.

Immaterial mistakes not to affect the validity of elections.

52. No election shall be declared invalid by reason of any mistake or non-compliance with the terms of this Ordinance if it appears to the court having cognizance of the question that the election was conducted in accordance with the principles laid down in this Ordinance and that such mistake or non-compliance did not affect the result of the election.

Voters failing to vote disqualified.

53. Within one month after any election the returning officer shall compile and lay before the magistrate a list of the registered voters with their addresses who have failed to vote at such election. Such list shall be certified by the magistrate and returning officer as correct, and shall be published by the magistrate in two issues of a newspaper circulating in the municipality, and shall contain an intimation to the registered voters therein named that they are disqualified from being registered as voters on the voters' roll for the municipality which is to be made up in the month of May next ensuing or any addition thereto under section *nineteen* hereof, and from the date of the first publication aforesaid such registered voters shall be so disqualified, save as provided in section *fifty-four* hereof.

Removal of dis-qualification.

54. The magistrate shall hold a court on a date in the month of April in each year to hear applications to remove the disqualification of voters disqualified under the last preceding section. Notice of the sitting of the court shall be given by the returning officer by advertisement in two issues of a newspaper circulating in the municipality, of which the first issue must be published two weeks before the sitting of the court. Such notice shall by reference to the two issues of the newspaper mentioned in the last preceding section intimate to the registered voters mentioned therein

that they may appear in person or by counsel, attorney, or law agent before the magistrate at the said sitting and apply for the removal of the disqualification. At such sitting the magistrate if satisfied on the application of any registered voter so disqualified that his failure to vote was due to illness, absence, or other unavoidable cause shall declare such disqualification to be removed.

CHAPTER VII.

ELECTORAL EXPENDITURE.

55. "Electoral expense" in this and the next succeeding chapter includes all moneys expended or expenses incurred by or on behalf of any candidate at or in connection with any election. Electoral expense.

56. No electoral expense shall be allowed except in respect of the following matters: Expense allowed.

- (1) purchasing electoral rolls;
- (2) printing advertising publishing issuing and distributing addresses by the candidate and notices of meeting;
- (3) stationery messages postages and telegrams;
- (4) one committee room for each polling station;
- (5) public meetings and halls therefor;
- (6) scrutineers;
- (7) one election agent for each candidate or for any number of joint candidates;
- (8) one polling agent at each polling station and no more;
- (9) one clerk and one messenger for conducting business in each committee room and the hire of one telephone and one typewriting machine for each committee room;
- (10) the reasonable and actual personal expenses of the candidate which shall not exceed fifty pounds.

57. No electoral expenses shall be allowed in respect of any election in excess of the following rates: Amount of expenditure allowed.

- (1) for each candidate one hundred pounds and a further two pounds for every one hundred enrolled voters over and above five hundred;

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(2) where there are two or more joint candidates at an election :

- (a) for any one of such candidates the full amount mentioned in sub-section (1);
- (b) for each of the remaining joint candidates one-fourth of the amount mentioned in sub-section (1).

Where the same election agent is appointed by or on behalf of two or more candidates at an election or where two or more candidates by themselves or any agent or agents hire or use the same committee room for such election or employ or use the services of the same clerks messengers or polling agents at such election or publish a joint address or joint circular or notice at such election those candidates shall be deemed for the purposes of this enactment to be joint candidates at such election; provided that :

(i) the employment and use of the same committee room clerk messenger or polling agent if accidental or casual or of a trivial and unimportant character shall not be deemed of itself to constitute persons joint candidates ;

(ii) nothing in this enactment shall prevent candidates from ceasing to be joint candidates;

(iii) where any excess of expense above the maximum allowed for one or two or more joint candidates has arisen owing to his having ceased to be a joint candidate or to his having become a joint candidate after having begun to conduct his election as a separate candidate and such ceasing or beginning was in good faith and such excess is not more than under the circumstances is reasonable and the total expenses of such candidate do not exceed the maximum amount allowed for a separate candidate such excess shall be deemed to have arisen from a reasonable cause within the meaning of the provisions respecting the allowance by the court of an exception from the provisions of this Ordinance which would otherwise make an act an illegal practice and the candidate and his election agent may be relieved accordingly from the consequences of having incurred such excess of expenses.

58. All moneys provided by any person other than the candidate for any electoral expense shall be paid directly to the candidate personally.

Payments to candidates.

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59. (1) Every payment made by an election agent whether by himself or a sub-agent in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall except where less than forty shillings in all in any one account be vouched for by a bill stating the particulars and by a receipt.

Sending in and payment of claims for election expenses.

(2) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election which is not sent in to the election agent within the time limited by this Ordinance shall be barred and shall not be paid.

(3) Except as by this Ordinance permitted the time limited by this Ordinance for sending in claims shall be twenty-one days after the day on which the candidates returned are declared elected.

(4) All expenses incurred by or on behalf of a candidate at an election which are incurred on account of or in respect of the conduct or management of such election shall be paid within the time limited by this Ordinance and not otherwise.

(5) Except as by this Ordinance permitted the time limited by this Ordinance for the payment of such expenses as aforesaid shall be forty-two days after the day on which the candidates returned are declared elected.

(6) If the election agent in the case of any claim sent into him within the time limited by this Ordinance disputes it or refuses or fails to pay it within the said period of forty-two days such claim shall be deemed to be a disputed claim.

(7) The claimant may if he thinks fit bring an action for a disputed claim in any competent court and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this Ordinance and to be an exception from the provisions from this Ordinance requiring claims to be paid by the election

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agent; provided that for the purposes of this sub-section "competent court" shall include "magistrate's court."

(8) On cause shown to the satisfaction of the court such court on application by the claimant or by the candidate or his election agent may by order give leave for the payment by a candidate or his election agent of a disputed claim or of a claim for any such expenses as aforesaid although sent in after the time in this section mentioned for sending in claims or although the same was sent in to the candidate and not to the election agent.

(9) Any sum specified in the order of leave may be paid by the candidate or his election agent and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this Ordinance.

Returns.

60. Within thirty days after the result of any election has been declared every candidate at such election and in the case of joint candidates such candidates jointly shall sign before a justice of the peace and file with the returning officer at the election all vouchers for and a true return of his electoral expenses showing :

(a) all electoral expenses ;

(b) all disputed and unpaid claims ;

(c) all receipts for electoral expenses under section *fifty-nine* ;

in the form shown in the Fourth Schedule hereto.

Publication
and
inspection of
returns.

61. The returning officer at an election shall as regards all returns and vouchers filed pursuant to this chapter :

(1) forthwith publish in the *Provincial Gazette* particulars of the total amount of the electoral expenses of the candidate arranged under the headings of the paragraphs in section *fifty-six* ;

(2) keep the returns and vouchers open for public inspection without fee at reasonable hours for three months after filing ;

(3) during the same period supply copies of or extracts from the return and vouchers at sixpence per folio of seventy-two words.

Failure to
file return
of election
expenses.

62. (1) A candidate declared to be elected under the provisions of this Ordinance who fails to file the return required by section *sixty* hereof shall not sit or vote as a town councillor

until he has filed the said return by leave of the Supreme Court on petition presented under section *sixty-four* of this Ordinance.

(2) The returning officer shall prosecute in the magistrate's court any unsuccessful candidate who has failed to file the said return, and the said candidate shall be liable to a fine of fifty pounds and in default of payment to imprisonment for a period of one month, unless the magistrate is satisfied that his failure to file said return has arisen from illness or inadvertence or any reasonable cause of a like nature and not from any want of good faith.

63. If on petition to the Supreme Court against the return of a candidate it shall be proved that the return required in section *sixty* has not been duly rendered or if there shall be proved any electoral expense on any matter other than the matters allowed by section *fifty-six* or in excess of the rates allowed by section *fifty-seven* the election shall be declared void unless the candidate shall satisfy the court that such expense was neither directly nor indirectly incurred by him or by some one as his agent or representative or that he had neither directly nor indirectly sanctioned countenanced nor approved of the same in any way.

Candidate to prove that he has not incurred illegal expense.

64. Notwithstanding anything contained in the last preceding section if any candidate prove to the Supreme Court that his failure to file a return or voucher as required by section *sixty* has arisen from illness or inadvertence or any reasonable cause of a like nature and not from any want of good faith; or that any error omission or false statement in the return or voucher filed has similarly arisen the court may permit the filing of the return or vouchers or of a new return or fresh vouchers or the amendment of the return or vouchers filed and may exonerate the candidate from all liability in the matter.

Failure to file return.

65. (1) On or before the day of nomination at an election a person shall be named by or on behalf of each candidate as his agent for such election in this Ordinance referred to as the election agent.

Election agent.

(2) A candidate may name himself as election agent and thereupon shall so far as circumstances admit be subject to the provisions of this Ordinance both as a candidate and an election agent

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and any reference in this Ordinance to an election agent shall be construed to refer likewise to the candidate acting in his capacity of election agent.

(3) On or before the day of nomination the full name and address of the election agent of each candidate shall be declared in writing by the candidate or some other person on his behalf to the returning officer and the returning officer shall forthwith give notice of the name and address of every election agent so declared by publication in two issues of a newspaper circulating in the municipality and if no such declaration in writing shall be so made on or before the day of nomination the candidate shall be deemed and taken to be his own election agent and may make no other appointment of an election agent for the purposes of this Ordinance.

(4) One election agent only shall be appointed for each candidate or any number of joint candidates but the appointment may be revoked and in the event of such revocation the candidate shall be deemed and taken to be his own election agent unless such revocation takes place on or before the day of nomination or not less than three clear days before the day appointed for the taking of the poll in which case the candidate may forthwith upon such revocation declare in writing to be delivered in no case less than three clear days before the day of polling to the returning officer that he appoints another election agent whose name and address shall forthwith be notified by the returning officer by publication in two issues of a newspaper circulating in the municipality.

(5) The election agent of a candidate shall appoint every polling agent scrutineer clerk and messenger employed for payment on behalf of the candidate at an election and hire every committee room hired on behalf of such candidate.

CHAPTER VIII.

CORRUPT AND ILLEGAL PRACTICES.

Definition of
corrupt
practices.

66. "Corrupt practice" means any of the following offences: treating undue influence bribery and personation and aiding abetting counselling and procuring the commission of any of such offences.

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67. (1) Every person who corruptly by himself or by any other person either before during or after an election directly or indirectly gives or provides or pays wholly or in part the expense of giving or providing any meat drink entertainment lodging or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election or on account of such person or any other person having voted or refrained from voting or being about to vote or refrain from voting at such election ; and

(2) Every voter who corruptly accepts or takes any such meat drink entertainment lodging or provision ;
shall be deemed guilty of treating.

68. (1) Every person who directly or indirectly by himself or by any other person on his behalf makes use of or threatens to make use of any force violence or restraint or inflicts or threatens to inflict by himself or by any other person any temporal or spiritual injury damage harm or loss upon or against or does or threatens to do any detriment to any person in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election ; and

(2) Every person who by abduction duress or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise by any voter or thereby compels induces or prevails upon any voter either to give or to refrain from giving his vote at any election ;
shall be deemed guilty of undue influence.

69. (1) Every person who directly or indirectly himself or by his agent gives lends or agrees to give or lend or offers promises or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter or to or for any person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election ;

(2) Every person who directly or indirectly himself or by his agent gives lends or agrees to

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give or lend or offers promises or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter or to or for any person on behalf of any voter or to or for any other person for acting or joining in any procession before or during any election ;

(3) Every person who directly or indirectly himself or by his agent gives or procures or agrees to give or procure or offers promises or promises to procure or to endeavour to procure any office place or employment or any profit advancement or enrichment to or for any voter or to or for any person on behalf of any voter or to or for any other person in order to induce such voter to vote or refrain from voting or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election ;

(4) Every person who directly or indirectly himself or by his agent makes any such gift loan offer promise procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person to serve as a councillor or the vote of any voter at any election ;

(5) Every person who upon or in consequence of any such gift loan offer promises procurement or agreement procures or engages promises or endeavours to procure the return of any person to serve as a councillor or the vote of any voter at any election ;

(6) Every person who advances or pays or causes to be paid any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election ; provided always that this enactment shall not extend or be construed to any money paid or agreed to be paid for or on account of any lawful expenses bona fide incurred at or concerning any election

(7) Every voter who before or during any election directly or indirectly himself or by his agent receives agrees or contracts for any money gift loan or valuable consideration office place or employment for himself or for any other person

for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election ;

(8) Every person who after any election directly or indirectly himself or by his agent receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election ;

(9) Every person who either directly or indirectly himself or by his agent corruptly conveys or transfers any property or pays any money to any person for the purpose of enabling him to be qualified as a councillor or registered as a voter thereby to influence his vote at any future election and every candidate or other person who either directly or indirectly pays any money on behalf of any voter for the purpose of inducing him to vote or refrain from voting and every person on whose behalf and with whose privity any such conveyance transfer or payment as in this section is mentioned is made ; and

(10) Every candidate who himself or by his agent convenes or holds any meeting of voters in any house licensed for the sale of liquors under the Liquor Licensing Ordinance 1902 or any amendment thereof shall be deemed guilty of bribery ; provided that nothing in this sub-section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices shops or other business premises or the holding of public meetings if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied.

70. Every person who at any election applies for a ballot paper in the name of some other person whether that name is that of a person living or dead or of a fictitious person or who having voted once at any such election applies at the same election for a ballot paper in his own name shall be guilty of personation.

Personation defined.

71. If upon the trial of an election petition the court finds that any corrupt practice has been committed in reference to such election by or with the knowledge and consent of any agent of a candidate at such election the election of

Punishment of candidate personally or by his election agent guilty of a corrupt practice.

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such candidate shall if he has been elected be null and void ; and if such offence has been committed by or with the knowledge and consent of the candidate or his election agent then in addition to such election being declared null and void such candidate shall not be capable for a period of five years of being elected as a councillor for any municipality or of holding any judicial appointment or appointment as justice of the peace.

Punishment of a person guilty of corrupt practices.

72. (1) A person who commits any corrupt practice other than personation or aiding abetting counselling or procuring the offence of personation shall on conviction be liable to imprisonment with or without hard labour for a term not exceeding two years or to a fine not exceeding five hundred pounds.

(2) A person who commits the offence of personation or of aiding abetting counselling or procuring the commission of that offence shall on conviction be liable to imprisonment with or without hard labour for a period not exceeding two years.

(3) A person who is convicted of any corrupt practice shall in addition to any punishment hereinbefore provided be incapable during the period of five years from the date of his conviction of being enrolled as a voter or elected as a councillor for any municipality or of holding any judicial appointment or appointment as justice of the peace and if elected a councillor his seat shall be vacated from the time of such conviction.

ILLEGAL PRACTICES.

Voting by prohibited persons and publishing of false statements of withdrawal to be illegal.

73. (1) If any person votes or induces or procures any person to vote at any election knowing that he or such person is prohibited by this or any other Ordinance from voting or is not qualified or has ceased to be qualified to vote at such election he shall be guilty of an illegal practice.

(2) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

74. Any candidate for election under this Ordinance, or any election agent, polling agent, clerk, or messenger of a candidate, or any person whatever in the employ of a candidate who canvasses any voter for his vote shall be guilty of an illegal practice.

Canvassing by candidates.

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“Canvass” shall mean to solicit in any manner (other than at a meeting open to the public at which not less than six voters are present, or by means of a written appeal or address to all the voters generally) the vote of any voter, or to advise him (otherwise than at such a meeting or by such an appeal or address) as to the person for whom he should vote.

The solicitation or advice shall be deemed canvassing whether it be addressed to the voter himself or to any other person for the purpose of obtaining that voter's vote.

75. (1) Every person shall be guilty of an illegal practice who at an election—

Illegal practices

(a) interferes in any manner with a voter either at the polling station or on his way thereto or therefrom ;

(b) causes to be distributed by post or other channel of delivery to any person on the day of the poll, or at any time after the nomination of candidates, anything which is or purports to be a representation or approximate representation of a ballot paper and which has thereon the names of the candidates together with any direction or indication or suggestion as to the candidate for whom a voter should vote, or which has any matter thereon likely to influence a voter in voting ;

(c) during the hours in which the poll is being taken make any public demonstration having reference to the poll by means of living figures, effigies, paintings, placards, or by other like means.

(2) Every person who at any time after the publication of the notice referred to in section *thirty* of this Ordinance and before the close of the poll referred to in section *thirty-two*, publishes or exposes or causes to be published or exposed to public view any document or writing or printed matter containing any untrue statement defamatory of any candidate and calculated to influence the vote of any voter shall be guilty of an illegal practice.

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Punishment
on conviction
of illegal
practice.

76. A person guilty of an illegal practice whether under the last preceding sections or under the provisions hereinafter contained shall on summary conviction be liable to a fine not exceeding seventy-five pounds or to be imprisoned for any period not exceeding six months with or without hard labour and shall in addition be incapable during a period of two years from the date of his conviction of being registered as a voter or voting at any election held for the electorate in which the illegal practice has been committed.

No expenses
allowed in
excess of
maximum
fixed in this
Ordinance.

77. (1) Subject to such exception as may be allowed in pursuance of this Ordinance no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent or by any other person whether before during or after an election on account of or in respect of the conduct or management of such election in excess of any maximum amount in that behalf specified in this Ordinance.

(2) Subject to such exception as may have been allowed in pursuance of this Ordinance no claim in respect of any expenses incurred on account of or in respect of the conduct or management of an election shall be paid in contravention of the provisions of section *fifty-nine* of this Ordinance. Any candidate or election agent or any other person who knowingly acts in contravention of this section shall be guilty of an illegal practice ; provided always that anything to the contrary notwithstanding in section *seventy-nine* of this Ordinance when on an election petition the court finds that it has been proved by a candidate that any payment made by an election agent in contravention of sub-section (2) of this section was made without the sanction or connivance of such candidate the election of such candidate shall not be void nor shall he be subject to any incapacity under this Ordinance by reason only of such payment being made in contravention of sub-section (2) of this section.

No person
shall be
employed for
payment save
as authorized
in this
Ordinance.

78. (1) No person shall for the purpose of promoting or procuring the election of a candidate at any election be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever except for any purposes or capacities mentioned in this Ordinance

or except so far as payment is authorized by this Ordinance.

(2) Subject to such exception as may be allowed in pursuance of this Ordinance if any person is engaged or employed in contravention of this section either before during or after an election the person engaging or employing him shall be guilty of an illegal practice and the person so engaged or employed shall also be guilty of an illegal practice if he know that he was engaged or employed contrary to law.

79. If upon the trial of an election petition the court finds that any illegal practice is proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election or his election agent the election of such candidate shall if he has been elected be null and void and he shall not be capable of being elected a councillor for any municipality for a period of three years from the date of such finding or of holding any judicial appointment or the appointment of justice of the peace and he shall further be subject to the same incapacities if he has been convicted by any competent court of an illegal practice.

Penalty for
connivance
of candidate
at illegal
practices.

ILLEGAL PAYMENT AND HIRING.

80. Every person who knowingly provides money for any payment which is contrary to the provisions of this Ordinance or for replacing any money expended in any such payment except where the same is allowed in pursuance of this Ordinance to be an exception shall be guilty of illegal payment.

Persons
providing
money
contrary
to this
Ordinance
guilty of
illegal
practice.

81. Every person who corruptly induces or procures any other person to withdraw from being a candidate at an election in consideration of any payment or promise of payment and every person who withdraws in pursuance of such inducement or procurement shall be guilty of illegal payment.

Corrupt
withdrawal
from a
candidature.

82. Every bill placard poster pamphlet or other printed matter having reference to an election shall bear upon the face thereof the name and address of the printer and publisher thereof and every person who prints publishes or posts or

Name and
address of
printer on
placards.

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causes to be printed published or posted any such printed matter as aforesaid which fails to bear upon the face thereof the name and address of the printer and publisher shall if he is the candidate or the agent of the candidate be guilty of an illegal practice and if he is not the candidate or the agent of a candidate shall be guilty of illegal payment.

Use of
committee
room in house
for sale of
intoxicating
liquor or
refreshment
to be illegal
hiring.

83. It shall not be lawful to use :

(a) any premises on which the sale by retail of any intoxicating liquor is authorized by a licence ;

(b) any premises where any intoxicating liquor is sold or is supplied to members of a club society or association ;

or any part of any such premises as a committee room for the purpose of promoting or procuring the election of a candidate at an election.

Every person who—

hires or uses any such premises or any part thereof for a committee room ; or

lets such premises or part knowing that it was intended to use the same as a committee room ;

shall be guilty of illegal hiring.

Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers offices or shops or other business premises or the holding of public meetings if such part has a separate entrance and no communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

Illegal hiring
for
conveyance
of voters to
poll.

84. It shall not be lawful for any person to hire any conveyance for conveying voters to the poll nor shall it be lawful for any person to let for hire a conveyance for such purposes ; provided that this section shall not prevent any voter hiring a conveyance for the purpose of conveying himself or any of the members of his household to and from the polling station. Any person knowingly contravening the provisions of this section shall be guilty of an illegal hiring.

Punishment
of illegal
payment of
hiring.

85. Without prejudice to the provisions herein before contained as to the offence of bribery :

(1) a person guilty of the offence of illegal payment or hiring shall on summary conviction be liable to a fine not exceeding

fifty pounds ; and in default of payment to imprisonment with or without hard labour for a period not exceeding three months ;
 (2) a candidate or an agent of a candidate who is personally guilty of an offence of illegal payment or hiring shall be guilty of an illegal practice.

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86. No action or suit shall be maintainable by any licensed publican or any owner or keeper of any shop booth tent or other place of entertainment against any candidate or any agent of any such candidate for any liquor food or refreshment of any kind whether for man or beast supplied upon the credit of any such candidate or agent during the progress of any election under this Ordinance.

Actions for liquor or refreshment supplied at elections not to be maintainable.

EXCUSES AND EXCEPTIONS FOR CORRUPT OR ILLEGAL PRACTICES OR ILLEGAL PAYMENT AND HIRING.

87. When upon the trial of an election petition the court finds that a candidate at such election has been guilty by his agents of the offence of treating and undue influence and illegal practice or of any of such offences in reference to such election and further that the candidate has proved :

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.

(a) that no corrupt or illegal practice was committed at such election by the candidate himself and the offences mentioned in the said finding were committed contrary to his orders and without his sanction or connivance ;

(b) that such candidate took all reasonable means for preventing the commission of corrupt and illegal practices at such election ;

(c) that the offences mentioned in the finding were of a trivial unimportant and limited character ; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate ;

then the election of such candidate shall not by reason of the offences mentioned in the report be void nor shall the candidate be subject to any incapacity under this Ordinance.

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Power of court to except innocent act from being illegal practice, etc.

88. When it appears to the court that any act or omission of a candidate at any election, or of his agent, or of any other person, which would, by reason of being a payment, engagement or contract in contravention of this Ordinance, or of otherwise being in contravention of any of the provisions of this Ordinance, be, but for this section, an illegal practice, payment or hiring arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith and under the circumstances it seems to the court to be just that the candidate and the agent and other person or any of them should not be subject to any of the consequences under this Ordinance of such act or omission the court may make an order allowing such act or omission to be an exception from the provisions of this Ordinance which would otherwise make the same an illegal practice payment or hiring and thereupon such candidate agent or person shall not be subject to any of the consequences under this Ordinance of the said act or omission.

DISQUALIFICATION OF ELECTORS.

Prohibition of persons guilty of corrupt or illegal practices, etc., from voting.

89. Every person guilty of a corrupt or illegal practice or of illegal payment or hiring at an election is prohibited from voting at such election and if any such person votes his vote shall be void.

Prohibition of disqualified persons from voting.

90. Every person who in consequence of conviction or of the report of the court has become under this Ordinance or any other Ordinance for the time being in force relating to corrupt or illegal practices incapable of voting at any election is prohibited from voting at such election and his vote shall be void if any such person vote.

LIMITATION OF TIME FOR PROSECUTIONS.

Limitation of time for prosecution of offence.

91. (1) A proceeding against a person in respect of the offence of a corrupt or illegal practice or any other offence against this part of this Ordinance shall be commenced within six months after the offence was committed or if it was committed in reference to an election with respect to which a petition is tried by the court shall be commenced

within six months after the offence was committed or within three months after the report of the court hearing an election petition is made whichever period last expires so that it be commenced within two years after the offence was committed.

(2) For the purpose of this section the issue of a summons warrant writ or other process shall where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender be deemed to be the commencement of a proceeding but save as aforesaid the service or execution of the same on or against the alleged offender and not the issue thereof shall be deemed to be the commencement of the proceeding.

92. Any person charged with a corrupt practice may if the circumstances warrant such finding be found guilty of an illegal practice and any person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice and a person charged with illegal payment or hiring may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

Persons charged with corrupt practice may be found guilty of illegal practice, etc.

CHAPTER IX.

OTHER OFFENCES.

93. Every person who shall be ordered by the presiding officer to leave the polling station under the provisions of section *thirty-nine* and shall refuse to do so shall be guilty of an offence and liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Persons ordered by presiding officer to leave polling station.

94. Every person who interrupts obstructs or disturbs the proceedings at an election shall be guilty of an offence and liable to the penalties in the last preceding section mentioned.

Obstructing elections.

95. (1) Every returning officer who after having accepted office as such wilfully neglects or refuses to perform any of the duties which by the provisions of this Ordinance he is required to perform shall for every such offence be liable to a penalty not exceeding two hundred pounds.

Penalty for neglect by returning officer, etc.

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Tampering
with
ballot papers
and
ballot boxes.

(2) Every justice of the peace presiding officer or other officer or person who wilfully neglects or refuses to perform any of the duties which by the provisions of this Ordinance he is required to perform shall for every such offence be liable to a penalty not exceeding fifty pounds.

96. Every presiding officer or other person who places or is privy to placing in a ballot box a ballot paper which has not been lawfully handed to and marked by a voter or forges or counterfeits or fraudulently defaces or destroys any ballot paper or the official mark thereon shall be guilty of an offence and shall be liable on conviction to be imprisoned for any period not exceeding two years with or without hard labour. Proof that a greater number of ballot papers is found in a ballot box or is returned by a presiding officer as having been received at a polling place than the number of voters who voted at such polling place shall be prima facie evidence that the presiding officer at such polling place was guilty of an offence against this section.

Wilfully
making or
procuring a
false claim.

97. Every person shall be liable to a penalty not exceeding one hundred pounds or to be imprisoned for any period not exceeding twelve months with or without hard labour who :

(1) wilfully makes delivers or sends to any officer appointed to revise the roll of voters any claim which is false in any material particular ; or

(2) wilfully causes or procures or is in any-wise concerned in the making delivering or sending of any such claim.

Penalty for
unfastening
fold of
ballot paper.

98. (1) Every returning officer presiding officer polling clerk scrutineer or other person who knowingly and wilfully unfastens the fold upon a ballot paper within which the number of a voter is written unless he is by the lawful command of some competent court or other tribunal required so to do ; and

(2) every returning officer presiding officer polling clerk or scrutineer who attempts to ascertain or discover or directly or indirectly aids in ascertaining or discovering the person for whom any vote is given except in the case of a person voting openly or who having in the exercise of his office obtained knowledge of the person for

whom any voter has voted discloses such knowledge unless in answer to some question put in the course of proceedings before some competent court or other tribunal; and

(3) every returning officer presiding officer polling clerk or scrutineer who places upon any ballot paper any mark or writing not authorized by this Ordinance;

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for any period not exceeding twelve months with or without hard labour.

99. Except as authorized by this Ordinance every person who knowingly and wilfully breaks the seal of or opens any such sealed parcel as is hereinbefore mentioned unless he is by the lawful command of some competent court or other tribunal required so to do or to produce some portion of the contents of such parcel shall be deemed guilty of an offence and on conviction shall be liable to imprisonment for any period not exceeding twelve months with or without hard labour.

Penalty for breaking seal of or opening parcel.

CHAPTER X.

HEARING OF ELECTION PETITIONS.

100. A petition complaining of an undue election of a councillor for any municipality or ward of a municipality by reason of want of qualification disqualification corrupt or illegal practice irregularity or otherwise may be presented to the Supreme Court by:

Election petitions may be presented to Supreme Court.

- (1) an enrolled voter in such municipality;
- (2) some person claiming to have had a right to be elected at such election; or
- (3) some person alleging himself to have been a candidate at such election.

Such petition is hereinafter referred to as an election petition.

101. With respect to the presentation of an election petition under this Ordinance the following provisions shall apply:

Provisions as to such petitions.

- (1) the petition shall be signed by the petitioner or all the petitioners if more than one;

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(2) the petition shall be presented within sixty days after the result of the election has been declared by the returning officer ;
 (3) presentation of a petition shall be made by filing it with the Registrar of the Supreme Court ;

(4) at the time of the presentation of the petition or within seven days afterwards security for the payment of all costs charges and expenses that may become payable by the petitioner :

(a) to any person summoned as a witness on his behalf ; or

(b) to the member whose election or qualification is complained of (who is hereinafter referred to as the respondent) ;

shall be given by or on behalf of the petitioner ;

(5) the security shall be to the amount of three hundred pounds ; it shall be given either by recognizance to be entered into by any number of sureties not exceeding four or by a deposit of money with the Registrar of the Supreme Court or partly in one way and partly in the other.

Service of
petition on
respondent.

102. Notice in writing of the presentation of a petition under this Ordinance and of the nature of the proposed security accompanied with a copy of the petition shall within ten days after the presentation of the petition be served by the petitioner on the respondent either personally or by leaving the same at his usual or last known dwelling-house or place of business and it will be lawful for the respondent where the security is given wholly or partially by recognizance by notice in writing to be served upon the petitioner in manner aforesaid within twenty-one days from the date of the service on him of such notice to object to such recognizance on the ground that the sureties or any of them are insufficient or that a surety is dead or that he cannot be found or that a person named in the recognizance has not duly acknowledged the same.

How
objections to
security to
be dealt with.

103. Any objection made to security given shall be heard and decided by the Supreme Court of this Province or by a judge thereof. If any objection to the security is allowed it shall be lawful for the

petitioner within a further time to be fixed by the court or judge not exceeding ten days to remove such objection by a deposit of such sum of money as may be deemed proper by the said court or judge to make the security sufficient.

If on objection made the security is decided to be insufficient and such objection is not removed in manner hereinbefore mentioned no further proceedings shall be had on the petition; otherwise on the expiration of the time limited for making objections or on the sufficiency of the security being established after objection made the petition shall be deemed to be at issue.

104. The Registrar of the Supreme Court shall as soon as may be make out a list of petitions under this Ordinance presented to the court and which are at issue placing them in the order in which they were presented and shall keep at his office a copy of such list hereinafter referred to as the election list open to the inspection of any person making application for inspection thereof. Such petitions shall be tried in the order in which they stand in such list unless the court shall otherwise order.

Registrar of
court to make
list of
petitions.

TRIAL OF A PETITION.

105. With respect to the trial of election petitions under this Ordinance the following provisions shall apply:

Provisions for
the trial of
election
petitions.

- (1) every election petition shall be tried with open doors;
- (2) the trial of election petitions may take place in any civil term upon any day prescribed by any rule or order of court; provided that the court to which it has been presented may upon the application of any of the petitioners or respondents fix any day in or out of term for such trial;
- (3) notice of the time and place at which an election petition will be tried shall be given by the Registrar of the Supreme Court to the parties concerned not less than fourteen days before the day on which the trial is to be held;
- (4) the court may adjourn the trial from time to time and from place to place;

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(5) where on the trial of an election petition praying the court to determine that some other person than the respondent is entitled to be declared duly elected in place of the respondent it is proved that any person who voted for the respondent was bribed or treated or subjected to undue influence by any one on behalf of the respondent or that such person was guilty of personation or of an illegal practice payment or hiring every vote given for the respondent by such person shall be deducted from the total number of votes given for the respondent at the election ;

(6) at the conclusion of the trial of any election petition the court shall determine whether the respondent was duly elected or whether any and if so what person other than the respondent was or is entitled to be declared duly elected ; if the court shall determine that the respondent was duly elected such election shall be and remain as valid as if no petition had been presented against the same. If the court shall determine that the respondent was not duly elected but that some other person was or is entitled to be declared duly elected the respondent shall forthwith be deemed to have vacated his seat ; and the court shall forthwith certify such determination to the Administrator who shall thereupon by proclamation in the *Provincial Gazette* declare such other person duly elected. If the court shall determine that the respondent was not duly elected and that no other person was or is entitled to be declared duly elected the seat of the respondent shall forthwith be deemed to be vacant and the court shall forthwith certify such determination to the Administrator who shall thereupon command that a new election shall take place for the purpose of filling up such vacancy and like proceedings shall take place in regard to such new election as are provided in regard to annual elections under this Ordinance.

When seat
claimed for
another

106. On the trial of a petition under this Ordinance complaining of an undue election or

return and claiming the seat for some person the respondent may give evidence to prove that the election of such person was undue in the same manner as if he had presented a petition complaining of such election.

person than
the
respondent.

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PROCEEDINGS.

107. An election petition under this Ordinance shall be in such form and state such matters as may be prescribed by rule of court.

Form of
petition.

108. Two or more joint candidates may be made respondents to the same petition and such petition shall be filed as one petition and be tried at the same time but for all the purposes of this Ordinance such petition shall be deemed to be a separate petition against each respondent.

Conditions
when two or
more joint
candidates
are
respondents.

109. When under this Ordinance more petitions than one are presented relating to the same election or return all such petitions shall in the list of petitions be bracketed together and shall be dealt with as one petition but such petition shall stand in the election list in the place where the last of such petitions would have stood if it had been the only petition presented unless the court or a judge thereof shall otherwise direct.

Petitions
relating to
same election
to be heard
together.

WITNESSES.

110. Witnesses shall be summoned and sworn in the same manner as in a trial before the Supreme Court and shall be subject to the same penalties for perjury.

Summoning
witnesses.

111. On the trial of an election petition under this Ordinance the court may examine any witness or any person in court although such witness or person is not called or examined by any party to the petition. After the examination of a witness as aforesaid by the court such witness may be cross-examined by or on behalf of the petitioner and respondent or either of them.

Witness not
summoned
may be
examined.

112. No person who is called as a witness at the trial of any election petition shall be excused from answering any question relating to any corrupt or illegal practice at or connected with any election then forming the subject of inquiry on the ground that the answer thereto may criminate or tend to criminate himself: provided

Witness not
entitled to
refuse to
answer
because he
may
criminate
himself but
protected

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from
consequences
of such
answer.

that where any witness shall answer every question relating to any matters aforesaid which he shall be required by the court to answer and the answer to which may criminate or tend to criminate him he shall be entitled to receive from the court under the hand of the registrar a certificate stating that such witness was upon his examination required by the said court to answer questions or a question relating to the matters aforesaid the answer or answers to which criminated or tended to criminate him and had answered all such questions or question; and if any indictment or action be at any time thereafter pending in any court against such witness for any offence under this Ordinance committed by him previous to the time of his giving his evidence and at or in relation to which the witness may have been so examined the court shall on production and proof of such certificate stay the proceedings in such indictment or action; provided that no statement made by any person in answer to any question put to him by or before such court shall except in cases of indictment for perjury be admissible in evidence against him in any proceedings civil or criminal.

Witnesses'
expenses.

113. The reasonable expenses incurred by any person appearing to give evidence at the trial of an election petition under this Ordinance according to the scale usually allowed to witnesses on the trial of civil actions in the Supreme Court in this Province may be allowed to such person and such expenses shall be deemed to be costs of the petition.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

Petition not
to be
withdrawn
without
leave.

114. An election petition under this Ordinance shall not be withdrawn without the leave of the court and after such notice has been given as such court may direct.

Substitution
of petitioner
may be
asked for.

115. On the hearing of the application for withdrawal any person who might have been a petitioner in respect of such election to which the petition relates may apply to the court to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

116. The court may if it think fit substitute as a petitioner any such applicant as aforesaid and may further if the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.

Court may order substitution.

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117. If no such order is made with respect to the security given on behalf of the original petitioner security to the same amount as would be required in the case of a new petition and subject to the like conditions shall be given on behalf of the substituted petitioner before he proceeds with his petition and within fourteen days after the order of substitution.

When fresh security required.

118. Subject as aforesaid a substituted petitioner shall stand in the same position as nearly as may be and be subject to the same liabilities as the original petitioner.

Substituted petitioners.

119. If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

Costs of withdrawn petitions.

120. When there are more petitioners than one no application to withdraw a petition shall be made without the consent of all the petitioners.

Consent of co-petitioners required for withdrawal.

121. An election petition under this Ordinance shall be abated by the death of the sole petitioner or petitioners but such abatement shall not affect the liability of the petitioner or petitioners to the payment of costs previously incurred.

Abatement by death.

122. On the abatement of a petition any person who might have been a petitioner in respect of the election to which the petition relates may within twenty-one days after such abatement apply to the Supreme Court or any judge thereof to be substituted as a petitioner and such court or judge may thereupon if it or he thinks fit substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf security to the same amount is given as is required in the case of a new petition.

Consequence of abatement.

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Respondent
who has
given notice
that he will
not oppose
cannot
appear.

123. A respondent who has given notice that he does not intend to oppose the petition shall not be allowed to appear or to act as a party against such petition in any proceedings thereon and shall not sit or vote in the council to which he had been elected pending the result of the trial of the petition and the court shall in all cases in which such notice has been given report the same to the mayor.

Costs.

Court to
decide as to
costs.

124. All costs charges and expenses of and incidental to the presentation of a petition under this Ordinance and to the proceedings consequent thereon shall be defrayed by the parties to the petition in such manner and in such proportions as the court before which the same is tried or to be tried may determine regard being had to the disallowance of any costs charges or expenses which may in the opinion of the court have been caused by vexatious conduct unfounded allegations or unfounded objections on the part either of the petitioner or the respondent and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused whether such parties are or are not on the whole successful.

Taxation
of costs.

125. The costs may be taxed and recovered in the same manner as the costs of an ordinary action at law in the Supreme Court in this Province.

Neglect
to pay
witnesses.

126. If any petitioner in an election petition presented under this Ordinance shall neglect or refuse for the space of one month after demand to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to him for his costs charges or expenses and if such neglect or refusal be proved to the satisfaction of the court to which such petition was presented every person who has entered into a recognizance relating to such petition under the provisions of this Ordinance shall be held to have made default in his said recognizance and the registrar of the said court shall thereupon certify such recognizance to be forfeited and execution may thereupon by leave of the said court be sued out thereon at the suit of any such

witness or respondent from time to time as occasion may require.

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of 1912.

CHAPTER XI.

MISCELLANEOUS.

127. Notwithstanding the repeal of the Municipal Elections (Proportional Representation) Act 1909, the councillors of the Municipalities of Pretoria, Johannesburg, and Roodepoort-Maraisburg shall remain in office for the period for which they were elected, and during that period the provisions of the said Act shall remain of full force and effect so far as the said municipalities are concerned. Thereafter elections of councillors of the aforesaid municipalities shall be held as provided in Chapter V of this Ordinance.

Provisions of Act No. 23 of 1909 applicable for certain period.

128. Notwithstanding the repeal of the Municipal Elections Ordinance 1903 and amendments thereof and the Municipal Elections (Proportional Representation) Act of 1909 all acts done, proclamations issued, or proceedings taken respectively under that Ordinance and Act before the commencement of this Ordinance shall be deemed to have been done issued or taken under the provisions of this Ordinance.

Validation of proclamations issued, proceedings taken, etc., under laws repealed.

129. If through any error accident or omission anything required by law to be done in the preparation of any voters' roll or in the conduct of any election is omitted to be done or is not done in the manner or within the time fixed by law the Administrator may order all such steps to be taken as may be necessary to rectify any such error accident or omission or may validate anything which may have been irregularly done in matter or form so that the intent and purpose of this Ordinance may have effect. The provisions of this section shall apply to any such error accident or omission in the conduct of elections held in accordance with Chapter VIII Part I inclusive of the Local Government Ordinance 1912.

Validation of irregularities in connection with elections.

130. This Ordinance may be cited for all purposes as the Municipal Elections Ordinance 1912 and shall come into operation on such date as the Administrator shall declare by proclamation in the *Provincial Gazette*.

Short title and date of operation.

Ord. No. 8
of 1912.

First Schedule.

Section *One.*

REPEAL OF LAWS.

- The Municipalities Elections Ordinance (No. 38) of 1903 ;
- The Municipalities Elections Amendment Ordinance (No. 49) of 1904 ;
- The Municipalities Elections Amendment Ordinance (No. 26) of 1905 ;
- The Municipalities Elections Amendment Ordinance (No. 24) of 1906 ;
- The Municipal Elections (Proportional Representation) Act (No. 23 of 1909.

Second Schedule.

Section *Nineteen.*

To the Town Clerk,

Municipality of.....

I hereby apply to have my name put on the Voters' Roll of the Municipality of.....under the provisions of section *nineteen* of the Municipal Elections Ordinance 1912.

(1) I am a white person and a British subject of full age, and

(2) I am the owner of rateable property within the municipality of the assessed value of £..... situated at..... or

(3) I am the occupier of rateable property within the municipality of the assessed value of £.....situated at..... and have resided within the municipality for a period of six months immediately prior to this date.

(4) I have resided within the municipality for a period of twelve months, immediately prior to this date.

I do solemnly swear (or affirm) that the above statements are true.

.....
Signature of Applicant.

Signed and sworn or affirmed this.....day of.....

Before me.

.....
Justice of the Peace.

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of 1912.

Expenditure.

- Paid G.H., my election agent
- Paid to I.J., clerk, for.....days' services
- Paid to K.L., scrutineer, at..... ..
- (The names and descriptions of the agent and every clerk and scrutineer and the sum paid to each must be set out separately.)
- Paid to the following persons in respect of goods supplied or work and labour done :
- (The name and description and the nature of the goods supplied or the work and labour done by each must be set out separately.)
- Paid hire of rooms for holding public meetings ...
- Paid hire of rooms for holding committee meetings ...
- Paid for miscellaneous matters
- (The name and description of each person to whom any sum is paid, and the reason for which it was paid to him, must be set out separately.)

In addition to the above, I am aware of the following disputed and unpaid claims, viz. :—

	£	s.	d.
By T.U., for.....
(Here set out the name and description of each person whose claim is disputed, and the amount of the claim and the goods work or other matter on the ground of which the claim is based.)			

Except as appears from the above, I have not and to the best of my knowledge and belief, no person has made on my behalf any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of said election.

I have paid the sum of.....pounds altogether and no more for the purpose of the election and except as specified above no money security or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by any one to any other person for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election.

I do solemnly swear (or affirm) that to the best of my knowledge and belief the above is a full and true return of my expenses as candidate at the said election.

.....
(Signature of Candidate, C.D.)

Signed and sworn (or affirmed) this.....day of.....
before me.....

.....
(E.F., Justice of the Peace.)

No. 9 of 1912.] [Came into operation, 8th November, 1912. **Ord. No. 9 of 1912.**

AN

ORDINANCE

To Consolidate and Amend the Law relating to Municipal Government in this Province and the establishment of Health Committees therein, and to provide for matters incidental thereto.

(Assented to 22nd October, 1912.)

BE IT ENACTED by the Provincial Council of Transvaal with the assent of the Governor-General-in-Council, as follows:—

PRELIMINARY.

1. The Laws mentioned in the First Schedule to this Ordinance shall be and are hereby repealed to the extent set forth in the second column of such Schedule; provided that notwithstanding anything contained therein all enactments, provisions, regulations, and by-laws affecting natives, coloured persons, and Asiatics contained in or under the Proclamations, Ordinances, and Acts mentioned in such schedule shall remain of full force and effect.

Repeal of
Laws.

2. In this Ordinance unless inconsistent with the context.

Interpreta-
tion of terms.

“Administrator” shall mean the officer appointed under sub-section (1) of section *sixty-eight* of the South Africa Act 1909 or any amendment thereof acting on the advice and with the consent of the Executive Committee of the Province;

“Asiatic” includes any person belonging to the native races of Asia, not being a Malay born and resident in any British Colony or possession in South Africa, and not being an officer in the consular service of any Asiatic State or Dominion;

“author of a nuisance” shall mean the person by whose act, default or sufferance the nuisance is caused, exists or is continued;

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- “by-law” shall mean a by-law in force in a municipality and any outside area thereof made and approved under this Ordinance or under the authority of any previous Proclamation, Ordinance, or Act ;
- “coloured person” shall mean any person who is manifestly a coloured person not being a native or Asiatic as by this Ordinance defined ;
- “commencement of this Ordinance” shall mean the date on which this Ordinance came into operation ;
- “Governor-General” shall mean the officer administering the Government of the Union of South Africa acting by and with the advice and consent of the Executive Council thereof ;
- “health committee” shall mean a committee constituted under and by virtue of the provisions of Chapter IX of this Ordinance ;
- “local authority” shall mean and include a town council or village council or health committee ;
- “magistrate” shall mean the magistrate of a magisterial district in which a municipality is situate, and in the case of a municipality situate within a portion of a magisterial district for which a detached assistant magistrate has been appointed, the term “magistrate” shall include also such detached assistant magistrate ; and the term “magistrate” shall also include the person for the time being lawfully acting in that capacity or in the capacity of assistant magistrate or detached assistant magistrate ;
- “medical officer of health” shall mean the person for the time being lawfully acting in the capacity either of medical officer of health or of assistant medical officer of health of the local authority, provided however that the term medical officer of health as used in section *fifty-eight* shall not be deemed to include an assistant medical officer of health ;

“municipality” shall mean the area or district placed under the control and jurisdiction of a town council or of a village council ;

“native” shall include any person belonging to any of the aboriginal races or tribes of Africa south of the Equator and its islands and any person one of whose parents belongs to any such race or tribe ;

“nuisance” shall include—

(1) any premises or part thereof of such a construction or in such a state as to be offensive injurious or dangerous to health ;

(2) any street, pool, ditch, gutter, water-course, sink, cistern, water-closet, earth-closet, privy, urinal, cesspool, drain, waste-water receptacle, dung-pit, ash-bin or ash-pit so foul or in such a state or so situated as to be a nuisance or injurious or dangerous to health ;

(3) any well or water supply injurious or dangerous to health ;

(4) any tank or cistern used for the supply of water for domestic purposes so placed, constructed or kept as to render the water therein liable to contamination, causing or likely to cause risk to health or facilitate the breeding of mosquitoes ;

(5) any stable, cowshed, animal kraal, fowl house, or other building or premises in which any animal or animals are kept in such a manner or in such numbers as to be offensive, injurious, or dangerous to health ;

(6) any accumulation or deposit which is offensive, injurious, or dangerous to health, or any offensive matter, refuse, offal or manure lying or being within fifty yards of any street, or contained in uncovered trucks or wagons standing at or being at any station or siding or elsewhere on a railway so as to be offensive, injurious, or dangerous to health ;

(7) any work, manufacture, trade or business injurious to the health of the neighbourhood or so conducted as to be

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offensive, injurious, or dangerous to health ;

(8) any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates, or in which there is not for each person simultaneously occupying the same, whether by night or day, at least 300 cubic feet space and 36 square feet of floor space ; provided that this sub-section shall not apply to the housing of natives on mine compounds ;

(9) any school-house or any factory, workshop or workplace or portion thereof ;

(a) which is not kept in a cleanly state and free from effluvia arising from any drain, privy, water-closet, earth-closet, urinal or other source of nuisance, or

(b) which is not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that are offensive, injurious, or dangerous to health ; or

(c) in which the average proportion of carbonic acid in the air at about breathing level exceeds 10 volumes in 10,000 or, where gas or oil is used for lighting purposes, exceeds 18 volumes in 10,000, while such gas or oil is in actual use, or

(d) which is so overcrowded while work is carried on as to be injurious or dangerous to the health of those therein employed ;

(10) any chimney sending forth smoke in such quantity or in such a manner as to be offensive, injurious, or dangerous to health ;

(11) any churchyard, cemetery or other place of burial so situated or so crowded or otherwise so conducted as to be offensive, injurious, or dangerous to health :

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(a) a penalty shall not under any by-law or regulation be imposed on any person in respect of any accumulation or deposit necessary for or arising out of the carrying on of any business, trade or manufacture if the accumulation or deposit has not been kept longer than is necessary for the purposes of business, trade or manufacture, and the best available means have been taken for preventing injury or danger thereby to the public health, and

(b) in considering whether any dwelling-house or part thereof which is also used as a factory or workshop, or whether any factory or workshop used also as a dwelling-house is a nuisance by reason of overcrowding, regard shall be had to the circumstances of such other use;

“ occupier ” shall include any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein ;

“ outside area ” shall mean any land or interest in land held by a council for municipal purposes outside the municipality and not forming part of any other municipality ;

“ owner ” shall include any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether on his own account or as agent for any person entitled thereto or interested therein ;

“ premises ” shall include any land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, drain, ditch (open, covered or enclosed) whether built on or not and whether public or private ;

“ registered midwife ” shall mean every person whose name appears in the register of midwives kept in accordance with section

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forty of the Medical, Dental, and Pharmacy Ordinance, 1904, or any amendment thereof;

“regulation” shall mean a regulation made by the Administrator under this Ordinance and in force in the area of jurisdiction of any local authority;

“sanitary inspector” shall mean and include any person for the time being lawfully acting in the capacity of sanitary inspector of the local authority;

“street” includes any street, road or thoroughfare vested in a local authority;

“street trading” shall include the hawking of newspapers, matches, flowers and other articles, the distribution of handbills or other advertisements, playing, singing or performing for profit, shoe-blackening and any other like occupation carried on in streets or public places; and “street trader” shall include any person who engages in any such occupation so carried on;

“town clerk” and “town treasurer” shall mean the persons for the time being lawfully acting respectively in the capacities of town clerk and town treasurer for the municipality;

“town council” shall mean a council constituted under and by virtue of the provisions of Chapter I of this Ordinance;

“village council” shall mean a council constituted under and by virtue of the provisions of Chapter VIII of this Ordinance;

Application
of Ordinance.

3. This Ordinance shall apply to every local authority constituted thereunder in the manner and to the extent prescribed therein.

Non-applica-
tion of certain
Laws.

4. (1) Notwithstanding the repeal of section *fifty-nine* of the Municipal Corporations Ordinance 1903, all taxes payable under the law now in force in respect of erven within the municipal boundaries shall form part of the revenue of the Council of the Municipality wherein the said taxes are imposed; provided that such taxes shall not be collected within any municipality except as is otherwise provided in sub-section (2) of section *one hundred and forty-four* of this Ordinance, or unless the Administrator under the provisions of sub-section

(1) of that section shall proclaim that the said taxes shall be collected in the municipality, and for the period mentioned in such proclamation.

(2) (a) Save as is provided in this Ordinance, the provisions of Law No. 2 of 1882, Law No 8 of 1899 and any amendments thereof shall not apply to any pound established by a town or village council.

(b) The provisions of the Registration and Control of Dogs Act 1907, or any amendment thereof, shall not apply within any municipality.

(c) The provisions of Law No. 8 of 1888 shall not apply to any market established or carried on by a town or village council as soon as by-laws or regulations relating to such market have come into operation.

(d) the provisions of Law No. 13 of 1894 or any amendment thereof shall not apply to the business of pawnbroking carried on within any municipality in which by-laws or regulations relating to pawnbrokers have come into operation.

5. This Ordinance is divided into eleven chapters relating to the following matters :—

Division of
Ordinance.

Chapter I—Constitution of Town Councils ;

Chapter II—Mayor and Deputy-Mayor of Town Councils ;

Chapter III—Meetings and Proceedings of Town Councils ;

Chapter IV—Conduct of Members and Servants of Town Councils ;

Chapter V—Financial (Town Councils) ;

Chapter VI—Powers and Duties of Town Councils ;

Chapter VII—Provisions as to Licences and By-laws ;

Chapter VIII—Village Councils ;

Chapter IX—Health Committees ;

Chapter X—Special Powers of Town Councils ;

Chapter XI—General.

Chapter V is sub-divided into two parts relating respectively to (I) Revenues, (II) Accounts and Audit ;

Chapter VI is sub-divided into three parts relating respectively to (I) General Powers, (II) Works, (III) Special Powers ;

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Chapter VII is sub-divided into two parts relating respectively to (I) Licences, (II) By-laws ;

Chapter VIII is sub-divided into two parts relating respectively to (I) Constitution and Election of Village Councils, (II) Powers and Duties of Village Councils ;

Chapter X is sub-divided into three parts relating respectively to (I) Certain Special Provisions, (II) Sewerage and Drainage Works, (III) Other Works ;

Chapter XI is sub-divided into three parts relating respectively to (I) Powers of Administrator in Local Authority's Default or in Emergency, (II) Reconstitution of Local Authorities, (III) Miscellaneous.

CHAPTER I.

CONSTITUTION OF TOWN COUNCILS.

Establishment of town councils for certain existing municipalities.

6. (1) The councils of municipalities established under Ordinance No. 58 of 1903 and Ordinance No. 41 of 1904 and mentioned in the Second Schedule to this Ordinance, the Council of the municipality of Roodepoort-Maraisburg, and the councils of the municipalities of Pretoria and Johannesburg established under special laws relating to the municipalities of Pretoria and Johannesburg respectively, shall be deemed to be town councils constituted under this Ordinance, and shall be elected under the provisions of the Municipalities Elections Ordinance 1903 or any amendment thereof, and such councils shall under the name of the municipal council of

(the name of the town by which each council was designated prior to the commencement of this Ordinance) be each and severally a body corporate with perpetual succession and a common seal (with power to alter and change such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law.

(2) (a) Notwithstanding anything in this Ordinance contained, on and after its commencement the town councils mentioned in the Third Schedule to this Ordinance shall have assigned to them the special powers, duties, and provisions of this Ordinance as shown in the second column of the said Schedule, in like manner as if the Administrator had by proclamation under this Ordinance assigned to the said councils from such date the said powers, duties, and provisions.

Special provisions immediately applicable in the case of certain town councils.

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(b) In the case of works which at the commencement of this Ordinance are already in process of execution under any law existing before such commencement, but which under the provisions of this Ordinance require the consent of the Administrator, the consent of the Administrator to such works shall hereby be deemed to have been obtained and given.

7. (a) The areas of jurisdiction of town councils constituted under the provisions of the last preceding section shall be the areas of municipalities as defined by law or proclamation at the commencement of this Ordinance provided that the powers vested in the Administrator by section *nine* of this Ordinance may be applied in the case of any municipality for which a town council is constituted under the last preceding section.

Areas of existing municipalities.

(b) Any outside area held by a council for the purpose of native location, area for coloured persons, Asiatic bazaar, tramway, light or waterworks, cemetery, sewerage or drainage works or any other municipal undertaking shall (except it fall within another municipality) be under the control, jurisdiction and powers of the council, but shall not form portion of the municipality, and to that extent shall be subject to the powers and provisions of this Ordinance and the by-laws thereunder.

Outside areas.

8. The members of every council of a municipality mentioned in section *six* of this Ordinance and the mayor and deputy-mayor thereof shall continue in office under the provisions of the Municipalities Elections Ordinance 1903 or any amendment thereof, or the Municipal Elections (Proportional Representation) Act of 1909, or any amendment thereof, as the case may be, as if such council had not been reconstituted under the provisions of this Ordinance, and as if sections

Members of town councils to remain in office.

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Power of
Adminis-
trator in
regard to
muni-
cipalities.

eight, nine, and ten of the first-mentioned Ordinance had not been repealed by this Ordinance.

9. Subject to the provisions of this Ordinance, the Administrator may from time to time exercise all or any of the powers following; that is to say he may—

(1) (*a*) declare any town, village, or other area to be a municipality under the jurisdiction of a town council, and constitute for such municipality a town council to be elected in the manner provided by the Municipalities Elections Ordinance 1903 or any amendment thereof.

(*b*) Every town council so constituted shall under the name of the municipal council ofbe each and severally a body corporate with perpetual succession and a common seal (with power to alter and change such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law.

(2) assign a name to such municipality;

(3) describe the boundaries thereof;

(4) unite any two or more villages, so as to form one municipality;

(5) alter and adjust the boundaries of adjoining municipalities, and determine any questions arising out of such alteration and adjustment;

(6) sever any portion of a municipality from the municipality of which it forms a part, and constitute the same a separate municipality, or annex the same to any other municipality and from time to time make any apportionment of property rights and liabilities and give any directions as to any matters and things that may be necessary, in order to do justice between the municipalities concerned;

(7) alter from time to time the boundaries of any municipality;

(8) upon declaring any town or village or other area to be a municipality or upon the alteration of the boundaries of a municipality,

exempt any part of the area of such municipality from the provisions of the Local Authorities Rating Ordinance 1903 or any amendment thereof and, thereafter, in whole or in part, withdraw such exemption ;

(9) appoint any person or persons to inquire into and report upon the advisability of the exercise by the Administrator of any of the powers conferred on him by this section and may confer on such person or persons the powers, jurisdiction, and privileges of the Commissions Powers Ordinance 1902 ; notice of such appointment and particulars of the power which the Administrator proposes to exercise shall be published at least once a week during three consecutive weeks in the *Provincial Gazette* and in a newspaper circulating in the neighbourhood where it is proposed to exercise such power or powers ;

and, whenever one class of local authority is constituted under this Ordinance for any area in lieu of another class of local authority, the Administrator may make an order applying *mutatis mutandis* any provision of Part II of Chapter XI.

10. The Administrator may exercise any of the powers by this Chapter conferred after the presentation of such petition as is hereinafter described and after the publication, at least once a week during three consecutive weeks, of the substance and prayer of such petition, in the *Provincial Gazette* and in a newspaper circulating in the neighbourhood where it is proposed to exercise such powers, provided that such publication shall not be necessary when the Administrator shall have appointed any person or persons under the provisions of sub-section (9) of the last preceding section to inquire into the subject matter of any such petition and shall have notified such appointment and the subject of the inquiry in terms of that sub-section. It shall be in the discretion of the Administrator to refuse the prayer of any such petition or to grant the whole or any part thereof.

How such powers to be exercised after petition presented.

11. Every petition for the constitution of a town council under this Ordinance shall—

How petitions to be signed.

(1) if a municipality already exists for the area for which a town council is desired, be

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signed by not less than two-thirds of the members of the village council of such municipality ;

(2) if no such municipality exists, be signed by not less than fifty persons entitled to vote for the election of members of the health committee for the area for which a town council is desired, or if no health committee exists, then by fifty persons residing within such area and included on any register for the time being in force of persons qualified to vote at an election of members of the Provincial Council for the electoral division comprising such area.

Particulars to be stated in petitions.

12. Every petition shall state precisely to what extent the exercise of the powers by this Chapter conferred upon the Administrator is desired by the petitioners, and shall pray for such specific exercise thereof, and may also pray for any partial exercise of such powers, and every petition for the constitution of a municipality shall state the proposed boundaries thereof.

Petitions may be opposed.

13. It shall be competent for any persons interested, within thirty days of the first publication in the *Provincial Gazette* of the substance and prayer of a petition as provided in section *ten*, or of the appointment of a commissioner or commissioners under sub-section (9) of section *nine* to present to the Administrator or to such commissioner or commissioners as the case may be, any counter-petition setting forth the grounds of opposition to the exercise by the Administrator of any of the powers conferred by this Chapter.

Notice to be given of Administrator's intention to exercise powers of his own accord.

14. The Administrator may from time to time exercise any of the powers conferred by this Chapter without the presentation of any petition, provided that unless a commissioner or commissioners be appointed under the provisions of sub-section (9) of section *nine* before the exercise of any such power, notice be given once a week during three consecutive weeks in the *Provincial Gazette* and in a newspaper circulating in the neighbourhood where it is proposed to exercise such power or powers stating the intention of the Administrator to exercise such powers. If within thirty days after the date of the first publication of such notice or after due inquiry by a commissioner if

one be appointed, no sufficient cause shall be shown why the power proposed to be exercised shall not be exercised, the Administrator may exercise such power.

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CHAPTER II.

MAYOR AND DEPUTY-MAYOR OF TOWN COUNCILS.

15. At the first meeting of the council held after the first election of councillors referred to in the Municipalities Elections Ordinance, 1903, or any amendment thereof, and thereafter at the first meeting of the council held after every annual election of councillors, the councillors present shall elect one councillor to be mayor who shall be styled mayor of the municipality for which he is so elected, and who shall forthwith enter upon his office and continue therein until his successor be appointed after the next ensuing annual election of councillors, unless his office be sooner vacated; and, in the event of his office being vacated, a successor shall, at the meeting next but one of the council held after the vacancy, be chosen by the councillors from amongst themselves, and such successor shall forthwith enter upon his office and serve as mayor for the remainder of the period for which the vacating mayor was elected; provided that if a mayor for any reason be not elected at a meeting as herein prescribed he may be elected at the first ordinary meeting of the council held thereafter or at a special meeting called for the purpose.

Election
of mayor.

16. (1) At the first meeting of the council held after every annual election of councillors the councillors present shall elect one councillor to be deputy-mayor, who shall continue in his office until his successor shall be appointed after the next ensuing annual election of councillors unless his office be sooner vacated, and, in the event of that office being vacated, a successor shall at the meeting next but one of the council held after the vacancy be chosen by the councillors from amongst themselves, and such successor shall serve as deputy-mayor for the remainder of the period for which the vacating deputy-mayor was elected; provided that if a deputy-mayor for any reason be not elected at a meeting

Election and
duties of
deputy-
mayor.

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as herein prescribed he may be elected at the first ordinary meeting of the council held thereafter or at a special meeting called for the purpose.

(2) The deputy-mayor shall, whenever it shall be necessary owing to the death, resignation, absence, illness, or incapacity of the mayor do all acts which the mayor as such may do. The fact of the death, resignation, absence, illness, or incapacity of the mayor shall be notified by the town clerk or his deputy at the first meeting of the council held after such death, resignation, absence, illness, or incapacity has happened or commenced, and be recorded in the council's minutes. The record shall be sufficient authority for all acts done by the deputy-mayor, which the mayor as such may do, from the date of the death or resignation or the commencement of the absence, illness, or incapacity of the mayor until a new mayor be appointed or the mayor resume his duties.

(3) At every meeting of the council, the mayor, if present, shall preside, and in the event of his absence, the deputy-mayor, and if neither the mayor nor the deputy-mayor be present at any meeting then the councillors present shall elect from among themselves a chairman to preside at such meeting, and if it shall appear at such meeting that the mayor and deputy-mayor are both absent from the municipality or are for any other reason incapable of acting, the council may by resolution confer on the chairman so elected full authority to do all acts which the mayor as such may do, until either the mayor or deputy-mayor is again able to act.

Council may vote allowance to mayor for expenditure during his term of office.

17. The council may vote out of the revenue of the council to the mayor such sum as it may consider sufficient as an allowance for his expenditure having regard to the position. The amount of such allowance shall be fixed at the commencement of the mayor's term of office and such allowance shall not be deemed to fall within the provisions of Chapter IV of this Ordinance. The expenditure of such allowance shall be accounted for to the finance committee but shall not be subject to any other audit.

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MEETINGS AND PROCEEDINGS OF TOWN COUNCILS.

18. The council shall hold an ordinary meeting for the dispatch of business as often as may be necessary but not less than once in every month. Meetings of council.

19. The mayor may at any time and shall, at the request in writing of not less than one-third of the members of the council, or where the council consists of more than eighteen members at the request in writing of not less than six members, call a special meeting of the council; provided that the notice of any special meeting shall specify the object of the meeting. Special meetings.

20. Notice of the time and place of every meeting of the council shall be served on every councillor either personally or by leaving the same at his usual place of abode or at his business address twenty-four hours at least before such meeting. Such notice shall be signed by the mayor or by the town clerk. The accidental omission to serve on any councillor such notice as is referred to in this section shall not affect the validity of any meeting. Notices of meetings.

21. Every meeting of the council shall be open to the public and the press; provided that this section shall not apply to any committee of the council or to a committee of the whole council. Meetings of council open to the public.

22. Save as is otherwise specially provided in this Ordinance, all acts, matters or things authorized or required to be done by the council and all questions that may come before it shall be done and decided by the majority of the councillors present at any meeting at which are present not less than one-half of the councillors or such larger proportion thereof as the council may from time to time fix. Quorum.

23. In case of an equality of votes the chairman of the meeting shall have a second or casting vote. Casting vote of chairman.

24. The councillors present at any meeting may from time to time adjourn such meeting, and if at any meeting a sufficient number of councillors Adjournment of meetings.

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be not present to exercise the powers vested in the council, the members present or if there be no member present, the town clerk shall adjourn the meeting and may appoint for the adjourned meeting such day and hour as may be thought convenient.

Minutes.

25. The minutes of the proceedings of every meeting of the council and any committee thereof shall be regularly entered in books kept for that purpose and shall be confirmed at the same or next succeeding ordinary meeting. Every such minute so entered when signed by a councillor describing himself as or appearing to be chairman of the meeting at which the minute is confirmed shall in the absence of proof of error therein be deemed a correct record of the proceedings of the meeting of which it purports to be a minute.

Committees.

26. (1) The council may appoint out of its own body such and so many committees, either of a general or special nature, and constitute them of such number of councillors as it may think fit, for any purpose which in its judgment would be better managed by means of a committee, and subject to the provisions of the next succeeding section may delegate to any such committee with or without restrictions or conditions as it may think fit any of its powers or duties except any power of raising money by rate or loan or any other power as to the exercise of which special provision is made in this Ordinance and may fix the quorum of any such committee. The mayor shall be *ex officio* a member of every such committee.

(2) Each committee shall report its proceedings to the council, but to the extent to which the council so directs the acts and proceedings of the committee shall not require the approval of the council.

(3) Each committee shall elect its own chairman and may also elect a vice-chairman.

(4) Every committee appointed by the council may be dissolved after notice of motion to that effect by the vote of a majority of the whole council.

(5) Every councillor shall be elected by the council to serve on at least one committee.

27. The council shall from time to time appoint a finance committee for regulating and controlling the finances of the council.

Finance committee.

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No expenditure shall be incurred unless provision has been made therefor on a detailed estimate submitted by the finance committee and approved by the council, and every payment from the funds of the council shall be made by the finance committee who shall submit at each ordinary meeting of the council for information a schedule of all payments made.

28. Every committee appointed by the council may meet from time to time, and may adjourn from place to place, as it may think proper, and no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the council, or if no quorum be fixed, two members be present. At all meetings of the committee the chairman if present shall preside and in the event of his absence the vice-chairman, if any, and if neither chairman nor vice-chairman be present one of the members present shall be appointed to take the chair and all questions shall be determined by a majority of votes of the members present, and, in the event of an equal division of votes, the member occupying the chair shall have a second or casting vote.

Meetings of committees.

29. Any councillor who, without having first obtained leave from the council, shall absent himself from three consecutive ordinary meetings of the council and any member (other than an *ex officio* member) of the finance or any other standing committee appointed by the council who without first having obtained leave either from the council or the committee shall absent himself from three consecutive ordinary meetings of the committee shall become disqualified from continuing to be a councillor. The town clerk shall at the next ordinary meeting of the council after any such continued absence of a councillor report the same, and the mayor shall thereupon declare the seat of such councillor vacant.

Absence of councillors from meetings.

30. Until the contrary is proved, whenever a minute of the proceedings of a meeting has been entered and signed, such meeting shall be deemed

Meetings to be deemed duly held.

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to have been duly convened and held, and all the councillors at the meeting shall be deemed to have been duly qualified, and in the case of proceedings so recorded of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matter referred to in the minutes.

Minutes of proceedings and treasurer's accounts open to inspection.

31. (1) The minutes of proceedings of the council shall at all reasonable times be open to the inspection of any inhabitant of the municipality who may obtain a copy thereof or an extract therefrom on payment of the fee (if any) prescribed by by-law.

(2) The accounts of the council shall be open to the inspection of any councillor, who may make a copy thereof or an extract therefrom.

(3) The annual statement or abstract of the council's accounts shall be published in such manner and at such time as the Administrator may from time to time direct. Copies of accounts so published shall be delivered to any inhabitant of the municipality on payment of the fee, if any, prescribed by by-law.

Contracts for execution of work or supply of goods.

32. (1) Except in cases of emergency, before any contract for the executing of any work or furnishing of any goods to the value or amount of one hundred pounds or upwards is entered into by the council, fourteen days' clear notice at the least shall be given in a newspaper circulating in the municipality, or, if there be no such newspaper, then by affixing outside the principal door of the municipal offices and in two or more other conspicuous places within the municipality, a notice expressing the purpose of such contract and inviting any person willing to undertake the same to make proposals for that purpose to the council.

(2) The council shall not consider such proposals or conclude the contract until full and similar particulars have been supplied to every person applying to the council therefor within three days after the said notice was first published or affixed. Such particulars shall be supplied to the applicants by the council within ten days after the notice was first published or affixed.

(3) The council or the committee thereof duly authorized by the council shall accept the proposal

which having regard to all the circumstances appears to them to be most advantageous, and may take security for the due and faithful performance of every such contract or the council may decline to accept any proposal.

(4) Where such contracts are entered into to the value or amount of one hundred pounds or upwards without being put up to public tender the reasons shall be stated by the finance committee in a report to be read out to the council before the resolution to make such contract has been passed, and such report shall be attached to the resolution and entered in the minutes of the council.

(5) Nothing in this section shall apply to any contract for the purchase by the council of produce or other perishable goods bought on a public market or to any purchase entered into by the council as the result of bidding at a public auction.

33. Save as is otherwise in this Ordinance or the Municipal Powers of Expropriation Ordinance 1903 expressly provided, the Arbitration Ordinance 1904 or any amendment thereof shall *mutatis mutandis* apply to any arbitration in which the council is concerned.

Provisions as to arbitration.

34. Every order notice or other document requiring authentication by the council shall be sufficiently authenticated, if signed by two councillors or by the town clerk or by any officer of the council duly authorized thereto by any resolution, by-law, or regulation.

Authentification of documents.

35. All proceedings of the council or of any person acting as mayor, deputy-mayor, councillor, or town clerk (as the case may be) shall, notwithstanding that it be discovered that there was some defect in the election or appointment of the person so acting or that he was disqualified, be as valid and effectual as if the person had been duly elected or appointed and qualified.

Validity of council's proceedings notwithstanding certain defects in election or appointment.

CHAPTER IV.

CONDUCT OF MEMBERS AND SERVANTS OF TOWN COUNCILS.

36. (1) No councillor or his partner or employee shall act for reward as an advocate attorney or law-agent either on behalf of or against the

Prohibition of councillors, their partners or employees

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or against
council in
professional
capacity for
reward.

council, and no councillor or his partner or employee shall act for the council for reward as medical practitioner, veterinary surgeon, architect, engineer, surveyor, accountant, valuer or appraiser, or in any other professional capacity; provided that nothing in this section shall apply to the payment to any medical practitioner of such fee as is prescribed by law, regulation, or by-law for the rendering to the council of a certificate of notification of any case of infectious disease.

(2) Any councillor contravening this section shall be liable on conviction to a fine not exceeding fifty pounds, and the court before which he is convicted may order that he shall refund to the council the amount of any fees received by him in respect of his acting as aforesaid and that he shall vacate his seat, and his seat shall thereupon become vacant.

Provisions as
to councillors
being
interested in
contracts with
the council.

37. (1) No councillor shall either on his own behalf or on behalf of his wife or on behalf of a partnership in which he or his wife is interested contract with the council for the performance by the council or such councillor or partnership of any work or as vendor, purchaser, or otherwise, and any contract or bargain entered into by or on behalf of the council in which a councillor is in any way directly or indirectly interested shall be null and void; provided that no contract or bargain shall be avoided or set aside under the provisions of this sub-section where a councillor is merely interested in such contract or bargain as shareholder in a company having a share capital or where the contract is for the supply by the council of any thing or the rendering by it of any service at the ordinary published tariff charges for such supply or service or where a councillor purchases land or goods disposed of by the council by public auction.

(2) Any councillor who contravenes this section shall be liable on conviction to a fine not exceeding fifty pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months. The court before which he is convicted may order that he shall account to the council for any profits which may accrue to him in respect of such contract or bargain and that he shall vacate his seat, and his seat shall thereupon become vacant.

(3) It shall be the duty of the auditor of the accounts of the council appointed by the Administrator under section *fifty-five* of this Ordinance to examine from time to time the minutes of the council for the purpose of ascertaining whether the provisions of this section have been complied with, and to report to the Administrator any cases in which it shall appear to him that there has been any failure to comply with such provisions.

38. A councillor shall not in or before the council or any committee thereof be present at or take part in the discussion of or vote upon any expropriation or purchase of land by the council, claim, application for licence, negotiation, or legal proceedings in which he, his partner, or any person by whom he or his partner is employed, or whose attorney or agent he or his partner is, has directly or indirectly any pecuniary interest.

Councillor not to speak or vote where he or his partner has pecuniary interest.

Any councillor contravening this section shall be liable on conviction to a fine not exceeding fifty pounds, and the court before which he is convicted may order that he shall vacate his seat, and his seat shall thereupon become vacant; provided that the court shall not make such order if it be proved that such contravention arose from mistake or inadvertence and did not arise from any want of good faith.

39. Notwithstanding anything in this Ordinance contained no councillor shall be prohibited from voting upon or discussing in or before the council or any committee thereof

Saving as to certain cases.

(i) any scheme for the imposition of special rates, or

(ii) the tariff charges for, or the regulations and conditions generally applicable to the supply by the council of anything, or the rendering by the council of any service whether in the whole municipality or any portion thereof.

40. A councillor shall not by himself or his partner or employee act as agent or representative of any other person—

Councillor not to act as agent before court or committee appointed by council.

(a) before any valuation court appointed by the council under the Local Authorities Rating Ordinance 1903 or any amendment thereof; or

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(b) before any other court or committee appointed by the council to deal with the rating of property by way of special assessment or otherwise; or

(c) before any committee of the council appointed to consider or deal with applications for any licence which the council has power to grant.

Any councillor contravening this section shall upon conviction vacate his seat, and be liable to a fine not exceeding fifty pounds.

Disqualification where seat is vacated.

41. Any councillor who is required to vacate his seat under any of the provisions of this Chapter shall not be capable for a period of three years thereafter of being elected a councillor for any municipality, or of holding a commission as justice of the peace, or of sitting on any valuation or licensing court.

Penalty on members and officials for receiving bribes and on persons bribing or attempting to bribe members and officials.

42. (1) Any councillor, or any officer, or servant of the council or any person carrying out on behalf of the council any statutory power or duty whether for himself or for any other person corruptly solicits, or receives, or agrees to receive from any person any fee, advantage, or reward (whether pecuniary or otherwise) as an inducement to or in consideration of or otherwise on account of his doing or forbearing to do anything in respect of any matter or transaction (actual or proposed) in which the council is concerned, shall be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment with or without hard labour for a period not exceeding five years and in addition, in the case of any such officer or servant to dismissal from office, and to forfeiture of any claim to compensation or pension to which he might otherwise have been entitled, and in the case of a councillor, he shall *ipso facto* be disqualified from continuing a councillor or being elected or appointed to any public office for a period of seven years from the date of such conviction.

(2) Any person who directly or indirectly gives, offers, or promises to a councillor or to any officer or servant of the council or to any person carrying out on behalf of the council any statutory power or duty, any fee, advantage, or reward whether for the benefit of such councillor, officer, or servant, or of another person as an inducement

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to or in consideration of or otherwise on account of such councillor, officer, or servant doing or forbearing to do anything in respect of any matter or transaction (actual or proposed) in which the council is concerned shall be liable on conviction to a fine not exceeding six hundred pounds to imprisonment with or without hard labour for a period not exceeding seven years, or to both such fine and imprisonment.

43. (1) No officer or servant of the council shall in any wise be concerned or interested in any bargain, contract, or arrangement whatsoever made by or with the council. If any such officer or servant is so concerned or interested or, under cover of his office or employment, exacts or accepts any promise, fee, or reward whatsoever other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Ordinance and shall be liable to a fine not exceeding fifty pounds. Any profits, fee, or reward, which may have accrued to such officer or servant or which may accrue to him by reason of such bargain, contract, or arrangement, may be recovered by the council before any court of competent jurisdiction.

No officer or servant of council to be interested in any bargain or contract of the council.

(2) Nothing in this section shall apply to any contract for the supply by the council of anything or the rendering by it of any service at the ordinary published tariff charges for such supply or service.

44. No matter or thing done or omitted, and no contract entered into by the council, and no matter or thing done or omitted by any councillor or officer or servant of the council or other person acting under the direction of the council shall, if the matter or thing were done or omitted or the contract was entered into in good faith for the purposes of this Ordinance or of any by-law or regulation in force in the municipality, subject any such person personally to any action, liability, claim, or demand whatsoever; and any expense incurred by the council or any such person as aforesaid shall be paid by the council out of its revenues; provided that nothing in this section shall exempt any such councillor, officer, or servant or other person aforesaid from liability to be surcharged with the amount of any payment which may be disallowed by the auditor, appointed by the

Exemption of servants and members of council from personal liability.

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Administrator under section *fifty-five* of this Ordinance in the accounts of the council and which such councillor authorized or joined in authorizing.

CHAPTER V.

FINANCIAL. (TOWN COUNCILS.)

PART I.—REVENUES.

Revenue of
council.

45. The revenue of the council shall consist of—

- (a) all rates levied by the council ;
- (b) all fines imposed by a competent court and forfeited bail bonds for the contravention of by-laws, regulations, or the provisions of this Ordinance ;
- (c) all licence moneys on licences issued by the council and all market dues, tolls, rents, pound fees, and taxes on dogs chargeable or leviable by the council ;
- (d) all charges made by the council for the supply of electricity, gas, water, and sanitary services, and also all charges or profits arising from any service or undertaking carried on by the council under any powers vested in it ;
- (e) all other fees moneys or charges recoverable by the council.

Recovery of
sanitary rates.

46. (1) All moneys due for sanitary services shall be recoverable from the owner of the premises in respect of which the services were rendered, ; provided that the owner shall, in the absence of any agreement to the contrary, be entitled to recover from the occupier of the said premises for the time being any such charges paid by him in respect of the occupation of such occupier.

(2) When any charges due in respect of any premises for sanitary service shall remain unpaid for a period of three months after the date on which written notice shall have been given by the council to the owner of his indebtedness the council may at any time within twelve months after such date demand the amount of such charges or any part thereof from any occupier for the time being of such premises and on non-payment thereof may after one month from the

date of such demand recover the same from such occupier in the same manner as though he were the owner. And every such occupier shall be entitled to deduct from any rent or other amount payable by him to the owner of the premises any portion of such charges paid by or recovered from him under this sub-section which the owner could not lawfully have required him to pay and the production of the receipts for such portion of such charges so paid or recovered from such occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

47. No transfer of any premises within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Fourth Schedule to this Ordinance and signed and certified by the town clerk or other officer authorized thereto by the council, shall be produced to such registration officer, nor unless such statement shows—

Payment of rates taxes and other charges before transfer of premises.

(a) that all charges for a period of two years immediately preceding the date of application for transfer due in respect of such premises for sanitary services and lawfully made under this Ordinance or any by-laws or regulations; and

(b) that all charges (if any) for a period of two years immediately preceding the date of application for transfer due in respect of such premises on account of rates imposed under the Local Authorities Rating Ordinance 1903 or any amendment thereof, or for erf tax;

(c) that all sums (if any) due on account of any expenses incurred or advances made by the council under sub-section (2) of section *seventy-five*, sub-section (10) of section *one hundred and fifty-six*, and sub-section (1) of section *one hundred and sixty-seven* of this Ordinance

have been paid to the council.

The town clerk or other officer authorized by the council is hereby required to give the said statement on the demand of the owner of the premises.

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Books of council to be *prima facie* evidence of sums due.

48. The books and registers of the council and any extracts therefrom certified by the town clerk or other officer authorized thereto by the council shall in any proceedings for the recovery of sanitary fees or charges for the supply of gas, water or electricity, or for any other municipal service, be *prima facie* evidence of the amounts due for the same.

Borrowing powers.

49. (1) The council may by a majority of the councillors present at a meeting specially convened for the purpose (provided the number of members voting in the majority is equal to a majority of the full council) from time to time raise loans in such amounts and on such conditions as may be approved by the Administrator subject to the provisions of this Ordinance.

(2) Such loan shall be secured and charged indifferently on the whole of the land, rents, property, and revenues of the council, including any lands which may be specially placed at the disposal of the council under the provisions of any law and including all rates which the council may impose under the provisions of any law for the time being in force ; provided that this section shall not be deemed to confer upon the council any power to alienate such lands other than is conferred by such law.

(3) Where any such loan shall be raised by means of stock the provisions of Ordinance No. 3 of 1903 except section *fifty-one* thereof shall *mutatis mutandis* apply.

(4) If at any time any interest due on any loan (other than stock) shall remain unpaid for ninety days after demand therefor in writing has been lodged with the town clerk by the person entitled thereto or by his duly authorized representative, application may be made by such person or his representative to any competent court for the appointment of a receiver of the property and revenues on which the loan is secured.

(5) On the hearing of such application the court may make such order and give such directions as under the circumstances shall seem expedient for raising and payment of the moneys due. In particular the court may order that a rate or rates of such amount or amounts as it may fix be levied upon all rateable property within the municipality, and any rate so ordered to be levied

shall have the same incidence as any rate imposed by the council, and may be enforced in like manner, and the proceeds thereof shall be paid into court or otherwise as the court shall direct.

(6) If at any time default be made in the repayment of any loan or of any instalment thereof after a period of thirty days from the date on which such loan or instalment shall have become repayable the like proceedings may be instituted on the application of the person to whom such repayment shall be due or his duly authorized representative.

(7) The court, on such application in addition to any order which it is empowered to make under sub-section (5) may, if it shall think fit, order the sale of any property on which the loan may be secured, subject always to the provisions of any law as regards the alienation of any lands vested in the council under such law.

(8) Notwithstanding anything to the contrary contained in sub-section (17) of section *fifty-one* of Ordinance No. 3 of 1903 the security for bills issued under the provisions of that Ordinance shall be the security provided for by sub-section (2) of this section.

(9) Notwithstanding anything contained in this section Ordinance No. 3 of 1903 [as amended by Ordinances No. 23 of 1903 and No. I (Private) of 1904] or any further amendment of that Ordinance shall continue to apply to the municipality of Johannesburg, and it shall not be lawful for the council of that municipality to borrow money by means of stock or bills except in manner provided by that Ordinance.

50. The council may obtain advances from any bank by way of overdraft in such amounts and on such conditions as the Administrator may approve; and the provisions of the last preceding section for the security of such advances and for the recovery thereof shall apply in all respects as if such advances were loans raised under the last preceding section. Overdrafts.

51. Save when any loan or advance by way of overdraft has been authorized as aforesaid, no person or bank lending money to a council shall have any remedy or right whatsoever to recover such loan or advance from the council. If a Illegal borrowing.

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council borrows any money which it is not legally bound to repay, all the members who have joined in authorizing the borrowing of such money shall be jointly and severally liable to repay the sum and all interest thereon, and the same may be recovered from them by action in any competent court.

PART II.—ACCOUNTS AND AUDIT.

Accounts to
be kept.

52. The council shall cause proper books to be provided and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the council, and of the several purposes for which such sums of money have been received and paid.

Financial
year.

53. The accounts of the council shall be made up and an abstract thereof published not less than once in every financial year, and for the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirtieth day of June in each and every calendar year.

Council to
frame annual
estimates.

54. Not less than fourteen days before the expiry of any financial year the finance committee shall draw up and present at any ordinary or special meeting of the council a detailed estimate of the revenue and expenditure of the council for the next financial year. A copy of such statement shall be recorded in the minutes of the council.

Administrator
to appoint
inspectors
and auditors.

55. (1) The Administrator shall appoint one or more duly qualified persons being officers of the Public Service to examine from time to time the accounts and records of the council and the council shall, by the town clerk or other officer authorized by the council, produce and lay before the person or persons so appointed all books and accounts of the municipality with all vouchers in support of the same and all books, papers and writings in their power relating thereto.

(2) When no person or persons other than those appointed under the provisions of this section are appointed auditors of the accounts of the council under the provisions of section *one hundred and fifty-five* of this Ordinance, the council shall pay to the Administrator, within three months from the

date of the auditor appointed under this section signing and certifying the accounts of the council for any one financial year, such sum as the Administrator may from time to time determine not being more than 1 per cent. of the total expenditure of the council which has been brought to account and certified by such auditor for that financial year, provided that such sum shall in no case be less than five pounds.

(3) Where any charge is payable by the council to the Administrator under this section it shall be the duty of such auditor to certify, not less than once in each financial year, whether or not—

- (a) the accounts of the council are in order ;
- (b) separate accounts of all trading undertakings (if any) have been kept ;
- (c) the accounts issued present a true and correct view of the financial position of the council, of its transactions, and of the results of the trading (if any) ;
- (d) due provision has been made for the redemption and repayment of any moneys borrowed by the council whether in the form of municipal stock, bills, or otherwise ;
- (e) the amounts set aside for depreciation and obsolescence of plant are adequate ;
- (f) the value of the assets of the municipality has been fairly stated ;
- (g) all his or their requirements and recommendations (as auditor or auditors) have been complied with and carried out.

56. For the purpose of any audit under the provisions of the last preceding section the auditor may hear and receive evidence and examine witnesses upon oath (which oath the auditor is hereby empowered to administer) and, by summons under his hand, require such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers (including the minutes of the proceedings of the council or of any committee of the council) as may be necessary for such audit. Any person so required who shall without lawful excuse refuse to attend in obedience to such summons, or who, having appeared, shall refuse to be examined on oath or

Powers of
auditors.

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to take such oath, or, having taken such oath, to answer such questions as shall be put to him, shall be liable to a fine not exceeding twenty pounds for every such act or offence; provided that no conviction under this section shall be deemed to exempt the person convicted from liability to do or perform the act, matter, or thing required to be done or performed by him, or from being successively convicted and punished for every distinct commission of the same act or offence.

Auditors
power to
surcharge.

57. (1) The auditor or auditors appointed by the Administrator shall disallow every payment made without due authority according to law and surcharge the same on the person or persons making or authorizing the illegal payment, and shall charge against any person or persons responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of such person or persons, or of any sum which ought to have been brought into account by any such person or persons, and shall in every case certify the amount due from such person. Every sum so certified by the auditor shall be paid by such person or persons to the town clerk or other official appointed by the council within fourteen days after the same has been so certified, and, if not so paid, may be recovered from such person or persons as a debt by the auditor, who shall be paid by the council his reasonable costs and expenses incurred in such proceedings. Any sum so recovered shall be paid to the town clerk or other official appointed by the council to receive and give a discharge for revenues payable to the council; provided that the Administrator may remit the whole or any part of any sums surcharged against any person under this section.

(2) For the purposes of this section the persons making or authorizing any illegal payment shall include all councillors or members of any committee of the council who were present at the meeting of the council or committee at which such payment was authorized and who did not cause their votes against the resolution authorizing such payment to be recorded in the minutes.

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POWERS AND DUTIES OF COUNCIL.

PART I.—GENERAL POWERS.

58. The council shall from time to time appoint a town clerk and a medical officer of health, who shall be a person duly registered as a medical practitioner under any law for the time being in force in this Province governing the registration of medical practitioners, and may also appoint such other officers as it may consider necessary and may pay such salaries and allowances to any such officers as it may determine; and, unless it shall be otherwise stipulated in the contract with or in the appointment of an officer of the council it may at any time remove such officer upon notice of not less than one month or, in case of misconduct, immediately without notice; provided, however, that no officer holding the post of town clerk, town treasurer, town engineer, or medical officer of health shall be removed from office unless and until such removal shall have been decided upon by a majority of councillors present at a meeting specially convened for the purpose, and provided that the number of members voting in the majority is equal to a majority of the full council.

Appointment
of town clerk
and other
officials.

59. The council shall have the control and management of all—

Streets,
squares, etc.,
vested in
council.

- (a) roads, streets, thoroughfares, including foot pavements, footpaths, and side-walks;
- (b) squares and other open spaces, gardens, parks, and other enclosed spaces;
- (c) bridges, culverts, and ferries;
- (d) dams, canals, reservoirs, water-courses, and water-furrows;

which have been or shall be at any time set apart and appropriated by proper authority for the use and benefit of the public, or to which the inhabitants of the municipality shall at any time have or acquire a common right, and the same shall be vested in the council in trust to keep the same open (save as is otherwise provided in this Ordinance), and in repair so far as the finances of the council will permit, for the use and benefit of the inhabitants; provided that

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nothing herein contained shall make any of the municipalities through which the main reef road runs liable for its construction or maintenance.

For the purposes of this section—

(i) the expression “set apart and appropriated by proper authority” shall mean the filing in the Deeds Office or other registration office of a township plan approved by the Surveyor-General on which are marked such roads, streets, squares, to which the public have a common right of user.

(ii) The term “vested in the council” shall mean the statutory grant to the council of a servitude for the purposes mentioned in this section over the property so vested but shall not include the *dominium* of such property, except when by any law such *dominium* expressly passes to the council.

Power to appropriate public squares for certain purposes.

60. The council may, with the consent of the Administrator, set apart on any square or portion of a square or any other open space or portion thereof vested in the council under the last preceding section, a site or sites for the erection of public or municipal buildings, and cause such buildings to be erected and maintained, or permit the same to be erected and maintained by the Governor-General on sites so set apart; provided that the council or Governor-General (as the case may be) shall have or obtain the *dominium* of such site or sites, and shall cause to be defined and registered in manner by law prescribed the sites so set apart; provided further that no site so set apart shall be sold, let, or otherwise disposed of for any other purpose than public or municipal buildings; provided also that in respect of any site so set apart which shall not be used for a period of ten years for the erection and maintenance of a building for a public or municipal purpose, the consent of the Administrator aforesaid may be withdrawn and thereupon the Registrar of Deeds or other registration officer shall, upon the application of the Administrator, note in his registers the fact that such consent is withdrawn.

Power to close and divert streets temporarily.

61. The council may, at all times and upon such notice as it shall deem fit, close temporarily, or permanently, for any particular class of traffic

or temporarily for all traffic, any street, road, or thoroughfare vested in the council, or temporarily divert any such street, road, or thoroughfare for the purpose of executing repairs, or for any other municipal purpose which makes it necessary so to close or divert such street, road, or thoroughfare.

62. The council may, anything to the contrary in this Ordinance notwithstanding, permanently close or divert any street, road, or thoroughfare vested in the council under section *fifty-nine*, provided that the council shall, in the exercise of such power, be subject to the following conditions and restraints, that is to say :—

Power of council to close or divert permanently any street, road, or thoroughfare vested in the council.

(1) Before the council shall sanction the closing or diversion, not less than fourteen days notice shall be given at a meeting of the council of the intention to move therefor.

(2) Before the closing or diversion is carried out, the council shall prepare a plan showing the nature thereof, and shall give notice of the proposed closing or diversion not less than sixty days before its commencement to the Administrator and by publication in the *Provincial Gazette* and in one or more newspapers circulating in the municipality, as well as by a sufficient number of conspicuous placards posted on or near the street, road, or thoroughfare which it is proposed to close or divert; the notice shall set forth a place where the said plan shall be open for inspection at all reasonable hours; the council shall further at least thirty days before such closing or diversion takes place serve a copy of such notice on such of the owners or reputed owners, lessees or reputed lessees, and occupiers of all property abutting upon the portion of the street, road, or thoroughfare which it is proposed to close or divert, whose addresses can after reasonable inquiry be ascertained.

(3) It shall be competent for any such owner, lessee, or occupier or any other person aggrieved by such closing or diversion to serve upon the council within the period of sixty days aforesaid a claim in writing for compensation in consequence of such closing

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or diversion, and the council shall make compensation to such person for any damage occasioned to him thereby, the amount of such compensation in default of agreement being determined by arbitration; provided that in assessing the amount of compensation payable to any person hereunder the benefit or advantage derived or to be derived by such person by reason of such closing or diversion shall be taken into account.

(4) If any person interested as owner, lessee, or occupier in any property abutting on the street, road, or thoroughfare, which it is proposed to close or divert, or any other person aggrieved by such closing or diversion shall at any time within the period of sixty days aforesaid serve written notice on the Administrator of any objection to such closing or diversion, then, unless such objection be withdrawn, such closing or diversion shall not be carried out without the sanction of the Administrator.

(5) After the serving of any such objection the Administrator may appoint a commission of one or more persons to make an inquiry into the proposed closing or diversion and the objection thereto, and to report thereon; and on receiving the report of such commission the Administrator may make an order, disallowing the proposed closing or diversion, or allowing it with such modification (if any) as he may deem necessary.

(6) If the closing or diversion be allowed by the Administrator or if there be no objection to it under sub-section (4) of this section and the council proceed to carry out such closing or diversion, it shall, on completion of the work, give notice thereof to the Administrator, who shall, after due inquiry whether the closing or diversion has been properly effected in accordance with this section, notify the Surveyor-General and the Registrar of Deeds or other registration officer that the closing or diversion has been properly effected under this Ordinance and the Surveyor-General shall on being supplied by the council with a diagram framed by an admitted land surveyor, showing all details of

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the streets, roads, or thoroughfares closed or diverted cause such amendments to be made in the general plan of the township as are necessary to show such closing or diversion, and the Registrar of Deeds or other registration officer shall thereupon make corresponding entries in his registers.

Such conditions and restraints shall not apply in the case of any closing or diversion of a street, road, or thoroughfare which is authorized under the provisions of the Local Authorities Roads Ordinance 1904 or any amendment thereof.

63. (1) The council may from time to time cause the houses, buildings, or erections fronting upon all or any of the streets, roads, thoroughfares, footpaths, sidewalks, squares, and open spaces to be marked with such numbers as it thinks fit, and may cause the name, by which any street road, thoroughfare, footpath, sidewalk, square, or open space is to be known, to be put up or painted on a conspicuous part of any house, building, fence, wall, or place fronting thereon, and may further at its discretion change or vary any such number or name, whether or not such number or name existed before the commencement of this Ordinance, and any change or variation in the name of any street, road, thoroughfare, or square shall forthwith be notified by the council to the Surveyor-General who shall make the necessary alterations on the general plan of the township. Such changes or variations shall also forthwith be notified by the council to the Postmaster-General.

Numbering of houses and naming of streets.

(2) Any person destroying, pulling down, or defacing any such number or name, or, without the permission of the council, putting up any number or name different from the number or name put up by the council, shall be liable on conviction to a fine not exceeding ten pounds.

64. The council may, with the consent of the Administrator acquire by voluntary purchase, or may hire any land, way-leave, water-right, or any other property or servitude within or without the municipality which may be necessary for the purposes of this Ordinance.

Power to purchase land, etc.

65. The council may enter into contracts for the purpose of any work or service which it is itself by this Ordinance or by any proclamation

Power to enter into contracts.

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issued thereunder empowered to undertake or carry out; provided that the council shall not exempt the party or parties with whom it is contracting from the operation of any by-laws or regulations, but shall on the contrary stipulate that the party or parties with whom it is contracting shall within the municipality be subject, in the carrying out of the contract, to all by-laws and regulations; provided further that the council may by resolution authorize any of its officers to sign on behalf of the council contracts of such nature or description as shall be specified in the council's by-laws.

All such contracts lawfully made shall be valid and binding on the council and its successors and all other parties thereto, their successors heirs, or legal representatives (as the case may be).

Every such contract shall be deemed to be duly executed by or on behalf of the council if signed by the mayor or deputy-mayor of the municipality or by any one or more councillors thereto authorized by resolution of the council.

Areas for
coloured
persons.

66. The council may lay out on lands under its control either within or outside the municipality such areas for coloured persons as may be deemed desirable, erect suitable buildings thereon for the exclusive occupation of coloured persons and make charges therefor to be fixed by by-law, provided that no such area shall be established within any other municipality without the consent of the council thereof.

Power to
establish
pounds.

67. The council may establish pounds, but may not receive into any pound which it has established any animal which is liable to be impounded outside the limits of the municipality under the provisions of Law No. 2 of 1882 or any amendment thereof. The Administrator may from time to time make, alter, or rescind regulations

- (1) for the management of pounds by the council;
- (2) for fixing and defining the charges payable by the owners of impounded animals;
- (3) as to the conditions under which impounded animals may be sold by the council;
- (4) as to the transfer of property in such animals on such sale;

(5) to regulate the entry of police without warrant into pounds.

68. (1) The council shall have power by themselves or their officers or servants to enter into and upon any premises within the municipality, forcibly if need be, for the purpose of exercising any power of inspection inquiry or execution of work which is given to the council under this Ordinance or under any by-law or regulation in force within the municipality, provided that except for the purpose of carrying out any sanitary service or for any other purpose specially provided for in this Ordinance or any other law such power of entry shall not be exercised in respect of premises which are not used for the purpose of or in connection with any trade or business and are not situate in a native location save between the hours of 7 a.m. and 7 p.m. unless either—

Power of entry.

(a) there is reasonable ground for suspecting that any act causing a nuisance or constituting a contravention of this Ordinance or any by-law or regulation in force in the municipality is being committed on such premises at any other hour; or

(b) entry on such premises at some other hour appears on reasonable grounds to be necessary for the purpose of dealing with any case of infectious or contagious disease or any outbreak of fire, escape of water, or other emergency, whether actual or suspected.

(2) The medical officer of health or any sanitary inspector may when entering upon any premises in exercise of the power conferred by this section be accompanied by any European member of a police force lawfully established in the Province.

(3) Any by-laws or regulations made under this Ordinance may confer on the council its officers and servants such powers of inspection inquiry and execution of works as are reasonably necessary for the proper carrying out or enforcement thereof.

69. It shall be the duty of the council to provide for the burial of all destitute persons who die within the limits of the municipality other than those who die in hospital (not being inhabitants of the municipality) or in gaol or those who have not lived within the municipality for a

Duty of council to bury paupers.

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period of three months before their decease and the council is hereby authorized and empowered to incur any expenditure necessary therefor; provided however that if any native brought into the municipality by any person carrying on the business of recruiting native labour dies in the municipality within one month after his arrival, the council may recover from such person or his employer or principal such burial charges as are fixed in the by-laws with regard to cemeteries for the time being in force.

Summoning
of public
meetings.

70. The mayor may, from time to time if he shall see fit and upon receipt of a requisition signed by such number of enrolled voters for the municipality, as shall from time to time be fixed by resolution of the council or by by-law, requesting him to summon a public meeting of inhabitants for the discussion of any matter of public interest to be specified in the requisition summon such meeting at such time and place as he may determine, and any costs incurred by the mayor in connection with the summoning and holding of any such meeting may, if the council shall so resolve, be defrayed out of the revenue of the council; provided that no such meeting shall be called for the purpose of promoting, opposing, or discussing the election of any person as a councillor or as a member of any municipal body, or as a parliamentary representative.

General
powers.

71. The council may do all or any of the following things, namely—

(1) make, construct, alter, keep clean and in repair the roads, streets, squares and open spaces, dams, canals, reservoirs, water-courses, furrows, ferries, culverts, and bridges vested in the council under section *fifty-nine* hereof;

(2) establish, maintain, and carry out such sanitary services for the removal and destruction of or otherwise dealing with night-soil, urine, slops, rubbish, carcasses of dead animals, and refuse of all kinds, and make such charges therefor as the council may from time to time determine.

(3) establish and maintain cemeteries and make charges in connection therewith; and take over, control and maintain any existing

cemetery or burial ground, and close for burial purposes any church, municipal, private or other cemetery or burial ground or any portion thereof within the municipality, provided that no such closing shall take place until a resolution stating the council's intention to effect such closing has been passed by a majority of two-thirds of the councillors at the time in office, and has been published in the *Provincial Gazette* and in one or more newspapers circulating in the municipality ;

(4) erect, maintain, and keep in repair any buildings for any municipal requirement or purpose ;

(5) plant, trim, or remove trees in roads, streets, parks and open spaces ;

(6) light roads, streets, parks and open spaces, and erect and maintain lamps for that purpose ;

(7) establish, maintain, and carry on recreation grounds on town lands and on parks, squares, and open spaces vested in the council under section *fifty-nine* hereof, and make charges in connection therewith ;

(8) establish, erect, maintain, regulate and carry on markets and market buildings, and make charges in connection therewith ;

(9) make grants of money towards the establishment or maintenance of public hospitals and public libraries ;

(10) establish, erect and maintain dipping tanks, and make charges in connection therewith ;

(11) establish, erect, and maintain public lavatories, closets and urinals, above or below ground, and make charges in connection therewith ;

(12) pay the medical or funeral expenses of any person employed by the council, who suffers injury or dies as the result of an accident occurring in the course of his employment or as a result of illness contracted in consequence of such employment ;

(13) grant gratuities to the widows or relations of deceased officers and servants of the council ;

(14) let sell or otherwise alienate or dispose of any movable or immovable property of

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the council, including the granting of prospecting rights, option contracts and the alienation of rights to minerals, precious and base metals, and precious stones on town lands in any way competent under and subject to the provisions of the Precious and Base Metals Act, 1908, and any amendment thereof, and the Precious Stones Ordinance, 1903, and any amendment thereof provided

(a) that except in the case of any immovable property as to which special provision has been made by law no sale, lease or alienation of immovable property or the alienation of any rights to minerals or the granting of any prospecting or option contracts shall take place or be effective until the consent of the Administrator has been obtained;

(b) that, except in the case of a lease terminable by not more than three months' notice on either side previous to such sanction being obtained the resolution of the council to sell, lease or otherwise alienate or dispose of immovable property or to grant such contracts or leases shall be published, at least once a week, during three successive weeks in one or more newspapers circulating in the municipality;

(c) that all moneys received by the council from the sale of immovable property or the granting of such contracts or leases shall except in the case of alienations of town lands provided for in section six of the Town Lands Ordinance, 1904, or any amendment thereof, be used for the redemption and extinction of existing debt in such manner or where no debt exists for such capital expenditure as the council on a report from the finance committee may direct;

(15) sell all by-products resulting from the carrying on of any works or undertakings which the council is authorized to carry on;

(16) incur all expenditure necessary for the carrying out of any purpose of this Ordinance or any amendment thereof which the council is authorized to carry out, or of any purpose not specially provided for in this Ordinance which the Administrator may determine to be a purpose incidental to the exercise by the

council of its powers and duties under this Ordinance, including a reasonable amount of travelling and personal expenses of councillors and officers while on the business of the council ;

(17) do all things necessary for carrying out all the purposes for or in regard to which the council is authorized from time to time to make alter or revoke by-laws and for carrying into effect all by-laws or regulations.

All charges authorized by this section shall be regulated by by-law.

72. The council may from time to time make, alter, and revoke by-laws for all or any of the following purposes, namely—

Power of councils to make, alter and revoke by-laws.

(1) for regulating any of the things which the council is empowered under this Ordinance or any proclamation issued thereunder to do, establish, maintain, or carry on, and the charges to be made in respect thereof; except as regards pounds;

(2) for regulating the proceedings of the council and the duties and privileges of their officers and servants, and preserving order at council meetings including the power to suspend and exclude a member who disregards the authority of the chair or wilfully obstructs the business of the council; and for prohibiting, restricting, and regulating the publication and disclosure of the council's documents and records and the proceedings of any committee of the council or a committee of the whole council, and for punishing by suspension a member of the council who is guilty of a breach thereof;

Sanitation and Public Health.

(3) for establishing, maintaining, and compelling the use of any sanitary service which the council is authorized to carry out or regulate, or which may be established by virtue of any powers vested in the council for the removal and destruction of or otherwise dealing with night soil, urine, slops, rubbish, carcasses of dead animals and refuse of all kinds and for fixing the charges to be made in respect thereof;

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(4) for keeping the streets, roads, bridges, thoroughfares, and open spaces clean and free from filth, rubbish, or refuse and for prohibiting persons from throwing, dropping or depositing any filth, rubbish, glass, tins, paper, dead animals, waste or flushing water or other refuse, liquid or solid, on or in any street, road, bridge, thoroughfare, open space, vacant stand, vacant erf, spruit or water course, or from causing or allowing any such liquid to flow into any such place and for regulating or prohibiting the bathing or washing of persons, animals, or things in any such place ;

(5) for preventing the use or misuse and securing the closing of cesspools, and for compelling and regulating the provision, construction, position, screening, use, cleansing, and repair of, and for preventing damage to earth-closets, water closets, privies, ashpits, ashbins, urinals, sinks, fixed baths and fixed basins, waste pipes, drains, and slop tanks in connection with buildings ;

(6) for the prohibition, removal or abatement and the prevention of recurrence of nuisances, for enabling the council to serve notices either upon the author of a nuisance or upon the owner or occupier of the premises on which the nuisance exists or has existed and is liable to recur ; requiring the doing of such work (with or without specifying the nature thereof) within a reasonable time to be specified in the notice as is necessary for the removal or abatement and the prevention of recurrence of the nuisance and for providing that non-compliance with any such notice shall be an offence, and further for enabling the council to do such work at the expense of the person who has failed to comply with the notice, provided that where the nuisance arises from a want or defect of a structural character the notice shall be served on the owner of the premises ;

(7) for securing the proper construction of and regulating stables, cowsheds, animal kraals, fowl houses and for preventing the keeping of any animals on premises which

are not constructed in accordance with the council's by-laws or are so constructed or so situated that such animals if kept thereon are likely to cause a nuisance or injury to health, and for enabling the council or a committee thereof to prohibit the keeping of swine on any premises which the medical officer of health certifies to be so situated as to be unfit for the purpose;

(8) (a) for ascertaining the existence and cause of any nuisance arising from any drain, closet, cesspool, water supply, sink, trap, syphon, pipe, or other work or apparatus connected therewith, and for remedying the same and recovering the expenses incurred by the council in respect thereof, and to regulate the liability and penalty for nuisance in any yard or sanitary convenience used in common by the occupiers of two or more separate dwellings or by different tenants of the same building;

(b) for regulating, controlling, or prohibiting the construction or use of septic tanks and filter installations or other works for the disposal of sewage on private property;

(9) for preserving the public health;

(10) for preventing the outbreak and spread of infectious or contagious diseases, for declaring what diseases are notifiable for compelling the notification of such diseases, for compelling the removal of persons suffering from any such disease to suitable hospitals or places of segregation and their detention and treatment therein where in the opinion of the medical officer of health such removal, detention, and treatment are necessary either for the protection of the public health or by reason of the insufficiency or unsuitability of the patient's lodging or accommodation, for regulating and enforcing quarantine and the disinfection of persons, places, or things, and for authorizing the seizure and detention and ensuring the destruction (when necessary in the opinion of the medical officer of health) of articles which are infected or have been exposed to the risk of infection, upon payment of compensation to the owner thereof, such amount to be fixed by agreement or arbitration;

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(11) for compelling the giving of any information or the production of any documentary or other evidence required for the purpose of tracing the source and preventing the spread of infection, for requiring the closing of schools or trade premises which are suspected of being or are likely to become sources of infection, and for prohibiting persons who are or are suspected of being or are likely to become infected from carrying on any trade or business or engaging in any occupation which may cause the spread of an infectious or contagious disease;

(12) for requiring any person arriving in the municipality within fifteen days of leaving any district infected or suspected of being infected with plague, cholera, or yellow fever or within fifteen days of landing in South Africa from any ship so infected or suspected of being so infected, or from any ship which has within ten days prior to his landing cleared from or touched at any port so infected or suspected of being so infected to report to the medical officer of health his name and place of residence within the municipality;

(13) (a) for prohibiting and preventing the introduction into the municipality, the possession, sale or offering for sale for the purpose of human consumption or the handling (otherwise than for the purposes of destruction) of diseased animals, diseased meat, fish, or other articles of food or drink unfit for the use of man;

(b) for authorizing the seizure and ensuring the destruction (when necessary in the opinion of the medical officer of health) of any meat, fish or other article of food or drink which is diseased, unsound, unwholesome or unfit for the use of man;

(c) for permitting at the owner's risk such treatment in lieu of destruction of any diseased, unsound or unwholesome article of food as may render the same fit for the food of man;

(d) for authorizing the seizure and ensuring the destruction of diseased animals when certified to be necessary by a veterinary surgeon employed or approved by the Union Department of Agriculture;

- (e) for ordering the detention pending examination or inquiry of animals or articles of food or drink ;
- (f) for prescribing standards of composition, strength or quality, and for preventing the adulteration, misdescription or reduction below a prescribed or, where none has been prescribed, a proper standard and securing the sale in a pure state and in a condition which conforms with such standard of milk or any other article of food or drink or any drug ; and
- (g) for authorizing the council by its officers or servants to inspect and examine any animal, article or package and to cut into any dead animal or any article or package and to purchase samples and requiring the sale of samples for the purposes of this sub-section ;
- (14) for prohibiting, regulating, or licensing noisome and offensive trades, and compelling residents to keep their premises free from offensive or unwholesome matter ;
- (15) for regulating and licensing the killing of cattle and other animals and the sale of butchers' meat, and for the establishment and localization of slaughter houses and meat shops and their maintenance in a cleanly and proper state and for authorizing the entry on and inspection of slaughter houses and meat shops and the cattle, carcasses, and meat therein and to regulate the entry of the police and the inspection of skins, which must be stored for forty-eight hours after the killing of the animals ;
- (16) for licensing and regulating tea-rooms, cafés, restaurants, hotels, eating, boarding and lodging houses, bakehouses, butchers' shops, and all factories and places where articles of food or drink are manufactured or prepared for sale or use, or stored or sold ;
- (17) for licensing and regulating purveyors of milk and for licensing and regulating dairies milkshops, and cowsheds ; for regulating the conveyance and distribution and securing the identification of the source of milk or milk products distributed, offered for sale, or sold within the municipality ; for prescribing the conditions subject to compliance with which any milk or milk products produced

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or prepared within or outside the municipality may be introduced, distributed, stored, sold or used within the municipality, and prohibiting the introduction, distribution, storage, sale, or use within the municipality of milk or milk products in respect of which such conditions are not complied with; for enabling the council to certify the quality of any milk and prohibiting the unauthorized use of any terms employed by the council in denoting such quality; for prohibiting the introduction, distribution, storage, sale, or use within the municipality of any milk or milk products from any source within or outside the municipality when it appears to the council or a committee thereof on the certificate of the medical officer of health that the consumption of such milk or milk products is likely to cause the outbreak or spread of infectious or contagious disease; (18) for prohibiting the sale of tuberculous milk, for providing for the veterinary inspection of milch cows within the municipality and for requiring from time to time in respect of any milch cow from which is obtained milk or from the milk of which is prepared any milk product for introduction, distribution, storage, sale, or use within the municipality the production of a certificate of a veterinary surgeon approved by the principal veterinary surgeon, Transvaal, showing that such cows have been tested by the tuberculin test and are free from tuberculosis; provided that such certificate shall not be required in respect of any milch cow unless there is reasonable ground for suspecting that such cow is infected with tuberculosis or has been in contact with cattle so infected; (19) for licensing and regulating kaffir eating-houses and for prohibiting the employment or presence of white females in such eating-houses or in any house part of which is licensed for such purpose; (20) for regulating and licensing pedlars and hawkers; provided that no person, who sells only fresh farm produce grown on land occupied by him shall be required to take out a pedlar's or hawker's licence;

- (21) for regulating or preventing the washing of clothes on public or private premises, and licensing persons for washing and laundry work for the inhabitants of the municipality ;
- (22) for prohibiting the use by white persons for dwelling purposes of premises or yards occupied by natives, Asiatics, or coloured persons ;
- (23) for securing the prevention and destruction of rats and other vermin within the municipality and for enabling the council to set traps or to take other measures on any premises necessary for this purpose, and for prohibiting interference with such traps ;

Water.

- (24) for regulating the supply and distribution of any water under the control or management of the council, and for preventing waste and misuse thereof, for making charges for the use of water from water-furrows, and for compelling owners or occupiers to maintain in good order water-furrows abutting on their premises ;
- (25) for preventing the pollution of any water which the inhabitants have a right to use ;
- (26) for preventing the pollution of gathering grounds, rivers, canals, springs, wells, reservoirs, filter beds, water purification or pumping works, tanks, cisterns, or other sources of water supply or storage the water wherein or wherefrom is used or is likely to be used by man within the municipality for drinking or domestic purposes ;
- (27) for compelling the provision of a proper and sufficient water supply for every dwelling-house, school, store, factory, or workshop ;

Buildings.

- (28) (a) for regulating the construction, alignment, and elevation of all buildings or other structures and all parts thereof, and compelling the pulling down, removal, or rendering safe of all buildings, walls, bridges,

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earthworks, stoeps and verandahs of an unsafe or dangerous character, or which have been allowed to fall into a dilapidated and ruinous condition, and for doing such work at the cost of the owner ;

(b) for prohibiting or regulating the erection or use of back-to-back tenements or houses and for ensuring sufficient air space and ventilation between houses and adequate through ventilation within houses ;

(29) for prohibiting the owners or occupiers of any premises from allowing any wells or other excavations thereon to be in an unprotected or dangerous state, for compelling the fencing, filling in or covering over of wells or excavations which are in such a state and for doing such work and recovering the cost thereof ;

(30) for regulating, controlling, or prohibiting the use and erection of any temporary or movable structures whether standing on wheels or otherwise, and for prohibiting or restricting the use of tents or similar structures for business or dwelling purposes ;

Lands, etc., under control of council.

(31) for providing for the due and proper care of the common pasture and other municipal lands, and regulating the quantity and kinds of live stock which each inhabitant shall be allowed to keep and depasture on such lands, and the fees to be paid in respect of all live stock kept or depastured in excess of the number so fixed and for prohibiting or regulating the use of town lands for stallions, jackasses, bulls, rams, boars and he-goats and for regulating the grant of temporary grazing rights over such lands to carriers and others frequenting or passing through the municipality or attending the markets thereof or places of worship therein, or to travellers ;

(32) for regulating, restricting or prohibiting subject to the provisions of any Proclamation issued under the Game Preservation Ordinance of 1905, or any amendment thereof, the shooting and hunting

of game during the open season on municipal lands and for charging fees to persons permitted to shoot or hunt game on such lands ;

(33) for regulating, restricting or prohibiting subject to the provisions of any Proclamation issued under the Fish Preservation Ordinance of 1906 or any amendment thereof, fishing during the open season in dams, water-courses, and other waters under the control of the council and for charging fees to persons permitted to fish therein ;

(34) for granting licences or permits to make bricks or to dig and burn lime or dig or remove clay, gravel, peat, or turf, or to quarry or crush stone or cut firewood, brushwood, or grass upon municipal lands, and for prescribing the fees (if any) to be paid for the same ;

(35) for planting and preserving trees, flowers, and shrubs and for prohibiting or regulating and controlling the planting of trees in roads, streets, squares, or other open spaces, and for maintaining, cutting, or removing any such trees and preventing the removal or injury thereof ;

(36) for securing the eradication of the weed *Xanthium spinosum* (burweed) *Cannabis indica* (dagga) *Tagetes minuta* or any other weed which may be declared by the council to be noxious from land within the municipality and for compelling owners or occupiers of such land to cause any such weed to be eradicated on their land ;

(37) for securing the prevention and destruction of locusts and other noxious insects within the municipality ;

(38) for the prevention and abatement of conditions permitting or favouring the breeding of mosquitoes or flies ;

(39) for preventing or regulating and controlling the keeping of boars, bulls, jackasses, rams, he-goats, stallions and of bees and of wild or dangerous animals within the municipality ;

(40) for regulating the traffic and preventing and removing obstructions on public

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roads, streets, squares, and other open spaces, pavements and sidewalks, for dealing with live stock and dead, diseased, or injured animals found in any public place, and for restricting and regulating the driving of live stock through streets or other public thoroughfares ;

Markets and Dogs.

(41) for establishing and regulating public markets and market dues, and for prohibiting the establishment of any market within the municipality without the permission of the council ;

(42) for imposing a tax upon the keeping of dogs and providing for the seizure, sale, or destruction of ownerless dogs and of dogs in respect of which the tax has not been paid, and also for dealing with vicious dangerous or diseased dogs and such as create disturbance by barking or otherwise, and prohibiting bitches in heat running loose in the street ;

General.

(43) for protecting from damage or interference any municipal works or property situated or being in under or over any street, road, or any public or other place within the municipality ;

(44) for preserving public decency, for prohibiting the sale or exhibition of indecent literature pictures and devices and for prohibiting the sale or exhibition of pictures and devices of the nude ;

(45) for prohibiting the sale of *Cannabis indica* (dagga) or any preparation thereof otherwise than by a registered chemist and druggist on the authority or prescription of a registered medical practitioner ;

(46) for prohibiting or restricting the public exhibition by bioscope, cinematograph, magic lantern, or other mechanism, medium, or agency, or the public exhibition by tableaux, living pictures, bill posters, advertisements, or other illustration publicly displayed, of any prize fight or any other pugilistic contest, or

incident or incidents therein, or any such exhibition or representation or illustration as is contrary to good morals or public policy ;
 (47) for prohibiting or restricting the public exhibition within the municipality of monstrosities, freaks of nature, or any abnormal person or animal which in the opinion of the council it is undesirable to be publicly exhibited ;

(48) generally for the good rule and government of the municipality.

No such by-law shall be inconsistent with, contrary or repugnant to the provisions of this Ordinance or any other law in force within the municipality.

PART II.—WORKS.

73. The council may—

(1) establish, acquire, construct, equip, and carry on, within or outside the municipality, works for supplying the inhabitants thereof with water, and make such charges and impose such conditions of service for the supply of water as may be fixed by by-law or regulation ; provided that before commencing to establish, acquire, or construct such works the council shall obtain the consent of the Administrator ;

Works for the
supply of
water.

(2) excavate, construct, and lay down within the municipality water-courses, water-furrows, water-pipes, conduits, sluices, drains, dams, reservoirs, and other works for supplying, storing, and leading water, and close, alter, or divert any of such works as may from time to time be necessary ; provided that if the council close or divert any work for the supply of water and thereby any owner of private property is deprived of a water supply to which his property has been hitherto by law or right entitled, he may lodge an objection with the council and thereupon the council shall not proceed with the closing or diversion unless the consent of the Administrator has been first obtained ;

(3) whenever necessary carry any water furrows through and across any private property, provided that compensation be made

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by the council for any damage done thereby, the amount of such compensation in default of agreement being determined by arbitration in manner provided by the Municipalities Powers of Expropriation Ordinance 1903.

Supply of water to private premises.

74. In any municipality the council of which carries on works for the supply of water to the inhabitants thereof no person shall construct any works for the supply of water to any premises without first obtaining from the council permission in writing to construct such works; provided however that such permission shall be granted by the council in all cases where the council is not itself willing and able to give a proper and sufficient supply of water to any premises at such price as may be fixed in its by-laws or approved by the Administrator, and provided further that nothing in this section shall prohibit the owner of any premises from constructing thereon any works for the supply of water to such premises.

Works for supply of light, heat, and power.

75. (1) The council may establish, acquire, construct, equip, and carry on, within or outside the municipality, works for supplying the inhabitants of the municipality with light, heat, and power, and may supply electricity and gas for all purposes for which the same can be used, to or in respect of any land, building, or premises within the municipality, and may make such charges and impose such conditions of supply as may be fixed by by-law or regulation; provided that before commencing to establish, acquire, or construct such works the council shall obtain the consent of the Administrator.

(2) The council may sell (including sale against payment by instalments) electric lines, fittings, apparatus or appliances to private consumers under conditions to be approved by the Administrator. The provisions of sub-sections (2) to (5) of section *one hundred and sixty-seven* hereof shall *mutatis mutandis* apply to any advances made under this section.

To lay pipes and wires in streets etc.

76. The council may do all things necessary for the laying of main and branch wires and lines of pipes to convey electric current, gas, or water underneath and over the streets, roads, thoroughfares, and open spaces vested in the

council, and connect such wires or pipes with any premises at the request of the owners or occupiers thereof.

77. The council may, after giving thirty days notice in writing to the owner, lessee, or occupier of their intention, carry mains, pipes, wires and cables through, across, under or over any private land, within or outside the municipality, making compensation for any damage done, the amount of compensation in default of agreement being determined by arbitration in manner provided by the Municipalities Powers of Expropriation Ordinance 1903, and the council may cause such mains, pipes, wires, and cables to be laid, altered, deepened, covered, over-erected, and maintained within or outside the municipality, provided that if any owner, lessee, or occupier of land outside the municipality object to such work the provisions of sections *one hundred and sixty-three* and *one hundred and sixty-four* shall *mutatis mutandis* apply.

Power to lay pipes and wires over private property.

78. All mains, pipes, wires or cables laid by or on behalf and at the expense of the council or which are under its control shall be vested in the council and the council or any persons duly authorized by it shall at all times have a right of access to private property for purposes of inspection, maintenance, alteration, or repair of such mains, pipes, wires, or cables, and may do all things necessary to uncover and expose such mains, pipes, wires or cables, for the purposes of such inspection, maintenance, alteration, or repair; provided that the council shall repair all damage caused by the exercise of its powers under this section.

Vesting of pipes, wires, etc., in council. Council's right of access inspection, etc.

79. Any officer appointed thereto by the council may at all reasonable times enter any premises to which electricity, gas, or water is or has been supplied by the council, in order to inspect the pipes, electric wires, lines, meters, accumulators, fittings, works, and apparatus for the supply of electricity, gas, or water belonging to the council, or for the purpose of ascertaining the quantity of electricity, gas, or water consumed or supplied, or whenever a supply of electricity, gas, or water is no longer required, or whenever the council is authorized to take away and cut off the supply of

Power of entry into premises supplied and making repairs.

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electricity, gas, or water from any premises, or for the purpose of removing any pipes, electric wires, lines, accumulators, fittings, works, or apparatus belonging to the council, all damage caused by such entry, inspection, or removal being made good by the council.

Power to cut off supply.

80. If any person neglect to pay any charge for electricity, gas, or water or any other sum due to the council in respect of the supply thereof, it may cut off such supply, and for that purpose may cut or disconnect any pipe, electric wire, line, or other work through which the electricity, gas, or water may be supplied, and may, until such charge or other sum together with the cost incurred by the council in cutting off such supply of electricity, gas, or water, is fully paid but no longer, discontinue the supply thereof to such person.

Penalty for injuring pipes or wires.

81. Any person who by culpable negligence or with malicious intent cuts or injures any wire, line, pipe, or other work used for the conveyance of electricity, gas, or water, and vested in the council as aforesaid, shall be guilty of an offence and liable upon conviction to make good the damage done by such injury, or to a fine not exceeding one hundred pounds, or to be imprisoned with or without hard labour without the option of a fine, for a period not exceeding two years.

PART III—SPECIAL POWERS.

Power to inspect wells, boreholes, tanks, and cisterns, and to close the same.

82. The council may by its members, officers, or servants inspect all wells, boreholes, tanks, and cisterns within the municipality the water wherein or wherefrom is used or likely to be used by man for drinking or domestic purposes, or for the manufacture of drinks for the use of man, or as an ingredient in the manufacture of any article intended for food for the use of man; and if, on any such inspection or on the representation of any person, it shall at any time appear that such water is so polluted as to be injurious to health or that any by-laws in respect thereof have not been complied with, the council shall call upon the owner or occupier of the premises to which the well, borehole, tank, or cistern belongs, forthwith to close or remedy the same and failing compliance with such notice the council may take proceedings before any

competent court whether by way of summons or application; and on any proceedings against such person for such non-compliance or for breach of any by-law the court may, in the event of a conviction, make an order directing the well, borehole, tank, or cistern to be permanently or temporarily closed by such person or may make such other order as may appear requisite or necessary to prevent injury to the health of persons using the water therefrom, and may in addition sentence the person convicted to a fine not exceeding five pounds. The court may further, if it appear necessary, cause the water to be analysed at the cost of the council, and in making any such order, may further authorize the council, if the person on whom an order is made under this section fails to comply with the same within a period which the court deems reasonable, to do whatever may be necessary to execute such order, and all expenses incurred by the council may be summarily recovered from the person on whom the order was made; provided that in the case of any such well, borehole, tank, or cistern being situated upon unoccupied ground within the municipality, the owner of which (or some person duly authorized to represent him) cannot after reasonable inquiry be found, any such notice, summons, or other process aforesaid shall be deemed to be sufficiently served if affixed to such tank or cistern, or to any building, erection, post, or board upon or in the immediate vicinity of such well, borehole, tank, or cistern.

83. The council may, by its members, officers, or servants at all reasonable times without notice, enter upon, inspect, and take samples from, or require information in respect of the condition and working of all gathering grounds, rivers, and canals, springs, wells, boreholes, reservoirs, filter-beds, water purification or pumping works, or other sources of water supply, storage, or distribution, situated within the municipality, the water wherein or wherefrom is used or is likely to be used by man within the municipality for drinking or domestic purposes.

Power to
inspect water
supply.

84. (1) Whenever it appears to the council or a committee thereof on the certificate of the medical officer of health that any premises are in consequence of defective or unsuitable construction

Power of
council to
close, cleanse,
and demolish
premises.

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or arrangement, bad condition, want of light, air, or ventilation, or other sanitary defect liable to retain, engender, or spread the infection of any disease, and that by reason of such liability the occupation of such premises constitutes or would constitute, if the same were occupied, a grave danger to the public health, or to the health of the inhabitants of such premises or of any neighbouring premises, the council may, after giving not less than seven days' notice in writing of its intention to the owner of such premises and to the occupying tenants (if any), apply to the magistrate's court having jurisdiction in the municipality, for an order closing such premises, and such court may upon such application make an order closing such premises and prohibiting the use and occupation thereof, until such time as it shall be satisfied that alterations have been made, whether by removal or reconstruction of any building or otherwise, so as to prevent any such danger aforesaid resulting from the occupation of such premises, and such court may thereafter on being so satisfied on the application of the owner of such premises, withdraw such order as to the whole or any part of such premises, provided that, before making such application, the owner of such premises shall give not less than forty-eight hours notice in writing to the council of his intention to make the same.

(2) The magistrate's court having jurisdiction in the municipality may on the application of the council, without notice to the owner, close immediately and prohibit the use, occupation of, and entry into any premises on which bubonic plague infection in man or animals is certified by the medical officer of health to exist.

The provisions of the last preceding sub-section relating to the withdrawal of a closing order shall *mutatis mutandis* apply in the case of any order made under this sub-section.

(3) (a) Where a closing order has been made in respect of any premises, the council shall forthwith cause a copy of such order to be affixed in a conspicuous position on the premises.

(b) Any person who shall use or occupy any premises, the use and occupation of which have been prohibited by any closing order, during the time that such order remains in force, shall be liable to a fine not exceeding ten pounds, and to a further fine not exceeding two pounds for every

day during which such use or occupation continues; provided that, after the affixing of a copy of such order in the manner aforesaid, forty-eight hours' grace or such longer time as the council may determine shall be allowed to any person occupying the premises at the date when the copy of such order was so affixed, before such order is enforced against such person.

(4) The magistrate's court having jurisdiction in the municipality may upon application by the council order the cleansing and disinfecting of any premises in respect of which a closing order has been or may be made under this section, and shall by such order specify a time within which such cleansing or disinfecting shall be carried out; and, in default of full compliance with any such order, the council may enter upon any such premises and do all things necessary for completely executing the order, and may recover by action in a competent court the costs and expenses of and incidental to its execution from the person against whom the order has been made. Any such order may be made upon the owner or on the occupier of the said premises.

(5) (a) When a closing order in respect of any premises has remained operative for a period of three months the council may after giving not less than fourteen days' notice in writing of its intention to the owner of such premises apply to the magistrate's court having jurisdiction within the municipality for an order authorizing the demolition of such premises, and such court, if satisfied at the hearing of the application that alterations have not been made so as to prevent any such danger as is mentioned in sub-section (1) resulting from the occupation of such premises and that the necessary steps are not being taken with all due diligence to make such alterations, or that the continuance of any building being or being part of such premises is a nuisance or dangerous or injurious to the health of the public or of the inhabitants of the neighbouring premises shall make an order authorizing the council to demolish the building; provided that the court may, if it shall think fit, postpone the operation of the order for such time not exceeding six months as it thinks sufficient to give the owner an opportunity of making the necessary alterations.

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(b) The council may recover from the owner of any premises the cost of demolishing such premises in pursuance of an order made under this section.

(6) (a) Any notice required by this section to be given to any person may be served by delivering the same to, or at the residence or place of business of, the person to whom it is addressed or may be served by registered letter by post on such person.

(b) When the owner of any premises to whom notice is required to be given under this section does not reside or carry on business within the municipality or cannot after reasonable inquiry be found therein, such notice shall be deemed to be sufficiently given to such owner if affixed to the premises to which the same relates.

Occupation of
back-to-back
houses.

85. (1) No person shall after two years from the commencement of this Ordinance let or use for habitation or occupation any back-to-back house or tenement situate within the municipality which is not provided with adequate means of through ventilation to the satisfaction of the medical officer of health or any room so situate which has a door in an outside wall and is not so provided.

(2) Any person contravening this section shall be liable to a fine not exceeding fifty pounds and to a further fine not exceeding two pounds for every day during which such contravention continues.

Penalty for
insanitary
yards, etc.

86. If any yard or sanitary convenience within the municipality used in common by the occupiers of two or more separate dwelling-houses, or by different tenants of the same building, or by other persons, or the approaches to, or the walls, floors, seats, or fittings of such sanitary convenience is or are, in the opinion of the medical officer of health or of any sanitary inspector, in such a condition as to be a nuisance or annoyance or a danger to health for want of proper cleansing thereof, such of the persons having use thereof, in common as aforesaid, as may be in default, or in the absence of proof as to which of the persons having use thereof in common is in default then each of those persons shall be liable to a penalty not exceeding five pounds and any of those persons who fails to comply with a notice served

upon him by the council calling upon him to remedy the condition of such yard or sanitary convenience shall further be liable to a penalty not exceeding ten shillings for each day during which such condition shall continue after service of such notice.

87. The council may do all or any of the following things, namely— Special powers.

(1) lay out and adorn any square or open space the property of or vested in the council under section *fifty-nine* hereof by any architectural or other scheme of ornamentation including statues, fountains, or other structures ;

(2) establish, erect, and maintain public crematoriums, mortuaries, and public weighing machines, and make such charges in connection therewith as may be fixed by by-law ;

(3) acquire, equip, and maintain boats and boating establishments and make charges in connection therewith ;

(4) establish, erect, maintain, and carry on municipal slaughter-houses, and make charges in connection therewith ;

(5) establish and maintain one or more fire brigades and ambulances, and make charges for the service of such brigades and ambulances and for water used at fires ;

(6) purchase or hire or keep for public use stud animals such as stallions, jackasses, bulls, rams, boars, or he-goats, and to make and regulate charges in connection therewith ;

(7) incur a reasonable amount of expenditure necessary for public entertainment ;

(8) establish, acquire, erect, construct, maintain, assist, promote, and carry on—

(a) public libraries and museums and literary and scientific lectures ;

(b) botanical and zoological gardens ;

(c) public baths and wash-houses ;

and make charges in connection therewith ;

(9) establish, maintain, carry on or contribute to bands for musical performances in public places, and generally provide musical entertainments in such places, and make charges in connection therewith ;

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(10) make grants of money towards the establishment or maintenance of the institutions in this sub-section mentioned not being of a private character (that is to say) art galleries, museums, zoological gardens, agricultural and horticultural societies, scientific and literary institutions, including the giving of lectures on scientific subjects, asylums for the aged destitute or infirm, rescue homes, benevolent societies, homes for destitute orphans, relief committees, and committees employing district nurses ;

(11) contribute to any pension, provident, or benevolent fund intended for the benefit of the officers and servants of the council, and grant pensions or gratuities to officers or servants of the council on their retirement from the council's service or otherwise ;

(12) make grants of land or grants-in-aid of any school, class, or institution within the municipality established maintained or aided under the Education Act 1907 or any amendment thereof, or, for the purpose of establishing, extending, or maintaining any boarding establishment, or hostel in connection with any such school, class, or institution, not being of a private character, and provide bursaries to assist parents in educating and maintaining their children at any such school, class, or institution ;

(13) promote and oppose legislation in the interest of the municipality.

Special by-law powers.

88. The council may from time to time make, alter, and revoke by-laws for all or any of the following purposes, namely—

(1) for preventing and extinguishing fires and compensating the owners of buildings removed in order to prevent the spread of fires, and for regulating fire brigades, and the charges which may be made for the services of such brigades and for the water used at fires ;

(2) for licensing, controlling, and regulating theatres, bioscopes, music halls, public halls, concert rooms, public billiard-rooms,

- and public bagatelle-rooms and other places of public entertainment and for imposing conditions in any such licence restricting the days and hours during which the licensed premises may be kept open ; and in the case of bioscopes, theatres, music halls, concert halls, and other places of public entertainment for coloured persons, Asiatics and natives, for prohibiting the employment or presence of white females in such places of public entertainment or in any house part of which is licensed for such purpose ;
- (3) for licensing and regulating the use of cinematograph and bioscope apparatus and appliances and for licensing the operators thereof, and for testing the efficiency of applicants for such licences ;
- (4) for establishing regulating, and licensing public places of recreation ;
- (5) for preventing regulating or restricting the singing or performing professionally of persons under the age of sixteen years in any place of public entertainment or recreation ;
- (6) for regulating and licensing wood-sawyers ;
- (7) for regulating and licensing pawn-brokers, for requiring the deposit of security by any person applying for such licence and for regulating the sales of unredeemed pledges ;
- (8) for regulating and licensing cycle dealers manufacturers, and repairers ;
- (9) for regulating and licensing Asiatic tea-rooms or eating-houses and for prohibiting the employment or presence of white females in such tearooms or eating-houses part of which is licensed for such purpose ;
- (10) for regulating and licensing swimming baths and bathing establishments and for regulating bathing in any open piece of water within the municipality ;
- (11) for regulating and licensing boating establishments and for licensing boats whether kept for hire or otherwise, and for regulating the use of and fixing the number of persons to be carried in such boats ;
- (12) for regulating the use and management of municipal slaughter-houses and depots for the inspection of milk and

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dead meat and the making of charges in connection therewith and for prohibiting the slaughtering of animals intended for the food of man elsewhere in the municipality than in municipal slaughter-houses, except in the case of animals which the occupier of any premises may slaughter for his own or his family's consumption ;

(13) for preserving and protecting wild birds and animals within the municipality ;

(14) for regulating and licensing undertakers ;

Buildings.

(15) for preventing the discharge of any guttering or down pipes on to any pavement or sidewalk and securing, regulating, and controlling the laying down of pipes to carry any outflow therefrom to such gutter or drain as may be authorized or approved by the council for the purpose ;

(16) for regulating the size of pieces of ground on which buildings may be erected, for prescribing with due regard to the local conditions of different parts of the municipality the extent and disposition of the open space on private land to be provided and maintained in connection with new buildings in order to secure proper sanitary conditions, amenity, and convenience in connection with the laying out and use of land in the locality in which such buildings are erected and for prohibiting the erection of buildings on any open space so provided ;

(17) for preventing the erection of buildings on ground contaminated by any faecal, animal, or vegetable matter ;

(18) for requiring and regulating the lighting and cleansing of staircases and passages used in common by different tenants of the same building and the cleansing, drainage, and paving of courts, yards, and open spaces used in connection with dwellings ;

(19) for prescribing the frontage lines, securing the regularity of lines and level of buildings and of the architecture of buildings and the removal, alteration, and prevention of projections or obstructions in front of buildings ;

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(20) for enabling the council to prevent the alteration, erection, or use of buildings, the class or character of which are either in themselves or from the circumstances or nature of the locality in which they are placed, a disfigurement to the town or an annoyance to the inhabitants thereof ;

(21) for regulating the inspection of buildings and structures by the council and its officers, and for regulating the erection and use of scaffolding and hoarding during the construction, demolition, repair, or alteration of any building, and for charging fees in connection with any such hoarding ;

(22) for regulating or prohibiting the use of underground rooms for human habitation or occupation ;

(23) for determining and regulating—

(a) the structure of walls, foundations, roofs, chimneys, windows, guttering, down piping, and all other parts of buildings, whether new or already existing, in order to secure stability, sufficient height, light, and ventilation, and the proper carrying off of rain-water, as well as for the prevention of fires and for purposes of health ;

(b) the sufficiency of the space about buildings in order to secure a free circulation of air and the proper ventilation of buildings ;

(c) the closing of buildings or parts of buildings unfit for human habitation and for the prohibition of their use for habitation or occupation ;

(d) adequate provision for the escape of the occupants of any building in the event of an outbreak of fire by way of ordinary or special doors, outside iron stairways, or other means, having regard to the size and use of the building ;

(24) for the giving of notice and the deposit of plans and sections by persons wishing to construct or alter buildings, for the approval or otherwise of all plans and sections of any such buildings or alterations by the council, for charging fees in connection therewith, and for the removal, alteration, or pulling

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down, at the expense of the owner, of any work begun or done in contravention of any by-law or regulation, and for preventing the occupation of any new or altered buildings until a certificate of the fitness thereof for habitation shall have been issued and signed by the medical officer of health ;

Townships.

(25) for preventing the withdrawal, cancellation, or alteration, except with the consent of the council, of any township plan which has been approved by the council, or the closing up of any streets, roads, or open spaces shown on such plan except with the like consent ;

(26) for regulating the width, curbing, paving, guttering, gravelling, and cleansing of roads and streets ;

Traffic and Streets.

(27) for regulating and controlling traffic, processions, and gatherings at public places and for prohibiting or restricting the use of specified classes of vehicles in certain streets or areas ;

(28) for preventing any person or vehicle from carrying or conveying any article, burden, or load so as to obstruct or incommode passengers or vehicles in any street, sidewalk, or foot-pavement, and for preventing the wheeling of wheelbarrows, cycles, or other vehicles on any sidewalk or foot-pavement, except for the purpose of crossing the same to or from any house or building ;

(29) for preventing persons from congregating with others and so causing an obstruction in any sidewalk, thoroughfare, or open space except such as may be set apart for the purpose ;

(30) for regulating street trading and licensing street traders, for prohibiting or restricting street trading by persons under the age of sixteen years and for prohibiting the causing, procuring, or allowing of persons under such age to engage in street trading contrary to the provisions of any by-laws ;

(31) for regulating, supervising, and licensing porters, public carriers, carters, cabs, tramcars, omnibuses, jinrickshas, and vehicles standing or plying for hire, and the drivers thereof, and for fixing the amount of licence fees to be paid, the charges and fare to be made by distance or by time within or outside the municipality and the number of passengers and the weight, dimensions, and nature of the loads to be carried and for enabling the council to endorse, suspend, or cancel any such licence ;

(32) for regulating, restricting, and licensing the use of bicycles, tricycles, road locomotives, traction engines, motor cars, and motor cycles within the municipality and for registering and stamping such vehicles ;

(33) for licensing persons to drive road locomotives, motor cars or motor cycles within the municipality and for testing the efficiency of the applicants for such licences and prohibiting the driving of such vehicles by unlicensed persons and for enabling the council, to endorse suspend, or cancel any such licences :

(34) for empowering the council to enter into reciprocity agreements with other councils whereby vehicles licensed in one municipality shall be recognized as licensed by the other contracting council, the licensing charge being the same in each such municipality ;

(35) for licensing and regulating all private vehicles except perambulators and the like ;

(36) for regulating and controlling the conveyance of meat or dead animals through or along any public streets or public thoroughfares ;

(37) for preventing the placing of articles on window sills or in any other position near any street in such a manner as is likely to cause danger or annoyance to passers-by ;

(38) for prohibiting or regulating, and licensing the erection of wires of any kind in, along, under, or over any street or thoroughfare; provided that such wires as may be erected for public purposes by the Postmaster-General or the Railway Administration shall

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not be prohibited or regulated and no licence shall be required in respect thereof ;

(39) for regulating, restricting, prohibiting, and licensing the display of advertisements or advertising devices in or in view of any street for prohibiting advertisements, devices, or pictures which are indecent or suggestive of indecency or prejudicial to public morals from being so displayed and for preventing the display of advertisements or advertising devices in such places or in such manner or by such means as in the opinion of the council would be likely to affect injuriously the amenities of or to disfigure any neighbourhood ;

(40) for prohibiting, or regulating and licensing the use and passage of advertising vans, sandwich boards, lanterns, flags, screens, or other movable advertising devices in or along any street or thoroughfare ;

(41) for preventing the disfiguring of the fronts of buildings or fences, and for prohibiting or licensing the use, or regulating the size, description, and fixing of signboards, screens, private lamps, sun blinds, or other devices attached to or connected with any buildings or fences, by means of which any advertisements or notices of any kind may be displayed ;

(42) for regulating and controlling street decorations and for prohibiting, regulating, and controlling the erection and removal of temporary platforms, seats, and other structures for the use of the public at any meeting or entertainment, or for the accommodation of spectators at any procession, ceremony, or spectacular display of any kind ;

(43) for regulating and controlling the removal and transport of dynamite, petroleum, and other explosives or combustibles and for prescribing the routes by and speed at which such articles may be conveyed ;

Sales, etc.

(44) for regulating public sales and for charging fees in connection with public sales held on any public square or open space or in a public building ;

Lighting.

- (45) for regulating the construction and maintenance of all installations for the supply of light, heat, or power by means of electricity, gas, or otherwise ;
- (46) for regulating lighting with gas, electricity, or otherwise ;
- (47) for regulating and controlling the generation of acetylene gas, or other inflammable or explosive gas, and the construction and use of all apparatus connected therewith, and for preventing or regulating the storage of liquid acetylene, or carbide of calcium.

No such by-law shall be inconsistent with, contrary or repugnant to the provisions of this Ordinance or of any other law in force within the municipality.

CHAPTER VII.

PROVISIONS AS TO LICENCES AND BY-LAWS.

PART I.—LICENCES.

89. The council may charge for any licence, which it is empowered to issue, such fees as may be fixed by its by-laws for the time being in force.

Fees for licences to be fixed by by-law.

90. The council may refuse to grant any licence to carry on a trade or business which it has power to license in accordance with its by-laws on any of the following grounds—

Power of council to refuse licences.

(a) that within the three years immediately preceding the application either the applicant or any person employed by or assisting him in his business or directly or indirectly interested therein has been convicted three times of contravening a law, by-law, or regulation in force in a municipality as regards the conduct of the trade for which the licence is applied for ;

(b) that the premises in or on which the applicant intends to carry on his trade or business do not conform to the requirements of the council's by-laws ;

and in the case of applications for a licence to carry on any trade or business wherein articles

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of food or drink are produced, prepared, used, or sold for human consumption also on any of the following grounds, namely—

(c) that the granting of such a licence in respect of the premises for which it is sought is calculated to cause nuisance or annoyance to persons residing in the neighbourhood ;

(d) that the applicant is by reason of the uncleanness of his person or habits or methods unfit to be entrusted with the handling, preparation, or sale of articles of food or drink intended for human consumption ;

(e) that in the opinion of the council the applicant is not a desirable person to hold such licence ;

(f) the council shall refuse to grant a licence for tearooms, cafés, restaurants, fruit shops, flower shops, vegetable shops, milk shops, bakers' shops, confectioners' shops, and eating-houses where the premises in respect of which the licence is applied for are licensed for some purpose other than that of tearoom, café, restaurant, fruit shop, flower shop, vegetable shop, milk shop, baker's shop, confectioner's shop, or eating-house ;

provided that any applicant for a licence whose application has been refused may appeal against the council's decision to the magistrate, and in the event of the council failing to satisfy such magistrate on the appeal that the licence was refused on good and sufficient grounds such magistrate may order the council to grant such licence and such licence shall be granted accordingly.

Power of council to refuse to license certain premises and traders.

91. The council may refuse a licence in respect of any premises as a theatre, music hall, public hall, concert room, or other place of amusement or as a native or Asiatic eating-house, or as a place where articles of food or drink are sold or offered for sale for consumption on the premises or to license any person as a hawker, pedlar, street-trader, pawnbroker, or cycle dealer on any of the grounds mentioned in the last preceding section, and also on any one or more of the following grounds—

(a) that the applicant has failed to produce satisfactory evidence of good character ;

(b) that the premises in respect of which a licence is sought or any adjacent premises owned or occupied by the applicant are frequented by persons of bad character ;

(c) that the granting of such licence would be contrary to the public interest ;

provided however that the refusal of the council to grant any licence on any of the grounds herein stated shall be subject to the same appeal as is provided in the preceding section.

92. The council may in respect of a licence which it may grant under its by-laws and which entitles the holder thereof to carry on any trade or business for manufacturing, preparing, selling, or using articles of food or drink for human consumption—

Power of council to grant certain licences upon certain conditions.

(a) impose conditions prohibiting or restricting the employment on premises, where articles of food and drink are sold, of females under the age of sixteen years, or the employment on such premises of females after eight o'clock at night ;

(b) impose conditions as to the persons who by reason of their condition of life, habits or health shall be restricted in or prohibited from the preparation or handling of such articles of food and drink in connection with any such trade or business as aforesaid ;

(c) impose conditions prohibiting the employment in the licensee's business of any person who has within the preceding three years been convicted three times of contravening a law, by-law, or regulation in force in any municipality as regards the conduct of the trade for which the licence is granted ;

(d) impose any other conditions which may be prescribed by by-law ;

provided that the conditions imposed by the council under this section shall be clearly endorsed upon the licence and the licensee shall sign a duplicate of the form of licence containing such conditions. The council shall retain the duplicate so endorsed and signed and the same shall, when produced before any court of law, be *prima facie* evidence of the conditions imposed ; any breach by a licensee of any condition imposed in respect of his licence under this section shall be deemed to be an offence against this Ordinance.

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Power of council to refuse certain licences at discretion.

93. Anything to the contrary in this Ordinance notwithstanding, the council may, in its discretion refuse to grant licences to the hauler of any jinricksha or to the driver of any road locomotive, traction engine, tramcar, omnibus, motor car, cab, trolley, or other vehicle plying for hire or to any applicant for a licence who is medically or physically unfit or who has failed to pass any test of efficiency or to deposit any security prescribed by by-law.

Penalty on conviction for contravention of law or council's by-laws relating to licences.

94. On the conviction of any person holding a trade licence granted by the council for any contravention of the Liquor Licensing Ordinance 1902 or any amendment thereof or for contravening the law or the council's by-laws either in the conduct of such trade or on the premises on which such trade is carried on or for breach of the lawful conditions upon which such licence was granted, the magistrate's court before which such person was convicted may upon application made within seven days after such conviction either on behalf of the council or of the Attorney-General of the Province endorse, suspend, or cancel his licence and order that no new licence to carry on such trade within the same municipality be granted to such person for a period not exceeding two years from the date of the cancellation, and thereupon such person shall become disqualified to hold a licence during the period of suspension or cancellation; provided that if a trade licence granted to any company or partnership or to any person on behalf of a company or partnership is cancelled or suspended, any disqualification to hold a licence which may be imposed hereunder may be attached either to such company or partnership or to the person who under section *one hundred and twelve* was responsible for the offence in respect of which the order of suspension or cancellation is made, or both to the company or partnership, and such person as the magistrate's court making the order may determine.

Licensing of offensive trades.

95. (1) No person shall carry on within the municipality the work of a knacker or of blood boiling, bone boiling, soap boiling, tripe boiling or cleaning, tallow melting, fat melting, or fat extracting, fellmongering, skin storing, skin curing, blood drying, gut scraping, fishmongering, fish frying,

leather dressing, tanning, gluemaking, sizemaking, charcoal burning, brickburning or limeburning, manure making, manure storing, bone storing, or any other work or trade of an offensive nature which, with the sanction of the Administrator, the council may add to the above list, without having first obtained from the council a licence for the purpose.

(2) Any person who shall carry on any such work or trade without having obtained the necessary licence from the council shall be liable to a penalty not exceeding fifty pounds, and to a further penalty not exceeding two pounds for every day during which such offence shall continue after notice to cease such offensive work or trade has been served on such person by the council by personal delivery or by registered post or by leaving the same at his office, work, or dwelling.

(3) Before considering any application for any such licence as is mentioned in this section the council may require the applicant to pay the cost of advertising full particulars of his application in such a manner and for such period as the council may think fit.

(4) The council may refuse to grant any such licence as is mentioned in this section on any of the grounds mentioned in section *ninety* of this Ordinance and also on any one or more of the following grounds, namely—

(a) that the premises used or proposed to be used by the applicant for the work or trade for which the licence is sought are unsuitable for the purpose.

(b) that the methods adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases, or smells arising from such work or trade are not efficient ;

provided however that the refusal of the council to grant any licence on any of the grounds herein stated shall be subject to the same appeal as is provided in section *ninety* aforesaid.

96. (1) The council may appoint committees for the purpose of hearing any application for licences to carry on any trade or business or may itself sit to hear such applications, and the mayor or the

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chairman of any committee so appointed as the case may be shall have power to summon any applicant for or any objector to the grant of a licence (by writing under his hand served on such person) to give evidence at any sitting of the council or a committee held for the purpose of hearing the application for such licence or to produce books or documents at such sitting and any such person refusing or omitting without sufficient cause to attend and give evidence or to produce books or documents in his possession or under his control as required by such summons shall be guilty of an offence against this Ordinance; provided always that every person summoned under this section to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

(2) All witnesses giving evidence before the council or a committee at the hearing of any application for such licences shall give evidence on oath which may be administered by the mayor or the councillor presiding.

(3) Any witness who shall after being duly sworn wilfully give false evidence at the hearing of any such application concerning the subject matter of inquiry shall be guilty of perjury and shall be liable to be prosecuted and punished according to law.

(4) The council or the committee may cause any deposition taken before it on oath at the hearing of any such application to be taken down in writing and signed by the deponent and shall authenticate it by the signature of the mayor or councillor presiding as the case may be as having been taken at such hearing and every such deposition so taken down and authenticated shall be deemed and taken to be good evidence in a prosecution for perjury.

PART II.—BY-LAWS.

How
by-laws to
be made.

97. No by-law shall be made or amended by the council until a copy of the proposed by-law or amendment be deposited at the office of the council for inspection by any person at all reasonable times, and a notice be published in the

Provincial Gazette and in a newspaper circulating in the municipality and affixed to the principal door of the council's offices, or on the principal notice board, seven days prior to the meeting of the council held for the purpose of making such by-law or amendment setting forth its general purport and stating that a copy of the same is open to inspection as aforesaid.

98. Where any proposed by-law affects any mining company in respect of the management of its mining operations or the control of the property on which such operations are carried on, the following procedure shall be followed:—

Procedure to be followed in case of by-laws affecting any mining company.

(a) the proposed by-law as passed shall be transmitted by the council to all the companies engaged in mining operations within the municipality, or to any association representative of such companies;

(b) if any such company or association desires to object to such by-law on the ground that the interests of any mining company would be unduly prejudiced thereby it shall transmit to the council a statement of its objections within a period of fourteen days from the date on which the by-law was received by it from the council;

(c) on receipt of such statement within the time specified the council shall, in submitting the by-law to the Administrator for approval transmit for the consideration of the Administrator a copy of such statement together with a statement of the observations (if any) which it may desire to make thereon;

(d) the Administrator shall refer the proposed by-law together with the statements herein before mentioned to the Minister of Mines for report before approving or rejecting it;

(e) the foregoing procedure shall be followed in any case where in the course of the discussion upon any by-law by the council a motion shall be proposed and seconded that it be so dealt with.

99. After any by-law has been made or amended by the council, such by-law or the amendment thereof shall be submitted to the Administrator who before approving it shall satisfy himself that the provisions of sections *ninety-seven* and *ninety-eight* have been complied with,

Submission of draft by-law for approval of Administrator.

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and that the provisions of the by-law are not inconsistent with, contrary, or repugnant to the provisions of this Ordinance or any law or regulation in force within the municipality.

Power of Administrator to approve or reject by-law when submitted.

100. The Administrator may approve or reject any by-law or amendment as he may think fit.

Town clerk to submit copies of minutes concerning draft by-laws to Administrator.

101. Together with copies of all by-laws or amendments of by-laws submitted for the approval of the Administrator under the last preceding section the town clerk shall submit to the Administrator—

(a) a copy of the minutes of the meeting of the council at which the by-law or amendment was adopted ;

(b) a certificate by the town clerk that the provisions of section *ninety-seven* and, where necessary, of section *ninety-eight* have been complied with ;

(c) copies of any objections against the adoption of the by-law or amendment that may have been lodged, in writing, with the town clerk, or, if none have been lodged, a statement to that effect.

Promulgation of by-laws approved.

102. Upon the approval by the Administrator of a by-law, or an amendment thereof by the council, (with or without alterations and amendments made by the Administrator) the Administrator shall cause a copy of the by-law or amendment so approved to be transmitted to the town clerk, and a copy of the by-law or amendment so approved shall be published by the Administrator by a notice in the *Provincial Gazette* and by the town clerk by a notice affixed either to the principal door of the offices of the council or to the municipal notice board, and signed by the mayor or two councillors and by the town clerk.

Such by-law or amendment thereof shall have the force of law within the municipality from and after the date of its publication in the *Provincial Gazette* unless expressly otherwise provided in the notice under which it is published.

Proof of publication of by-law.

103. A copy of the *Provincial Gazette* containing a notice publishing any by-law or amendment thereof under the provisions of the

last preceding section shall, in all legal proceedings until the contrary is proved, be evidence that such by-law or amendment thereof has the force of law within the municipality in respect of which it has been made and approved as aforesaid.

104. Copies of the *Provincial Gazette* containing by-laws and amendments thereof approved by the Administrator as aforesaid and of all regulations and amendments thereof shall be open to inspection at the offices of the council at all reasonable hours.

By-laws open to inspection and copies obtainable.

It shall be the duty of the town clerk upon application, and upon payment of such sum as may be determined by the council (not exceeding threepence for every hundred words contained in such by-law or regulation or ten shillings in all), to furnish any person with a copy of every such by-law, regulation, or amendment.

105. The Administrator may in his discretion at any time after having given the council concerned reasonable notice and his reasons therefor and after having heard such council revoke, alter, or amend any by-law, and such revocation shall be notified to the council by the Administrator who shall in addition publish a notice in the *Provincial Gazette* and in a newspaper (if any) circulating in the municipality, notifying such revocation, alteration, or amendment or shall cause a notice thereof to be affixed to the principal door of the magistrate's court-house and to the offices of the council.

Power of Administrator to revoke by-laws.

106. Any by-law may provide a fine or other penalties for any breach thereof, and may also provide for different fines or other penalties in case of successive or continuous breaches, but no fine shall exceed fifty pounds. Any such by-law may further provide that in addition to this fine, any expense incurred by the council in consequence of a breach of any by-law or in the execution of any work directed by any by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

Power to impose penalties for breach of by-laws.

107. All offences against any regulation or by-law in force in the municipality shall be deemed to be offences against this Ordinance and every person guilty of such an offence or of a contravention of any of the provisions of this Ordinance shall, for every such offence, be liable to the

Penalties where not otherwise provided.

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- penalty expressly imposed by the regulation or by-law or by this Ordinance, and if no penalty be imposed then to a fine not exceeding ten pounds.
- 108.** All fines or other moneys payable in respect of any offence against this Ordinance, or any regulation, or any by-law, may be recovered before any court of competent jurisdiction.
- 109.** Save as in this Ordinance is otherwise expressly provided, whenever any fine shall have been imposed under the provisions of this Ordinance or of any regulation, or of any by-law, and the person convicted shall not forthwith pay the same, the court imposing the fine may direct that such person be imprisoned with or without hard labour for a period not exceeding one month, if the fine imposed do not exceed five pounds, or for a period not exceeding three months if the fine imposed exceed five pounds, and such person shall be imprisoned as aforesaid unless he shall sooner pay such fine.
- 110.** Every fine recovered for an offence against a by-law or regulation or for any other offence against this Ordinance or any bail forfeited for the failure of any person charged with such offence to appear to answer such charge, shall be paid into the revenue of the council; provided that the magistrate convicting in all cases of contraventions of by-laws or regulations may order the defendant to pay such costs as he may consider reasonable.
- 111.** The following persons shall be liable to a fine not exceeding ten pounds or to imprisonment with or without hard labour without the option of a fine for a period not exceeding three months—
- (1) Any person who wilfully obstructs any councillor or any person duly employed by the council in the execution of his duty;
 - (2) any occupier of premises who prevents the owner of such premises from complying with any lawful requirement of the council;
 - (3) any occupier of premises who on demand refuses, or wilfully omits to disclose, or wilfully misstates his own name or the name of the owner of such premises;
 - (4) any person who refuses to answer to the best of his ability or knowingly makes false answers to inquiries made by the medical officer of health or any sanitary

Recovery
of fines.

Default of
payment
of fine.

Application
of fines and
defrayment
of cost of
prosecution.

Obstructing
officers of
the council.

inspector specially authorized by him in writing for the purpose of discovering cases of any infectious disease or possible sources of infection of any such disease.

112. If any contravention of this Ordinance or any amendment thereof or of any by-law or regulation is committed by a company or partnership, every managing director, or person having the management or control in this Province of the business or property in the case of a company and every such person and each partner in this Province, in the case of a partnership, shall be responsible therefor, and shall be liable to the penalty provided for such contravention, provided that nothing in this section contained shall be deemed to exempt from liability any other person guilty of the contravention.

Contravention of Ordinance, by-law or regulations by company or partnership.

113. The council may by any person authorized thereto in writing under the hand of the mayor or town clerk prosecute summarily in the magistrate's court for all offences against this Ordinance or any by-law or regulation; and the provisions of any law relating to prosecutions by private persons in such court shall apply to all such prosecutions.

Council's power to prosecute.

114. (1) During the course of any prosecution for an offence against this Ordinance or any by-law or regulation the magistrate may (if he thinks fit) at the request either of the person conducting the prosecution or of the defendant state any question of law arising therein for the decision of the Provincial Division of the Supreme Court; provided that if such question affects the validity of any by-law or regulation the magistrate shall give his decision thereon, and if he shall hold that the by-law or regulation is invalid he shall on the request of the person conducting the prosecution made within three days after the giving of such decision state the question as to the validity of the by-law or regulation for the decision of such court.

Stating of special cases by magistrate.

(2) Such question shall be stated in the form of a special case and may be argued before and shall be determined by such court which may give such directions in the matter and may make such order as to costs as to it may seem fit.

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Provision for affixing to premises notice *re* conviction for sale or possession of diseased animal or unsound food.

115. Where any person is convicted for a second time within a period of twelve months of having contravened a by-law by selling or exposing for sale or depositing for the purpose of sale or of preparation for sale or having in his possession any animal or article (whether liquid or solid) intended for the food of man which is diseased or unsound or unwholesome or unfit for the food of man, the magistrate may, if he thinks fit, and finds that such person knowingly or wilfully committed both offences, in addition to inflicting any other penalty order that a notice of the facts be affixed in such form and manner and for such period not exceeding twenty-one days as may be specified in the order to any premises occupied by such person and that the person do pay the costs of such affixing; and if any person obstructs the fixing of such notice or removes, defaces, or conceals the notice while affixed during the said period he shall for each offence be liable to a fine not exceeding ten pounds (£10).

 CHAPTER VIII.

 VILLAGE COUNCILS.

 PART I.—CONSTITUTION AND ELECTION OF
 VILLAGE COUNCILS.

Constitution of village councils.

116. (1) The councils of municipalities established under Ordinance No. 41 of 1904, and by proclamation under Ordinance No. 58 of 1903 mentioned in the Fifth Schedule to this Ordinance shall, from the commencement of this Ordinance, be constituted village councils with jurisdiction over the municipal areas existing and defined as at such commencement.

(2) For the purpose of establishing a village council for any other town, village, or area (not being a municipality), or for establishing a village council in the place of a town council for any area, or for exercising in respect of a village council such other powers as are conferred by section *nine* of this Ordinance, the provisions of sections *nine* to *fourteen* inclusive of this Ordinance shall *mutatis mutandis* apply.

117. Every village council constituted under this Ordinance shall, under the name of the village council of....., be a body corporate with perpetual succession, and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and generally of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law affecting such village council.

Incorporation of village councils.

118. The members of the councils mentioned in the Fifth Schedule of this Ordinance and the chairman and deputy-chairman thereof shall continue in office under the provisions of Ordinance No. 41 of 1904 or any amendment thereof made prior to this Ordinance, until the date of taking office of the councillors elected in accordance with this Chapter.

Members of existing councils of minor municipalities to continue in office.

119. Every white person, male or female, being a British subject of the age of twenty-one years or upwards, who occupies and resides in premises within the municipality of the gross annual value of six pounds and upwards, or who owns immovable property within the municipality in respect of which either erf tax or assessment rate is payable or leviable, shall be entitled to be enrolled on the voters' list for the municipality.

Qualification of voters for election of village councils.

120. No person shall be entitled to be enrolled on the said voters' list, or if so enrolled to vote at any election of a village council—

Disqualifications.

- (1) who has at any time been convicted of treason or murder; or
- (2) who has been sentenced for an offence to imprisonment with hard labour without the option of a fine for a period of six months or more unless he has obtained free pardon for such offence, or unless five years shall have elapsed from the date of his release from such imprisonment.

121. (1) Within six months from the commencement of this Ordinance or within one month from the date of a proclamation under this Ordinance establishing a village council the magistrate, or if there be no magistrate stationed at the place where it is proposed to establish a village council, the resident justice of the peace shall

Framing of voters' list.

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frame a list of all persons who are qualified in accordance with section *one hundred and nineteen* to vote at the election of a village council and who are not disqualified under the last preceding section, but every subsequent voters' list shall be drawn up by the council.

(2) Such list may be amended from time to time as circumstances require by the council but not after publication of notice of any election.

(3) Such list shall be open for inspection at the offices of the council at such time or times as the council may direct but at least for fourteen days before any meeting of voters is convened for the purpose of nominating and electing councillors in the manner hereinafter provided.

Provided that the magistrate or resident justice of the peace may amend the first voters' list, and that such list shall be open for inspection at the office of the magistrate or resident justice of the peace (as the case may be).

Fixing the number of members.

122. The Administrator may fix and from time to time increase or decrease the number of councillors of any village council and every such increase or decrease shall be notified by proclamation in the *Provincial Gazette*, provided that the number of councillors for any village council shall not be less than three or more than twelve, and further shall be a number which is a multiple of three.

Date of annual election of village councils and notice of meeting of election.

123. (1) Elections of village councils shall be held between the twentieth and thirtieth days of the month of September in each year (including both such days) in the manner hereinafter provided.

(2) The magistrate shall, subject to the provisions of sub-section (1), fix the day for holding the election, and not less than fourteen days before the day so fixed, he shall publish a notice in a newspaper (if any) circulating within the municipality, and cause such notice to be affixed to the principal door of his court-house, and at such other conspicuous places within the municipality as he may deem convenient.

(3) Such notice shall summon a public meeting of the persons enrolled upon the voters' list of the municipality to nominate and elect councillors.

(4) Every such notice shall specify the hour and place within the municipality at which the meeting will be held and the meeting shall be held at the hour and place so specified.

124. At the time and place specified in the notice the magistrate shall attend and shall preside at the meeting held. Magistrate to preside at meeting.

125. Every male person, *bona fide* resident within the municipality and qualified in accordance with section *one hundred and nineteen* shall be qualified for election as a village councillor; provided that no person whose estate is in liquidation or under assignment in trust for his creditors, or sequestrated as insolvent, and who has not obtained his rehabilitation, nor a person of unsound mind declared as such by a competent court nor a person who is disqualified under section *one hundred and twenty* shall be capable of being elected, or if elected, of continuing to be a councillor; provided further that no person holding any office or place of profit under or in the gift of the council shall be capable of being elected or of continuing to be a councillor. Qualifications of person for nomination as councillor or for holding office on council.

126. Any person enrolled upon the voters' list of the municipality and present at such meeting may propose for election as a village councillor any person qualified to be elected, and every such proposal shall, before it is submitted to the meeting, be seconded by some other person enrolled upon the voters' list of the municipality and present at such meeting. The person so proposed and seconded shall be deemed to be duly nominated as soon as he shall personally at the meeting or in writing have signified his acceptance of nomination. If the number of persons duly nominated be no more than the number of councillors to be elected, the magistrate shall then and there declare the persons so nominated to be elected, but if the number of persons duly nominated be more than the number of councillors to be elected, the magistrate shall at a time and place and on a date to be then and there fixed by him, such date being not later than fourteen days from the date of the said meeting, then and there proceed to take a poll of the enrolled voters in manner provided in the next succeeding section. Nomination of candidates for election.

Ord. No. 9 Mode of
of 1912. holding
election.

127. (1) The magistrate shall read out to the meeting the names of the persons duly nominated. Each voter present at the meeting shall in turn come to the desk where the magistrate is sitting, and on satisfying the magistrate that his name is on the voters' list for the municipality and that he has not already voted at the election then being held, shall record on a slip of paper duly perforated by the magistrate and handed to the voter by him the names of the persons nominated for whom he wishes to vote not exceeding the number of persons to be elected. The voter shall then deposit the slip of paper in a box provided for the purpose. The meeting shall be closed at the expiry of six hours from the hour specified as the time of meeting, unless there shall be any enrolled voter present who shall not have recorded his vote; in which case the magistrate shall have power to prolong the meeting until every such voter shall have recorded his vote.

(2) The magistrate shall then open the box and proceed to count the votes so recorded and shall declare the names of the persons who have received the greatest number of votes to be duly elected in the order of the number of votes recorded for them. In the event of the number of votes recorded for any two or more candidates being found to be equal and in the event of the equality affecting the result of the election, the magistrate shall by lot determine which shall be declared duly elected. The magistrate shall then enclose the voting papers in a sealed packet and retain possession thereof, and shall after a period of three months destroy its contents. The magistrate shall not at any time disclose the manner in which any voter has recorded his vote.

Provisions in
ease of
election
irregularly
held.

128. (1) Any voter may lodge an objection against the election of any one or more persons whom the magistrate has declared duly elected under the last two preceding sections. Such objection shall be lodged with the magistrate within seven days after the declaration of election, and shall state in writing the grounds of the objection, and the magistrate on receiving such objection shall thereupon make such inquiries as he may think fit and shall in his discretion allow or disallow such objection.

(2) If any election shall be set aside by the magistrate in consequence of his allowing any such objection, or if by reason of any failure or neglect or any other cause whatever any meeting for the election of councillors shall not be held, then and in every case the magistrate shall, as soon as possible after any such event or failure shall have been notified to him call meetings of electors for the purposes of nominating and electing a councillor or councillors as in manner herein before provided.

129. If any councillor shall die or become disqualified from continuing to be a councillor, or shall resign or refuse to accept the office of councillor, or if any vacancy shall occur in such office in any other manner, before the councillors go out of office, the chairman of the council, shall notify such vacancy to the magistrate, who shall, except in the circumstances mentioned in the first proviso to this section, forthwith summon a meeting of enrolled voters for the municipality for the purpose of filling up such vacancy in the manner hereinbefore provided; provided that if any such vacancy shall occur within three months prior to the first day of October in the year in which the councillors go out of office such vacancy shall not be filled but shall continue until the next general election is held; provided further that if there shall be more than three such vacancies they shall be filled up at a special election held for the purpose and conducted in manner hereinbefore provided.

Casual
vacancies.

130. If from any cause there shall not be elected the requisite number of councillors at any election held under this Chapter the Administrator may appoint any person or persons to be a councillor or councillors in order to make up the number required for the council and may prescribe the period during which persons so appointed shall hold office as councillors.

Provisions
in case of
failure to
elect
members.

131. (1) The first election under this Ordinance of village councils constituted under sub-section (1) of section *one hundred and sixteen* shall take place between the twentieth and thirtieth days of September, 1913, both days inclusive, and the date of taking office by the councillors who are elected at such election shall be the first day of October, 1913;

First election
of village
councils
under this
Ordinance.

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provided that any casual vacancy occurring in any such village council before the date of the first election to be held as aforesaid shall be filled in the manner prescribed by this Ordinance; provided further that any councillor elected to fill a casual vacancy in the manner aforesaid shall hold office only until the date of the first election of village councils as hereinbefore provided.

(2) The first election under this Ordinance of village councils constituted under sub-section (2) of section *one hundred and sixteen* shall take place on or between such days as may be fixed by the Administrator by proclamation in the *Provincial Gazette*, and on the issue of such proclamation, the magistrate shall fix a day in accordance with the terms of such proclamation for holding the election, and shall issue such notice as prescribed by section *one hundred and twenty-three*.

Periods of
office of
councillors
elected at
first election.

132. (1) At any such first election one-third of the councillors elected, being those who stand highest on the poll, shall continue in office for a period of three years, and the one-third of the councillors elected who stand next highest on the poll, shall continue in office for a period of two years, and the remaining third of the councillors elected shall continue in office for a period of one year; provided that in any case in which the councillors who have received an equal number of votes and cannot on that account be placed in the first, second or third divisions of councillors aforesaid, or if there be no poll, it shall be determined by lot which councillors shall continue in office respectively for three or two years or one year. The magistrate in declaring the result of the election shall further declare the respective periods for which the councillors are elected.

(2) In the case of the first election of a village council constituted under sub-section (2) of section *one hundred and sixteen* the Administrator may, notwithstanding anything in this section contained, prescribe the periods for which each division of councillors elected at such first election shall continue in office.

Annual
election of
councillors.

133. After any such first election of councillors there shall be an annual election of councillors which shall take place in the month of

September of each and every year for the purpose of electing councillors to replace an equal number of councillors retiring from office on account of the expiry of their period of office and also for the purpose of filling up such casual vacancies as may be required to be filled up under the provisions of section *one hundred and twenty-nine*; provided that in the case of village councils constituted under sub-section (2) of section *one hundred and sixteen* the Administrator may, by proclamation in the *Provincial Gazette*, declare that the election of councillors subsequent to the first election shall not take place until the month of September of the year subsequent to the year in which such first election is held.

134. (1) The councillors elected at every annual election to fill the vacancies caused by councillors retiring owing to the expiry of their period of office shall hold office for a period of three years, and a councillor elected to fill a casual vacancy requiring to be filled up under section *one hundred and twenty-nine*, whether or not such election shall take place at the annual election, shall hold office for the remainder of the period for which the councillor who has vacated office and whom he succeeds would have otherwise continued in office.

Duration of
councillors'
term of office.

(2) In any annual election at which councillors are to be elected to fill casual vacancies, the vacancies caused by the retirement of councillors due to the expiry of their periods of office shall be deemed to be filled by the candidates who receive the largest number of votes at the election. The other elected candidates shall be deemed to fill casual vacancies in the order and according to the number of votes recorded for each, so that the councillor elected by the greatest number of votes shall be deemed to succeed the councillor, who if he had not vacated office, would have continued longest in office. In case the matter cannot be determined as aforesaid owing to the equality in the votes recorded for two or more candidates or owing to there being no poll, it shall be determined by lot by the magistrate.

135. (1) No councillor shall either on his own behalf or on behalf of his wife or on behalf of a partnership in which he or his wife is interested contract with the council for the performance by the council or such councillor or partnership of

Provisions as
to councillors
being
interested in
contracts
with the
council.

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any work or as vendor, purchaser, or otherwise, and any contract or bargain entered into by or on behalf of the council in which a councillor is in any way directly or indirectly interested shall be null and void; provided that no contract or bargain shall be avoided or set aside under the provisions of this sub-section where a councillor is merely interested in such contract or bargain as shareholder in a company having a share capital or where the contract is for the supply by the council of any thing or the rendering by it of any service at the ordinary published tariff charges for such supply or service or where a councillor purchases land or goods disposed of by the council by public auction.

(2) Any councillor who contravenes this section shall be liable on conviction to a fine not exceeding fifty pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months. The court before which he is convicted may order that he shall account to the council for any profits which may accrue to him in respect of such contract or bargain and that he shall vacate his seat and his seat shall thereupon become vacant.

(3) It shall be the duty of the auditor of the accounts of the council appointed by the Administrator under section *fifty-five* of this Ordinance to examine from time to time the minutes of the council for the purpose of ascertaining whether the provisions of this section have been complied with and to report to the Administrator any cases in which it shall appear to him that there has been any failure to comply with such provisions.

Chairman of
the council.

136. At the first meeting of the council held after each annual election of councillors under this Ordinance the councillors present shall elect one councillor to be chairman of the council, and he shall forthwith enter upon his office and continue therein until his successor be appointed after the next annual election of councillors, unless his office be sooner vacated and, in the event of such vacancy, a successor shall at the next meeting of the council after such vacancy is notified, be chosen by the members present at such meeting from amongst the members of the council, and such successor shall forthwith enter upon his office and continue therein for the remainder of the period for which the vacating chairman was elected; provided that if a chairman for any reason be not elected at a meeting

as herein provided he may be elected at the first ordinary meeting of the council held thereafter or at a special meeting called for the purpose.

137. At any meeting of the council at which an election of a chairman is to be held under the last preceding section the members present at the commencement of such meeting shall elect one of their number to act as chairman until a chairman be elected as aforesaid. In case of an equality of votes on any election of chairman under the last preceding section, the acting chairman shall have a casting vote as well as an original vote.

Acting chairman to be chosen to preside at meeting till chairman elected.

138. (1) A deputy-chairman of the council shall be elected from time to time, subject *mutatis mutandis* to the provisions of the last two preceding sections, and such deputy-chairman shall whenever it shall be necessary owing to the death, resignation, absence, illness, or incapacity of the chairman do all acts which the chairman as such may do. The fact of the death, resignation, absence, illness, or incapacity of the chairman shall be notified by the town clerk to the first meeting of the council held after such death, resignation, absence, illness, or incapacity has happened or commenced, and be recorded in the council's minutes. Such record shall be sufficient authority for all acts done by the deputy-chairman which the chairman as such may do, from the date of the death or resignation, or the commencement of the absence, illness, or incapacity of the chairman until a new chairman shall be appointed or the chairman shall resume his duties.

Deputy-chairman of council.

(2) At every meeting of the council of such a municipality the chairman if present shall preside and in the event of his absence the deputy-chairman and if neither the chairman nor deputy-chairman be present at any meeting, then the councillors present shall elect a temporary chairman from among themselves, who shall in the absence of the chairman and deputy-chairman preside at such meeting, and if it shall appear to the council at such meeting that the chairman and deputy-chairman are both absent from the municipality, or are for any other reason incapable of acting, the council may by resolution confer

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on the temporary chairman elected as aforesaid, full authority to do all acts which the chairman as such may do, until either the chairman or deputy-chairman is again able to act.

PART II.—POWERS AND DUTIES OF
VILLAGE COUNCILS.

General and
special
powers.

139. (1) The power and duties assigned to town councils under Part I of Chapter VI (sections *fifty-eight* to *seventy-two* inclusive) of this Ordinance shall be and are hereby assigned to the village council of any municipality constituted under section *one hundred and sixteen*, provided that a village council shall not necessarily appoint a medical officer of health unless so required by the Administrator; provided further that where no medical officer of health is appointed the medical officer of health of the Union or Province may inspect personally or by a deputy appointed by him in writing to see that the health by-laws are carried out.

Special pro-
visions of this
Ordinance
immediately
applicable in
the case of
certain village
councils.

(2) Notwithstanding anything in this Ordinance contained, on and after its commencement the village councils mentioned in the Sixth Schedule to this Ordinance shall have assigned to them the special powers, duties, and provisions of this Ordinance as shown in the second column of the said Schedule in like manner as if the Administrator had by proclamation under this Ordinance assigned to the said councils from such date the said powers, duties, and provisions.

Certain other
provisions
of this
Ordinance
may be
applied to
village
councils.

(3) The Administrator may, by proclamation in the *Provincial Gazette*, apply to any village council the provisions of Chapters III, IV, V, and VII and Part II of Chapter VI of this Ordinance either in whole or in part.

(4) The Administrator may by proclamation in the *Provincial Gazette*, and subject to the conditions set forth in the next succeeding section, assign to any village council any or all of the powers and duties conferred on town councils under Part III of Chapter VI of this Ordinance.

How special
powers to be
granted.

140. A village council, desirous of exercising any or all of the powers mentioned in Part III of Chapter VI of this Ordinance, shall present a petition to the Administrator, signed by not less than two-thirds of the councillors, praying for leave to exercise such powers.

On receipt of such petition the Administrator shall forthwith cause the substance of the same to be published in three consecutive issues of the *Provincial Gazette* and once a week for three weeks in a newspaper (if any) circulating within the municipality.

It shall be competent for any persons interested, within thirty days after the first publication in the *Provincial Gazette* of the substance of such petition, to lodge written objection with the Administrator to the same being granted.

On receipt of such objection the Administrator may appoint the magistrate or one or more other persons to consider the petition and any objection thereto, and after hearing the report of the persons so appointed to inquire, or if there be no such objection after due inquiry, the Administrator may, in his discretion, grant wholly or in part or may refuse to grant such petition.

141. The Administrator may, from time to time, make, alter, and rescind regulations applicable to any municipality for which a village council is constituted on any matter upon which such council is empowered under section *one hundred and thirty-nine* to make by-laws, but upon which matter the said council has failed to make by-laws, or having made by-laws, to obtain the approval of the Administrator thereto.

Adminis-
trator may
make
regulations
for village
councils.

142. Save as may be otherwise expressly excepted in any proclamation under section *one hundred and thirty-nine* applying Chapters III, IV, V and VII or any portion thereof to village councils, in the application of any such Chapter or portion thereof the term "mayor" shall be read as "chairman", and the term "deputy-mayor" shall be read as "deputy-chairman".

Term mayor
to be read as
"chairman"
and deputy-
mayor as
"deputy-
chairman".

143. (1) The following laws shall not apply to village councils:—

Application
and non-
application
of certain
other laws to
village
councils.

(a) The Municipalities Elections Ordinance 1903 or any amendment thereof;

(b) The Municipalities Powers of Expropriation Ordinance 1903 or any amendment thereof, except that the provisions of sections *nine* to *twelve* inclusive of such Ordinance shall apply in the case of any arbitration proceedings in connection with any works

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which may be undertaken by a village council under sections *seventy-three* and *seventy-seven* this Ordinance ;

(c) The Local Authorities Roads Ordinance 1904 or any amendment thereof.

(2) The provisions of the Town Lands Ordinance 1904 and any amendment thereof shall apply *mutatis mutandis* to all village councils constituted under this Ordinance.

Erf tax can be substituted for assessment rate.

144. (1) The provisions of the Local Authorities Rating Ordinance 1903 and any amendment thereof shall apply to every municipality for which a village council is constituted under this Ordinance ; provided that the Administrator may by proclamation in the *Provincial Gazette* declare that for any period of not less than one calendar year, the provisions of the said Ordinance or any amendment thereof shall not apply in any such municipality, and that for such period the erf tax leviable under the provisions of article *five* of Law No. 4 of 1899 or any amendment thereof shall be collected in the said municipality.

Erf tax to be collected in certain municipalities for certain period.

(2) Notwithstanding anything in this section contained, on and after the commencement of this Ordinance the erf tax leviable under the provisions of article *five* of Law No. 4 of 1899 or any amendment thereof shall be collected in the municipalities for which the village councils mentioned in the Seventh Schedule to this Ordinance are constituted, and for the periods mentioned in the second column of the said Schedule, and the provisions of the Local Authorities Rating Ordinance, 1903, or any amendment thereof, shall not apply for the like periods, unless the Administrator shall under the powers vested in him by that section otherwise declare.

Special provisions where erf tax is levied in substitution for assessment rate.

145. Whenever under the last preceding section the erf tax is leviable in a municipality such tax shall be paid to the council and shall be recoverable as if the same were rates imposed under the Local Authorities Rating Ordinance 1903, or any amendment thereof and the provisions of such Ordinance and any amendment thereof shall apply for the purposes of such recovery.

CHAPTER IX.

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HEALTH COMMITTEES.

146. (1) The Administrator may from time to time, by proclamation in the *Provincial Gazette*, constitute in such manner as he shall think fit for any town, village, or other area a committee to be called a health committee, and such committee shall, subject to the provisions of this Ordinance, be charged with the maintenance of the health of the inhabitants for the area for which it is appointed and with such other duties as are hereinafter prescribed.

Constitution
of health
committees.

(2) The Administrator may increase, alter, or diminish the area of jurisdiction of such committee, and may at any time on due cause being shown abolish and disestablish such committee, and, for the purpose of effecting the abolition or disestablishment, the Administrator may make such order in writing under his hand as may be necessary, and such order shall have the force of law and be binding on all parties in any manner concerned.

147. The committees constituted under the provisions of Ordinance No. 3 of 1905 as amended by Ordinance No. 7 of 1906 and mentioned in the Eighth Schedule to this Ordinance shall from the commencement of this Ordinance be constituted health committees under this Ordinance for the areas of jurisdiction defined and existing at such commencement.

Reconstruction
of
existing
health
committees.

The members of every such committee shall remain in office under the provisions of the proclamation constituting it and providing for the appointment or election of its members, until the Administrator shall by proclamation in the *Provincial Gazette* prescribe that the members of any such committee shall be otherwise elected or appointed, or that any such committee shall be otherwise constituted under this Ordinance.

148. The Administrator may, by proclamation in the *Provincial Gazette*, declare that the mode of election of a health committee and the qualifications as voters for the election of its members shall be as provided by this Ordinance for the election of village

Certain provisions
of this
Ordinance
may be made
applicable
to health
committees.

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Adminis-
trator may
regulate the
powers and
duties of
health
committees.

councils and the qualifications as voters for elections of village councils, or the Administrator may in his discretion prescribe any other mode of election and qualification of voters.

149. (1) The Administrator may, from time to time, make, alter, and rescind regulations for any health committee and for the area for which such committee is appointed in respect of the following matters, namely:—

(a) for the maintenance of the health of the inhabitants;

(b) for the establishment and maintenance of any sanitary services, and for fixing charges in respect of such services;

(c) for the use and upkeep of roads, streets, and public squares;

(d) for the erection on Government land of offices and such other buildings and structures as may be deemed necessary by the Administrator;

(e) for the planting and trimming and care of trees in such streets, roads, and public squares;

(f) (i) for providing for the due and proper care of the town lands under the jurisdiction of the Committee, for regulating the quantity and kinds of live stock which each inhabitant shall be allowed to keep and depasture on such lands, and the fees to be paid in respect of all live stock kept or depastured in excess of the number so fixed;

(ii) for prohibiting or regulating the use of the town lands by stallions, jackasses, bulls, rams, boars, and he-goats;

(iii) for regulating the grant of temporary grazing rights over such lands to carriers and others frequenting or passing through the municipality or attending the markets thereof or places of worship therein, or to travellers;

(iv) for granting licences or permits to make bricks, or to dig and burn lime, or dig or remove clay, gravel, peat, or turf, or to quarry or crush stone, or cut firewood, brushwood, or grass upon the municipal lands, and for prescribing the fees (if any) to be paid for the same;

(g) for regulating the supply and distribution of water in any public water-furrows, and preventing the waste or misuse

thereof, for making charges for the upkeep and control of such water-furrows, and for compelling owners or occupiers to maintain in good order any such water-furrows as abut on their premises;

(h) for establishing and maintaining public cemeteries, and for making charges in connection therewith;

(i) for regulating the proceedings of the committee and the appointment, duties, and privileges of the committee's officers and servants, and preserving order at meetings of the committee;

(j) for regulating the finances of the committee and for the appointment by the Administrator of auditors with the powers and duties given to auditors appointed under sections *fifty-five, fifty-six, and fifty-seven* hereof;

and any such regulations may impose upon the members of the committee any or all of the duties, obligations and liabilities imposed under this Ordinance upon the councillors of a municipality.

(2) The provisions of sections *one hundred and six to one hundred and thirteen* hereof inclusive shall *mutatis mutandis* apply to the regulations aforesaid as if such regulations were by-laws, such committees were councils of municipalities, and the areas for which they are appointed were municipalities.

150. In any legal proceeding which may be instituted by or against such committee it shall be sufficient to describe such committee as the ".....health committee" without mentioning the names of any of the members comprising such committees.

How health committee to sue and be sued.

151. The revenues of the health committee shall consist of—

Revenues of health committee.

(a) all charges under the regulations made by the Administrator;

(b) all fines imposed by a competent court and forfeited bail bonds for the contravention of such regulations, or the regulations for towns confirmed by First Volksraad Resolution Article 1256, dated 18th September, 1899, or of the provisions of this Ordinance;

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(c) all taxes payable under any law in force in respect of erven within the area of jurisdiction of the committee.

Limitation of debt and borrowing powers.

152. A health committee shall not without the consent of the Administrator, incur any liability or debt which cannot be met within three months out of its ordinary revenue, or borrow money by way of fixed loan or bank overdraft, and a health committee shall not borrow money by way of fixed loan otherwise than from funds under the care and control of the Administrator, save as may be provided under the next succeeding section. The security for any fixed loan raised by a health committee under this section shall be the security mentioned in section *forty-nine* for loans raised by town councils, and for the purposes of recovering any such loan or instalments thereof or interest thereon, the provisions of such section shall *mutatis mutandis* apply.

Town or village councils may perform services or works for health committees.

153. (1) A health committee may, with the consent of the Administrator, enter into an agreement with any neighbouring town or village council for the performance by such council of any service or works within the area of jurisdiction and for the use and benefit of the inhabitants of the area or portion of the area under the jurisdiction of the health committee, which the said council is, or may be empowered under and subject to the provisions of this Ordinance to undertake within the area of its own jurisdiction.

(2) Notwithstanding anything in this Ordinance or in any other law contained, any such council may, subject to the consent of the Administrator being obtained as aforesaid, enter into such agreement with any neighbouring health committee.

(3) Where any agreement made and approved as aforesaid involves any special tax or rate being imposed on owners of property within the area of jurisdiction of a health committee or portion thereof the Administrator may, by proclamation in the *Provincial Gazette*, declare that for the purpose of imposing and collecting such tax or rate the said area shall, for such purposes only, be deemed to be under the jurisdiction of such council, and that all the provisions of this Ordinance and of the Local Authorities Rating Ordinance 1903 and

any amendment thereof which are, or may become, applicable within the municipality shall, for such purposes, be applicable within the said area of jurisdiction of a health committee or portion thereof; provided that the Administrator shall not exercise the powers of this section except under the following conditions:—

(a) The said committee shall have served upon every such owner a written notice containing full particulars of the proposed agreement, the nature of the service which it is proposed to give to him, and the approximate amount of the rates, taxes, or charges and the period over which they will be levied by such council if effect be given to the said agreement;

(b) not less than two-thirds of such owners within eight weeks of the date of the serving of such notice shall have collectively petitioned the Administrator to exercise such powers.

(4) Any owner upon whom such notice has been served, may lodge with the Administrator written objection to the exercise by the Administrator of such powers, and the Administrator shall thereupon take such steps as may to him seem necessary to investigate any such objection.

(5) After due inquiry into any objection made under the provisions of the last preceding subsection the Administrator may exercise the powers of this section, and may make such modifications in the application to any particular area of the proposed agreement as he may think fit, or may refuse to exercise such powers; provided that the Administrator shall not exercise such powers unless the consent of two-thirds of such owners has been obtained to the proposed agreement in the manner herein provided.

CHAPTER X.

SPECIAL POWERS OF TOWN COUNCILS.

PART I.—CERTAIN SPECIAL PROVISIONS.

154. Save as is otherwise provided in subsection (2) of section six—

(1) No town council shall exercise any power conferred by or apply to the municipality

How provisions of this chapter are to be applied to town councils.

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any provisions of this chapter, unless the Administrator shall, by proclamation in the *Provincial Gazette*, assign such power and make such provision applicable to such town council.

(2) A town council desirous of exercising any of the powers or applying any provision of this chapter shall present a petition to the Administrator, signed by not less than two-thirds of the councillors praying for leave to exercise the power or to apply the provision. On receipt of such petition the Administrator shall forthwith cause the substance of the same to be published in three consecutive issues of the *Provincial Gazette* and once a week for three weeks in a newspaper circulating within the municipality. It shall be competent for any persons interested to lodge with the Administrator, within thirty days after the last publication of the substance of the said petition in the *Provincial Gazette*, written objection to the granting of such petition. On receipt of such objection the Administrator may appoint one or more persons to consider the petition and the objections (if any) thereto, and after hearing the report of the person or persons so appointed to inquire or, if there are no objections, after due inquiry, the Administrator may, in his discretion, grant the petition wholly or in part or may refuse to grant it.

Additional
auditors may
be appointed
by council.

155. (1) In addition to the auditor or auditors appointed by the Administrator, the council after a resolution thereto duly passed agreeing to appoint an auditor may appoint an auditor or auditors in the manner following, that is to say—Any councillor may, prior to a date to be fixed by the council, nominate one or more duly qualified persons to act as auditor or auditors of the accounts of the municipality; every nomination shall be referred to a committee consisting of not less than five councillors, and the council shall, not less than fourteen days after the date so fixed, proceed to elect by ballot one or more persons out of the persons nominated, or in the event of there being no nominations, one or more duly qualified auditors; the election of such an auditor or auditors shall be for a period of three years, and the council shall

fix at the time of his or their election the remuneration to be paid to him or them. The auditor or auditors so elected shall have all the powers conferred by section *fifty-six* upon the auditor or auditors appointed by the Administrator.

(2) The auditor or auditors appointed as in this section is provided shall, in addition to the ordinary duties of auditors, certify not less than once in each year whether or not—

(a) the accounts of the municipality are in order ;

(b) separate accounts of all trading undertakings have been kept ;

(c) the accounts issued present a true and correct view of the financial position of the municipality, and of its transactions, and of the results of trading (if any) ;

(d) due provision has been made for the redemption and repayment of any moneys borrowed by the council, whether in the form of municipal stock, bills or otherwise ;

(e) the value of the assets of the municipality has been fairly stated ;

(f) the amounts set aside for depreciation and obsolescence of plant are adequate ;

(g) all his or their requirements and recommendations as auditors have been complied with and carried out.

156. The council may do any of the following things, namely—

Other special powers for town councils.

(1) establish, erect, construct, equip, and maintain, either within or outside the municipality, hospitals, whether permanent or temporary, for the reception of patients suffering from infectious diseases, make charges for treatment in such hospitals, and provide treatment for indigent patients who are inhabitants of such municipality free of charge ;

(2) establish, maintain, carry on, an art gallery, and acquire works of art for preservation therein ;

(3) establish and maintain public monuments or make grants of money towards the establishment or maintenance thereof ;

(4) establish, acquire, erect, construct, equip and carry on cold storage works, depots for

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the inspection of milk and dead meat and make charges in connection therewith ;

(5) establish, acquire, construct, maintain, and carry on within the municipality a service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers and parcels, and make charges for or in connection with such service and in connection with any such service enter into agreements with any person or corporation for the establishment, acquisition, construction, laying down, equipment, maintenance, working, and guaranteeing of the capital cost and interest on the capital cost of such establishment, etc., and may exercise such powers either alone or in conjunction with another or other municipalities, persons, corporations or authorities ; provided that this sub-section shall not apply to tramways ;

(6) take a census of the inhabitants of the municipality and contribute to the cost of any such census when taken by any other authority ;

(7) enter into any contract or contracts with any town council, village council, health committee, or with any corporation, or company, person or persons, to secure or further the carrying out outside the municipality of any work or undertaking which may be within the powers of the council ;

(8) establish, acquire, erect, construct, equip, and carry on laundries and make charges in connection therewith ;

(9) establish, erect, construct, equip, maintain and carry on steam disinfecting stations ;

(10) (a) at the request of the owner of any land or premises situated within the limits of the municipality, construct and pave with concrete blocks or flat hewn or other stones or in such other manner or form and of such breadth as the council may think fit, either by its own servants or through contractors, a footway along the side of any street abutting upon the land or premises of any such owner, and recover from such owner the expenses incurred

in such work, including a reasonable charge for supervision, and if the work is undertaken by the council without the interposition of a contractor, recover charges for the use of tools and plant ;

(b) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the construction or paving of any such footway on or in respect of such land or premises ;

(c) the provisions of sub-sections (2) to (5) of section *one hundred and sixty-seven* of this Ordinance shall apply to any footways constructed by the council or by the owner of any land or premises under this sub-section ;

(11) incur, subject to the consent of the Administrator, a reasonable amount of expenditure in advertising the municipality as a health or pleasure resort ;

(12) divert, straighten, define, and canalize the course of any stream, spruit or watercourse within the municipality after giving notice and making compensation to any owner or occupier of land or any rights or servitudes attaching to land abutting on such course as existing and as proposed in manner provided by Part II of the Municipalities Powers of Expropriation Ordinance 1903 ; provided that in settling any compensation payable by the council hereunder, the enhanced or improved value immediate or prospective which shall accrue to any such land by reason of the carrying out of the said purposes or any of them shall be taken into account.

157. The council may, from time to time, make, alter, and revoke by-laws for all or any of the following purposes, namely :—

Further special by-law powers for town councils.

(1) for maintaining and regulating any service of motor omnibuses or other vehicles, drawn or propelled by animal, mechanical, or electrical power, which may be established by the council ;

(2) for regulating the manufacture of chemicals ;

(3) for regulating barbers and hairdressers and barbers' and hairdressers' shops ;

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(4) for granting licences (but without charging any fee therefor) to private hospitals and nursing homes and for regulating such hospitals and nursing homes ;

(5) for regulating and supervising the practice of midwives and for prohibiting the practice of midwifery by persons other than registered midwives ; provided that any person who satisfies the council that at the date when a by-law was made under this sub-section prohibiting the practice of midwifery by persons other than registered midwives first came into operation within the municipality she had been for at least two years in *bona fide* practice as a midwife and that she bears a good character shall be entitled to continue to practice in the municipality ;

(6) for regulating and controlling the use of public baths, wash-houses and laundries established by the council and for confining or restricting the separate use of such establishments to white persons or to natives or Asiatics or other classes of persons respectively ;

(7) for regulating the taking by the council of any census of the inhabitants of the municipality, defining the duties of census officers appointed by the council, compelling the giving of information required for the purpose of such census, and prohibiting the divulging of such information ;

(8) for granting to plumbers and drainlayers licences (but without charging any fee therefor) authorizing them to carry out plumbing or drainlaying work for the installation, alteration, or repair of any system of water supply or drainage connected or intended to be connected with any municipal water-main or sewer, for regulating such plumbers and drainlayers, and prohibiting the carrying out of any such work by any unlicensed person ; provided that—

(a) the council may refuse to grant a licence to any person to carry out any such plumbing or drainlaying work on the following ground in addition to the grounds mentioned in section *ninety* namely, that the applicant is not competent to carry out plumbing or drainlaying work in a proper and workmanlike

manner ; provided that the refusal of the council to grant a licence on the ground herein stated shall be subject to the same appeal as is provided in the said section ;

(5) the council may further cancel any such licence granted to any plumber or drain-layer if it is satisfied that he has done any such plumbing or drainlaying work in a negligent or unworkmanlike manner to the injury of any person or property or contrary to any of the council's by-laws ; provided that prior to such cancellation the person whose licence it is proposed to cancel shall be afforded an opportunity of appearing before a committee of the council and being heard in his own defence ;

(9) for granting to electricians licences (but without charging any fee therefor) authorizing them to carry out electrical wiring work for the installation, alteration, or repair of any system of wiring connected or intended to be connected with any municipal works for the supply or distribution of power, for regulating such electricians and for prohibiting the carrying out of any such work by any unlicensed person ; provided that the provisions of paragraphs (a) and (b) of sub-section (8) shall apply *mutatis mutandis* in respect of such licences ;

(10) for licensing, controlling, and regulating places used for the purpose of selling publicly or exposing to public sale any cattle, horses, sheep, goats, pigs, poultry, or other live stock ; for licensing persons to conduct such sales on municipal markets and for requiring the deposit of security by an applicant for such licence ;

(11) for compelling and regulating the submission to the council of all meat or dead animals intended for the food of man which may be conveyed or transported into the municipal area by the owners or consignees of the same, and at their expense, in order that such meat or dead animals may be inspected or passed by the council, for regulating the branding or stamping of such meat

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or dead animals and the fees to be charged therefor, and for preventing the sale or use of such meat or dead animals for the food of man until the same have been inspected and passed by the council ;

(12) for prohibiting the introduction into the municipality of any carcase other than game or of any butcher's meat slaughtered outside the municipality, except when accompanied by such undetached viscera and in the case of pigs the head also as the council may specify, or by a medical or veterinary certificate that such carcass or meat and the viscera belonging thereto have been duly inspected at the time of slaughter and found free from disease ; for prohibiting the introduction into the municipality of any unfrozen carcass (other than game) or unfrozen butcher's meat of animals slaughtered outside the municipality unless such animals were slaughtered at places approved by the council or a committee thereof ; provided that this and the preceding subsection shall not apply to meat or dead animals which may be conveyed or transported into the municipality by any person or the servant of any person for consumption by such person or his household ;

(13) (a) for regulating the construction by any owner of land at his expense of a footway along the side of any street abutting on his land, and the paving of such footway with concrete blocks or flat hewn or other stones, or in any other way, and for regulating the construction and paving by the council at such owner's expense of such footway ;

(b) for fixing the charges which may be made for the construction and paving by the council of any such footway ; any charges so fixed shall for all purposes be deemed to be charges for services by the council and shall be recoverable as such.

No such by-law shall be inconsistent with, contrary or repugnant to the provisions of this Ordinance or any other law in force within the municipality.

PART II.—SEWERAGE AND DRAINAGE WORKS.

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158. The council may erect, construct, equip, and carry out sewerage or drainage works within or outside the municipality; provided that the council shall not commence to erect or construct sewerage works without the consent of the Administrator.

Power to undertake sewerage and drainage.

159. For the purpose of carrying out any drainage or sewerage works the council may—

Provisions as to carrying out sewerage and drainage works.

(a) cause such sewers, drains, and pipes to be made, laid, altered, deepened, covered over, and maintained either within, or (subject to the provisions of sections *one hundred and sixty-two, one hundred and sixty-three, and one hundred and sixty-four*) outside the municipality as may be necessary for effectually disposing of the sewage of or draining the municipality or any portion thereof, and from time to time cause to be made and maintained all such reservoirs, sluices, engines, ventilating shafts, and other works as may be necessary for cleansing and ventilating such sewers, drains, and pipes;

(b) carry such sewers, drains, or pipes through, across, or under any public road, street, square, or open space, or any place laid out as or intended for a public road, street, square, or open place, either within or outside the municipality, without paying compensation and, after giving reasonable notice in writing to the owner or occupier of their intention, perform the same acts in respect of any land within, or (subject to the provisions of the said sections) outside the municipality on making compensation for any damage done, the amount whereof, if not mutually agreed upon, being determined by arbitration in manner provided by the Municipalities Powers of Expropriation Ordinance 1903 or any amendment thereof, provided that, in determining any compensation payable by the council hereunder, the existence of any sanitary passage through or over which the council has a right of access to any private land or building for the purposes of sanitary service and which right the council may be willing to surrender, shall be taken into account;

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(c) from time to time alter, enlarge, divert, discontinue, close up, or destroy any sewers, drains, or pipes under the control of the council ;

(d) within, or (subject to the provisions of the said sections) outside the municipality construct any works for the purpose of receiving, storing, disinfecting, purifying, distributing, or otherwise disposing of any sewage or drainage ;

(e) in any case, where owing to the contour of the ground or for other reasons, it is difficult to connect for sewerage purposes any premises within the municipality direct with a public sewer maintained by the council, the council may subject to the provisions of sub-section (b) of this section make connections with and utilize any private drain on private ground so as to connect such premises with any public sewer ; provided that upon such connection being made the said drain with which connection is so made shall, from the point of such connection to the point of junction with the public sewer, be considered and used as a combined or joint drain, and the cost of construction, repair and maintenance of such combined or joint drain shall, so far as the same shall not fall to be borne by the council, be paid and borne by the owners of premises respectively served thereby, in such proportions as the council shall from time to time adjust and settle.

Vesting of
sewers in
council and
right of access
thereto.

160. All sewers, drains, pipes, ventilating shafts, or other conveniences for the disposal of sewage or drainage, constructed by or which are under the control of the council shall be vested in the council, and the council, or any other persons duly authorized by it, shall at all times have a right of access to private property for purposes of inspection, maintenance, alteration, or repair of such sewers, pipes, shafts, and other conveniences, and may do all things necessary to uncover and expose such sewers, drains, pipes, ventilating shafts, or other conveniences for the purposes of such inspection, maintenance, alteration and repair, provided that the council shall repair all damage caused by such entry and inspection.

161. The council may maintain and carry on any sewage farm or sewage disposal works established at the commencement of this Ordinance, the establishment of which has been allowed by an order made under section *thirty* of the Municipalities Powers of Expropriation Ordinance 1903, and may establish subject to the consent of the Administrator and maintain and carry on any such sewage farms or sewage disposal works either within or subject to the provisions of sections *one hundred and sixty-two*, *one hundred and sixty-three* and *one hundred and sixty-four*, outside the municipality, as may be necessary or advisable for the requirements of the municipality and may either lease any lands used as a sewage farm to tenants or may farm the same and dispose of the produce thereof, and neither the council nor any other person shall be liable for any nuisance which is the inevitable consequence of the proper and ordinary conduct of any sewage farm or sewage disposal works established, maintained, or carried on under the provisions of this section.

Sewage farms.

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162. The council shall, at least thirty days before commencing outside the municipality the construction or extension of any sewer or any other work for sewerage purposes, give notice of the intended work by advertisement in one or more local newspapers circulating in the area in which the work is to be done, or if there be no such newspaper, then in one or more newspapers circulating in the municipality. Such notice shall describe the nature of the intended work, and shall state the intended terminuses thereof, and particulars of the roads, streets, squares, open spaces, and other land (if any) through, across, under, or on which the work is to be done, and shall name a place where a plan of the intended work is open for inspection at all reasonable hours; a copy of such notice shall be served on the owners or reputed owners, lessees or reputed lessees, and occupiers of the land and on the local authority (if any) having the care of such roads, streets, squares, or open spaces.

Notice before commencing any sewerage works outside municipal limits.

163. If any such owner, lessee, or occupier, or any such local authority, or any other person who would be affected by the intended work, objects to such work and serves written notice of objection

Notice of objection by owner.

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on the Administrator and on the town clerk at any time within the said period of thirty days, then the intended work shall not be commenced without the consent of the Administrator, unless such objection is withdrawn.

Inquiry by
Administrator
and action
thereon.

164. The Administrator may appoint any person or persons to make an inquiry on the spot into the propriety of the intended work and the objections thereto, and to report to him on the matter, and on receiving the report of such person or persons, the Administrator may make an order, disallowing the intended work or allowing it with such modifications (if any) as he may deem necessary.

Offences and
penalties.

165. Any person who without the previous consent in writing of the council shall—

(a) erect or cause to be erected any building or other structure over any sewer, drain, or pipe vested in or constructed under the authority of the council; or

(b) excavate, open up, or remove, or cause to be excavated, opened up, or removed the ground under or near to any such sewer, drain or pipe; or

(c) make or cause to be made, without the written consent of the council, any opening into such sewer, drain, or pipe, for the purpose of discharging sewage or drainage into the same or otherwise; or

(d) injure or destroy or cause to be injured or destroyed any such sewers, drains, or pipes or any works or things in connection therewith,

shall be guilty of an offence and liable to a fine not exceeding fifty pounds, and the council may alter, demolish, or otherwise deal with as it may think fit any building or structure so erected, fill in, and make good any such damage, or close any such opening into a sewer, drain, or pipe, and the expenses so incurred shall along with such fine be recoverable from the offender in any competent court.

Charges for
use of sewers

166. Any charges which the council may fix by by-law for the use of the council's sewers and sewerage works in respect of any land or premises which are connected therewith, shall for all purposes be deemed to be charges for sanitary

services, and shall be recoverable from the owner of any land or premises which are so connected in accordance with the provisions of sections *forty-six* and *forty-seven*.

167. (1) The council may in its discretion, at the request of the owner of any land or premises—

Power to execute drainage works on private land or premises or to make advances therefor.

- (a) carry out either by its own servants, or through contractors, any work in connection with the installation or improvement of a drainage system on such land or premises, and the connection of such land or premises with the council's sewers, and recover from the owner of such land or premises the expenses incurred in such work, including a reasonable charge for supervision and, if the work is undertaken by the council without the interposition of a contractor, may cover charges for the use of tools and plant; or
- (b) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the execution of any such drainage work on such land or premises.

(2) The council may agree to accept payment of such expenses and repayment of such advances in such instalments, at such times and on such conditions as may to the council appear reasonable, together with interest thereon at the rate of six per cent. per annum (which shall be charged from the date when the works are completed or the advances are made), on such amount as remains for the time being outstanding.

(3) Such expenses and advances together with interest thereon shall be a charge upon the land or premises in respect of which the same are incurred or made, and shall be paid to the council by the owner thereof for the time being, and the instalments thereof as they fall due shall be recoverable from the present or any future owner of the land or premises in any competent court.

(4) The council shall keep at the municipal offices a register of all expenses incurred and advances made under this section, and shall show in such register the total amounts thereof, the instalments in which the same are payable, the land or premises in respect of which the same have been incurred or made, and the balances for the

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time being outstanding, and shall keep such register open at all reasonable times to the inspection of any person, free of charge. Such register and any extract therefrom certified by the town clerk or other person authorized by the council shall in any proceedings for the recovery of such expenses, advances, or interest thereon or any instalments thereof, be prima facie evidence of the matters contained therein.

(5) Nothing in this section shall limit or affect the power of the council to execute any work which the council is, by law or under any by-law in force in the municipality, empowered to execute or to recover the cost of executing such work from any person who is liable therefor.

By-laws for
sewerage and
drainage.

168. The council may, from time to time, make, alter, and revoke by-laws for all or any of the following purposes, namely:—

(a) For regulating sewerage or drainage and for compelling the construction and connection at the owner's expense of private drains with public drains, sewers, or pipes, and for regulating the construction by the council at the owner's expense of all house drains, in so far as they connect with and extend from the main sewer to the boundary of the property concerned;

(b) for regulating the giving of notice and the deposit of plans and sections by persons intending to carry out any sewerage or drainage work on any land or premises and the approval or disapproval thereof by the council and the removal or alteration of any sewerage or drainage work begun or done in contravention of any by-law and for the charging of fees for the examination of such plans;

(c) for fixing the charges which may be made for the use of the council's sewers and sewerage works in respect of any premises which are connected therewith;

(d) generally for carrying out the powers and authorities conferred upon the council by the last preceding section.

No such by-law shall be inconsistent with, contrary, or repugnant to the provisions of this Ordinance or of any other law in force within the municipality.

PART III.—OTHER WORKS.

Ord. No. 9
of 1912.*Tramways.*

169. The council may—

(a) establish, acquire, construct, lay down, equip, maintain, and work tramways with or without rails within the municipality or beyond its limits, and make charges in connection therewith, and in connection with any tramways beyond the limits of the municipality may enter into agreement with any person or corporation for the establishment, acquisition, construction, laying-down, equipment, maintenance, working and guaranteeing of the capital cost, and interest on the capital cost of such establishment, etc., and may exercise such powers either alone or in conjunction with another or other municipalities, persons, corporations, or authorities ;

Power to undertake tramways.

(b) establish and maintain, in connection with any tramways worked by the council, a service for the carriage and delivery of parcels within the municipality, and make charges for such service under such by-laws and conditions as may be approved by the Administrator ;

provided that before commencing to establish, acquire, or construct tramways the council shall obtain the consent of the Administrator.

170. The capital cost of construction as hereinafter defined, and any loss that may be incurred in working any line of tramway outside an area, which the Administrator may declare and define by proclamation in the *Provincial Gazette* to be an inner tramway area, shall be deemed to be abnormal or extraordinary expenditure, within the meaning of section *sixteen* of the Local Authorities Rating Ordinance 1903 or any amendment thereof, incurred in respect of a particular area served by such tramway and lying outside such inner area ; and the council may, with respect to such capital cost and loss in working (if any), exercise all the powers conferred by the said Ordinance or amendment thereof. The capital cost of construction aforesaid shall mean and include the

Special assessment for tramways in outside districts.

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Prescribes
certain
conditions
precedent
before
council can
construct
tramways.

cost of tracks, and tramways, levelling or making up roads where the track has to be excavated or raised, electrical bonding, overhead or other power-construction along such tracks, and any necessary sites for terminuses and car stations.

171. The following provisions shall apply to the construction of any tramway in respect of which a special rate is proposed to be levied under the last preceding section :

- (1) The council before entering upon the construction of any such tramway shall—
 - (a) pass a resolution by a majority of existing councillors at a meeting of the council held not less than fourteen days after notice shall have been given at a meeting of the council of an intention to move for the construction of such tramway ;
 - (b) publish daily in six issues of each of two or more newspapers circulating in the municipality an advertisement describing shortly the line of tramway which it is proposed to construct, stating the area of land which is proposed to be specially rated by the council under the powers of the last preceding section, and the proportions (if any) according to which it is proposed that such special rates should be imposed, and naming a place where a plan of the proposed tramway and of such area may be seen at all reasonable hours.
- (2) If any person interested as owner, lessee, or occupier of any land proposed to be specially rated by the council, objects to the construction of any such tramway, or to the imposition of any such special rate, or to the proportion according to which it is proposed to impose the same, or to the exclusion of any other property from the area of the land proposed to be specially rated, and serves written notice of such objection on the council and on the Administrator at any time within fourteen days after the last publication of the advertisement mentioned in sub-section (1) the council shall not be entitled to proceed with the construction of any such tramway without

the sanction of the Administrator, unless such objection be withdrawn.

(3) The Administrator may, on the application of the council and on due proof of the proper advertisement having been published, appoint a person or persons to make an inquiry on the spot into the propriety of the proposed undertaking and the objection thereto, and to report to the Administrator on the matters with respect to which such inquiry was directed, and on receiving such report, the Administrator may make an order empowering the council to proceed with the construction of such tramway in the manner proposed by the council, or subject to such conditions and modifications as he may think fit.

172. Notwithstanding anything contained in the Local Authorities Rating Ordinance 1903 or any amendment thereof, the council shall, for the purpose of any special rate which it may decide to impose with respect to the capital cost of constructing and any loss that may be incurred in working any line of tramway, deduct from the value of the rateable property on which such rate is to be imposed as appearing in the valuation roll, such part thereof as represents the value of buildings, and impose such rate on the value of such property, subject to such deduction as aforesaid, instead of on the full value thereof.

Special tramway rates shall be imposed on value of rateable property less deduction for value of buildings.

173. If at any time within the period allowed under section *one hundred and seventy-one* for serving notice of objection on the council with reference to the construction of any tramway and to the special rate proposed in respect thereof, the owners of two-thirds of the rateable property on which it is proposed to impose such special rate (such two-thirds being reckoned by value according to the values in the valuation roll for the time being in force but subject to the deduction in the preceding section mentioned), shall sign and cause to be transmitted to the town clerk a petition to the council, praying that the council's proposals for the construction of such tramway, and that the imposition of special rates as set forth in the advertisement with reference thereto, be entirely abandoned, the council shall not proceed further therewith but the same shall

If owners of two-thirds in value of property liable to be specially rated in respect of proposed tramway petition for abandonment of council's proposals council may not proceed.

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Excess of special rates over capital cost of constructing tramway to be refunded or remitted.

Power to establish cemeteries outside the municipality and tramways in connection therewith.

Tramway by-laws.

forthwith be abandoned, and the council shall not again initiate proceedings under the said section with regard to the construction of such tramway, until after the expiry of a period of six months from the date when such petition for abandonment is received by the town clerk.

174. If it shall appear that the amount received or to be received by way of special rates imposed with respect to the capital cost of constructing any line of tramway (as defined by section *one hundred and seventy*), is in excess of such capital cost, the council shall refund to persons who have paid such rates, or remit in favour of persons liable to pay the same, a proportionate part thereof, so that the total amount received or to be received by the council by way of such special rates may be approximately equal to the capital cost of constructing such line of tramway. If any question shall arise as to the amount of any refund due from the council under this section, the person claiming such refund may apply to the Administrator to determine such question, and his decision thereon shall be final.

175. The council may, subject to the approval of the Administrator, establish and maintain cemeteries outside the municipality, and establish, maintain, and work tramways to serve such cemeteries, and it shall have the same power of making by-laws for any such cemetery and tramway and of making charges in connection therewith as it would have, if the same were within the municipality, and any by-laws relating to cemeteries or tramways may, by resolution of the council, be applied to any cemetery or tramway established under this section, and on being so applied, shall immediately have full force and effect in relation thereto.

176. The council may, from time to time, make, alter, and revoke by-laws for all or any of the following purposes:—

(a) for regulating the use of any tramways established, acquired, or worked by the council and the method of working such tramways including the running of privately hired tramcars thereon and for regulating the charges to be made in connection with the use of the council's tramcars;

(b) for appointing separate tramcars for the use of white persons and of natives or Asiatics or other coloured persons respectively and restricting the use of such cars to such persons and prohibiting the use of any tramcars by persons who are not respectably dressed or well conducted ;

(c) for regulating the conditions of service and duties of persons employed by the council in working tramways, and for imposing fines (by means of stoppages of pay) on such persons for negligence, dereliction of duty, or other offence prejudicial to the good and proper working of the tramway system ;

(d) for regulating the disposal of unclaimed articles or goods found in the tramway premises and tramcars of the council.

No such by-law shall be inconsistent with, contrary, or repugnant to the provisions of this Ordinance or of any other law in force within the municipality.

Water.

177. The capital cost of providing or laying any new water mains required for the purpose of supplying water to any land or premises within the municipality, which are not connected with any existing mains, shall be deemed to be abnormal or extraordinary expenditure within the meaning of section *sixteen* of the Local Authorities Rating Ordinance 1903 or any amendment thereof, incurred in respect of any particular area served or intended to be served by any such new water mains, whether the same are laid within or without such area, and the council may, with respect to such capital cost, exercise all the powers conferred by the said Ordinance or amendment thereof.

Special
water rates.

Any special rate imposed under this section shall be called "a special water rate" and all the provisions contained in this Ordinance with regard to the construction by the council of any tramway in respect of which a special rate is proposed to be levied, and to the imposition, remission, or refunding of such rate, shall apply *mutatis mutandis* to the providing and laying of any new water mains in respect of which a "special water rate" is proposed to be levied, and to the imposition, remission, or refunding of any "special water rate".

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CHAPTER XI.

GENERAL.

PART I.—POWERS OF ADMINISTRATOR IN LOCAL
AUTHORITY'S DEFAULT OR IN EMERGENCY.

Administrator
may in default
of meeting
of local
authority for
three months
dissolve
said local
authority and
appoint
persons to
form local
authority.

178. If any local authority shall at any time neglect to hold a meeting for the space of ninety days, the Administrator may dissolve such local authority and nominate and appoint by proclamation in the *Provincial Gazette* such number of fit and proper persons as he shall select, not being less than five nor more than seven, to form such local authority for the purposes of this Ordinance, and every such nominated local authority shall be competent to exercise and is hereby required to exercise, all and singular, the powers and authorities vested under this Ordinance in the local authority which has been so dissolved, provided that—

- (a) the persons so nominated and appointed may or may not be persons resident within the area of jurisdiction of such local authority ;
(b) every nominated local authority shall, notwithstanding anything to the contrary contained in this Ordinance or any law providing for the election of such local authority, continue to sit until it be dissolved by proclamation of the Administrator in the *Provincial Gazette*, and prior to such dissolution a local authority shall be elected for the area aforesaid at such date as may be notified by the Administrator, and in manner provided in this Ordinance or any law providing for the holding of a first election of a local authority.

Medical
Officer of
Health for the
Union or
Province
may enter
upon and
inspect all
premises.

179. For the purpose of making such inquiries and investigations into matters relating to public health as he may deem expedient to inquire into, any officer of the Public Health Department of the Union, deputed thereto by the Minister in charge of Public Health, shall have and is hereby given, for any area of jurisdiction of a local authority, all such powers of inspection and entry as are by this Ordinance conferred on a town council and on the officers of a town council.

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Sanitary control of surface and underground mine workings.

180. (1) It shall be the duty of a local authority, if so required by the Administrator, to appoint some person duly qualified in sanitary work and approved by the Administrator, to make regular and systematic inspections of the underground and surface workings of any mine within the area of jurisdiction of such local authority. The person appointed shall, for the purpose of duties in connection with such inspection, be styled a "mines sanitation inspector" and shall comply with such requests in connection with the inspection of underground and surface workings of mines within the said area as may be made by or with the authority of any officer of the Public Health Department of the Union, deputed thereto by the Minister in charge of Public Health. It shall be the duty of such inspector to take cognizance of any law with regard to the sanitation of underground and surface workings of mines or any regulations made or instructions issued thereunder, and to report to the local authority, to any officer of the Public Health Department of the Union, deputed thereto by the Minister in charge of Public Health, and to any other public officer whose duty it is to enforce the observance of any such law, regulations, or instructions, any breach of or failure to comply with the same, and so far as he may be empowered to do so by such officer of the Public Health Department or other public officer aforesaid, to take all steps necessary to enforce the observance of and compliance with the provisions of the said law, regulations, or instructions.

(2) Where an inspector is appointed under this section, the local authority shall not prosecute any person or partnership or company for any breach of by-laws or regulations made in respect of the sanitation of underground or surface workings of mines under the provisions of this Ordinance, unless the local authority shall first have obtained the consent of any officer of the Public Health Department of the Union, deputed thereto by the Minister in charge of Public Health, to undertake such prosecution.

(3) A mines sanitation inspector appointed under this section shall not be removed from his

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office or suspended from his duties by the local authority without the approval of the Administrator.

(4) This section shall not apply to any local authority which has appointed a person, certified by the medical officer of health of such authority to be duly qualified in sanitary work, to carry out the duties hereby assigned to a mines sanitation inspector, and thereafter continues to employ to carry out such duties a person so certified, unless it shall appear to the Administrator after due inquiry by a person appointed for the purpose that such duties are not being efficiently carried out in the area of jurisdiction of such authority; provided that the local authority shall be entitled to receive fourteen days' notice of an inquiry proposed to be held under this sub-section, and to be heard by the person appointed to conduct such inquiry.

Power of
Administrator
where local
authority
defaults in
matters of
public health.

181. If any local authority shall fail to do or carry out any work or thing which it is or may be empowered under this Ordinance or any amendment thereof, to do or carry out, or shall fail to make, alter, revoke, or enforce any by-laws or regulations on any matters upon which it is empowered under this Ordinance to make, alter, revoke, and enforce by-laws or regulations, and such failure on the part of a local authority constitutes, in the opinion of any officer of the Public Health Department of the Union, deputed thereto by the Minister in charge of Public Health, a grave danger and menace to the health of the public within or without its area of jurisdiction, the Administrator may give notice to the local authority in default, requiring it to take measures within its powers under this Ordinance or any amendment thereof, to abate and remove such danger; and if such local authority fail to take and properly carry out the required measures, the Administrator, on satisfying himself that the local authority has so failed without reasonable cause, may—

(a) proclaim such regulations as may be necessary to abate and remove such danger, which regulations shall, until repealed by the Administrator, thereupon have the force and effect of law within the area of jurisdiction of the said local authority;

(b) authorize any person or persons to do or carry out any works or things and to expend such sum in so doing or carrying out works or things as to him may seem necessary, provided that any money expended by the Administrator under this section shall be recoverable by the Administrator from the local authority on the order of any competent court in like manner as if the sum so expended was a loan secured on the property and revenues of the local authority under the provisions of section *forty-nine*; provided further that, in the case of a local authority for whose area of jurisdiction the provisions of the Local Authorities Rating Ordinance 1903 or any amendment thereof do not apply, the Administrator may proclaim that the provisions of that Ordinance or amendment thereof shall apply for the purpose of assessing property within the area of jurisdiction of the said local authority, and of levying assessment rates on such property of such amount and for such period as shall produce a sum equivalent to the expenditure incurred by the Administrator under and for the purposes of this section.

PART II.—RECONSTITUTION OF LOCAL AUTHORITIES.

182. Where any acts have been done, notices given, or proceedings taken before the commencement of this Ordinance in accordance with the provisions of any law thereby repealed, and such acts, notices, or proceedings would if done, given, or taken after such commencement have been properly done, given, or taken, under this Ordinance, such acts, notices, and proceedings shall be deemed to have been done, given, or taken under this Ordinance.

Provision as to acts done before passing of Ordinance.

183. Whenever the council of any municipality or a health committee constituted under any law repealed by this Ordinance shall come under the operation of this Ordinance, the following provisions shall apply :—

Transference of liabilities and rights.

(1) All creditors of such council or committee shall have the same rights and remedies as if the law under which such rights and remedies were conferred had not been repealed ;

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- (2) all works and undertakings authorized to be executed, all rights, liabilities, and engagements existing, and all actions, suits, and legal proceedings pending by or against or in respect of such council or committee, shall be vested in, attached to, and be enforced, carried on, and prosecuted by or against the local authority constituted under this Ordinance, and no such action, suit, or proceeding shall abate or be discontinued or be prejudicially affected by the operation of this Ordinance ;
- (3) all rates and charges due, or payable to, or recoverable by such council or committee shall be vested in and recoverable by the local authority constituted by this Ordinance ;
- (4) all property movable and immovable vested in or belonging to such council or committee or to which such council or committee was entitled at the commencement of this Ordinance, and all assets and claims to which such council or committee was entitled at such commencement shall be vested in and belong to the local authority constituted under this Ordinance ;
- (5) all valuation or assessment rolls lawfully compiled by any such council under the provisions of the Local Authorities Rating Ordinance 1903 or any amendment thereof, shall continue in use (under the provisions of the said Ordinance or amendment thereof) in respect of the municipality for which a council is constituted under this Ordinance, unless the Administrator shall exercise in respect of any village council the powers granted to him under section *one hundred and forty-four* ;
- (6) all privileges, powers, jurisdiction, and duties conferred or imposed on any such council or committee by any law, regulation, or by-law in force within the area of jurisdiction of such council or committee at the commencement of this Ordinance, and not repealed by this Ordinance, shall until the the said law, regulation, or by-law be repealed under the provisions of any other law or of this Ordinance, be retained by the local authority constituted under this Ordinance in place of such council and committee.

184. The by-laws and regulations made in respect of the area of jurisdiction of any local authority under any law repealed by this Ordinance shall from the commencement of this Ordinance be of the same force and effect within such area as if they had been made under this Ordinance.

Existing by-laws and regulations.

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PART III.—MISCELLANEOUS.

185. It shall be the duty of the town clerk, in the case of a town or village council, or of the clerk to the committee in the case of a health committee, to keep open for inspection by any person at all reasonable times in the offices of the local authority, a true copy of so much of this Ordinance as is from time to time applicable within the area of jurisdiction of the local authority.

Copy of this Ordinance as far as it is applicable to any local authority to be open for inspection and purchase.

186. The local authority shall furnish the Administrator with a certified copy of any record or minute of its proceedings, or of the proceedings of any committee appointed by the local authority, or of a record of any accounts of the local authority, or such reports as the Administrator may from time to time require.

Administrator to be furnished with reports and copies of records of council's proceedings and accounts.

187. Where any matter or thing is by this Ordinance, or by any order or notice made and published under the authority thereof, directed or forbidden to be done, or where any authority is given by this Ordinance to any person to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition shall be guilty of an offence against this Ordinance.

Persons offending against order or notice under this Ordinance to be deemed guilty of offence against Ordinance.

188. Any regulations which the Administrator is by this Ordinance empowered to make—

Regulations made by the Administrator.

(1) may provide penalties for the breach thereof in such manner and to the same extent as is allowed under the provisions of this Ordinance in the case of penalties for breach of by-laws ;

(2) may be made applicable to any one or more local authorities, and regulations made by the Administrator for one local authority may be varied in their provisions and made applicable to any other local authority,

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provided that nothing in this section contained shall empower the Administrator to make any regulations for a health committee, which the provisions of Chapter IX of this Ordinance do not empower him to make for such committee ;

(3) shall have the force and effect of law within the area in respect of which they are made upon publication in the *Provincial Gazette* or upon such other date as the Administrator may fix and notify in the *Provincial Gazette* to be the date upon which the said regulations shall have the force and effect of law within the said area ;

(4) may be amended, altered, and rescinded by publication of a notice in the *Provincial Gazette* in like manner as in sub-section (3) of this section is provided.

No such regulation shall be inconsistent with, contrary, or repugnant to the provisions of this Ordinance or of any other law in force within the area of jurisdiction of the local authority.

Provision for
earlier
notification
of births.

189. (1) In the case of every child born in the municipalities of Pretoria and Johannesburg or in any other municipality to which the Administrator shall by proclamation in the *Provincial Gazette* apply the provisions of this section it shall be the duty of the father of the child if he is actually residing in the house where the birth takes place at the time of its occurrence and of any person in attendance upon the mother at the time of, or within six hours after, the birth to give notice in writing of the birth to the medical officer of health in manner provided by this section.

(2) Notice under this section shall be given by posting within thirty-six hours after the birth a prepaid letter or post card addressed to the medical officer of health at his office giving the necessary information of the birth, or by delivering a written notice of the birth at the office of the medical officer within the same time ; and the council shall supply without charge addressed and stamped post cards containing the form of notice to any medical practitioner or midwife residing or practising in the municipality who applies for the same.

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(3) Any person who fails to give notice of a birth in accordance with this section shall be liable to a fine not exceeding five pounds (£5); provided that a person shall not be liable to a fine under this provision if he satisfies the court that he or she had reasonable grounds to believe that notice had been duly given by some other person.

(4) The notification required to be made under this Ordinance shall be in addition to and not in substitution for the requirements of any law relating to the registration of births; and any district or assistant district registrar of births and deaths whose district or any part thereof is situate within the municipality shall at all reasonable times have access to notices of births received by the medical officer of health under this Ordinance or to any book in which those notices may be recorded, for the purpose of obtaining information concerning births which may have occurred in his district.

(5) This section shall apply to any child which has issued forth from its mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead.

190. Except in special cases approved by the Administrator no person shall be permanently appointed by any local authority as sanitary inspector after the first day of January 1915 unless he be the holder of the certificate of the Royal Sanitary Institute (London) or a certificate approved by the Administrator as equivalent thereto, that he has by examination shown himself competent for such office, or unless he shall have been during three consecutive years preceding the year 1915 a sanitary inspector of a South African municipal authority, and the temporary appointment as sanitary inspector of any person who does not possess such qualification and fails or omits to obtain such certificate within twelve calendar months of such appointment shall, upon the expiration of that period, cease and determine.

Qualification
of sanitary
inspectors.

191. (1) The medical officer of health or any veterinary surgeon or any sanitary inspector approved for the purpose of this section by the local authority may at all reasonable times enter any premises within the area of jurisdiction of

Powers of
local
authorities
relating to
unsound
food.

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the local authority, or search any cart or vehicle, or any barrow, basket, sack, bag, or parcel, in order to inspect and examine, and he may inspect and examine—

(a) any animal, alive or dead, intended for the food of man which is exposed for sale, or deposited in any place or is in course of transmission for the purpose of sale, or of preparation for sale or for the purpose of being supplied by an employer to his employees; and

(b) any article, whether solid or liquid, intended for the food of man and sold or exposed for sale, or deposited in any place or in course of transmission for the purpose of sale or of preparation for sale or for the purpose of being supplied by an employer to his employees;

the medical officer of health or veterinary surgeon or sanitary inspector may seize and carry away by himself or with assistance any such animal or article which is diseased or unsound, or unfit for the food of man, and may detain for a reasonable time pending examination and inquiry any animal or article which is suspected of being diseased or unsound or unfit for the food of man.

A medical officer of health or any veterinary surgeon or any sanitary inspector approved as aforesaid may cut into any dead animal or article of food for the purpose of any examination under this section.

Any European member of a police force lawfully established in the Province shall have power to search carts or vehicles, or barrows, baskets, sacks, bags or parcels; and to assist generally in executing and enforcing this section.

(2) (a) The medical officer of health or where there is no medical officer of health a sanitary inspector acting with the approval of a district surgeon or other registered medical practitioner, may by writing under his hand order any animal or article which has been or is liable to be seized under this section to be destroyed or so disposed of as to prevent it from being exposed for sale or used for the food of man; provided that before making such order in respect of any living animal the medical officer of health or sanitary

inspector, unless he is himself a qualified veterinary surgeon, shall obtain a certificate from a qualified veterinary surgeon if available that such animal is suffering from a disease the nature of which shall be specified in such certificate, and where such veterinary surgeon is not available, on the authority of the magistrate.

(b) A veterinary surgeon approved as aforesaid may by writing under his hand order any living animal or any carcass or butcher's meat which has been or is liable to be seized under this section to be destroyed or so disposed of as to prevent it being exposed for sale or used for the food of man.

(3) The person to whom any animal or article which has been or is liable to be seized under this section **belongs** or did belong at the time of sale or exposure for sale, or deposit or transmission for the purpose of sale, or of preparation for sale, or for the purpose of being supplied by an employer to his employees, shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment not exceeding three months, for every animal, or article, or if the article consists of fruit, vegetables, corn, bread or flour, for every parcel thereof so seized, unless he proves that he and the person acting on his behalf (if any) did not know and could not with reasonable care have known, that it was in such a condition, or, at the discretion of the court, if it finds that he has knowingly and wilfully committed the offence he shall be liable without the infliction of a fine to imprisonment for a term of not more than three months with or without hard labour and also to pay all expenses caused by the seizure, detention or disposal of such animal or article.

(4) Where a person convicted of an offence under this section has been within twelve months previously convicted of an offence under this section, the magistrate may, if he thinks fit, and finds that the offender knowingly and wilfully committed both such offences, order that a **notice** of the facts be affixed, in such form and **manner** and for such period not exceeding twenty-one days as the magistrate may order, to any premises occupied by that person, and that the person do pay the costs of such affixing, and if any person obstructs the affixing of such notice, or removes,

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defaces, or conceals the notice while affixed during the said period, he shall for each offence be liable to a fine not exceeding five pounds or in default of payment to imprisonment not exceeding fourteen days.

(5) If the occupier of a licensed slaughter-house is convicted of an offence under this section the magistrate convicting him may cancel the licence for such slaughter-house.

(6) If any person obstructs a medical officer veterinary surgeon, or sanitary inspector, approved as aforesaid, in the performance of his duty under this section he shall, where the magistrate is satisfied that the obstruction was with the intent to prevent the discovery of an offence under this section, or that the accused has within twelve months previously been convicted of such obstruction, be liable to imprisonment for any term not exceeding one month in lieu of any fine authorized by this Ordinance for such obstruction.

Short title
and date of
operation.

192. This Ordinance may be cited for all purposes as the Local Government Ordinance 1912 and shall come into operation on such date as the Administrator shall declare by proclamation in the *Provincial Gazette*.

First Schedule.

Ord. No. 9
of 1912.

Section one.

LAWS REPEALED.	EXTENT OF REPEAL.
Proclamation (Trans.) No. 7 of 1902 (Pretoria Municipal Proclamation)	The whole, except sub-section (4) of section <i>twenty-seven</i> .
Ordinance No. 31 of 1902 (Pretoria Municipal Proclamation Amendment Ordinance)	The whole.
Ordinance No. 34 of 1902 [Johannesburg Municipality (Duties of Chairman) Ordinance]	The whole.
Ordinance No. 3 of 1903, as amended by section <i>eight</i> of Ordinance No. IV (Private) of 1904	Section <i>fifty-two</i> .
Ordinance No. 26 of 1903 (Pretoria Municipal Commission Ordinance)	The whole.
Ordinance No. 38 of 1903 (Municipalities Elections Ordinance)	Sections <i>eight, nine, ten, one hundred and twenty-nine</i> and <i>one hundred and thirty</i> .
Ordinance No. 43 of 1903 (Local Authorities Rating Ordinance)	Section <i>twenty-six</i> .
Ordinance No. 58 of 1903 (Municipal Corporations Ordinance)	The whole, except section <i>thirty-seven</i> , sub-sections (35), (36), (45), (46), and (47) of section <i>forty-two</i> , and sections <i>fifty-four</i> and <i>fifty-eight</i> .
Ordinance No. 64 of 1903 (Municipalities Powers of Expropriation Ordinance)	Sections <i>twenty-four to thirty-one</i> inclusive.
Ordinance No. 41 of 1904 (Municipal Corporations Amendment Ordinance)	The whole, except section <i>twenty-one</i> , paragraph (e) of section <i>twenty-six</i> , and section <i>twenty-eight</i> .
Ordinance No. 50 of 1904 (Pretoria Municipality Extended Powers Ordinance)	The whole.
Ordinance No. 17 of 1905 (Municipal Amending Ordinance)	The whole, except sections <i>one, two, eight, and ten</i> .
Ordinance No. 26 of 1905 (Municipalities Elections Amendment Ordinance)	Section <i>nine</i> .
Ordinance No. 26 of 1906 (Municipal Amending Ordinance)	The whole, except sections <i>seven, eight, and ten</i> .
Ordinance No. I (Private) of 1906 (Pretoria Municipal Ordinance)	Sections <i>nine to fifteen</i> inclusive.
Ordinance No. II (Private) of 1906 (Johannesburg Municipal Ordinance)	The whole, except sub-section (2) of section <i>eighteen</i> , sections <i>thirty-one, thirty-eight, thirty-nine</i> , sub-sections (47), (52), (53), (54), (75), (76) and (77) of section <i>forty-one</i> , and sections <i>forty-eight, ninety-two</i> and <i>ninety-six</i> .
Act No. 25 of 1907 (Education Act) ...	Section <i>eighty-seven</i> .
Act No. 6 of 1910 (Johannesburg Municipal Private Act)	The whole.
Act No. 12 of 1910 (Pretoria Municipal Private Act)	The whole, except sections <i>one, two, three</i> , paragraphs (a) and (b) of section <i>four</i> and section <i>five</i> .

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Second Schedule.

Section *six*, sub-section (1).

COUNCILS OF MUNICIPALITIES CONSTITUTED UNDER ORDINANCE NO. 58 OF 1903, AND ORDINANCE NO. 41 OF 1904, WHICH SHALL BE TOWN COUNCILS CONSTITUTED UNDER THIS ORDINANCE.

The Council of the Municipality of	Barberton.
”	Benoni.
”	Boksburg.
”	Ermelo.
”	Germiston.
”	Heidelberg.
”	Klerksdorp.
”	Krugersdorp.
”	Middelburg.
”	Pietersburg.
”	Potchefstroom.
”	Springs.
”	Standerton.
”	Vereeniging.
”	Volksrust.

Third Schedule.

Section *six*, sub-section (2).

CERTAIN PROVISIONS OF CHAPTER X OF THIS ORDINANCE MADE APPLICABLE TO CERTAIN TOWN COUNCILS.

The Councils of the Municipalities } Sections *one hundred and fifty-five to one*
of Pretoria and Johannesburg } *hundred and seventy-seven, inclusive.*

Fourth Schedule.

Section *forty-seven*.

FORM OF STATEMENT REFERRED TO IN SECTION *forty-seven* OF THIS ORDINANCE.

(A)

Statement of Arrear Rates, Sanitary Fees, etc., due to

The (1) Council of the Municipality of.....
Village Council

I hereby certify that the amounts due to the (1) Council of the Municipality
Village Council
of.....in respect of the premises
(2).....
.....
registered in the name of (3).....
are as shown in the annexure hereto marked X and signed by me, and that
the sum of (4).....pounds.....shillings and
.....pence is, at this date, due and payable to the council.

Given under my hand at.....this.....day of
.....nineteen hundred and.....

Town Clerk.

(B)

Statement of Full Receipt (vide Section forty-seven of this Ordinance).

The sum due to the council as certified under my hand in Statement (A) above has been paid to the council on this date and receipts according to law have been given to the payee.

Date.

Town Clerk.

INSTRUCTIONS re COMPLETION OF FORM GIVEN IN THIS SCHEDULE.

If there be no arrears due at the date of application for the statement the town clerk shall render a "Nil" certificate and shall erase Form B.

Annexure "X."

£ s. d.

Assessment rate (5) for the year.....due and payable on (day, month, and year) ... ..	...	...	...
Assessment rate for the year.....due and payable on (day, month, and year) ... ..	...	...	...
Erf tax for the year.....due on (day, month, and year) ... ..	...	...	...
Erf tax for the year.....due on (day, month, and year) ... ..	...	...	...
Sanitary services for the (6).....due and payable on (day, month, and year) ... ..	...	...	...
Viz.:- Stercus removal @ per			
Rubbish removal @ per			
(7) .....removal @ per			
Sanitary services for the (6).....due and payable on (day, month, and year) ... ..	...	...	...
Amount due in respect of advances made by the Council for—			
(a) the construction and paving of footways [sub-section (10) of section <i>one hundred and fifty-six</i> of the Local Government Ordinance, 1912]			
(b) the execution of drainage work [sub-section (1) of section <i>one hundred and sixty-seven</i> of the Local Government Ordinance, 1912]			
Interest thereon at 6 per cent. per annum from (day, month, and year) ... ..	...	...	...

TOTAL £

Date (8)

Town Clerk.

NOTES.—STATEMENT (A):—

- (1) Delete whichever line is inapplicable.
- (2) Describe premises by giving number of erf or stand (or other accurate description if the premises do not constitute an erf or stand or portion of an erf or stand) and by the name of the township in which premises are situated.
- (3) Give name of "owner" as defined by this Ordinance.
- (4) Insert total shown on Annexure "X."
- (5) Show each rate as imposed by the Council separately.
- (6) Insert and specify period (whether monthly, quarterly, or otherwise) and show every sum due for any such period separately.
- (7) Insert any other service, e.g. carcass removal.
- (8) The date must correspond with the date of certificate in Statement A.

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Fifth Schedule.

Section one hundred and sixteen.

COUNCILS OF MUNICIPALITIES CONSTITUTED UNDER ORDINANCE NO. 41 OF 1904, AND BY PROCLAMATION UNDER ORDINANCE NO. 58 OF 1903, WHICH SHALL BE VILLAGE COUNCILS CONSTITUTED UNDER THIS ORDINANCE.

The Council of the Municipality of	Amersfoort.
"	Amsterdam.
"	Belfast.
"	Bethal.
"	Carolina.
"	Christiana.
"	Lichtenburg.
"	Lydenburg.
"	Machadodorp.
"	Nylstroom.
"	Piet Retief.
"	Potgietersrust.
"	Rustenburg.
"	Schweizer Reneke.
"	Ventersdorp.
"	Wakkerstroom.
"	Witbank.
"	Wolmaransstad.
"	Zeerust.

Sixth Schedule.

Section one hundred and thirty-nine, sub-section (2).

CERTAIN PROVISIONS OF THIS ORDINANCE MADE APPLICABLE TO VILLAGE COUNCILS.

All village councils constituted under section one hundred and sixteen, sub-section (1)	Chapters III, IV, V, and VII.
The Village Council of Amersfoort	Sections seventy-three, seventy-four, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, and eighty-three.
" " Machadodorp	
" " Nylstroom	
" " Wakkerstroom	
" " Witbank	

Seventh Schedule.

Section one hundred and forty-four, sub-section (2).

CERTAIN VILLAGE COUNCILS WHICH SHALL IMPOSE ERF TAX IN LIEU OF ASSESSMENT RATE.

The Village Council of Amersfoort	For the years 1913 to 1917 inclusive.
" " Amsterdam	" " "
" " Belfast	" " "
" " Bethal	" " "
" " Lichtenburg	" " "
" " Machadodorp	" " "
" " Potgietersrust	" " "
" " Piet Retief	" " "
" " Schweizer-Reneke	" " "
" " Witbank	" " "
" " Wolmaransstad	" " "

Eighth Schedule.**Ord. No. 9
of 1912.**Section *one hundred and forty-seven.*

HEALTH COMMITTEES CONSTITUTED UNDER ORDINANCE NO. 3 OF 1905 (AS AMENDED BY ORDINANCE NO. 7 OF 1906) WHICH SHALL BE HEALTH COMMITTEES CONSTITUTED UNDER THIS ORDINANCE.

Alberton Health Committee...	...	Constituted by Proclamation No. 14 (Admn.), 1908.
Balfour Health Committee ...	...	Constituted by Proclamation No. 18 (Admr.'s), 1911.
Bloemhof Health Committee	...	Constituted by Proclamation No. 32 (Admr.'s), 1911.
Dullstroom Health Committee	...	Constituted by Proclamation No. 8 (Admr.'s), 1911.
Elsburg Health Committee ...	...	Constituted by Proclamation No. 31 (Admr.'s), 1908.
Louis Trichardt Health Committee...	...	Constituted by Proclamation No. 98 (Admn.), 1909.
Maquasi Health Committee ...	...	Constituted by Proclamation No. 18 (Admr.'s), 1912.
Nelspruit Health Committee	...	Constituted by Proclamation No. 25 (Admr.'s), 1912.
Nigel Health Committee ...	...	Constituted by Proclamation No. 16 (Admn.), 1909.
Premier (Diamond) Mine Health Committee		Constituted by Proclamation No. 40 (Admn.), 1910.
Pretoria Suburbs Health Committee		Constituted by Proclamation No. 6 (Admr.'s), 1910.