

THE FOURTH CLASS CITY ACT (EXCERPT)

Act 215 of 1895

CHAPTER I INCORPORATION.

81.1 Fourth class cities.

Sec. 1. That all cities within the state of Michigan heretofore incorporated and made subject to the provisions of this act or which shall hereafter be incorporated under the provisions of this act, and containing a population not exceeding 10,000 according to the last preceding federal or state census, shall be cities of the fourth class.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2956;—CL 1915, 2872;—CL 1929, 1796;—CL 1948, 81.1.

81.1a Short title; definitions.

Sec. 1a. (1) This act shall be known and may be cited as "the fourth class city act".

(2) As used in this act:

(a) "Civil infraction", except as used in section 2 of chapter IX, means that term as defined in section 113 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.113 of the Michigan Compiled Laws.

(b) "Civil infraction action" and "municipal civil infraction" mean those terms as defined in section 113 of Act No. 236 of the Public Acts of 1961.

History: Add. 1945, Act 25, Eff. Sept. 6, 1945;—CL 1948, 81.1a;—Am. 1994, Act 19, Eff. May 1, 1994;—Am. 1994, Act 83, Eff. Oct. 1, 1994.

81.1b Fourth class cities; construction of act; validation of amendments and acts.

Sec. 1b. No provision of this act shall apply or be construed as having heretofore applied to any city incorporated or reincorporated under Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Compiled Laws of 1948, unless specifically adopted by the electors as a part of its city charter. The provisions of this act shall be deemed to be in the nature of charter provisions for any city incorporated thereunder or subject thereto and any such provision may be altered or removed by amendment adopted by the electors as provided in Act No. 279 of the Public Acts of 1909, as amended, provided that the effect of the amendment is such as might legally be accomplished by charter provision in the case of a city operating under said Act No. 279. All such amendments heretofore so adopted by any city incorporated under or subject to this act, and all actions heretofore taken and all bonds heretofore issued under or in accordance with such amendments, are hereby validated to the same extent as if the foregoing provision had been in effect when such amendments were adopted.

History: Add. 1962, Act 161, Imd. Eff. May 10, 1962.

81.1c Incorporated city as home rule city; charter.

Sec. 1c. Effective January 1, 1980, a city incorporated under this act shall be deemed a home rule city as provided by Act No. 279 of the Public Acts of 1909, as amended, being sections 117.1 to 117.38 of the Michigan Compiled Laws. Until a charter is adopted pursuant to Act No. 279 of the Public Acts of 1909, as amended, this act shall be deemed to be the charter of the city.

History: Add. 1976, Act 334, Imd. Eff. Dec. 15, 1976.

81.1d Emergency financial manager; authority and responsibilities.

Sec. 1d. Notwithstanding any provision of this act, if an emergency financial manager has been appointed under the local government fiscal responsibility act, Act No. 101 of the Public Acts of 1988, being sections 141.1101 to 141.1118 of the Michigan Compiled Laws, with respect to a city governed by this act, then that emergency financial manager may exercise the authority and responsibilities provided in this act to the extent authorized by Act No. 101 of the Public Acts of 1988.

History: Add. 1988, Act 191, Imd. Eff. June 27, 1988.

81.2 Incorporation.

Sec. 2. Any incorporated village containing a population of not less than 3,000 nor more than 10,000 as shown by the last preceding federal or state census may be incorporated as a city of the fourth class, as hereinafter provided.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2957;—CL 1915, 2873;—CL 1929, 1797;—CL 1948, 81.2.

81.3 Incorporation; petition; resolution of village council; referendum.

Sec. 3. Any 100 or more registered electors residing within a village may present to the village council a petition setting forth the population of the village as shown by the census, and asking that the village be incorporated as a city of the fourth class. If the village council is satisfied that the village contains the population required in section 2 of this chapter, the village council shall by resolution to be entered upon the record of their proceedings, reciting the presentation of the petition and the object of the petition, and that the village contains the requisite population, submit the question as to whether the village shall be incorporated as a city of the fourth class to a vote of the electors of the village at the next annual village election.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2958;—CL 1915, 2874;—CL 1929, 1798;—CL 1948, 81.3;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

81.4 Election; notices, contents.

Sec. 4. At least 30 days before the time of holding any election at which the question mentioned in the preceding section shall be submitted to a vote of the electors, the clerk of the village shall give public notice of the time and place of holding such election; and that the question whether the village shall be incorporated as a city of the fourth class under the provisions of this act, will be submitted to vote at the election. Such notice shall be given by posting written or printed copies thereof in 10 of the most public places in the village, and by publishing the same in 1 or more newspapers published in the village, the same length of time before such election.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2959;—CL 1915, 2875;—CL 1929, 1799;—CL 1948, 81.4.

81.5 Election; qualified voters; form of submission, canvass; return.

Sec. 5. At such election all persons having the qualifications of electors at the annual village elections may vote upon the question of such incorporation, and it shall be the duty of the council to cause to be printed at the foot of the official village ballot, to be used at such election, the question of incorporation proposed to be voted upon, in accordance with the general election laws of the state as follows:

For city incorporation. Yes. []

For city incorporation. No. []

The inspectors of election shall canvass such votes within the same time and in the same manner as provided for canvassing the votes for village officers, and they shall make return thereof to the village clerk within the time and in the manner provided for making returns of village elections; and the council shall determine the result of the election upon the proposition voted upon the same as upon the election of village officers.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2960;—CL 1915, 2876;—CL 1929, 1800;—CL 1948, 81.5.

81.6 Election; authorizing vote; resolution of council, contents; records.

Sec. 6. After the council shall have determined the result of the election upon the proposition voted upon, as provided in the preceding section, if it shall appear to the council that a majority of all the votes legally given at such election upon the question of such incorporation, were given for the incorporation, the council shall, by a resolution to be entered in the record of their proceedings, recite that at said election, stating the date thereof, the question as to whether said village should be incorporated as a city of the fourth class under the provisions of this act, was submitted to a vote of the electors of the village, and that a majority of those voting upon the question, voted for city incorporation; and shall, in the same resolution declare that, in accordance with said vote, the said village shall be and is incorporated as a city of the fourth class by the name of "The city of". (Stating the name by which the city is to be known).

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2961;—CL 1915, 2877;—CL 1929, 1801;—CL 1948, 81.6.

81.7 Election results; adoption, recording; declaration of incorporation, filing.

Sec. 7. Immediately upon the adoption of the resolution mentioned in the last preceding section, the clerk of the village shall record the same in the record of the proceedings of the council and shall make a copy of so much of the record of the proceedings of the meeting at which the same was adopted, as may be necessary to show the time and place of holding such meeting, and the names of the members of the council who were present, and the passage of said resolution including a true copy thereof. To said copy the clerk and the president of the village shall annex their certificate, under the corporate seal of the village, showing the same to be a true copy of said record; which said certified copy of the record and resolution aforesaid shall be designated as a "declaration of incorporation", and shall be transmitted to, and be filed and recorded in the office of the secretary of state, and a like certified copy or declaration of incorporation shall be filed and recorded in a book to be kept for that purpose, in the office of the county clerk of the county in which said

village is located.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2962;—CL 1915, 2878;—CL 1929, 1802;—CL 1948, 81.7.

81.8 Village deemed fourth class city; evidence.

Sec. 8. When the declaration of incorporation mentioned in the last preceding section shall be filed in the office of the secretary of state, as therein directed, the said village shall be deemed in law to be, and shall be, a city of the fourth class duly incorporated under and subject to the provisions of this act, by the name expressed in said declaration of incorporation; and the declaration of incorporation filed in the office of the secretary of state and in the office of the county clerk aforesaid, or the records thereof, or certified copies of such records shall be prima facie evidence of the due and legal incorporation of such village as a city of the fourth class under the provisions of this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2963;—CL 1915, 2879;—CL 1929, 1803;—CL 1948, 81.8.

81.9 Village deemed fourth class city; officers in power.

Sec. 9. After the incorporation of the village as a city as aforesaid, the government and affairs of the old or village corporation shall continue and proceed as before, and all village officers shall remain in office and exercise their powers and duties as village officers, except as herein otherwise provided, until the city officers and members of the council first elected under the new corporation shall enter upon the duties of their offices.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2964;—CL 1915, 2880;—CL 1929, 1804;—CL 1948, 81.9.

81.10 Village deemed fourth class city; division into wards.

Sec. 10. Immediately upon filing the declaration of incorporation mentioned in section 7, in the office of the secretary of state, as in that section directed, the council shall proceed to divide the newly incorporated city into wards. If such city contains a population of less than 5,000 persons, they shall divide it into 3 wards; if it contains a population of 5,000 and upwards, it may be divided into 4 wards; and a greater number of wards may be established upon the basis of population as provided in section 2, chapter 3 of this act. The division shall be so made as to make the territory and population of the wards as nearly equal as may be.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2965;—CL 1915, 2881;—CL 1929, 1805;—CL 1948, 81.10.

Compiler's note: For provisions of section 2 of chapter 3, referred to in this section, see MCL 83.2.

81.11 First election of new city; time, procedure.

Sec. 11. The first election in and for the new corporation shall be held on the first Monday in April next after the filing of the declaration of incorporation in the office of the secretary of state: Provided, There shall be sufficient time after the division of the city into wards, to make a registration of the electors, and to give the notice of election hereinafter required; and if there shall not be sufficient time for that purpose, then such first election shall be held on the first Monday of April next thereafter; or the council may appoint a day for the holding of a special election, upon giving like notice as hereinafter required for the holding of such elections.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2966;—CL 1915, 2882;—CL 1929, 1806;—CL 1948, 81.11.

81.12 First election of new city; prerequisites.

Sec. 12. At least 10 days before the first election in and for the new corporation, the council of the old corporation shall appoint 4 persons in each ward as inspectors of such election therein; and cause notice to be given by the clerk, by handbills posted in 10 of the most public places in each ward, and by publication in 1 or more newspapers printed in the city, of the time and place in each ward of holding such election and of the city and ward officers to be elected; and of the place in each ward where the said inspectors of election will meet on the Saturday next preceding the election to make a registration of the electors of the new city corporation, and that no person, unless registered in such registry, can be permitted to vote at such elections. Said council shall also procure books of registry of the form required by law for the registration of electors in cities, and deliver them to said inspectors.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2967;—CL 1915, 2883;—CL 1929, 1807;—CL 1948, 81.12.

81.13 Inspectors of election; oath, duties.

Sec. 13. The inspectors of election, appointed as provided in the preceding section, shall constitute boards of registration for their respective wards for the purpose of making the first registry of the electors therein. They shall take and file with the clerk the oath of office required in this act to be taken by city officers, and shall meet in their respective wards on the day and place appointed in the notice mentioned in the preceding section, and there make a registry of all persons in the wards qualified by law to be registered as electors

therein. In making such registry they shall proceed in the manner provided by law for making the registry of electors in cities. Such registry, when completed, shall be the registry of electors of the several wards of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2968;—CL 1915, 2884;—CL 1929, 1808;—CL 1948, 81.13.

81.14 Inspectors of first election; duties.

Sec. 14. Said inspectors shall be inspectors of such first election in their respective wards, and shall have the same powers, and perform the same duties at the election, and in respect to the canvass of the votes, and in making and returning written statements and certificates of the votes cast, and for whom given, as are required of inspectors at annual city elections provided for in this act, except that said written statements and certificates shall be deposited with the village clerk, and the village council shall respectively perform the same duties in respect to the canvass of the votes and returns, and in determining and certifying what persons were elected to office, and in notifying such persons of their election as are required of the city clerk and council in respect to said annual city elections.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2969;—CL 1915, 2885;—CL 1929, 1809;—CL 1948, 81.14.

81.15 Fourth class city; bodies corporate.

Sec. 15. All cities organized under or made subject to the provisions of this act shall be bodies politic and corporate under and by the name assumed by them in their declaration of incorporation, or designated in their acts of incorporation; and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the purposes for which they are incorporated, have a common seal and change the same at pleasure, and exercise all the powers in this act conferred.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2970;—CL 1915, 2886;—CL 1929, 1810;—CL 1948, 81.15.

81.16 Fourth class cities; judicial notice taken; changes in organization.

Sec. 16. Judicial notice shall be taken in all courts and proceedings in this state of the existence of all cities incorporated or made subject to the provisions of this act, and of the change of organization of any city or village from its former organization to its incorporation under or subject to the provisions of this act, and of all changes at any time made in the corporate limits of any city, by the annexation of territory thereto or otherwise, and of the boundaries of all wards, and of all changes made at any time in the boundaries of any ward in any such city; and from the time of such incorporation or change of organization the provisions of this act shall be applicable to such cities, and all laws in conflict therewith shall no longer be applicable.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2971;—CL 1915, 2887;—CL 1929, 1811;—CL 1948, 81.16.

81.17 Existing ordinances, by-laws, resolutions.

Sec. 17. All ordinances, by-laws, and resolutions, in force in any village, when it shall be incorporated under this act and not inconsistent herewith, shall continue in full force and effect until repealed or amended by the city council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2972;—CL 1915, 2888;—CL 1929, 1812;—CL 1948, 81.17.

81.18 Status of former rights; liabilities; remedies.

Sec. 18. All rights and property of any kind and description which were vested in any village corporation under its former organization shall, upon its incorporation, subject to this act be deemed and held to be vested in the new corporation; and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its incorporation, under this act, and no suit or prosecution of any kind shall be in any manner affected by such change, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the former corporation shall be deemed to be the debts and liabilities of the new corporation, and all taxes levied and uncollected at the time of such change shall be collected the same as if such change had not been made: Provided, That when a different remedy is given in this act, which can be made applicable to any rights existing at the time of the incorporation of the city under this act, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 2973;—CL 1915, 2889;—CL 1929, 1813;—CL 1948, 81.18.