

**THE FOURTH CLASS CITY ACT (EXCERPT)**  
**Act 215 of 1895**

CHAPTER XXXIII

FOURTH CLASS CITIES—MISCELLANEOUS.

**113.1 Reincorporation under act; procedure; city council; duty; resolution; declaration of reincorporation; filing; evidence.**

Sec. 1. All cities heretofore incorporated under any general or special law of this state, and having a population of 10,000 or less, according to the last preceding census, are hereby reincorporated under and made subject to the provisions of this act, as cities of the fourth class, such reincorporation to take effect on the first day of January, in the year of our Lord 1896, and all acts by virtue of which such cities have been incorporated are hereby repealed from and after the said first day of January, in the year of our Lord 1896, except as hereinafter in this section provided. However, if 50 or more of the qualified voters of any city described in this section as a city of the fourth class, which city has been incorporated under a special act of the legislature, shall file with the city council, on or before the first day of November, in the year of our Lord 1895, a petition praying that an election of the qualified voters of such city be called to determine the question as to whether such city shall remain incorporated under the special act under which it was incorporated and by which it is governed at the time of the filing of the petition, or whether it shall become subject to the provisions of this act, thereupon it shall be the duty of the city council, within 10 days after the filing of the petition, to call a special election of the qualified voters of the city to determine the question. If a majority of all the votes cast at the election are in favor of remaining incorporated under the special act by which the city is governed at the time of the filing of the petition, then the city shall not be reincorporated under the provisions of this act, but shall remain incorporated under the special act, which shall remain in full force and effect as if this law had not been enacted. However, if a city of this state, when the population of the city is 10,000 or less, according to the last preceding state census even though the voters of the city previously elected to remain incorporated under the special act governing the city, may be incorporated under and made subject to the provisions of this act and the act of which this act is amendatory, as a city of the fourth class as provided in this section. If 100 or more registered electors residing within the city files with the city council, on or before the first day of July in any year, a petition praying that an election of the qualified voters of the city be called to determine the question as to whether the city shall become incorporated as a city of the fourth class under this act, then the city council shall within 10 days after the filing of the petition call a special election of the qualified voters of the city to determine the question. Except as otherwise provided in this section, an election held under this chapter shall be held upon such day, and at such time and in such places in the city as may be designated by a resolution of the city council. However, an election shall be held on or before the first day of December in the year in which the petition under this section is filed. Notice of the election shall be given in the same manner and for the same length of time as is provided in the charter of the city for the calling of special elections, and the votes shall be counted and canvassed, and the returns shall be made, and the result declared and determined in the same manner as is provided in the charter for the counting, canvassing, and returning of votes, and the determining of the result of the election at special elections. No new registration shall be necessary for the holding of the election, and only those whose names appear in the registration books used at the next previous annual city election shall be entitled to vote at the election. The ballots used at the election shall contain the instructions required by the general election laws of the state, and the proposition to be submitted shall be in the following language:

For becoming reincorporated under the general law -- Yes. ☐

For becoming reincorporated under the general law -- No. ☐

If a majority of the votes cast at the election shall be in favor of reincorporating under the provisions of this act, then the city shall become reincorporated under and made subject to the provisions of this act on the first day of January in the year following the special election. At the next regular meeting, the council shall, by a resolution to be entered in the record of their proceedings, recite that at the election, stating the date of the election, the question as to whether the city should be reincorporated as a city of the fourth class under the provisions of this act was submitted to a vote of the electors of the city, and that a majority of those voting upon the question, voted for reincorporation, and shall in the resolution declare that, in accordance with said vote, the city shall be and is reincorporated as a city of the fourth class; the clerk of the city 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 resolution was adopted as may be necessary to show the time and place of holding the meeting, and the names of the members of the council who were present, and the passage of the resolution, including a true copy of the record. The clerk and the mayor of the city shall annex their

certificate to the true copy of the record, under the corporate seal of the city showing the same to be a true copy of the record, which said certified copy of the record and resolution shall be designated as a "declaration of reincorporation" and shall be transmitted to, and filed and recorded in the office of the secretary of state, and the declaration of reincorporation filed in the office of the secretary of state, or the records of the secretary of state, or certified copies of such records shall be prima facie evidence of the due and legal reincorporation of the city as a city of the fourth class under the provisions of this act.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3358;—Am. 1899, Act 136, Imd. Eff. June 21, 1899;—CL 1915, 3282;—CL 1929, 2204;—CL 1948, 113.1;—Am. 1998, Act 149, Eff. Mar. 23, 1999.

### **113.2 Reincorporation under act; property, assets, vesting; liabilities; cumulative remedies.**

Sec. 2. All cities reincorporated under and made subject to the provisions of this act, as provided in the preceding section, shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and all the records, files, books and papers belonging to such cities as formerly incorporated, and no rights or liabilities, either in favor of or against such former corporation, existing at the time of its reincorporation, under or subject to the provisions of 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 or subject to 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, 3359;—CL 1915, 3283;—CL 1929, 2205;—CL 1948, 113.2.

### **113.3 Reincorporation under act; officers in office until successors qualify.**

Sec. 3. All the officers in any such city, elected or appointed under the provisions of the former act of incorporation of such city, and in office at the time of such reincorporation under this act, shall continue to exercise their respective functions under the provisions of this act of reincorporation for the full term for which they were so elected or appointed, and until their successors shall have qualified and entered upon the duties of their office, unless herein otherwise provided.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3360;—CL 1915, 3284;—CL 1929, 2206;—CL 1948, 113.3.

### **113.4 Reincorporation under act; existing by-laws, ordinances.**

Sec. 4. The by-laws and ordinances of any such city and the rules and regulations of the council, and of the board of health or other board or boards of such city heretofore in force and not inconsistent with this act shall remain in force after the passage of this act and are hereby declared to be reenacted by virtue of and under the powers conferred by this act until altered amended or repealed by the council or such board as the case may be.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3361;—CL 1915, 3285;—CL 1929, 2207;—CL 1948, 113.4.

### **113.5 Reincorporation under act; special assessments, enforcement.**

Sec. 5. In cases where a special assessment has been made by authority of and confirmed by the council of any such city, and the same, or some part thereof, shall not have been collected when this act shall take effect, such city, as hereby reincorporated, shall have authority to enforce the payment thereof, and the same proceedings may be had therefor as are provided in this act.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3362;—CL 1915, 3286;—CL 1929, 2208;—CL 1948, 113.5.

### **113.6 Reincorporation under act; existing licenses.**

Sec. 6. All licenses granted by any such city under its former act of incorporation shall be and remain in full force and virtue until the expiration of the time for which they were granted.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3363;—CL 1915, 3287;—CL 1929, 2209;—CL 1948, 113.6.

### **113.7 Reincorporation under act; first election of officers, procedure.**

Sec. 7. The first election of officers for any such city reincorporated under the provisions of this act shall be held on the first Monday in April, in the year of our Lord, 1896, and notice thereof and of the officers to be elected thereat shall be given and the election held and conducted, the votes canvassed, the result determined and notice given to persons elected in the same manner and within the same time as herein provided.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3364;—CL 1915, 3288;—CL 1929, 2210;—CL 1948, 113.7.

### **113.9 Reincorporation under act; platting of lands; liability of city for new streets.**

Sec. 9. No lands or premises shall hereafter be laid out, divided and platted into lots, streets and alleys within any such city, except by permission and approval of the council by resolution passed for that purpose; nor until the proprietor shall file with the city clerk a correct survey, plan and map of such grounds and the subdivisions thereof, platted and subdivided as approved by the council, and made to their satisfaction; showing also the relative position and location of such lots, streets and alleys with respect to the adjacent lots and streets of the city; nor shall any such plat and dedication of the streets and public grounds thereon be recorded in the office of the register of deeds of the county in which such city is located until a certificate has been endorsed thereon by the city clerk, under the seal of the city, showing that such plat and dedication has been approved by the council; nor shall the city by reason of such approval, be responsible for the improvement, care, and repairs of such streets and alleys excepting such as the council shall accept and confirm by ordinance or resolution as in this act provided.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3366;—CL 1915, 3289;—CL 1929, 2111;—CL 1948, 113.9.

### **113.10 City; definition.**

Sec. 10. The term "city," whenever used in this act, shall be construed to mean a city incorporated under this act, or made subject to its provisions.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3367;—CL 1915, 3290;—CL 1929, 2112;—CL 1948, 113.10.

### **113.11 City not to own stock of incorporated companies.**

Sec. 11. No such city shall become the owner or holder of stock or shares in any incorporated company.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3368;—CL 1915, 3291;—CL 1929, 2213;—CL 1948, 113.11.

### **113.12 Affidavit of notice; filing, evidence.**

Sec. 12. When, by the provisions of this act, notice of any matter or proceeding is required to be published or posted, an affidavit of the publication or posting of the same, made by the printer of the newspaper in which the same was inserted, or by some person in his employ knowing the facts, if such notice was required to be made by publication, or by the person posting the same, when required to be by posting, shall be prima facie evidence of the facts therein contained: Provided, The same shall be filed with the city clerk within 6 months from the date of the last publication thereof, or of posting the same.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3369;—CL 1915, 3292;—CL 1929, 2214;—CL 1948, 113.12.

### **113.13 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.**

**Compiler's note:** The repealed section pertained to bonds for payment of judgement or decree against city.

### **113.14 Reincorporation from fourth to third class cities.**

Sec. 14. Whenever any city of the fourth class shall have a population of more than 10,000 according to the last preceding federal or state census, then such city shall be reincorporated as a city of the third class at the time and in the manner provided by law for the incorporation of cities of the third class.

**History:** 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3371;—CL 1915, 3294;—CL 1929, 2216;—CL 1948, 113.14.

### **113.16 Vacating incorporation of city; prerequisite, petition, procedure.**

Sec. 16. Whenever the qualified electors of any incorporated city whose population has decreased since its incorporation to less than 500 inhabitants as shown by the last federal census and the qualified electors of such city show a desire to vacate the incorporation of the same, the city council upon petitions being presented to it at any regular or special meeting, signed by at least 1/4 of the legal voters of such city as shown by the registration list of the last preceding registration held in such city, praying that the incorporation of such city be vacated, shall immediately thereupon order a special meeting of the electors of such city to be held for the purpose of voting upon the question of vacating the incorporation of the same, and shall give 30 days' notice of the time and place of holding such meeting by posting up written or printed notices which shall state the object of such meeting by reciting the substance of such petition, in 6 of the most public places within the limits of such city.

**History:** Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.16.

### **113.17 Vacating incorporation of city; election, form of ballots, transcript of proceedings certified to county clerk; plats unaffected.**

Sec. 17. At the time of holding such meeting, all persons voting thereon shall have written or printed on their ballots "Shall the city of ..... be vacated as a city of the 4th class?"

Yes [ ]

No [ ]."

and such meeting shall be conducted and the votes shall be canvassed in the same manner as is provided for conducting elections in such city; and in case a 2/3 majority of the qualified electors of such city shall vote in favor of vacating the incorporation of the same, the city council, or a majority of them, shall, immediately thereafter, cause a transcript of all the proceedings in the case to be certified, under their hands, to the county clerk of the county in which such city or the principal part thereof is located: Provided, That nothing in this act contained shall authorize the qualified electors of any such incorporated city, or the board of supervisors, to vacate or alter any recorded plat of such city, or any street or alley in the same.

**History:** Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.17.

### **113.18 Vacating incorporation of city; certified transcript of proceedings; resolution of board of supervisors, contents; representative districts.**

Sec. 18. Upon receiving the transcript of the proceedings in submitting to a vote of the electors the question of vacating the incorporation of any city, properly certified to as provided in the preceding section, the county clerk shall lay the same before the board of supervisors of the county at its next regular annual meeting, and it shall thereupon be the duty of the board of supervisors to pass a resolution vacating the incorporation of such city. Such resolution shall provide that the territory of such city shall revert to and become a part of the township or townships from which it was originally taken, and that the inhabitants thereof shall for all purposes be deemed residents of such township or townships except that the integrity of all representative districts shall be preserved.

**History:** Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.18.

### **113.19 Vacating incorporation of city; deposit of books and records with county clerk; bond or other indebtedness, procedure and time for payment.**

Sec. 19. Upon the vacation of the incorporation of any city, under the provisions of the preceding sections, it shall be the duty of the officers of such city to forthwith deposit all books, papers, records, and files, relating to the organization of, or belonging to such city, which are in their custody as such officers, with the county clerk of the county in which such city or the principal part thereof is located, for safe keeping and reference. Upon the vacation or discontinuance of any city incorporation, under the preceding sections, the indebtedness of such city, whether bonded or otherwise, if any there be, shall be assessed, levied and collected upon the territory embraced within the boundaries of such city immediately prior to such vacation. It shall be the duty of the supervisor or supervisors of the township or townships in which the territory formerly embraced within the limits of any vacated city (within 1 year from the date of the vacation of such city, except when such indebtedness falls due at some specified time, in which case such assessment shall be made so as to meet such indebtedness when the same falls due), to levy upon the assessment roll or rolls of his township upon the property formerly embraced within the limits of such city, the indebtedness of such city, or such portion of the same as shall be apportioned to the part of the territory formerly constituting such city as lies within his township as hereinafter provided. The taxes so assessed and levied shall be collected the same as other taxes, and shall be placed in a separate fund and applied to the payment of such indebtedness and the manner of the payment of such indebtedness shall be fixed by the board of supervisors in the resolution to be passed by said board vacating the incorporation of such city.

**History:** Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.19.

### **113.20 Vacated territory in two or more townships or counties; division of indebtedness, procedure.**

Sec. 20. In case the territory formerly embraced within such vacated city shall consist of territory of two or more townships in the same county, it shall be the duty of the board of supervisors to apportion, among the several townships, the amount of such indebtedness which each township shall bear; and in case such city was comprised of territory from 2 different counties, it shall be the duty of the boards of supervisors of the 2 counties to determine what portion of such indebtedness each county shall bear, using as a basis the last preceding assessment roll of such city prior to its vacation. Such indebtedness when so apportioned, shall be assessed, levied and collected as provided in the preceding section.

**History:** Add. 1931, Act 223, Eff. Sept. 18, 1931;—CL 1948, 113.20.