

in the docket of city liens and thereafter collected in the same manner as assessments for improvements, or may be collected in such other manner as the council may direct.

39. To prohibit the deposit or accumulation of filth, garbage or refuse of any kind in any part of the city and to prohibit the throwing of any filth, garbage, refuse or impurities of any kind into any water or stream, natural or artificial, within the limits of the city or the doing of any other act by which the water supply of the city might be contaminated or the general health of the inhabitants impaired.

40. To determine and prescribe by ordinance the number and size of all places or entrance and exit to and from public halls, churches, theaters, schools and other buildings used for public gatherings; also to prescribe and regulate the size and manner of hanging doors thereto and the manner of lighting and heating said places, entrances and exits.

41. To compel all persons erecting or maintaining privies or cesspools within one hundred feet of any streets in which a sewer has or may hereafter be constructed to connect the same therewith.

42. To regulate, prevent and prohibit public criers, advertising noises, steam whistles, the ringing of bells and playing of bands.

43. To regulate the rate of speed of all automobiles, trains, cars, locomotives, vehicles and horses; and to punish all persons driving or managing any such automobile, train, car, locomotive, machine, vehicle or horse or riding any horse in said city at any greater speed than designated in said ordinance.

44. To require all automobiles, motor bicycles, bicycles, tricycles, motorcycles, engines, cars, locomotives, etc., to provide and adopt proper safety appliances, lights and warning signals for the protection of human life and the lessening of danger thereto; and to enforce such regulations by fine and imprisonment or both.

45. To prohibit or regulate the sale and use of bean shooters, sling shots, air guns, pistols, firearms, missile weapons, fireworks bombs, rockets, firecrackers and detonating works of all descriptions and to prohibit the carrying of deadly weapons in a concealed manner and to define what shall constitute such weapon and carrying.

46. To establish and define the fire limits, and to prohibit and regulate the erection, removal and repair of wooden buildings within the fire limits; to define and establish the class of material of which buildings within the fire limits must be constructed; to regulate the height, construction and inspection and repair of all private and public buildings within the city and provide by ordinance regulations in regard to moving the same.

47. To provide for the establishment, equipment and maintenance of a fire department and fire companies, and for their regulation.

48. To provide for the prevention and extinguishment of fires and the preservation of property exposed to danger on account thereof; to construct cisterns and wells for water for the extinguishment of fires, and to prescribe by ordinances such other powers, provisions, rules and regulations as shall be necessary or expedient for the occasion.

49. To require adequate fire escapes, apparatus and appliances for protection against fire, to be provided in buildings.

50. To provide the manner and regulate the wiring of houses, buildings and other structures for light, power, telegraph, telephone and any other purpose for which electricity is now or may be hereafter used.

51. To regulate and prohibit the manufacture, storage, sale, transportation and use of gunpowder, blasting powder, dynamite, nitro-glycerine and all other combustible and explosive materials.

52. To regulate and prohibit the use, manufacture, transportation and storage of oil, acids, gas, candles, lamps and other lights in stores, shops, stables and other places; to prevent, remove or make secure any fireplace, flue, stove or stove pipe, chimney, oven, boiler, furnace or other apparatus which may be considered by said council as dangerous in causing fires and to make the cost of such removal or securing a lien upon the property whereon or in connection with which the same is located and provide for the manner of collecting the same.

53. To regulate and prohibit the building of party walls, fences and partitions.

54. To make secure or remove dangerous, unsafe, insecure and unsightly buildings and to make the cost of such securing and removal a lien upon the premises and providing for the collection thereof.

55. To prevent, restrain, prohibit and regulate the running at large of any and all domestic or other animals, poultry or fowl within the city limits or any part thereof; and to provide punishment for the owners or keepers of such animals, poultry or fowl who allow or permit the same to run at large in violation of any ordinance or regulation for such purpose; and to provide for the impounding and selling of any or all of such animals, poultry or fowl found running at large within the city limits and the time and manner of such sale, and the disposition of the proceeds of such sale.

56. To regulate and prohibit the driving or herding of any or all domestic or other animals over, upon or through any of the streets, alleys, avenues, boulevards or other highways of the city.

57. To regulate and prohibit the erection and maintenance of hitching racks, hitching posts and all other hitching fixtures on the streets, curbs, sidewalks and other highways of the city.

58. To provide and regulate the manner and prohibit the hitching or fastening of any domestic or other animals upon the streets, alleys or other highways of the city and to prohibit the leaving of domestic or other animals, with or without carriage or other vehicle attached, in the streets, alleys or other highways of the city, without being securely fastened according to the regulation provided by ordinance and to provide the time that such animals may be so hitched or fastened; and to prohibit the staking or fastening of domestic or other animals upon the streets, alleys or other highways or public grounds of the city for feeding or grazing.

59. To prevent cruelty to animals and to define what shall constitute the same and provide punishment therefor.

60. To regulate and restrain the keeping and running at large of dogs; to punish those persons who allow their dogs to be unlicensed, or to run at large against the regulations established, and to provide for the impounding of dogs, and for the killing of the same when kept against such regulations, or on which no license has been obtained or tax paid, as provided by the council.

61. To prohibit the keeping or feeding of any hogs or hog pens within the city limits or any part thereof.

62. To regulate, remove and prohibit the erection and maintenance of stock-yards, tanneries, slaughter houses, hog pens, wash houses, laundries and all other offensive trades, businesses or occupations carried on; and to provide for their exclusion from the city or any part thereof, and to prohibit their maintenance beyond the city limits when their proximity to the corporate boundaries is such as to be an annoyance or nuisance to those residing within the corporate limits.

63. To prevent, remove and abate nuisances, and to declare what shall constitute the same, and to punish, by fine or imprisonment, or both, persons committing or suffering nuisances, and to provide the manner of their removal, and to make the costs of such removal a lien upon the property where such nuisance existed. Such liens may, upon the order of the council, be entered in the docket of city liens, and thereafter collected in the same manner as assessments for street improvements, or may be collected in such other manner as the council may direct. Every act or thing done, or anything existing within the city limits, which is or may be declared by the law of this state, or any ordinance of said city to be a nuisance, shall be, and the same is, hereby declared to be a nuisance, and shall be considered and treated as such in all actions, suits and proceedings whatsoever, unless such law or ordinance be declared void by a court of competent jurisdiction. To punish by fine or imprisonment, or both, any person or persons who shall cause or continue any nuisance within the city limits, or suffer any nuisance to exist upon any property occupied or controlled by such person or persons within the city, or in any street, alley or public highway contiguous to such property when the owner or occupant of such property is the author or continuator of such nuisance. The powers herein conferred upon council for the abatement or removal of nuisances shall not be held to bar or hinder suits, prosecutions, nor proceedings appealing to the general laws of this state.

CHAPTER XIII.

Establishing and Changing of Streets; Power of Council Over Streets.

Section 78. The city council of the City of Jacksonville is hereby granted power and authority within the limits of the City of Jacksonville, whenever it may deem it necessary or expedient, to open, lay out, establish, widen, alter, straighten, vacate or close streets and to appropriate and condemn property therefor and to levy special benefit assessments for such purposes.

Section 79. The term "street" whenever used in this article or chapter

shall be deemed to include streets, alleys, footways and all other thoroughfares and highways.

Section 80. Whenever the council shall deem it expedient or necessary to open, lay out, establish, widen, alter, straighten or change any street, it shall, by resolution, direct the city surveyor to make a survey of such street or change, and to make a plat of the same, and a written report containing a full and complete description of such street and change, and of the boundaries thereof, and of the portions of each lot and tract of land to be appropriated therefor. The city surveyor shall make such survey, report and plat and file the same with the recorder within twenty days from the date the same was ordered by the council, unless said council grant him further time. Should the council deem said survey, plat and report satisfactory, it shall adopt the same by ordinance, embodying such report. But if said report, survey and plat be not satisfactory to the council they may have another survey, plat and report made and filed or revise and amend the original survey, plat and report so as to make the same satisfactory to said council.

Section 81. Thereafter and within sixty days from the adoption of said report, the council shall appoint three disinterested freeholders of the City of Jacksonville who shall have the qualifications of a juror of the Circuit Court of Jackson County, to view such proposed street or change and make an assessment of damages and benefits, as provided in the next and following section of this charter, and shall assign a day and place for them to meet; and the recorder shall send by mail, postpaid, a notice of the appointment of said viewers, giving their names and the time and place of meeting, and specifying, with convenient certainty the boundaries and terminal of the proposed street or change to each of the property owners whose property is proposed to be appropriated, or to the agent of such owner, when the post office address of such owner or agent is unknown to him, and if such postoffice address be unknown, then such notice shall be directed to such owner or agent at Jacksonville and the recorder shall give further notice of the matters herein contained by posting a like notice in three public places in said town for the period of two weeks or by publication for a like period in a newspaper published in said town, and at the next regular meeting of the council, after the completion of such notice, present to it the said report, plat and survey, and attach thereto a copy of said notice with proof of publication or posting and mailing of the same endorsed thereon.

Section 82. The recorder shall at least five days before the day set for such meeting, cause said viewers to be notified of their appointment, and of the time and place of such meeting, and said viewers shall meet at the time and place designated and shall then be sworn to discharge the duties assigned them. They shall then on any subsequent day to which they may adjourn (which adjournment shall not exceed more than one week at a time), proceed to view the proposed street or change and to determine and assess how much, if any, less valuable the lands of other property, or any part thereof, through or over which the proposed street is to be opened, laid out, established, widened, altered, straightened, will be rendered thereby; and shall also ascertain the respective interests of all persons claiming to be the owners of lands, or other property aforesaid, or of the improvements thereon, or to have any interest in such lands or improvements, and the damages which each of the said owners respectively will sustain, but the right and title of the owners of such improvement shall not be affected by such proceedings, and the appropriation of such lands, if such owners shall within sixty days after the appropriation of such lands be completed, or within such further time as the council may allow therefor, remove such improvements from said lands, otherwise such improvements shall become the property of the City of Jacksonville. Said viewers shall also make a just and equitable estimate and assessment of the value of the benefits and advantages of said proposed street or change to the respective owners, and other persons interested in all lands or other property which said viewers shall deem specially benefited by such change. Said viewers shall thereafter, at their earliest convenience, report the assessment for the damages and benefits as in this section required to the council, but any failure to state the name of the owner, or a mistake in the name of any owner, or a statement of a name other than that of the true owner, in such report, or in such assessment, or in the ordinances adopting such report, or in the docket of city liens, shall not render void nor in any way affect the lien of such assessment upon the property assessed.

Section 83. The viewers shall receive as compensation for their services the sum of \$2.50 each for each day actually engaged in said service, to be paid by the city and charged as costs and assessed as part of the benefits by said viewers.

Section 84. When the viewers shall file their report the recorder shall forthwith send by mail, post paid, a notice of each assessment of damages and benefits, stating the time when the same will be considered by the council, and directing all persons interested to present in writing the objections, if any they have, to the said assessment of damages and benefits and which objections will be then and there heard and determined by said council, to the owners (if known) of each lot or part thereof, or tract of land assessed, and any part of which is appropriated for the proposed street or change, or to the agent of such owner, when the post office address of such owner or his agent is known to him, and if such post office address be unknown to him, then such notice shall be directed to such owner or agent at Jacksonville, Oregon. If such report shall appear to the council to be in all respects reasonable and just, it may be adopted by ordinance embodying such report, or if it shall appear to the council that the damages or benefits assessed are unreasonable, unjust, or insufficient, in any respect, the council may send back to the viewers for further consideration, and the viewers may alter and revise the same as they shall deem proper and again report the same to the council, who may thereupon reject or adopt the same; or said council may appoint new viewers with like powers, duties and obligations as the first viewers, to make such assessment and awards, and to report the same to the council, which shall have the same power over such report as over that of the original.

Appeal.

Section 85. Any person feeling aggrieved by the assessment of such damages as herein provided, within thirty days from the adoption of the report of the viewers by the council, appeal from such report to the Circuit Court of the State of Oregon for Jackson County. Any number of persons may join in such appeal, and the only question to be determined on such appeal, shall be the amount of damages such appellants are entitled to on account of the change in such street.

Section 86. Such appeal shall be deemed and heard and determined, and the judgment thereon enforced, so far as practicable, in the same manner as an action at law; and, in case two or more join in said appeal, the jury shall hear the evidence concerning the damages sustained, and in their verdict find the amount of damages, if any, sustained by each appellant. The verdict of the jury shall be a final and conclusive determination of the matter of such assessment.

Section 87. The appeal shall be taken by serving a notice of appeal within thirty days from the adoption of the report of the viewers by the council, upon the mayor or recorder of the city, and filing an undertaking with one or more sureties, who shall possess the qualifications of bail upon arrest in a civil action, and shall justify in like manner, conditioned that the appellant will pay all costs and disbursements that may be awarded against him on appeal, not exceeding \$300, together with the proof of service of such notice, in the office of the clerk of the Circuit Court. Said notice may be served by the appellant or by the city marshal.

Section 88. If the appellant, or any of them, fail to recover greater damages or to secure a more favorable assessment of benefits, as the case may be, than were assessed by the viewers, judgment shall be rendered against him and his sureties on appeal for his proportion of the costs of such appeal to be paid pro rata according to the respective amount of damages and benefits assessed.

Section 89. The same costs and fees shall be taxed and paid upon such appeal as are allowed by law in other actions.

Section 90. The council at the expiration of the time limited for appeal if no appeal be taken, or immediately after judgment is rendered on appeal, if an appeal be taken, and if it shall deem it advisable to make such change in pursuance of said judgment, shall, by resolution, direct the recorder to enter in the docket of city liens the respective sums of benefits over damages so assessed, upon each particular lot or parcel of land, and the names of the owners or other parties interested in the lands or other property benefited and assessed in like manner as assessments for street improvements are entered in said lien docket, and when so docketed said sums shall be a lien or charge upon the estate and interest of the respective owners and parties interested in such lands or other property and also the said owners and parties aforesaid, shall be respectively and severally liable

to pay said assessments, and in case no appeal or other proceedings in court be taken as to any such assessment of benefits or damages, the said excess so assessed shall be paid to the city treasurer of the City of Jacksonville within ten days from the time of entering the same on the docket of city liens, or the same shall be deemed delinquent and thereupon shall be collected in like manner as provided for the collection of delinquent assessments by this charter, excepting that if all the property upon which assessments are due and delinquent is not sold at any sale, proceedings may be taken for a subsequent sale immediately after the return of a sale are made. All moneys arising from such assessment of benefits shall be kept in a separate fund and be applicable to the satisfaction of the excess of damages over benefits assessed to owners and other persons interested in the property taken or damages for the purpose of making such change in such street, and for the payment of expenses incurred by the city for surveying, advertising and viewers in said proceedings.

Section 91. Whenever the full amount of the assessment of benefits in the docket of city liens is paid to the city treasurer, warrants shall be drawn on the treasurer payable out of the fund to be provided for that purpose, for the amount of excess of damages or of damages and costs assessed, or in favor of the owner or owners, or other persons in interest, and when said warrants therefor are drawn and ready for delivery to the parties entitled to the same, such property shall be deemed appropriated for the purpose of such street or change, and not otherwise; provided, that no process of any court shall issue to compel any appropriation for damages or the issuing of warrants for the same. And unless such assessments are collected, and the said warrants are drawn and ready for delivery within nine months after the termination of the time limited for appeal, if no appeal be taken, or within nine months from the date of the rendition of final judgment on appeal, if any appeal be taken, all acts and proceedings under such survey and view shall be null and void.

Section 92. When said street is established, laid out or the change therein completed the city surveyor shall record a plat of the same in the record of city surveys, which is a book that the council must provide for the recording of all plats and surveys that are required by the city surveyor.

CHAPTER XIV.

Section 93. The city council of the City of Jacksonville is hereby authorized and empowered whenever it may deem it necessary, expedient or convenient for public welfare, to establish, construct, improve and repair streets, sidewalks, crosswalks, ditches, drains, curbs, gutters and to establish, construct, repair and improve a water and sewerage system for the city and its inhabitants and to lay all necessary pipes, mains and other fixtures and to provide everything necessary for such improvements and therefor to exercise the power of eminent domain and to levy special benefit assessments for all of such purposes.

Section 94. The term "street" as used in this chapter shall be deemed to include streets, alleys, footways and all other thoroughfares and highways.

Section 95. The terms "improvement" and "improve," as used in this chapter shall be deemed and construed to include all grading, re-grading, excavating, filling, re-filling, planing, re-planing, capping, re-capping, paving, re-paving, macadamizing, re-macadamizing, graveling, re-graveling, oiling, re-oiling and all other kind, character of improvement of streets; every character, kind and manner of constructing, improving, repairing sidewalks, crosswalks, ditches, drains, curbs, gutters; and all manner of constructing, establishing, repairing or improving a water or sewerage system for the city and the laying of all necessary pipes, sewers and mains and everything necessary for such improvements and all manner, character and kind of bridge, culvert and tunnel work.

Section 96. The council, whenever it may deem it expedient, is hereby authorized to order any of the improvements enumerated in the foregoing section upon or over any street or upon or over any right of way granted or obtained for such purposes or upon any public grounds of the city; to determine the character, kind and extent of such improvement or improvements; to levy and collect an assessment upon all lots and parcels of land specially and peculiarly benefited by such improvements; to defray the whole or any portion of the cost and expense thereof from the funds of the city or by such special benefit assessment and to determine what lands are specially and peculiarly benefited by such improvement, and the amount to which each parcel or tract of land is benefited thereby.

Section 97. Whenever the council shall deem it expedient or necessary to make any improvement it shall require the city surveyor to submit plans and specifications for an appropriate improvement of the character and kind desired by council, and estimates of the work to be done and the probable cost thereof, and the city surveyor shall file such plans and specifications and estimates in the office of the recorder. The improvement of or on each street or part thereof shall be made under a separate proceeding. If the council shall find such plans, specifications and estimates to be satisfactory, it shall approve the same, and shall determine the boundaries of the district benefited and to be assessed for such improvement and the action of the council in the creation of such assessment district shall be final and conclusive. The council shall, by resolution, declare its purpose of making said improvement, describing the same and including the city surveyor's estimate of the probable total cost thereof and also defining the boundaries of the assessment district to be benefited and assessed therefor. The action of the council in declaring its intention to make an improvement, directing publication of notice thereof, approving and adopting the plans, specifications and estimates of the city surveyor, and determining the district benefited and to be assessed thereby, may be done in one and the same act.

Section 98. The resolution of the council declaring its purpose to make an improvement shall be kept of record in the office of the recorder, and the recorder shall give notice by publication at least once in a newspaper published in said city of the passage of said resolution, and stating the boundaries of the improvement, the character of the improvement, and the district to be assessed and the estimated cost thereof. The city surveyor within five days from the first publication of said resolution shall cause to be conspicuously posted at each end of the line of the contemplated improvement a notice headed "Notice of Improvement Work" in letters not less than one inch in height or length, and which said notice shall contain in legible characters a copy of the resolution of the council and the date of its adoption, and the city surveyor shall file with the recorder an affidavit of the posting of said notices, stating the date, when and the places where the same have been posted and which notices must remain posted 10 days. The proof of publication shall be made the same as proof of publication of summons in the Circuit Court.

Section 99. If within fifteen days from the date of the posting and publication of said notice a remonstrance against said improvement, signed by a majority of the owners of the property within the limits of said assessment district be filed with the recorder the council shall reconsider and determine the necessities of such improvement and such improvement shall not be proceeded with or further prosecuted except upon a unanimous vote of the council. The majority of property owners is to be determined by the number of front feet owned by them within the assessment district.

Section 100. Any particular improvement so defeated shall not again be proposed for six months, immediately succeeding the filing of said remonstrances, but notice may at once be given of a different kind and character of improvement from the first proposed.

Section 101. If no such remonstrance be made or filed with the recorder within the time designated, or if any such remonstrance is defeated by a unanimous vote of the council, as provided in Section 99, the council shall be deemed to have acquired jurisdiction to order the improvement made, and the council may thereafter and within three months from the date of the final publication of the previous resolution by ordinance provide for making said improvement, which shall conform in all particulars to the plans and specifications previously adopted or as changed after a defeat by remonstrance.

Section 102. Upon the approval of said ordinance by the mayor, or if the same shall become valid without his approval, the recorder shall give notice by publication for not less than three insertions in successive publications in a newspaper of general circulation in Jacksonville, inviting proposals for making said improvement. Proposals for making said improvement must be sealed and shall be opened by the council in regular session. The council shall have the power to award the contract or contracts for said improvement and to impose such conditions upon bidders with regard to bonds and sureties and guarantees of the good faith and responsibility of bidders, for insuring the faithful completion of the work in strict accordance with the specifications therefor, and to make all rules and regulations in the letting of contracts that may be considered by said board as advantageous to the city. Such contract or contracts shall be let to the lowest responsible bidder for either the whole of said improvement or