

CHAPTER III.

[S. F. No. 183.]

AN ACT TO INCORPORATE THE CITY OF HENDERSON.

Be it enacted by the Legislature of the State of Minnesota :

CHAPTER I.

CITY AND BOUNDARIES.

SECTION 1. That all that district of country contained within the limits and boundaries hereinafter described shall be a city by the name of the city of Henderson, and the people who now do and hereafter may reside therein, shall be a municipal corporation by the name of the city of Henderson, and by that name shall sue and be sued and be impleaded in any court, make and use a common seal and alter it at pleasure, and take, hold, purchase, lease, sell and convey such real, personal and mixed estate as the purpose of the corporation may require or the transaction or exigencies of the business may render convenient, within or without the city, and the same shall be free from taxation; shall be capable of contracting and being contracted with, and have the general powers possessed by municipal corporations at common law; and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

SEC. 2. The limits and boundaries of said city shall be as follows: Lots one (1) and two (2) of section number one (1), lot four (4), and the south half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) of section number twelve (12), lot number four (4), and the southeast quarter ($\frac{1}{4}$) of the southeast quarter ($\frac{1}{4}$) and the west half ($\frac{1}{2}$) of the southeast quarter ($\frac{1}{4}$) of section number two (2), the east half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) and the east half ($\frac{1}{2}$) of the west half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) of section number eleven (11); all the foregoing described land being in town number one hundred and twelve (112) north, of range number twenty-six (26) west, shall be and the same is hereby created a city by the name of Henderson.

CHAPTER II.

ELECTION AND OFFICERS.

SECTION 1. There shall be held an annual election for elective officers, hereinafter provided, on the first (1st) Monday of April of each and every year, at such place as the city council shall designate, and shall be conducted in all respects in accordance with the general election laws of this state, except as hereinafter qualified. Ten (10) days' previous notice shall be given by the city council of the time and place of holding such election and the officers to be elected, by the posting by the city clerk three (3) written notices in the most public places in the city, or by publishing such notice in a newspaper

printed in said city. The polls shall be opened at nine (9) o'clock A. M. and close at five (5) o'clock in the afternoon of said day. The city council shall, in due time, before any election, appoint such number of judges of election as may be necessary to constitute a full board, as provided by general law.

SEC. 2. Special election for any purposes shall be held and conducted in all respects as general or annual elections under this charter, and upon a notice of not less than ten (10) days, which notice shall distinctly specify the object of said election.

SEC. 3. The elective officers of said city shall be a mayor, clerk, treasurer, four (4) aldermen and one (1) justice of the peace, who shall be styled city justice. All of said officers shall be residents in and qualified voters of said city. All other officers necessary for the due and proper management of the affairs of the city shall be elected or appointed by the city council, unless otherwise provided.

SEC. 4. The mayor and justice of the peace shall each hold their offices for one (1) year. The clerk and treasurer shall each hold their offices for three (3) years. The aldermen shall each hold their offices for two (2) years. All officers elected or appointed as provided in this act shall hold their offices for the respective term provided herein for them and until their successors are elected and qualified; *Provided*, that the present officers of the borough of Henderson, a municipal corporation heretofore existing under the special laws of this state, shall hold their respective offices for the full term for which they were elected; and the city council shall so arrange, as soon as practicable, that two (2) aldermen be elected each year, except to fill vacancies, and for that purpose shall, previous to the first election next to be held under this charter, and at any subsequent election, in case of filling vacancies, designate for what term, if any, aldermen shall be elected in order to arrive at and maintain the desired requirement of electing two (2) aldermen each year.

SEC. 5. The official term of all officers elected under the provisions of this act shall commence on the second (2d) Wednesday after the first (1st) Monday of April.

SEC. 6. Whenever a vacancy shall occur in the office of mayor, such vacancy shall be filled by a new election, which shall be ordered within twelve (12) days after such vacancy shall occur. Any vacancy occurring in any other office shall be filled by the city council.

SEC. 7. Any officer removing from the city, or any officer who shall neglect or refuse for ten (10) days after notice of his election or appointment to qualify or enter upon the discharge of his duties, shall be deemed to have vacated his office, and such vacancy shall be filled as herein provided.

SEC. 8. All persons qualified to vote for state officers, who shall have resided in the city of Henderson for ten (10) days next preceding any election, shall be entitled to vote at any city election, and all qualified voters shall be eligible to any municipal office herein constituted; and a plurality of votes shall constitute an election.

SEC. 9. At the close of the polls on any general or special election, the votes shall be counted and a true statement thereof proclaimed to the voters by some one of the judges of election, and the city clerk shall make a true copy thereof in a book kept for such purposes, and within three (3) days notify, in writing, the persons so elected of their election.

SEC. 10. Whenever two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be forthwith determined by lot in the presence of the judges of election in such manner as they shall direct.

SEC. 11. Should there be a failure by the people, for any cause, to hold any city election, at the time or in the manner herein prescribed, or to elect any officers herein required to be elected on the day designated, the city council may order a new election to be held, ten (10) days' notice of time and place being given; *Provided*, that no failure of the city clerk to give the notice of election specified in section one (1) of this chapter shall in any manner invalidate any general election.

SEC. 12. The city council shall, except as herein otherwise provided, at the first meeting of the said council after the annual election, or an adjournment thereof, nominate and appoint an attorney, marshal, assessor, street commissioner, and also at the same time, or as soon thereafter as may be, all such other officers necessary for the proper management of the affairs of the city or offices created by virtue of this act. The appointment of such officers shall be determined by ballot and shall require the concurrence of a majority of all the members of the city council elect.

SEC. 13. The official term of all officers of the city appointed by virtue hereof shall commence on the third (3d) Monday in April next succeeding their appointment, and shall hold their respective office for one (1) year and until their successors are appointed and qualified, except as herein or otherwise differently provided. Warrants of appointment shall be issued to all appointed officers of said city in such form and manner as may be prescribed by the city council.

CHAPTER III.

POWERS AND DUTIES OF OFFICERS

SECTION 1. Every person elected by the people or appointed by the city council to any office, may be removed from said office by a vote of three-fifths ($\frac{3}{5}$) of all the members of the city council, but no officer elected by the people shall be removed except for cause, nor unless furnished with a written statement of the charges against him, nor until he has had an opportunity to be heard by the city council in his defense. The city council shall fix a time and place for the trial of such officer, of which not less than ten (10) days' notice shall be given, and have power to compel the attendance of witnesses and the production of books and papers, and to hear and determine the case; and if said officer neglects to appear and answer the charges against him, the city council may declare the office vacant.

SEC. 2. Every person elected or appointed to any office under this act shall, before he enters upon the duties of such office, take and subscribe an oath of office and file the same, duly certified by the officer administering the same, with the clerk of said city, and the treasurer, the clerk, the marshal, the street commissioner, and such other officers as the city council may direct, shall, before entering upon the duties of their respective offices, be required to execute such bond to the city of Henderson as the council thereof may direct and ap-

prove, for the faithful performance of the duties of such office, and any officer failing to give the required bond prescribed by this act or by the city council, or failing to file his oath of office, as aforesaid, shall be deemed to have vacated said office. The city council shall have the right to increase or diminish said bond at any time.

SEC. 3. The mayor shall preside at all the meetings of the city council, unless unavoidably absent, in which case the council may appoint one of the aldermen as acting mayor, and, unless otherwise provided by resolution of the council, the powers and duties of such acting mayor shall expire with the meeting for which he was appointed. The acting mayor has all the powers and duties of the office of mayor, when he, for any reason, properly assumes to act as such, and all acts performed by him when so acting shall have the same force and validity as if performed by the mayor. The mayor shall have a vote on all questions before the council and in the appointment of all city officers.

SEC. 4. All ordinances and resolutions shall, before they take effect, be presented to the mayor and he shall sign the same. All contracts, appropriations and orders drawn on the treasurer shall be signed by the mayor, and if the mayor refuses to sign any such an ordinance, resolution, contract, appropriation or order he may be removed, as provided in section one (1) of this chapter.

SEC. 5. The city clerk shall keep his office at such a place as the city council may determine. He shall keep the corporate seal and all the papers and records of the city or papers by law required to be filed in his office. He shall keep a record of the proceedings of the city council, at whose meetings it shall be his duty to attend, and shall keep a record of the ayes and nays when demanded by any member of the council. Copies of all papers filed in his office, certified by him, under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the city treasurer for the payment of accounts against the city of Henderson duly audited and allowed by the city council, and also all orders on the city treasurer for any appropriation of funds made by the council or orders on the city treasurer for the payment of salaries fixed by general or special ordinance of the city council; *Provided, however,* that in case of the payment of salary the account need not be audited by the council; *And be it further provided,* that any three (3) aldermen may sign and serve upon the said city clerk, at least three (3) days before any officer's salary becomes due and payable, a written order instructing the said clerk to issue no order for the payment of the said officer's salary, and the said order so served shall be binding upon the city clerk until three (3) days after the said salary shall have become due and payable; and if before the expiration of the three (3) days last mentioned no action has been taken by the city council sustaining the order of the three (3) aldermen above mentioned, then the clerk shall issue and countersign an order on the city treasurer for said salary, as provided by ordinance. The city clerk shall keep a register of orders, in which he shall enter, in the order in which they were issued, all orders upon the city treasurer, entering, at the end of each fiscal year, opposite each order, the date of its redemption by the treasurer and to whom paid. The city clerk shall make and keep a list of outstanding city bonds or certificates of indebtedness, to whom issued, for what purpose, when and where payable, and the rate of in-

terest they respectively bear. The city clerk shall also keep an accurate and detailed account, in a book for that purpose, between himself and the city treasurer; he shall charge the treasurer's account with all moneys paid to said treasurer, and at the end of the fiscal year credit said treasurer with all moneys lawfully paid out by him. The clerk shall also keep such other books of records or accounts as the council may direct. The city clerk shall enter in a book kept for that purpose a record of all ordinances and resolutions adopted by the city council. It shall be the duty of the clerk to report to the council the financial condition of the city whenever the council may require. All chattel mortgages or other evidence of indebtedness on property situated within the limits of the city of Henderson shall be filed in the city clerk's office, and he shall receive for such services the same fees as are allowed town clerks under the laws of the state. The city clerk shall have power to administer oaths or affirmations and to take acknowledgments. Every contract made in behalf of the city shall be void unless attested by the official signature of the city clerk and the corporate seal attached thereto, except as otherwise provided in this act. The city clerk shall countersign all bonds, orders or other evidence of indebtedness of the city and attach the corporate seal thereto. All claims, demands and accounts against the city shall, before they are allowed by the council, be filed in the clerk's office and be verified by the oath of the claimant. The city clerk shall receive all moneys due and payable to the city, from whatever source, giving his receipt therefor, and within three (3) days pay the same over to the city treasurer, taking his receipt therefor. He shall issue and sign all licenses issued under this act, or any ordinance, resolution or by-law of the city or of the council, except licenses for the sale of intoxicating liquors, which shall be signed by the mayor and countersigned by the clerk. The city clerk shall be clerk of the city board of review and shall, as such, perform said duties in the same manner and have the same powers as the clerk of a town board of review under the general laws of the state. The city clerk shall perform all other services by law required of clerks of cities or townships within said city, but when services are required of him by public law, for which compensation is made from state or county treasury, such service shall not be regarded as services for the city, and he may retain such compensation in addition to the salary paid him by the city. The city clerk shall perform such other and further duties as may be prescribed herein or by any ordinance of said city, and any fees allowed to him by any ordinance may be retained by him in addition to his regular salary.

SEC. 6. The city council shall, whenever it is deemed necessary, have the power to appoint, upon the nomination of a clerk, a deputy clerk. Whenever the clerk and deputy clerk are absent, or are for any reason unable to act, the city council may appoint a clerk *pro tempore*, and said clerk, so appointed, as well as the deputy clerk, when acting as city clerk, shall have the same powers and be subject to the same duties and liabilities, as the city clerk, and shall be paid for their services out of the salary of the city clerk, unless otherwise directed by the council.

SEC. 7. The city attorney shall be a person admitted to practice law in all the courts of this state, and shall be the legal adviser of all officers of said city upon all subjects arising by virtue of this act. He

shall attend and prosecute or defend all suits, actions or proceedings, either civil or criminal for or on behalf of said city or in which the city may be a party. He shall, when required, furnish written opinions upon any subject, arising by virtue of this act, submitted to him by the city council or any of its committees, attend the meetings of the city council, when requested, and shall perform all other professional services incident to his office. He may, in his temporary absence, or other inability, at his own expense, with the approbation of the mayor, designate some other attorney to act in his stead for the time being.

SEC. 8. The treasurer shall receive from the city clerk all moneys and revenues belonging to the city, keep an accurate and detailed account thereof, in such manner as the council may direct, shall pay out money only on orders drawn upon him duly signed by the mayor, and attested by the clerk of said city, and make such reports, exhibits, and perform such other and further duties as may be required by the charter or ordinance of said city.

SEC. 9. The city justice of said city shall have and possess all the rights, powers and authority of justices of the peace under the general laws of the state, and in addition thereto the city justice of said city shall have sole and exclusive jurisdiction of all suits, prosecutions or proceedings for any violation of any ordinance, by-law or regulation of said city, or any police or health regulation of said city, or for the recovery of any fine, forfeiture or penalty under any such ordinance, by-law or regulation, and shall also have exclusive jurisdiction of all actions, suits or prosecutions for any violation of this act which are or may be within the jurisdiction of all justices of the peace. All prosecutions for any violation of any such ordinance, by-law or regulation, or for the recovery of any such fine, penalty or forfeiture shall be commenced and prosecuted in the name of the "City of Henderson," and the same proceedings shall be had as are or may be provided by law in civil or criminal cases tried before justices of the peace, except as herein otherwise provided. All fines imposed or collected in such cases for any such violation, and also all fines imposed or collected in any action, proceeding or prosecution tried before the city justice, for any violation of law committed within said city, shall occur [accrue] to the benefit of said city and to be paid over to the city clerk for the benefit of the city within three (3) days after said fine is collected. The city justice shall, upon complaint made, proceed to hear and dispense of, in a summary manner and without the intervention of a jury, all suits, prosecutions and proceedings brought before him for any violation of an ordinance, by-law or regulation of said city or of the said city council thereof.

SEC. 10. All prosecutions for any violation of this act, or for the violation of any ordinance, by-law or regulation of said city, or police or health regulation of said city, shall be commenced by warrant upon complaint being made as required by law in criminal cases before justices of the peace; *Provided*, that no warrant shall be required in any case of the arrest of any person made while in the act of violating any law of the state of Minnesota, or ordinance, by-law or regulation of said city, but in such cases a complaint shall be made after such arrest, which the justice shall reduce to writing, and the party arrested shall be required to plead thereto, as to a warrant in other cases; and the person or persons so arrested may be proceeded against in the same manner as if the arrest had been made upon a warrant.

SEC. 11. All process issued by the city justice of said city for the violation of any ordinance, by-law or regulation of said city, of any police or health regulation of said city, shall be in the name of the "City of Henderson" and shall be directed to the marshal or any police officer of said city. In all cases of the imposition of any fine or penalty by the city justice of said city for the violation of any ordinance, by-law or regulation of said city, if said fine or penalty be not paid the offender shall be forthwith committed to the common jail of Sibley county and there be imprisoned and kept, at the expense of the county, for a term not exceeding ninety (90) days, in the discretion of the justice, unless said fine or penalty be sooner paid; and from the time of the trial he may be imprisoned in said jail of said Sibley county.

SEC. 12. The city justice shall be entitled to receive from the county of Sibley such fees in criminal cases, prosecuted in the name of the state of Minnesota, as are or may be allowed to other justices of the peace for similar services, and from the city of Henderson for services rendered in cases prosecuted in the name of the "City of Henderson" such fees as shall be allowed by law, and in cases of absence, or sickness or inability of said city justice, the mayor may authorize any other justice of the peace in the county of Sibley to perform the duties of such city justice, and said justice shall possess, for the time being, all the power, authority and rights of said city justice.

SEC. 13. Whenever any person [shall] be convicted of any violation of this act, or of any ordinance, by-law or regulation of said city, or of any health or police regulation thereof, in addition to the penalty prescribed, he shall be adjudged to pay all of the costs and disbursements of prosecution, and in default of payment of such fine and costs and disbursements shall be imprisoned in the common jail of Sibley county not exceeding ninety (90) days, in the discretion of the justice.

SEC. 14. In all prosecutions for assault, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said city justice, the same forms and proceedings shall be had and used, when not otherwise herein directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace; *Provided*, that in cases of prosecution for a breach or violation of an ordinance, by-law or regulation of said city or its charter, or for any assault, battery or affray, or other offense cognizable by a justice of the peace or by a city justice, committed within the city limits, no appeal shall be allowed when the judgment or fine imposed, inclusive of costs, does not exceed twenty-five (25) dollars. In all cases of conviction for assaults, batteries and affrays within said city, and in all cases of conviction under any ordinance of said city for breaches of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping or maintaining disorderly or ill-governed houses, the said justice shall have power, in addition to the fine or penalty imposed, to compel such offenders to give security for good behavior and to keep the peace for a period not exceeding six (6) months and in a sum not exceeding five hundred (500) dollars. All fines and penalties imposed by said city justice for offenses committed within the limits of said city for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the general revenue of said city. In all actions, prosecutions and proceedings of every kind before the city justice,

such city justice shall take judicial notice of all ordinances of said city, and it shall not be necessary to plead or prove such ordinance in said court.

SEC. 15. The city marshal shall be the chief of police of said city, and shall perform such duties as shall be prescribed by the city council for the preservation of the public peace and as may be required of him by ordinance.

All police officers of said city shall be and possess the powers of constables at common law, or by the laws of this state, and it shall be their duty to execute and serve all warrants, process, commitments and all writs whatsoever, issued by the city justice, for any violation of the laws of the state of Minnesota, or the ordinances, by-laws or regulations of said city, and also all writs and process issued by said city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice anywhere in this state, and when performing the duties of constables, as aforesaid, shall be entitled to like fees. It is the duty of all police officers to see that all ordinances, health and police regulations are duly observed. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or of any violation of the laws of this state or the ordinances or by-laws of the city, and for these purposes, shall have the powers of constables at common law while on duty; *Provided*, that no person shall be eligible to an appointment of police officer, who is not able to read and write the English language, of good health and physique and a resident and citizen of said city.

SEC. 16. If any person shall, without authority, assume to act as a policeman or wear the badge of a policeman within said city, he shall be deemed guilty of a misdemeanor, and, on conviction thereof before the city justice, he shall be fined such amount or imprisoned for a time not exceeding ninety (90) days, in the discretion of the court.

SEC. 17. The assessor shall, at the time of his appointment, be a resident and qualified elector of said city, shall have and possess all the authority, rights, powers and duties of assessors under the general laws of this state, except as hereinafter provided and qualified. Nothing herein contained shall be construed to prevent one person from holding the offices of city clerk and assessor at the same time.

SEC. 18. The city council may also, whenever it may deem it necessary, authorize the said assessor to appoint one or more assistants, who shall have the same qualifications as the assessor, to aid him in said assessment, and whose compensation shall be fixed by the city council, but no appointment of assistants shall be valid or in force until the same is confirmed by vote of the city council.

SEC. 19. The city council shall constitute the board of review, and a majority thereof shall constitute a quorum, who shall be sworn according to law as such board and meet at such place in said city as may be designated by order of the council in the assessor's notice, at the time provided by law for the meeting of town boards of review, and revise, amend and equalize the assessment made by the city assessor. It shall be the duty of the assessor to be present at all meetings of said board and present to them all facts relating to the assessment. Such board of review is vested with all the powers which are or may be vested in county boards of equalization under the general laws of this state, but shall not be restricted by any limitation in respect to

reducing aggregate sums of real and personal property as returned by the assessor. They and the clerk shall receive as compensation for their services the sum of two (2) dollars per day.

SEC. 20. The street commissioner shall, under the direction of the council or a committee thereof, superintend all work and improvements on the streets, bridges and public grounds of said city, except as may be otherwise prescribed by the council and carry into effect all orders and ordinances of the city council or orders of the street committee of said body in relation to work or improvements on the streets, roads, sidewalks, alleys, bridges and public grounds; and it shall be his duty to see that the same, when graded and open for travel, are kept in such repairs as to be safe and passable, and shall perform such other services as hereinafter prescribed, and account for all moneys collected or property received or under his control belonging to the city.

SEC. 21. Any person having been an officer of said corporation shall, within three (3) days after notification and demand, deliver to his successor in office, or other duly authorized person or persons, all property, papers and effects of every description in his possession belonging to said city or pertaining to his office, and if he fail so to do, he shall forfeit and pay to the use of said city the sum of five hundred (500) dollars, to be recovered in a civil action, besides all damages caused by his neglect or refusal to so deliver; and said successor may receive possession of such books, papers and effects in the manner prescribed by the laws of this state.

SEC. 22. All officers of the city having charge of any city property shall, at the close of each fiscal year, and at other times when required, make and return to the city council a complete inventory of all public property in their hands or control respectively. Such inventories shall be preserved and filed by the city clerk and kept open to inspection of all parties interested, but need not be printed in the proceedings unless the council shall so specially direct.

SEC. 23. The city council shall have the power at any time to define and require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to create such further offices and appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their powers and duties and fix their compensation, unless herein otherwise provided for.

SEC. 24. The city council shall have the power to fix the compensation or salary of all officers elected or appointed under this act. They also have the power to fix their own salary or per diem for the time necessarily spent in attending to the duties of their office and attending their meetings. All salaries or compensations shall be fixed by resolution at the time the office is created and at the commencement of the official year, or as soon after election or appointment as practicable, and when so fixed shall not be increased or diminished during the term for which such officers shall have been elected or appointed.

SEC. 25. All officers of the city, while holding such office, shall be exempt from serving as jurors in any court.

SEC. 26. That no city alderman or other officer of said city, except the street commissioner, while acting as such, shall directly or indirectly be a party to or interested or concerned in any contract or job

with said city, or in any work prosecuted by its authority, or in the compensation to be received therefor, or in the furnishing of supplies, fuel or other articles purchasable for the public use, and any contract or transaction prohibited as aforesaid shall be void, and any city officer so offending shall, on conviction thereof, be removed from office by the city council.

SEC. 27. The mayor, or acting mayor, sheriff of the county of Sibley or his deputy or deputies, coroner and each city councilor, the city justice, chief of police, police officers and watchmen, shall be officers of the peace, and shall command the peace and suppress, in a summary manner, all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of bystanders and, if need be, all the citizens, organized or unorganized armed forces and military companies; and if any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, each person shall forfeit and pay a fine of not less than ten (10) dollars nor more than fifty (50) dollars; and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in order named, shall direct the proceedings.

SEC. 28. The mayor or acting mayor, the presiding officer of the board of review, shall, by virtue of their office, in all matters or proceedings before them relating to or pertaining to the city, be and are hereby empowered to administer oaths and receive testimony under oath or affirmation.

CHAPTER IV.

THE CITY COUNCIL—GENERAL POWERS AND DUTIES.

SECTION 1. The mayor and city aldermen shall constitute the city council of the city of Henderson, and a majority thereof shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members. The style of all ordinances shall be "The city council of the city of Henderson do ordain."

SEC. 2. The city council shall hold regular or stated meetings on the first (1st) Wednesday of each month, at such times and places as they by resolution may direct. The first (1st) regular meeting after the annual election shall be held on the second (2d) Wednesday after the first (1st) Monday of April in each and every year. The mayor, or, at his refusal, any three (3) aldermen, may call special meetings by notice to each of the members, to be delivered personally or left at their usual place of abode.

SEC. 3. The city council shall be the judges of the election, return and qualification of its own members, and in such cases have the power to send for persons and papers. It shall determine the rules of its own proceedings, punish its members for disorderly conduct and with the concurrence of two-thirds (2/3) of all the councilors elected, expel a member after due notice given and an opportunity extended to the accused to be heard by counsel or otherwise, shall have power to compel the attendance of absent members and may provide for the punishment of such absent members. Continued absence from the meetings of the city council by any of its members for six (6) regular consecutive meetings shall be deemed good cause for removal.

SEC. 4. The city council shall keep a journal of its proceedings, and the ayes and nays, when demanded by any member present, shall be entered on the journal.

SEC. 5. The city council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and appeal all such ordinances, by-laws, rules, regulations and resolutions for the government, good order and cleanliness of the city, the protection of its property, for the suppression of vice and [in]temperance, the benefit of trade and commerce and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison, workhouse and watch-house, and make all needful rules and regulations therefor, for the imprisonment, custody and safekeeping of all persons arrested for or charged for any offense whatever. The city council shall have the exclusive right to exercise all the legislative powers granted by this act to the corporation, and has full power and authority to declare and impose penalties and punishments, and enforce the same against any person or persons who may violate any ordinance, by-law, rule or regulation passed or ordained by them, and all such ordinances, by-laws, rules and regulations are hereby declared to be and to have the force of law; *Provided*, they be not repugnant to the constitution and laws of the United States or this state; and for these purposes shall have authority, by ordinance, by-law, resolution or regulation:

First—To regulate and license exhibitions of common showmen and shows of all kinds, circuses, the exhibition of caravans, concerts and theatrical performances; also to license and regulate all auctioneers, hawkers, peddlers, public halls and other buildings and inclosures used for public resort and amusement, billiard tables, pigeon hole tables, nine or ten-pin alleys, bowling saloons, taverns and saloons, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors, and to provide and enforce such restrictions or prohibitions therefor as to the council seem proper; *Provided*, that all licenses for dealing in spirituous, vinous, malt or fermented liquors shall terminate on the first (1st) day of July of each year, and shall be at least five hundred (500) dollars, and as much higher as the city council shall direct, and the city council shall have exclusive rights to so license any person; *And, provided further*, that the city council may grant licenses to druggists and apothecaries to sell spirituous liquors within said city for medicinal, chemical and mechanical purposes only, for such sum as they may deem just and proper without regard to saloon licenses; *And, provided further*, that the city council shall not issue any licenses for the sale of spirituous, vinous, malt or fermented liquors for any sum less than the sum fixed under the provisions of any general law of this state.

Second—To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gambling in said city, and to authorize the seizure and destruction of all instruments or devices used for the purpose of gambling.

Third—To prevent any rioting, noise, disturbance, disorderly, noisy or boisterous behavior or conduct and disorderly assemblages in said city, and to provide for the arrest and punishment of any per-

son or persons who shall be guilty of the same; to suppress disorderly houses and houses of ill-fame, and to provide for the arrest and punishment of the keepers or inmates thereof.

Fourth—To compel the owner or occupant of any cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove, or abate the same from time to time, and as often as may be necessary for the health, comfort and convenience of the inhabitants of said city; to establish and maintain a public library and reading rooms.

Fifth—To regulate or prohibit the slaughtering of animals within said city; to direct the location and management of slaughter houses and markets, breweries, distilleries, and to establish rates for and license venders of gunpowder and regulate the storage, keeping and dealing in and conveying of gunpowder or other explosives, or combustible oil, substance or material.

Sixth—To prevent the incumbering of streets, sidewalks, alleys, lanes, or other public grounds, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, or any other material or substance whatever.

Seventh—To prevent and punish horse racing, immoderate riding or driving in the streets; to compel persons to fasten their horses or other animals, attached to vehicles or otherwise, while standing in the streets, and to regulate places of bathing and swimming in the waters within the limits of said city or in the Minnesota river along the boundary line of the limits of said city.

Eighth—To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese, or other animals, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances; *Provided*, that when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling of such animals, shall be deposited in the office of the treasurer of the city, for the use and benefit of the owners thereof, if called for by such owner within one (1) year from the day of sale, otherwise the same shall belong to the city.

Ninth—To prevent the running at large of dogs, may impose a tax or license on the same, impose fines upon the owners or keepers and authorize the destruction or killing of dogs, when at large contrary to the ordinances.

Tenth—To prevent all persons riding or driving any horse, mule, ox, or other animal on the sidewalks or other public grounds or property in said city, or in any way doing any damage to sidewalks, grounds or property.

Eleventh—To establish and regulate boards of health, provide hospitals and hospital grounds, the registration of births and deaths and the returns of bills of mortality, and to regulate or prevent, if deemed expedient, the burial of the dead within the city limits, and to purchase and hold grounds for a public cemetery, to improve and ornament the same, and make all regulations necessary for the care, protection and government thereof.

Twelfth—To prevent the discharging of fire arms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the city council dangerous to the city or any property therein or annoying to any of the citizens thereof.

Thirteenth—To regulate the inspection of food, flour, pork, beef, salt, fish, whisky and other liquors and provisions, and to appoint inspectors, measurers, weighers and gaugers, and to prescribe and regulate their duties and compensation.

Fourteenth—To restrain and punish vagrants, tramps, mendicants, street beggars and prostitutes.

Fifteenth—To prevent open and notorious drunkenness, immoderate drinking, brawling and obscenity in the streets, alleys, stores, saloons or public places of the city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

Sixteenth—To direct and regulate or prohibit in any parts of the city the planting and preservation of shade or ornamental trees in streets, alleys, highways and public grounds of the city, and to provide for the punishment of any violation of the ordinances thereto relating.

Seventeenth—To regulate the place and manner of weighing and selling hay, straw, or other substances or feed, and the measuring, weighing and selling of firewood and other fuel, and to appoint suitable persons to superintend and conduct the same; to provide for a standard of weights and measures; for the appointment of a city sealer; to require all weights and measures to be sealed by the city sealer, and to provide for the punishment of the use of false weights and measures.

Eighteenth—To provide for, describe, and regulate or prohibit, the proper erection of hitching posts or rings for fastening horses or other animals, or to prohibit the same, in any portion of the city, in its discretion.

Nineteenth—To define and declare what shall constitute a nuisance, and enact ordinances to prevent the same and punish violations thereof, and to remove and abate any nuisance injurious to the public health or morals, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

Twentieth—To remove and abate any nuisance, obstruction or incroachments upon the streets, alleys, public grounds and highways of the city.

Twenty-first—To do all acts and make all regulations which may be necessary and expedient for the preservation of health and the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws and enforce the same within the city.

Twenty-second—To prevent any person from bringing, depositing, or having, within said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance or any putrid or unsound meat, flesh or fish, or hides or skins of any kind; to provide for the punishment for any violation of same, and to authorize the removal of the same at the expense of the owners.

Twenty-third—To establish and construct public pounds, pumps, wells, cisterns, reservoirs and hydrants; to provide for the erection of and control of water works and water supply to the inhabitants of the city, and regulate water rates; create, alter and extend water districts; for the lighting of the city, to create, alter and extend lamp districts; to control the erection of gas works or other works for the lighting of the city streets, public grounds and public buildings.

Twenty-fourth—To regulate and license hacks, drays, carts, omnibuses, wagons and other vehicles engaged in hauling or carrying for hire, and the charges of the drivers of such vehicles, prescribe standing places in the streets therefor, and to authorize the mayor or marshal to regulate and direct the locations of vehicles in the streets or alleys within said city.

Twenty-fifth—To compel the owner or occupant of buildings or grounds to remove snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and compel such occupant or owner to remove from the lot owned or occupied by him all such substances as the board of health shall direct, and, in his default, to authorize the removal or destruction thereof by some officer of the city at the expense of such owner or occupant; also to compel the owners of low grounds, where water is liable to collect and become stagnant, to fill or drain such low places, and, in their default, to authorize such filling or draining at the expense of such owner or owners.

Twenty-sixth—To license and regulate butcher shops and stands for the sale of game, poultry, butchers' meats, butter, fish and other provisions.

Twenty-seventh—To regulate the time, manner and place of holding public auctions or vendues and sales at public outcry.

Twenty-eighth—To restrain and regulate parties and processions.

Twenty-ninth—To regulate the penning, herding and treatment of all animals within the city.

Thirtieth—To prevent, control and regulate the landing of persons from boats, vessels or other conveyances whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city; and also to regulate, control and prevent the landing of paupers and persons in destitute conditions into the city not having a legal settlement or residence therein, and to require that such persons be taken back to the place from whence they may have been brought by the persons bringing or leaving them in said city.

Thirty-first—To provide for, create and establish the police of said city; to prescribe the number of police officers and their duties, and regulate the same, and to provide for watchmen, designate their number and duties, and regulate the same.

Thirty-second—To regulate or prohibit the carrying or wearing by any person of concealed, dangerous or deadly weapons, and to provide for the confiscation thereof to the city.

Thirty-third—To control and regulate the cutting of ice in the Minnesota river within or along the boundary line of the limits of said city.

Thirty-fourth—To regulate the opening of hatchways, and compel proper guards about the same.

Thirty-fifth—To regulate the movement and speed of railroad locomotives and cars; to require the maintenance of flagmen, or the construction and maintenance of gates at the crossings of railroad tracks over such streets and highways as the city council may deem necessary.

Thirty-sixth—To compel railroad companies to grade their crossings of the streets, alleys and highways in the city to the full width and length of their right of way in said streets, alleys or highways, where the railroads cross the same in said city, and to keep the same

in repair, and to build and maintain suitable walks across the rights of way in said streets for the accommodation of foot passengers, and to build and maintain bridges, culverts, drains and sewers across the full width of their right of way in the streets, alleys and highways in said city, when and where the same shall be deemed necessary by the city council of said city.

Thirty-seventh—To name, change and regulate the name of streets, avenues and highways in said city.

Thirty-eighth—Said city shall have power to establish and maintain one or more ferries, pontoon or other bridges across the Minnesota river at such points as the city council shall determine, and to construct and keep in repair the roads leading to the same, and the council may establish and collect such reasonable tolls for crossing ferries or bridges as they may deem expedient.

Thirty-ninth—The city council shall have power to expend moneys on the highways and roads beyond the city limits into other towns and counties, whenever they deem it proper, and direct the street commissioner, or such other person as they may designate, when, where and in what particular manner to expend the same.

Fortieth—To levy and collect taxes, provide suitable buildings or offices for all necessary purposes of the city, appropriate money and provide for the expenses of the city government and to provide for the taking an enumeration of the inhabitants of said city from time to time.

Forty-first—To establish, lay out, alter, open, widen, extend, vacate, grade, repair, pave, and lighten or otherwise improve and keep in repair, the streets, alleys, highways, sidewalks, culverts, gutters, sewers, parks, cemeteries and other public grounds in said city; also to regulate the width, material, construction and surface line of sidewalks, to prescribe different widths in different localities, and to prevent damage thereto.

Forty-second—To establish and record with the city clerk grades of streets, alleys, highways and walks to which buildings and other erections shall conform, and to provide for the inclosing, improving, adorning and regulating all the public buildings and grounds belonging to the city.

Forty-third—To regulate and control or prohibit the placing of poles, and suspending thereon or stringing of telegraph, telephone, electric light or other wires, along or across any of the streets, alleys or highways of said city, and may order the same to be put under ground in the streets or highways in said city.

Forty-fourth—To provide for or contract with any person, persons or corporations, for the lighting of such streets, parts of streets, public buildings and places as the city council shall deem proper for the convenience and safety of the inhabitants, and also for the supplying the city with water.

Forty-fifth—The city council may lay, regulate, or permit any party or corporation to lay gas or other pipes, water mains and pipes in any and all of the streets, alleys, highways and public grounds of the city, but in all cases the city council shall regulate the laying thereof so as not to interfere with the construction of sewers, or lateral branches thereof, or with the proper drainage of the city.

Forty-sixth—To prescribe limits in which neither wood, lumber, lath, shingle or hay, or other combustible materials can be piled or stored, or lumber yards established or maintained.

Forty-seventh—To appropriate such reasonable sum as they think proper, for the payment of music in the public parks of the city, as the city council may determine.

Forty-eighth—To direct the location, regulate and prescribe the construction of privies; to require and provide for the removal and disposition in such manner, with private parties or otherwise, throughout the city or in such districts, of any or all swill, offal, garbage, ashes, barnyard litter, manure, yard cleanings, dead animals, or other foul and unhealthy stuff, with the authority to assess, levy upon or compel the payment of the expense of such removal upon the property or owner thereof, from which such above-named matter or things shall be taken.

Forty-ninth—To provide for requiring owners of buildings or other structures which shall have been damaged by fire or otherwise, or which, by reason of dilapidation, defects in structure, or other causes, may have or shall become dangerous to life or property, or liable to cause accidents, to take the same, or any part thereof, down, or remove the same, and in case of refusal or neglect of said owner to so take down or remove the same, when ordered by the officer designated by said city council, then to cause the same to be done at the expense of the owner, the costs thereof to be raised by special assessment on the land on which the same stands.

SEC. 6. Fines, penalties and punishments imposed by the city council for the breach or violation of any ordinance, by-law or regulation of said city may extend to a fine not exceeding one hundred dollars (\$100) and costs, and imprisonment not exceeding ninety (90) days, or both, and to be fed on bread and water, in the discretion of the court, and offenders against the same may be required to give security for their good behavior, and to keep the peace, not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500).

SEC. 7. The power conferred upon the city council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law.

SEC. 8. The city council shall have power at any time to revoke and cancel for cause any license issued under this act or by authority of any ordinance, by serving a written notice upon the person holding the same, that such license is revoked and canceled, and the same shall thereafter be null and void; and on conviction before the city justice of any person holding a license for a violation of the provisions of any ordinance relating to the exercise of any right granted by such license, or for malconduct in the course of trade, the said court may, and upon a second conviction shall, revoke such license, in addition to the penalties provided by law.

SEC. 9. All ordinances, by-laws and regulations of the city council shall be passed by an affirmative vote of a majority of all the members of the city council present, by ayes and nays, which shall be entered into the record, approved by the mayor and published before they shall take effect. No ordinance shall be passed at the same meeting at which it shall have been presented or proposed, except by unanimous consent of the members present, which shall be noted in the records; but this shall not preclude the passage of an ordinance reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting.

SEC. 10. All ordinances, after the same are approved, shall be recorded by the city clerk in a separate book, provided for that purpose, and the affidavit of the publication thereof shall be recorded therewith, and the record of said ordinance and affidavit of publication or a certified copy thereof shall at all times be deemed and taken as sufficient evidence of such publication.

SEC. 11. That all books and pamphlets published or which may be published, purporting on their title page to be published by the authority, order or direction of the city council, and purporting to contain the charter and ordinances of said city, standing rules, orders or resolutions of said city council, or either, are hereby declared to be competent and *prima facie* evidence of the contents thereof, and of the regularity of all proceedings relating to the adoption, approval and publication thereof, and shall be admitted as evidence in any court of this state without further proof; and the certificate of the city clerk that any printed slip or paper to which such certificate may be attached, contains, or is a true copy of any ordinance, resolution, proceeding of the city council, or other paper the original of which is presumably in the possession of said city clerk, shall constitute such printed slip or paper competent and *prima facie* evidence of the contents and purport of such ordinance, resolution, or proceeding of the city council or other paper, and of the legal passage, adoption, approval and publication thereof.

SEC. 12. The city council may, during their fiscal year, by a vote of two-thirds ($\frac{2}{3}$) of those present and voting, issue the bonds or other evidence of indebtedness of said city, bearing interest not exceeding seven (7) per cent per annum and for a time not exceeding one (1) year, in such amounts and under such regulations as the council may prescribe, in anticipation of the taxes and revenues of such fiscal year; *Provided*, that the amount of such bonds or other evidence of indebtedness outstanding shall not at any one time exceed one-third ($\frac{1}{3}$) of such taxes and revenues; *And, provided further*, that the proceeds of such bonds or evidence of indebtedness shall be applied to the same purposes as the taxes and revenues in anticipation whereof they may have been issued.

SEC. 13. The city council shall have power to acquire by purchase, lease, donation, grant or condemnation such private property as may be necessary for sites for public buildings or grounds for the use of the city, and all other necessary purposes thereof, in manner as herein provided, and may, by a unanimous vote of all the members thereof, sell and convey such real estate as the city may own and which is not needed for municipal purposes, and all conveyances heretofore made and executed by said corporation are hereby legalized and ratified.

SEC. 14. The city council shall examine and adjust the accounts of all city officers and agents of the city at such times as they may deem proper, and may require such officers or agents, whenever they deem it necessary, to exhibit to them all their books and papers belonging to their respective offices, and if such officer or agent shall refuse to comply with the order of said city council in discharge of their duties in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceedings at law against any such officer or agent who may be found delinquent or defaulting in his accounts or in the discharge of his official duties. The council shall make full records of all such settlements and adjustments.

SEC. 15. Whenever any person shall subdivide any lot or piece of ground within said city, he shall cause the same to be surveyed and platted in accordance with the provisions of the general laws of this state relating to town plats, and when the survey and plat are so completed and acknowledged, it shall be presented to the city council; said city council may accept or reject said plat, or direct it to be changed or modified in such manner as it shall deem expedient. When any plat is accepted by the city council, the city clerk shall so certify upon the face of such plat, with the corporate seal, when it may be recorded in the same manner and with the same effect as provided for by the general law.

SEC. 16. If in any case any of the power granted to said city council, to be exercised by ordinances named in section five (5) of this chapter, or other provisions of this act, cannot well be exercised by the passage of ordinances, then and in that case, said city council may exercise any of said powers by means of the passage of resolutions.

CHAPTER V.

TAXES AND FINANCES.

SECTION 1. All property, real and personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government and the payment of its debts and liabilities, and all taxes shall be assessed and collected in the manner provided for by the general laws of this state, except as hereinafter [expressly] provided; *Provided*, that nothing herein contained shall be construed as limiting the levying and collection of special assessments as provided for in this act.

SEC. 2. The city council shall have power to annually levy taxes on all taxable property in said city to defray the current expenses thereof, but such assessment and levy shall not exceed five (5) mills upon the dollar of the assessed valuation of such property.

SEC. 3. The city council shall have power to levy a special tax upon all taxable property within said city for the purpose of constructing and maintaining bridges, culverts, grading and improving streets, alleys and highways, including the building and repairing of sidewalks, crosswalks and sewers, and for other necessary and proper purposes of the city, or conducive to good order and cleanliness and the protection against crime, disease and fire; *Provided*, that such taxes shall in no year exceed ten (10) mills upon the dollar of the assessed valuation; *Provided, further*, that for the improvements in this section mentioned the city council shall have the power to assess the tax to pay the same upon the property benefited by such improvements, to such extent as the council think just and equitable, and in the manner as is herein provided.

SEC. 4. No money shall be paid out of the city treasury, except the salaries of city officers, unless such payment is authorized by a vote of the city council, and these shall be drawn out only upon orders by the mayor and countersigned by the city clerk, which orders shall specify the purpose for which they were drawn and the name of the person in whose favor the same are drawn, and may be made payable to the order of such person or to the bearer, as the council may determine, and may be transferred by indorsement.

SEC. 5. The city council shall have power and authority to borrow money, issue bonds and levy taxes for the purpose of carrying out any of the provisions of this act exceeding the amount authorized by other sections of this act, provided the same be authorized by a majority of the inhabitants who are qualified voters, present and voting at a general or special election held for that purpose, for which notice is given as at other elections. Whenever it shall be desired to submit to a vote the question of the issuing of any bonds authorized by this section, the same may be done in such form and manner as the council by resolution may prescribe. No bonds shall be issued by the city council for any purpose unless so authorized.

SEC. 6. All bonds issued in pursuance of the provisions of this act shall be under the corporate seal of said city, signed by the mayor and attested by the city clerk, and shall upon the face express the object for which they are given and shall not be negotiated for less than par value.

SEC. 7. All taxes may be levied by resolution of the said city council and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for the same is levied, but in such case the surplus shall go into the general fund of the city.

SEC. 8. The city council shall cause to be transmitted to the auditor of Sibley county on or before the first (1st) day of October in each year a statement of all taxes by them levied and also all special assessments levied upon any of the lots or portions of the city, and such taxes shall be collected and the payment thereof enforced with and in like manner as state and county taxes are paid and the payment thereof enforced, and the county treasurer of said county shall pay such taxes over as fast as collected to the city clerk of said city.

SEC. 9. No limitation or restriction herein contained shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be recovered against the city.

CHAPTER VI.

FIRE DEPARTMENT.

SECTION 1. The city council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of any other materials that shall not be considered fire proof, shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire proof materials and with such precaution against fire as the city council shall by ordinance prescribe, and to prohibit the rebuilding of wooden buildings within the fire limits and to prescribe the manner of obtaining the consent of the city council to make repairs in such fire limits, and to prevent the removal of any building not constructed of fire proof materials from any one place within to any other place within such fire limits.

SEC. 2. The city council shall have power to prescribe in what manner and of what materials chimneys shall be constructed and to prevent the dangerous construction and condition of chimneys, fire places, hearths, stovepipes, ovens, boilers and apparatus used in and

about any building, and cause the same to be removed or placed in secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets, alleys or public grounds of said city; to regulate the location and construction of smoke houses and prohibit them when they shall be deemed dangerous to other buildings, and to make any other provision to guard against fire or to prevent the spreading of fires which the city council may deem proper.

SEC. 3. The city council shall have power to organize a fire department and disband the same, to purchase, keep and maintain fire engines and other fire apparatus, and to build and maintain engine houses, hose houses, and such other buildings as may be necessary or convenient.

CHAPTER VII.

STREETS, SIDEWALKS, BRIDGES AND PUBLIC GROUNDS.

SECTION 1. The city council shall have the care, supervision and control of all highways, streets, alleys, wharves, levees, public squares and grounds within the limits of the city, and may lay out and open new streets and alleys, and extend, widen and straighten the same, and may build, maintain and repair bridges across streams, railway tracks and elsewhere, and may provide for the pavement of gutters or the road-bed of any street or alley.

SEC. 2. The city council shall have power to establish the grade of any street, when such grade has not been established, and may, by vote of four-fifths ($\frac{4}{5}$) of the members of the council, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grade of all streets to be made and kept in the office of the city clerk.

SEC. 3. The city council may also, by a vote of four-fifths ($\frac{4}{5}$) of the members thereof, vacate any highway, street, lane or alley, or any portion of either; and such power of vacating highways, streets, lanes and alleys within the city of Henderson is vested in said city council, and no court, or other body or authority, shall have any power to vacate any such highway, street, lane or alley, nor any plat or portion of any plat of lands within said city.

SEC. 4. All work done or construction made pursuant to the provisions of this chapter may be done by the direct employment of labor and purchase of materials by said city, or the same may be let by contract to the lowest responsible bidder therefor, as the city council may in each case determine. If let by contract, the city council shall require of the bidder a bond, in such sum and with sureties, to be approved by said council, for the faithful performance of the contract to the satisfaction and acceptance of said council. When the council determine to let any work by contract, they shall advertise for bids for doing such work by publication for two (2) weeks in a paper published in the city. If, in the opinion of said council, no just, reasonable, or sufficient bid shall have been received for any such work after advertising as aforesaid, or if the person to whom the same is let shall fail in any particular to duly perform the same, the city council may have such work or any part thereof done by the direct employ-

ment of labor and purchase of material by said city; *Provided*, that in all cases where practicable, the said work or construction shall be let and performed by contract.

CHAPTER VIII.

LOCAL IMPROVEMENTS.

SECTION 1. The city council of the city of Henderson is hereby authorized to levy assessments for local improvements upon property fronting such improvements, or the property benefited thereby, without regard to the cash valuation of said property; that whenever an assessment shall be thus levied, it shall be based upon the estimates of the city council, and whenever the amount collected by virtue of an assessment shall exceed the actual cost of the improvement, the surplus shall be retained as a special fund, to expend in repairs or otherwise upon the streets, alleys or sidewalks in front of the property assessed.

SEC. 2. Such assessments may be made for filling, opening, grading, leveling, paving, curbing, walling, bridging, graveling, macadamizing, planking, opening, extending, widening, contracting, altering or straightening any street, lane, alley or highway, and for keeping the same in repair; also for filling, grading, protecting, improving or ornamenting any public park, square or grounds now or hereafter laid out; also for planting and protecting shade trees and ornamental trees, and also for constructing, laying, relaying and repairing sidewalks, area walls, gutters, sewers and private drains.

SEC. 3. It shall be the duty of the city council, before ordering the construction of any new sidewalk, to cause the ground upon which it is to be built to be properly graded.

SEC. 4. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said city, to construct, reconstruct and maintain in good repair, such sidewalks along the side of the street, lane or alley next to the lands of such owner respectively as may have been heretofore constructed, or shall hereafter be constructed, or directed by the city council to be built, and of such material and width, and upon such place and grade as the city council may, by ordinance or otherwise, prescribe. Whenever the city council shall deem it necessary that any sidewalk in the city of Henderson shall be constructed, or reconstructed, it shall by resolution direct such construction or reconstruction, specifying the width thereof and the material of which the same is to be constructed. The publication of such resolution twice in some paper printed or published in said city shall be sufficient notice to the owner of the land along which such sidewalk is to be built to construct the same, and unless such owners shall, each along his respective land, construct and fully complete such sidewalk within two (2) weeks after the last publication of such resolution, as aforesaid, the city council shall forthwith proceed to ascertain the expense of constructing the same, and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front. Such assessment shall be collected in the same way in all things as is provided for the collection of special assessments under the provisions of this charter; and the city council may, either before or after making such assessment, cause such portion of such sidewalks

as have not been built by the owners of such lands fronting on the same, and all street crossings, to be built by the street commissioner or upon contract, or in any other manner, as the council may determine.

SEC. 5. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and thorough manner and to report to the city council the cost of such repairs in each case, and a description of the lot or parcel of land abutting which repairs are made, and such report shall be carefully filed and preserved by the city clerk, and the city council, shall once in each year, at or as near as conveniently may be the time of levying the yearly city taxes, assess and levy upon each of the lots and parcels of land fronting or abutting upon sidewalks which have been so repaired by the street commissioner the cost of making such repairs. In case any such sidewalk shall become so out of repair as to become dangerous, and cannot be made safe without being rebuilt, and there are no funds to defray the expense of such rebuilding, it shall be the duty of the street commissioner to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding when the same shall be reconstructed, and collected with the assessment for such reconstruction.

SEC. 6. Money to rebuild or repair sidewalks, when the same shall be done by the street commissioner under this act or in case of building by a contractor, may be advanced by the city, to be reimbursed by the special assessment when collected.

SEC. 7. Whenever the owners of two-thirds ($\frac{2}{3}$) of the amount of frontage and of assessed values of lots or lands, and the buildings or improvements thereon fronting on any continuous portion of any street in this city, not less than one (1) full block, shall petition the city council to provide for sprinkling such portion of said street, the city council may make a contract for sprinkling such portion of such street for any time not exceeding one (1) season, upon such terms and conditions, and for such portion of the year, as shall be deemed advisable. The supply of such water shall be deemed the proportion the city should bear for such sprinkling for the street crossings and all parts of such streets fronting on land exempt from assessment. The whole cost of sprinkling such portion of the street shall be levied and assessed upon the lots and lands fronting upon that part of the street so sprinkled and which are subject to assessment, and the buildings and the improvements thereon, by an equal rate on the assessed value of such lots, lands, buildings and improvements without regard to the number of front feet; such levy to be made annually at the time of making the general city tax levy.

SEC. 8. Whenever the city council shall have ordered the construction of any sidewalk, and the owners of the land along which such sidewalk is to be built shall refuse, or for the space of two (2) weeks neglect, to construct the same according to the order of the city council, the street commissioner shall report to the city council a description of each lot or parcel of land along which such sidewalk has not been built, and his estimate of the cost of building such sidewalk along each of such lots and parcels of land. Such estimates shall not be binding upon the city council, but advisory merely, and the council may obtain any other information as to such cost, and the council

shall fix upon and designate the cost of building such sidewalk in front of each lot and parcel of land; and thereupon the city council shall assess and levy upon and against such lot and parcel of land so reported (after correcting mistakes, if any), along which such sidewalk has not been built, such sum as will cover the cost of building such sidewalk along and fronting upon the same lots and parcels of land respectively, and cause to be made an assessment roll of the same, which shall be in the following form, or any other form which the city council may adopt:

The city council of the city of Henderson doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. This assessment is made to defray the cost of.....a sidewalk along the.....side of.....from.....to..... in accordance with a resolution of the city council, passed.....day ofA. D. 18....., and duly published in..... on the.....day of..... A. D. 18..... The amount passed against and levied upon each lot or parcel being the amount necessary to build such sidewalk along and fronting upon the same lot or parcel of land.

NAME OF OWNER, IF KNOWN.	DESCRIPTION OF LAND.	LOT.	BLOCK.	AMOUNT.	
				DOLLARS.	CENTS.

Done at a meeting of the city council, this.....day ofA. D. 18.....

Attest:
Mayor.

.....
City Clerk.

SEC. 9. Assessments for repairs of sidewalks may be in the following form, or any form which the city council may adopt:

The city council of the city of Henderson doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel.

This assessment is made to defray the cost of repairs of sidewalk fronting upon each lot or parcel which the respective owners have neglected to make, and which have been made by the street commissioner since the.....day of.....A. D. 18..... The amount assessed against and levied upon each of said lots and parcels of land is the actual cost of repairs of sidewalks abutting upon such lot or parcel, and so repaired by such commissioners.

NAME OF OWNER, IF KNOWN.	DESCRIPTION OF LAND.	LOT.	BLOCK.	AMOUNT.	
				DOLLARS.	CENTS.

Done at a meeting of the city council this.....day of.....
 A. D. 18.....

Attest:
Mayor.

.....
City Clerk.

SEC. 10. Assessments for sprinkling streets may be in the following form, or any other form which the city council may adopt:

The city council of the city of Henderson doth hereby assess and levy upon and against the several lots and parcels of land below described, and the buildings and improvements thereon, the respective sums of money set opposite each lot or parcel.

This assessment is levied to defray the expense of sprinkling the streets fronting said lots and parcels of land from.....
 A. D. 18.....to.....A. D. 18.....according to a contract for sprinkling.....from.....to.....
for the term of.....from.....
 and the said lots and parcels of land, buildings and improvements assessed by an equal rate upon the assessed value of lots, lands, buildings and improvements fronting the portion of the streets so sprinkled.

NAME OF OWNER, IF KNOWN.	DESCRIPTION OF LAND.	LOT.	BLOCK.	AMOUNT.	
				DOLLARS.	CENTS.

Done at a meeting of the city council this.....day of.....A. D. 18.....

Attest:
Mayor.

.....
City Clerk.

SEC. 11. The city clerk shall record all assessment rolls of special assessments in books kept by him for that purpose, and shall on or before the first (1st) Monday in October of each year deliver to the county auditor of Sibley county all such assessment rolls theretofore recorded, and the county auditor shall extend the assessments in

proper column against the property assessed, and each assessment shall be collected and the payment thereof enforced, as any county and state taxes are collected and enforced, and such assessments shall be paid over by the county treasurer when collected to the city clerk in like manner as other taxes.

CHAPTER IX.

CONDEMNATION OF PRIVATE PROPERTY TO PUBLIC USE.

SECTION 1. Whenever the city council shall intend to lay out and open, change, widen or extend any highway, street, lane, alley, public grounds, square or other place, or to construct and open, alter, enlarge or extend drains, canals or sewers, or alter, widen or straighten water courses therein, or take ground for the use or improvement of a harbor, and it shall be necessary to take private property therefor, they shall cause an accurate survey and plat thereof to be made and filed with the city clerk and they may purchase or take by donation such grounds as shall be needed, by agreement with the owners, and take from them conveyances thereof to the city for such use or in fee; but otherwise they shall, by resolution, declare their purpose to take the same, and therein described by metes and bounds the location of the proposed improvements and the land proposed to be taken therefor, defining separately each parcel and the amount hereof owned by each distinct owner, mentioning the names of the owners or occupants so far as known, and therein fix a day, hour and place, when and where they will apply to the city justice of the city for a jury to condemn and appraise the same. They shall thereupon cause to be made by the city clerk a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested that the council will, at the time and place named, apply to the justice for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by any person on the owner of each such parcel of land to be taken, if known and resident within the county; such service to be made in the manner prescribed for serving a summons in a justice court, and the return on the summons shall be conclusive evidence of the fact stated therein. If the notice cannot be so given as to all the parcels, then the same shall be also published once in each week, for three (3) successive weeks, in a newspaper published in such city or county; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served and such publication made for three (3) weeks complete, at least one (1) week before the time fixed therein for such application. If any person so served with notice shall be a minor, or of unsound mind, the justice, before proceeding, shall on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate and act for such ward.

SEC. 2. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the justice, who shall thereupon make a list of twenty-four (24) competent jurors, not interested; but residents of the city shall not be disqualified by reason of such residence. He shall hear

and decide any challenges for cause or favor, made by anyone, and, if sustained, shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under the direction of such magistrate, each party, the city council by its representative on one side, and owners of the land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the justice, on the other, shall challenge six (6) names, one at a time alternately, the city council beginning. To the twelve (12) jurors remaining the judge shall issue a venire, requiring them at an hour on a day named, not more than ten (10) nor less than three (3) days thereafter, to appear before him to be sworn and serve as a jury to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named; such venire shall be served by any constable or police officer at least one (1) day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family of suitable age and discretion. The jurors summoned shall appear at the time and place named; and if any be excused by the judge, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead until twelve (12) be obtained. The magistrate shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and, if found necessary, the damages occasioned thereby, and faithfully discharged their duties as jurors according to law.

SEC. 3. Under the direction of such magistrate the jury shall view the lands to be taken, and shall then sit before him, to hear such competent evidence as shall be produced by any party; and for such purposes such magistrate shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands or any part thereof for such purposes, describing such as they find necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement for damages, specifying therein the damages of each owner, and separately the value of the land taken from each, and the damage otherwise sustained by each by reason of the taking thereof; in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvements; and a majority of such jury may render such verdict or appraisement of damages and shall sign the same. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and they shall be thereupon discharged, and their verdict filed by the magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn and proceed in the same manner.

SEC. 4. Within ten (10) days after verdict, any land owner whose land has been found necessary to be taken may appeal from the award of damages to him in such verdict, to the district court, and the city may likewise appeal from the award of damages to any owner by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part, what part, and therewith a bond with two sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and paying the magistrate for

his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisal. Upon an appeal being taken, the magistrate shall transmit to the clerk of the district court, within ten (10) days, the notice of the appeal and bond, and thereto annex the copy of all papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing is expired, file with the city clerk, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the clerk shall record all such proceedings. Upon filing such transcript in the district court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to trial and appeal to the supreme court. The case shall be tried by a jury, unless waived, and cost shall be awarded against the appellant, if a more favorable verdict be not obtained; otherwise against the respondent. Upon entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the city clerk.

SEC. 5. If the verdict of the jury first called find it necessary to take such land or any part thereof, the city council may, upon return thereof to the city clerk, enact an ordinance in accordance therewith, for laying out, changing, widening or extending and opening any such street, lane, alley, public ground, square or other public place, or constructing or opening, altering, enlarging or extending any such drains, canals or sewers, or altering, widening or straightening any such water course, or for the use or improvement of a harbor, but shall not enter upon any such land therefor until the owner be paid in full or the damage be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the city clerk to permanently remain subject to his order. In case there shall be any doubt as to who is entitled to such compensation or damages, or any part of the same, the amount so awarded shall be set apart in the city treasury for who [ever] shall be entitled thereto, and paid over to the person or persons who shall show a clear right to receive the same. At any time before causing any such land to be actually taken or put to public use, and before the rendition of a judgment in the district court for damages, the city council may discontinue all proceedings theretofore taken, and the city shall, in such event, be liable for the cost only. All the cost of every such proceeding shall be paid by the city, except when it recover costs in the district or supreme court. Fees and costs shall be the same as in civil action.

SEC. 6. For the purpose of payment of the expenses, including all damages and costs incurred for the taking of private property and of making any improvement mentioned in the last preceding section, the city council may, by resolution, levy and assess the whole, or any part not less than one-half ($\frac{1}{2}$) of such expenses, as a fair tax upon such property as they shall determine is especially benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the mayor and city clerk, shall be published once in each week for two (2) weeks in a newspaper printed regularly in such city, or if there be no such newspaper, three (3) copies thereof shall be

posted by the city clerk in three (3) of the most public places in such city, and a notice therewith that at a certain time therein stated the said council will meet at their usual place of meeting and hear all objections which may be made to such assessment, or any part thereof. At the time so fixed, the said council shall meet and hear all such objections, and for that purpose may adjourn from day to day not more than three (3) days, and may, by resolution, modify such assessment in whole or in part. At any time before the first (1st) day of October thereafter any party liable may pay any such tax to the city clerk. On such first (1st) day of October, if any tax remains unpaid, the city clerk shall certify a copy of such resolution to the county auditor, showing what taxes thereby levied remain unpaid, and the county auditor shall put the same upon the tax roll, in addition to and as a part of all other city taxes therein levied on such land, to be collected therewith.

CHAPTER X.

MISCELLANEOUS PROVISIONS.

SECTION 1. The city of Henderson is hereby declared to be the legal successor of the borough of Henderson, a municipal corporation heretofore existing under the special laws of this state. All the property of the said borough of Henderson shall hereafter belong to and be the property of the city of Henderson, and the rights of the creditors of such borough of Henderson shall not be prejudiced by anything contained herein, but the same are preserved to them, and they shall have the same rights and remedies against said city as they would have had against said borough of Henderson if this act had not been passed.

SEC. 2. All recognizances, obligations and all [other] instruments entered into or executed to the borough of Henderson before this act goes into effect, and all fines, taxes, penalties and forfeitures due or owing to the said borough of Henderson, and all writs, prosecutions, actions and causes of actions, except as herein otherwise provided, shall continue and remain unaffected by this act going into operation.

SEC. 3. All ordinances in force in the borough of Henderson at the time this act goes into effect, and not inconsistent herewith, shall remain in full force and effect, until altered or repealed by the city council of the city of Henderson, and all rights, actions, prosecutions and all contracts of the borough of Henderson, shall continue the same as if this act had not been passed.

SEC. 4. All ordinances, rules and by-laws shall be enacted by a majority of all the members of the city council, and shall be signed by the mayor, attested by the city clerk and published once in a newspaper published in said city, or in lieu of such publication, and in the discretion of the council, by posting them conspicuously in three (3) of the most public places in said city for ten (10) days, and shall be recorded in a book kept for that purpose. Proof of such publication by the affidavit of the printer or foreman in the office of such newspaper, or of such posting, by the certificate of the city clerk, shall be attached to and filed with such ordinance or by-laws, and noted on the record thereof, and shall be conclusive [evidence] of the facts stated.

SEC. 5. No part of the streets or highways of said city shall be in any road district established by the town board nor under the control of town officers, and the city so organized shall constitute one (1) road district and be exempt from township tax for road and bridge purposes.

SEC. 6. The said city of Henderson and the remaining portion of the town of Henderson, outside of said city, shall, for general election purposes, constitute, as heretofore, an election district of said Sibley county; and the officers of said township of Henderson shall conduct such election, and make returns thereof as prescribed by the general election laws of this state; and said township of Henderson may hold their general and township elections within the limits of said city of Henderson if said township shall desire to do so; and the poor of said township and city shall remain and be cared for, as heretofore, under the municipal corporation of the borough of Henderson and the said township of Henderson, and shall be under the care of the township officers, and moneys raised for their support shall be levied and assessed, as heretofore, upon the property in said township and city.

SEC. 7. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

SEC. 8. No law of this state concerning the provisions of this act shall be considered as repealing, amendatory or modifying the same, unless said purpose be expressly set forth in such law.

SEC. 9. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

SEC. 10. This act is hereby declared to be a public act, and may be read in evidence in all the courts within this state without proof.

SEC. 11. The public property of said city shall be exempt from seizure, or a sale on execution and from taxation.

SEC. 12. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 13. This act shall take effect and be in force from and after its passage.

Approved March 23, 1891.