

MASON'S MINNESOTA STATUTES

1927

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CHAPTER 9

VILLAGES AND CITIES

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Records and accounts of costs of public buildings or works. See §§ 974-1 to 974-4.

Indebtedness and obligations of cities in general, see chapter 10, herein.

1109. Villages and boroughs—Until reorganized as provided in section 1110 the several villages and boroughs existing as such at the time of the taking effect

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of the Revised Laws under special legislative charter or under any general law, shall continue thereunder and in all things continue to be governed by such general or special laws; except that the provisions of the General Statutes 1913 and any acts amendatory thereof or supplemental thereto relating to elections in villages, and of chapter 10 of such General Statutes 1913 and any acts amendatory thereof or supplemental thereto relating to indebtedness of villages, shall apply to and govern all such villages organized under any general law: Provided, that any village or borough of either class, having the requisite population, may reorganize as a city in the mode hereinafter prescribed. (R. L. '05 § 698; G. S. '13 § 1202, amended '17 c. 355 § 1)

1885 c. 145 § 48, is not part of village charter continued by this section, but was superseded by § 3142 (112-365, 128+295).

1891 c. 146 subc. 11 § 28, providing for appeals to municipal court, is not perpetuated by this section (112-487, 128+834).

See 124-107, 144+464; 142-199, 177+770; 146-308, 178+607. Elections held in villages existing under any general law legalized in certain cases, '17 c. 35.

Incorporations made or attempted between January 1, 1922, and January 1, 1923, legalized, '23 c. 250.

Terms of trustees in villages organized under G. L. 1885 c. 145, fixed '19 c. 376.

General provisions for sprinkling and oiling streets made applicable to villages organized under special law, '17 c. 48.

A city, organized under chapter 462, Laws of 1921, [§§ 1828-16 to 1828-98] may include an existing village or borough, but not a part only of such village or borough. 161-171, 201+139.

1110. Surrender of charter—Reincorporation—Any village or borough organized under general or special charter may relinquish the same, and thenceforth be governed as herein provided. The council or other governing body may propose such relinquishment by a resolution ordering a special election thereon, or ordering such proposition to be submitted at the annual village election. Notice of such special election, and the conduct thereof, shall be as prescribed by law for other special village or borough elections. If submitted at the annual village election, the notice of such election shall contain a notice of the submission of such proposition. The ballots used shall bear the printed words, "For reincorporation—Yes—No," with a square after each of the last two words, in one of which the voter may insert a cross to express his choice. If a majority of the votes cast upon such proposition be in the affirmative, said governing body shall declare the result by resolution, a certified copy of which shall be filed with the county auditor, and another with the secretary of state. Thereupon the former charter shall cease, and the applicable provisions of this chapter be substituted therefor. But until after the election next ensuing, as herein provided, the officers of such former organization shall continue in the discharge of their official duties, being governed therein, so far as practicable, by this chapter. (R. L. '05 § 699; G. S. '13 § 1203, amended '15 c. 17).

VILLAGES

1111. What territory may be incorporated—Any district, section or parts of section not in any incorporated village, and in the state of Minnesota, which has been platted into lots and blocks, also the lands adjacent thereto, when said plat has been duly and legally certified according to the laws of this state, and filed in the office of the register of deeds for the county in which said lands or the larger portion thereof lie, said territory containing a resident population of not more than three thousand nor less than one hundred, may become incorporated as a village in the manner hereinafter prescribed. But the unplatted part of such terri-

tory must adjoin the platted portion and be so conditioned as properly to be subjected to village government. Provided, that any village, whose incorporation shall hereafter be declared void by judgment of court, may reincorporate under this act, notwithstanding the fact that such village does not contain one hundred inhabitants, and in such reincorporation may include all or part of the territory embraced in the original incorporation; provided, however, that any district, section or parts of sections which has been platted into lots and blocks, as herein provided, and which is contiguous to the state line and having a population of not less than fifty (50) inhabitants, may upon a petition of not less than ten (10) voters, residents therein, become incorporated as a village in the manner hereinafter prescribed. (R. L. '05 § 700, amended '07 c. 235 § 1; '07 c. 270; '19 c. 324) [1204]

57-526, 59+972; 61-146, 63+613; 76-469, 474, 79+510; 87-195, 91+465; 90-271, 96+40.

Meaning of "village" (107-364, 120+528).

What included in "lands adjacent thereto" (107-364, 120+528).

Test whether territory adjacent to platted lands may be incorporated (112-330, 127+1118).

Necessary population to authorize incorporation should be composed of actual residents (130-100, 153+257).

De facto public corporations (see 132-59, 155+1040).

142-199, 171+770; 146-311, 178+815; 150-203, 184+850; 151-541, 186+697.

Writ of ouster ordered against a recently incorporated village (and its officers), because its area consists almost exclusively of agricultural land, containing no nucleus or population and not conditioned, as required by the statute, so as to be properly subject to village government. 165-369, 206+455.

Certain municipalities attempted between December 14, 1904 and February 6, 1905, legalized '05 c. 12.

Certain incorporations attempted between October 1, 1888 and December 31, 1888, legalized '07 c. 215.

Certain incorporations attempted between June 1, 1907 and March 11, 1907 and between January 1, 1911 and March 1, 1911, legalized, '11 c. 198.

Incorporation of villages under G. L. 1883 validated '07 c. 119.

Certain incorporations validated '11 c. 330.

Incorporations attempted under G. L. 1875 c. 139, validated '13 c. 19.

Incorporation of villages from territory of other villages validated, '09 c. 9.

Also '13 c. 219; '21 c. 3.

Prior laws relating to villages—The general village law of 1885 (Laws 1885, c. 145) was repealed by R. L. '05, § 5536 (§ 10970 herein). This repeal did not affect villages incorporated and operating thereunder, and, as to such villages, is still in force. As amended said Laws 1885, c. 145 reads as follows:

"Section 1. Every village which has heretofore been incorporated under a special act of the legislature therefor, shall continue to exist under such act and amendments thereto; and the provisions of this chapter shall in no manner affect or apply to the same except as hereinafter in this chapter specially provided, unless adopted as provided in this section. The trustees thereof may, by resolution, submit at a special village election the question whether such village will so continue, or will become reincorporated under the general statutes. They shall give notice thereof in the manner required in this chapter for notifying special elections. Ballots shall be written or printed "For re-incorporation," and "Against re-incorporation," and the election shall be conducted and result canvassed as provided for an annual village election by such village. If a majority vote for re-incorporation, the trustees shall make a certificate setting forth the fact of such submission, and the vote thereon in detail, and the result thereof, and cause the same to be recorded in the office of the register of deeds, and thereupon the special act of incorporation shall be deemed surrendered, and such village shall become incorporated under the general statutes, but shall, until the next annual village election herein provided to be held in January following, be governed by the officers then in office. (Amended '93, c. 187, § 1.)

"Sec. 2. Every village which has been or shall be organized or incorporated under the general statutes, shall be hereafter governed according to the provisions of this chapter, to the end that uniformity of village government and equal privileges to all may be secured.

"Sec. 3. Any district, sections or parts of sections not in any incorporated village, and in the State of Minnesota, which has been platted into lots and blocks, also the lands adjacent thereto, when said plat has been duly and legally certified according to the laws of this

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state, and filed in the office of the register of deeds for the county in which said lands or the larger portion thereof lie, said territory containing a resident population of not less than one hundred forty, may become incorporated as a village under this act in the following manner: (Amended '87, c. 62; '03, c. 208.)

"Sec. 4. Twenty-five or more of the electors then residents upon the lands so to be incorporated, may petition the county commissioners of the county in which the whole or larger part of said lands are situated to appoint a time and place when and where the electors actually residing upon said lands may vote for or against such incorporation, and such petition shall set forth the boundaries of such territory, with their courses and distance, the quantity of land therein embraced, the name of such proposed village, and the number of persons actually residing in said territory, which shall have been duly ascertained by said petitioners, or under their direction, by a census taken of the resident population as it may be on some day not more than eight weeks previous to the time when said petition is presented to said commissioners, and said petition shall be verified by at least three of said petitioners, to the effect that such census has been accurately taken, and that all the facts in said petition contained are true. (Amended '03, c. 208, § 2.)

"Sec. 5. On delivery of said petition to the county commissioners or to any one of them, it shall be their duty, within ten days therefrom, to post or cause to be posted in five of the most public places within said territory, three copies of such petition together with notices attached thereto, stating the time and place within the limits of said proposed village when and where the electors thereof will vote for or against such incorporation; which time shall be at least thirty days from the posting of said notices; and said commissioners shall appoint by resolution three inspectors, residents of said proposed village who shall preside and act as inspectors at such meetings, and all the law of this state relating to the election of town officers, shall apply to said meeting so far as the same are applicable and not inconsistent with this act.

"Sec. 6. If there be a newspaper printed within said territory, the said petition, verification thereof and the notice, as hereinbefore provided, shall be printed in full therein for three successive weeks previous to the day specified in said notice for voting on the proposed incorporation.

"Sec. 7. Every elector residing in such territory and qualified to vote for town officers in the town in which such lands, or some part thereof lie, may vote at such meeting by a ballot having thereon the word 'For incorporation, yes;' or 'For incorporation, no.'

"Sec. 8. Within three days after such meeting the inspectors presiding thereat shall file with the said county commissioners, or some one of them, a certificate showing that the said meeting was held at the time and place specified in said notice; that they have canvassed the ballots cast thereat, giving the whole number of votes cast; the number of those having thereon the word 'yes' and the number having thereon the word 'no,' which said certificate shall be signed by said inspectors, and by them duly verified to the effect that the statements therein contained are true.

"Sec. 9. Within five (5) days after receiving said certificate, as in the previous section. Provided, if the same shows a majority vote for incorporation, it shall be the duty of the said commissioners to file the same together with the original petition and a true copy of the notice of election, as provided in section five (5) of this act, in the office of the register of deeds, in and for the county wherein lie the whole or the greater part of said lands, and thereupon the said territory mentioned in said petition shall be an incorporated village within the intent of this act from the date of filing said papers in the office of the said register of deeds; and shall, under the name set forth in said petition, be endowed with all the rights, powers and duties incident to municipal corporations at common law with perpetual succession, and shall by said corporate name be capable of contracting and being contracted with, pleading in all courts of law and equity, and have a common seal which may be altered at the pleasure of the village council, and shall have power to take, hold, purchase, lease and convey real estate, or personal property, or mixed estate as the purposes of the corporation may require, either within or without the limits of said corporation.

"Sec. 10. It shall be the duty of said register of deeds to record said papers in full, and the papers so filed or the record thereof shall be prima facie evidence in all courts of law and equity that said village is a duly incorporated village under the provisions of this act.

"Sec. 11. Within three days of the filing said papers with said register the said commissioners shall post notices in three of the most public places in the village, giving at least ten days' notice to the legal voters residing in said incorporated village, to meet to organize under the provisions of this act, and elect officers for the ensuing year. The action of a majority of said persons shall be considered the action of the whole

number, and the electors present at the time and place designated in said call, may organize such meeting by choosing viva voce, two judges of election and one clerk, who, before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation to faithfully discharge the duties required of them, and said judges and clerks, being duly qualified, shall forthwith open the polls by proclamation, and conduct the election in the manner provided by the statutes of the state for the election of township officers, and the judges of election shall give to each person elected a certificate of his election, and such officers shall, after having qualified according to law, forthwith enter upon the discharge of their duties. And all the necessary and proper expenses and charges incident to such incorporation, and the records thereof, shall be paid by such village. (Amended '03, c. 188, § 1.)

"Sec. 12. Added and adjacent territory may be annexed to any village, either originally incorporated or reincorporated under the provisions of this act, by a petition of at least five of the legal voters, residents of such adjacent lands, to the county commissioners in the same manner as hereinbefore provided for the incorporation of villages, and it shall be the duty of such commissioners to proceed thereupon as in sections five, six, seven, eight and nine of this act, to give notices of the time and place within the territory so to be annexed, when and where the electors thereof will vote for or against such annexation, and the ballots used shall have thereon the words: 'For annexation' or 'Against annexation,' and if the majority of the ballots cast shall be 'For annexation,' then the said commissioners shall file with the register of deeds the original petition, notice of election and inspector's certificate, as provided in section nine of this act.

"Any territory within the corporate limits of any such village, whether the same is platted or not, may be taken out of such corporation and detached therefrom by petition of at least thirty of the legal voters of such village, including the owner or owners of the land which is proposed to be detached, to the county commissioners in the same manner as provided for the annexation of territory to incorporated villages, and it shall be the duty of such commissioners to proceed thereupon as in sections five, six, seven, eight and nine of chapter 145 of the general laws of eighteen hundred eighty five, and to give notice of the time and place where the electors thereof will vote for or against such detaching, and the ballots used shall have thereon the words 'for detaching' or 'against detaching' and if the majority of the ballots cast shall be for detaching, then the said commissioners shall file with the register of deeds the original petition, notice of election and inspector's certificate as provided in section nine of chapter one hundred forty five of the general laws of 1885. And said territory when so detached shall belong to and be a part of the township in which it is when so detached, unless it shall be reincorporated into a new village or attached to a village or city already incorporated, within one year after being so detached.

"Provided that such territory shall not be detached as herein provided in any case when such detaching would reduce the number of inhabitants of such village below the number now required by law for the incorporation thereof.

"Provided further that the detaching of any territory from any incorporated village under the provisions of this act shall not relieve such territory of its share of indebtedness existing against such corporation, but the said territory shall be deemed a part of such village for the purpose of taxation imposed to discharge the principal and interest of such pre-existing indebtedness until the same shall have been fully discharged. (Amended '93, c. 184; '95, c. 132.)

"Sec. 13. It shall be the further duty of said commissioners, on receiving said petition, to serve a copy thereof upon the president or recorder of the village to which such annexation is proposed, and it shall be the duty of the village council thereof within ten days to call a special election in said village by posting in three of the most public places therein notices thereof which shall contain a description of said territory so to be annexed and stating the time and place when and where the electors of said village will vote for or against such annexation, said election shall be held within thirty days from the time said petition is served on the president or recorder, and ten days' notice thereof shall be given, the ballots used shall have upon them the words: 'For annexation' or 'Against annexation' and the same laws shall apply in said election, as apply in the election of the officers of said village; and if the judges of election shall find on canvassing said ballots that a majority thereof are 'For annexation,' then they shall make a certificate containing a description of the territory as set forth in the notice of election stating the whole number of votes cast, the number 'For annexation' and the number 'Against annexation,' which said certificate shall be signed by said judges and by them verified, to the effect that the statements therein contained are true, and they shall cause the same to be

filed with the said register of deeds within ten days after such election.

"Sec. 14. Upon filing with the said register, the certificates hereinbefore mentioned showing a majority of votes cast both in the territory to be annexed as well as in the said village to be for annexation then and thereupon the said territory shall be a part of said incorporated village; and all the necessary and proper expenses and charges incident to such annexation and the records thereof shall be paid by such village.

"Provided that the territory thus attached to a village may include another village, in which case the latter shall then and thereby become dissolved and cease to exist, and the corporate indebtedness of such dissolved village shall be added to and become a part of the indebtedness of the village in which it is included. (Amended '01, c. 358, § 1.)

"Sec. 15. It shall be the duty of the register with whom said papers are filed to record the same together in full, and the original papers so filed or the records thereof shall be prima facie evidence in all courts of law and equity that the territory therein described is a part of said incorporated village.

"Sec. 16. After the first election of officers the village council shall within twenty days before the time of holding any election of village officers designate and appoint two qualified voters of such village who shall act as judges of such election; and in case of the neglect to make such appointment, or if the persons so appointed neglect or refuse to serve, the electors present at the time and place named for opening the polls of any such election may viva voce elect two judges of election and one clerk, who, before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation to faithfully discharge the duties required of them, and the said judges and clerk being qualified, shall forthwith open the polls by proclamation, and conduct the election in the manner provided in this section. The annual meeting shall be on the second Tuesday of March for the election of officers and at such place as may be directed by the village council after giving ten days' notice thereof, either by posting written notices in three of the most public places in the village, or by publishing such notice in the newspaper printed in such village. The polls shall be open at ten o'clock a. m. and close at four o'clock in the afternoon of said day. At the close of the polls the votes shall be counted, and a true statement thereof proclaimed to the voters by some one of the judges of election, and the recorder shall make a true copy thereof in a book kept for such purpose, and within five days notify in writing the person so elected of their election. All elections shall be by ballot, and all votes for elective officers shall be upon one ballot and be deposited in one ballot box; a plurality of votes shall elect, and if two or more persons receive an equal number of votes for the same office, the election shall forthwith be determined by lot, in the presence of the judges of election in such manner as they direct, and every qualified elector, there actually resident in such village, may vote at any election; provided that no candidate for office shall act as judge or clerk at such elections.

"Provided, that in all villages having two or more voting precincts the village council shall within twenty-days before the time for holding any election in such village, appoint two qualified voters of each such voting precinct who shall act as judges of election, and one qualified voter of each such voting precinct who shall act as clerk of elections; and in case of the neglect to make such an appointment, or if the persons appointed neglect or refuse to serve, the electors present at the time and places named for opening the polls of any such election may viva voce elect two judges of election and one clerk, from among the qualified voters present; and all judges and clerks of election herein provided for, before entering upon the discharge of their duties, shall take and subscribe an oath or affirmation to faithfully discharge the duties required of them, and the said judges and clerk being duly qualified shall forthwith open the polls by proclamation, and conduct the election as hereinbefore and hereinafter provided; provided that no avowed or nominated candidate for office shall act as judge or clerk at such election.

Provided further, that when any election shall be closed in any such village having two or more voting precincts, the judges shall make return thereof to the village recorder within twenty-four hours after such election in the same manner provided by law for the return of state and county officers to the county auditor, and within two days thereafter the village council, who are hereby declared to be the village canvassing board in all villages having two or more voting precincts, shall meet and canvass the returns thereof, and declare the result as appears from said returns, and the village recorder shall forthwith give notice to the persons elected to their respective offices. A plurality of votes shall elect, and if two or more persons receive an equal number of votes for the same office the election shall forthwith be determined by lot in the presence of the canvassing board in such manner as they shall direct. (Amended '01, c. 60, § 1.)

"Sec. 17. Special elections may be ordered by the council, but no special election shall be held unless ten days' notice thereof is given, nor shall any subject or question be considered or acted upon, unless its objects are clearly set forth and stated in the notice for the call of such meeting. All village elections shall be, except as hereinbefore provided, conducted and the result canvassed and certified as in the case of town meetings; and, except as modified in this chapter, every statute relating to holding town meetings, canvassing and certifying the result thereof, and relating or applicable to the duties of judges of election and clerks, the challenging votes and to voting thereat, and every statute prescribing and punishing offenses for illegal voting, bribery, fraud, corruption, official delinquency or other offense at or concerning elections, which is applicable to town meetings, is hereby extended and applied to village elections.

"Sec. 18. The village assessor shall perform all the duties in relation to the assessment of property for the purpose of levying all village, county and state taxes, and upon the completion of the assessment roll, he shall return the same to the village council, who may alter, revise and equalize the same as they may deem it just and proper. Provided, that unless said village is a separate election district, the assessors of the township in which said village is situated shall assess the property in the village in the same manner as property situated in the township. (Amended '87, c. 62; '89, c. 122; '99, c. 33)

"Sec. 19. The inhabitants of said village having the qualifications of electors of members of the legislature of the state of Minnesota, as hereinafter provided, may elect a president, three trustees, a treasurer, a recorder, and, if said village is a separate election district, an assessor, who shall hold their respective offices for one year or until their successors are elected and qualified; also two justices of the peace and two constables, who shall hold their respective offices for two years, or until their successors are elected and qualified; and before entering upon the duties of their respective offices, they shall each take an oath or affirmation to support the constitution and laws of the state of Minnesota, and faithfully discharge the duties of his office. The treasurer shall give bonds for twice the amount of funds collected. The treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided for that purpose, and shall exhibit such account, together with his vouchers to the village council at its annual meeting, or at any time when called for by resolution of said council for adjustment, and shall deliver all books and papers belonging to his office, and the balance of all moneys, as such treasurer, to his successor in office. Provided, that the treasurer shall not pay out any moneys in his hands except upon the written order of the president of the council attested by the recorder. The treasurer shall, from time to time, draw from the county treasury such moneys as may be due said corporation, for the use of said village, and upon receipt of such moneys, give proper vouchers therefor. And provided further, that each and every village treasurer in the state shall keep a suitable book, to be provided at the expense of the village, in which he shall enter the village orders which he cannot pay for want of funds when presented to him for payment, which orders when presented shall be indorsed by such treasurer by putting on the back of the same the words 'not paid for want of funds,' giving the date of such indorsement, signing the same as village treasurer. Every such order shall bear interest at the rate of six per cent per annum from the date of presenting same to the treasurer until the treasurer serves a written notice upon the payee, or his assignee, personally or by mail, that he is prepared to pay such order, such notice may be directed to the payee or his assignee at the address given in writing by such payee or assignee to such treasurer at any time prior to the service of such notice. No order shall draw any interest if such address is not given when the same is not known to the treasurer.

"All village orders shall be paid in the order that they are now or may hereafter be registered out of the first moneys that come into the treasurer's hands for such purpose. (Amended '87, c. 53; '89, c. 104; '99, c. 33; '03, c. 190; repealed insofar as inconsistent with Laws 1925, c. 4, by § 7 of said Laws 1925, c. 4. See §§ 1152-1 to 1152-8, herein)

"Sec. 20. The treasurer shall, two weeks previous to the annual election of village officers, make a detailed statement in writing of the moneys received by him, and the sources from which the same were received, and their respective amounts; and also the amounts paid out by him, and the purposes for which they were paid. Such statement shall be filed by him in his office, for the inspection of any taxpayer residing within the corporate limits of said village, and he shall cause such statement to be published at least one week prior to such village election in a newspaper published in such village, to be selected by the village council, if there be a newspaper published in such village, and if there

be no such newspaper in said village, then he shall post copies of such statement in three of the most public places in said village. (Amended '05, c. 74.)

Sec. 21. The president, the three trustees and the recorder shall be the village council of said village, any three of whom shall constitute a quorum for the transaction of any business, and shall have full power and authority to enact, adopt, modify, enforce, and from time to time, amend or repeal all such ordinances, rules and by-laws as they shall deem expedient, for the following purposes, viz:

"First—To regulate the mode of, and establish rules for, their proceedings.

"Second—To adopt a corporate seal, and alter the same at pleasure.

"Third—To receive, purchase and hold for the use of said village any estate, real and personal, and to sell, convey, lease or otherwise dispose of the same, and to dispose of, for any purpose and in any manner, all surplus light, heat, steam, water or electricity which may be had or produced after providing for the streets and the furnishing of water for the use of the village and its inhabitants. (Amended '91, c. 149, § 1.)

"Fourth—To limit and define the duties and powers of officers and agents of the village, fix their compensation, and fill vacancies when no other provision is made by law; to call special elections, and to designate trustees to act as judges of elections.

"Fifth—To procure the books and records required herein to be kept by village officers, and such other furniture, property, stationery and printing as shall be necessary for village purposes.

"Sixth—To provide for the prosecution or defense of all actions or proceedings in which the village is interested, and employ counsel therefor.

"Seventh—To appoint a village attorney, a pound-master, one or more sextons or keepers of cemeteries, one or more fire wardens, and one or more street commissioners, whenever they deem necessary. Every street commissioner, when, by resolution, the village board shall require it, shall take and file his oath of office, and execute a bond conditioned for the faithful discharge of his duties and the proper application and payment of all moneys that may come into his hands by virtue of his office.

"Eighth—To control and protect the public buildings, property and records, and insure the same.

"Ninth—To remember the lots and blocks of the village or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds.

"Tenth—To establish a fire department, to appoint the officers and members thereof, and prescribe and regulate their duties; to provide protection from fire by the purchase of fire engines and all necessary apparatus for the extinguishment of fires, and by the erection or construction of pumps, water mains, reservoirs or other water works; to erect engine houses; to compel the inhabitants of the village to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of fire as shall be directed by them, or any two of them who may be at the fire, for the purpose of preventing its communication to other buildings, to establish fire limits or the limits within which wooden or other combustible buildings shall not be erected; to require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty and exempt from seizure and forced sale; and after reasonable notice to such owner or occupant, and refusal or neglect by him, to procure and deliver the same to him, and in default of payment therefor, to levy the cost thereof as a special tax upon such real estate, to be assessed and collected as other taxes in such village; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove pipes, and the construction and cleaning of chimneys, to prevent bonfires and the use of fireworks and firearms in the village, or any part thereof; to authorize fire wardens at all reasonable times to enter into and examine all dwelling houses, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in safe condition; and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

"Eleventh—To lay out, open, change, widen or extend streets, lanes, alleys, sewers, parks, squares or other public grounds, and to grade, pave, improve, repair or discontinue the same, or any part thereof, or to establish and open drains, canals or sewers, or alter, widen, or straighten watercourses; to make, alter, widen or otherwise improve, keep in repairs, vacate or discontinue sidewalks and crosswalks; to prevent the incumbering of streets, sidewalks and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines, boxes, lumber, firewood or other substances or materials; to prevent horse racing or im-

moderate riding or driving in the streets of the village, to prevent the riding or driving of animals or the driving of vehicles of any kind on the sidewalks of such village, or the doing of damage in any way to such sidewalks; and to require the owners or occupants of buildings to remove snow, dirt, or rubbish from the sidewalks adjacent thereto; and in default thereof, to authorize the removal of the same at the expense of such owner or occupant.

"Twelfth—To restrain the running at large of cattle, horses, mules, sheep, swine, poultry and other animals, and to authorize the distraining, impounding and sale of the same; to establish pounds and regulate and protect the same; to require the owners or drivers of horses, oxen or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of such village; to prohibit the hitching of horses, teams or animals to any fence, tree, or pump, and to prevent injury to the same; to regulate and control the running of engines and cars through the village, and rate of speed of the same; to prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinances; to license public porters, solicitors or runners, cartmen, hackmen, omnibus drivers and guides, and to establish rules and regulations in regard to their conduct as such, and to prevent any unnecessary noise or disturbance during the arrival or departure of persons in public conveyances.

"Thirteenth—To establish and regulate markets, provide scales, appoint a weighmaster and restrain sales in streets. (Amended '91, c. 102.)

"Fourteenth—To purchase and hold cemetery grounds within or without the village limits; inclose, lay out and ornament the same, and to sell and convey lots therein by deed; to establish public parks and walks, inclose, improve and ornament the same, and prevent the incumbering or obstruction thereof; and provide for and regulate the setting out of shade and ornamental trees in the streets, and in and around the cemeteries and public parks and walks of the village, and for the protection thereof.

"Fifteenth—To prevent or license and regulate the exhibition of caravans, circuses, bountebanks, theatrical performances or shows of any kind; to prevent or license and regulate the keeping of billiard tables, pool tables, pigeon hole tables, bowling saloons and all other games and devices; to restrain or license, regulate and tax, auctioneers, hawkers and peddlers; and in all such cases they may fix the price of said license or tax, and prescribe the term of continuance of such license, and may revoke such license when in the opinion of the village council the good order or the public interests of the village require it; provided, that the council may in any case where in their opinion the public interests of the citizens of the village require it, refuse to grant any license for the above purposes, and provided, also, that twenty-five dollars a day shall be construed by the courts of said state as a reasonable price per day for an auctioneer's license issued under the above provision. The term of no such license shall extend beyond the annual election of officers next after the granting thereof. (Amended '89, c. 122; '05, c. 138.)

"Sixteenth—To provide for the planting and protection of shade trees and monuments in said village.

"Seventeenth—To restrain and prohibit gift enterprises, all description of gaming, and all playing of cards, dice, and other games of chance, for the purpose of gaming; to restrain and punish vagrants, tramps, mendicants, street beggars, prostitutes and persons guilty of lewd conduct; and to license and regulate, or restrain and prohibit any person from selling, bartering, disposing of or dealing in spirituous, malt, fermented, vinous, or mixed intoxicating liquors of any kind, and to punish any violation of law, or of the village ordinances relating thereto, and to revoke, for any cause, any license for the sale of intoxicating liquors granted by the village council, whenever the council, after a hearing of the case, shall deem proper. (Amended '87, c. 25.)

"Eighteenth—To choose a village marshal and to remove him at will; to prescribe his duties and to fix his compensation for services.

"Nineteenth—To establish and maintain public libraries and reading rooms, purchase books, papers and magazines therefor, and make all needful rules and regulations for the safe keeping and handling of the same.

"Twentieth—To appoint a street commissioner, regular and special policemen, and a chief of police, and to fix their compensation and prescribe their duties.

"Twenty-first—To remove any officer appointed or elected by such council, whenever, in the judgment of such council, the public welfare will be thereby promoted.

"Twenty-second—To purchase, build or lease and maintain, and regulate a watchhouse, or place for the confinement of offenders against the ordinances and by-laws, and for temporary detention of suspected persons.

"Twenty-third—To appoint a board of health, which shall have all the powers of such board under the general laws of the state; to provide hospitals, and regulate the burial of the dead, and return of bills of mortality; to declare what are nuisances, and to prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house, building or place to remove or abate the same, or to cleanse it as often as may be deemed necessary for the public health; to direct the location and management of slaughter houses, and to prevent the erection, use or occupation of the same, except as authorized by them, to prevent persons from bringing, depositing or leaving within the village any putrid carcass, or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water, or other unwholesome substance from their premises and to provide for the cleaning and removal of obstructions from any river, stream, slough, or watercourse within the limits of the village, and to prevent the obstruction or retarding of the flow of waters therein, or the putting of anything into the same which may be prejudicial to the health of the village.

"Twenty-fourth—To make and regulate the use of public wells, cisterns and reservoirs.

"Twenty-fifth—To erect lamp posts and lamps, and provide for lighting any portion of the village or streets thereof, by gas or otherwise.

"Twenty-sixth—To establish harbor and dock limits, and to regulate the location and construction and use of all piers, docks, wharves and boat-houses on any navigable waters, and fix rates of wharfage.

"Twenty-seventh—To levy and provide for the collection of taxes, including poll taxes and assessments, audit claims and demands against the village, and direct orders to issue therefor in the manner prescribed in this chapter; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; to authorize bonds of the village to be issued in the cases provided by law, and generally to manage the financial concerns of the village; and they shall cause to be prepared and read, at each annual village election, a true, detailed and itemized statement by them of the finances of the village, showing the amount in the treasury at [the] commencement of the year, when and from what sources all moneys paid into the treasury during the preceding year were derived, and the whole amount thereof, and when, to whom and for what purpose all money paid from the treasury during the same period was paid and the whole amount thereof, with the balance then in the treasury; which statement shall be recorded in the minute book, and filed and preserved in the clerk's [recorder's] office.

"Twenty-eighth—To ordain and establish all such ordinances and by-laws for the government and good order of the village, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health, not inconsistent with the constitution and laws of the United States or of this state, as they shall deem expedient; and to determine and establish by ordinance the mode of procedure, and what it shall be sufficient to allege and prove, in order to make out a prima facie case of violation of any ordinance.

"Twenty-ninth—To prescribe penalties for the violation of any ordinance or by-law, to be not less than one dollar nor more than one hundred dollars, in any case, besides the cost of suit in all cases; and in default of payment provide for committing the persons convicted to the watchhouse or place of confinement in the village, or to the county jail, until payment be made, but not to exceed ninety days in all; and to modify, amend or repeal any ordinances, resolution, by-law or other former determination of the board.

"Thirtieth—To appoint a cemetery board to consist of not less than three members; to prescribe, by ordinance, the term of office and the powers and duties of such board. (Added by '03, c. 353.)

"Sec. 22. No account or demand against such village shall be paid until it has been audited and allowed, and an order drawn on the treasurer therefor. Every such account shall be made out in items, and verified by affidavit indorsed or annexed that the same is just and correct and no part thereof paid. After auditing the board shall cause to be indorsed by the clerk, over his hand, on each account, the words 'allowed' or 'disallowed,' as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the board shall show the amount. Every such account or demand allowed, in whole or in part, shall, with the affidavit thereto, be filed by the clerk, and those of each year consecutively numbered and have indorsed the number of the order on the treasurer issued in payment; and the clerk shall take a receipt thereon for such order. No village, or any officer thereof, shall have power to issue at any time any negotiable order

or borrow money, except in the manner and for the purposes expressly declared by statute. Provided, however, that any village of this state shall have the power to issue negotiable certificates of indebtedness for the purpose of purchasing fire engines and necessary apparatus for the extinguishment of fires, for the use of said village; but no certificates of indebtedness shall be issued for said purpose unless the amount of certificates that may be issued has been submitted to a vote of the legal voters of the village, and a majority of the legal voters voting at such election have voted in favor of issuing said certificates. Said certificates so authorized may be for such time and of such denomination, and of such form, and bear such rate of interest, payable annually not exceeding, however, six per cent per annum, as the village council may by resolution determine; provided, however, that the amount of such certificates outstanding at any one time shall never be in excess of five per cent of the assessed valuation of the real and personal property of the village issuing the same, including all other indebtedness of such village. (Amended '91, c. 100, § 1.)

"Sec. 23. Whenever the village council shall intend to erect or construct any pumps, water mains, reservoirs, engine houses, or other waterworks, or to lay out, open, change, widen or extend any street, land, alley, public grounds, square or other places, or to construct, open, alter, enlarge or extend drains, canals or sewers, or to construct, open, alter, widen or straighten watercourses, water works, or water supplies within or without the corporate limits, 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 recorder, 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 village for such use or in fee; but otherwise they shall by resolution, declare their purpose to take the same, and therein describe 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 thereof owned by each distinct owner, mentioning the names of owners or occupants so far as known, and therein fix a day, hour and place when and where they will apply to a justice of the [peace] resident in such village, for a jury to appraise and condemn the same. They shall thereupon cause to be made by the recorder, 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 named for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by any constable 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 of the officer 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 also be published, once each week for three successive weeks, in a newspaper published in such village or county; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. 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 such magistrate, and act for such ward. (Amended '03, c. 28; '03, c. 388.)

"Sec. 24. 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 competent jurors, not interested, but residents of the village shall not be disqualified. He shall hear and decide any challenges for cause or favor, made to any one, and, if sustained, shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party,—the village council by its representative on one side, and owners of land or their agents present, or if none be present, or if they disagree, a disinterested person appointed by the justice, on the other—shall challenge six names, one at a time, alternately, the village council beginning. To the twelve jurors remaining, the said justice shall issue a venire, requiring them at an hour on a day named, not more than ten nor less than three 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, at least one 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. The jurors summoned shall appear at the time

and place named; and if any be excused by the justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead until twelve 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 discharge their duties as jurors according to law.

"Sec. 25. 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 a 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 appraisal for damages, specifying therein the damages of each owner, and separately the value of the land taken for 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 appraisal 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. 26. Within ten days after verdict any land owner whose land it has been found necessary to take may appeal from the action of the common council in determining to condemn any such land and from the award of damages to him, in such verdict, to the district court, and the village 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 an undertaking 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 days the notice of appeal and undertaking, and thereto annexed a copy of all papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing has expired, file with the village recorder, 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 village as defendant, and be subject to trial and appeal to the supreme court. The case shall be tried by a jury, unless waived, and the costs shall be awarded against the appellant, if 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 village recorder.

"Sec. 27. If the verdict of the jury first called find it necessary to take such land or any part thereof, the village board may, upon return thereof to the recorder, enact an ordinance in accordance therewith, for erecting or constructing any such pumps, water mains, reservoirs, engine houses, or other waterworks, or for laying out, changing, widening or extending and opening any such street, lane, alley, public ground, square or other public place, or constructing and 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 damages be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the clerk to permanently remain subject to his order. 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 village board may discontinue all proceedings theretofore taken, and the village shall in such event be liable for the costs only. All the costs of every such proceedings shall be paid by the village, except when it recover costs in the district court. (Amended '03, c. 28, § 2.)

"Sec. 28. 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 village

council may, by resolution, levy and assess the whole, or any part not less than half of such expenses as a tax upon such property as they shall determine is specially 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 president and recorder, shall be published once in each week for two weeks in a newspaper printed regularly in such village, or if there be no such newspaper, three copies thereof shall be posted by the recorder in three of the most public places in such village, 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 to 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 days, and may by resolution modify such assessment in whole or in part. At any time before the first day of September thereafter any party liable may pay any such tax to the village treasurer. On such first day of September, if any such tax remains unpaid, the recorder 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 village taxes therein levied on such land, to be collected therewith.

"Sec. 29. The village council or board of trustees of any village shall have power to vacate or discontinue streets, avenues, alleys and highways within such village. No such vacation or discontinuance shall be granted or ordered by the village council or board of trustees except upon a petition of the majority of the owners of the property on the line of such street, avenue, alley or highway. Such petition shall set forth the facts and reasons for such application, accompanied by a plat of such street, avenue or highway proposed to be vacated, and shall be verified by the oath of at least two petitioners. The village council shall thereafter order the petition to be filed on record with the village recorder who shall cause the same to be published in some paper of general circulation in the village, or a paper published in some adjacent village or city which shall have a general circulation in the village, and also cause a written or printed notice to be posted in three public places in said village at least one week before acting on such petition, stating when the petition will be acted upon, and what street, avenue, alley or highway is to be vacated. The village council or board of trustees, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter and shall hear the testimony and evidence on the part of the parties interested. (Amended '02 Ex. Ses., c. 57.)

"Sec. 30. The village council may cause any street or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized or otherwise improved, or any sidewalk, sewer or gutter to be built, upon a petition therefor in writing, signed by three-fourths of all the owners of real estate bounding both sides, or of the owners of at least one-half the frontage of such street or part of street to be improved; or order any sidewalk, sewer or gutter on one side of a street to be built, on the petition of three-fourths of such owners, or of the owners of at least one-half of the frontage on such side; and may order any sidewalk, sewer or gutter previously built to be put in repair when necessary without petition. For the purpose of so improving any street or building or repairing any sidewalk, sewer or gutter, the village council may levy and cause to be collected upon the lots, tracts, or parcels of ground on such street or part of street improved, or on the side thereof, where only such sidewalk, sewer or gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of constructing such improvement as ordered opposite such property to the center of the street, or such proportion thereof, not less than one-half as they shall deem justly assessable to such property, if they shall think the whole ought not to be so assessed, in which case the remainder shall be paid from the village treasury.

"Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the village council may levy an additional tax thereon to make good such deficiency. Provided, that if the petitioners for any such local improvement so request in said petition, the village council may and they are hereby authorized to make such assessment payable in five annual installments, and to issue local improvement bonds in payment for such local improvements as provided for in chapter 146 of the general laws of 1891 for villages of over three thousand inhabitants; and all such proceedings for the assessment and collection of such local improvement tax and the issue of bonds thereon shall in such case be in accordance

with said chapter 146 of the general laws of 1891 which is hereby made applicable to and of force herein. (Amended '93, c. 185; '95, c. 72; '99, c. 90.)

"Sec. 31. Whenever the council shall levy any such tax as specified in the preceding section, they shall make out and deliver to a street commissioner of such village a list of the persons and a description of the property taxed, together with a warrant for the collection and expenditure of said tax, and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice two weeks in some newspaper published in said village, if there be one, or by posting up notices in three or more public places in such village, and shall specify in such notice a time or times, not less than twenty days nor more than forty days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or materials; provided, the labor and materials offered in payment of such taxes are such as may be required by the said street commissioner, and done and furnished to his satisfaction. The street commissioner shall be provided with a book memorandum by the village recorder, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office; the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money or labor, and a correct account of all expenditures by him made as a street commissioner. The book containing the account so kept shall, at all times when required, be furnished for the inspection of the village council and ten days before the expiration of his term of office shall be handed to the village recorder, to be filed in his office for the inspection of the taxpayers in his district.

"Sec. 32. At the expiration of forty days from the date of said notice given by said street commissioner, he shall make out and deliver to the recorder of such village a certified list of the lots, pieces or tracts of land in said village upon which any such tax remains unpaid, with the amount of such delinquent taxes upon each of said lots or parcels of land, and thereupon there shall be added to the amount of such tax a penalty of ten per cent of the amount thereof, which shall thenceforth be deemed to be a part of such tax, and from the time of the delivery of such certified list to said recorder, the said tax shall draw interest at the rate of ten per cent per annum until paid; and at any time before the first day of September any party liable may pay any such tax and interest thereon as aforesaid to the village recorder, who shall thereupon pay the same over to the village treasurer taking his receipt therefor. And such recorder on the first day of September, or within five days thereafter, if any such tax remains unpaid, shall certify a copy of such delinquent taxes to the county auditor of his county, and the said auditor shall upon the receipt of said statement and list, enter and carry out the same upon the proper tax lists and they shall be collected the same as other taxes are collected, and when collected, pay over the same to the village treasurer. Every county treasurer who shall collect or receive any moneys on account of such delinquent taxes shall pay the same to the treasurer of the proper village, and take duplicate receipts therefor, and file one of said receipts with the records of said village. (Amended '89, c. 123, § 2.)

"Sec. 33. No part of the streets or highways of any village shall be in any road district established by the town board, nor be under the control of town officers, nor shall the town be liable for any damages occasioned by the insufficiency or want of repair thereof; and all bridges in said village shall be built, maintained and repaired by the village in which the same are situated.

"Provided, however, that the boards of county commissioners and the boards of township supervisors of the respective counties and towns within which any village is situated may take [make] such appropriations from the road funds under their control for the purpose of constructing and repairing bridges located within villages as they are authorized to make for [the] purpose of constructing and repairing bridges not built within the limits of any incorporated village. No overseers of highways shall be elected in or for any such village, but the poll tax shall be collected as hereinafter provided, and shall be expended, and the streets, highways and public places governed by the village council and officers of their appointment. (Amended '97, c. 234, § 1.)

"Sec. 34. The village council shall on or before the fifteenth day of August in each year, by resolution, to be entered of record, determine the amount of corporation taxes to be levied and assessed on the taxable property in such village for the current year, which shall not exceed on any one year two per centum of the assessed valuation of such property. Before levying any tax for any specific purpose, the board may, in their discretion, submit the question of levying the same to the village electors, at any special or general election, and in such

manner as they may prescribe; when so submitted they shall be bound by the vote thereon. On or before the first day of September in each year, the village recorder shall deliver to the county auditor a copy of all such resolutions, certified under his hand and the corporate seal of such village, and such auditor shall enter such taxes upon the tax books in the same manner as he is required to do in levying town taxes.

"Sec. 35. All prosecutions for violating any of the ordinances, rules, or by-laws enacted under the provisions of this act, shall be brought in the corporate name of said village, and shall be commenced by warrant, upon complaint being made as required by law in criminal cases before justices of the peace; and the same proceedings shall be had therein as are required to be had by the laws of this state in criminal or civil actions before justices of the peace; Provided, that no warrant shall be necessary in any case of the arrest of the person or persons while in the act of violating any law of the state of Minnesota, or ordinance of said village; but in such cases a complaint shall be made, which the justice shall reduce to writing, and the party be required to plead thereto, as to 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 by warrant. All processes issued by the justice of the peace of said village shall be directed to any constable of said village or county or to the marshal of said village. Provided, that said marshal shall serve said process only within the limits of said village. It shall be a sufficient pleading of the by-laws or ordinances of said village to refer to the chapter and section thereof, which are hereby declared to have all the force and effect of general laws within the jurisdiction of said village, and it shall not be necessary to read or give them in evidence upon the trial of any proceeding or action, criminal or civil. (Amended '87, c. 82, § 1.)

"Sec. 36. Judgment shall be given, if for the plaintiff, for the amount of fine, penalty or forfeiture fixed by such ordinance, resolution or by-law, or such part thereof. If a discretion be given, as the court shall deem proportionate to the offense, together with the costs of suit; and shall in all cases further adjudge and order that in default of payment thereof the defendant be committed to the common jail of such county for such time not exceeding ninety days as the court shall think fit. If such payment be not forthwith made the justice shall make out a commitment stating the amount of judgment and costs and the time for which committed, and in the usual form of commitments by justices of the peace. Every person so committed shall be received and committed to prison by the keeper of the county jail, and kept at the expense of the county until the expiration of the time; but he shall be released by order of the justice on payment to him of such fine and costs or by due course of law.

"Sec. 37. Appeal may be taken to the district court in the same manner as from judgments in civil actions by justices of the peace, except that if taken by the defendant, he shall, as a part thereof, execute a bond to the village with surety to be approved by such justice, conditioned that if judgment be affirmed in whole or in part, he will pay the same and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed in whole or in part, execution may issue against both defendant and his surety. Upon perfection of such appeal, the defendant shall be discharged from custody.

"Sec. 38. All fines, forfeitures, and penalties recovered for the violation of any ordinance, rule regulation, resolution or by-law of any such village, and all moneys paid for licenses and permits shall be paid into the village treasury for the use of such village. The justices of the peace shall report and pay into the treasury quarterly, all moneys collected by them belonging to such village; which reports shall be verified by affidavit, and filed in the office of the treasurer; and such justice shall be entitled to duplicate receipts for such moneys, one of which such justice shall take and file with the village recorder.

"Sec. 39. Whenever any final judgment shall be obtained against any village, the judgment creditor, his assignee or attorney, may file with the village recorder a certified transcript of such judgment, or of the docket thereof, together with his affidavit, showing the amount due thereon and all payments, if any, and that the judgment has not been appealed from or removed to another court, or if so appealed or removed, has been affirmed; and thereupon the village council shall assess the amount thereof, with interest from date of rendition to the time when the same shall be paid, as near as may be, upon the taxable property of such village, and the village recorder shall return and certify the amount of such tax to the county auditor to be collected the same as other taxes levied upon said village.

"Sec. 40. All fines and penalties imposed under or by virtue of the provisions of this act, shall belong to the village, and shall constitute a fund to pay the expenses incurred under the provisions of this chapter.

"Sec. 41. The justices of the peace and constables of said village shall have and may exercise, in addition to the powers and authority herein specially granted to such officers, all the powers, authority and jurisdiction in any case possessed by a justice of the peace or a constable elected in the county or counties in which such village is situated.

"They shall take the same oath of office as is now required of township justices of the peace and constables and shall before entering upon the discharge of their duties as such officer severally execute a bond to said village in its corporate name in the penal sum of not less than five hundred dollars or such larger sum as the village council of said village may direct, with one or more sufficient sureties to be approved by the president or recorder of said village, conditioned for the faithful discharge of his duties as such officer.

"Said president or recorder shall, if such bond is approved, indorse his approval thereon, and the recorder of said village shall certify thereon that the penal sum named in such bond is in accordance with the requirements of said village council.

"Said recorder shall file the bonds of such constables in his office for the benefit of any person aggrieved by acts or omissions of said constables and any person so aggrieved or the said village may maintain an action on said bond against said constables and sureties.

"The said justices of the peace shall severally cause their official bonds together with their oaths of office duly certified to be filed with the clerk of the district court of the proper county for the benefit of any persons aggrieved by the acts of said justices and any person so aggrieved may maintain an action on said bonds in his own name against said justices and the sureties.

"The said officers shall receive the same fees for their services as justices of the peace and constables elected elsewhere in this state are allowed under the general statutes of the state now or hereafter in force.

"And in all cases where a village is situated in more than one county the justices of the peace and constables of such village shall have and possess all the powers and jurisdiction conferred by this act in each of the counties in which such village is situated and shall file their bonds in each of said counties. (Amended '87, c. 53; '95, c. 53.)

"Sec. 42. Should a vacancy at any time occur in any of the offices provided for in this act, the village council, or the remaining members thereof, may fill the same by appointment, and the person so appointed may hold his office until his successor is elected and qualified. (Amended '91, c. 100, § 2.)

"Sec. 43. The village so organized shall constitute one road district, and the street commissioner or roadmaster thereof be appointed by the village council, and all taxes raised within the limits of said village for road purposes, shall be expended under the direction of the village council.

"Sec. 44. The village council shall constitute a board of auditors for the purpose of auditing all accounts payable by said village. Said board shall draw up a report, stating in detail the items of accounts audited and allowed, the nature of each account, and the name of the person to whom the account was allowed, and also including a detailed statement of the financial concerns. Such report shall be filed with the recorder, and a copy thereof shall be posted at the time and place of holding the annual election, or published in a newspaper of general circulation in said village, two weeks before such election.

"Sec. 45. The legal voters of said village may, at any annual or special meeting, authorize the village to levy a tax for any legitimate object, but in no case shall the tax so levied exceed the sum of five mills upon the dollar valuation in any one year; and all taxes levied, except for improvement of streets, sidewalks and crossings, shall be levied and collected as prescribed by the statutes of this state, for the levying and collection of township taxes; provided, that the village council shall, on or before the first day of September in each year, make and certify to the county auditor of the county in which any of the lands or village lots within the corporate limits of such village are situate, a statement of all taxes levied and assessed by them, and shall also, at the same time, make and certify to the auditor of the proper county a list of the names of the owners of personal property subject to taxation within such village; and the county auditor shall, upon the receipt of said statement and list, enter and carry out the said tax or taxes against the property within such village, and the same shall be collected, and when collected, paid over to the village treasurer.

"Sec. 46. The village recorder may administer oaths and take acknowledgments, and he shall give a bond in form similar to that required of town clerks. It shall be his duty:

"First—To perform the duties of clerk of election, and keep a record of all proceedings at the annual and special elections of the village; to give notice of such elections as required by law, and to notify persons elected or appointed to offices thereof.

"Second—To transmit to the clerk of the district court, within ten days after election and qualification, a certified statement of the name and term for which elected of all the officers elected at such election; and in case of the appointment or election of any justice of the peace, constable, treasurer or recorder of said village to fill a vacancy, a like notice shall be so filed within ten days after such election or appointment.

"Third—To attend all meetings of the village board; to record and sign the proceedings thereof, and all ordinances, rules, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them, and for such purposes keep the following books:

"A minute book; in which shall be recorder in chronological order all the papers mentioned in section twenty-two of this act; full minutes of all elections, general or special, and the statements of the judges thereof; full minutes of all proceedings of the village council; the titles of all ordinances, rules, regulations and by-laws, with a reference to the book and page where the same may be found.

"An ordinance book, in which shall be recorder at length in chronological order, all ordinances, rules, regulations and by-laws.

"A finance book, in which shall be kept a full and complete record of the finances of the village, showing the receipts, the date, amount and source thereof, and the disbursements, with the date, amount and object for which paid out; and to enter in it such other matters as the council shall prescribe; and keep such other books as the council direct.

"Fourth—To countersign and cause to be published or posted every ordinance, by-law or resolution, as required by law, and to have proper proof thereof made and filed.

"Fifth—To be the custodian of the corporate seal, and to file, as required by law, and to safely keep, all records, books, papers or property belonging to, filed, or deposited in his office, and deliver the same to his successor when qualified; to permit any person, with proper care, to examine and copy any of the same, and to make and certify a copy of any thereof, when required, on payment of the same fees allowed town clerks thereof.

"Sixth—To draw and countersign all orders on the village treasury ordered by the council, and none other.

"Seventh—To file, when presented, all chattel mortgages and affidavits relating thereto, and to enter at the time of filing, in a book properly ruled and kept therefor, the names of all the parties, arranging mortgages alphabetically; the date of said mortgage, and the date of filing the same and each affidavit relating to it; for which he shall receive the same fees allowed town clerks.

"Eighth—To perform all other duties required by law or by any ordinance or other directions of the village council.

"For the performance of all of the duties hereinabove set forth, except such as are enumerated in subdivisions 'fifth' and 'seventh' of this section, the village recorder shall receive such compensation as shall be fixed and determined by the village council of his village; and the village council shall fix his compensation by resolution thereof at their first regular meeting after the annual village election in each and every year. (Amended '99, c. 115, § 1.)

"Sec. 47. The constable shall give a bond similar to that required of constables elected by towns, and shall be deemed included and governed in every respect by the law prescribed to them. It shall be his duty to obey all lawful written orders of the village council, to arrest with or without process, and with reasonable diligence to take before the village justice every person found in such village in a state of intoxication, or engaged in any disturbance of the peace, or violating any law of the state or ordinance of such village. He may command all persons present in such case to assist him therein, and if any person being so commanded shall refuse or neglect to render such assistance, he shall forfeit not exceeding ten dollars. He shall be entitled to the same fees allowed to constables for similar services; for other service rendered the village, such compensation as the council may fix.

"Sec. 48. (Relates to liquor local option. Superseded by 18th Am. to Const. U. S.)

"Sec. 49. All ordinances, rules, and by-laws shall be enacted by a majority of all the members of the village council, and shall be signed by the president, attested by the recorder, and published once in a newspaper published in said village; and if there be no newspaper published in said village, then such ordinances shall be published once in a newspaper published in the county in which said village, or a larger part of its territory, shall be situated; and if there be no newspaper published in said village, or in said county, then by posting them conspicuously in three of the most public places in said village for ten 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

village recorder, 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. All ordinances shall be suitably entitled, and in this style: "The village council of _____ do ordain as follows:" All authorized ordinances and by-laws shall have the force of law, and remain in force until repealed. (Amended '05, c. 26.)

"Sec. 50. Said village council shall have power and authority to declare and impose fines, penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law enacted by them; and all such ordinances, rules and by-laws are hereby declared to have the force of law: Provided, They are not repugnant to the constitution and laws of the United States and the state of Minnesota.

"Sec. 51. No member of the village council shall become a party to or interested, directly or indirectly, in any contract made by the village council of which he may be a member; and every contract or payment voted for, or made contrary to the provisions hereof, is void; and any violation of the provisions of this section, hereafter committed, shall be a malfeasance in office, which shall subject the officer so offending to removal from office. All contracts for village improvements, except expenditures of road and poll tax, shall be let to the lowest responsible bidder, after public notice of time and place of receiving bids therefor.

"Sec. 52. The president and each trustee shall be officers of the peace, and may suppress in a summary manner any riotous or disorderly conduct in the streets or public places of the village, and may command assistance of all persons under such penalty as may be prescribed by the by-laws and ordinances.

"Sec. 53. Every village officer shall deliver to his successor, when qualified, all the books, records, papers, property and money in his hands as such officer; and if a vacancy happen before such successor is appointed or elected and qualified, then to the village clerk [recorder?], who shall demand and receive all such property, and deliver the same to the person who shall be selected to fill such vacancy, when qualified.

"Sec. 54. The president shall preside at all meetings when present; in his absence the council may select another trustee to preside. Regular meetings shall be held at such times as may be prescribed by their by-laws. Special meetings may be called by any two trustees in writing, filed with the recorder, who shall thereupon seasonably notify all trustees of the time and place thereof, in the manner directed by the by-laws. All meetings shall be open to the public. The council shall keep a record of all its proceedings; shall have power to preserve order at its meetings, compel the attendance of trustees and publish [punish?] non-attendance; and it shall be the judge of the election and qualifications of its members; the president and trustees shall be entitled to receive as compensation, the sum of one dollar each day for the time actually employed as such officers, not to exceed ten each in any one year. (Amended '89, c. 125, § 2.)

"Sec. 55. Every contract, conveyance, commission, license or other written instrument, shall be executed on the part of the village by the president and clerk [recorder], sealed with the corporate seal, and in pursuance only of authority therefor from the village council.

"Sec. 56. Whenever an application, in writing, signed by one-third as many electors of any such village as voted for village officers at the last preceding election therefor, shall be presented to the village council, praying for a dissolution of the village corporation, such council shall submit to the electors of such village, at an annual election, or special election called by them therefor, the question whether or not such village corporation shall be dissolved; the form of the ballot shall be "For dissolution," or "Against dissolution;" said ballots shall be deposited in a separate box and such election shall be conducted, the vote thereat canvassed and a statement thereof made, filed and recorded as in other cases.

"Sec. 57. If a majority of the ballots cast at such election, on such proposition, shall be for dissolution, such village shall, at the expiration of six months from the date of such election, cease to be an incorporated village. Within six months, the village council shall dispose of the village property and settle, audit and allow all just claims against the village. They shall settle with the village treasurer and other officers of the village, and shall cause the assets of the village to be used in paying the debts thereof. If anything remain after paying the village debts, they may designate the manner in which the same shall be used. If they have not sufficiency of funds to pay the debts of the village, they may levy a tax to cover such deficiency, which shall be collected as other taxes and shall be paid out by the town treasurer in payment of the outstanding village orders or bonds.

"Whenever the electors of any incorporated village shall vote to dissolve the same, nothing in this act shall

be construed to prevent the requisite number of electors of any district, section or parts of sections contained in said village, from taking the steps provided in sections four, five, six, and seven of this act to incorporate a new village prior to the expiration of six months from such voting, but the county commissioners shall fix a date for the voting for or against incorporation of such new village, to occur subsequent to the expiration of said six months. (Amended '93, c. 186.)

"Sec. 58. All acts or parts of acts inconsistent with this act are hereby repealed.

"Sec. 59. This act shall take effect and be in force from and after its passage."

Laws 1919, c. 376 reads as follows:

"In all villages organized under and governed by chapter 145, General Laws of Minnesota 1885, and the amendments thereto, at the annual election held in March 1920, three trustees shall be elected, one for a term of one year, one for a term of two years, and one for a term of three years, the term for which each is elected to be designated on the ballot, and thereafter one trustee shall be elected annually for the term of three years.

"Sec. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

"Sec. 3. This act shall take effect and be in force from and after its passage."

Laws 1891, c. 146, sub-chapter 9 was repealed by R. L. '05, § 55401, § 10973, herein; but is set forth below for the reason that it relates to villages incorporated under Laws 1885, c. 145. Said subchapter 9 reads as follows:

"Section 1. Every such village is authorized to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements, without regard to cash valuation.

"Sec. 2. Such assessments may be made by such village for filling, grading, leveling, paving, curbing, railing, bridging, graveling, macadamizing, planking, opening, extending, widening, contracting, altering or straightening any street, avenue, 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 and ornamental trees in its public parks and along its streets and avenues; and also for constructing, laying and repairing crosswalks and sidewalks, retaining walls, gutters, sewers and private drains: Provided, That the village council may, when any contract is let for paving, include therein the expense of laying sewer pipe to the lot line and cause the expense of same to be assessed against the lot to which the sewer pipes are supplied, as a part of the cost of such paving.

"Sec. 3. The expense of any improvement mentioned in the foregoing section may be defrayed, save as herein otherwise provided, by an assessment upon the real estate benefited thereby, or by an assessment upon the real estate fronting thereon, in the discretion of the village council, to be levied in the manner hereinafter provided.

"No assessment, however, to defray the cost of any improvement mentioned in section two (2) of this chapter shall be levied upon the property abutting upon such improvement or upon the property to be benefited thereby, unless a petition for such improvement, in writing, shall have been presented to said village council, signed by at least one-half ($\frac{1}{2}$) of the owners of property that would be liable to such assessment, or by the owners of at least one-half ($\frac{1}{2}$) of the property which would be so liable, except by an affirmative vote of at least three-fourths ($\frac{3}{4}$) of the village council elect, by yeas and nays, to be entered on the minutes.

"Sec. 4. Before ordering any improvement mentioned in section two (2) of this chapter, the village council shall cause plans and specifications and an estimate of the cost of the proposed improvement to be made and filed in the office of the village recorder, and, when the same is to be done by contract, shall give at least ten (10) days' notice, in the official newspaper of the village, that at a time stated the village council will meet at its usual place of meeting and receive sealed bids for the performance of such work. Such sealed bids shall be accompanied by a certified check to the amount of ten (10) per cent of the estimated cost of such improvement, or by a bond with two (2) sufficient sureties to the like amount, conditioned that he will, within ten (10) days after notice that his bid has been accepted, enter into the contract, if awarded to him, to be provided by the village council, and furnish a bond with sufficient sureties in a penal sum of at least thirty (30) per cent of the estimated cost of the improvement, conditioned to fulfill the terms of the contract; and if the contract shall be awarded to him, and he shall fail to enter into the said contract within the time limited and furnish the bond aforesaid, then the said bidder shall be liable to such village for all damages and costs that the said village may sustain by reason thereof; and the measure of damages shall be the difference between the bid made, which was accepted, and the amount the village may

nally be compelled to pay for making the improvement, and the same may be retained from the amount of the certified check, if said check shall be deposited as aforesaid, or recover by action on the bond, in the name of such village, in any court having jurisdiction of the amount.

Whenever the village council shall award to any person upon his bid the contract for making any of the improvements herein mentioned, he shall at the time of the execution of said contract furnish to such village a bond, with sufficient sureties, to be approved by said council, for an amount at least thirty (30) per cent of the estimated cost of such improvement, conditioned that he will execute the work for the price mentioned in his bid and according to the plans and specifications; and said bond shall contain a further condition that he will pay for all labor done and material furnished for or on account of said improvement, and the contract to be executed shall also contain a covenant or agreement to pay for all labor done and materials furnished for or on account of said improvement. In case of default on his part to execute and fulfill the terms of the contract and perform the work, said bond may be sued upon and judgment recovered therein by the said village for all damages sustained in the premises, in any court having jurisdiction of the amount. No extension of the time for fulfilling any contract by the village council shall have the effect to release the sureties upon said bond. Said bids shall be opened by the council at the meeting specified in the published notice calling for bids, or such other time thereafter as said council may appoint. All contracts shall be let to the lowest responsible bidders who shall have complied with the above requisitions and who shall guarantee to the satisfaction of the council the performance of said work, except in case of paving streets with patent pavement or pavements; in such case notice for bids may call for wood, stone or other kinds of pavements, and when all the proposals therefor are in, the council may select the one which is relatively the lowest or most satisfactory, all things considered. If the pavement selected is patented, the council shall require a license from the patentee to lay and relay the same for all time thereafter free from all claims of royalty. A copy of said contract shall be filed in the office of the village recorder and registered by him in a book kept for that purpose. The said council shall reserve the right in their said contract, in case of improper construction, to suspend the work at any time and relet the same, or to order the entire reconstruction of said work, if improperly done. In cases where the contractor shall proceed to properly perform and complete the said contract, said council may from time to time, in their discretion, as the work progresses, grant to said contractor an estimate of the amount already earned, reserving fifteen (15) per cent therefrom, which shall entitle said contractor to receive the amount due thereon. When the whole work has been done by said contractor to the satisfaction of the village council, the amount or balance due him shall be audited and allowed by said council and shall be payable out of the moneys applicable to the payment of such work, except upon paving and sewer contracts, when five (5) per cent may be retained for six (6) months to provide for the expense of back-filling and repairing streets.

"Sec. 5. After the work shall have been placed under contract as herein provided, the council shall assess upon the property fronting upon such improvement, or upon the property to be benefited thereby, seventy-five (75) per cent of the estimated cost of such improvement, and in addition thereto ten (10) per cent of such estimated cost, which shall be added to the assessment to defray necessary expense of making surveys, plans, specifications and superintendence, in proportion to the frontage on such improvement, or in proportion to the benefits to be derived therefrom, as they shall decide. If the amount so assessed shall be insufficient to complete the work, the village council shall, after the completion of the work, make a final assessment in the manner to pay the same.

"Sec. 6. When in any case any portion of the improvements mentioned in this chapter shall, by virtue of any law or ordinance, or by virtue of any valid contract, be chargeable upon any railroad company, the amount so chargeable may be assessed upon such railroad company and collected by distress and sale of personal property in the manner provided for by the general laws of the state in the cases of taxes levied upon personal property or by suit brought for that purpose; Provided, That any real estate belonging to said railroad company and being benefited by said improvement shall be assessed as in other cases.

"Sec. 7. Upon making any assessment the village council shall direct the village assessor to make an assessment roll describing each lot or parcel of land with reasonable certainty liable to such assessment, the amount for which each lot or parcel is liable, and the names of the supposed owners thereof. Such assessment roll, with a notice in substantially the following form, shall be published in the official paper at least three (3) times before the same is confirmed, the first of which

publications shall be at least ten (10) days before such confirmation. Such notice and assessment roll shall be substantially as follows:

"Village of
Notice is hereby given that, whereas, a contract has been let for (herein describe the nature and locality of the improvement), and the expense of such improvement to be assessed to each lot or tract of land fronting on such improvement (or to be benefited by such improvement) having been determined by the village council of said village, Now, therefore, said village council will, at their council chamber in said village, atM. of, the day of, 18...., meet to review and confirm such assessment, at which time and place all persons interested may appear and make objections to the same.
It is proposed to issue bonds, chargeable to the abutting real estate (or the real estate to be benefited by such improvement), to pay such assessment, and such bonds will be issued covering all such assessments, except in cases where the owners of the property shall pay to the village treasurer, within thirty (30) days after the confirmation of such assessment, the amount thereof assessed against their property.
The following is a list of the supposed owners' names, a description of the property liable to such assessment, and the amount assessed against the same, to-wit:
Names of supposed owners
Description of property
Amount assessed
Dated
.....President of

Attest: the Village of
.....Village Recorder."

"At the time and place mentioned in such notice, or at such time and place as they may adjourn to, said village council shall meet and review and confirm such assessment, which confirmation shall be final, except as hereinafter provided.

"Sec. 8. After the expiration of said thirty (30) days the council shall issue improvement bonds covering all the assessments except such as the owners shall have already paid, as provided in the preceding section. Such bonds shall be signed by the president and recorder, be sealed with the corporate seal of the village, and contain such recitals as may be necessary to show for the payment of which improvement they were issued, and the number and amounts of such bonds. Said bonds shall be semi-annual interest coupon bonds, divided into five (5) equal series, payable respectively in one (1), two (2), three (3), four (4) and five (5) years from date, and shall draw interest at a rate not exceeding seven (7) per cent per annum, payable semi-annually. Said bonds shall be semi-annual interest coupon bonds, payable at the option of the village after five (5) years, and absolutely at the expiration of seven (7) years from their date, and shall draw interest at a rate not exceeding seven (7) per cent per annum.

"The village recorder shall carefully prepare a statement of the special assessments on which the bonds are issued, and record the same, together with a copy of said bonds, in his office.

"Sec. 9. In each year after the issuing of said bonds the village recorder shall certify to the county auditor, in the same manner and at the same time that other village taxes are certified to such auditor, one-fifth (1/5) of the special assessment on each parcel of property covered by said bonds, with eight (8) per cent interest on the amount of such special assessment then unpaid, as a special tax on said property; and the said auditor on receipt thereof shall enter and carry out the same upon the proper tax lists, and they shall be collected the same as other taxes are collected, and when collected paid over to the village treasurer.

"Provided, That the owner or any party interested in any piece or parcel of land against which said assessment is levied may pay the full amount or any part thereof, with interest thereon at the rate of eight (8) per cent per annum to the date of payment, to the village treasurer at any time before the roll is delivered to the county treasurer; and the village treasurer shall thereupon give his receipt in duplicate for the same, which shall be sufficient authority, upon presentation to the village recorder or to the county auditor, for the cancellation of said assessment, or of so much thereof as has been paid, upon the said assessment roll and upon the certified copy of the roll filed with the county auditor. Upon the presentation of such receipt the village recorder and county auditor shall cancel the same on the said roll and copy respectively, and from and after that time the lien on said land shall cease to the amount of such payment. After the said assessment roll has been delivered to the county treasurer, the assessment, or such part as has been certified to the county auditor, must be paid to said county treasurer with interest and subject to all the penalties allowed by law, and the county treasurer shall report all such payment to the county auditor and village treasurer, giving items of assessment, interest and penalty thereon.

"The county auditor shall not issue his certificate that taxes are paid on any piece of land upon which any such assessment has been certified to him until such assessment, interest and penalties thereon, as aforesaid, have been paid and canceled as aforesaid or paid to the county treasurer.

"Sec. 10. No action shall be maintained to avoid any of the special assessments of taxes levied pursuant to this chapter after bonds have been issued covering such special assessments, and said bonds shall be conclusive proof of all the proceedings on which the same are based.

"Sec. 11. Any person paying his assessment within thirty (30) days of the date of the confirmation of the same, shall be entitled to a deduction of ten (10) per cent added for survey, plans, specifications and superintendence, and the village treasurer is authorized to allow such deduction. Upon presentation to the village recorder of the treasurer's receipt, it shall be his duty to mark 'Canceled' the assessment on his books, opposite the description in said receipt.

"Sec. 12. All deeds of conveyance of the land affected by any assessment mentioned in this chapter shall be subject to the lien of such assessment from and after the time such assessment has been confirmed by the village council and certified to the county auditor.

"Sec. 13. The village council may require the payment of all assessments within thirty (30) days after the date of the confirmation of the same, when the estimated cost of the improvement for which the assessment is levied does not exceed fifty (50) cents per front foot of the property to be assessed therefor; and may require the payment within such time of all assessments for the construction of sidewalks. In such cases the notice published with the assessment roll shall state that payment must be paid within such time.

"Sec. 14. Any person feeling himself aggrieved by such assessment may, by notice in writing served on the president or recorder of said village, a copy whereof with proof of service shall be filed in the office of the clerk of the district court of the proper county within twenty (20) days of the confirmation of such assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify in the notice of appeal the grounds of objection to such assessment, and shall not be entitled to have any other grounds than those specified considered; and a copy of the assessment roll in question and of the resolution of the village council confirming the same, certified by the village recorder, or the originals thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just and made in conformity to law, and the judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial and be governed by the same rules as appeals from justices of the peace in civil actions, and like bonds shall be given to such village by the person appealing as are required of appellants in such actions.

"Sec. 15. The said council may at any time authorize the sale and assignment of said bonds at a price not less than their par value, and may apply the proceeds thereof to the payment of the cost of the improvement for which they are respectively issued, and the village recorder shall keep a record of all such assignments.

"Sec. 16. Said bonds shall be substantially in the following form:

"Public Improvement Bonds of the Village of Series No. Amount Date

"To Whom It May Concern:

This is to certify that the sum of Dollars has been duly assessed against the lots and parcels of land mentioned in the assessment roll for the improvement of, which said assessment is a valid and substantial lien and charged against the lots and parcels of land therein described, and that the said sum has been by said village divided into five (5) series or installments; that this bond represents the sum of Dollars, the same being series No. which is due and payable to the said village of, out of the property pledged by law for its payment, on or before, and is issued pursuant to the provisions of the laws of the State of Minnesota therefor; and the said village of hereby guarantees to the holder of this bond that it will cause the said assessment to be collected and will pay, upon surrender of this bond to the village treasurer, at his office is said village of, on the first (1st) day of July in the, the said sum of Dollars, with interest thereon, from the date hereof to the time mentioned herein for payment, at the rate of per cent per annum.

In Testimony Whereof, the said Village of, has caused this bond to be signed by its president and attested by its recorder, and its corporate seal affixed

thereto, this day of A. D. President Attest: Recorder."

1112. Petition for election—Twenty-five or more of the voters residing within said territory may petition the county board of the county in which the whole or larger part of said lands are situated to call an election for the determination of such proposed incorporation. They shall first cause to be taken a census of the resident population, and, if found to be within the numbers specified in section [R. L.] 700 the petition aforesaid shall be presented within eight weeks thereafter. It shall set forth the boundaries of such territory, the quantity of land embraced therein, the number of actual residents thereon, and the name of the village proposed. It shall be verified by the oaths of at least three of the petitioners, declaring that such census was accurately taken within the dates specified, and that the statements made in the petition are true. (R. L. § 701, amended '07 c. 255 § 2) [1205]

Explanatory note—For R. L. '05, § 700, see § 1111, herein.

73-225, 231, 75+1050. Cited (107-364, 120+528). Cited (142-199, 171, 770).

1113. Notice of election—If the county board approve said petition, it shall cause a copy thereof, with a notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries described. The time shall be not less than twenty nor more than thirty days after such posting, and the place within the limits of the proposed village. If there be a qualified newspaper published within said limits, there shall also be two weeks' published notice of such election. (702) [1206]

Board not vested with discretionary power (107-364, 120+528).

1114. Inspectors—Return—The board shall also appoint three inspectors, residents of said territory, who shall act as judges of said election, and conduct the same, so far as practicable, in accordance with the laws regulating the election of town officers. Only voters residing within said territory shall be entitled to vote. The ballot shall bear the words, "For incorporation—Yes—No," with a square after each of the last two words, in one of which the voter shall make a cross to express his choice. The inspectors shall at once make and file with the county auditor a certificate declaring the time and place of holding said election, that they have canvassed the ballots cast thereat, and the number cast both for and against said proposition. The certificate shall be signed and verified by at least two of said inspectors to the effect that the statements thereof are true. (703) [1207]

1115. Incorporation, when effected—The auditor shall attach said certificate to the original petition, with a copy of the resolution appointing said inspectors, and the original proofs of the posting and publication of the election notice, and file the whole, as one document, in his office. If the certificate show that the majority of the votes cast were in the affirmative, he shall forthwith make and transmit to the secretary of state a certified copy of said document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If territory in more than one county is embraced within such corporate limits, he shall also forthwith make and transmit to the auditor of each county in which said incorporated territory will be situate a certified copy of said docu-

ment to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If the vote be adverse, no subsequent petition shall be entertained within one year next after said election. (R. L. § 704, amended '07 c. 256 § 3) [1208]
165-369, 206+455, note under § 1111.

1116 Election of officers—Expenses—Upon the filing of said copy with the secretary of state, said inspectors of election shall give notice of a meeting of the resident voters for the organization of such village and the election of its officers, fixing therein the date and hour of the meeting, which shall be at least ten days, and not more than twenty days, thereafter. Such notice shall be posted and published as in case of the original election. The voters present at the appointed hour and place, by a majority vote taken viva voce, shall appoint two judges and one clerk of the election, who shall take the oath, and be governed in the conduct of the election, so far as practicable, by the laws regulating the choice of town officers. They shall open the polls by proclamation, and receive all lawful votes offered by resident voters during a period of at least six hours, and until 7 o'clock p. m. They shall give to each officer chosen a certificate of his election, and such officers, having qualified according to law, shall forthwith assume their official duties. All proper expenses of the incorporation, organization, and election shall be a charge upon said village. (705) [1209]

1117. General powers and duties—Villages so organized, and all others governed by this chapter, shall possess and may exercise, under their respective corporate names, the rights and powers, and be subject to the duties of municipal corporations at common law, with perpetual succession. Each shall be capable of contracting, of suing and of being sued, and of pleading and being impleaded in the courts, may have a common seal, and alter the same at the pleasure of the council, and have power to take, purchase, lease, and hold such real and personal property, either within or without its corporate limits, as the purposes of the corporation may require. And it may sell, lease, and convey any of such property when no longer needed for corporate use. (706) [1210]

Power to sell (110-59, 124+371).

1118. Villages in more than one county—Certificate for auditor—Whenever any village heretofore or hereafter organized includes territory in more than one county the register of deeds of the county in which the original certificates showing the incorporation and the boundaries of such village are filed and recorded may, on demand, make a certificate showing the territory included in such village, which certificate may be filed in the office of the auditor of any other county in which any of the territory within such village is located, and such certificate shall be prima facie evidence of the facts therein stated for the purpose of levying village taxes or otherwise. ('05 c. 95 § 1) [1211]

1119. Including territory not subject to village government—Whenever any village shall hereafter be incorporated under the provisions of chapter nine of the Revised Laws of 1905, and the amendments thereof, which village shall include within its limits the platted portion of lands theretofore attempted to be incorporated as a village under said chapter but which attempted incorporation is invalid because it included territory, not properly subject to the proposed village government, such village so to be incorporated shall be vested with all the rights, privileges, immunities, franchises, credits and property that said village so attempted to

be incorporated would have had if its incorporation had been legal and valid, and shall be liable for all the debts and obligations that said village so attempted to be incorporated would have been liable for if its incorporation had been valid, and all franchises and licenses granted and contracts made by said village so attempted to be incorporated shall be of force and effect in said newly incorporated village from the time of the granting of such franchises and licenses and the making of such contracts respectively by said village so attempted to be incorporated; it being the intention hereof to make such village so to be incorporated the successor to such village so wrongfully attempted to be incorporated, with all the property, right and credits that would have accrued to said village so attempted to be incorporated, if legal, by reason of its acts or by the operation of law, and liable for all the obligations of said village so attempted to be incorporated. Provided, that nothing in this act shall be construed to validate or legalize any taxes levied or attempted to be levied other than assessments on property adjacent to local improvements levied, for the purpose of paying the cost thereof and the damages occasioned thereby. ('09 c. 148 § 1) [1221]

The provisions of R. L. 1905 c. 9, are included in chapter 9 hereof.

Unplatted territory annexed must have the same qualifications as prescribed by § 1111 (127-453, 149-951; 146-311, 178+815)

1120. Extending boundaries—Whenever the owner of land abutting upon any village, or a majority of the owners of platted or unplatted land, not exceeding two hundred acres, so abutting, shall petition the council to have such land included within the village, or whenever any village has heretofore acquired land for a public park or for a public tourist camping ground, which abuts upon such village, the council by ordinance may so extend the village boundaries as to include the same. But no such ordinance shall take effect until a certified copy thereof is filed with the secretary of state. (R. L. '05, § 707; amended '13, c. 119, § 1; '27, c. 150) [1226]

Cited (127-452, 149+951).

Extension legalized, '17 c. 136.

Extending boundaries, see '05 c. 281.

Cited (127-452, 149+591; also '13 c. 276).

See on attachment and detachment of territory, '05 c. 281; '07 c. 91; '09 c. 460.

1120-1. Annexation of territory to certain villages—Any territory in counties having not less than seventy-six nor more than eighty congressional townships, containing a population of not less than two hundred (200) persons, such territory, not included in any incorporated village having a population, according to the last census of not more than four hundred (400) persons with an area of not to exceed two hundred (200) acres and with an assessed valuation of less than seventy-five thousand dollars (\$75,000), but which said territory proposed to be annexed adjoins any such village now existing under the laws of the State of Minnesota, and no part of which territory proposed to be annexed is more than one and one-half miles from the present limits of the village which it adjoins, may be annexed to such village and become a part thereof, upon petition of a majority of the aggregate number of the legal voters residing within the territory included within the limits of said village and the territory proposed to be annexed. Such petition may be presented to the village council of any such village, and thereupon the council, by ordinance, may so extend the village boundaries so as to include the same,

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provided, however, that the area of said village, including the territory proposed to be annexed, shall, in no case, exceed four sections of land. No such ordinance, so extending the limits of said village, shall take effect until a certified copy thereof is filed with the secretary of state. ('15, c. 121)

1120½. Detachment of territory from certain villages—The owner of any unplatted tract of land containing not less than forty acres occupied and used solely for agricultural purposes, situated within the corporate limits of any village in this state and not within twenty rods of the platted portion of said village, may petition the board of county commissioners of the county in which said tract of land is situated, for an order detaching said tract from said village. Upon the filing of said petition in the office of the county auditor of said county the board of county commissioners thereof shall, at their next meeting thereafter, fix a time and place for the hearing of such petition, which time shall not be less than 30 days thereafter, and shall direct a notice of such hearing to be issued and signed by the county auditor of said county on behalf of such board, which said notice shall state the name of such petitioner, describe the tract of land sought to be detached and the time and place of such hearing, which said notice said petitioner shall cause to be served upon the president of the village council of said village, or the recorder thereof, at least twenty days before the day of hearing, and by posting three copies of such notice on three of the most public places in said village, or in lieu of such posting, said notice shall be published in the official paper of such village for two successive weeks, once in each week, in case there shall be a legal newspaper printed and published in said village. Upon the hearing of said petition at the time and place so fixed, if the board of county commissioners shall find that said land is owned by the petitioner and is used solely for agricultural purposes and that the same may be so detached from said village without unreasonably affecting the symmetry of the settled portion thereof, and that the same is so conditioned as not properly to be subjected to village government or is not necessary for the reasonable exercise of the police powers or other powers or functions of such village, such board of county commissioners shall make an order detaching such land from said village and thereupon said tract of land shall become detached therefrom, and shall thereafter form a part of the township in which it was originally situated, if such village were organized prior to the time when the territory of Minnesota became a state and before the organization of the township in which such land was originally situated, the land so detached shall become a part of the township adjoining thereto, and if such land adjoin two or more townships the county board shall decide to which of such adjoining town or townships such detached tract or tracts shall be attached and shall in all things be subject to the town government of such township, and not in any manner under their jurisdiction of such village, and such order shall be filed in the office of the county auditor of such county and a duplicate thereof shall be filed in the office of the village recorder of such village within five days after the same shall have been made.

This act shall apply only to the following villages, namely:

1. Villages having a population of 350 or less persons and containing more than 160 acres of land.
2. Villages having a population of more than 350 and less than 700 persons and containing more than 320 acres of land.

3. Villages having a population of more than 700 persons and containing more than 640 acres of land.

Any person or party aggrieved may appeal from such order to the district court of the county upon the following grounds:

1. That the county board had no jurisdiction to act.
2. That it has exceeded its jurisdiction.
3. That its action is against the best interests of the territory affected.

Such appeal shall be taken by serving upon the county auditor within thirty days from the making of the order a notice of appeal, specifying the grounds thereof. The appellant shall also execute and deliver to the auditor a bond to the county in the sum of one hundred dollars, to be approved by the county auditor, conditioned for the payment of all costs, taxed against the appellant on such appeal. Such further proceedings shall be had upon such appeal as upon other appeals from the county board.

The provisions of this act relating to appeals shall not apply to any action or proceeding now pending involving the separation of land from any village. ('09 c. 138 § 1, amended '17 c. 477; '19 c. 421; '21 c. 451; '23 c. 177) [1231]

Explanatory note—Laws 1909, c. 254, reads as follows: "Section 1. Any territory occupied and used solely for agricultural purposes within the corporate limits of any village, may be taken out of such corporation and detached therefrom by petition of at least thirty (30) of the legal voters of such village, including the owner or a majority of the owners of the land proposed to be detached, to the village council of such village in the same manner as provided for the annexation of territory to incorporated villages, and it shall be the duty of the village council, if they shall approve of such petition, to cause a copy thereof, with a notice attached, fixing a time and place within the corporate limits of such village for holding such election, to be posted in three public places within such village, the time of which election shall be not less than twenty nor more than thirty days after such posting, and if there be a qualified newspaper published within said village, there shall also be two weeks' published notice of such election.

"Said election shall be held in the same manner in all respects, as is provided for holding general village elections and the ballots used shall have thereon the words 'for detaching' or against detaching."

"Provided, that said question may be voted on at any general election held in such village.

"If a majority of the ballots cast shall be for detaching, then the said village council shall by ordinance detach the land or territory, so described in said petition, from the corporate limits of said village.

"But no such ordinance shall take effect until a certified copy thereof is filed with the secretary of state, and a certified copy thereof filed for record with the register of deeds of the county or counties within which said village is located.

"And said territory when so detached shall belong to and be a part of the township in which it is when so detached.

"Provided, that such territory shall not be detached as herein provided in any case when such detaching would reduce the number of inhabitants of such village below the number now required by law for the incorporation thereof.

"Provided, further, that the detaching of any territory from any incorporated village under the provisions of this act shall not relieve such territory of its share of its indebtedness existing against such corporation, but the said territory shall be deemed a part of such village for the purpose of taxation imposed to discharge the principal and interest of such pre-existing indebtedness until the same shall have been fully discharged."

190+545.

The statute makes mandatory the detachment from a village of the lands of a petitioner upon proof of stated facts. That is a declaration, not only of legislative policy, but also of explicit law. 211+578.

Decision controlled by *Cavert v. Board of County Commissioners*, 153 Minn. 360, 190 N. W. 545. 211+578.

1121. Detaching unplatted lands from villages—Any unplatted lands or territory may be detached from and taken out of any incorporated village in the state of Minnesota by a petition of at least thirty (30) of the legal voters of such village, or by a petition of the

1120½
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244nw 553
See 1111
Note

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owner or owners of the land or territory which is proposed to be detached, to the village council of said village. Such petition shall accurately describe the land or territory so proposed to be detached and shall be filed with the village recorder of said village. ('11 c. 132 § 1) [1233]

Cited (127-452, 149+951).

1122. Same—Special election—Ballots, etc.—Upon the filing of said petition in the office of said village recorder it shall be the duty of said recorder to immediately notify the members of the village council that such petition has been so filed, and thereupon it shall be the duty of said village council to hold either a regular or special meeting of such council within ten (10) days after receiving such notice, and to order that a special election be called and held in said village for the electors of said village to vote upon the proposition of detaching such territory from said village and to give notice of such special election by posting three written or printed notices thereof in three (3) of the most public places within said village outside of the territory proposed to be detached, and in three (3) of the most public places within the territory proposed to be detached, and shall state the time and place, when and where, within said village such election will be held, and the electors of said village will vote upon said proposition, for or against such detaching of territory. Said notice shall also state the proposition on which the said electors will vote. A copy of said petition shall also be posted with and shall constitute a part of said notice. Said village council shall also cause the said notice, including said petition, to be published for one (1) full week prior to the date of said election in a newspaper printed and published in said village, and if there be no newspaper printed and published in said village then in a newspaper printed and published at the county seat of the county in which said village is located. If there be no newspaper in said village nor in the county seat of the county wherein said village is located, then the posting of said notice shall be sufficient.

Said election shall be held within thirty (30) days from the time said petition is filed in the office of said village recorder and ten (10) days notice thereof shall be given.

The ballots used shall have upon them the proposition to be voted upon together with the words, "for detaching," or "against detaching," and the said special election shall be held, conducted and concluded as other special elections in villages held pursuant to the General Laws of Minnesota.

If the judges of said special election shall find, on canvassing the ballots cast thereat, that a majority thereof are for detaching said territory from said village, then they shall make a certificate containing a description of the territory as set forth in the notice of said election stating the whole number of votes cast, the number for detaching, and the number against detaching, which said certificate shall be signed by said judges of said special election and by them verified to the effect that the statements therein contained are true, and they shall cause the same to be filed in the office of the register of deeds of said county within ten (10) days after said election and in the office of the secretary of state within ten (10) days after said election, and thereupon said territory shall be detached and separated from said village and shall become a part of the township in which it is when so detached. ('11 c. 132 § 2) [1234]

1122-1. Detachment of unplatted lands from certain villages and attachment thereof to contiguous villages

—Whenever any two villages having a population of less than fifteen hundred each as determined from the last State or Federal census have boundary lines adjacent or contiguous for two miles or more, any unplatted territory of one village, which is more remote from the platted portion thereof than from the platted portion of the other village, and which has more natural connection and community of interest with such other village, may be detached from the village wherein said territory is then situated (if the per capita assessed valuation of property in that village, as determined from the last federal or state census and the last assessment, is more than five times that of the other village) and annexed to the other village in the following manner. ('25, c. 373, § 1)

1122-2. Same—Resolution or petition—The governing body of either village may, upon its own motion, on the adoption of a resolution to that effect by the Village Council, or upon the written petition of twenty-five (25) of its resident voters voting at the last general village election, petition and apply to the Board of County Commissioners of the county within which said villages are situated for such detachment and annexation of territory, which shall definitely and concisely describe the boundaries and area of the territory then embraced in each of said villages and shall definitely and concisely describe the boundary and area of the territory sought to be detached from one village and annexed to the other village. As far as practicable, the boundaries of government subdivisions of sections shall be followed in making detachment and annexation of territory. Said petition shall also contain a statement of the reasons why said detachment and annexation of territory are considered expedient and desirable and said petition shall be verified by some petitioner or officer of such village, having knowledge of the facts therein stated. ('25, c. 373, § 2)

1122-3. Same—Filing of petition—Hearing by county board—Notice of—Upon the filing of said petition in the office of the County Auditor of said county, the County Auditor shall present the same to the Board of County Commissioners thereof, who shall at their next meeting thereafter fix a time and place for the hearing of such petition, which time shall not be less than forty (40) nor more than sixty (60) days thereafter and shall cause notice of hearing thereon to be issued and signed by the County Auditor on behalf of such Board, which said notice shall state the name or names of such petitioners, the name of the villages affected, describe the tracts of land sought to be detached and attached, and the time and place of such hearing. Said County Auditor at least thirty (30) days before the date of hearing shall cause such notice to be served upon the President of the Village Council of each of said villages, or upon the Recorder or Clerk thereof, and shall cause copies thereof to be mailed to each of the persons or corporations last paying taxes on the lands sought to be so detached and attached, at their respective addresses, as shown in the office of the Treasurer or Auditor of said county, and three copies of such notice to be posted in three public places in each of said villages, or in lieu of such posting said notice shall be published in the official paper of each of such villages for two successive weeks, once each week, in case there shall be a legal newspaper printed and published in each of said villages. ('25, c. 373, § 3)

1122-4. Same—Order by county board for transfer of lands—If upon the hearing of said petition at the time and place so fixed by the Board of County Commissioners, or upon any adjournment thereof, the said

Board of County Commissioners shall find that for the more convenient government thereof said territory described in said petition, or any part thereof, should be detached from the village in which it is located and annexed to the other village, such Board of County Commissioners shall make an order which shall be signed by the Chairman and attested by the County Auditor and sealed with the seal of said Auditor, detaching such territory from said village and attaching the same to said other village. Such order shall be filed in the office of the County Auditor of such County, and certified copies thereof in the office of the Recorder of each of said villages, in the office of the Register of Deeds of such county, and in the office of the Secretary of State of the State of Minnesota within ten (10) days after the same shall have been made. From and after the time of filing of such order in the office of the County Auditor, such detachment and annexation shall be deemed effective. Provided that not more than 10% of the total assessed valuation of any village shall be detached therefrom under the provisions of this act. ('25, c. 373, § 4)

1122-5. Same—Apportionment of indebtedness—At the time of said hearing on said petition the said Board of County Commissioners shall by resolution determine the amount or proportion of indebtedness, bonded or otherwise, of the village from which said territory is detached, which shall be paid by the village to which said territory is so attached. ('25, c. 373, § 5)

1122-6. Same—Appeals from county board—Either municipality, or any taxpayer thereof or any person aggrieved by the order of said County Board in detaching or attaching said territory and determining the amount of the indebtedness that shall be paid by the village to which any territory is attached, may appeal to the District Court from such order or orders, such appeal to be governed by the provisions of Section 2747 of the General Statutes of Minnesota for the year 1923. Upon such appeal the validity, propriety and effect of any of the acts and proceedings authorized in this act, shall be subject to review.

If any substantial provision of any proceedings or acts be held invalid on such appeal, the order appealed from shall be set aside, but may be reinstated if a valid modification of the same be filed with the court within six months and be approved by the Court after notice and hearing. ('25, c. 373, § 6)

1123. Consolidation of adjacent villages—Whenever the boundary lines of two villages may be adjacent or coincident for one and one-half miles or more, said villages may be consolidated on agreeing as follows: ('13 c. 407 § 1) [1235]

1124. Agreement—Petition—Submission to voters—The council of either village may agree with the other village to such consolidation, or may, of its own motion, and upon petition of twenty-five (25) resident voters forthwith shall, order a special election upon the question of consolidation, the general terms of which shall be stated in such petition and in the question submitted to vote, and in case a majority of the votes cast at such election is in favor of consolidation the same shall be effectual on the agreement thereto by the other village, either by vote of its council, or, if an election is held therein, then in case a majority of the votes cast thereat are in favor thereof, provided that, if the council of either village, without first holding such special election therein, shall vote to consolidate, then on petition of twenty-five (25) per cent of the number of voters voting at the last preceding annual village election, filed with the village clerk within fifteen (15) days of such vote, a special election forth-

with shall be called therein and the question of such consolidation shall be submitted at such election, and if a majority of the votes cast thereat are against such consolidation the vote of the council thereon shall be of no effect, and such consolidation shall not take place. ('13 c. 407 § 2) [1236]

1125. Agreement binding—The agreements between such villages with reference to the terms of consolidation shall be binding upon the consolidated village. ('13 c. 407 § 3) [1237]

1125-1. Consolidation of adjacent villages where boundary is formed by meandered stream or river—Whenever the boundary lines of two villages may be adjacent and are formed by a meandered stream or river, said villages may be consolidated on agreeing as follows: ('21, c. 463, § 1)

1125-2. Same—Procedure—The council of either village may of its own motion, and upon petition of twenty-five (25) resident voters forthwith shall, order a special election upon the question of consolidation, the general terms of which shall be stated in such petition, and in the questions submitted to vote, and in case a majority of the votes cast at such election is in favor of consolidation the same shall be effectual on the agreement thereto by the other village after an election called as above provided is held therein in case a majority of the votes cast thereat are in favor thereof, and if a majority of the votes cast thereat are against such consolidation the vote of the council thereon shall be of no effect, and such consolidation shall not take place. ('21, c. 463, § 2)

1125-3. Same—Notice and proof of—Upon such consolidation being effected and within thirty days thereafter, as provided in the preceding sections, a certified copy of the proceedings had with reference thereto in both such villages and of the consolidation agreement entered into between such villages shall be filed with the county auditor of the county wherein such villages are located. These certified copies so filed shall for all purposes constitute notice to the county auditor and all other county and state officers of such consolidation of the two villages. ('21, c. 463, § 3)

1125-4. Same—Agreement binding—The agreements between such villages with reference to the terms of consolidation shall be binding upon the consolidated village. ('21, c. 463, § 4)

1126. Separate election and assessment district—Any such village or any other village heretofore organized and incorporated under any general or special law and now existing, not heretofore constituted a separate election and assessment district, may become such by the vote of a majority of its electors casting their ballots upon the question at a special election called for the purpose, or at a general election in the notice whereof the question is plainly submitted. The result of said vote shall be certified by the judges of election to the village council of such village and by said village council to the county auditor, and, if favorable to the change, by him to the secretary of the state. The last named certificate being received and filed in the office of the secretary of state, the change shall at once take effect, and thereafter the electors of said village shall have no vote in the affairs of the town or towns in which the village lies, and said village shall thereupon become and be a separate election and assessment district and in all things separate from such town or towns and be so certified by the county auditor to the state auditor. (R. L. § 708, amended '11 c. 154 § 1) [1238]

Cited (126-505, 148+99).

Property within a village held not liable to be taxed for roads and bridges (125-452, 147-439).

1127. Joint property, etc.—If there be within said village any real estate purchased or improved with taxes theretofore levied upon property both within and without the village boundaries, the same shall be and remain the joint property of the town and village. It shall be lawful to hold the meetings and elections of said town within such village, and for any town officer to keep his office therein, notwithstanding the division into separate election or assessment districts. (709) [1239]

1128. Apportionment of money and debt—Taxes—Upon the separation of such village from the town for election and assessment purposes, if there be in the town treasury any money in excess of its then floating indebtedness, such proportion of the excess as the total assessed valuation of the property within said village bears to the entire valuation of the town shall belong to such village, and may be recovered by action. The computation of such sum shall be made upon the last preceding valuation for purposes of taxation. All town taxes previously levied upon property within said village, and not yet collected, shall, when collected, be credited and paid to the village. And if there be bonded indebtedness of such town, the county auditor shall apportion the same, upon the same basis, and as often as necessary shall extend a tax upon the property assessable in the town and village, respectively, sufficient to meet the proportion chargeable upon each, with interest. (710) [1240]

103-32, 114-90; 125-455, 147-439.

1129. Separation from villages of agricultural lands and annexation to towns—In all cases where a tract or tracts of land situate in any village, either vacant or used solely for agricultural purposes, and chiefly valuable for such, and which may be detached from such village without unreasonably affecting the symmetry of such village, and where such land is so situate as to be inconvenient of access from or to such village and so conditioned that it is not proper to be subjected to village government or necessary for the reasonable exercise of the police or other powers or functions of such village, and where if detached from such village such land would be entirely separated by the village from the township from which such village was formed and is only contiguous to some other township in the county where situate and is so conditioned as to be easy of access to any such town and proper to be subjected to township government and to become a part of any such town, then and in such case such land may be detached from any such village and annexed to such township upon the petition of a majority of the legal voters of such village and of the township to which it is desired to be annexed in the manner following: ('11 c. 31 § 1) [1241]

127-452, 149-951.

1130. Petition—Notice—A majority of the legal voters of every such village and township may petition the county board of the county in which such village and township are situate for an order detaching such land from such village and annexing the same to such township. Upon the filing of said petition in the office of the county auditor of the county, the county board thereof shall at their next meeting thereafter fix a time and place for the hearing of such petition, which time shall not be less than thirty (30) days thereafter and shall direct a notice of such hearing to be issued and signed by the county auditor of such county on behalf of such board, which notice shall describe the tract or tracts of land sought to be detached and annexed,

the number of petitioners signing the same resident within such village and such township, and the time and place of such hearing, which said notice said petitioners shall cause to be served upon the president of the village council of such village or the recorder thereof and upon the chairman of the town board or the town clerk thereof, at least twenty (20) days before the day of hearing, and shall also cause notice of such hearing to be given by posting three copies of such notice in three of the most public places in each such village and such township, or in lieu of so posting said notices the same may be published in a newspaper published in said county in which the official proceedings of the county board are published, for two successive weeks, once in each week. ('11 c. 31 § 2) [1242]

1131. Hearing—Order detaching—Effect—On the hearing of such petition, at the time and place so fixed or any adjourned day, if the county board shall find that a majority of the legal voters of both such village and such township have signed such petition and that the facts and conditions set forth in section 1 hereof, as to said lands and the situation and condition thereof, are true, and that it is for the best interests of said village and said township and the owners of the land in question that the same should be detached from such village and annexed to such township, then said county board shall make an order detaching such land from such village and annexing the same to such township and thereupon said tract or tracts of land shall become detached from such village and shall thereafter form a part of the township to which the same is so ordered to be annexed, and shall in all things be subject to the town government of such township and not in any manner under the jurisdiction of such village, and such order shall be filed in the office of the county auditor of such county and a duplicate thereof shall be filed in the office of the village recorder of such village, in the office of the town clerk of such town, in the office of the register of deeds and in the office of the secretary of state, within five (5) days after the making of such order. ('11 c. 31 § 3) [1243]

1132. Outstanding indebtedness—Village not to be reduced below legal limit—Such separation of said land from any such village and the annexation thereof to any such township shall not release any part of such land from liability on account of any outstanding indebtedness of such village existing at the time of its separation therefrom, and in case any such village shall have outstanding bonds to the state of Minnesota the county auditor shall continue to levy taxes as provided by law upon such lands for the payment of interest and principal thereof as required by law. Provided that no territory shall be detached from any village if by detaching such territory the area or population of such village shall be thereby reduced below the limit fixed by law. ('11 c. 31 § 3) [1244]

1133. Qualification of petitioners—Village and town to be in same county—The whole number of legal voters of every such township or village, for the purposes of this act, shall be deemed to be the number of persons whose names are set forth on the poll lists of such township or village as qualified voters at the last preceding general election held before the filing of such petition, but any qualified voter of said township or village whose name is not on said poll list may sign such petition or any remonstrance against granting the same or appear in favor of or against such petition. Provided that nothing herein contained shall be held to authorize the annexation of any lands situate in any village to any township except a township of the same

county in which such village is situate. ('11 c. 31 § 4) [1245]

1134. **Elections—Officers—Terms — Vacancies —** The village election shall occur annually on the second Tuesday of March, when the resident electors shall choose the following named officers for terms beginning the first Tuesday in April next succeeding, to-wit: A treasurer and a village council, composed of a president, a clerk and three trustees all for the term of one year, except as hereinafter provided. Also two constables and if there be no municipal court established in the village, two justices of the peace and if said village is a separate election district an assessor, all for the term of two years. Provided, that at the annual election held in March 1918 the three trustees shall be elected one for a term of one year, one for a term of two years and one for a term of three years, the term for which each is elected to be designated on the ballot and thereafter one trustee shall be elected annually for the term of three years. All officers chosen, having qualified as such, shall hold until their successors qualify. Vacancies in office may be filled for the remainder of the year by the village council. (R. L. '05 § 711; G. S. '13 § 1246, amended '17 c. 402)

83-119, 85-933.

Cited (117-458, 136-264).

Certain elections legalized, '17 c. 35.

Repealed in so far as inconsistent with Laws 1925. c. 4, by § 7 thereof. See §§ 1152-1 to 1152-8, herein.

1135. **Hours for opening and closing polls in villages**—In all villages of this state, having a population of more than eight hundred (800) inhabitants, the polls may by resolution of the village council passed at least thirty (30) days before such election be kept open at any village election from nine (9) o'clock a. m. until nine (9) o'clock p. m. No adjournment or intermission whatever, shall be taken except as provided in case of general elections. ('13 c. 227 § 1) [436]

1136. **To be held under Australian ballot system**—That all elections of town and village officers, in all towns and villages having a population of 5,000 or over according to the last federal or state census, shall be held and conducted under the so-called "Australian ballot system," as provided by law for general elections in this state as far as practicable. This shall relate to no preliminaries of such elections except the filing of candidates and the preparation of ballots, as hereinafter provided. ('13 c. 210 § 1) [359]

1137. **Affidavit of candidate, etc.**—Candidates for such offices shall file an affidavit at least two (2) weeks before election with the town clerk or village recorder, as the case may be, paying to such officer a fee of one dollar (\$1.00). Such affidavit shall be substantially as provided by chapter 2 of the Laws of 1912 relating to non-partisan offices. There shall be no primary election, but the filing of such affidavits shall be a prerequisite to having the name of the candidate placed on the official ballot for the general town or village election. The town clerk and village recorder shall prepare and have printed, at the expense of their respective municipalities, the necessary tally sheets and ballots for such election. The ballots shall be printed on yellow-tinted paper, but without the fac-simile of the signature of the county auditor. The ballots shall contain no party designation of any candidate, and the names of the candidates for each office shall be arranged on the ballot alphabetically, according to the surname of such candidate. The ballots shall be counted, tallied and preserved as in general elections, except that the town clerk or village recorder shall be the final custodian of such ballots, of his respective municipality. A sample ballot shall be posted

at the place of election at least two (2) days before such election by the officer whose duty it is to prepare such ballot. ('13 c. 210 § 2) [360]

Explanatory note—For affidavit provided for by Laws 1912, c. 2, see § 297, herein.

1138. **Offenses and penalties**—All of the provisions of laws now in force relating to offenses and penalties in connection with general elections are hereby made applicable to town and village elections. ('13 c. 210 § 3) [361]

1139. **Village or township officers may be elected under Australian ballot system**—The village council of any village or the town board of any township in this state may by resolution or ordinance at least thirty days before the date of any election for village or township officers to be held therein, resolve or ordain that all elections of village or township officers in said village or township shall be held and conducted under the so-called "Australian Ballot System," until otherwise determined by ordinance or resolution by said village council or Town board, and after the adoption of such resolution or ordinance all elections of village or township officers in said village or township shall thereafter be held and conducted under said "Australian Ballot System," as provided by law for general elections in this state, as far as practicable. This shall relate to no preliminaries of such elections except the filing of candidates and the preparation of ballots as hereinafter provided. ('15 c. 315 § 1)

1140. **Filing by candidates for village or town offices of applications to have names placed on ballots—Fees—No primary—Tally sheets and ballots**—Any person desiring to be a candidate for office at the annual election to be held in such village or town, shall file with the clerk an application to be placed on the ballot for such office, or application on behalf of any qualified voter of the municipality whom they desire to be a candidate may be made and filed by not less than five (5) voters thereof; provided, service of a copy of the application shall be made on such candidate and proof of service endorsed on the application before filing. Application shall be filed with the clerk not less than ten (10) days before the election and shall be accompanied with a fee of one dollar (\$1.00). There shall be no primary election, but the filing of such application shall be a pre-requisite to having the name of the candidate placed on the official ballot for such election. The clerk shall prepare and have printed, at the expense of their respective municipalities, the necessary tally sheets and ballots for such election. The ballots shall be printed on yellow-tinted paper, but without the fac-simile of the signature of the county auditor. The ballots shall contain no party designation of any candidates and the names of the candidates for each office shall be arranged on the ballot alphabetically, according to the surnames of such candidates. The ballots shall be counted, tallied and preserved as in general elections, except that the village or town clerk, as the case may be, shall be the final custodian of such ballots, of his respective municipality. A sample ballot shall be posted at the place of election at least two (2) days before such election by the officer whose duty it is to prepare such ballot. ('15, c. 315, § 2; amended '25, c. 298)

1141. **Registration days to be provided for**—The Village council or town board, as the case may be, may also provide in such resolution or ordinance that there be two registration days preceding every such election, one of which shall be three weeks prior to the election day, and the other one week prior thereto. The board

of election may act as the registration board, and such board shall be designated in time to so act. ('15 c. 315 § 2½)

1142. **General election law penalties to be in force**—All of the provisions of laws now in force relating to offenses and penalties in connection with general elections are hereby made applicable to village elections. ('15 c. 315 § 3)

1143. **Australian Ballot System in villages of over 8,000**—All annual village elections for the election of village officers in all villages incorporated and existing under the General Laws of this state, which still maintain a village government, the population of which shall contain over eight thousand inhabitants as ascertained and determined by the last federal or state census taken pursuant to law, shall be held and conducted as herein provided, and under the so-called Australian Ballot System as provided by law for general elections in this state as far as practicable. ('21 c. 8 § 1)

1144. **Notices—Judges**—The village council shall cause ten days' posted notice of such election to be given, specifying the time and place thereof, the offices to be filled, and the questions, if any, to be determined by vote. Said council shall also not less than five weeks prior to such election, appoint three judges and two clerks for each voting district of the village, all of whom shall be resident voters of the respective districts for which they are appointed, but no candidates for any village office nor any officer or appointee of the village. They shall be sworn to faithfully discharge their duties as a board of registration and as an election board in their respective districts. If the judges and clerks, or any of them, shall fail to appear or refuse to serve at the appointed hour for opening said registration or said polls, the electors present thereat at said hour may supply their places by viva voce vote, provided that all persons so supplied shall be of the class and shall possess the same qualifications as above provided. ('21 c. 8 § 2)

1145. **Poll lists—Registration**—On Tuesday, four weeks prior to such election, the boards of registration in such villages, shall examine the poll lists used at the preceding general election and make duplicate lists of all the names of all persons in their district whom it knows or can, with reasonable diligence, ascertain to be entitled to vote therein at such election, which names shall be in alphabetical order with their places of residence. At least three weeks before such election, the board shall cause a copy thereof to be posted at each designated polling place. On the Tuesday preceding such election, the board of registration shall remain in session from 8:00 o'clock A. M. to 8:00 o'clock P. M. for the purpose of making corrections in such lists and for the registration of voters not already thereon. Every person qualified as a voter and desiring to vote may register therein, and only the votes of persons whose names are on the list at the opening of the polls shall be received by the judges of election; but any person desiring to vote at the village election whose name does not appear on the list at the opening of the polls and who shall satisfy the election board by proper evidence that he is qualified to vote at such precinct shall be allowed to register on that day and to vote at such election, upon taking an oath that under the constitution and laws of the state he is qualified to vote at such election in such precinct. Except as herein otherwise provided, the laws relating to the registration of voters as found in sections 346, 419 and 420 General Statutes 1913 shall, so far as applicable, apply to and govern the registration of voters for such elections. ('21 c. 8 § 3)

Explanatory note—For G. S. '13, §§ 346, 419, 420, see §§ 305, 372, 373, herein.

1146. **Candidates shall file—Fee**—Each candidate for such election shall not later than the fourteenth day preceding such election, file his affidavit with the village clerk stating his residence, that he is a qualified elector in such village, and the office for which he desires to be a candidate, and accompany the same with a fee of One Dollar. The filing of such affidavit and the payment of such fee shall be a prerequisite to having his name placed on the official ballot for such election. ('21 c. 8 § 4)

1147. **Ballots**—The village clerk shall at the expense of their respective municipalities, prepare and have printed the necessary registration books, tally sheets and ballots for such election. The ballots shall contain no party designation of any candidate and whenever two or more persons are to be elected to the same office, their names shall be rotated or alternated on the ballots used in each election district, and that they shall appear thereon substantially an equal number of times at the top, at the bottom, and at each intermediate place, if any, of the list or group in which they belong. The ballots shall be counted, tallied and preserved as in general elections, except that the village clerk shall be the final custodian of such ballots of his respective municipality. A sample ballot shall be posted at each polling place of election at least one week before such election by such clerk. Except as herein otherwise provided, the laws relating to the ballots and supplies as found in Sections 323, 324, 326, 332, 333, 451, 452 and 473, General Statutes 1913 shall, so far as applicable, apply to and govern their preparation, use and preservation. ('21 c. 8 § 5)

Explanatory note—For G. S. '13, §§ 323, 324, 326, 332, 333, 451, 452, 473, see §§ 282, 283, 284a, 291, 415, 416, 436, herein.

1148. **Challengers**—The judges shall allow one voter, selected by each candidate or group of candidates and having a certificate in writing from the candidate or group he represents to remain in the room where the election is held in each election district and the persons so appointed shall have the right to remain with the Board within the railing at the voting place until the votes are canvassed and the results declared, and shall exercise all the powers and duties of challengers at general elections. ('21 c. 8 § 6)

1149. **Polls open from 8 A. M. to 8 P. M.**—The polls shall be kept open from 8:00 o'clock A. M. to 8:00 o'clock P. M. If at the hour of closing there are any voters in the voting place or in line at the door who are qualified to vote, but have not been able to do so since appearing, the polls shall be kept open a sufficient time to vote, but no one not so present shall be entitled to vote, although the polls were not closed when they arrived. No adjournment or intermission shall be had until the polls are closed, all the votes counted, and the result publicly announced, but this shall not be construed to prevent a temporary recess for taking meals, or other necessary purposes, provided the board remains in session and not more than one member thereof is absent at the same time.

Except as herein provided, the laws governing the conduct of general elections and all things pertaining thereto shall insofar as the same is applicable, apply to and govern such annual village elections. ('21 c. 8 § 7)

1150. **General laws apply**—So far as they shall be applicable, all provisions of the general laws relating to the location and arrangement of polling places, peace officers, challengers and gate keepers procuring regis-

ters, ballots, boxes and other supplies shall apply. ('21 c. 8 § 8)

1151. Offenses and penalties—All of the provisions of law now in force, relating to offenses and penalties in connection with general elections are hereby made applicable to such village elections. ('21 c. 8 § 9)

1152. Conflicting laws repealed—That all laws in conflict with the provisions of this act be and the same are hereby repealed. ('21 c. 8 § 10)

1152-1. Elections and election and terms of officers in certain villages—Villages included—This act shall apply to all villages in the State of Minnesota organized under any laws of the state which have an assessed valuation of seven hundred and fifty dollars (\$750.00) or upwards per capita of population according to the last preceding federal census at the time the question of its applicability arises. ('25, c. 4, § 1)

1152-2. Same—Officers to be elected—Terms of office—Filling vacancies—In all villages in this state the resident electors shall choose the following named officers under the provisions of this act, namely: A treasurer, two constables, and a village council composed of a president, a clerk and three trustees; and if said village is a separate election district, an assessor; and if there be no municipal court established in such village, two justices of the peace. All officers chosen having qualified as such, shall hold office until their successors qualify. Vacancies in office may be filled, for the remainder of the term for which said respective officers were elected, by the village council. ('25, c. 4, § 2)

1152-3. Same—Terms of certain officers continued—All elective officers in such villages in office when this act takes effect shall hold their offices for the terms for which they were elected, and any officers whose terms would otherwise expire prior to January 1st, 1926, shall continue to hold office until the end of December 31st, 1925, and there shall be no village election held in March, 1925. ('25, c. 4, § 3)

1152-4. Same—Date of election—Terms of office—Judges of municipal courts—On the first Tuesday after the first Monday of December, 1925, and on the first Tuesday after the first Monday of December of each year thereafter, an election shall be held in each of such villages at which all village officers as specified in Section 2 of this act shall be elected each for a term of one year, excepting that one trustee shall be elected each year for a term of three years, commencing on the first day of January following their election; provided, however, that if at the time of said election held on the first Tuesday after the first Monday in December, 1925, there are any such village officers holding offices, the term of which does not expire until after the first of January, 1926, their successors shall be elected to hold office only for that portion of the one or three-year term commencing January 1, 1926, which shall remain after the expiration of the term of office of such officer whose term does not expire until after January 1, 1926.

Provided, that where there is a municipal court established in any such village the judge or judges of which heretofore have been elected for a term expiring prior to the first Tuesday after the first Monday in December, 1927, such judges shall continue to hold office until the expiration of such term. At the election held in December, 1925, successors to such judges shall be elected for a term beginning at the expiration of their then existing terms of office and expiring the 31st day of December, 1927. If any judge of any municipal court established in any such village has

been elected before the passage of this act for a term expiring after the first Tuesday after the first Monday in December, 1927, and before the 31st day of December, 1928, such judge shall continue to hold office until the end of the 31st day of December, 1928. In the year 1928 and thereafter there shall be elected at the regular village elections in all such villages municipal judges to succeed those whose terms, including any extensions thereof made by this act, will expire on December 31st next following the election, each judge so elected to serve for a term of four years, beginning January 1 next following his election, and until his successor is elected and qualified. ('25, c. 4, § 4; amended '27, c. 411)

1152-5. Same—When act effective in certain villages—In case any village in this State does not now have but in any subsequent year shall have the assessed valuation and population specified in Section 1 hereof, then in the next succeeding odd-numbered year the provisions of this act, and particularly Sections 3 and 4 hereof, shall be deemed to apply to such village in such succeeding odd-numbered year and thereafter, in all respects just as though such odd-numbered year were the year 1925 and the succeeding year the year 1926 as set forth in such sections. ('25, c. 4, § 5)

Explanatory note—For §§ 1, 3, and 4 of this act see §§ 1152-1, 1152-3, 1152-4, herein.

1152-6. Same—Fiscal year—Villages ceasing to come within act—The fiscal year of all such villages in this State shall be the calendar year, and when a village has once come under the operation of this act, it shall continue under its provisions notwithstanding its assessed valuation may thereafter fall below seven hundred and fifty (\$750.00) dollars per capita according to any last preceding federal census. ('25, c. 4, § 6)

1152-7. Same—Laws repealed—Section 1246 of the General Statutes of Minnesota for the year 1913 is hereby repealed insofar as inconsistent herewith, and Section 19 of Chapter 145 of the General Laws of 1885 is hereby repealed insofar as inconsistent herewith, and all acts and parts of acts inconsistent herewith are hereby repealed. ('25, c. 4, § 7)

Explanatory note—For section 1246 of Gen. St. 1913, see section 1134, herein.

Laws 1885, c. 145, was repealed by R. L. '05, § 5536 (§ 10970 herein).

1152-8. Same—Partial invalidity of law—The various provisions of this act shall be severable and if any part or provision shall be held to be invalid it shall not be held to invalidate any other part or provision hereof. ('25, c. 4, § 8)

1153. Incorporated villages may be annexed for city and school purposes—Any incorporated village whose territory adjoins the territory of any incorporated city of the third class operating under a home rule charter, whether such village is in the same county as said city or not, may be annexed to said city and become a part thereof for city and school purposes in the manner herein provided for. ('15 c. 32 § 1)

1154. Election to be called on petition of ten per cent of voters—Ten per cent or more of the legal voters of such village, according to the number of votes cast at the last village election, may petition the governing body of such village to call an election for the determination of such proposed annexation, which petition shall be filed with the clerk of said village. ('15 c. 32 § 2)

1155. Time and place of election to be fixed by governing body—Such governing body shall within ten days after the filing of said petition as aforesaid fix a time and place for the holding of an election for the determination of said matter, which time shall not

be later than thirty days after the filing of said petition, and which place shall be within the limits of said village. ('15 c. 32 § 3)

1156. Village clerk to post notices of election—It shall be the duty of said village clerk to cause a copy of said petition, with a notice attached thereto stating the time and place for holding said election, to be posted in three public places within such village at least ten days before the date of said election. ('15 c. 32 § 4)

1157. Appointment of judges of election—Said governing body shall also appoint three residents of said village as judges of election, and said election shall be conducted as far as practicable in accordance with the laws governing village elections. The ballots shall bear the words "For annexation Yes....., No.....," with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the judges shall canvass the ballots, and forthwith make and file with the village clerk a certificate that they have canvassed the ballots cast at such election, and the number of votes cast for and against said proposition. ('15 c. 32 § 5)

1158. Governing body to canvass returns—Within five days after such election said governing body shall meet and canvass the returns of said election. If the canvass shows that the majority of the votes cast were in the affirmative the village clerk shall make a certificate to that effect and attach the same to the original petition together with a copy of the resolution fixing the time and place of said election and proof of the posting of the notices of election herein provided for and forthwith file the same with the city clerk or city recorder of the city to which the village is to be annexed. ('15 c. 32 § 6)

1159. Governing body to make declaration of annexation—At any time within twenty days after the filing of said certificate the governing body of said city may by resolution duly passed declare the said village to be annexed to said city and to be a part thereof, a certified copy of which resolution shall be duly filed with the secretary of state and the register of deeds of each county in which said city and village are situated, and thereafter said village shall be annexed to and form part of said city, and all the property and assets belonging to said village shall belong and be delivered to said city, and said city shall assume and be responsible for all the liabilities, obligations and indebtedness of said village. ('15 c. 32 § 7)

1160. To become part of ward or may be new ward of city—After such annexation the said village shall be part of such ward or form such new and separate ward as the said resolution annexing it shall specify. ('15 c. 32 § 8)

1161. To be governed by laws of city and school district—Such annexed village shall in all respects be governed by the laws governing the city at the time of such annexation, and by all of the laws relating to schools and school districts in said city; and the schools and school property of such annexed village shall be under the control and management of the officers and proper authorities of such city controlling and governing the schools and school property of such city. ('15 c. 32 § 9)

Section 10 made nugatory by 18th Amendment to U. S. Constitution.

1162. Assessment and payment of taxes—In all cases where the territory so annexed is situate in a county other than the county in which such city is situate, all city taxes and assessments levied by such city

upon the property situate in such other county shall be certified to the county auditor of the county in which such territory is situate and the county treasurer of such county shall pay to such city and to the school officers thereof all city taxes and assessments and the proper city officers shall pay all school taxes to the proper school officers of such city authorized to receive the same. ('15 c. 32 § 11)

1163. President and trustees to receive annual salary—In all villages of this state, now or hereafter having, according to the then next preceding federal or state census, a population of more than five thousand inhabitants, or having, according to the state records for the then next preceding year, an assessed valuation of more than one million five hundred thousand dollars, the president and trustees shall receive an annual salary of One Hundred Dollars for their services as such officers. ('15 c. 313)

1163-1. Salary of president and trustees in certain villages—In all villages of this State, except those governed under a charter adopted pursuant to Section 36, Article 4, State Constitution, the salaries of the President and Trustees shall be in amounts according to the following classifications of villages, provided that the village council of any village shall have the authority to fix the salaries of its President and its Trustees in a lesser amount for the term of office during which the members of such council are elected. The classification and salaries are as follows:

(1) In villages having both a population of not less than five thousand inhabitants and an assessed valuation of not less than ten million (\$10,000,000) dollars, the salary of the President is fixed at Two Hundred (\$200.00) Dollars per month and the salary of each Trustee at One Hundred and Fifty (\$150.00) Dollars per month.

(2) In villages, not included in any of the foregoing classifications, having both a population of not less than two thousand inhabitants and an assessed valuation of not less than five million (\$5,000,000) dollars, or having a population of not less than one thousand four hundred inhabitants and an assessed valuation of not less than eight million (\$8,000,000) dollars, the salary of the president is fixed at eighty (\$80.00) dollars per month and the salary of each trustee at sixty (\$60.00) dollars per month.

(3) In villages, not included in any of the foregoing classifications, having both a population of not less than two thousand inhabitants and an assessed valuation of not less than one million five hundred thousand (\$1,500,000) dollars, the salary of the president is fixed at fifty (\$50.00) dollars per month and the salary of each trustee at thirty-five (\$35.00) dollars per month.

(4) In villages, not included in any of the foregoing classifications, having both a population of not less than six hundred inhabitants and an assessed valuation of not less than one million (\$1,000,000) dollars, the salary of the president is fixed at thirty-five (\$35.00) dollars per month and the salary of each trustee at twenty-five (\$25.00) dollars per month.

(5) In villages, not included in any of the foregoing classifications, either having both a population of not less than five thousand inhabitants and an assessed valuation of less than one million (\$1,000,000) dollars, or having both a population of less than six hundred inhabitants and an assessed valuation of not less than one million (\$1,000,000) dollars, the salary of the president and each trustee is fixed at one hundred (\$100.00) dollars per year; provided, further, in villages having an assessed valuation exceeding one

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million five hundred thousand dollars, and not over three million dollars, the salary of the president and each trustee shall remain one hundred dollars per year, and in villages having an assessed valuation exceeding one million dollars, and not over one million five hundred thousand dollars such salary shall remain ten dollars per year, unless the voters in any such village at a regular or special election therein held shall fix such salaries at a larger amount, within the limitations of this act; provided, further, this act shall in no way apply to villages having an assessed valuation of less than one million five hundred thousand dollars and an area of less than 1,300 acres.

(6) In villages, not included in any of the foregoing classifications, having both a population of less than five thousand inhabitants and an assessed valuation of less than one million five hundred thousand (\$1,500,000) dollars, the salary of the president and each trustee is fixed at ten (\$10.00) dollars per year. ('25, c. 116, § 1; subd. (2) amended '27, c. 58, § 1; subd. (4), (5) amended '27, c. 312)

Explanatory note—Section 3 of Laws 1925, c. 116 repeals all inconsistent acts and parts of acts.

1163-2. Same—Population and valuation, how determined—The population herein referred to shall be that last taken of either the Federal or State census, and the valuation shall be that fixed by the previous years assessment. ('25, c. 116, § 2)

1164. Assessors in villages separated from towns—That all villages in this state that now are or which may hereafter become separated from the town or towns in which any such village is located, shall at the next annual village election elect an assessor, whose powers and duties shall be similar to those of township assessors. ('09 c. 61 § 1) [1247]

1165. Appointment after separation—The mayor or president of the village council of such village, after such separation from the township, shall, by and with the consent of the council or governing board thereof, appoint an assessor, who shall hold office until the next annual election. ('09 c. 61 § 2) [1248]

1166. Board of review—The officers of such village, corresponding to the officers constituting a board of review in villages incorporated under the general law, shall constitute a board of review. ('09 c. 61 § 3) [1249]

1167. Two justices—All incorporated villages within the state, whether incorporated under general or special laws, shall hereafter elect two justices of the peace, whose terms of office, powers and duties, shall be such as are now or may be hereafter prescribed by law. ('11 c. 29 § 1) [1250]

1168. Appointment—The common councils or boards of trustees of the said villages shall by appointment, until the next election therein, increase the number of justices of the peace in their respective villages to conform to section 1 of this act. ('11 c. 29 § 2) [1251]

1169. Hours for polls to be open—The village council shall cause ten days' posted notice of such election to be given; specifying the time and place thereof, the offices to be filed, and the questions, if any, to be determined by vote. The council shall also, within twenty days of the election, appoint two judges, and one clerk for each voting district of the village; all to be resident voters, but not candidates for any village office. They shall be sworn to faithfully discharge their duties as such, and shall open the polls by proclamation, and keep them open from 9 o'clock a. m. until 5 o'clock p. m. of said day. If the judges and clerk, or any of them, fail to appear or refuse to serve, the electors present at the hour for opening may supply their places by

viva voce vote. Provided, that in any village having more than three hundred (300) inhabitants, the village council may by resolution, adopted more than twenty (20) days before any such election, fix the hours for the opening and closing of the polls so that the same shall be open at least eight hours and shall open not later than 12 o'clock noon and close not later than 9 o'clock p. m., and the notice of election shall specify the hours the polls shall open and close. (R. L. '05 § 712, amended '13 c. 413 § 1; '19 c. 282) [1252]

35-176, 28+144; 83-119, 85+933.

1170. Returns—Canvassing—The judges and clerk shall forthwith count the votes cast, proclaim the results, and record the same in a book provided for the purpose. Such book, with the ballots cast, shall thereupon be returned to the clerk. Within two days after the election the council shall meet as a canvassing board, and declare the results appearing from said returns. A plurality of votes shall elect, and in case of a tie the election shall be determined by lot, in the presence of the board, and under its direction. The clerk shall forthwith give written notice to each person chosen of his election to the office named, and shall also certify the results of said election to the county auditor. (713) [1253]

38-222, 225, 37+95.

1171. Town meeting laws applied—Illegal voting, etc.—Except as otherwise provided in [R. L.] § 713, all village elections shall be conducted, and the results ascertained, in the manner provided by law for town meetings; and, except as so modified, all laws regulating the holding of town meetings, canvassing and certifying the results thereof, and relating to the duties of judges and clerks of election, and to voting and the challenging of votes, and every statute prescribing or punishing offenses in respect to illegal voting, bribery, fraud, corruption, official delinquency, or other offenses at or concerning elections, which are applicable to town meetings, are hereby extended to village elections. (714) [1254]

38-222, 225, 37+95.

Explanatory note—For R. L. '05, c. 713, see § 1170, herein.

1172. Special elections—Special elections may be ordered by the council, upon its own motion or upon the petition of fifty resident voters, of which at least ten days' posted and one week's published notice in a newspaper published in said village, if there be one, shall be given, clearly setting forth the questions submitted. Judges and clerks shall be appointed, the vote taken, and the result ascertained, declared, and certified as in the case of annual elections: Provided, that no proposal so submitted shall be deemed carried without such a majority in its favor as may be required by law in the particular instance; and provided, further, that in case of a tie the proposal shall be deemed lost. (715) [1255]

83-119, 85+933.

1173. Assessor—Town taxes, etc.—The assessor shall assess and return all property taxable within the village, if a separate assessment district, and the assessor of the town shall not include in his return any property taxable in such village. (716) [1256]

1174. Treasurer—Duties, bond, accounts, etc.—The treasurer shall give such bond as the council may require. He shall collect, receipt for and safely keep all moneys belonging to the village, and shall promptly enter, in a book to be provided for the purpose, an account of all moneys received and disbursed by him as treasurer; showing the sources and objects thereof, with the date of each transaction. He shall pay out no money except upon the written order of the presi-

dent of the council, attested by the clerk, which orders, being paid and cancelled, he shall retain as his vouchers. Such accounts and vouchers shall be exhibited to the council upon its request and he shall deliver to his successor all books, papers, and money belonging to said village. And at least two weeks before the annual election he shall make out and file with the clerk for public inspection a detailed account of his receipts and disbursements, with the sources and objects of each. (R. L. § 717, amended '11 c. 352 § 1) [1257]

1175. **Financial statement by clerk**—Thereupon the clerk shall prepare a detailed statement of the financial affairs of the village for the preceding year, showing all moneys received, with the sources, dates and respective amounts thereof; all moneys paid, to whom and for what purpose; all outstanding and unpaid orders, to whom issued and for what purpose; all moneys remaining in the treasury; also all other items necessary to accurately show the financial condition of such village. He shall file such statement in his office for public inspection, and shall publish the same at least one week prior to such village election, in a newspaper published in such village to be selected by the village council, and if there be no such newspaper he shall post copies of such statement in three of the most public places in such village. ('11 c. 352 § 2) [1258]

1176. **Money in hands of treasurer of illegally constituted village to be paid into township treasury**—The moneys remaining in the hands of the person acting as treasurer of a village, the incorporation of which has heretofore or shall hereafter be declared to be illegal, shall by said person acting as village treasurer, be paid to the treasurer of the township in which the territory attempted to be included in such village is situate and in case such territory is situate in more than one township, then said money shall be paid to the township treasurers of said townships in such proportion as the assessed valuation of the real estate thereof, formerly included in such assumed, but illegal village, bears to the assessed valuation of all the real estate formerly assumed to be included therein. ('15 c. 57 § 1)

1177. **Clerk—Bond—Deputy**—The clerk shall give bond to the village, conditioned for the faithful discharge of his official duties, in such sum as the council shall approve. With the consent of the council, he may appoint a deputy, for whose acts he shall be responsible, and whom he may remove at pleasure. Such deputy may discharge any and all of the duties of the clerk, except that he shall not be a member of the council. (718) [1259]

1178. **Same—Duties—Compensation**—The clerk shall give the required notice of each annual and special election, record the proceedings thereof, notify chosen officials of their election or appointment to office, and certify to the county auditor all appointments and the results of all village elections. He shall keep:

1. A minute book, noting therein all proceedings of the council, all petitions and communications addressed thereto, all bills presented, and the full titles of all ordinances adopted.

2. An ordinance book, in which he shall record at length all such ordinances, all by-laws, rules, and regulations passed by the council, and all commissions, permits, and licenses issued. And when so recorded, he shall enter upon the margin of the minute book, opposite the record of adoption, a reference to the book and page of such record.

3. A finance book, on which he shall enter all the money transactions of the village, including the dates

and amounts of all receipts, and of all orders drawn upon the treasurer, with their respective sources and objects.

He shall act generally as the clerk, recorder, and bookkeeper of the village, be the custodian of its seal and records, countersign its official papers, post and publish notices, ordinances, and the like, and perform such other appropriate duties as may be imposed by ordinance or other direction of the council. For his services he shall receive such compensation as may be fixed at the beginning of his term by resolution of the council. For certified copies, and for filing and entering, when required, chattel mortgages and other papers not relating to village business, he shall receive the fees allowed by law to town clerks. (719) [1260]

1179. **Constables—Duties—Compensation**—Constables shall give bonds to the village, to be approved by the council, similar to those required of town constables, and be governed by the same laws. They shall obey all lawful orders of the council, or the president thereof, and diligently enforce all laws and ordinances for the preservation of the peace. They may arrest, with or without a warrant, and forthwith take before a village justice, any person engaged in the commission of a public offense, and may command, if necessary, the assistance of bystanders. They shall receive for their services the same fees allowed to other constables, and, for special services to the village, such compensation as the council may fix. (720) [1261]

1180. **Peace officers**—The president and the trustees shall be peace officers, and may suppress in a summary manner any riotous or disorderly conduct in the streets or other public places of the village, and may command the assistance of all persons, under such penalties as may be prescribed by the by-laws and ordinances. (721) [1262]

Right of president to earn reward for arrest (114-233, 130+1025).

1181. **Justices—Powers—Duties—Fees—Village justices of the peace** shall possess all the powers of those elected by the towns, and be governed in the exercise thereof by the same laws, in all respects, except that their official bonds shall run to the village and be approved by the council. They may also hear and determine accusations made against persons for the violation of any ordinance, by-law or regulation of the village, and upon conviction may impose the penalties prescribed. They shall have such other jurisdiction and authority as is by this chapter conferred or implied, and receive for their services the fees allowed by law to justices of the towns provided, that in all cases where a village is situated in more than one county, to justices of the towns; provided, that in all cases large shall have and possess all powers and jurisdiction conferred on justices and constables of the towns in each of the counties in which such village is situated and may issue and serve processes in each of such counties, and shall file their bonds in each of said counties. (R. L. § 722, amended '07 c. 459 § 1) [1263]

93-199. 101+72.

A duly elected justice of the peace, who fails to file his bond and oath with the clerk of court, but assumes to act as a duly qualified justice, is an officer de facto, if not an officer de jure. 212+905.

1182. **Prosecutions by village**—All prosecutions for violation of the ordinances, rules, or by-laws of any village shall be brought in the name of the village, upon complaint and warrant, as in other criminal cases. If the accused be arrested without a warrant, a written complaint shall thereafter be made, to which he shall be required to plead, and a warrant shall issue

thereon. The warrant and all other process in such cases shall be directed to the village marshal, or the sheriff or any constable of the county or village, but the marshal shall serve no such process except within the village. (723) [1264]

91-277, 97+972.

1183. Pleading—Evidence—Judgment—It shall be a sufficient pleading of the by-laws, rules, or ordinances of a village to refer to the section and number or chapter thereof. They shall have the effect of general laws within the village, and need not be given in evidence upon the trial of civil or criminal actions. Judgment shall be given, if for the plaintiff, for the amount of fine, penalty, or forfeiture imposed, with the cost; and the judgment shall also direct that, in default of payment, the defendant be committed to the common jail of the county for such time, not exceeding ninety days, as the court shall see fit. The commitment shall state the amount of judgment, the costs, and the period of commitment. Every person so committed shall be received by the keeper of the jail, and kept, at the expense of the county, until lawfully discharged. The committing court may release the defendant at any time upon payment of such fine and costs. (724) [1265]

83-456, 458, 86+457; 148-1, 180-1021, 91-277, 97+972. In a criminal prosecution it is not necessary to introduce ordinance in evidence (124-498, 145-383).

1184. Appeals—Appeals may be taken to the district court in the same manner as from judgments of justices of the peace in civil actions, but, if taken by the defendant, he shall give bond to the village to be approved by the court, conditioned that, if the judgment be affirmed in whole or in part, he will pay the same, and all costs and damages awarded against him on such appeal. In case of such affirmance, execution may issue against both defendant and his sureties. Upon perfection of such appeal, defendant shall be discharged from custody. (725) [1266]

69-349, 72+564.

Cited (109-292, 123+809).

Not applicable to municipal courts organized after passage. 160-274, 199+918.

1185. Fines, fees, etc.—All fines, forfeitures, and penalties recovered for the violation of any ordinance, rule, or by-law of the village, and all moneys paid for licenses and permits, shall be paid into the village treasury. Every court or officer receiving the same, within thirty days thereafter, shall make return thereof under oath, and be entitled to duplicate receipts therefor, one of which shall be filed with the village clerk. (726) [1267]

1186. Council—Powers — Ordinances—The village council shall be composed of five members, of whom three shall be a quorum, and shall have power to adopt, amend, or repeal all such ordinances, rules, and by-laws as it shall deem expedient for the following purposes:

1. **Procedure—Salaries**—To regulate the mode of its own procedure, and to fix the compensation of its employees, when not otherwise prescribed.

2. **Books, stationery, etc.**—To procure the books required to be kept by village officers, and such furniture, property, stationery, and printing as shall be necessary for village purposes.

3. **Actions at law**—To provide for the prosecution or defence of actions or proceedings at law in which the village may be interested, and employ counsel therefor.

4. **Attorney—Street commissioner, etc.**—To appoint, when necessary, a village attorney, a poundmaster, a street commissioner, one or more keepers of cemeteries, one or more fire wardens, a marshal, and

one or more policemen. Every such appointee shall give such bond as the council may require, conditioned for the faithful discharge of his duties, and the proper application and payment of all moneys by him officially received.

5. **Buildings**—To control and protect the public buildings, property, and records, and insure the same.

6. **Village plat**—To renumber the lots and blocks of the village or any part thereof, and to cause a revised and consolidated plat of the same to be made and recorded.

7. **Fire prevention**—To establish a fire department, appoint the officers and members thereof, and prescribe their duties; to provide fire engines and other fire apparatus, engine houses, pumps, water mains, reservoirs, and other waterworks; to compel the inhabitants to aid in the extinguishment of fires, and to raze such buildings in the vicinity of a fire as any two or more members of the council present may direct, for the purpose of preventing its communication to other buildings; to establish fire limits within which wooden or other combustible buildings shall not be erected; to require owners or occupants of buildings to provide and keep on their premises suitable ladders and fire buckets, and, after reasonable notice to, and refusal by, such owner or occupant, to procure and deliver the same to him, and assess the cost thereof as a special tax upon such real estate, to be collected as other village assessments are collected; to regulate the storage of gunpowder and other dangerous materials; to require the construction and use of safe places for the deposit of ashes; to regulate the manner of putting up stovepipes, and the construction and cleaning of chimneys; to prevent bonfires and the use of fireworks and firearms in the village; to authorize fire wardens at all reasonable times to enter into and examine lots, inclosures, and buildings, in order to discover whether any of them are in dangerous condition, and to cause such as may be dangerous to be put in safe condition; and, generally, to take such measures for the prevention or extinguishment of fires as may be necessary or proper.

8. **Streets—Sewers—Sidewalks—Public grounds**—To lay out, open, change, widen, extend, or vacate streets, alleys, parks, squares, and other public ways and grounds, and to grade, pave, and repair the same; to establish and maintain drains, canals, and sewers, and to alter, widen, or straighten watercourses; to lay, repair, or otherwise improve, or to discontinue, sidewalks, paths, and cross-walks; to prevent the incumbering of streets or other public ways or grounds with vehicles, railway cars or engines, building material, or other substances; to prevent racing or the immoderate riding or driving of animals or vehicles in the village, or the use of sidewalks for other than pedestrian purposes; to require the owners or occupants of buildings to remove snow, dirt, or rubbish from the sidewalks adjacent thereto; and, in default thereof, to authorize such removal at the owner's expense. But no street or alley shall be vacated except upon petition as in this chapter provided.

To define sprinkling districts and to require owners or occupants of lots or lands abutting on any public street or alley, to pay the proportionate share of the expense of sprinkling with water or oil any such street or alley, and in default of such payment to provide for the assessment of such proportionate share against such lots or lands to be collected as other taxes are collected. (Subd. 8, amended '17 c. 406 § 1)

9. **Animals—Rate of speed—Licenses**—To restrain the running at large of cattle, horses, mules, sheep,

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swine, poultry, and other animals, and to authorize the distraining, impounding, and sale thereof; to establish pounds, and regulate and protect the same; to require the fastening or confinement of animals while in the streets or alleys of the village, and to prescribe the place and manner thereof; to regulate the speed of electric or steam engines or cars running in or through the village; to prevent the running at large of dogs, and authorize the destruction, in a summary manner, of such as are unlawfully at large; to license public porters, solicitors, or runners, cartmen, hackmen, omnibus drivers, and guides, and establish regulations for their conduct as such; and to prevent unnecessary noise or other disorder.

10. Markets—To establish and regulate markets, provide public scales, appoint a weighmaster, and restrain sales in the streets.

11. To purchase and hold cemetery grounds within or without the village limits, to enclose, lay out, and ornament the same, and to sell and convey lots therein; and such ground so acquired or portion thereof as may be required for that purpose shall be surveyed into lots of such size as the village council shall direct, with such avenue, alleys and walks as they shall deem proper. A map of such survey shall be filed in the office of the register of deeds of the county of its location; to establish public parks, parkways and walks, and enclose, improve, ornament and protect the same; to appoint a park board and provide for and regulate the setting out and protection of trees, shrubs and flowers in the village or upon its property; and when any parkway is established or improved along the street frontage of private property, the special benefits if any resulting therefrom to lots and parcels of land fronting on such parkway may be assessed against the same and collected as other special assessments are collected. (Subd. 11, amended '19 c. 478; '23 c. 164)

12. Amusements, peddlers, etc.—To prevent or license and regulate the exhibition of circuses, theatrical performances, or shows of any kind, and the keeping of billiard tables, pigeonhole tables, and bowling alleys; to restrain or license and regulate auctioneers, transient dealers, hawkers, and peddlers; and in all such cases to fix the price of said license, and prescribe the term of its continuance, and to revoke such license when, in the opinion of the council, the good order of the village requires it: Provided, that the council, in its discretion, may refuse to grant a license for any of the above purposes, and the term of no such license shall extend beyond the annual election next after the granting thereof.

13. Gaming and other vices—Liquors—To prohibit gift enterprises, all gambling devices, and all playing of cards, dice, or other games of chance or skill for the purpose of gaming; to restrain and punish vagrants, tramps, mendicants, prostitutes, and persons guilty of lewd conduct; to punish drunkenness; and to license and regulate or prohibit the selling, bartering, disposing of, or dealing in spirituous, malt, fermented, vinous, or mixed intoxicating liquors of any kind, and to revoke any license for the sale of such liquors already granted whenever the council, after a hearing of the case, shall deem it proper.

14. Libraries—To establish and maintain public libraries and reading rooms, purchase books and periodicals therefor, and make needful rules for the safe-keeping and handling of the same.

15. Removal of officers—To remove any officer appointed or elected by the council, whenever, in its judgment, the public welfare will be promoted thereby.

16. Jail—To purchase, lease, or build, and to main-

tain, a watchhouse or other place for the confinement of offenders against the rules, ordinances, and by-laws, and for the temporary detention of suspected persons.

17. Board of health, etc.—To establish a board of health, with all the powers of such boards under the general laws; to provide hospitals, and regulate the burial of the dead; to define nuisances, and prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous building or place, to remove, abate, or cleanse the same; to direct the location and management of slaughterhouses, and to prevent the erection, use, or occupation of the same, except as authorized; to prevent the bringing, depositing, or leaving within the village of any putrid carcass or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water, or other unwholesome matter therefrom; to provide for the cleaning, and removal of obstructions from, any river, stream, lake, slough, or watercourse within the village; and to prevent the obstruction or retarding of the flow of waters therein, or the fouling of the same.

18. Reservoirs—To provide, and regulate the use of, wells, cisterns, reservoirs, waterworks, and other means of water supply.

19. Lighting streets—To erect lamp-posts and lamps, and provide for lighting any portion of the village streets or grounds by gas, electricity, or other means.

20. Harbors and docks—To establish harbor and dock limits; to regulate the location, construction, and use of piers, docks, wharves, and boathouses on navigable waters; and to fix rates of wharfage.

21. Taxes—Bonds—Fiscal statement—To levy and collect taxes, including poll tax and assessments, audit claims against the village, and direct orders to issue for their payment; to refund, wholly or in part, any tax or special assessment unjustly or illegally collected; to authorize village bonds to be issued in the cases provided by law; and, generally, to manage the financial concerns of the village. And they shall prepare and cause to be publicly read at the annual village election a detailed statement showing the amount in the treasury at the beginning of the year, when and from what sources all moneys paid into the treasury during the year were derived, and when, to whom, and for what purpose all money expended was paid, with the balance then in the treasury, which statement shall be recorded in the minute book and preserved in the recorder's office.

22. Penalties for violation—To declare that the violation of any ordinance, rule, or by-law herein authorized shall be a penal offence, and to prescribe penalties therefor: Provided, that no such penalty shall exceed a fine of one hundred dollars, or imprisonment in a village or county jail for a period of three months; but in either case the costs of prosecution may be added, and, in default of payment of fine or costs, the person committed may be confined in such jail until payment is made or said period has expired. (R. L. § 727, amended '09 c. 263) [1268]

Subd. 4 (82-420, 85+155). Subd. 5 (110-59, 124+371). Subd. 6 (126-477, 148+466). Subd. 7 (94-128, 102+216; 181-424, 155+397). Subd. 8 (45-4, 47+166; 50-551-555, 52+931; 83-275, 86+103; 101-197, 112+395, 124-471, 145+377; 124-107, 144+464; 126-477, 148+466; 135-56, 160+190). Subd. 12 (119-145, 137+417; 131-195, 154+964; 124-498, 145+383). Subd. 13 (29-445, 457, 13+913; 33-102, 22+443; 126-506, 148+99; 150-228, 184+967; 134-355, 159+792; See 83-456, 86+457).

A village council has not the authority to remove at will and without hearing members of its water, light, power, and building commission, created under chapter 412, Laws 1907 and amendatory acts (Gen. St. 1923,

33 1186¹⁹ 155;

1186N
20 - 206
20 - 208
29 - 276

1186N
31 - 87

1186 Note
33 - 72
33 - 111
33 - 210
33 - 220
33 - 222
33 - 272
33 - 275
246nw 110

1188 Note
33 - 60
33 - 64
33 - 211
33 - 327
34 - 36

33 1186¹⁴ 176

§§ 1852 to 1860). 156-276 194+624.

Par. 8—Under the facts stated in the opinion the plaintiff was not entitled to a mandatory injunction restraining the maintenance of a concrete sidewalk where located nor to an injunction restraining the levy of assessments to pay for its construction. 161-332, 201+650.

For particular powers of the village council and of towns and villages in general, which powers, insofar as they are applicable to all villages, appear under this chapter, or more appropriate headings, special powers not appearing; see the following tabulation:

'15 c. 7, validating bonds for village halls; '15 c. 70, validating contracts for water mains; '15 c. 79, sale and lease of water plant vote; '15 c. 121, annexation of territory; '15 c. 158, validating vacation of streets; '15 c. 180, lighting roads; '15 c. 190, licensing dance halls; '15 c. 240, annexation of territory; '15 c. 248, vacation of streets; '15 c. 320, funding floating indebtedness; '17 c. 35, elections legalized; '17 c. 36, acquiring land for docks; '17 c. 48, opening streets; '17 c. 62, legalizing bonds for floating indebtedness; '17 c. 136, extending boundaries; '17 c. 172, leasing and selling water works; '17 c. 193, disposition of funds on dissolution; '17 c. 203, connecting with water and sewer systems; '17 c. 268, legalizing indebtedness; '17 c. 273, preparation for public music; '17 c. 296, legalizing dissolution; '17 c. 336, issuance of bonds; '17 c. 364, authorizing pavements; '17 c. 416, changing names of streets; '17 c. 453, consolidation of school districts; '19 c. 4, relief of tornado sufferers legalized; '19 c. 10, legalizing construction of sewers; '19 c. 14, 192, employment and removal of soldiers, sailors and marines; '19 c. 146, levy for musical entertainments authorized; '19 c. 191, salary of president and supervisors in certain villages fixed; '19 c. 280, modification of conditions of deed to school; '19 c. 281, providing tie racks and parking space; '19 c. 313, sale of surplus electricity; '19 c. 421, detachment of territory; '19 c. 451, issuance of bonds by village in forest fire district; '19 c. 469, creation of fire zone; '19 c. 525, erection of armories; '21 c. 3, incorporation legalized; '21 c. 8, use of Australian ballot at village election; '21 c. 26, payment of compensation to injured employes; '21 c. 30, appointment of street commissioner; '21 c. 34, warrants validated; '21 c. 50, proceedings and assessments for street improvements legalized; '21 c. 59, levy of interest on water mains legalized; '21 c. 92, villages authorized to erect poles and string wires; '21 c. 94, vacation of streets; '21 c. 108, villages authorized to provide for municipal heating plants; '21 c. 110, notices of claims legalized; '21 c. 151, proceedings to establish electric plants legalized; '21 c. 195, establishment of sewer districts legalized; '21 c. 286, construction of swimming piers and payments therefor legalized; '21 c. 295, extension of sewer systems authorized; '21 c. 308, appropriations legalized; '21 c. 319, domestic animals running at large; '21 c. 331, assessments for water systems; '21 c. 373, assessments for musical entertainments; '21 c. 417, tax levy limited; '21 c. 420, reimbursement of village or town for poor expense; '21 c. 425, laying of water mains and assessment of benefits; '21 c. 454, imposition of wheelage tax; '21 c. 457, contracts legalized; '23 c. 22, village indebtedness legalized; '23 c. 29, erection of light and power system; '23 c. 31, validating indebtedness; '23 c. 157, 159, appropriation by town boards for county roads; '23 c. 178, correction of plats; '23 c. 179, pensions for members of volunteer fire departments; '23 c. 188, establishment of election district by town; '23 c. 236, special tax for water mains; '23 c. 237, license for the establishment of tuberculosis sanitarium, etc.; '23 c. 250, incorporation of villages legalized; '23 c. 277, establishment of tourist camps; '23 c. 325, establishment of war memorials; '23 c. 352, detachment of territory from village, an annexation to city of first class; '23 c. 374, appropriation for ferries; '23 c. 378, licensing of eating houses; '23 c. 380, water mains.

1186-1.—Hospital board—The president of any village council now or hereafter organized, which village may have established therein a village hospital, may appoint a hospital board consisting of five members. Of the first five members appointed one shall be appointed for a term ending in one year, one for a term ending in two years; one for a term ending in three years; one for a term ending in four years and one for a term ending in five years, and thereafter each member shall be appointed for a term of five years. Any vacancy on the board shall be filled by the president of the village council with the approval of the council for the unexpired portion of the term in which the vacancy occurs. ('21, c. 469, § 1)

1186-2. Same—Salary—Each member of such board shall receive an annual salary of such sum if any as

the village council may prescribe. The member of such board whose term first expires shall be chairman. ('21, c. 469, § 2)

1186-3. Same—Powers and duties—Such hospital board shall have such powers and duties in connection with the management and operation of such hospital as may be conferred and prescribed by the village council wherein the same is situated. ('21, c. 469, § 3)

1186-4. Statements of improvements on lots or parcels of land filed with recorder—The several villages of this state, however organized, are hereby authorized and empowered to require, by ordinance, that any person improving any lot or parcel of land within the corporate limits thereof by building thereon any structure or any addition to any existing structure thereon, the estimated cost of which improvement exceeds \$100, to make and file with the recorder thereof, before such improvement shall be commenced, a statement in writing giving the legal description of the lot or parcel of land to be so improved, the number of the lot to be given if within a portion of the village platted into lots. ('25, c. 414)

1187. Licensing amusements, peddlers, etc.—Fifteen. To prevent or license and regulate the exhibition of caravans, circuses, mountebanks, theatrical performances or shows of any kind; to prevent or license and regulate the keeping of billiard tables, pool tables, pigeon hole tables, bowling saloons and all other games and devices; to restrain or license, regulate and tax auctioneers, hawkers and peddlers; and in all such cases they may fix the price of said license or tax, and prescribe the term of the continuance of such license, and may revoke such license when in the opinion of the village council the good order of the public interests of the village require it; provided, that the council may in any case where in their opinion, the public interests of the citizens of the village require it, refuse to grant any license for the above purposes, and provided, also, that twenty-five dollars a day shall be construed by the courts of said state as a reasonable price per day for an auctioneer's license issued under the above provision. The term of no such license shall extend beyond the annual election of officers next after the granting thereof. (G. S. 1894 § 1224 subd. 15, amended '05 c. 138 § 1) [1269]

Historical—G. S. 1894 § 1224 subd. 15 was 1885 c. 146 § 21 subd. 15, as amended by 1889 c. 122 § 2. 124-498, 145+383; 150-228, 184+967.

1188. Council to license public dance halls—That the village council of any village shall have power by ordinance to license and regulate the keeping of public dance halls and the holding of public dances therein, as the same now are or may hereafter be defined by law; provided that such village council may in its discretion permit any lodge or society, not organized or maintained for profit, to conduct public dances without being licensed as herein provided. ('15 c. 190)

For general regulations of public dancing places and public dances see '23 c. 139.

1189. Sewers and drains—Bonds—That all villages now organized under the General or Special Laws of this state, shall have the power and authority to build and construct any and all necessary sewers and drains in any such village, and to build and construct all necessary outlets for the same outside the limits of any such village, and raise money for the payment therefor by issuing the negotiable bonds of any such village, provided, that the question of building and constructing

such sewer and drains and necessary outlets therefor, shall first be submitted to the vote of the people of said village in the same manner as now provided by law in chapter 10, Revised Laws 1905, for the issuance of municipal bonds. That such bonds may be issued in any sum not exceeding the sum of twenty thousand dollars, anything in the charter of said village or in any law of this state which may prohibit the issuing of any bonds in excess of any specified percentage of the taxable property in said city to the contrary notwithstanding. ('07 c. 279 § 1) [1270]

The provisions of R. L. 1905 c. 10, are included in chapter 10 hereof.

1190. Same—Provisions applicable—The provisions of chapter 10, Revised Laws 1905, shall apply to and govern the issuance of any bonds herein provided for, except as modified in this act. ('07 c. 279 § 2) [1271]

The provisions of R. L. 1905 c. 10, are included in chapter 10 hereof.

1191. Free musical entertainments—That the village council of any village of this state is hereby authorized to expend an amount not exceeding fifty dollars annually for free musical entertainment for the public. The said council is hereby authorized to audit the bills for such expenses and allow an order for the payment of the same. ('05 c. 263 § 1) [1272]

1192. Tax for entertainment—That the village council of any village in this state is hereby authorized to annually levy a tax of not to exceed one mill against the taxable property in such village for the purpose of providing musical entertainment to the public in public buildings or on public grounds; provided, however, that in any such village the total sum that may be levied or expended in any one year shall not exceed the sum of five hundred dollars (\$500). ('17 c. 273 § 1, amended '19 c. 146; '21 c. 373)

1193. Change of name of village—That the name of any incorporated village in this state may be changed to the same name as the post-office therein, by an ordinance of such village so declaring, duly and legally adopted by the council thereof, whenever the name of such village as incorporated is different than the name of the post-office in such village, as designated by the United States postal authorities. ('13 c. 493 § 1) [1273]

1194. Effect—Upon the filing of a certified copy of such ordinance with the county auditor of the county in which such village is located, and with the state auditor and secretary of state, the name of such village shall be changed as in such ordinance provided. Such change in name shall in no way affect any liability, obligation, power, duty, law or ordinance, or other matter or thing in any way relating to such village, excepting that the new name of such village shall thereafter be substituted for and used in place of its old name. ('13 c. 493 § 2) [1274]

1195. Meetings of council—Compensation, etc.—Regular meetings of the council shall be held at such times as may be prescribed by the by-laws. Special meetings may be called by two members by writing filed with the clerk, who shall notify the members of the time and place thereof in the manner prescribed by the by-laws. The president, and in his absence any trustee whom the council may select, shall preside, and all meetings shall be open to the public. The council may preserve order at its meetings, compel the attendance of members, and punish non-attendance, and shall be judge of the election and qualification of its members. The president and trustees shall receive one dollar for each day employed as such officers, not to exceed ten dollars in any year. (728) [1275]

1196. Ordinances, how enacted—All ordinances, rules, and by-laws shall be enacted by majority vote of all the members of the council, shall be signed by the president and attested by the clerk, and published once in a newspaper in the county, or, if there be none such, shall be posted in three conspicuous places in the village. Proof of such publication, by affidavit of the printer or foreman in the office of said newspaper, or of such posting by the certificate of the village recorder, shall be attached to and filed with such ordinance, and the same shall be prima facie evidence of the facts therein stated. All ordinances shall be suitably entitled, and in this style: "The village council of do ordain as follows." (729) [1276]

See following section.
82-420, 85+155.

1197. Publication—Effect—All ordinances, rules, and by-laws shall be enacted by a majority of all the members of the village council, and shall be signed by the president, attested by the recorder, and published once in a newspaper published in said village; and if there be no newspaper published in said village, then such ordinances shall be published once in a newspaper published in the county in which said village, or the larger part of its territory, shall be situated; and if there be no newspaper published in said village, or in said county, then by posting them conspicuously in three of the most public places in said village for ten 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 village recorder, 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. All ordinances shall be suitably entitled, and in this style: "The village council of do ordain as follows:" All authorized ordinances and by-laws shall have the force of law, and remain in force until repealed. ('85 c. 145 § 49, amended '05 c. 26 § 1) [1277]

1198. Execution of instruments—Every contract, conveyance, license, or other written instrument shall be executed on the part of the village by the president and clerk, with the corporate seal affixed, and only in pursuance of authority therefor from the council. (730) [1278]

1199. Contracts—Members excluded—Bids —No member of a village council shall be directly or indirectly interested in any contract made by such council, and every violation hereof shall be a misdemeanor. And all contracts involving an expenditure of one hundred dollars or more, if not to be paid from road or poll tax, shall be let to the lowest responsible bidder, after public notice of the time and place of receiving bids. (731) [1279]

Cumulative—See 1909 c. 186, legalizing certain contracts made with members of the council.

45-4, 8, 47+166; 73-146, 75+1042; 93-336, 101+495.

Failure to comply with the statute as to letting contract (98-265, 107+815).

Cited (139+599).

See also 148-273, 181+584.

1200. Control of streets—Each village shall constitute one road district, over which the officers of the town in which it is situated shall have no control. All poll and other road taxes raised within the village shall be expended under the direction of the council. But the county or town board may make such appropriations from its road fund as it shall deem proper for the construction or repair of bridges within such village. (732) [1280]

83-186 188, 36+454, 83-275, 86+103.
133-270, 158+392.

1201. Vacating streets—On petition of a majority of the owners of land abutting on any street or alley or any part thereof, in any village, the council may by resolution vacate the same or any part thereof, if it shall appear for the interest of the public so to do, first giving one week's published and posted notice of a hearing to be had thereon, but such vacation shall not become effective until a certified copy of such resolution shall be filed for record with the register of deeds. (R. L. '05, § 733; amended '09, c. 381, § 1; '27, c. 57, § 1) [1281]

A resolution vacating a street held void, in absence of evidence of compliance with G. S. 1894, § 1246 (114-293, 131+330). 129-261, 152+412.

Certain vacations legalized, '11 c. 178; '15 cc. 158, 248.

1202. Change of name of village streets authorized—The village council of any village in this state, whether organized under a general or special law, may by ordinance or resolution duly enacted, change the name of any street or streets in said village. ('17 c. 415)

1203. Benefit assessments—Cost of land, etc.—The cost of laying out, widening, extending, or opening any street, lane, alley, square, or other public ground or place, of constructing, opening, altering, enlarging, or extending any drain, canal, or sewer, of widening or straightening any watercourse, or of improving any harbor, by any village governed by this chapter, including all damages and expenses incurred by the village in acquiring lands for such purposes by condemnation or otherwise, may be assessed, by a majority vote of the village council, upon such property within the village as it shall determine to be specially benefited by the improvement. (734) [1283]

Cited (101-197, 112+395).

1204. Certain village ditch proceedings legalized—Where the village council of any village of this state, in pursuance of subdivision 8 of section 1268 of the General Statutes of Minnesota for the year 1913, and section 1283, General Statutes of Minnesota for the year 1913, have established and constructed, or attempted to establish and construct, any ditch or drain, all the proceedings for the establishment and construction of such ditch or drain are hereby legalized and made valid, and any assessments or liens levied or created or attempted to be levied or created against the lands benefited by the construction thereof for the cost of the establishment and construction of the same, are hereby legalized and declared to be valid and of full force and effect and a lien against said lands until paid, and all warrants issued under and pursuant to said subdivision of said section 1268 and said section 1283 or either of them are hereby validated. ('17 c. 414 § 1)

Explanatory note—For G. S. '13, §§ 1268, 1283, see §§ 1186, 1203, herein.

1205. Street improvements — Assessments — The council of any village may cause any street therein, or any part thereof to be graded, paved, or otherwise improved, or any sidewalk, sewer, curb, or gutter to be built, rebuilt, or repaired, or in part built and in part rebuilt or repaired, upon a petition therefor signed by a majority of all owners of real estate bounding both sides, and by the owners of at least one-half of the frontage of the street or part of street to be improved, or may order any sewer to be built on any street or part of a street, or any sidewalk, curb, or gutter to be built, rebuilt or repaired, or in part built and in part rebuilt or repaired, on one side of a street or part of a street upon like petition if signed by the

owners of at least one-half the frontage on such side of said street or part thereof to be so improved; and, without any petition, it may order any sidewalk, curb, sewer or gutter previously built to be put in repair, or rebuilt when necessary, and may also, upon petition, cause any street or part of street to be sprinkled when deemed necessary. The cost of such improvement or sprinkling, or any part thereof not less than half, may be assessed and levied, by resolution of the council, upon the lots or parcels of ground fronting on the street, part of the street or side thereof, so improved or sprinkled and most benefited thereby. (R. L. '05, § 735; amended '11, c. 324, § 1; '15, c. 153; '25, c. 309, § 1) [1284]

166-202, 207+309.

124-471, 145+377.

1206. Deficiency—Installments—If the tax so levied proves insufficient to pay the cost, or the proportion thereof assessed to such property, the council may levy an additional tax thereon to make good the deficiency. And if the petitioners for the improvement so request in their petition, the council, in its discretion, may make such assessment payable in five annual installments, and may issue and sell bonds for the aggregate of such installments, the proceeds thereof to be used in paying for the improvement. (736) [1285]

166-202, 207+309.

1207. Mode of assessment of benefit and cost of street improvements—Collection—The assessments authorized in (R. L.) 734-736 shall be made by resolution of the council, setting forth the purpose thereof, a description of each lot or parcel benefited, the name of its owner, if known, and the amount assessed thereon. Two weeks' published and posted notice shall be given of the contents of such resolution, and of the time when the council will attend at its usual place of meeting to hear objections to the assessment, or any part thereof. At such time and place the council shall consider all objections made, and for that purpose may adjourn from day to day, not exceeding three days, and by resolution may modify such assessment, or any part thereof. On October 10 next following, if any of the assessments be not previously paid to the village treasurer, the clerk shall certify the same to the county auditor, who shall extend all such unpaid amounts against the lands assessed, and the same shall be enforced, collected, and paid over to the village treasurer as in the case of other village taxes: Provided, that the owner of the land assessed for a sidewalk improvement may discharge such assessment by laying or repairing the walk to the satisfaction of the council, unless the petitioners, in cases where the council proceeded upon petition, have waived such right. (737) [1286] (Amended '25, c. 309, § 2)

Explanatory note—For R. L. 734-736, see §§ 1203, 1205, 1206, herein.

166-202, 207+309.

124-471, 145+377.

1208. Villages incorporated under Special Laws given authority to sprinkle or oil streets—The provisions of Sections 1284, 1285 and 1286, General Statutes 1913 [1205-1207], relating to the sprinkling or oiling of streets in villages organized or re-organized under the provisions of Chapter 9 of said General Statutes and the assessment of the cost of such sprinkling and the levy of taxes to pay the whole or a portion of such cost and the payment and collection of such assessments, all as provided for in said sections, shall extend to and be applicable in all villages incorporated under any special law or laws of the state. If the village council of any such village shall cause any street or

part of street therein to be sprinkled, it shall proceed in accordance with the provisions of said sections, anything in the charter of such village, or any special law of the state to the contrary notwithstanding. ('17 c. 48)

1209. Sewers in villages in certain counties—Whenever the state board of health shall deem necessary for the preservation of public health, that sewers be constructed in any village in any county in the state of Minnesota now or hereafter having a population of two hundred and seventy-five thousand or over, according to the then last preceding official national or state census, and shall so recommend to the village council, or other governing body of such village, such village council or other governing body may, by ordinance passed by the affirmative vote of at least three-fifths of all members thereof, and are hereby authorized and empowered to, construct such sewers and appurtenances thereto as the state board of health may recommend; to assess the property specially benefited thereby, and without any further authority may issue and sell bonds for the payment of the same; provided, that no contract for the construction of the same, or any part thereof where the expenditure will be more than one hundred dollars, shall be entered into, unless an advertisement shall be published for bids on the same, to be published at least once each week for three successive weeks, and the village council or other governing body shall have authority to prescribe such terms and conditions relative to the making of such bids for such contracts and relative to the security which each bidder shall be required to deposit with such bid, as such council or other governing body shall deem expedient and proper, and they shall have authority to reject any and all bids. ('09 c. 363 § 1) [1287]

1210. Bonds, how issued and sold—The bonds of any such village, issued pursuant to the terms of this act, may be issued and sold from time to time as determined and authorized by ordinance or resolution adopted by the affirmative vote of at least three-fifths of all the members of the village council, or other governing body of such village, and at such place or places, and in such installments as may be provided in such resolution or ordinance, and shall bear interest at not to exceed five per cent per annum, and no such bonds shall be issued so as to make the aggregate of such bonds for which such village may be liable at any one time to exceed the sum of fifteen mills for each dollar of the assessed valuation of the taxable property in such village. Such bonds shall be sealed with the seal of the village issuing them, and be signed by the president and the village recorder, and such bonds shall not be sold for less than par value and accrued interest, to the highest responsible bidder after notice published once each week for three successive weeks in some newspaper published in the county in which the village is situated. ('09 c. 363 § 2) [1288]

1211. Proceeds, how used—None of the proceeds of any of the bonds issued pursuant to the provisions of this act, nor any part thereof, shall be used for any other purpose than the purposes hereinbefore specified, which purpose shall be distinctly set forth in the ordinance or resolution authorizing the same. ('09 c. 363 § 3) [1289]

1212. Limitation of indebtedness—None of the bonds of any such village, issued pursuant to the terms and provisions of this act, shall be deemed or taken to be a part of the indebtedness of such village within the purview of any law limiting the amount of the bonded or other indebtedness of any such village, and the bonds authorized by this act may be issued notwithstanding

and without regard to any limitation of the indebtedness of such village. Nevertheless, the full faith and credit of every such village is pledged to the full payment of all such bonds and interest. ('09 c. 363 § 4) [1290]

1213. Assessment for benefits—Such village council or other governing body shall have the power and authority to assess the property specially benefited by the construction or extending of such sewer for the cost of the same, or any portion thereof, including all damages and expenses incurred by such village in construction of such sewer and appurtenances, together with cost and expense of acquiring lands for such purposes, by condemnation or otherwise. ('09 c. 363 § 5) [1291]

1214. Same—Assessments, how made—The assessments authorized by this act shall be made by resolution of such council or other governing body, setting forth the purpose thereof, a description of each lot or parcel benefited, the name of its owner, if known and the amount assessed thereon. Two weeks' published and posted notice shall be given of the contents of such resolution, and of the time when the council will attend at its usual place of meeting to hear objections to the assessment, or any part thereof. At such time and place the council or other governing body shall consider all objections made, and for that purpose may adjourn from day to day, not exceeding three days, and by resolution may modify such assessments or any part thereof. On October 10th next following, if any of the assessments be not previously paid to the village treasurer the recorder shall certify the same to the county auditor, who shall extend all such unpaid amounts against the lands assessed, and the same shall be enforced, collected, and paid over to the village treasurer as in case of other village taxes. ('09 c. 363 § 6) [1292]

1215. Road labor—Every male inhabitant in any village in this state organized and operating under general laws, between the ages of twenty-one and fifty years, except paupers, insane persons and others exempted by law, shall be assessed not less than one nor more than four days' labor in each year. ('09 c. 189 § 1) [1293]

1216. Same—Number of days' labor, how determined—Within twenty (20) days after the annual village election, the village council or governing board shall meet and determine by resolution the number of days of road labor to be assessed against the persons liable therefor in said village for the ensuing year, and shall make a list of all persons in said village liable for road labor, and shall place opposite the name of each person thereon, the number of days of road labor assessed against him, and such list shall be signed by the president and clerk or recorder of such village, and filed with the clerk or recorder thereof, who shall deliver a certified copy thereof to the street commissioner of such village. Such street commissioner may add the names of persons omitted from such list and all new residents that are liable for road labor to the certified copy in his hands, and thereupon such persons shall be liable for the number of days' road labor fixed by such resolution, the same as if their names had been placed on such list before the same was made and filed. ('09 c. 189 § 2) [1294]

1217. Notice—Commutation for labor—The street commissioner shall give at least three days' notice to all the persons assessed for road labor, of the time and place when and where they shall appear for work and with what tools. Such persons may appear personally or by able-bodied substitutes, or they may elect to commute for the same or some part thereof. Commu-

tation for labor shall be at the rate of \$1.50 per day, to be paid to the street commissioner within two days after notice to appear for work. All moneys paid to the street commissioner for labor commuted shall be at once paid by such street commissioner into the village treasury and shall be credited to the road and bridge fund of said village. ('09 c. 189 § 3) [1295]

1218. Same—Annual report of street commissioner—On or before December 1st in each year, the street commissioner shall render to the village council or governing board of such village, a report in writing containing:

- 1. The names of all persons assessed to perform road labor with the number of days each has worked.
- 2. The names of all persons who have commuted and the amount received for such commutation.
- 3. The names of all persons who have been fined and the amount of each fine, and whether the same has been paid.
- 4. An itemized account of all moneys paid out by him and the balance remaining in his hands.

He shall then pay over the balance to the village treasurer to be credited to the road and bridge fund of said village. ('09 c. 189 § 4) [1296]

1219. Failure to perform labor—Penalty—Every person assessed to perform road labor in any such village on roads and streets thereof who neglects to appear and perform such labor when duly notified and does not pay his commutation therefor, shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than twenty-five dollars. ('09 c. 189 § 5) [1297]

1220. Prosecution—When no satisfactory excuse is rendered to the street commissioner for such neglect or refusal, he shall within nine days after notice has been served, as herein provided, make a complaint to a justice of the peace of such village, and if there be none in such village, then to some justice of the peace of the county in which the village or some part thereof is situated, who shall forthwith issue a warrant directed to the sheriff or any constable of the county, requiring him to arrest such citizen and bring him before such justice to be dealt with according to law. ('09 c. 189 § 6) [1298]

1221. Disposal of fines—All fines collected under the provisions of this act shall be paid by the justice of the peace into the village treasury of the village in which the offense was committed and credited by such village treasurer to the road and bridge fund of such village. ('09 c. 189 § 7) [1299]

1222. Claims, how audited and paid—Interest—No money demand against such village shall be paid until audited and allowed by the council, nor otherwise than by an order drawn upon the treasurer therefor. Such demand shall be made out in items, and be verified by an attached affidavit that the claim is just and correct, and that no part of it has been paid. The clerk shall indorse thereon the word "Disallowed," if such be the fact, or, "Allowed in the sum of \$.....," if approved in whole or in part; specifying in the latter case the items rejected. Such accounts and affidavits shall be filed by the clerk, and consecutively numbered throughout the year. Each claim allowed shall also bear the number of the order drawn for its payment, and the clerk shall take and preserve a receipt for each order issued. Orders presented to the treasurer and not paid for want of funds, shall be so marked, and paid in the order of their presentation, and shall bear interest at the rate of six per cent from the date of such presentation. (738) [1300]

Cited (119-60, 137+192)

Does not apply to claims for damages to land on ac-

count of change of grade of a street. (142-94, 170+924; 143-269, 173+424; 151-206, 186+306).

1223. Taxpayer's appeal—No order shall be issued or signed for the payment of any claim until ten days after the allowance thereof, within which time any five taxpayers of the village may appeal from such allowance to the district court of the county. To effect such appeal, they shall pay to the clerk a fee of fifty cents, and serve upon him a notice setting forth the fact of the appeal, the claim referred to, and the date and amount of its allowance, and thereafter no order shall issue until the appeal is determined. The clerk shall forthwith file the copy of notice served, and transmit to the clerk of said court the original affidavit and claim, with a certified copy of the minutes of all council proceedings relating thereto. Upon proof being filed with said clerk of the service of said notice, the court shall have jurisdiction of said claim, and of the parties thereto. Such appeal shall be tried and determined in the same manner as appeals from a decision of the county board. (739) [1301]

1223
246nw 581

1224. Financial report—The council shall make an annual report showing the items and nature of all accounts, and to whom allowed, together with a detailed statement of the financial concerns of the village. Such report shall be filed with the clerk, and a copy shall be posted at the time and place of the annual election. (740) [1302]

1225. Tax levy—Annually on or before September 15 the council shall determine by resolution the amount of corporation taxes to be assessed, which shall not exceed two per cent. of the assessed valuation of the property taxable in the village. Before levying a tax for any special purpose, the council may submit the question of levying the same to the voters at a general or special election, and it shall be bound by the vote thereon. On or before October 10 in each year the clerk shall certify all such resolutions to the county auditor. (741) [1303]

61-233, 63+628.

1226. Dissolution, how accomplished—Any village governed by this chapter may be dissolved by a majority vote of its electors, cast at a special election called for that purpose. Such election shall be duly held whenever a number of the voters equal to one-third of those voting at the preceding village election shall petition the council therefor. The ballots used shall bear the printed words "For dissolution," and "Against dissolution," with a square after each, in which the voter may indicate his preference by a cross. The election shall be called and conducted, and the result thereof certified to the county auditor, as required in the case of a vote upon a proposed issue of town or county bonds. If the dissolution be carried, the auditor shall certify the vote to the state auditor and to the secretary of state, and at the end of six months after the date of such election the village shall cease to exist as such. (742) [1304]

Dissolution of certain villages where result of election was not certified as required, legalized, '17 c. 296.

1227
33 — 220

1227. Settlement of affairs—Within said six months the council shall dispose of the village property, adjust all claims against the village, settle with the treasurer and other village officers, and cause the assets of the village to be applied to the payment of its debts. If anything remain, it shall designate the manner in which the same shall be used, and, if any debts be unpaid, shall levy a tax sufficient for such payment, the proceeds of which, when collected, shall be paid by the

1222
29 — 303
220nw 007
766
1222
29 — 299
242nw 6

county treasurer to the creditors in proportion to their several claims until all are discharged. (743) [1305]
125-280, 146+974.

1228. Funds of dissolved village corporations—That whenever any village heretofore existing under the laws of this state shall have been dissolved in the manner provided by Sections 1274 and 1275 Revised Laws of Minnesota for 1905, and the council of any such village shall have wholly failed and neglected to designate the manner in which the money assets of such village remaining after the payment of all the debts of such village, and the settlement with the treasurer and other officers thereof, shall be used or otherwise disposed of, and funds belonging to said village shall remain in the hands of the last treasurer of said village, or to the credit of the treasurer of such village, or to the credit of such village, in the bank where such funds were on deposit at the time of the dissolution of such village, such treasurer or the bank where such funds were on deposit at the time of the dissolution of such village, is hereby authorized and directed to forthwith pay over all of such funds to the county treasurer of the county in which such village was located, and the receipt of such county treasurer shall be full and final receipt and release for such funds. That upon the receipt of any such funds as hereinbefore provided, the county treasurer and county auditor of such county shall credit such funds to such village on the books of their respective offices, and within six months thereafter the county auditor of such county shall draw his warrant in favor of the township in which such village so dissolved was located, for the full amount so received by such county treasurer for the credit of such village, after deducting from the amount so received such overdrafts or other sums as may be due to such county from said village for tax refunds or otherwise, and said county auditor shall forthwith deliver such warrant to the treasurer of such township, who shall credit the proceeds thereof to the general fund of such township. ('17 c. 193 § 1)

Explanatory note—The reference to R. L. '05, §§ 1274, 1275, is intended to refer to G. S. '94, §§ 1274, 1275, which sections are §§ 1226, 1227, herein.

1228½ Not to affect actions already commenced—This act shall not affect any action now pending involving any such funds as are hereinbefore referred to. ('17 c. 193 § 2)

1229. Water and light plants—Any village, whether governed by this chapter or otherwise, may erect water-works, (and) lighting plants and heating plants, for supplying water, (and) light and heat for public purposes, or for the private use of its inhabitants, or both, and may conduct and control the same, and fix and collect proper and uniform charges for such private supply, or it may purchase or lease any such works or plant already erected, and operate the same for the purposes aforesaid. But no such erection, purchase, or lease shall be made without approval by the voters of the village, such as is required by law for the issuing of village bonds for like objects. The proposal so to do, and a proposal to issue bonds to raise money therefor, may be submitted either separately, or as a single question. (R. L. § 744, amended '13 c. 486 § 1) [1306]

73-225, 230, 75+1050; 83-275, 86+103; 93-336, 101+495.

A municipal corporation maintaining an electric distributing plant owes to the public the duty of so inspecting and maintaining the same as to prevent change and deterioration from natural causes resulting in a dangerous condition. Where injury occurs because of a defect which could have been prevented by inspection, and there is a total failure to inspect for 17 months, the municipal corporation is negligent, and liable accordingly. 157-228, 196+171.

1230. Water, light and heating plants—Purchase—Bonds—Any village in this state wherein is now constructed a public water, light and heat plant, or water or light or heating plants, not owned by the village, may by resolution or ordinance of the village council, passed and approved in the usual manner, purchase such plants or any of them and issue bonds running not to exceed twenty years and bearing interest not to exceed five per cent per annum, payable semi-annually, for the purchase price or any part thereof and secure the same by lien in the form of a mortgage securing payments of the bonds upon the plant so purchased and extensions thereof and additions thereto. A written contract pursuant to and in addition to the resolution or ordinance may, if desired, be entered into between the village through its president and recorder and the persons or corporation selling the plant. ('09 c. 15 § 1) [1307]

1231. Submission to electors—Before such resolution or ordinance or contract shall take effect the same shall be submitted to the village electors at a regular village or state or special election and approved by two-thirds of those voting thereon. The ballots may be substantially as follows, to-wit: "For the purchase of a water, light and heating plant" (or the plant which is proposed to be purchased); or "Against the purchase of a water, light and heating plant" (or the plant which is proposed to be purchased). ('09 c. 15 § 2) [1308]

1232. Price, how paid—Any part of the purchase price may be paid in cash, and it may if desired be provided in the bonds that any bond may be paid at any interest day, at the option of the village. ('09 c. 15 § 3) [1309]

1233. Power to employ attorney—The village council may, if desired, employ attorneys for consultation in regard to said ordinance, contract and bonds. ('09 c. 15 § 4) [1310]

1234. Bonds or loan from state—The bonds so voted may be sold to the highest bidder for not less than par or a loan obtained from the state of Minnesota in the manner provided by law for the loan of state funds to the amount thereof or for a less amount and the amount to be paid for such plant in cash from the proceeds if such course be deemed desirable by the village council, or partly in cash and partly by the issue of bonds secured on the plant as hereinbefore provided. ('09 c. 15 § 5) [1311]

1235. Operation of plants—After such plant is acquired, the village council shall make all necessary rules and regulations for the protection, maintenance and operation thereof, and the sale of its product and use of the proceeds which shall not be expended for any purpose not connected with such plant, until such bonds are paid. ('09 c. 15 § 6) [1312]

1236. Water-works—Special tax for mains—The village council of any village now or hereafter having a water-works system shall have power to levy a special tax upon all property especially benefited thereby, in front of which any water-main shall be laid. ('11 c. 346 § 1) [1313]

1237. Payment of installments—The same may be divided up into five annual installments and shall not exceed the sum of one dollar and seventy-five cents per lineal foot of pipe laid in front of each lot or parcel of land, against each tract of land, such installments to bear interest at the rate of six per cent per annum from the date of confirmation of such assessment until paid, and the same shall be a lien upon such land from the time the tax is levied by the village council as hereinafter provided; provided, however, that no lot or parcel of land shall be subject to such tax after five

annual assessments have been levied, except as hereinafter provided. ('11 c. 346 § 2; amended '21 c. 72; '23, c. 236) [1314]

Levy of interest on installments, validated, '21 c. 59.

1238. Petition—Service-mains—The village council shall proceed to act upon the petition of three or more owners of lots or of a majority of the frontage, where the same is unplatted, fronting on any street or block, where it is proposed to install such water-mains. In case of a service-main to connect either with the water-system of such village, or any adjoining municipality as hereafter authorized the village council may proceed upon its own motion. ('11 c. 346 § 3) [1315]

Where it appears that a village council by motion directed an inch water pipe to be laid in one of its streets for the purpose of supplying water from the water main to generate acetylene gas for its lighting plant located at its town hall, and afterwards by motion permitted relator and others to tap this one-inch line so laid, the village council by motion could abandon said pipe line, and revoke the permit granted relator. 212+899.

1239. Notice—Hearing—Assessment and levy—The village council in either of such cases shall fix a time and place for the hearing, and of the proposed tax levy of such water frontage tax for the hearing of all objections thereto, and give two weeks published notice thereof in accordance with the prescribed method of publication of ordinances of such village council.

At the time and place so fixed in such notice, the council shall meet and hear any objections thereto and determine whether such improvement is necessary or proper, and shall then make an assessment upon all property so fronting on such proposed water-main subject to such levy, which assessment shall state the amount levied per front foot, the name of the owner or reputed owner and the legal description by which said land is known.

Such assessment and levy shall thereupon be filed with the village clerk and a two weeks published notice of the time and place shall be given in the same manner heretofore provided, when the said council will meet, hear, and determine any objections to such levy. At such time and place so fixed, the council shall meet and hear all persons; and may adjourn from time to time not exceeding three days, unless the hearing of such objections thereto shall not then be completed, in which case it shall continue in session daily until such hearing may be completed. On such hearing it may in any manner modify its levy as may appear proper. ('11 c. 346 § 4) [1316]

212+899, note under § 1238.

1240. How extended and collected—On or before the 10th day of October thereafter, the village clerk shall make up and file a statement duly certified to by him, showing the frontage tax assessment so levied against each piece or parcel of land, with the county auditor, of the county in which said village is situated, as special taxes to be by him extended and collected against said land, and thereupon such auditor shall extend the same on his tax-rolls against such property, and shall collect, enforce and pay over the same to the village treasurer of such village in the same manner as all other village taxes. ('11 c. 346 § 5) [1317]

1241. Disposition of money—All moneys so collected on account of such frontage tax, shall be kept separate and distinct for the purpose of constructing and paying for any water-mains, or any bonds that may have been issued for such purpose, in accordance with this act. ('11 c. 346 § 6) [1318]

1242. Bonds—Deficiency tax—If the village council shall determine such to be necessary it may when law-

fully authorized by the voters of such municipalities bond, for the aggregate of such installments of frontage tax, drawing not to exceed five per cent interest per annum, and payable within fifteen years from date of issue payable on or before the due date thereof out of such frontage tax or any other revenues derived from the water fund of such village, applicable thereto, the proceeds of such bonds to be used for the installation of such water-mains.

Should the frontage tax levied at the outset prove insufficient to pay for such improvement, or the bonds issued in payment therefor, then a deficiency tax for such frontage may be levied, which including the first tax levied shall not exceed in the aggregate the full amount of twenty cents per running foot, for five years annually. Such bonds if issued shall not be counted as a part of the bonded debt of such village, but the faith and credit of such village shall be pledged for the payment thereof.

Should the frontage tax levied at the outset prove insufficient to pay for such improvement, or the bonds issued in payment therefor, then a deficiency tax on such frontage may be levied, which including the first tax levied shall not exceed in the aggregate the full amount of ten cents per running foot, for ten years annually. Such bonds if issued shall not be counted as a part of the bonded debt of such village, but the faith and credit of such village shall be pledged for the payment thereof. ('11 c. 346 § 7) [1319]

1243. Estimates—Submission to voters—Before such village council shall have power to finally fix the assessment to be levied against the property abutting on such water-mains as provided in section four (4) of this act, and make contracts, therefor, it shall obtain detailed estimates of the cost of installing the same, and may for such purpose employ a competent engineer therefor, and shall make a careful estimate of the amount that will be realized from such frontage tax to be levied and if it shall appear that the same will not be sufficient to pay the expense of the installation of such water-mains and that for such purpose it will be necessary to issue the bonds of such village, then before the said council shall proceed any further with such assessments or installation, it shall submit the question of issuing the bonds necessary to pay any deficiency, to the voters of the village in accordance with the provisions of section 744 of the Revised Laws of 1905 [1229], fixing the amount of bonds to be voted for such purpose. Such bonds shall be payable out of the general funds of such village, raised by taxation or other sources. If such bonds shall be voted by the village, the council shall then proceed further as heretofore provided. ('11 c. 346 § 8) [1320]

1244. Contract with adjoining municipality—The village council of any such village may also enter into contracts with any adjoining municipality, for the furnishing by it of water to the citizens of such village, and the laying of water-mains in the streets of such village. Thereupon such adjoining municipality shall have power to lay water-mains under the direction of such village council in the streets of such village and may furnish it and its citizens with water therefrom, and all of the provisions of this act relative to petitions, frontage-tax notices, tax levy assessments, statements regarding such frontage tax, the collection thereof, the issuance of bonds and all other provisions of this act for the purpose of paying for such water-mains shall be followed, the same as if said water-mains were laid and said water was furnished directly by such village from its own water-plant system. ('11 c. 346 § 9) [1321]

1245. Water and light plant—Special tax in certain villages—That the village council or governing body of any incorporated village in this state, whose water and light plant is operated and controlled by a water, light and building commission, is hereby authorized, annually, at the time of levying the general corporation taxes, to levy a special tax not exceeding five mills on each dollar of the taxable property in such village, for the purpose of paying the cost of operating the village water and light plant in supplying such village with the necessary water for fire protection and street sprinkling and the necessary electric current or other means of light, for lighting the streets and public parks in such village. ('13 c. 214 § 1) [1322]

1246. How collected, etc.—Such tax shall be known as "the village water and light tax" and shall be levied and collected in same manner as the general corporation taxes, anything in the charter of such village or in any law of this state, which may prohibit the levying of any tax in excess of any specific percentage of the taxable property in such village, to the contrary notwithstanding. When collected, such tax shall be paid into the water and light fund of such village. ('13 c. 214 § 2) [1323]

1247. Estimate of cost—Before making such special tax levy, the water, light and building commission of such village each year, shall at the request of the village council on or before the following first day of August, make and file with the village recorder (clerk) a statement containing an estimate of the probable cost of supplying such village with the necessary water and light for the ensuing year. ('13 c. 214 § 3) [1324]

1248. Village authorized to abandon, sell or lease water works and lighting plants on submission of proposition to vote—Any village, in this state wherein there is constructed and in operation water works and lighting plant, or water works or lighting plant, for supplying water and light, or either of them, for public purposes or for the private use of its inhabitants, or both, owned by any such village, may by resolution or ordinance of its governing body, passed and adopted in the usual manner, sell, lease, or abandon any such plant or any specific part thereof; if a specific part of any such plant is to be sold, leased, or abandoned, such resolution shall state the specific part to be so sold, leased, or abandoned. Before any such resolution or ordinance shall become effective the same shall be submitted to the legal voters of such village at a regular village election or special election therein and approved by a majority vote of the electors voting thereon at any such election. The ballots at any such election shall be printed and contain in full the resolution to be voted upon and thereon immediately following the resolution there shall be printed in appropriate manner the words "yes" and "no" on separate lines, and every voter desiring to vote in favor of such proposition shall thereupon make his cross (X) mark opposite the word "yes," and every voter desiring to vote against such proposition shall make such mark opposite the word "no." Such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for village officers. ('15 c. 79 § 1)

1249. Proper officers to carry out will of majority of voters—Thereupon if any such proposition shall be declared adopted and carried at any such election, the proper officers of any such village shall forthwith proceed to carry out the same according to such resolution. ('15 c. 79 § 2)

Village ordinances, contracts and grants of franchise for water works, gas, electric light, heat and power

plants in certain cases in villages in counties of 225,000 inhabitants and over, legalized, '05 c. 169.

The acts and proceedings of villages in the matter of constructing streets, avenues, alleys, sidewalks, sewers, and water works or water plants, between October 15, 1909 and March 8, 1911 legalized in certain cases, '11 c. 229
Proceedings of villages in the matter of constructing water works and laying water mains had between July 1, 1913 and January 1, 1915, legalized, '15 c. 70.

1250. Property owners required to connect with water and sewer systems in villages—Whenever any village in the State of Minnesota, having power to do so, installs, builds and constructs a municipal sewer and water plant within its corporate limits along any public street or alley, it shall be the duty of every owner or occupant of any abutting property platted into lots and blocks having a dwelling house or business property situate thereon to install a toilet in said dwelling or business property, and make connection thereof with the water and sewer in the street or alley adjacent thereto, within thirty days after written notice is given to such owner or occupant to install such toilet and make such connection by the governing body of such village, and the authority to give such notice may by ordinance of such village be delegated to any elective or appointive officer of such village and when the owner or occupant of any property so notified in writing to install a toilet and make sewer and water connection shall for thirty days after such written notice is given, and proof of the service of such notice shall fail, refuse and neglect to make such connection and install such toilet, such governing body may by resolution direct that a toilet be installed and connection made with sewer and water and that the cost of said installation be paid in the first instance by the village out of the general fund of revenue, and the actual cost thereof assessed against the said property benefited; after such installation and connection is completed there shall be served a written notice of such assessment and an order directing the owner or his or her representative of such property to pay said assessment and within ten days after the service of said written notice, to the treasurer of such village, and after proof of such notice and order and that assessment has not been paid within said ten days the same shall be certified to the county auditor for collection as other assessments for benefits except that such assessment may be spread over a term of three years if so requested when certified, and shall become a lien upon said property until paid. ('17 c. 203 § 1)

1251. Penalty for failure to make connection—Any person who shall in any way interfere with the carrying out of the provisions of this act shall be, when convicted subject to punishment by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100) dollars, or to imprisonment in the county jail for not more than three months or by both fine and imprisonment at the discretion of the trial court. ('17 c. 203 § 2)

1252. Purchase of electrical energy—All villages in the state of Minnesota are hereby authorized and empowered to contract with any person, firm, corporation or municipal corporations for the purchase of electric energy for municipal purposes and to be distributed and supplied by such municipality to the inhabitants thereof. ('13 c. 317 § 1) [1327]

1253. Contract, how made—Term—Such contract shall be made by the common council, or other governing body of such municipality by a two-thirds vote of all of the members of such council or governing body, and may be for a period not exceeding fifteen (15) years from the time when such person, firm, corporation or municipal corporations shall commence to furnish such

electric energy, which time shall not be more than two years from the date of such contract. ('13 c. 317 § 2) [1328]

1253-1. Sale of surplus electricity—Any village of this state now or hereafter owning and operating an electric light and power plant for the production and distribution of electricity, hereby is authorized and empowered to dispose of any surplus electricity so produced to consumers desiring the same residing outside the corporate limits of such village, at such rates and upon such terms as the village council may deem proper. ('19, c. 313)

1254. Connecting street railways—The council of any such village may grant to individuals or corporations the right to construct street railways upon its streets, and to operate the same by other than steam power, for the purpose of connecting such village with outside places or territory. But nothing herein shall authorize any exclusive franchise for such purpose, nor any franchise for more than twenty-five years. All such franchises heretofore granted, and all acceptances thereof, are hereby confirmed. (745) [1329]

A street railroad franchise cannot be granted to a real estate corporation (119-77, 137+395).

1255. Parks and parkways in certain villages—Board of park commissioners—Submission to voters—Election—Terms—Any village now or hereafter located in any county of the state now or hereafter having a population exceeding two hundred and twenty-five thousand inhabitants, is hereby authorized to create a board of park commissioners, and to acquire, govern and administer lands for parks and parkways by proceedings in the manner provided in this act. The city council of such village may submit to the voters thereof at any general election or at any special election ordered for the purpose, the question whether to adopt the provisions of this act. The vote shall be by ballot, the form of which shall be as follows:

For a park and parkway system and the election of a board of park commissioners.

Yes
No

Those voting in the affirmative shall make a cross after the word "Yes," and those voting in the negative after the word "No." If a majority of the votes cast upon that question are in the affirmative the provisions of this act shall be deemed to be adopted, otherwise not. The village council shall at the said election provide for the election of three park commissioners, and prescribe the form of ballots in accordance with the general election law. If the provisions of this act are adopted by the vote taken as aforesaid, the three candidates receiving the highest number of votes shall be elected as park commissioners. The one receiving the highest vote shall hold office until the third annual village election next ensuing; the one receiving the second highest, until the second annual village election next ensuing; and the one receiving the third highest until the first annual village election next ensuing, and until their respective successors are elected. Thereafter one park commissioner shall be elected at each annual village election to serve for three years, and until his successor is elected and qualified. The newly elected park commissioner shall take office at the same time as the newly elected members of the village council. Each park commissioner shall before entering on the duties of his office, subscribe and file with the village recorder an oath faithfully to perform his duties as such park commissioner and to the best of his ability. ('05 c. 167 § 1) [1330]

1256. Officers—Vacancies—The said park commis-

sioner[s] shall constitute a department of the village government, by the name of the board of park commissioners of the village of They shall elect one of their own number annually as chairman and shall make rules for their meetings and for the conduct of their business. In case a vacancy occurs it shall be filled by election by the village council until the next annual village election when a park commissioner shall be elected to fill the unexpired term. The village recorder shall be the recording officer of the board. ('05 c. 167 § 2) [1331]

1257. Duties and powers—It shall be the duty of such board of park commissioners to devise and adopt a system of parks and parkways for the village, and from time to time to add thereto. The board shall have power to acquire lands for parks and parkways by gift, devise, lease, purchase and dedication, to administer and govern the same as parks and parkways, and to ordain and establish rules and ordinances to secure the quiet, suitable and appropriate use thereof. The lands so acquired shall be held for public use as parks and parkways. ('05 c. 167 § 3) [1332]

1258. Tax levy—Park fund—What land may be taken—Regulating traffic—The village council shall annually at the time of levying other village taxes, levy such sum as it shall deem necessary, not to exceed one mill upon the dollar of taxable property of the village, for park purposes and such taxes shall be collected with an[d] as a part of other village taxes, and paid into the village treasury, and set apart as a village park fund. The board of park commissioners shall have power to expend such fund in the acquisition, maintenance and improvement of parks and parkways. All warrants drawn upon such fund shall be accompanied by receipted vouchers showing the purpose for which the warrant is drawn, and shall be signed by the president of the board and by the village recorder, and countersigned by the president of the village council. The board of park commissioners may with the consent of the village council, take any land within the village, which has been acquired or dedicated as a public park or common, and thereafter administer and govern the same as if acquired by purchase under the provisions of this act. The board of park commissioners may also, with the consent of the village council, take as a parkway any street or highway or portion thereof, and thereafter administer and govern the same in all respects and with like powers as if it had been originally acquired as a parkway under the provisions of this act. The board of park commissioners shall have power to regulate, control and govern the traffic upon and over any parkway, and may exclude therefrom all vehicles excepting those in use for carrying passengers, or impose lesser restrictions thereon as it may deem best. ('05 c. 167 § 4) [1333]

1259. Prosecution of offenses—Penalties—All offenses against ordinances of the board of park commissioners may be prosecuted before any justice of the peace or municipal court of the county. The penalty for violating such ordinance shall be by imprisonment not exceeding ninety days or by fine not exceeding one hundred dollars for each offense; and in case the fine is not paid, by imprisonment not exceeding ninety days. ('05 c. 167 § 5) [1334]

1260. Eminent domain—Special assessments—For the purpose of acquiring lands for parks and parkway purposes, the village shall have the power of eminent domain, and the power of levying special assessments to be exercised in the manner prescribed by sections 214 to 242 inclusive, and sections 261 to 266 inclusive of chapter 8 of the General Laws of Minnesota for 1895. The proceedings therein provided for shall be

conducted by the village council and the duties prescribed to be performed by the city controller and the city clerk by said chapter 8, shall be performed by the village recorder. Duties prescribed to be performed by the city engineer and city treasurer may be performed by any engineer employed by the city council, and by the village treasurer respectively. Notices may be published in any newspaper published in the village. ('05 c. 167 § 6) [1335]

Explanatory note—For Laws 1895, c. 8, as amended, see notes at the end of this chapter (c. 9).

1260-1. Park districts in certain villages—Tax levy on property therein—The council of any village situate in a county now or hereafter having 380,000 or more inhabitants hereby is authorized and empowered by petition of fifty per cent of the property holders, and by resolution duly adopted and published to divide such village into two or more park districts and fix the boundaries thereof, and thereafter to levy and collect general taxes upon all the property in the respective districts subject to general taxation in such respective amounts as may from time to time be fixed by the council and to appropriate and expend the proceeds of such taxes for maintaining and improving public parks situated in such respective district; provided, that not more than \$1,000.00 shall be levied upon the property in any such district in any one year. ('27, c. 358)

1261. Docks, boat houses, etc.—Contracts and leases—The board of park commissioners shall have power to erect docks, boat houses, bath houses, refreshment booths, amusement halls, pavilions and other structures for the comfort of the people, and to operate and administer the same and to make reasonable charges therefor. The board shall also have power with the consent of the village council to make contracts and leases for the construction and operation of such buildings for terms not exceeding ten years. Every such contract and lease shall provide that the structure shall be operated for the public use and convenience, and that the charges shall be reasonable, and shall reserve to the board of park commissioners power to prescribe reasonable rules and regulations from time to time for the conduct of the privilege. ('05 c. 167 § 7) [1336]

1262. Lease to private club—In case any such park or parkway shall embrace the shore of any navigable lake, the board shall have power to lease to private clubs the privilege of occupying limited areas in the bed of the lake adjacent to such shore for club house purposes, for periods not exceeding ten years in any case. The space to be occupied by any one private club shall not exceed one acre. No such club house shall be located so as to interfere with navigation. Every such lease shall reserve to the board full power and authority to make from time to time reasonable rules and regulations to secure quiet and good order on the premises. The lessee in such case shall have power to retain the club house for the use of its own members and guests. Every area so leased shall be subject to all the ordinances of the village, and in particular to the ordinance relating to the sale and use of malt and intoxicating liquors. ('05 c. 167 § 8) [1337]

1263. Acquiring of land for dock and warehouse purposes by villages authorized—That any village in this state now or hereafter located upon any international navigable body of water is hereby authorized to acquire by purchase or condemnation such land bordering on any international body of navigable water, as the council of such village shall determine to be necessary for the use of said village for a public dock and warehouse or either of the same; and to construct and maintain on such tract of land a public dock

or warehouse or either of the same under such rules and regulations for the use of said dock or warehouse as the village council of said village shall by ordinance provide. ('17 c. 36)

1264. Certain warrants in excess of debt limit legalized—In all villages where the village council have heretofore ordered and there has been issued and delivered to third parties who have given value therefor warrants in excess of the legal limitation, therein, for the purpose of building bridges costing not over twenty thousand dollars, and said warrants or orders have been sold at their face value, and the entire money used for the construction of such bridge or bridges, the acts of such village council are hereby legalized. ('07 c. 189) [1338]

1264-1. Bonds for funding floating indebtedness—Maximum limit—Any village in the State of Minnesota is hereby authorized to issue bonds of such village to fund the outstanding floating indebtedness thereof as represented by its orders or warrants outstanding and unpaid on February 1, 1927; provided, however, that the aggregate face value of the bonds which shall be issued by any village under the provisions of this act shall not exceed the sum of \$15,000.00. ('27, c. 80, § 1)

1264-2. Same—Submission to vote—Before any bonds are issued under the provisions of this act, the issuance of such bonds shall be authorized by a resolution adopted by the affirmative vote of all the members of the village council. Said bonds shall bear interest at not to exceed six per cent per annum, payable semi-annually, shall mature serially in approximately equal amounts each year, the last of which installments shall be not more than ten years from the date of issue and the first of which installments shall be not more than two years from the date of issue, shall be signed by the president and countersigned by the clerk or recorder and shall be sold for not less than their par value and accrued interest in such manner and the bonds shall be in such form as the governing body shall direct.

Provided, that no such bonds shall be issued unless the village council issuing such bonds shall pass the resolution authorizing the issuance thereof under this act within 90 days after the passage and approval of this act. Provided, that nothing in this act shall be deemed to abridge or repeal existing provisions of law relating hereto. All bonds issued hereunder shall be sold in accordance with the provisions of Chapter 10, General Statutes 1923, ('27, c. 80, § 2)

1264-3. Acquisition of land for park purposes—Area—The village council of any village in the state may by resolution or ordinance acquire, by gift or purchase for or in the name of the village, a tract of land, either within or without the corporate limits of the village, for park purposes and may appropriate money from the general revenue fund of the village for the purpose of purchasing such tract of land, not exceeding the sum of two thousand dollars; provided, that no tract of land so acquired by purchase or condemnation shall exceed forty acres in area. ('19, c. 197, § 1)

1264-4. Same—Appropriation from revenue fund for improvement—Any village council, acquiring a tract of land pursuant to section 1 of this act, may thereupon and thereafter, appropriate from the general revenue fund of the village sums of money for the purpose of inclosing, improving, ornamenting, maintaining and keeping in repair the land so acquired for park purposes, not exceeding the sum of two thousand dollars in any one year. ('19, c. 197, § 2)

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31 — 49
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1264-3
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1264-5. Certain villages may purchase buildings on village owned lands for park, public tourist camp, etc., purposes—Any village situated in any county of this state now or hereafter containing more than 60 and less than 80 congressional townships, and which now has or may hereafter have a population of more than 45,000 and less than 75,000 inhabitants, according to the last preceding federal or state census, now owning any land upon which there now exists any buildings or building built and owned by any person, firm, copartnership, corporation or association, is hereby authorized to purchase such building or buildings for use by said village for park purposes, public tourist camp or any other public purpose. ('27, c. 143)

CITIES

1265. How classified—Cities are hereby divided, for legislative purposes, into classes as follows:

First class. Those having more than fifty thousand inhabitants.

Second class. Those having twenty thousand, and not more than fifty thousand, inhabitants.

Third class. Those having more than ten thousand and not more than twenty thousand inhabitants.

Fourth class. Those having not more than ten thousand inhabitants.

Changes in classification resulting from any future state or national census shall not take effect until the first Monday in January next after the taking thereof. Meanwhile the council or other governing body shall take measures for the election of proper officials, and for dividing the city into wards, if necessary, and otherwise prepare for the coming change. (746) [1339] 213+557.

Cited (123-48, 142+1042; 140-347, 168+18).

This section is not unconstitutional as special legislation (124-126, 144+766).

1266. Census governs—That for the purpose of determining the classification of the several cities of this state, and for the purpose of construing any law relating to the affairs of cities applicable only to cities of a prescribed population, the population of every such city shall be ascertained and determined by adding five per cent of the total population of every such city, as shown by the last state or federal census, to such population, and the population as so computed shall be taken to be the population of each such city in this state for said purposes. This shall not be construed as amending or repealing any provision of a home rule charter providing a different method for ascertaining the population of the city governed by such charter.

In case the provision of this act for an addition of five per cent to the census figures shall be held invalid, the remainder of the act shall not be invalidated by reason thereof but shall remain in full force and effect. ('11 c. 73 § 1, amended '21 c. 12) [1340]

1267. Existing charters preserved—Until otherwise provided in accordance with this subdivision, all cities existing at the time of the taking effect of the Revised Laws shall continue to be governed by the laws then applicable thereto. (747) [1341]

Cited (101-277, 112+269).

1268. Home rule charters—Patrol limits—Any city or village in the state of Minnesota, whenever incorporated, may frame a city charter for its own government in the manner hereinafter prescribed, provided, that in such cities having patrol limits established by charter, such limits shall not be altered unless the charter proposing such alteration be adopted by a three-fourths majority. (R. L. § 748, amended '07 c. 375 § 1) [1342]

81-79, 83+498; 134-300, 150+628.

R. L. §§ 748-768 cited (117-458, 136+264).

Judicial notice of contents of home rule charter (138+939).

Cited, 157-15, 195+539.

1269. Board of freeholders—Whenever the judges of the judicial district in which such city or village is situated, shall deem it for the best interests of the municipality so to do, they may appoint a board of freeholders to frame such charter, composed of fifteen members, each of whom shall have been a qualified voter of such city or village for five years last past; and, upon presentation to them of a petition requesting such action, signed by at least ten per cent of the number of voters of such municipality, as shown by the returns of the election last held therein, they shall appoint such board. The members shall severally hold office for the term of four years, or until they cease to be such resident voters and freeholders, and vacancies in said board shall be filled by appointment of said judges for the unexpired terms. Upon the expiration of such four-year term, the judges shall appoint a new board, in case for any reason the judges shall fail to appoint a new board within thirty (30) days then thereafter at any time the judges upon their own motion may, and upon the written petition of ten (10) freeholders of said city, shall appoint said new board. Every appointment shall be made by order filed with the clerk of the court. Every appointee who shall neglect to file with the clerk within thirty days a written acceptance and oath of office shall be deemed to have declined such appointment and his place shall be filled as though he had resigned. The judges within thirty (30) days thereafter shall make such rules with reference to such board, and require such reports, as may appear desirable or necessary. Any appointee who has qualified by filing his written acceptance and oath of office within thirty (30) days, may thereafter be removed at any time from office, by written order of the district court, the reason for such removal being stated in the order; and upon receiving a certificate in writing, signed by a majority of the entire board of freeholders, setting forth that any member has failed to perform the duties of his office and has failed to attend four (4) consecutive meetings, without being excused by the board, and requesting a removal of such member, the district court shall thereupon make its order of removal, and fill the vacancy created as in the case of a resignation. (R. L. § 749, amended '09 c. 423; '13 c. 535 § 1) [1343]

191+1012.

1270. Compensation—Expenses—The members of such board shall receive no compensation, but the board may employ an attorney and stenographer to assist in framing such charter, and any amendment or revision thereof, and their reasonable compensation and the cost of printing such charter, or any amendment or revision thereof, when so directed by the board, shall be paid by such city or village. Provided, however, that the cost of preparation, printing and legal services in framing and submitting such charter in the first instance shall not exceed \$500. (R. L. § 750, amended '07 c. 216 § 1) [1344]

The board may not employ and pay a member as counsel and to prepare charter (97-4, 105+969).

1271. Framing charter—Within six months after such appointment, the board of freeholders shall deliver to the chief executive of said city or village the draft of a proposed charter, signed by at least a majority of its members. Such draft shall fix the corporate name and the boundaries of the proposed city, and provide for a mayor, and for a council, consisting of either one or two branches; one in either case to be elected by the people. Subject to the limitations in this chapter provided, it may provide for any scheme of municipal

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government not inconsistent with the constitution, and may provide for the establishment and administration of all departments of a city government, and for the regulation of all local municipal functions, as fully as the legislature might have done before the adoption of section 33, article 4 of the constitution. It may omit provisions in reference to any department contained in special or general laws then operative in said city or village, and provide that such special or general laws, or such parts thereof as are specified, shall continue and be in force therein, including any such special or general laws authorizing the city or village to incur indebtedness or issue its bonds for municipal purposes. It may prescribe methods of procedure in respect to the operation of the government thereby created, and the duties thereunder of all courts and officers of the district and county in which the city is situated, which duties such courts and officers shall perform. And by such charter the city may be authorized to acquire, by gift, devise, purchase, or condemnation, any property, within or without its boundaries, needed for the full discharge of any public function which it is permitted to exercise. Nothing in this section shall authorize a change of boundaries, except that boundaries may be changed so as to include lands and property contiguous thereto when not lying at a distance of more than three miles from the boundaries of the original corporation and when used for industrial or mining purposes or occupied or leased for such purposes, if the person, association or corporation so using, occupying or leasing the same by writing presented to the board of freeholders at any time before a draft of the proposed charter is delivered to the chief executive of such city or village so request. (R. L. '05 § 751; G. S. '13 § 1345, amended 1921 c. 120, '21 c. 343)

128-82, 1504389; 131-116, 1544750.

Cited (129-240, 1524408).

The courts may not control the judgment and action of the commission in designating what part of a street shall be a roadway and what part a boulevard unless it has acted arbitrarily, oppressively, and against public interest. 156-293, 1944627.

The home rule charter of the city of St. Cloud vests the control of the streets in the city commission, consisting of the mayor and two commissioners. As such the commission has full power to fix curb, sidewalk, driveway, and boulevard space in the streets. 156-293, 1944627.

Powers of Minneapolis. 157-200, 1954919.

The city of Duluth is given the care and control of its streets to serve public convenience and safety, and ordinance enacted for such purpose is not in excess of the power possessed by the city. 163-63, 2034449.

The city of Minneapolis under its charter may acquire lands for park purposes, even though such lands are located within the corporate limits of another municipality. 163-223, 2034625.

Public function, as used includes public parks. 163-223, 2034625.

A "park" is a pleasure ground for the recreation of the public to promote its health and enjoyment. 163-223, 2034625.

Authority to acquire and maintain parks includes the authority to acquire and maintain a public golf course. 163-223, 2034625.

1272. Bonded indebtedness—Except as authorized in Section 1271, General Statutes 1923, no such charter shall permit the issue of any bonds of the city whereby its bonded indebtedness would be made to exceed ten per cent of the last assessed valuation of the taxable property therein, including moneys and credits. But any such charter may provide that certificates of indebtedness or bonds issued before or after its adoption shall not be included in or counted as a part of such bonded indebtedness, if (1) held in a sinking fund maintained by such city or village; or (2) issued for the acquisition, equipment, purchase, construction, maintenance, extension, enlargement or improvement of street railways, telegraph or telephone lines, water, lighting, heat and power plants, or either, or any other public convenience from which a revenue is or may be

derived, owned and operated by such city or village, or the acquisition of property needed in connection therewith, or for the construction of public drainage ditches or the acquisition of lands for, or for the improvement of streets, parks, or other public improvements, to the extent that they are payable from the proceeds of assessments levied upon property especially benefited by such ditches or improvements, or (3) issued for the creation or maintenance of a permanent improvement revolving fund; or (4) for the purpose of anticipating the collection of general taxes for the year in which issued. And any such charter may provide that the city may issue certificates of indebtedness or bonds to any limit prescribed therein, without approval of the voters, if such issue be for either of the last two mentioned purposes, or for the purpose of extending, enlarging or improving water and lighting and heat and power plants, or either, owned and operated by such city, or of acquiring property needed in connection therewith, or for the purpose of funding floating indebtedness incurred by the city or village before the adoption of the charter, or for any municipal purposes or improvements in respect to which the city or village is authorized by any special or general law to incur indebtedness or issue certificates of indebtedness or bonds at the time of the adoption of the charter. (R. L. '05 § 752; G. S. '13 § 1346, amended '21 c. 120)

See 102-329, 1134899.

1273. Cities of the first class may construct bridge jointly—Any cities of this State, each now or hereafter having a population of more than fifty thousand inhabitants, including all such cities operating under home-rule charters adopted pursuant to Section 36, Article IV of the Constitution of the State of Minnesota, are hereby authorized to construct jointly a bridge across any natural water course forming a common boundary, in whole or in part between any such cities. ('23 c. 136 § 1)

1274. Joint bridge committee authorized—As soon as the governing body of any such cities (hereinafter called the Council) shall have determined to construct a bridge under this act, a joint bridge committee shall be organized, of which the President of the City Council or other governing body and city engineer, or chief engineering officer, of each such city, so determining to construct such bridge, and the State Highway Commissioner ex officio shall be members. The State Highway Commissioner shall be chairman, but in his absence a temporary chairman may be designated, and the city clerk of each of such cities shall attend and keep a record of the proceedings of the committee. The committee may make rules for its own procedure and meetings. ('23 c. 136 § 2)

1275. Committee to prepare plans and specifications—The committee shall prepare and adopt plans and specifications for such bridge and file duplicate copies thereof in the office of the city engineer of each such city. Such plans shall be deemed approved by the council of each such city unless disapproved within thirty days after such filing. If such plans and specifications are disapproved by either of such cities, the committee shall prepare and file amended plans and specifications until they meet with the approval of the council of each of such cities; provided that either city council, after disapproving the plans and specifications within the meaning of this act, may review its action and if upon review it approves such plans and specifications, that shall be a sufficient compliance with this act. ('23 c. 136 § 3)

1276. Committee shall advertise for bids—As soon as the plans and specifications are approved by the council of each of such cities, the committee shall cause

advertisements to be published once in each week for three successive weeks in a daily newspaper of each of such cities for public bids for the construction of the bridge, specifying the time and place for opening the bids, the amount and character of deposit required with the bids, together with any reasonable requirements or conditions, and reserving the right to reject any and all bids. No contract shall be let except to the lowest responsible bidder; provided that any such city, acting through its council, may submit a bid, and if such bid be the lowest bid, the contract shall be awarded to such city, subject to the power of the committee to reject all bids. ('23 c. 136 § 4)

1277. Committee shall let contract—The contract shall be made by the committee in the name of the cities determining to construct such bridge, and the contractor's bond shall run to each of the cities, but if one of the cities be the low bidder, and the contract be awarded to such city, the contract shall be made between it and such other city, or cities, and shall be executed on behalf of each city by its proper officers thereunto authorized by the council of the city, acting through the committee. In either case, the contract shall be countersigned by the city comptroller before the contract shall be valid for any purpose. If a city be a bidder, it shall not be required to deposit any security with its bids, and if it be awarded the contract, it shall not be required to give, any bond, but the full faith and credit of such city shall be pledged to the other city or cities for the full completion of the contract and the payment of all bills for labor and material. ('23 c. 136 § 5)

1278. May employ assistants—The committee may employ a chief draftsman, a chief inspector of works, and such other assistance as it may require. ('23 c. 136 § 6)

1279. Costs to be divided—All cost and expense incurred under this act shall be shared equally by the cities constructing such bridge and shall be paid from time to time upon requisitions authorized and made by the committee. ('23 c. 136 § 7)

1280. Limitation of liability—Neither of such cities shall incur any liability hereunder in excess of half of the cost of the construction of such bridge, and no action shall be maintained against either of such cities which shall seek to compel the payment of more than one-half of the cost of such construction by any city. ('23 c. 136 § 8)

1281. Bond issues authorized—Each of such cities constructing such bridge is hereby authorized and empowered to issue and sell certificates of indebtedness or bonds of the city to defray its portion of the cost of such bridge in an amount not to exceed \$800,000.00 without submission to a vote of the people, and the full faith and credit of such city so issuing such bonds shall be pledged to the payment of the principal and interest of such certificates of indebtedness or bonds. Such bonds shall be in the form of serial bonds, a portion of which shall be payable each year after issuance, but none of said bonds shall run for a longer period than 30 years, and the council of the city issuing such bonds shall fix the denominations thereof and fix the dates of maturity thereof so that the amounts necessary to pay the principal of the portion of bonds maturing in such year and the interest on the bonds issued, shall be approximately the same in each of the years during which such bonds shall run. Such certificates of indebtedness or bonds shall be sold in the manner provided by Section 1856 of the General Statutes of 1913. Such bonds or certificates of indebtedness shall bear interest at a rate not exceeding five per cent per annum. Such

bonds shall be executed in the name of the city issuing the same, by the mayor and city clerk and countersigned by the comptroller, and the engraved signatures of such officials shall be sufficient upon coupons of such bonds. Such bonds are hereby authorized to be issued notwithstanding and in addition to and above any limits now or hereafter fixed by law upon the bonded indebtedness of such cities, and the proceeds of said bonds and interest thereon and such expenditure as may be made in excess of any provisions contained in the charter of such city limiting the cost of government. ('23 c. 136 § 9)

Explanatory note—For G. S. 1913, § 1856, see § 1943, herein.

1282. Unconstitutional part not to avoid act—If any part of this act shall be declared unconstitutional such action shall not avoid said act. ('23 c. 136 § 10)

1283. Regulation of franchises—Such proposed charter may provide for regulating and controlling the exercise of privileges and franchises in or upon the streets and other public places of the city, whether granted by the city or village, by the legislature, or by any other authority; but no perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted, unless the proposed grant be first submitted to the voters of the city or village, and be approved by a majority of those voting thereon, nor in such case for a period of more than twenty-five years. (753) [1347]

130-71, 153-262.

1284. Charter—How submitted—Upon delivery of such draft, the council or other governing body of the city or village shall cause the proposed charter to be submitted at the next general election thereafter occurring in said city or village within six months after the delivery of such draft, and if there is no general city or village election occurring in said city or village within six months after the delivery of such draft, then the council or other governing body of said city or village shall cause the proposed charter to be submitted at a special election to be held within ninety days after the delivery of such draft as aforesaid. Provided, that said council or other governing body may call a special election for that purpose only at any time. If said election is held at the same time with the general election, the voting places and election officers shall be the same for both elections. The ballot shall bear the printed words, "Shall the proposed new charter be adopted? Yes—No," with a square after each of the last two words, in which the voter may place a cross to express his choice. And if any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate his preference in any instance by inserting a cross in like manner. If any charter so submitted be rejected the board may propose others from time to time until one is adopted. (R. L. § 754, amended '09 c. 214 § 1) [1348]

81-189, 83+536; 86-136, 90+160; 129-181, 151+970; 191+1012.

1285. How adopted—Judicial notice—If four-sevenths of those lawfully voting at such election shall declare in favor of the proposed charter, it shall be considered adopted; and, if any provisions thereof were submitted in the alternative, those ratified by a majority of the votes cast thereon shall prevail. The certificates provided for in section 36, article 4, of the constitution, being deposited and recorded as thereby required, said charter shall take effect at the end of thirty days from the date of the election, and shall then supersede all other charter provisions relating to such city or village. Thereupon the courts shall take judicial notice of said new charter, and, upon the election

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250nw 719
Art 4 § 36
See 1286

of officers thereunder, the officials of the former corporation shall deliver to them the records, money, and other public property in their control. (755) [1349] 81-220, 83+984; 148-1, 180+1021.

1286. Amendments—The board of freeholders may propose amendments to such charter, and shall do so upon the petition of five per cent. of the voters of the city, setting forth in substance the amendment desired. Amendments shall be submitted as in the case of the original charter, and the proposal shall be published for at least thirty days in not exceeding three newspapers of general circulation in such city. The form of ballot and mode of voting shall be similar to those used upon the adoption of such charter, the general nature of each amendment being briefly indicated. If three-fifths of those lawfully voting at such election shall declare in favor of any amendment so proposed, the same shall be certified, deposited and recorded, and shall take effect, as in the case of the original charter, provided that, if it be proposed that any amendment shall take effect at a specified time, it shall take effect as proposed. (R. L. § 756, amended '07 c. 199 § 1; '11 c. 343 § 1) [1350]

Requirement as to publication (98-113, 107+728).
Population fixed by the previous census (98-113, 107+728; 191+1012).
See '15 c. 297.

1287. Amendments in cities of fourth class—Postponing election—The city council of any city of the fourth class governed by a home rule charter may postpone the city election in said city for a period not to exceed five (5) weeks, when a special election has been called to vote on any proposed amendment to said city charter, which amendment if adopted will not take effect prior to the date fixed for the city election in said city charter, and which amendment provides for holding said city election at a later date than is provided in its charter. ('13 c. 35 § 1) [1351]

1288. Alternative proposals—In submitting a charter or an amendment to the voters any alternative section or article may be presented and voted on separately, without prejudice to other articles or sections of the charter or any amendments thereto. (757) [1352]

1289. Succession—Subsisting rights—The new city so organized shall be in all respects the legal successor of the former corporation, and no charter so adopted, nor any amendment thereof, shall prejudice any subsisting right, lien, or demand against the city or village superseded, or affect any pending action or proceeding to enforce the same. All rights, penalties, and forfeitures accrued or accruing to such former corporation, all property vested therein or held in trust therefor, all taxes and assessments levied in its behalf, and all its privileges and immunities not inconsistent with the new charter, shall pass to said successor. And all ordinances, resolutions, and by-laws in force at the adoption of such new charter, and not in conflict with its provisions, shall continue in force until duly altered or repealed. (758) [1353]

Continuation of prior ordinances (105-440, 117+844).

1290. Commission form of city government—That the board of freeholders appointed under the provisions of sections 748 to 755, inclusive, Revised Laws, 1905, of the state of Minnesota, and the amendments thereof, are hereby authorized and empowered, in addition to all powers now granted to any such board of freeholders, to incorporate as part of the proposed charter for any city the commission form of city government, and to provide that all elective city officers, including mayor and members of the council, shall be elected at large or otherwise. ('09 c. 170 § 1) [1354]

Explanatory note—For R. L. '05, §§ 747 to 755, see §§ 1268 to 1272, 1283 to 1285, herein.

1909 c. 170, is constitutional and valid (117-458, 136+264; 128-82, 150+389).

1291. Officers, how nominated and elected—Such board of freeholders may also provide in such proposed charter that all candidates to be voted for at all general municipal elections shall be nominated by a primary election, and that no other names shall be placed upon the ballot to be voted upon at such election, except the names of those elected in the manner which may be prescribed by such charter; and such charter may provide for a primary election to be held at such time as may be fixed preceding the general municipal elections, and that the judges of election for the general municipal election shall be the judges of the primary election, and may provide in what manner any person desiring to become a candidate for any elective municipal office may become a candidate for nomination at such primary election, and may provide for the publication of statements and petitions of candidates, the form of the primary election and municipal election ballots and for publication thereof, and may provide that there shall or shall not be any party designation or mark indicating that any candidate is a member of any party whatsoever, whether on said primary election ballot or upon said municipal election ballot, and may make provisions with reference to the printing, delivery and authentication of ballots and for the counting and canvass of results of such primary election or municipal election. ('09 c. 170 § 2)

For city elections in the city of Minneapolis, '19 c. 452.

1292. Distribution of administrative powers—Such board of freeholders may also provide that the administrative powers, authority and duties in any such city shall be distributed into and among departments and may provide that the council may determine the powers and duties to be performed by and assign them to the appropriate department and determine who shall be the head of each department and prescribe the powers and duties of all officers and employes thereof, and may assign particular officers or employes to perform duties in two or more departments, and make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city. ('09 c. 170 § 3) [1356]

117-458, 136+264.

1293. Powers of mayor and council—Said board of freeholders may incorporate in such charter provisions defining the powers and duties of the mayor and each member of the council, and may provide that each member of the council shall perform such administrative duties as may be designated in such charter. ('09 c. 170 § 4) [1357]

117-458, 136+264.

Donations to ball team. 163-57, 203+605.

1294. Recall and removal of officers—Ordinances—Such board of freeholders may also provide for the recall of any elective municipal officer and for his removal by vote of the electors of such city, and may also provide for submitting ordinances to the council by petition of the electors of such city and for the repeal of ordinances in like manner; and may also provide that no ordinance passed by the council except an emergency ordinance shall take effect within a certain time after its passage, and that if, during such time, a petition be made by a certain percentage of the electors of the city protesting against the passage of such ordinance until the same be voted on at an election held for such purpose, and then such ordinance to take effect or not as determined by such vote. ('09 c. 170 § 5) [1358]

133-98, 157+991; 134-355, 159+792; 135-221, 160+682.

Cited, 157-15, 195+539.

1295. Application of general election laws—The provisions of any charter of any such city adopted pur-

suant to this act shall be valid and shall control as to nominations, primary elections and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter. ('09 c. 170 § 6) [1359]

127-411, 149+653.

1296. Submission of amendments—Nothing in this act contained shall be held to abridge, impair or diminish the right of electors in any city now having or which shall hereafter have such a board of freeholders and a home rule charter, to require the submission of amendments to the charter of such city, as provided in section 756 of the Revised Laws of 1905, but, in addition to the provisions of said section 756, five per cent of the electors may, by petition, as provided in said section 756, require the submission of amendments to such charter, embodying the commission plan of government, in whole or in part, as more particularly described and set forth in sections 1, 2, 3, 4, 5 and 6 of this act. ('09 c. 170 § 7) [1360]

Explanatory note—For R. L. '05, § 756, see § 1286, herein.

1297. New charter authorized—Any city in this state which now has, or may hereafter adopt, a so-called "home rule" charter by and under the provisions of section 36, article 4 of the constitution, and of any statutes enacted in pursuance thereof, is hereby authorized and empowered to frame, submit and adopt a new charter in the same manner and mode as is by law provided for the original adoption of such so-called "home rule" charter. ('09 c. 236 § 1) [1361]

1298. Amendments authorized—Any city named in section one hereof is hereby authorized and empowered to amend its present so-called "home rule" charter in the nature of a revision and submit and adopt such revision as is by law provided for the original adoption of such so-called "home rule" charter. ('09 c. 236 § 2) [1362]

1299. Not obligatory to report to chief magistrate within six months—It shall not be necessary or obligatory for the board of freeholders framing such new charter, or making such revision hereunder, to return the same to the chief magistrate of such city within six months. ('09 c. 236 § 3) [1363]

1300. Act regulating cities of first class not applicable unless expressly declared—No act regulating any of the affairs of cities, of the first class, shall be deemed applicable to any city therein existing under a charter framed and adopted under section 36 of article 4 of the state constitution, authorizing the adoption by cities of charters for their own government, unless the intention to make the same so applicable shall by such act be expressly declared. ('09 c. 172 § 1) [1364]

134-355, 150+792.

163-223, 203+625, notes under § 1271.

1301. Certain charters legalized—In any case where in an (any) city or village in this state a city charter has been prepared and filed with the chief magistrate or chief executive officer of said city or village by a number of persons, not less than ten, purporting to be a board of freeholders and to have been appointed and to have acted under section 36, article 4, of the constitution of this state and the laws of this state enacted thereunder. And such charter has been actually submitted to the qualified voters of such city or village at a general or special election held therein; and such charter has been ratified and adopted by a vote of not less than four-sevenths of the qualified voters voting at such election; and such charter has been actually

put in operation in said city or village, and officers have been elected therein under said charter and have qualified and entered upon their duties, then such charter is hereby legalized and made the lawful city charter of said city or village, and to have the same force and effect and to be of like validity as if each, all and every requirement of law for the appointment and qualification of the board of freeholders to prepare and propose the same, the preparation, proposal and filing thereof by said board of freeholders, the submission thereof to the voters of said city and the ratification and adoption thereof by the voters of said city, and the certifying and filing thereof in the office of the register of deeds of the county and in the office of the secretary of state had in all things been fully complied with: Provided, that if said city charter has not been filed in the office of the register of deeds of the county, a copy thereof, certified to by the mayor of said city, elected under said charter, shall be filed in said office within sixty days after the passage of this act. And if said city charter has not been deposited in the office of the secretary of state, a copy thereof, certified by the mayor, elected under said charter, shall be deposited in said office within sixty days after the passage of this act. ('05 c. 29 § 1) [1365]

1302. Acts of officers validated—All acts of the officers of any such city or village, elected and qualified under such charter, shall have the same force and validity as if said charter had originally been fully valid and legal. ('05 c. 29 § 2) [1366]

1303. Vested rights, etc.—This act shall not affect vested rights nor actions now pending. ('05 c. 29 § 3) [1367]

1304. Certain charters legalized—In any case where in any city or village in this state a city charter has been prepared and filed with the chief magistrate or chief executive officer of said city or village by a number of persons, not less than fifteen, purporting to be a board of freeholders and to have been appointed and to have acted under section 36, article 4, of the constitution of this state and the laws of this state enacted thereunder; and such charter has been actually submitted to the qualified voters of such city or village at a general or special election held therein; and such charter has been ratified and adopted by a vote of not less than four-sevenths of the qualified voters voting at such election; and such charter has been actually put in operation in said city or village, and officers have been elected therein under said charter and have qualified and entered upon their duties, then such charter is hereby legalized and made the lawful city charter of said city or village, and to have the same force and effect and to be of like validity as if each, all and every requirement of law for the appointment and qualification of the board of freeholders to prepare and compose the same, the preparation, proposal and filing thereof by said board of freeholders, the submission thereof to the voters of said city, and the ratification and adoption thereof by the voters of said city, and the certifying and filing thereof in the office of the register of deeds of the county and in the office of the secretary of state had in all things been fully complied with. ('07 c. 373 § 1) [1368]

1305. Acts of officers validated—All acts of the officers of any such city or village, elected and qualified under such charter, shall have the same force and validity as if said charter had originally been fully valid and legal. ('07 c. 373 § 2) [1369]

1306. Vested rights, etc.—This act shall not affect vested rights nor actions now pending. ('07 c. 373 § 3) [1370]

1307. Charters legalized—In any case wherein in any city or village in this state a city charter has been prepared and filed with the chief magistrate or chief executive officer of said city or village by a number of persons, not less than ten purporting to be a board of freeholders and to have been appointed and to have acted under section 36, article 4, of the constitution of this state and the laws of this state enacted thereunder, and such charter has been actually submitted to the qualified voters of such city or village at a general or special election held therein; and such charter has been ratified and adopted by a vote of not less than four-sevenths of the qualified voters voting at such election; and such charter has been actually put in operation in said city or village, and officers have been elected therein under said charter and have qualified and entered upon their duties, then such charter is hereby legalized and made the lawful city charter of said city or village, and to have the same force and effect and to be of like validity as if each, all and every requirement of law for the appointment and qualification of the board of freeholders to prepare and propose the same, the preparation, proposal and filing thereof by said board of freeholders, the submission thereof to the voters of said city and the ratification and adoption thereof by the voters of said city, and the certifying and filing thereof in the office of the register of deeds of the county and in the office of the secretary of state had in all things been fully complied with. Provided, that if said city charter has not been filed in the office of the register of deeds of the county, a copy thereof, certified to by the mayor of said city, elected under said charter, shall be filed in said office within sixty days after the passage of this act. And if said city charter has not been deposited in the office of the secretary of state, a copy thereof, certified by the mayor, elected under said charter, shall be deposited in said office within sixty days after the passage of this act. ('09 c. 177 § 1) [1371]

Other charters legalized, '21 c. 162.

1308. Acts of officers validated—All acts of the officers of any such city or village, elected and qualified under such charter, shall have the same force and validity as if said charter had originally been fully valid and legal. ('09 c. 177 § 2) [1372]

1309. Vested rights, etc.—This act shall not affect vested rights nor actions now pending. ('09 c. 177 § 3) [1373]

1310. Annexation of territory legalized—That the annexation of any additional territory or enlargement of boundaries by any city or village in this state heretofore made, between Jan. 1st, 1903, and April 15th, 1903, in framing and adopting its charter, under and pursuant to the provisions of section 36, article 4, of the constitution of the state of Minnesota, and chapter 351 of the Laws of Minnesota for the year 1899, be and the same are hereby in all things legalized and confirmed: Provided, that the provisions of this act shall not extend or apply to any action or proceeding now pending. ('05 c. 3 § 1) [1374]

L. 1899, c. 351, repealed. See R. L. 1905, § 5543 (§ 10977 herein).

PROVISIONS RELATING TO ALL CITIES

1311. Public utilities—Definition—For the purposes of this act public utilities shall include street railways, telephones, water works, gas works, and electric light, heat or power works. ('07 c. 452 § 1) [1375]

1312. Cities may own and operate or lease—Every city of this state shall have the power to own, construct, acquire, purchase, maintain and operate any public utility within its corporate limits, and to lease the same, or

any part of the same, to any company incorporated under the laws of this state, for the purpose of operating such public utility for any period not longer than twenty years, on such terms and conditions as the city council shall deem for the best interests of the public. But no city shall proceed to operate any such public utility unless the proposition to operate shall first have been submitted to the electors of such city as a separate proposition and approved by three-fifths of those voting at such election. But any city now owning and operating its own water works, or other public utilities, may continue to own and operate the same in the same manner as is now authorized by law to own and operate the same, without submitting any proposition so to do to the electors thereof, and no lease thereof for any term shall be made until confirmed by the voters of such city, as herein provided. It shall be lawful for any such city to incorporate in any grant of the right to construct or operate any such public utility, a reservation of the right on the part of such city to take over all or part of such public utility, at or before the expiration of such grant upon such terms and conditions as may be provided in the grant; it shall also be lawful to provide in any such grant, that in case such reserved right be not exercised by the city and it shall grant a right to another company to operate such public utility in the streets and parts of streets occupied by its grantee under the former grant, the new grantee shall purchase and take over such public utility of the former grantee, upon the terms that the city might have taken it over, and it shall be lawful for the city council of any city to make the grant containing such a reservation for either the construction or operation, or both the construction and operation of such public utility, in, upon, and along any of the public streets, alleys or ways therein, or portions thereof, in which such public utility is already located at the time of making such grant, without the petition or consent of any of the owners of the land abutting or fronting upon any street, public alley or way, or portion thereof, covered by such grant. No ordinance authorizing the lease for a longer period than five years, nor any ordinance renewing this lease, shall go into effect until the expiration of sixty days from and after its passage. And if, within said sixty days, there is filed with the clerk of such city a petition signed by ten per cent of the voters voting at the last preceding election for mayor, in such city, asking that such ordinance be submitted to a popular vote, then such ordinance shall not go into effect unless the question of the adoption of such ordinance shall first be submitted to the electors of such city and approved by a majority of those voting thereon. The signatures of such petition need not all be appended to one paper, but each signer shall add to his signature, which shall be in his own handwriting, his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer, competent to administer oaths, that each signature to the paper appended is the signature of the person whose name purports to be thereto subscribed. The city council of any city [which] shall decide by popular vote, as in this act provided, to operate any public utility, shall have the power to make all needful rules and regulations respecting the operation of same, including the power to fix and prescribe rates and charges, but such rates and charges shall be high enough to produce a revenue sufficient to bear all the costs of maintenance and operation, and to meet interest charges on all bonds or certificates issued on account of such public utility, and to permit the accumu-

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lation of a surplus or sinking fund that should be sufficient to meet all such outstanding bonds or certificates at maturity. For the purpose of acquiring any such public utility either by purchase or construction, as provided for in this act, or for the equipment of any such public utility, any city may borrow money and issue its negotiable bonds therefor, pledging the faith and credit of the city; but no such bonds shall be issued, unless the proposition to issue the same shall first have been submitted to the electors of such city, and approved by three-fifths of those voting thereon, nor in any amount in excess of the cost to the city of the property for which said bonds were issued, as ascertained as elsewhere provided in this act, and ten per cent of such cost in addition thereto. In exercise of the powers, or any of them, granted by this act, any such city shall have power to acquire, take and hold any and all franchise or franchises, and necessary property, real, personal or mixed, for the purposes specified in this act, either by purchase or condemnation in the manner provided by law for the taking and condemning of private property for public use, but in no valuation of public utility property for the purpose of any such acquisition, except of such public utilities now operating under such existing franchises shall any sum be included as the value of any earning power of such utility, or of the unexpired portion of any franchise granted by said city. In case of the leasing by any city of any public utility owned by it, the rental reserved shall be based on both the actual value of the tangible property and of the franchise contained in such lease, and such rental shall not be less than a sufficient sum to meet the annual interest upon all outstanding bonds or certificates issued by said city on account of any such public utility. ('07 c. 452 § 2) [1376]

122-34, 141+833; 123-48, 142+1042; 124-73, 144+453; 129-383, 152+777.

A municipal corporation maintaining an electric distributing plant owes to the public the duty of so inspecting and maintaining the same as to prevent change and deterioration from natural causes resulting in a dangerous condition. Where injury occurs because of a defect which could have been prevented by inspection, and there is a total failure to inspect for 17 months, the municipal corporation is negligent, and liable accordingly. 157-228, 196+171.

1313. Certificates in lieu of bonds—In lieu of issuing bonds pledging the faith and credit of the city, as provided for in section 2 of this act, any city may issue and dispose of interest-bearing certificates, to be known as the "street railway certificates," "telephone certificates," "water works certificates," "gas works certificates," "electric light, heat or power works certificates," as the case may be, which shall, under no circumstances, be and become an obligation or liability of the same, or payable out of the general fund thereof, but shall be payable solely out of the specified portion of the revenues or income to be derived from such public utility property, for the acquisition of which they were issued. Such certificates shall not be issued and secured on any such public utility property in an amount in excess of the cost to the city of such property as hereinbefore provided, and ten per centum of such cost in addition thereto. In order to secure the payment of such public utility certificates, and the interest thereon, the city may convey by way of mortgage, or deed of trust, any or all of the property thus acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in such a manner as directed by the city council and acknowledged and recorded in the manner provided by law for the acknowledgment and recording of mortgages of real estate, and may contain such conditions and provisions not in conflict with the

provisions of this act, as may be deemed necessary to fully secure the payment of the certificates described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the property covered thereby, for a period not exceeding twenty years from and after the date such property may come in the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of said property, for a period not exceeding twenty years. Whenever, and as often as default shall be made in the payment of such certificate issued or secured by mortgage or deed of trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of twelve months after notice thereof has been given to the mayor and financial officer of the city issuing such certificates, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers and the rights and privileges sold, if he or they be the highest bidders. Any public utility acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings; provided, however, that no such public utility certificates or mortgage shall ever be issued by any city under the provisions of this act, unless and until the question of the adoption of the ordinance of the city council making provision of the issue thereof shall have first been submitted to a popular vote and approved by a majority of the qualified voters of the city voting upon such question. ('07 c. 452 § 3) [1377]

Section 2, referred to, is § 1312. herein.

1314. Accounts, how kept—Every such city owning or owning and operating any such public utility shall keep the books of account for such public utility distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to such city of such public utilities owned; all cost of maintenance, extension and improvement; all operating expenses of every description, in case of such city operation; the amount set aside for sinking fund purposes. The city council shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership, or ownership and operation. ('07 c. 452 § 4) [1378]

1315. Adoption of act—This act shall not be in force in any city until the question of its adoption in such city shall first have been submitted to the electors of such city, at the general or city election or at a special election called for that purpose, and is approved by the affirmative vote of three-fifths of those voting at such election. The city council of any such city named, by ordinance, direct that the question of the adoption of this act in such city be submitted to popular vote at any general or city election called for that purpose in and for the entire city, coming not sooner than thirty

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days from and after the passage of the ordinance. If the city council in any city shall incorporate in any grant to a private company of the right to construct or operate any public utility, a provision reserving to such city the right to take over such property at or before the expiration of the grant, in case the people of such city shall later adopt this act, as herein provided, such provision shall be as valid and effective for all purposes, in case such city shall later adopt this act as herein provided, as if the said provision were made a part of this grant after the adoption of this act by said city. ('07 c. 452 § 5) [1379]

1316. Ordinance for submission—In all cases provided in this act for the submission of questions or propositions to popular vote the city council shall pass an ordinance stating the substance of the proposition or question to be voted upon and designating the election at which such question or proposition is to be submitted, which may be at any general or city election or special election called for that purpose; provided, that such election shall not be held sooner than thirty days from and after the passage of said ordinance. Notice of special election which shall be held in any city under this act and all proceedings respecting the same shall conform as nearly as may be to the law governing other special elections therein. And all ballots as to any proposition or question submitted pursuant to the terms of this act shall be delivered to the election judges, shall be deposited in a separate box and shall be counted, canvassed and returned, as is provided by law in case of other ballots, and the tally sheets and return blanks shall contain suitable columns and spaces therefor. ('07 c. 452 § 6) [1380]

1317. Time limit of grant or lease—Nothing in this act contained shall be construed to authorize any city to make any grants or to lease any public utility for a period exceeding twenty years from the making of such grant or lease; provided, that when a right to maintain and operate a public utility for a period not exceeding twenty years is contained in a mortgage or deed of trust to secure any of the certificates hereinbefore mentioned, (and no such right shall be implied), such period shall commence as provided in section 3 of this act. ('07 c. 452 § 7) [1381]

1318. Observance of Memorial Day—The city council or common council of each and every city in the state of Minnesota, in addition to all other powers now possessed by it, is hereby empowered and authorized to set apart, appropriate and expend, or cause to be expended, in such manner as it may deem best, from any funds in the city treasury available therefor, an amount not to exceed the sum of three hundred dollars annually for each 75,000 of population of such city for the purpose of aiding in the appropriate observance of Memorial Day on the 30th of May of each year and in the annual commemoration of the noble and valiant deeds of the nation's soldier dead. ('09 c. 365 § 1, amended '23 c. 375) [1382]

1319. Purchase of electric light and water plant legalized—In any case where the city council of any city in the state, whether organized under a home rule charter or under the general law, shall have heretofore by resolution or ordinance submitted to the legal voters of such city, at any general or special election, the proposition of the acquisition by such city by condemnation or purchase of an electric light and water plant then privately owned therein, and of said city supplying the city and individuals with light and water, provided such plant could be acquired at a reasonable price, and at such election more than a majority of the legal voters of such city voting thereat shall have voted in favor of

such bond proposition; and thereafter the city council of such city, by resolution or ordinance, shall have submitted to the legal voters of such city at any general or special election the proposition of the issuance of the bonds of such city to a specified amount for the purpose of providing the funds necessary for the purchase of such electric light and water plant, and at such election more than a majority of the legal voters of such city voting thereat shall have voted in favor of such bond proposition; then and in every such case all of the acts and proceedings of said city, and of the corporate authority and officials thereof, in and about the calling and holding of said elections and declaring the result thereof, and all of said election proceedings, are hereby in all respects fully legalized, and are hereby declared to constitute full and legal authority for the purchase by said city of said electric light and water plant and for the issuance by said city of its bonds to the amount so voted for the purpose of providing funds for such purchase. ('13 c. 89 § 1) [1383]

123-48, 142+1042.

1320. City authorized to complete work—That any city coming within the provisions of section one of this act is hereby authorized to do and perform any and all acts necessary, desirable or appropriate in and about the completion of the purchase by it of any such electric light and water plant as in said section one mentioned; and all such acts and performances done or to be done, and any and all contracts heretofore or hereafter entered into by said city for such purchase, are hereby declared fully authorized, ratified and confirmed. ('13 c. 89 § 2) [1384]

1321. Bonds authorized and legalized—Term—That the bonds and interest coupons thereto attached of any city coming within the provisions of section one of this act and which have been voted as stated in said section one, may be executed and issued by such city in such forms and manner, and payable, at such time or times and at such place, and such provision made for the payment thereof, and sold, as the city council by resolution or ordinance may have authorized and directed, or may hereafter authorize and direct; and all acts and proceedings of the city council, and of the officers of such city pursuant to the authority thereof, done or had or to be done or had as herein provided in and about the sale, award and issuance of said bonds are hereby legalized, approved and confirmed; and said bonds when so issued are hereby declared to constitute and be the legal, valid and binding obligations of said city.

Provided, however, that none of said bonds shall run for a period longer than thirty years from their date, nor shall be sold or issued at less than their par value and the interest accrued thereon to date of delivery. ('13 c. 89 § 3) [1385]

1321-1. Building lines and building line easements—Establishment—Existing structures—The common council of any city, including any city of this state operating under a home rule charter adopted pursuant to Chapter 36, Article 4, of the state constitution, may establish along any street or highway within such city a building line upon the land adjoining such street or highway, or any portion thereof, and distant not more than fifty feet from the margin of such street or highway, and may, in behalf of the city, acquire an easement in the land between such line and exterior street line, such that no buildings or structure shall be erected or maintained upon said land. Such easement shall be known as a building line easement. Provided that the governing body may, at the time they designate the

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easement to be acquired and define the line by which it is bounded, provide in the resolution designating such easement that buildings or structures or any portions of buildings or structures existing within the boundaries of the easement at that time may remain thereon for stated periods of time or remain thereon during the life of such buildings or structures or portions thereof, but no alteration of any such buildings or structures or portions thereof upon such easement shall be permitted after the designation of such easements, and when such buildings are removed no other buildings or structures shall be erected thereon. Such permission to maintain existing structures upon such easement shall be clearly defined as to time in such resolution and shall confer the right upon the owner of such buildings or structures or portions thereof to maintain the same as defined in such resolution. ('03, c. 194, § 1; amended '23, c. 193, § 1)

Explanatory note—This section, and sections 1321-2 to 1321-7, consist of Laws 1903, c. 194, as amended by Laws 1919, c. 504 and Laws 1923, c. 193. Said Laws 1903 was omitted from R. L. '05, and also from G. S. '13. It was not expressly repealed by the repealing sections of R. L. '05. This section, as amended by Laws 1923, c. 193, was contained in G. S. '23 as section 1570; but since these sections relate to all cities they are inserted here in this compilation.

1321-2. Same—Grant, condemnation or dedication—Such easement may be acquired by the city council by purchase, or by grant, or by condemnation. It may also be created by dedication by indicating such building line upon any plat hereafter recorded in the office of the register of deeds of the county where the land lies; and city council shall have power to refuse to accept or approve plats of lands unless building lines are shown thereon. ('03, c. 194, § 2; amended '19, c. 504, § 1)

1321-3. Same—Along parks and parkways—Any board of park commissioners having control of any park or parkway may in like manner acquire building line easements along the same, or any portion thereof. ('03, c. 194, § 3)

1321-4. Same—Condemnation proceedings—By whom instituted—The easement above specified may be acquired by proceedings to be conducted in the following manner by the board of park commissioners, in case of parks and parkways controlled by a board of park commissioners, and by the city council in other cases.

The term "governing body" is used in this and the following sections to designate the appropriate body in any given case, whether the city council, or board of park commissioners. The governing body shall first designate the easement to be acquired and define the lines by which it is bounded, and shall have power to condemn for the use of the public a building line easement as defined above, and when such condemnation shall have been completed, as in this section provided, the title to such easement shall pass to and be vested in the city for the public use. For the purpose of making said condemnation all the tracts of land required for any improvement may be included in the same proceeding.

Provided, that no such easement shall include or take in any portion of a private residence existing at the time of the passage of this act excepting by purchase or grant.

After making the designation the governing body shall proceed in manner following: ('03, c. 194, § 4)

1321-5. Same—Condemnation proceedings—Plats—Appraisers—Proceedings by—Oath—Notice of meetings—View of premises—Service of notices—Assessment of

benefits and damages—Report—Reappraisal—Payment of awards—Appeals to district court—First; It shall be the duty of the city engineer or engineer of the board of park commissioners as the case may be, to make and present to the governing body a plat showing the location, course and extent of the easement proposed to be acquired, and the lands and property necessary to be taken or damaged thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same. When such plat shall have been adopted by the governing body it shall be filed with the clerk or secretary of the governing body, and shall be held to show correctly the location, course and extent of the easement agreed upon and ordered to be acquired by the governing body. Said plat shall also show the land or part thereof contiguous to the lands upon which the buildings line easement is to be acquired.

The governing body shall then, or afterwards appoint five freeholders of said city, no two of whom shall reside in the same ward, as appraisers to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by the acquisition of such building line easement, and to assess the amount of such damages and compensation and the cost and expense of the proceedings upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation. Three or more commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners. Said appraisers shall be notified as soon as practicable by the secretary of the board or the city clerk as the case may be, to attend at a time fixed by him for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act, or otherwise, such vacancy shall be filled by the governing body.

Second. The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the governing body.

Third. The appraisers shall give notice by publication in the official newspaper of the city for two consecutive days, which first publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the governing body, and give notice that a plat of the same has been filed in the office of the city clerk or secretary as the case may be, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises, and appraise the damages for property to be taken, or which may be damaged by such improvement, and to view the premises to be benefited by such improvement and assess thereon in proportion to benefits the amount necessary to pay such damages and the cost and expense of the proceedings, in the manner herein-after specified; and that they will then hear such evidence and proofs as interested persons may offer, adjourning from time to time for that purpose.

Fourth. The secretary or city clerk, as the case may be, shall, after the first publication of such notice and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person, in whose name each tract or parcel of said land upon which such easement is to be acquired is then assessed, a copy of said notice by depositing the same in the

postoffice of said city with postage prepaid, directed to such person at his place of residence, if known to the secretary, or city clerk, as the case may be, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein.

A copy of all subsequent notices relating to said proceedings, which are required to be published, shall be mailed by said clerk or secretary in the manner above specified after the first publication thereof, to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them. Any failure of the secretary or city clerk to mail any notice as required by this act, or failure of the owner or any person to receive any such notice, shall not invalidate any proceedings hereunder.

Fifth. At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and may hear any evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which that taken is a part. They shall also determine the amounts of benefits, if any, to each piece or parcel of land of which that taken is a part, and assess the amount of such damages so awarded upon the land and property benefited by such proposed improvement, together with the expenses and cost of the proceedings, and in proportion to such benefits. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits; but the total assessment for benefits shall not be greater than the aggregate net award of damages, and the cost of the proceedings; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any.

Sixth. If there be any buildings standing, in whole or in part, upon any parcel of the land to be taken, the said appraisers shall, in such case, determine the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much as may be necessary, should be taken, and shall also appraise and determine the amount of damages to be paid such owner or owners in case he, or they, shall elect to remove such buildings.

Seventh. If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such person or interests respectively may be awarded to them separately by the appraisers. Provided, that neither such award of the appraisers, nor the confirmation thereof by the governing body, shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such persons or persons are not entitled to receive the same.

Eighth. The said appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the secretary or city clerk, as the case may be, a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if

known to them, and also a statement of the costs of the proceeding.

Ninth. Upon such report being filed, the secretary of the board or city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the governing body at a meeting thereof, to be named in the notice, which notice shall be published in the official newspaper of said city, once a week for two consecutive weeks, and the last publication shall be at least 10 days before such meeting. Any person interested in any building standing in whole or in part upon any land required to be taken by such improvement, shall on or before the time specified for said meeting in such notice, notify the governing body in writing of his election to remove such building, if he so elect. The governing body upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that said governing body shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisal and assessment is annulled, the governing body may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisal, and upon the coming in of their report, the governing body shall proceed in a like manner and with the same powers as in the case of the first appraisal. In case any owner or owners shall elect to remove any building or buildings, and thereby reduce the amount of damages to be paid, the amount of reduction shall be deducted from the benefits assessed to each parcel proportionately before confirmation thereof.

Tenth. If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the parties entitled thereto, within six months after the confirmation of the appraisal and award. But in case any appeal or appeals shall be taken from the order confirming said appraisal and assessment, as hereinafter provided, then the time for payment of said awards shall be extended until and including sixty days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessment upon appeal, the governing body may, by resolution duly adopted, at any time within sixty days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per centum per annum from the time of the filing of the original appraisers' report, and all subsequent awards and awards upon appeals shall be made as of the day and date of filing of such original reports.

Eleventh. Upon the conclusion of the proceedings and the payment of the awards, the several tracts of land shall be deemed to be taken and appropriated for the purpose of this act, and the easement above

specified shall vest absolutely in the city in which the lands are situate. In case the governing body shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the governing body shall, and in any and every case, the governing body may in its discretion deposit the amount of damages with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

Twelfth. In case any owner or owners of buildings, as aforesaid, shall have elected to remove his or their buildings, he or they shall remove them within thirty days from the confirmation of said report, or within such further time as the governing body may allow for the purpose, and shall be entitled to the payment of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time above specified, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold or disposed of as the said governing body shall direct.

Thirteenth. Any person whose property is proposed to be taken or interfered with or assessed under any provision of this chapter and who deems that there is any irregularity in the proceedings of said governing body, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of, or interference with his property, or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the governing body, file with the secretary of the board or the city clerk, as the case may be, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, or which is affected by such proceedings and his interest therein, and if, notwithstanding such objections the said governing body shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the governing body to the district court of the county where such land is situated, within ten days after such order. Such appeal shall be made by serving a written notice of appeal upon the secretary of the board, or the city clerk, as the case may be, which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, and by also delivering to said city clerk or secretary, as the case may be, a bond in the sum of \$50.00 executed by the appellant or by some one on his behalf with two sureties, who shall each justify in the penal sum of fifty dollars, conditioned to pay all costs that may be awarded against the appellant. Thereupon said secretary or city clerk, at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the gov-

erning body and of the order of the governing body confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by said secretary of city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the secretary or city clerk, in appeals subsequent to the first shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises.

Fourteenth. The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to affirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in said written objection. From such determination no appeal or writ of error shall lie. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, upon such confirmation, appoint three disinterested freeholders, residents of said city, appraisers, to reappraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in this chapter made for the government of appraisers appointed by said governing body. They shall, after the hearing and view of the premises, make a report to said court of their award of damages and assessment of benefits in respect to the property of such appellant. The appellant shall within five days of the notice of filing the award file his written election to remove the building if he so elect. Such election shall not affect his right to a review. The award shall be final unless set aside by the court for good cause shown. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers, as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings. ('03, c. 194, § 5; amended '19, c. 504, §§ 2 to 7)

1321-6. Same—Plats of improvements—Copy of assessments for county auditor—Building line assess-

ments—Collection—Payment to city treasurer—As soon as such condemnation proceedings have been completed, it shall be the duty of such governing body to cause plats of such improvement to be made, which shall be copies of the original plat on file, with a list of the parcels of land taken and the amount paid on account of each parcel, and to file one of such plats and list duly certified by the president of the governing body and the clerk or secretary, as the case may be, in each of the following offices, to-wit: The office of the city engineer, the office of the register of deeds of the county, and the office of the city clerk or secretary of the park board, as the case may be; and the same shall be prima facie evidence of the full and complete condemnation and appropriation of such easement for the public use. As soon as the assessments are confirmed, the secretary of the board of park commissioners or the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the county auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county and city taxes, against the several tracts or parcels of land, and said assessments shall be collected with and as a part of, and shall be subject to the same penalties, costs and interest, as the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed, "Building-Line Assessments," and when collected a separate account thereof shall be kept by the county auditor, and the same shall be transmitted to the treasurer of the city, and placed to the credit of the proper fund. ('03, c. 194, § 6; amended '19, c. 504, § 8)

1321-7. Same—Vacation of easement—The governing body shall have power at any time to vacate such building line easement or any portion thereof. ('03, c. 194, § 7)

PROVISIONS RELATING TO CERTAIN CITIES

1322. Gas, electric and water plants—Any city now or hereafter having a population greater than fifty thousand inhabitants, excepting cities operating under home rule charters framed pursuant to section 36, article 4, of the constitution of Minnesota, and all other cities having a population of ten thousand inhabitants or less whether operating under such home rule charter or not, are hereby authorized to acquire plants for furnishing gas, electricity, water, or either, any or all thereof, for municipal purposes, as well as for the use of the inhabitants of the city, and for that purpose may exercise the power of eminent domain in pursuance of chapter 41, Revised Laws of 1905, and the acts amendatory thereof and supplementary thereto, and thereby may take any and all property necessary or convenient for acquiring and establishing such plants and for adding thereto from time to time, including lands, manufacturing plants, pumping stations, power stations, pipe lines, conduits, pole and wire lines, reservoirs, filter and purification plants, storage plants, transforming and converting plants, and any and all property necessary or convenient, wherever situate, within or without the corporate limits, or of whatever character, and whether devoted to public use or not. ('09 c. 372, § 1, amended '13 c. 158 § 1) [1386]

Explanatory note—R. L. '05, c. 41, is c. 41, herein.

See '19 c. 227, authorizing sale of water by one municipality to another.

No distinction can be made between waters escaping in destructive quantities from a broken reservoir and flooding the premises of an adjacent owner, and such waters so escaping from a break in a principal main leading from such reservoir. 158-509, 1974-971.

1323. Condemnation—The proceedings provided by said chapter 41 shall be instituted and conducted under the direction and control of the city council, which shall be authorized by resolution or ordinance passed by a vote of two-thirds of all the members elect of said city council. Judgment shall be entered upon the report or award of the commissioners or in case of appeal, upon the verdict, but only after the direction by the city council by such two-thirds vote of the council of the city to move for such judgment. Such motion may be made at any time within four months of the filing of the award of commissioners, or in case of appeal, at any time within four months after verdict, or such additional time as the court may, by order after notice, allow for the purpose. The said judgment shall not be entered nor shall any of the bonds herein provided for be issued until such bonds shall have been authorized by a vote of four-sevenths of all the legal voters of said city registered and voting at a special election of such voters, duly called for that purpose, and said city council is hereby empowered and directed to call and hold such special election. The judgment shall fix and determine the amount to be paid, and shall vest in the city all the right, title and estate of the parties to the action in and to all the property taken. The faith and credit of the city shall be pledged to the payment of such judgment and interest, and the city may immediately enter upon and take the property, and the court may issue and enforce execution or any other writ, process or order necessary to put the city into complete possession and enjoyment of the property. Such judgment and pledge of payment shall be deemed a complete and effectual taking and a complete security for payment. ('09 c. 372 § 2) [1387]

See '21 c. 32, legalizing bond elections.

1324. Bonds authorized—The city, through its city council, may, notwithstanding any limitations contained in the charter of such city, or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city, issue and sell the negotiable bonds of the city for the payment of such judgment, bearing interest at a rate not exceeding five per cent per annum and maturing in thirty years after date, and sell such bonds to the highest bidder, after a publication of notice once each week for three successive weeks in some newspaper of the city. Such bonds shall be issued in such denominations as the city council may determine, and shall not be sold for less than par, shall bear the seal of the city, and shall be executed by the mayor, city clerk and city comptroller in the name of the city. The city comptroller shall keep an accurate register of the bonds. The bonds may be either in the ordinary coupon form, or may be issued as registered bonds, transferable in the usual manner. The faith and credit of the city shall be pledged for the payment of the principal and interest of such bonds. The city may discontinue the proceedings at any time before entry of judgment. The city council may, after acquiring any such property, operate the same for the purposes aforesaid, and may issue and sell bonds of the city in the manner and on the terms prescribed in this section and upon the same conditions, to the par value of one hundred thousand dollars or less as a working capital for the operation of the plant. ('09 c. 372 § 3) [1388]

1325. Service rates—Any such city is hereby authorized and required, in event of the operation of any such plant, to establish and collect rates for service sufficient to pay the interest upon such bonds, maintain such plant in perfect condition, and to operate the same at a high standard of efficiency. The substantial

performance of the requirements of this section is hereby declared to be part of the contract with the holder of any bonds of the city, that may hereafter be issued hereunder and shall be kept inviolate. ('09 c. 372 § 4) [1389]

1326. **Contracts for water and light in cities of second and third class**—Any city of the second or third class, if it have no water system of its own, may contract with a private person or corporation to supply its inhabitants with water for public and private use, for such period, not exceeding thirty years, and upon such conditions, as its council may determine; and, as a part of such contract, it may authorize the laying, maintenance, and operation of mains, hydrants, connections, and other appliances in the streets and other public grounds. In like manner, any such city not owning a lighting system may contract for the public and private lighting thereof for a period not exceeding fifteen years, and may authorize the placing of poles, wires, and other necessary lighting apparatus in the streets and public grounds. Any such contract may be extended from time to time for periods not exceeding the limits herein fixed. (765) [1390]

1327. **Deposit of funds of cities not under home rule charters**—The city council or common council of any city in this state, and not including cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4 of the constitution of this state, and sections 747 to 758 inclusive of Revised Laws of Minnesota, 1905, shall have the power and authority, at the beginning of each calendar year, to designate and from time to time redesignate the banks, banking houses and other depositories of any such city in which the city treasurer of such city shall deposit and keep the moneys of such city, designating in each instance the maximum amount which may at any time be kept in any one of such depositories, which maximum amount shall in no case exceed 25 per centum of the paid-up capital and surplus of such depository. The city council or common council of each city shall at all times designate depositories in their respective cities or elsewhere in the United States sufficient for the depository of all funds which are likely to be in the hands of the city treasurer of such city at any one time, and shall, so far as consistent with the best interest of such city, designate such depositories in their respective cities and shall require from such depositories good and sufficient bonds payable to such city for double the amount of money likely to be received, and conditioned for the safe-keeping and payment of funds so deposited. ('07 c. 17 § 1) [1391]

1328. **Duty of treasurer—Exemption from liability**—The city treasurer of each city where depositories have been designated in accordance with this act, shall keep the funds of such city as far as possible in the depositories so designated, and when so deposited the treasurer and the sureties on the official bond of such treasurer shall be exempt from all liability for the loss of any such funds so deposited as in this act provided, if such loss is caused by the failure, bankruptcy or any other act of default of such depository. ('07 c. 17 § 2) [1392]

1329. **Failure to designate**—The failure of the city council or common council of any city to designate depositories, as in this act provided, shall not exempt or relieve the city treasurer of such city or the sureties on his official bond from any liability. ('07 c. 17 § 3) [1393]

1330. **Duty of council—Interest**—The city council or common council of any city authorized under this act to designate depositories shall exercise all possible

care to secure safe depositories for the city funds of such city and to obtain the highest rate of interest possible consistent with safety for such moneys. All interest received in any way for the use or keeping of moneys or on account of the same shall be the property of such city and shall be credited to the current expense fund of such city. ('07 c. 17 § 4) [1394]

1331. **Money, how deposited—Checks, how drawn**—All moneys of any such city kept in accordance with this act in any depository designated by the city council or common council of any city shall be kept and deposited in the name of such city and such depository or depositories shall have no authority to pay out any such money except upon checks drawn upon such depository or depositories signed by the city treasurer and countersigned by the city comptroller or recording officer of such city. ('07 c. 17 § 5) [1395]

1332. **Withdrawal of funds**—The city treasurer of any city who has city funds deposited in accordance with this act shall, whenever notified so to do by the sureties on his official bond or by the city council or common council of such city, withdraw all funds from any designated depository, and it shall be the duty of the city comptroller or other recording officer of such city to countersign all checks for such withdrawal. Said city treasurer shall thereupon, upon such withdrawal, notify the city council or common council of such city thereof and thenceforth such city treasurer shall deposit no more funds in such depository until authorized so to do by the city council or common council of such city. And upon such withdrawal, it shall be the duty of the city council or common council of such city to proceed forthwith to redesignate, in accordance with the provisions of this act. ('07 c. 17 § 6) [1396]

1333. **Incorporation within city limits of land of state institutions**—Whenever the board of control of state institutions shall petition the city council of any city, the limits of which shall be the dividing line between such city and the lands surrounding any state institution, describing said lands, for leave to have such lands come into and be part of such city, the city council thereof may adopt a resolution which shall describe such lands and provide for their incorporation within the limits of said city, and upon the recording of an authenticated copy thereof with the register of deeds of the county or counties within which such city, or any part thereof is situated, and, in case such city and said lands are in different counties, upon the recording of such authenticated copy of such resolution in the office of the register of deeds of the county in which such lands are situated, such lands shall become a part and be included within the limits of such city for all purposes. ('05 c. 110 § 1) [1397]

1334. **Water works in cities organized under special laws having not over 5,000**—Whenever any charter, general or special election, held in any city in the class hereinafter mentioned, the electors thereof by an affirmative vote of three-fifths of the electors voting thereat so determine, any city in the state of Minnesota having 5,000 population or less, organized and existing under a special law, is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its city charter, or by virtue of any general or special law, and in addition to all other bonds that it is by the law authorized to issue, to issue its bond in the aggregate amount hereinafter mentioned to be determined as hereinafter set forth, and to dispose of the same as hereinafter provided, and to use the proceeds thereof for the purpose of acquiring, constructing, extending, enlarging, improving or purchas-

ing municipal water works, light and power plants, or of acquiring or purchasing lands or rights for the erection, establishment and maintenance of dams and reservoirs for the purpose of furnishing water, light or power to the public, or for either or all of such purposes, but in each such case the said city may either acquire such plant or property at such price, not exceeding its fair value, and on such terms as may be agreed upon between such city and the owner thereof, or if such arrangement as to price and terms cannot be agreed upon, may acquire such property by condemnation thereof. The procedure in event of condemnation shall be that prescribed by chapter 41, Revised Laws, 1905, and the purchase price of said property as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by this act authorized to be issued and the balance of the proceeds, if any, may be used for the extension, enlargement or improvement of such plant or property so acquired. ('09 c. 323 § 1) [1398]

1335. *Submission to voters*—Whenever the city council of any such city, at any regular or special meeting thereof, determine by resolution duly adopted by two-thirds vote of all members thereof, entered upon the minutes of the proceedings, that it is necessary to acquire by purchase or condemnation, or both, waterworks, light or power plants already in existence, or to construct, enlarge, extend, establish or improve a municipal water, light or power plant, or to acquire as aforesaid lands or shore or flowage rights along, by or near any lake or river for the purpose of erecting or establishing or maintaining reservoirs or dams for water or power purposes, or either or all thereof, as the case may be, and that the funds in the treasury of such city are not sufficient for such purposes, and that it is necessary to issue the bonds of such city in an amount to be determined by such city council in such resolution, not exceeding in the aggregate ten per cent of the assessed valuation of the taxable property of such city according to the last preceding assessment thereof, such city council may cause the proposition of issuing such bonds, in such an amount, to be submitted to the electors of said city at any charter, general or special election to be held therein. Such resolution shall fix the time of said voting, if the same be submitted at special election, which shall be not less than ten days after the date of the adoption of said resolution, and said special election shall be conducted as provided by law for charter elections. The notice of such election at which said proposition is to be submitted, whether general, charter or special, shall contain a statement of the total amount of the principal of said bonds, and the purposes to which it is proposed to put the same. ('09 c. 323 § 2) [1399]

1336. *Ballots*—Election—In voting upon said proposition the ballots used shall have written or printed, or partly written and partly printed thereon, the words "Issue of Bonds," "Yes," "No"—and each elector voting on such proposition shall make a cross mark thus (X) in one of the two spaces left for that purpose, upon the margin of the ballot used. The elector desiring to vote in favor of issuing bonds shall make a cross mark thus (X) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds shall make a cross mark thus (X) in the place left opposite the word "No," and no ballot shall be counted on said proposition except those having said cross mark (X) opposite one only of said words, "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city of-

ficers, and shall be counted, returned and canvassed in the same manner as provided by law for the election of city officers, and if upon such canvass it appears that a majority of all the votes cast upon said proposition shall be in favor of the issuing of such bonds, the same may thereafter be issued in accordance with the provisions of this act, but not otherwise. ('09 c. 323 § 3) [1400]

1337. *Bonds, how issued*—Whenever three-fifths of the electors of any such city at any such election shall declare in favor of issuing the bonds of such city hereunder, such city, and the city council thereof, is hereby authorized and empowered by an affirmative vote of two-thirds of the members of such city council to issue the bonds of said city in an amount to be determined by said city council, not exceeding in the aggregate the amount contained in the said proposition adopted by the electors at said election, and such city council may dispose of the same as hereinafter provided, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in section two [1399] of this act shall specify, but not otherwise. ('09 c. 323 § 4) [1401]

1338. *Terms of bonds, etc.*—Such bonds shall be of such denomination as the city council shall determine, shall be payable at such place as the city council may designate; at such times, not less than ten nor more than thirty years from date of issue; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such city may deem best, and shall draw interest payable semi-annually at such place as the city council may determine at a rate not exceeding five per cent per annum, to be represented by coupons attached to said bonds. Said bonds and coupons shall be signed by the mayor and attested by the clerk or similar officer of such city, and the corporate seal of the city shall be impressed upon said bonds. ('09 c. 323 § 5) [1402]

1339. *Bonds, how disposed of*—Use of proceeds—The city council of any such city shall have authority by a majority vote of all members to dispose of such bonds in such manner as in the judgment of said city council shall best subserve the interests of the city, but it shall not negotiate the sale, nor dispose of, nor sell said bonds, nor any of them, at less than their par value and accrued interest, either for cash or for property at its fair value, and neither the said bonds nor the proceeds of the sale thereof shall be used for any other purpose than specified in said resolution contemplated by section two [1399] hereof, and such purpose shall be again distinctly stated in said resolution of said council authorizing the issuance thereof. ('09 c. 323 § 6) [1403]

1340. *Lien of bonds, etc.*—The principal and interest of any such bonds so issued is hereby declared to be a first lien upon the municipal waterworks, light or power plants, dams or reservoirs, respectively constructed or required by means of said bonds or the proceeds of the sale thereof, and the faith and credit of such city issuing the bonds is hereby irrevocably pledged to the payment thereof, any provisions of the law of this state, whether general or special, to the contrary notwithstanding. ('09 c. 323 § 7) [1404]

1341. *Corporations to provide electricity in cities upon rivers*—Any city situated upon a river where there may be secured a developed water power conveniently near for utilization in the creation and development of electrical energy to supply such city and any state institution therein with such energy at ap-

proximate cost, either alone or in conjunction with an adjacent city, may do so through a public corporation formed at its request as hereinafter provided. ('11 c. 141 § 1) [1405]

1342. **Uniting with adjacent city—Failure to unite**—Any such city which may desire to avail itself of the provisions of this act shall proceed as follows:

If there is another city adjacent thereto, it shall be invited by resolution of the legislative branch of the city first mentioned to unite with the latter in securing the organization of such public corporation. If such adjacent city within thirty days thereafter shall, by resolution accept such invitation, said city shall, by further resolution of their respective legislative bodies, declare their desire to so secure such water power and to have organized, under this act, a public corporation therefor, and shall, by the same resolution, request the respective mayors, or other executive heads (by whatever name known) of said cities, and the president or other executive head of the governing, or managing board, of any state institution, (or of the senior state institution, if more than one) in such cities, to proceed to form such corporation under this act.

If there is no adjacent city, or if there is one and it fails or refuses to unite in the adoption of such resolutions within thirty days, the legislative body of the city which may desire to avail itself of the provisions of this act shall by resolution request its mayor, or other executive head, its city engineer, or the head of its engineering department, (if known by any other name), and the president, or other executive head, of the governing or managing board of any state institution (or of the senior institution, if more than one) within such city, to proceed to form such a corporation under this act. ('11 c. 141 § 2) [1406]

1343. **Corporation, how organized**—The officials designated shall meet upon the call of the mayor (of the larger of the cities if more than one) at his office, and shall proceed to organize themselves into a public corporation under some appropriate name for the objects and purposes stated in section "1" [1405], and shall unite in a certificate which shall state the name and objects of the corporation, the fact that it is organized under this act, and that the members of the corporation shall be themselves, during their respective terms of office, and their respective successors in such offices. Such certificate shall be recorded in the office of the secretary of state. ('11 c. 141 § 3) [1407]

Section "1" [1405], referred to, is § 1341, herein.

1344. **Officers and government**—Such corporation, when organized, shall provide for and elect such officers as it may designate, and may employ a manager and such other agents and servants as may be necessary for the corporate business, and may adopt such rules, regulations and by-laws for the government of the corporation and of its employees as may seem best, but the members of such corporation shall receive no pay or compensation as such members, or as officers, but may have their actual expenses. ('11 c. 141 § 4) [1408]

1345. **Acquisition and development of water power**—Such public corporation, when organized, shall be authorized and empowered to acquire by lease or otherwise any developed water power within or near the corporate limits of the cities whose officers are, ex officio, members of such corporation; to acquire all necessary lands, rights, and privileges, and to provide itself with a suitable hydro-electric plant, fully equipped with auxiliary power plant necessary to utilize economically said water power, and with the necessary

means of distribution of the electrical energy therefrom. ('11 c. 141 § 5) [1409]

1346. **Disposition of electrical energy**—The electrical energy, so developed, shall be disposed of as follows: First, to the grantor from whom the water power is acquired if the contract therefor so provides; second, to any state institution in such city, or cities, desiring the same, and third, any surplus then remaining, in equal shares, to the cities whose officers are members of the corporation, if more than one, otherwise the whole to the single city. ('11 c. 141 § 6) [1410]

1347. **Rates**—The same rate shall be charged by the corporation to all users of electrical energy so supplied, whether the user is the grantor of the water power, a state institution, or a city, and that rate shall be sufficient to pay and cover the cost of operation, maintenance, interest charges, and the retirement of any indebtedness, and to provide for the renewal of the plant and for a reasonable emergency fund, and no more. ('11 c. 141 § 7) [1411]

1348. **Issuance of bonds**—Such corporation shall likewise be authorized to raise money by the sale of its bonds or certificates of indebtedness to carry out the objects and purposes of the corporation, and the indebtedness evidenced thereby shall be a lien upon all the property, rights, and franchises of the corporation. ('11 c. 141 § 8) [1412]

1349. **State's ownership of bed of navigable river**—That the ownership of the beds and the lands under the waters of all rivers in this state which are navigable for commercial purposes are hereby declared to be and shall be in the state of Minnesota in fee simple, subject only to the regulations made by the congress of the United States with regard to the public navigation and commerce and the lawful use by the public of the waters while thereon. ('11 c. 291 § 1) [1413]

1350. **Change of channel within and at cost of city—City's ownership**—That when any portion or portions of the channel of any such navigable river within the limits of any city in this state is changed by or under the authority of the United States government or any other authority for the improvement of navigation and the cost of such change or any portion thereof is borne by the city within which change is made the old bed of the river or portion thereof abandoned by reason of any such change, shall belong to and become the property in fee simple of the city in which the same is situate without further act or ceremony. The filing and recording in the office of the register of deeds of the county in which such city is located, of a copy of this bill together with a plat or map certified by the secretary of war of the United States or the United States government engineer in charge of the changes of the channel hereinbefore referred to, showing the respective locations of the water line of the old or original bed of the river and such changed location, shall constitute sufficient evidence of title of such city to the old river bed and lands hereinbefore referred to. Upon the request of any such city the governor and state auditor shall also execute and deliver to such city a deed of conveyance transferring all of the right, title and interest of the state of Minnesota in and to such old river bed and lands within the limits of such city, and the lands so reclaimed or acquired may be held, used or disposed of by such city as the common council shall determine to be for the best interests of such city. ('11 c. 291 § 2) [1414]

1351. **To what cities applicable**—This act shall apply to all cities including those now or hereafter governed by a charter adopted pursuant to section 36, arti-

cle 4 of the constitution of the state. ('11 c. 291 § 3) [1415]

1352. Special assessments in installments for paving—That any city having a home rule charter in this state and having a population of twenty thousand inhabitants or less may, in addition to the powers conferred upon it by charter, provide for the payment of special assessments for the paving of any public street, alley, lane, levee or highway, in not to exceed fifteen annual installments in the manner as follows: ('11 c. 134 § 1) [1416]

134-204, 158+977.

1353. Installments, how determined—The city council of any such city or the board of public works of any such city, whichever body is by charter authorized to make a special assessment for the costs and expense of paving any public street, alley, lane, levee or highway, may, if they deem it expedient so to do, by resolution, determine the number of annual installments, not to exceed fifteen in which such assessments may be paid, and direct the city clerk or other like officer of the city, to, after giving the notice hereinafter specified and after the expiration of twenty days from the date of giving of such notice divide the then unpaid part of such assessments into the number of equal installments theretofore determined, and to compute and add to each installment the full amount of interest which would be due upon such unpaid part of such assessments at the date of maturity of each of said installments respectively; the first installment thereof to mature on the first day of November succeeding the year in which the improvement is made for which said assessment is levied and each succeeding installment to mature at intervals respectively of one year thereafter; the interest to be added to such first installment shall be computed from the date of the expiration of said twenty day period.

Forthwith upon the adoption of such resolution the city clerk or other like officer shall give notice by one publication in the official paper of said city that the whole or any part of such assessment may be paid within twenty days after the date of such publication, and that after the expiration of said period of twenty days, all parts of such assessment then unpaid will be divided into installments, with interest thereupon all as above set forth; such interest to be at the rate of six per cent. per annum. ('11 c. 134 § 2) [1417]

1354. How collected—The city clerk or other like officer of any such city shall on or before the tenth day of December in each and every year file in the office of the county auditor of the proper county a statement containing a description of each and every tract of land upon which the next then maturing installment of such assessment has not been paid, and the amount of principal and interest which will next become due upon each of said tracts or lots of land; and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection and payment thereof, and the same shall be enforced with and in like manner as city, county and state taxes are collected and enforced. ('11 c. 134 § 3) [1418]

134-204, 158+977.
Cited (124-300, 145+21).

1355. Certificates of indebtedness—That for the purpose of providing funds in advance of the collection of the moneys to be derived from any such assessment the city council of any such city may from time to time issue certificates of indebtedness of such city to be paid out of the moneys collected from any such as-

essment, provided; the amount of any such certificates at any time heretofore or hereafter outstanding shall not be included in determining any such municipality's net indebtedness under the provisions of any applicable law. ('11 c. 134 § 4, amended '21 c. 88) [1419]

1356. Certificates, how executed and payable—Such certificates shall bear date of the day when actually issued and delivered, shall be under the corporate seal of such city, signed by the mayor, and countersigned by the city clerk, or other like officer, in such sums as the city council may from time to time determine, not exceeding the aggregate amount of such unpaid assessment, and shall be payable at the office of the city treasurer of said city at such time or times as such council shall determine, and out of funds to be derived from the assessment in said certificate specified, with interest payable annually at a rate not to exceed six per cent. per annum and shall be payable to bearer. ('11 c. 134 § 5) [1420]

1357. Form of certificates—Application of moneys—Such certificates shall be substantially in the following form: Public Improvement Certificate of the City of..... Installment No..... Amount..... Serial No.

To whom it may concern:
This is to certify that the sum of.....dollars has been assessed against the lots and parcels of land mentioned in the assessment roll for the following improvement, to-wit: the paving..... in said city of....., which said assessment is a valid and subsisting lien and charge against the lots, pieces and parcels of land therein mentioned and described, and that said sum has been divided into installments; that this certificate represents the sum of dollars, being part of installment No., which is due and payable to said city of out of the property pledged by law for its payment, and issued pursuant to the provisions of chapter, of the General Laws of the state of Minnesota for the year 1911; and the said city of hereby guarantees to the holder of this certificate that it will cause to be collected the said installment and will pay upon surrender of this certificate to its treasurer at the office of the city treasurer, on, the sum of dollars, with interest thereof from date hereof to the time mentioned herein for payment at the rate of per cent per annum.

In testimony whereof the said city of..... has caused this certificate to be signed by its mayor, and attested by its clerk and its corporate seal affixed hereto this day of, A. D.

..... Mayor.
Countersigned:
..... City Clerk.

City seal.
The installments of interest accruing upon any of such certificates shall be evidenced by coupons or orders thereto attached, signed by the mayor and city clerk or other like officers of said city, such certificates shall not be sold, negotiated or disposed of by any such city issuing the same at less than the par value thereof. All moneys collected from any such assessment shall be set apart for and applied to the payment of the certificates issued upon said assessment, and shall not be in whole or in part applied to any other or different use or purpose whatever.

No error or informality in any action taken by such city in the ordering or making of such assessment or in the execution, delivery or issue of any such certificates shall in any manner affect the validity of any such assessment. ('11 c. 134 § 6) [1421]

1358. Teachers' retirement fund associations in cities—In every city of this state now or hereafter having a population of more than ten thousand inhabitants, the teaching body may, with the consent of the common council or city council in said city, establish an association to be known as "teachers' retirement fund association," said association to be formed and organized and to have powers and privileges as herein-after provided. ('09 c. 343 § 1, amended '11 c. 383 § 1) [1422]

1359. Same—Incorporation—Any plan for the establishment of such an association shall include a provision for the organization of a corporation under the provisions of chapter fifty-eight of the Revised Laws of 1905 and acts amendatory thereof. ('09 c. 343 § 2) [1423]

1360. Plan of association—Fund—Approval of council—Whenever any teaching body of any city of this state having a population of more than ten thousand inhabitants desires to avail itself of the privileges of this act, said teaching body shall formulate a plan for the formation and incorporation of such an association and the collection and disbursement of a fund for the benefit of retired teachers in said city, which said plan shall be submitted to the common council or city council of said city for approval, and when the same is approved by said common council or city council, the said association so established and incorporated shall have full power and authority to receive and disburse funds in accordance with the said plan so adopted. ('09 c. 343 § 3, amended '11 c. 383 § 2) [1424]

1361. Approval of board of education, etc.—No such association shall be incorporated and commence to collect and disburse funds until the plan so to be proposed by the said teaching body shall be approved in writing by a majority of all the teachers in the employ of the board of education and when the said corporation is formed there shall be filed with the articles of incorporation an affidavit made by some officer of the board of education that a majority of the said teachers have approved in writing of the formation of said association. ('09 c. 343 § 4) [1425]

1362. Contribution by teachers—Taxation—Said plan so to be adopted shall include a provision that only such teachers as make a contribution to the said fund, as provided in said plan, shall be entitled to the benefits thereof, and may include a provision that a portion of said fund shall be raised by taxation upon the property of the said city, it being understood, however, that all teachers who are willing to comply with the terms and conditions of the articles of association and by-laws of said association shall be entitled to participate in the benefits of said fund. ('09 c. 343 § 5) [1426]

1363. Taxes—When said plan is adopted, as hereinbefore set forth, and said association is formed and incorporated, the proper officers of said association shall certify annually to the proper authorities, who have charge of the levying of taxes for school purposes in said city and in the county in which said city is located, the amount which it will be necessary to raise by taxation in order to carry out the plan so adopted, as hereinbefore set forth, for the coming year, and it shall be the duty of the said authorities so having charge of the levying of taxes to include in the tax levy for the ensuing year, a tax in addition to all other

taxes, sufficient to produce so much of the sum so certified as the said authorities having charge of the levying of taxes for school purposes in said city shall approve, provided, however, that in cities of the first class which are or are not operating under a home rule charter. Said tax shall in no event exceed one and one-half mills upon each dollar of the assessed value of all taxable property of said city, and in all other cities to which this law is applicable, said tax shall in no event exceed one-tenth of a mill upon each dollar of the assessed value of all taxable property of said city unless the authorities having charge of the levying of taxes for school purposes in such last mentioned cities shall determine that a larger tax than one-tenth of a mill upon all taxable property of said city should be levied, in which event the amount so determined shall be levied, which shall, however, in no event exceed three-tenths of a mill upon each dollar of the assessed value of all taxable property of said city; said tax shall be collected as other taxes are collected in said city and when so collected shall be paid over to the treasurer of said association to be held and disbursed in accordance with the provisions of said plan so to be adopted. ('09 c. 343 § 6, amended '11 c. 383; '17 c. 300; '19 c. 144; '21 c. 303; '23 c. 310) [1427]

1364. Power to hold property—Any such association so to be formed shall be empowered to receive, hold and dispose of real estate or personal property acquired by them, either by gift or purchase or in any other lawful way, as provided by their articles of association so to be adopted, as herein provided. ('09 c. 343 § 7) [1428]

1365. Pro rata distribution of funds—Said plan may provide in the event that the funds of the association are not sufficient to pay annuities in full, as provided in said plan, in any particular year, that the amount available shall be pro-rated between those entitled to receive the same. ('09 c. 343 § 8) [1429]

1366. "Teachers" defined—The word teachers as used in this act shall include superintendents, supervisors, principals, as well as instructors, who are in the employ of the board of education or board of school inspectors in the city mentioned in this act. ('09 c. 343 § 9) [1430]

1367. Appropriations for entertainment—That the governing body of any city of the third or fourth class, in this state, is hereby authorized to annually levy not to exceed a half mill tax against the taxable property in such city for the purpose of providing musical entertainments to the public in public buildings or upon public grounds; provided, however, that in any such city the total sum that may be levied or expended in any year shall not exceed the sum of two thousand (\$2,000.00) dollars. ('15 c. 316 § 1, amended '17 c. 426)

See §§ 1712-1, 1737, herein.

1368. Bridges over interstate waters—That any city having a population of not more than 20,000 and situate on interstate or international waters be and the same hereby is authorized and empowered to appropriate money, or to issue bonds to secure money for the construction, maintenance and repair of bridges extending over or partly over such waters into another state or country, or for making reimbursement for all expenditures heretofore or hereafter made or incurred in the construction, repair or maintenance of such bridges as hereinafter specified. ('17 c. 15 § 1)

1369. Appropriations—The governing body of such city may appropriate not to exceed \$15,000 from the general fund, or any other fund available for bridge purposes, or partly from one fund and partly from the other, whenever authorized so to do by the electors

of such city in the manner hereinafter set forth, and may levy against the taxable property of such city a tax in an amount sufficient to meet such appropriation, and may authorize the making of temporary loans in anticipation of the collection of such levy. ('17 c. 15 § 2)

1370. Bonds—In lieu of such appropriation the said governing body may issue bonds, with interest coupons attached, in any sum not exceeding fifteen thousand dollars (\$15,000), which bonds shall be in sums of not less than one hundred dollars each, and shall bear interest at a rate not exceeding six per cent per annum, payable annually, and the principal of such bonds shall be payable at such times, not exceeding thirty years from the date thereof, as said governing body may direct. Such bonds and the interest coupons attached thereto, shall be signed by the mayor or chief executive officer of such city, countersigned by the city clerk or city recorder, and no bonds shall be negotiated, sold or disposed of by such city at less than par value, and accrued interest. ('17 c. 15 § 3)

1371. Private parties may be reimbursed—Whenever any such bridge has been constructed or improved, and paid for with money furnished by private persons, it shall be lawful for the governing body of such city to use in part the money so raised by tax levy or bond issue to reimburse the persons making such payments. ('17 c. 15 § 4)

1372. Expenditures—Bonds—Interest—Before any expenditures or levies shall be made or any such bonds shall be issued, the governing body of such city shall by resolution determine the amount proposed to be expended or levied, or, if a bond issue be desired, the number and amount of such bonds, the rate of interest which such bonds shall bear, and the time or times when the principal thereof shall become payable, which resolution, together with a notice that the question of issuing such bonds or making such appropriation, as the case may be, will be submitted to the legal voters of such city for their approval or rejection, at a general or special election to be held upon a day in said notice named, shall be published once in the regular issue of two of the newspapers published in the English language in said city, at least ten days prior to the time of holding such election. If such question is submitted at a special election, the governing body of such city shall give thirty days' notice thereof previous to the day fixed for such election, which notice shall specify the object for which such election is ordered.

The ballot to be used at such election shall be in substantially the following form: if the proposition submitted be that of bond issuance the form shall be:

"Shall the bonds of the city of..... be issued in the aggregate amount of....., bearing interest at the rate of.....per cent per annum, the proceeds thereof to be used for the purpose of constructing, maintaining or repairing the bridge over, commonly known as the, bridge, or for reimbursing such citizens of such city as may have advanced money for such construction, maintenance or repair, to mature as set forth in the resolution therefor now on file in the office of the city clerk:

Yes: ()
()
No: ()
()"

If the proposition submitted be that of appropriation, the form shall be:

"Shall the city council (or other governing body) of the city of be given authority to appropriate from the funds of said city an amount not to exceed dollars for the purpose of constructing, maintaining or repairing a bridge over the....., commonly known as the bridge, or for reimbursing such citizens of said city as have advanced money for such construction, maintenance or repair:

Yes: ()
()
No: ()
()"

If a majority of the votes cast upon such question shall be in favor of issuing such bonds or authorizing such appropriation, then the city council, or other governing body, shall be authorized to issue such bonds, or to appropriate such money from the proper funds of the city in such amount as may be so determined.

For the purpose of paying the principal and interest of such bonds when issued, said city council or other governing body is hereby authorized and it is hereby made its duty, on or before the first day of September next after the date of such bonds, and each and every year thereafter, on or before the first day of September, until payment of such bonds, both principal and interest, is fully provided for, to levy and in due form of law, certify to the county auditor a tax upon the taxable property of said city equal to the amount of interest and principal maturing next after such levy, and, in the event the governing body of such city decide to make direct appropriation without the issuance of bonds, to levy against the taxable property of said city an amount sufficient to meet the appropriation so to be made, and said governing body may, if necessary, issue the warrant of said city to anticipate such appropriation, payable when the same shall have been levied and collected, provided the electors of said city have voted to authorize such appropriation. ('17 c. 15 § 5)

1372-1. Freight and passenger transportation terminals in cities of not less than four thousand and not more than fifty thousand inhabitants—Authority to require facilities for—Any city in this state now or hereafter having a population of not less than four thousand (4,000) and not more than fifty thousand (50,000) inhabitants or any such city now or hereafter governed by a charter adopted pursuant to Section 36, Article 4, of the Constitution of this State shall have the power to acquire and hold in fee simple, by purchase or condemnation, land for the establishment of docks, quays, levees, wharves, landing places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances on any navigable stream within the limits of such city and may set aside such portions of said land when acquired, as the public needs may require, for use for public travel and shall devote the remainder thereof to the uses herein provided, or if required by the United States Government. ('27, c. 152, § 1)

1372-2. Same—Construction of docks, etc.—Charges for use of facilities—Such cities shall have the power to construct, erect and maintain on any such land so acquired, docks, quays, levees, wharves, landing places, railroad and other transportation loading and unloading places, and water freight and passenger stations, terminals and terminal buildings for any and all kinds

1372¹ ;
Et seq. ;
29 — 61 ;

of carriers and necessary equipment and appurtenances; and such city shall have the power and is hereby authorized to charge a reasonable price for the use of such docks, quays, levees, wharves and landing places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances, such reasonable price to be determined and fixed by the common council or governing body of such city, and the making of such charge shall in no way be held to impair, affect or invalidate such bonds. ('27, c. 152, § 2)

1372-3. Same—Bonds or certificates of indebtedness—Election to determine issue—Any such city may, by written resolution or ordinance adopted by a two-thirds (2/3) vote of all the members of its common council or other governing body, issue and sell bonds or certificates of indebtedness of any such city of the par value in the aggregate of not to exceed one hundred thousand dollars, (\$100,000.00), or so much thereof as said common council or other governing body may from time to time deem necessary for the aforementioned purposes and uses. Provided, however, no bonds authorized by this act shall be issued by any such city until the issuance thereof shall have been first authorized by a majority vote of the legal voters of the city voting upon the question of the issuance of such bonds shall be submitted to the electors of the city proposing to issue the same at a general or special election called and conducted in the manner prescribed for municipal elections in such city and the notices of such election shall contain a statement of the amount and purpose for which such bonds are proposed to be issued with the date of their maturity and the rate of interest which they shall bear. All elections provided for in this act may be called by resolution in writing of the common council or governing body of such city passed by a two-thirds (2/3) majority vote of such council or body, which resolution shall distinctly state the purpose for which such bonds are proposed to be issued and the question to be submitted to the people.

The ballot to be voted at all elections under this act shall read as follows:

“Shall the proposed issuance of bonds or certificates of indebtedness in the amount of \$..... bearing interest at the rate of per cent per annum, to mature on or before the year 19... for the purpose of acquiring, constructing, erecting and maintaining docks, quays, levees, wharves, landing places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances be authorized.

Yes
No

If a majority of the votes cast upon the question at such election shall be in favor of issuing the bonds for the aforesaid purpose and the amount of bonds designated in said ballot, the city voting in favor thereof, shall, through its proper officers as provided herein, without further act be authorized to issue such bonds to the amount voted and to sell and negotiate the same, as provided herein. ('27, c. 152, § 3)

1372-4. Same—Issue and sale of bonds or certificates—Tax levy—The bonds or certificates of indebtedness authorized by this act or any portion thereof may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or

in any law of the state prescribing or fixing any limit upon the bonded indebtedness of such city and the full faith and credit of any such city shall at all times be pledged for the payment of any bonds or certificates of indebtedness issued under this act and for the payment of the current interest thereon, and the common council or other governing body of such city shall each year include in the tax levy a sufficient amount to provide for the payment of such interest as it accrues and for the accumulation of a sinking fund for the redemption of such bonds or certificates of indebtedness at their maturity. ('27, c. 152, § 4)

1372-5. Same—Form of bonds or certificates—Interest, maturity, etc.—Said bonds or certificates of indebtedness shall be drawn payable to bearer or to order of the person or corporation to whom they may be delivered, as the common council or other governing body may deem best, and shall draw interest payable annually or semi-annually at such place as such council or governing body may determine at a rate of not exceeding five (5) per cent per annum to be represented by coupons attached to said bonds, if such bonds are issued. Said bonds shall be made for principal sums of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), and shall be made payable at such times, not exceeding twenty (20) years from the date hereof, as may be deemed best by said council or governing body, notwithstanding any provisions contained in the charter of such city or any law of this state prescribed or fixing any limit upon the total amount of indebtedness of such city falling due in any one fiscal year. Said bonds or certificates of indebtedness shall be signed by the Mayor and attested by the Recorder or Clerk of such city, and the corporate seal of such city shall be imprinted thereon and said coupons, in case bonds are issued, shall be signed by the Recorder or Clerk or a facsimile of his signature be printed thereon. ('27, c. 152, § 5)

1372-6. Same—Sale of bonds or certificates—Proceeds—The common council or other governing body of such cities shall have authority to negotiate the sale of said bonds or certificates of indebtedness in such manner as in its judgment shall best subserve the interest of such city but none of the bonds or certificates of indebtedness shall be sold at less than their par value and accrued interest nor until after a notice of such sale shall have been published at least once each week for two (2) successive weeks in the official paper of such city. And neither the said bonds nor the certificates of indebtedness nor the proceeds from the sale thereof shall be used for any purpose other than that hereinbefore specified. ('27, c. 152, § 6)

1372-7. Same—Time within which bonds or certificates may be issued—No bonds or certificates of indebtedness shall be issued by virtue of this act after five (5) years from the date of its passage. ('27, c. 152, § 7)

1372-8. Hospitals in cities with more than four thousand and not more than twenty thousand inhabitants—Authority to establish—Any city in the State of Minnesota, whether operating under a home rule charter or otherwise, and now or hereafter having more than four thousand and not more than twenty thousand inhabitants, in addition to all powers now possessed by said city, is hereby authorized and empowered, acting by and through the council, common council or city council of such city by resolution or ordinance duly adopted or enacted by an affirmative vote of not less than two-thirds of all the members-

elect of such council, common council or city council, to acquire by gift, devise, purchase, condemnation or otherwise, and to establish, maintain and equip, improve, own, hold and operate hospital, hospital sites, and hospital grounds within the limits of said city. ('27, c. 292, § 1)

1372-9. Same—Acquisition of sites, etc.—Any city mentioned in Section one of this act may acquire by grant, gift, devise, purchase, condemnation or otherwise, any property necessary, convenient or desirable for the purpose of establishing, maintaining, equipping, improving, owning and operating, any hospital, hospital site or hospital grounds within the limits of such city and that such city is hereby empowered to hold, own, and operate any hospital and hospital grounds and sites and other real and personal property, heretofore transferred or conveyed to such city, by gift, devise, bequest, or otherwise, for hospital purposes. ('27, c. 292, § 2)

Explanatory note.—For section 1 of this act, see § 1372-8, herein.

1372-10. Same—Rules and regulations.—The council, common council or city council of such city is hereby empowered to make such rules and regulations for the operation of such hospitals and to appoint such board to manage its hospital affairs and property, as such council, common council, or city council, may deem necessary, proper or expedient. ('27, c. 292, § 3)

1373. Licensing soft-drink vendors.—There is hereby conferred upon each city, borough and village in the state the authority by ordinance to license and regulate the business of vendors at retail of non-intoxicating beverages, to impose such reasonable license fee therefor as may be prescribed by such ordinance, and to provide for the punishment of any violation of any such ordinance according to the provisions of law. ('19 c. 432 § 1)

1374. Compensation claims preferred.—That whenever compensation has heretofore been awarded, or shall hereafter be awarded against any county, city, town, village or school district by any court or commission, having jurisdiction, to any injured employee, or to the dependents of any deceased employee, under the provisions of any workmen's compensation law of this State, such compensation shall be a preferred claim against such county, city, town, village or school district and it shall be the duty of the proper officers of any such county, city, town, village or school district to pay any such claim for workmen's compensation at such times and in such amounts as shall be ordered by the court or commission, out of the general fund of such county, city, town, village or school district, and from the current tax apportionments received by any such employer for the credit of said fund. ('21 c. 26 § 1)

1375. Warrants are preferred claim.—That in any and all cases where the orders or warrants of such county, city, town, village or school district, have heretofore been issued, or shall hereafter be issued, in payment of any such compensation, and shall remain unpaid, all such orders or warrants shall be a preferred claim and shall be paid out of said fund, from current tax apportionments received for the credit of said fund, in preference to any other claims for compensation arising under said law subsequent to the issuing of any such orders or warrants by said employer. ('21 c. 26 § 2)

1376. Act construed liberally.—This act shall be liberally construed in order to effect the prompt payment of claims for workmen's compensation against any county, city, town, village or school district, by any in-

jured employee, or the dependents of any deceased employee of such county, city, town, village or school district. ('21 c. 26 § 3)

1377. Conciliation and small debtors court.—Whenever the governing body of any city, whether governed by a home rule charter or not, shall by resolution declare that it is expedient that the judge of the municipal court of such city, or one of them in case there be more than one such judge, shall act as a conciliation judge and shall cause a copy of such resolution to be filed with the city clerk of such city, the judge of the municipal court of any such city, or in case there be more than one such judge, then one of them, to be selected as hereinafter specified, shall thereafter as a judge of the municipal court of such city act as a court of conciliation and while so acting he may for convenience be designated as a **judge of conciliation** and shall have and exercise the rights, powers and duties hereinafter by this act granted and conferred. Provided that the governing body of any such city may at any time rescind such resolution.

Provided further that in cities where there is but one presiding judge of the municipal court, the governing bodies of said city or cities may, by resolution, designate additional compensation to be paid to the presiding judge and the clerk of said court for their services in said conciliation court. ('21 c. 317 § 1)

Laws 1917, c. 263, creates conciliation court for Minneapolis. See Laws 1925, c. 90, amending Laws 1917, c. 263, § 7, providing for court of conciliation and small debtors court in Minneapolis.

See Laws 1925, c. 17, creating court of conciliation and small debtors court in Duluth.

1378. Duties — Powers.—Said conciliation judge shall have all powers of a court of conciliation and shall exercise all the special powers conferred by this act. Said conciliation court shall be open at such times as shall be fixed by rule of the municipal court for the hearing and determining of controversies submitted to such court in accordance with the provisions of this act. When such judge is not acting as such conciliation court, under this act, he shall act as a regular judge of said municipal court. No costs shall be taxed to either party in said court, but the judge may include in the settlement and judgment such actual disbursements of the prevailing party as are now allowed by law in civil actions, and as may seem to him just and proper, or he may refuse to include any disbursements if same shall appear just and proper, under the circumstances. The clerk and court officers of said municipal court shall be respectively ex-officio clerk and court officers of said conciliation court, but neither said clerk nor any of said officers shall charge any fee for filing or serving any paper in any case brought under the terms of this act, while the same is pending in said conciliation court. Causes in said court shall be conducted by the parties without attorneys, but a removal to the municipal court as provided in this act may be taken through an attorney at law. ('21 c. 317 § 2)

1379. Procedure.—Any person having a claim within the jurisdiction of said municipal court may appear before said conciliation judge and here state his cause of action without pleadings and without formality. If such cause of action is within the jurisdiction of said municipal court, the judge shall enter the same upon his docket and shall immediately summon the defendant, orally, or by telephone, or by registered or unregistered United States mail, or by personal service of written summons as provided by law for service of summons in the district court, stating the amount and nature of the claim, and by such summons shall require the defendant to appear before said judge in per-

son, and not by attorney, or if a corporation, by officer or agent, and not by attorney, at a time certain at as early a date as the circumstances of all the parties will permit, and specifying that if he does not so appear judgment will be taken against him by default for the same or relief demanded.

Action in said conciliation court may also be commenced by the plaintiff appearing before the clerk thereof and subscribing to and verifying a claim, which claim shall contain the name and place of residence of plaintiff and the name and place of residence of defendant and a brief statement of the amount and nature of said claim and the time when the same accrued. The clerk when requested shall draw up said claim and when so subscribed and verified shall immediately file the same, and set down the same for hearing before said judge at a time certain as soon as possible and not more than ten days from said date of said filing, and shall immediately notify the defendant in one of the methods above recited of the name and residence of plaintiff and the nature and amount of his claim and requiring defendant to appear personally before said judge at said time, and in case he so fails to appear judgment will be taken against him for the amount of relief so claimed. Said judge may by order require all cases brought to said court to be so begun before said clerk. At the times so set said judge shall hear the statements of the respective parties, and shall use his best endeavor to have said parties settle said controversy then and there by agreement.

The judge may also hear any witnesses produced by either party. If the parties agree on a settlement of the controversy, the judge shall reduce such settlement to writing in his docket. Said written agreement shall provide that all the parties shall abide the judgment to be entered thereon without removal or appeal or further litigation, and may be signed by all the parties thereto, but whether or not so signed said settlement when so agreed upon and so entered and countersigned by the judge shall have all the force of a judgment of a court of record, and if so ordered by said judge shall be docketed by the clerk of said municipal court in the same manner and enforced as the judgment of said municipal court, but said judge, in case of a money judgment, may by its terms provide for the satisfaction of the same by the payment of the same into said municipal court, either in a lump sum or in installments in such amounts, and at such times, as to said judge, under all circumstances of the case, may seem just and reasonable, or said judge may retain jurisdiction for the collection and satisfaction of the judgment, without execution.

In case the controversy is as to the ownership or possession, or as to both the ownership and possession, of personal property where the value of same does not exceed the sum of fifty dollars (\$50.00) and the action is commenced by the plaintiff filing (as herein provided) with the clerk, a sworn statement as to his ownership, or right of possession, or both, of such property, the court in its discretion may, by order, direct the officer of said court to take possession of such property, immediately, and to hold same subject to the further order of the court, without the giving of any bond whatever. ('21 c. 317 § 3)

1380. Jurisdiction—Judgment—(a) In case the parties brought before the conciliation court, in the manner provided in this act, do not agree upon the judgment to be entered, then in case the amount in controversy, whether the claim of the plaintiff or a counterclaim on the part of the defendant exceeds the sum of \$50.00, and the judge is satisfied said counterclaim is

in good faith, said case shall be forthwith dismissed and dropped from the docket, without prejudice, but if the amount involved in controversy be \$50.00 or less, or if said judge is of the opinion that the counterclaim, if any, therein in excess of \$50.00 is not in good faith, he shall retain jurisdiction and shall proceed summarily to hear and determine the cause and to enter judgment on his docket. The conclusion of the judge as to the good faith of any counterclaim shall be final and conclusive on all parties for the purposes of the jurisdiction of said court. In case such judgment is not removed, by demand of either party, to said municipal court within five days after the entry thereof, as provided in this act, and said judgment remains unsatisfied, said judgment, on order of said judge shall be docketed in the said municipal court by the clerk and shall thereupon be, and be enforced as the judgment of said municipal court, or said judge may retain jurisdiction for the collection and satisfaction of said judgment by payment to him, but no execution shall issue from said conciliation court.

(b) By its terms, said judgment may provide for its satisfaction by payment into court, either in a lump sum or in installments and in such amounts and at such times as to said judge may under the circumstances of the case seem just and reasonable.

(c) The conciliation court shall be subject to the direction of the judge thereof, but the judges of said municipal court may prescribe rules as to procedure, methods of producing evidences and general conduct of the case, and the trial thereof, under the provisions of this section, and for carrying out all the provisions of this act. ('21 c. 317 § 4)

1381. Defaults—Vacation—In case the defendant duly summoned as provided in Section 3 of this act, shall fail to appear at the times set for hearing, the conciliation judge may hear the plaintiff and enter a judgment by default, or he may fix a later date for such hearing in accordance with what seems reasonable and just to said judge under the circumstances. Due notice shall be served on defendant, by mail, or telephone, or written notice, as provided in this act, for the purpose of this hearing of the time of said postponed hearing, or that judgment has been entered against him by default. If judgment by default is entered, the judgment debtor may appear before said judge, within ten days after the date of such notice of judgment, and upon showing to said judge good cause therefor and paying to said judge for the benefit of plaintiff the sum of two (\$2.00) dollars shall have said judgment set aside. The judge shall then hear said cause at once, if plaintiff is also present, or set same for hearing as soon as possible, after notice is given to both parties in the manner provided in this act. If the judgment debtor fails to appear within ten days after notice of such default judgment or fails to appear at such second date set for hearing in either case judgment by default shall stand or be entered as the case may be, and shall be as to its terms and method of enforcement as provided in Section 4 of this act. If the plaintiff fails to appear at the time set for any hearing the action may be dismissed, or continued at the discretion of the judge. Nothing in this act shall be construed to limit the power of the court at its discretion to relieve against mistake, inadvertence, surprise or excusable neglect as now provided by law. ('21 c. 317 § 5)

1382. Appeal—(a) Any person aggrieved by the judgment rendered by said conciliation judge, under Section 4 of this act, and who is entitled to a jury trial under the constitution, may have the case removed to

1382 (a)
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said municipal court for trial by jury, but no case shall be so removed unless within five days after such judgment is rendered, and after the clerk shall have mailed notice of the entry of said judgment to each of the parties thereto, which notice shall be mailed immediately and shall specify the day on which the time for removal of said cause will expire, the party so removing same shall do the following things, to-wit:

(1) File with said judge a bond executed by the party demanding the removal, his agent or attorney, to the adverse party in a sum sufficient to secure the amount of such judgment, and costs in such municipal court with sufficient surety to be approved by said conciliation judge, conditioned that the party so removing same shall prosecute said case with effect in said municipal court and abide the order of the court therein and pay any judgment that may be rendered against him therein.

(2) File with said conciliation judge an affidavit of the remover, his agent or attorney, stating that said removal is made in good faith and not for the purpose of delay.

(3) Serve on the opposite party a written demand of such removal in the manner now provided by law for the service of summons in said municipal court and file with said judge such original demand with proof of service thereof. Such original demand or proof of service shall show the office address of the attorney of each party, that has such attorney, and the residence address of the party so removing, if he has no attorney, and the residence address of each of the opposite parties who is served with such notice.

(4) Pay to said conciliation judge the sum of five (\$5.00) dollars for costs and jury fee in said municipal court.

(b) Within three (3) days after all of said things have been done said conciliation judge shall deposit said five (\$5.00) dollars with the clerk of said municipal court and file with said clerk all of said papers together with a copy of said judgment and a certificate setting out in general terms the claims of the parties thereto before him and the issues tried and the case shall be tried in said municipal court upon said issues so certified or upon such others as may be stipulated by the parties or ordered by the municipal court or such issues as either party shall demand in writing at the opening of the trial, and a copy of which he has served on the opposite party at least five days before the trial with a notice that such demand will be made.

(c) When said papers are so filed in said municipal court said judgment shall be thereby vacated and said case shall be there pending and shall be by the clerk set down for trial on the first jury trial day at the foot of the calendar of said day, occurring not less than ten days after the papers are so filed in said municipal court, and shall stand for trial without service of any notice of trial or note of issue whatever, except that at least nine days prior to said trial day said clerk shall mail to each party and each attorney in said case whose address appears in said demand for removal or whose address is known, notice that said case is so set down for trial.

(d) If the judgment creditor remove said case and the final judgment rendered is not increased in his favor, at least ten dollars (\$10.00) over the former judgment, he shall recover no costs in said municipal court, and there shall be entered against him in the judgment, an attorney's fee in favor of the adverse party of ten dollars (\$10.00), either by reducing the judgment in his favor in that amount, or if the amount found in his favor be less than ten dollars (\$10.00)

by an affirmative judgment against him for the difference. If the judgment debtor remove said case and final judgment is rendered against him, he shall pay the adverse party in addition to the amount and costs, an attorney's fee to be entered and included in the judgment as follows, viz: five dollars (\$5.00) in case the judgment so removed was five dollars or less, and said final judgment aside from costs is not reduced from the judgment at least three dollars; ten dollars (\$10.00) in case the judgment so removed was ten dollars or less and said final judgment aside from costs is not reduced at least five dollars; fifteen dollars (\$15.00) in case the judgment so removed was more than ten dollars, and said final judgment aside from costs is not reduced at least ten dollars. There shall be no appeal from said municipal court on any action brought there on removal from said conciliation court, but in such case the judgment of said municipal court shall be final ('21 c. 317 § 6)

1383. Any municipal judge shall preside when—In case absence, sickness or other disability of said conciliation judge shall prevent him from performing the duties of his office as hereinbefore prescribed, the presiding judge of said municipal court shall designate one of the other judges of said court to perform the duties of such conciliation judge during his absence or disability. ('21 c. 317 § 7)

1384. Act not restrictive—Nothing in this act shall prevent any person from commencing or prosecuting an action in any court as now provided by law, and nothing in this act shall prevent the parties from waiving a jury in any case when called for trial after having been removed to the municipal court, as provided by this act. ('21 c. 317 § 8)

1385. Inconsistent acts repealed—All acts, or parts of acts, in conflict with any of the provisions of this act, are hereby repealed, but nothing in this act shall be construed as in any manner repealing, amending or modifying the provisions of Chapter 263, Laws 1917. ('21 c. 317 § 9)

1386. Domestic animals shall not run at large—Trespass—It shall be unlawful for any person or persons to allow any cattle, horses, mules, sheep, swine, or other domestic animals, or any domestic fowls, of which they are the owners, or at which they have the control, to run at large, or upon the lands of another within any city or village in this State. Permitting such running at large, or upon the lands of others, shall be and constitute a trespass. ('21 c. 319 § 1)

1387. Violations—Every such trespass and each and every violation of any of the provisions of this act shall be and constitute a misdemeanor, and upon conviction thereof, the person so offending shall be punished by a fine not exceeding one hundred dollars. ('21 c. 319 § 2)

1388. Animals may be impounded—Any person may, and every Sheriff, Constable and Police Officer shall distrain and impound all such animals and fowls so running at large or trespassing, and when so impounded such proceedings shall be had relative to the animals and fowls so impounded as are or shall be provided by the general laws of this State relating to the impounding of animals. ('21 c. 319 § 3)

1389. Owner of property may distrain—The owner or occupant of lands in any city or village may distrain any of such animals or fowls doing damage on such lands, and thereupon such proceedings as to the said animals or fowls and the disposition thereof and the damage done thereby as are or shall be provided by the general laws of this state relating to the distraining by the owner or occupant of lands, of any beast

doing damage thereon, the disposition of the beast distrained, and the appraisal of the damages, and the collection thereof. ('21 c. 319 § 4)

1390. Owner of animals to be liable for trespass—In case the owner or occupant of lands shall not restrain the animals or fowls doing damage as provided herein, then any person who shall knowingly permit the running at large or trespass of any such domestic animal or fowl within any city or village, shall be liable to the person aggrieved for treble the damages sustained by him, to be recovered in a civil action. ('21 c. 319 § 5)

1391. Cities may impose wheelage tax—Any borough, city or village may impose a wheelage tax upon motor-vehicles using the public street or highways, provided that:

Subd. 1. No wheelage tax imposed by any borough, city or village shall exceed a sum equal to twenty per cent tax imposed by the state in lieu of all other taxes, except such wheelage tax, upon motor-vehicles using the public streets or highways.

Subd. 2. No borough, city or village shall impose a wheelage tax upon the vehicle of any person not a resident of such borough, city or village, unless such vehicle shall be used principally upon the streets or highways of such borough, city or village.

Subd. 3. No such wheelage tax shall be imposed upon any vehicle used upon the public streets or highways solely for the purpose of selling or peddling the products of the farm or garden occupied and cultivated by the owners of such vehicles. ('21 c. 454)

See '21 c. 465 relating to refund.

SPECIAL ACTS RELATING TO CITIES GENERALLY

Continuing use of funds from bonds sold under '13 c. 274 for park purposes authorized despite charter limitations ('15 c. 12). Amendments to city charter legalized. ('15 c. 297). Ordinances or resolutions creating, opening, widening, vacating or altering streets to be recorded ('15 c. 322) repealed '17 c. 416. Awarding of contracts for public improvements and assessments ('17 c. 165). Refunding bonds for certain cities authorized ('19 c. 203). Appropriation for Minnesota war records commission ('19 c. 288). Deposit of funds in County Treasury where Board of Control of county and city exists (Ex. Sess. '21 c. 243). Cities and villages may within seven months after act erect poles and string wires to light streets ('21 c. 92). Gas companies may use pipes to supply adjacent cities ('21 c. 93). Declaration of vacation of streets in cities of fourth class ('21 c. 94). Tax levy for 1921 and subsequent years limited ('21 c. 417). Payment of fireman's relief association legalized ('21 c. 526). Legalizing indebtedness on defective incorporation ('23 c. 22). Plats for additions corrected and legalized ('23 c. 178).

PROVISIONS RELATING TO CITIES OF FIRST CLASS.

See Laws 1927, c. 400, § 1, legalizing claims for damages filed against first class cities.

1392. Registration for special elections in cities having 50,000 inhabitants, etc.—It shall not be necessary to make new precincts, to appoint judges, or to make new registration of voters for special elections held for any purpose whatever, in and for cities having more than 50,000 inhabitants, but the registration for the last preceding general election shall be used, the precincts shall be the same as at the last preceding general election, the polling places shall be the same as near as may be and the judges of election at the last general election in any precinct shall continue to be judges of election for such special election and vacancies of judges may be filled the same as in case of

general elections, and such judges shall have the right to take from the city clerk or other legal custodian, and use at such special election, the registers used at said last general election, any name thereon being subject to challenge as at a general election. ('07 c. 148 § 1) [433]

1393. Registration for special elections in cities of first class—Voting by persons not registered—Oath—If any person whose name does not appear on said register shall ask to vote at said special election his name shall be entered upon such register upon taking such oath, answering such questions and complying with such other provisions of the Revised Laws, 1905, as are required for registration. After his name is so entered and before he receives the ballot the judges shall administer the following oath: "You do swear that you are a citizen of the United States; that you are twenty-one years of age, and have been a resident of this state for six months immediately preceding this election; that you are a qualified voter in this district; and that you have not voted at this election." Upon taking this oath, if the judges are satisfied he is a qualified voter he shall be allowed to vote. If such person refuse to take this oath he shall not be allowed to vote, and his name shall be removed from the registers. The provisions of this section shall not be applicable to cities of the first class operating under a home rule charter. ('07, c. 148, § 2; amended '25, c. 420, § 1) [434]

1394 to 1407. [Omitted.]

129-118, 151+911.

Explanatory note—This section, and sections 1395 to 1407 constituted Laws 1923, c. 305, entitled "An act creating a commissioner of registration and providing for the registration of qualified voters in all cities now or hereafter having a population of more than fifty thousand inhabitants, governed under a home rule charter adopted pursuant to section 36, article 4, of the constitution of the state of Minnesota." These sections were duplicated in G. S. '23 as sections 380 to 393 thereof, which see in this compilation. Section 1394 (and § 380 herein) was amended by Laws 1925, c. 375, § 1 by providing for a commissioner of registration in all cities now or hereafter having a population of more than 10,000 inhabitants. Section 2 of Laws 1925, c. 375 provided for registration places and the hours for registration in cities of more than 10,000 and less than 50,000 inhabitants (see § 383-1 herein). Section 3 of Laws 1925, c. 375 required the commissioner of registration to establish a registration place in cities of more than 10,000 and not more than 50,000 inhabitants (see 383-2 herein). The title of said Laws 1925, c. 375 reads as follows: "An act to amend section 380, General Statutes 1923, relating to the registration of voters, and making said act applicable to all cities having a population of over 10,000—" "Said act" presumably referring to Laws 1923, c. 305. Sections 5, 6, 8 and 9 of said Laws 1923, c. 305 (sections 384, 385, 387 and 388 supra, §§ 1398, 1399, 1401 and 1402) were amended by Laws 1925, c. 390. The title of said Laws 1925, c. 390 reads as follows: "An act to amend Sections 5, 6, 8 and 9 of Chapter 305, General Laws 1923, an act creating a Commissioner of Registration and providing for the registration of qualified voters in all cities now or hereafter having a population of more than fifty thousand inhabitants, governed under a home rule charter adopted pursuant to Section 36, Article 4 of the Constitution of the State of Minnesota." Section 7 of said Laws 1923, c. 305 (section 386, supra—§ 1400) was amended by Laws 1925, c. 278, § 1. The title of said Laws 1925, c. 278 reads as follows: "An act amending Section 7, of Chapter 305, Laws of 1923, the same being Section 386 of General Statutes of Minnesota for the year 1923, creating a Commissioner of Registration and providing for the registration of qualified voters in all cities now or hereafter having a population of more than 50,000 inhabitants, governed under a home rule charter and adopted pursuant to Section 36, Article 4, of the constitution of the State of Minnesota, and providing for the registration of such voters by mail when such voter is absent from the election district in which he is entitled to vote." All of these sections have been omitted here as unnecessary duplication. They are set forth, as amended, as §§ 380 to 393, supra.

1408. **Employment bureaus**—Any city of the first class may establish and conduct an employment bureau, and provide by ordinance or otherwise for its regulation and maintenance by the city. (760) [1431]
133-109, 157+995.

1409. **Elevator operators—License—Penalties**—No person shall operate a passenger elevator in any city of the first class without being licensed so to do by the building inspector. The inspector shall examine the applicant as to his knowledge of the construction of elevators, and his experience and ability in their operation, and, if he be found qualified, shall license him to run elevators in such city for one year. The licensing officer shall receive twenty-five cents for each license issued. No person shall employ or permit a person not the holder of a license to operate any passenger elevator under his control. Every violation of this section shall be a misdemeanor. (761) [1432]
133-109; 157+995.

1410. **Attaching new territory**—Lands not exceeding 50 acres in area, adjoining and contiguous to any organized city of over 50,000 inhabitants may, upon the approval of the mayor of said city, and the board of supervisors of the township in which such lands are located, be attached to, and become part of such city upon the petition of 500 legal voters thereof requesting that said territory be so attached. Said petition shall before its presentation to the mayor be first approved by said board of supervisors which approval shall be endorsed thereon, signed by a majority of said board and attested by the town clerk, provided, however, that after presentation of said petition to the mayor for approval or rejection, a notice specifying the substance thereof and that an application will be made to him to approve the same at a time and place therein named not less than 20 days from the date thereof shall be served upon the owner of said premises so proposed to be attached by the delivery of a copy thereof, or if he cannot be found, of which fact the return of the sheriff that he cannot be found in said county shall be prima facie evidence, then upon the person or persons in actual possession of said premises at least twenty days prior to the date fixed in said notice. If the lands are vacant and unoccupied, and the owner of the record title cannot be found in said county, then said notice shall be published in some newspaper of general circulation, published in said city in one issue thereof, at least twenty days prior to said date. If approved by the mayor the same shall be endorsed upon said petition and further evidenced by proclamation to be issued by him reciting the prayer of said petition, the number of signatures attached thereto, the approval thereof by said board of supervisors, and certifying that such territory, describing it, is a part of such city, which said proclamation shall be deemed to be prima facie evidence of the matters therein stated, and of the legality and regularity of all proceedings involving the annexation of such territory. Said petition shall be addressed to the mayor and upon presentation shall be filed and recorded in his office. ('05 c. 219 § 1) [1433]

1411. **Duty of council**—Said proclamation shall be recorded in the office of the register of deeds of the county in which said territory is situated and also in the office of the secretary of state, whereupon said lands shall be deemed to be attached to and a part of said city. ('05 c. 219 § 2) [1434]

1412. **Expenses**—The expenses incident to such proceedings shall be audited and paid by the city, pro-

vided the lands are annexed thereto. ('05 c. 219 § 3) [1435]

1413. **Annexation of territory**—Territory may be detached from any incorporated village or city of the fourth class and annexed to an adjoining city of the first class as follows: The council of any village or city of the fourth class shall, on the petition of one hundred freeholders, submit the proposition of detaching specified territory from such village or city of the fourth class and annexing it to an adjoining city of the first class to the voters of such village or city of the fourth class for their approval or rejection at the next regular village or city election, or at a special election called for the purpose. Notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three of the most public places within said village or city of the fourth class outside of the territory proposed to be detached, and in three of the most public places within the territory proposed to be detached, and shall state the time and place, when and where within said village or city of the fourth class such election will be held, and shall also state the proposition on which the said electors will vote. Notice of such election shall also be published for one full week prior to the date of said election in a newspaper printed or published in said village or city of the fourth class, and, if there be no newspaper printed or published in said village or city of the fourth class, then in a newspaper printed and published at the county seat of the county in which such village or city is located. Said election shall be held within sixty days from the time said petition is filed in the office of the village recorder or city clerk, and ten days notice thereof shall be given. The ballots shall have upon them the proposition to be voted upon, together with the words "for detaching" and "against detaching," and the said special election shall be held, conducted and the results thereof counted and canvassed in the same manner as in special elections held for other purposes in villages and cities of the fourth class. ('23 c. 352 § 1)
Valid. 210+616.

1414. **Electors of annexed property to vote thereon**—If it appears that ($\frac{5}{8}$) five-eighths of the electors of such village or city of the fourth class casting their ballots upon the question at such election are in favor of the detachment, then and in such case the council of such village or city of the fourth class shall adopt a resolution reciting the results of such election and stating that such village or city of the fourth class consents to the detachment from it of the territory described and to the annexation of such territory to an adjoining city of the first class, and a certified copy of such resolution shall thereafter be filed with the clerk of such city of the first class, who shall present the same to the council of such city of the first class at its next regular meeting. ('23 c. 352 § 2)
Valid. 210+616.

1415. **Councils to adopt resolution of annexation of territory**—Thereupon, if the council of such city of the first class finds that the territory described in such resolution is so conditioned as to properly be made a part of such city of the first class, it shall have power, by resolution duly adopted, to annex such territory and immediately upon the adoption of such resolution the territory annexed shall become a part of such city of the first class for all purposes. Thereafter the city clerk of such city of the first class shall file with the register of deeds of the county wherein such city of the first class is situated and in the office of the secretary of state a certified copy of the resolutions adopted

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by the council of such city of the first class annexing the territory described to such city of the first class. ('23, c. 352, § 3; amended '27, c. 73, § 1)

Valid. 2104616.

1415-1. Annexing city to assume bonds and obligations of villages, cities of fourth class or school districts in territory annexed and receive moneys, claims, property, etc., of such villages, etc.—In case such annexed territory includes any entire village or city of the fourth class, or any school district or school districts, the city of the first class to which such territory is annexed shall assume and be charged with all the outstanding bonds and obligations of such village or city of the fourth class and of such school districts, as the case may be; and all moneys, claims and properties, including real estate, school sites, school buildings and the proceeds of all taxes levied and collected and to be collected, belonging to, owned, held or possessed by such village or city of the fourth class or school district, shall become and be the properties of such city of the first class, with full power and authority to use and dispose of the same for public purposes as the City Council of such city may deem best. In case such annexed territory shall include fractional portions of any such village or city of the fourth class or fractional portions of any school district or school districts, the governing body of such city of the first class shall have power and authority, by the resolution provided for in Section 3 hereof, to provide and determine that all or a part of the outstanding bonds and obligations of such village or city of the fourth class, and of all such school districts in such annexed territory, which have been issued or incurred for the acquisition of school sites and school buildings or other school property located within such annexed territory, shall become and be the obligations of such city of the first class upon the conveyance and transfer to such city of the first class of such school sites, school buildings and other school property. If such city council shall fail to provide for the disposition of the school property and school obligations of such village or city of the fourth class and of such school districts as herein provided, it shall be the duty of the county board to make an equitable division of the same as hereinafter provided. ('23, c. 352, § 3a, added by '27, c. 73, § 2)

1415-2. County board to make equitable division and apportionment of properties and obligations of villages, cities or school districts in annexed territory—It shall be the duty of the county board to make an equitable division and apportionment of the public properties and obligations of such village or city of the fourth class and of the school districts affected by such annexation of territory, between such city of the first class and such village or city of the fourth class, and such school districts, provided that such division and apportionment of school bonds and obligations and school properties shall not be made by the county board in any case where such division and apportionment is made by the city council of such city of the first class as provided in Section 3a hereof. ('23, c. 352, § 3b, added '27, c. 73, § 2)

Explanatory note—For section 3a see § 1415-1, herein.

1415-3. Same—Division and apportionment, how made—In making such division and apportionment of properties and obligations of such village or city of the fourth class and of such school districts it shall be the duty of the county board to make an equitable division of the public properties of such village or city of the fourth class, and of the school districts, of which such annexed territory formed a part prior to such an-

nexation of territory, and to apportion the properties and indebtedness if any of each thereof between such village or city of the fourth class, and such school districts and such city of the first class, in such manner as shall be just and equitable, having in view the location and value of the public buildings and real and personal property of such village or city of the fourth class and of such school districts, the amount of taxes due and taxes delinquent and the indebtedness of each such village, city of the fourth class and school districts, if any, and for what purpose the same was incurred, all in proper relation to and in view of the last assessed valuation of all the taxable property of such village or city of the fourth class and such school districts severally, and shall make such apportionment and division thereof by resolution and other appropriate proceedings, after first giving at least twenty days' notice to each such village, city of the fourth class, school districts, and city of the first class, to be affected thereby. Any such village, city of the fourth class, school district, and such city of the first class, affected by any resolution, order or proceeding of any county board as herein provided, may appeal to the district court from any such resolution, order or proceeding within twenty days after the making or completion thereof. All appeals in any such proceeding for the annexation of territory shall be tried and disposed of at the same time in one proceeding by the district court in the same manner and in all respects as in the case of appeals from the decision of the county board on claims against the county, except that the trial thereof shall be by the court without a jury, and an appeal from the determination of the district court shall lie to the supreme court in the same manner as in civil actions. ('23, c. 352, § 3c, added '27, c. 73, § 2)

1415-4. Annexed territory part of adjacent wards of city—Such annexed territory shall become parts of adjacent wards of such city of the first class, and the portions of such territory to be added to wards adjacent thereto shall be determined by the extension in straight lines of the ward lines of such adjacent wards. ('23, c. 352, § 3d, added '27, c. 73, § 2)

1415-5. Cities authorized to annex territory—This act shall apply to all cities of the first class, including cities of the first class organized and operating under a home rule charter adopted under the provisions of Section 36, Article 4, of the State Constitution, and the laws of the state relating thereto. ('23, c. 352, § 3e, added '27, c. 73, § 2)

Explanatory note—For this act see §§ 1413 to 1415-5 herein.

1416. Salary of mayor—In cities of the first class the salary of the mayor shall be six thousand dollars (\$6000.00) per annum, payable in equal monthly installments; provided that this act shall not apply to any city whose inhabitants have adopted or hereafter shall adopt a charter pursuant to section 36, article 4, of the state constitution. ('07 c. 370, amended '13 c. 381 § 1) [1436]

1417. Salaries of aldermen—That in cities now or hereafter having over fifty thousand (50,000) inhabitants, the salary of each alderman shall be fifteen hundred dollars (\$1,500) per annum, payable pro rata monthly, out of the city treasury; provided that this act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4, of the constitution of this state, as amended, and chapter 351 of the General Laws of 1899, and amendments thereto. ('13 c. 491 § 1) [1437]

L. '99, c. 351, repealed. See R. L. 1905, § 5543 (§ 10977 herein).

Minneapolis aldermen to receive salary of \$1,800 per annum. ('17 c. 460)

1418. Salaries of members of council—That in any city in this state now or hereafter having a population of over 50,000 inhabitants, each member of the common council, or city council of said city shall receive and be paid as salary the sum of three hundred dollars, per annum, from the treasury of said city, in equal monthly installments, of twenty-five dollars; provided, however, that in any city, the conference committee thereof, or said other committee or body as may have the right by law to recommend to the common council, or city council, the annual tax levy therefor, may include in such recommendation an amount not exceeding twelve hundred dollars per annum, as the salary of each member of the common council, or city council of such city, and when so recommended and included in the tax levy, each member of the common council or city council shall receive and be paid such amount from the treasury of such city in equal monthly installments as his annual salary. ('07 c. 284 § 1) [1438]

1419. Not to apply to certain cities—This act shall not include or apply to cities the members of the common council or city council, of which now or hereafter shall receive a greater amount than herein provided as salary or compensation. ('07 c. 284 § 2) [1439]

1419-1. Salaries of deputy comptroller, deputy commissioner of finance, and secretary to mayor—The governing body of any city in this State now or hereafter having a population of 50,000 inhabitants or more, is hereby authorized and empowered to specify by ordinance the salaries of the deputy comptroller, deputy commissioner of finance, and secretary to the mayor of such city. ('25, c. 234, § 1)

1419-2. Same—Statutory or charter limitations not to apply—The salaries authorized by Section One of this Act may be paid notwithstanding any limitation upon the amount of such salaries contained in any law of this State or in any charter provision. ('25, c. 234, § 2)

Explanatory note—For § 1 of this act see § 1419-1, herein

1419-3. Same—Cities to which law applies—This act shall apply to cities governed by a charter adopted pursuant to Section 36, Article 4 of the Constitution of this State. ('25, c. 234, § 3)

1420. Salary of clerk in cities not under home rule charters—The city council or common council of every city of this state now or hereafter having over fifty thousand inhabitants, in addition to the powers and authority heretofore granted, is hereby authorized and empowered to fix by resolution the compensation or salary per annum of the city clerk of such city immediately after the passage of this act and at the beginning of every term of office of such city clerk thereafter.

This act shall not apply to any such city governed by a home rule charter adopted under the provisions of section 36 of article 4 of the state constitution and the laws of this state relating to the adoption of such home rule charters. ('13 c. 166 § 1) [1440]

1421. Salary of chief of police—That in all cities of this state now or hereafter having a population of over fifty thousand inhabitants, the board of police commissioners of any such city are hereby authorized and empowered to fix and prescribe the salary and compensation of the chief of police of such city at an amount not to exceed four thousand dollars per annum, and the sum so fixed and determined shall be paid to such officer in equal monthly installments from the treasury of such city. ('07 c. 51 § 1) [1441]

1422. Salaries of officers of fire department—That in all cities of this state now or hereafter having a

population of more than 50,000 inhabitants, the board of fire commissioners or the city council, if there is no board of fire commissioners, of any such city is hereby authorized and empowered to fix and prescribe the salaries and compensation of the chief engineer, first, second and third assistant engineers and district and battalion chiefs of the fire departments and the salary of the superintendent of fire alarm department of any such city. ('07 c. 401 § 1) [1442]

1423. Fire marshal—In every city in the state of Minnesota that now has, or hereafter may have, a population of over fifty thousand inhabitants, and which does not now have an official in its fire department designated and acting as fire marshal, under the charter of such city, there is hereby created the office of fire marshal, and it shall be the duty of the chief of the fire department of such city to appoint from among the members of the fire department a fire marshal, and he shall hold office until removed for cause. ('11 c. 94 § 1) [1443]

1424. Duties and powers—Compensation—It shall be the duty of the fire marshal to examine all property within said city and enforce the ordinances of the city relating to the care of chimneys, the storage and handling of explosives and enforce all other ordinances and laws of the state pertaining to precautions against danger from fires. Said fire marshal shall have power to enter any dwelling or other building between 7 o'clock a. m. and 6 o'clock p. m. for the purpose of making said examination, and he shall examine into the cause of every fire which shall happen in such city and make a complete report of the same, and make a report thereof monthly to the chief of the fire department. He shall report all violations of ordinances of the city and laws of the state relating to the public safety, in all public buildings, and shall sign and file complaints before the proper prosecuting officers for the enforcement of said ordinances. Said fire marshal shall receive as his compensation a sum to be fixed by the board of fire commissioners, not less than the salary paid a captain of the fire department of such city. ('11 c. 94 § 2) [1444]

1425. Maximum expenditure for fire department—That any city in this state now or hereafter having a population of over fifty thousand inhabitants, in addition to all powers now possessed by it, shall have the power and authority, acting by and through its common council, to fix the maximum expenditure each year for the support and maintenance of its fire department, and to include the amount so fixed in the current annual tax levy for such city. ('07 c. 286 § 1) [1445]

1426. Pensions for members of volunteer fire departments—That the city council or other governing body of every city in this state of the first class not operating under a home rule charter, which has had a volunteer fire department, is hereby authorized to pension retired members thereof not drawing a pension from the relief association of any paid fire department, such pension not to exceed \$25 per month, and to be paid to such members under rules established by said city council or governing body; provided, however, that no such retired fireman shall receive such pension unless he served actively without pay as a member of such volunteer fire department for at least four years preceding the 31st day of July, 1879. Provided further, that before any retired member of such volunteer fire department shall be entitled to the benefits of this act, said retired members of such volunteer fire department shall first make written application for the pension herein provided and file the same with the city clerk. Thereafter said council or governing body shall

upon proper investigation allow or deny said application as it may deem proper. ('13 c. 419 § 1) [1446]

1427. Tax levy—Every such city is hereby authorized and empowered to levy a tax for the purpose of providing such pensions, not to exceed two-tenths of one mill, on all the taxable property of such city. ('13 c. 419 § 2) [1447]

See Insurance, '23 c. 179.

1428. Salary of first assistant commissioner of public works—That in all cities of this state now or hereafter having a population of over 50,000 inhabitants, the commissioner of public works of any such city is hereby authorized and empowered to fix and prescribe the salary and compensation of the first assistant commissioner of public works of such city at an amount not to exceed three thousand six hundred dollars per annum and the sum so fixed and determined shall be paid to such officer in equal monthly installments from the treasury of such city. ('07 c. 241 § 1) [1448]

1429. Salary of president of workhouse board in cities under home rule charters—That hereafter the president of the board of public workhouse directors, or the president or chairman of such other board or body as may have charge and control of the public workhouse of any city in this state now or hereafter having a population of over fifty thousand inhabitants, shall receive for his services, an annual compensation of not to exceed twelve hundred dollars, payable in equal monthly installments, the amount so paid to be fixed by the common council of the city. This act shall apply to cities existing under a charter framed pursuant to section 36 of article 4 of the constitution of the state of Minnesota. ('09 c. 256 § 1) [1449]

1430. Assistant attorneys in legal department—That the common council of any city in this state now or hereafter having a population of over fifty thousand inhabitants, shall have the power and authority, by resolution approved by the mayor, once in every two years, by a two-thirds vote of all members elect thereof, to fix the number and respective salaries of assistant attorneys in the legal department of such city. ('11 c. 124 § 1) [1450]

Explanatory note—Section 2 of Laws 1911, c. 124 (G. S. '13, § 1451) makes this section applicable to all cities of the first class governed by charters adopted pursuant to const. art. 4, § 36.

1431. Maximum expenditure of police department—That any city in this state, now or hereafter having a population of over 50,000 inhabitants, in addition to all powers now possessed by it, shall have the power and authority, acting by and through its common council, to fix the maximum expenditure each year for the support and maintenance of its police department, and to include the amount so fixed in the current annual tax levy for such city. ('07 c. 301 § 1) [1452]

1432. Pensions for police matrons—In every city of this state now or hereafter having a population of over 50,000 inhabitants, where there is or may be created a police pension fund, governed and managed by a police pension board or relief association in accordance with the provisions of Chapter 159 of the General Laws of Minnesota for the year 1903, as subsequently amended by chapter 109 of the General Laws of Minnesota for the year 1905, such police pension board or relief association is hereby further authorized and directed to make further provisions for creating and paying pensions to disabled and retired police matrons, assistant matrons and other police women in such cities as provided in the following section. ('05 c. 180 § 1; amended '11 c. 188 § 1; '19 c. 460 § 1) [1453]

Explanatory note—For Laws '03, c. 159, as amended by Laws '05, c. 109, see § 1435, herein.

1433. Pension board—That every police pension board or relief association organized or incorporated in

conformity with the laws of the state of Minnesota regulating the incorporation of societies for benevolent and other purposes and which has received or shall hereafter receive moneys from the state of Minnesota raised by taxation in said state, is hereby authorized and directed to pay out of and from any funds it may have received from the state of Minnesota or from any other source a service pension not less than twenty-five dollars per month to each police matron, assistant matron and other police woman who shall, at the time of her application, either before or after the passage of this act, have arrived at the age of fifty years or more and who has prior to her application or shall hereafter have done active service as police matron, assistant police matron or other police woman for a period of twelve years or more in the police department of such city in which such police pension board or relief association has been or shall be so organized, and has retired therefrom; or has been or shall be disabled physically or mentally while in the performance of her duties as such police matron, assistant matron or other police woman, so as to render necessary her retirement from active service in such capacity; and every such police pension board or relief association is hereby authorized and directed to pay to any such police matron, assistant police matron and other police woman who shall, at the time of her application, either before or after the passage of this act, have arrived at the age of fifty years or more, and who has prior to her application or shall hereafter have done active service as police matron, assistant police matron or other police woman for a period of twenty years or more in the police department of such city, or who has been or shall be disabled physically or mentally while in the performance of her duties, so as to render necessary her retirement from active service in such capacity the same monthly service pension that it pays to male members of such association or police force, not, however, exceeding the sum of fifty dollars per month.

It shall not be necessary to entitle such police matron, assistant matron or other police woman to such pension, that she become a member of such relief association. ('05 c. 184 § 2; amended '11 c. 188 § 2; '19 c. 460 § 2) [1454]

1434. Pensions to police women—The pension authorized by this act shall not be paid to any police matron, assistant matron or other police woman while drawing salary in any amount from such police department. ('05 c. 184 § 3; amended '19 c. 460 § 3) [1455]

1435. Laws applicable—Each and every of the provisions of chapter 159 of the Laws of 1903 as amended by chapter 109 of the Laws of 1905 are hereby made subject to the provisions of this act for the purpose of allowing all police matrons, assistant matrons and other police woman, in cities of 50,000 inhabitants and over, to obtain the same privileges and benefits as disabled and retired policemen in such cities. ('05 c. 184 § 4; amended '19 c. 460 § 4) [1456]

1436. Police pensions—In every city in this state now having or hereafter having a population of over 50,000 inhabitants including all such cities having and operating under a charter adopted in pursuance of section 36, article 4, of the constitution of Minnesota, there may be created a police pension fund, which shall be managed, controlled and distributed in accordance with the provisions of this act. ('15 c. 68 § 1; amended '23 c. 54 § 1)

1437. Incorporation of police department as relief association—Service, disability, or dependency pensions—That every paid municipal police department now existing or which may hereafter be organized, is here-

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by authorized to become incorporated pursuant to the laws of this state, or adopt a constitution and by-laws as a relief association, to provide for and permit and allow such police relief association so incorporated or so organized, or any police pension relief association now in existence and incorporated according to law, to pay out of, and from any funds it may have received from any source, a service, disability, or dependency pension in such amounts and in such manner as its articles of incorporation or the constitution and by-laws shall designate, not exceeding however, the following sum per month to each of its pensioned members who shall have reached the age of fifty years or more, and shall have served twenty years or more in such department, or their widows and children under sixteen years of age, viz:

A sum equal to one-half of the monthly compensation allowed such member as salary at the date of his retirement, when such member shall have arrived at the age of fifty (50) years or more and shall have served as a member of such paid municipal police department for a period of twenty (20) years or more in the police department of such city in which such relief association shall be so organized, or is so in existence, or, who has been disabled physically or mentally because of any injury received or suffered while in the performance of his duties as such member, so as to render necessary his retirement from active police service. Provided, however, that if any member retires under the provisions of the act before he has served one year in the grade in which he is serving when he retires, he shall receive the same compensation as though he had retired in the next lower grade. Provided, further, that no retired member shall receive less than seventy (\$70.00) dollars nor more than seventy-five (\$75.00) dollars per month. Said pension may be paid to any widow or child under sixteen years of age of any such pensioned and retired member of the police department or to any widow or child under sixteen years of age of any member who dies while in the service of the police department of any such city, and such widow or child shall receive the sums hereinafter provided;

Forty (\$40.00) dollars per month to such widow and Ten (\$10.00) dollars per month to each of such children under sixteen years of age; provided, that where such widow and such children reside together the money herein required to be paid to such children shall be paid to such widow for the support of such children but the money paid to such widow for herself and such children shall not exceed seventy-five (\$75.00) dollars per month in all; provided, however, that in the event that any such widow remarries, she shall receive no further benefits under this law; provided, further, that said fund shall not be used for any other purpose than for the payment of service, disability or dependency pensions as herein provided.

The word 'member' as used in this act shall include police women, police matrons and assistant police matrons. ('15, c. 68, § 2; amended '21, c. 118, § 1; '23, c. 54)

1438. Pension to be paid—The pension authorized by this act shall not be paid to any person while drawing salary in any amount from such city as an employee in said police department; and no member shall be entitled to said pension after he removes his residence from the United States, or who shall have been convicted of a felony or misdemeanor for which he shall have been adjudged to be imprisoned, or who is an habitual drunkard; and any person receiving the pension herein mentioned shall not receive or be en-

titled to receive any other or further pension or relief from said association. ('15 c. 68 § 3)

1439. Not subject to attachment—No pension allowed or to be allowed by said Pension Board under this act, shall be subject to judgment, garnishments, or executions or other legal process, and no person entitled to such pension shall have any right to assign the same, nor shall said association have the authority to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to, be assigned. ('15 c. 68 § 4)

1440. Association to have charge of fund—Deductions from pay of members of police department—Moneys credited to fund—Tax levy—Said association, through its officers, shall have full charge, management and control of the pension fund herein provided for, which said funds shall be derived from the following sources: From gifts of real estate or personal property, rents, money or from other sources. It shall also be the duty of the city treasurer of any city affected by this act to deduct each month from the monthly pay of each member of such police department, a sum equal to one per cent of such monthly pay, and place the same to the credit of the said police pension fund; it shall also be the duty of every police officer receiving any reward for services in making arrests, or otherwise, to place to the credit of the police pension fund all such rewards, and it shall be the duty of the chief of police of any such city to place to the credit of the police pension fund all moneys falling into the hands of the police that shall remain unclaimed for a period of six months, and to sell all unclaimed property falling into the hands of the police when the same shall have been unclaimed for a period of six months and place the proceeds thereof to the credit of the said police pension fund.

An amount or sum equal to two-tenths (2/10) of one mill, and not to exceed two fifths (2/5) mill, in addition to the rate allowed to be levied by the charter of any city affected by this act, shall be annually assessed and levied at the time and in the manner that taxes for the other funds of such city are levied by proper officers of each city where a police relief association now exists, upon each dollar of all the taxable property in such city as the same appears on the tax records of such city and such levy of said sum for the benefit of such police relief association shall be collected and apportioned by the proper officers of any county in which such city is located, in the same manner as are all taxes of such city. ('15, c. 68, § 5; amended '21, c. 118, § 2; '25, c. 197)

1441. Membership of governing board—The governing board of said association shall consist of five members to be elected annually, who shall hold their term of office for one, two, three, four and five years, respectively, or until the successor of each is duly elected and qualified, and the mayor, chief of police, and city treasurer shall be ex-officio members of said board and the city treasurer shall be the custodian of all funds of said association and disburse the same as directed by said board. All vacancies occurring in the elective membership of said board shall be filled by a special election called for that purpose. In any such city where the police department is under the direction and supervision of a commissioner of public safety and not under the direction and supervision of the mayor of such city, said commissioner of public safety shall be ex-officio member of said board in the place of the mayor of such city. ('15 c. 68 § 6)

1442. Not to repeal existing acts—This act shall not be deemed to repeal existing acts inconsistent there-

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with, but shall be construed as supplemental thereto, and any paid municipal police department now operating under other police pension laws of this state, shall continue thereunder until it shall elect to come under the provisions of this act, with the consent of the city council or other governing body of said city. ('15 c. 68 § 7)

1442-1. Bureau of health pension fund and board— In every city in this state now or hereafter having a population of fifty thousand or more, there may be created a department or bureau of health pension fund which shall be governed and managed by a department or bureau of health pension board, in accordance with the provisions of this act. ('19, c. 430, § 1)

1442-2. Same— Incorporation — Service pensions — That every such municipal department or bureau of health now existing, or which may hereafter be organized, may and hereby is authorized to become incorporated pursuant to the provisions of the General Statutes of Minnesota, and to adopt articles of incorporation and by-laws as a relief association to provide and permit said department or bureau of health, relief association so incorporated or so organized, to pay out of and from any funds that it may have received from the state of Minnesota or from any other source, a service pension in such amount and in such manner as its articles of incorporation and by-laws shall designate, not exceeding, however, the sum of \$50.00 per month to each of its pensioned members, who have arrived at the age of fifty years and who shall have done active duty as a member of such health department or bureau for a period of twenty years or more in the city in which such relief association shall be so organized, or who having been disabled physically or mentally because of any injury or disability received or suffered while in the performance of his duties as such member of the department or bureau of health, so as to render necessary his retirement from active service, may be placed upon the pension list, and shall receive such pension as provided for in said articles of incorporation or constitution and by-laws, provided, however, that said fund shall not be used for any other purpose than for the payment of service and disability pensions as herein provided. ('19, c. 430, § 2)

1442-3. Same— Increase or reduction of pensions— Every such association shall at all times have and retain the right to increase or reduce the amount of such pension whenever, because of the amount of funds on hand or for other good reasons, such increase or reduction may seem advisable or proper to the board of management of said relief association, provided the pension herein authorized shall never exceed \$50.00 per month for each person pensioned. ('19, c. 430, § 3)

1442-4. Same— Pensions not payable while drawing salaries— The pension authorized by this act shall not be paid to any person while drawing salary in any amount from said municipality and no member shall be entitled to said pension after he removes from the state of Minnesota or who shall have been convicted of a felony for which he shall be adjudged to be imprisoned, or who is an habitual drunkard; and any person receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. ('19, c. 430, § 4)

1442-5. Same — Pensions exempt — No payments made or to be made by said board to said member of said department or bureau of health shall be subject to judgment, garnishment or execution or other legal processes, and no person entitled to such payment shall have the right to assign the same, nor shall said associ-

ation have the authority to recognize or pay over any sum whatever which has been assigned, except that nothing herein contained shall be construed as prohibiting payment of such pension to the duly appointed guardian of the person to whom it has been awarded. ('19, c. 430, § 5)

1442-6. Same— Funds— How constituted— Management and disposition of— Tax levy— Said association through its officers shall have full charge, management and control of the health department or bureau pension fund herein provided for, which said fund shall be derived from the following sources: First, dues of its members and from the gifts of real estate or personal property, rents, or money or other sources; second, an amount or sum equal to one-twentieth of one mill shall be annually assessed, levied and collected by the proper officers of such city where a health relief association exists, upon each dollar of taxable property in such city as the same appears on the tax records of such city, which said sum shall by the proper officers of said city be placed to the credit of the health department or bureau pension funds, and shall not be used or devoted to any other purpose than for the purpose of the health department or bureau pension fund. Provided, however, that if at any time the fund so raised by taxation as in this section provided, together with other resources exceeds the needs of said health department or bureau of pension fund in properly carrying out the provisions of this act, then as often as this shall occur, said sum so to be raised by taxation shall be proportionately reduced to such amount as will sufficiently carry out the provisions of this act, and there shall only be raised by taxation such part of said one-twentieth of one mill upon each dollar of all the taxable property in such city as shall be necessary for the proper maintenance of said fund as in this act provided. ('19, c. 430, § 6)

1442-7. Same— Powers of board— The said governing board shall have full power to hold, transfer and sell real estate and personal property, and invest said funds for the betterment of said association. ('19, c. 430, § 7)

1442-8. Same— Members of board— The governing board of said association shall consist of five members to be elected annually, the members of the first board shall hold their offices for one, two, three, four and five years respectively, and until their successors are duly elected and qualified, and the commissioner of public safety or other department head, and chief health officer and city treasurer or commissioner of finance or other similar officer, shall be ex-officio treasurer of said board and organization. All vacancies occurring in the elective membership of said board shall be filled by a special election called for said purpose. ('19, c. 430, § 8)

1442-9. Same— Report of board— The said governing boards of said associations shall file annually, on or before the 10th day of September of each year, with the comptroller of said municipality, a detailed report of the amount of money so received, expended and still remaining on hand to the credit of said association. ('19, c. 430, § 9)

1442-10. Same— Cities to which law applies— This act shall apply only to cities of the first class operating under a charter framed pursuant to section 36 of article 4 of the constitution of the state of Minnesota. ('19, c. 430, § 10)

1442-11. Retirement allowances to employees— Each city of the State of Minnesota now or hereafter having over 50,000 inhabitants, in addition to other powers by it possessed, is hereby authorized and empowered to

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adopt a plan and to pay retirement allowances to retired employes thereof as hereinafter specified. ('19, c. 522, § 1; amended '25, c. 335, § 1)

Explanatory note—This act is now applicable to all first class cities, by the amendatory act—Laws 1925, c. 335.

1442-12. Same—Expense fund—Retirement fund—For the purpose of this act there shall be created (1) an expense fund and (2) a retirement fund.

(a) The "expense fund" shall consist of such amounts as shall be paid by the city on the basis of statements submitted by the retirement board to defray the expense of the administration of this act, exclusive of the payment of retirement allowances and of other benefits provided for in this act.

(b) The "retirement fund" shall consist of such amounts as are deposited in the fund by or to the account of city employes and such amounts as shall be contributed by the city, for the purpose of the paying of retirement allowances. ('19, c. 522, § 2)

1442-13. Same—Definitions—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

(a) "Service allowance" shall mean the allowance to which an employe may be entitled who retires from the city service after having attained the minimum established age for retirement.

(b) "Disability allowance" shall mean the allowance to which an employe may be entitled who retires from the city service as a result of disability before having attained the minimum established age for retirement.

(c) "Retirement allowance" shall mean either a service allowance or a disability allowance.

(d) "Annuity" shall mean payments for life derived from contributions made by an employe, as provided in this act.

(e) "Pension" shall mean payments for life derived from credits allowed and appropriations made by the city, as provided in this act.

(f) "Supplementary allowance" shall mean the allowance which may be granted to a present incumbent, division "B," in addition to a pension and an annuity.

(g) "Present incumbent" shall mean an employe who is in the service of a city at the date the provisions of this act become effective therein, who elects to become a contributor to and a prospective beneficiary of the fund created by this act.

(h) "Future entrant" shall mean an employe who enters the service of a city at a date subsequent to the date when the provisions of this act become effective therein, who becomes a contributor to the retirement fund.

(i) "Actuarial equivalent" shall mean the annual amount, determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

(j) "Accumulated amount" shall mean the amount to which any given instalment or periodic instalments of money would accumulate when increased by interest additions compounded at regular intervals.

(k) "Net accumulated contributions" shall mean the amount standing to the credit of any contributor after deducting annual premium charges for disability allowances.

(l) "Established age" shall mean the minimum age for retirement of an employe on a service allowance, as specified by the rules of the retirement board.

(m) "Separation refund" shall mean the amount returned to an employe who is separated from the

service of the city prior to having become entitled to a retirement allowance, or to his or her heirs, executors or assigns.

(n) "Present worth" of an annuity, pension or retirement allowance shall mean the value or cost price thereof at the date of retirement or other date, when specified.

(o) "Actuarial deficit or surplus" of an allowance or of allowances shall mean the difference between the estimated cost of said allowance or allowances and the actual cost thereof.

(p) "Employe" as herein used shall mean each and every person not an elective officer of said city, paid by the city or any of its various boards, departments, or commissions, and any person employed by any of the various boards, departments or commissions operating as a department of the city government or independently in care of any of its governmental activities, the funds of which board, department, or commission are wholly or in part raised by taxation in such city, and each and all of the employes of such boards, departments, or commissions, the funds of which board, departments, or commissions are raised wholly or in part by taxation upon the property, in such city, shall be entitled to all of the privileges conferred by this act to the same extent as persons employed directly by the municipality. ('19, c. 522, § 3)

1442-14. Same—Persons entitled to allowances—Retirement age—Any person who shall have been employed by a city to which this act applies, and who shall have fulfilled the conditions herein specified, shall be entitled to receive a retirement allowance therefrom, as set forth in the provisions of this act; provided, however, that the provisions of the act shall not apply to an employe in the exempt class, except on application of said employe, and with the consent of the retirement board, and provided further that no retirement allowance shall be paid any retired employe of such city prior to the expiration of the calendar year next succeeding the date this act becomes effective therein.

The minimum age for retirement on a service allowance, except as otherwise provided, shall be established by the retirement board, may be greater for men than for women, may differ for different classes or grades of employment, but shall not be less than 60 years for men and 58 years for women, nor greater than 65 years for men and 63 years for women. The ages so established shall not be subject to revision prior to the expiration of a five-year period from the establishment thereof, and shall apply to all persons who retire during the continuance thereof.

Subject to the limitations stated in this act, any employe not in the exempt class who shall have attained the established age for retirement shall be entitled to retire, and any such employe who shall remain in the service of the city for five years thereafter, shall be retired, and receive a service allowance as specified in this act; provided, that if in not less than 90 days before the arrival of an employe at the age of compulsory retirement, the head of the department, branch or independent board of the municipality in which he or she is employed, certifies to the retirement board that by reason of his or her efficiency and his or her willingness to remain in the service of the municipality the continuance of such an employe therein would be advantageous to the public service, such employe may be retained for a term not exceeding two years upon certification by the retirement board, and at the end of the two years he or

she may, by similar certification, be continued for one additional term not to exceed three years. ('19, c. 522, § 4; amended '25, c. 335, § 1)

1442-15. Same—Contributing class, non-contributing class and exempt class—Employees of the city shall be divided into a contributing class, a non-contributing class and an exempt class.

"The contributing class shall consist of all employes not included in either of the other two classes, and shall be sub-divided into present incumbents, employes in the service of the city at the date this act becomes effective therein, who elect to become contributors to and prospective beneficiaries of the fund created by this act, and future entrants, employes who enter the service of the city subsequent to the date this act becomes effective therein.

"The non-contributing class shall consist of all employes, including common laborers, whose individual salaries, pay or compensations do not exceed \$750.00 per annum.

"The exempt class shall consist of:

(a) Employes who are members of, or who are eligible to become members of, an organization or association on behalf of which a tax is levied against the city for the purpose of paying retirement allowances to disabled or superannuated employes.

(b) Persons filling elective positions.

(c) Persons serving without pay.

(d) Persons serving on executive boards.

(e) Pupil nurses, internes and staff physicians employed at the city hospitals.

(f) Employes in the service of the city at the time this act is adopted, who, after its adoption, have not given written notice of a desire to accept the provisions of this act.

(g) Persons not citizens of the United States. ('19, c. 522, § 5; amended '25, c. 335, § 1)

1442-16. Same—Allowance to employees in non-contributing class—Amount—Death allowance—Medical examinations—A retirement allowance, payable in equal monthly installments, shall be granted to any laborer or other employe in the non-contributing class who satisfies the conditions hereafter specified.

Such retirement allowance shall be the actuarial equivalent of the accumulated amount of monthly installments of \$12.50 throughout the period of service of the retiring employe, accumulated to the date of retirement at four per cent compound interest; provided, that no such allowance shall exceed \$500.00 per annum.

Upon receipt of proof of death of any common laborer or other employe in the non-contributing class who has fulfilled the minimum age and service requirements for retirement on an allowance, (a) who is employed by the city, or (b) who is temporarily separated from the service of the city, or (c) who has been retired on an allowance, there shall be paid to the heir or heirs of such employe or to such trustee or trustees as the retirement board may select, the sum of \$150.00.

In order to be entitled to a retirement allowance, a common laborer or other employe in the non-contributing class shall be a resident of the city, shall have been employed thereby for a period which in the aggregate shall equal 20 or more periods of five or more months each in not to exceed an equal number of years, the last two of which shall have immediately preceded the date of retirement, and in addition thereto shall either (1) have attained the age of 55 years and have been declared by the medical board to be incapaci-

tated for further service to the city or (2) shall have attained the age of 70 years.

(a) The retirement board may require any such beneficiary while still under the age of 70 years, to undergo a medical examination by the medical board once each year. Should the medical board report and certify to the retirement board that such beneficiary is no longer physically or mentally incapacitated for the performance of duty, such retirement allowance shall cease and the head of the department in which such beneficiary was employed at the time of his retirement shall, upon notification by the retirement board, re-employ said beneficiary.

(b) Should any such retired beneficiary, while under the age of 70 refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his pension shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to the retirement allowance shall be forfeited.

(c) Upon application of any such beneficiary under the age of 70, drawing a pension or a retirement allowance under the provisions of this act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which said beneficiary was employed at the time of his retirement. Upon the restoration of a beneficiary to active service, his retirement allowance shall cease. ('19, c. 522, § 6)

1442-17. Same—Service allowances to persons in contributing class—Annuity, pension and supplementary allowance—(a) The service allowance for a present incumbent in the contributing class shall consist of an "annuity," a "pension" and a "supplementary allowance" as herein defined.

(b) The service allowance for a future entrant in the contributing class shall consist of an "annuity" and a "pension" as herein defined.

(c) The annuity shall be the actuarial equivalent of the net accumulated contributions of the retiring employe, calculated at his or her age at the date of retirement.

(d) The pension shall be the actuarial equivalent of the accumulated amount of annual installments of \$60.00 throughout the period of service of the retiring employe, not to exceed 25 years, accumulated to the date of retirement at 4 per cent compound interest.

(e) The supplementary allowance shall be the actuarial equivalent of the difference between:

(1) The net accumulated amount at the time of retirement of the contributions which such employe would have been required to make during the period for which credit is claimed, had the provisions of this act been in force throughout such period, and

(2) The net accumulated amount of the contributions made and to be made by the retiring employe for all periods of service for the city subsequent to the adoption of this act therein, not exceeding 30 years.

(f) In the event of the death of an employe in the contributing class while still in the service of the city, there shall be paid to the heirs thereof the net amount to the credit of said employe at the time of his or her death, provided that said employe shall have fulfilled all conditions as to age, service and participation requisite for retirement on a service pension. In the absence of heirs of such employe that portion of the amount to the credit of said employe on which the pension is to be based as defined in paragraph (d) hereof and that portion on which the supplementary allowance, if any, is to be based as defined in paragraph

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(e) hereof shall be cancelled and the city shall be liable for only the balance of such credits.

(g) Except as otherwise provided in this act, the service of each "present incumbent" shall be calculated from the date in service from which said employe elects to claim credit and the amount of service of each future entrant shall be calculated from the date of original appointment. Said service shall include periods of service at different times and service for one or more departments, branches or independent boards of the municipality. It is further provided that in computing length of service of contributing employes for the purpose of this act, periods of separations from the service shall not be included.

(h) Retirement allowances as herein provided shall be paid in monthly installments and checks shall be issued and mailed to the last known address of each beneficiary on the first Wednesday of the month succeeding the month in which his or her allowance is authorized; provided, however, that where a beneficiary is laboring under legal disabilities said monthly installments in such cases may be paid to the duly appointed guardian. ('19, c. 522, § 7; amended '25, c. 335, § 1)

1442-18. Same—Retirement of contributing employe for disability—Accident disability—Ordinary disability—Amounts—Effect of allowance under workmen's compensation act—Medical examinations—Upon the application of the head of the department in which a contributing employe is employed, or upon the application of said contributing employe or of one acting in his behalf, the retirement board shall retire said contributor for disability; provided the medical board, after a medical examination of said contributor made at the place of residence of said contributor or at a place mutually agreed upon, shall certify to the retirement board that said contributor is physically or mentally incapacitated for the performance of further service to the city and that said contributor ought to be retired.

(a) Disability of an employe resulting from injury received in the performance of the duties of the city service shall be defined as accident disability. Disability incurred as a result of injury not connected with the performance of such service shall be defined as ordinary disability. In order to be entitled to a retirement allowance for ordinary disability an employe shall have rendered ten or more years of service to the city.

The ordinary disability allowance shall be the actuarial equivalent at the age when an employe retires on such disability allowance of the net amount to which the contributions already made by the employe and the credits allowed or contributions already made by the city on his or her behalf would accumulate if allowed to remain at 4 per cent compound interest until the earliest permissible date for retirement on a service allowance.

The accident disability allowance shall equal the actuarial equivalent at the age when an employe retires on such disability allowance of the net amount which would be accumulated to the credit of the employe if his or her annual contributions at the time of disability and the annual credits or contributions of the city were continued to the earliest permissible date for retirement on a service allowance, interest for such period being calculated at 4 per cent compound interest.

Payment of any disability allowance shall continue throughout the full period of the disability but shall terminate with the removal of the disability or the death of the beneficiary, provided that whenever a disability beneficiary shall have attained the minimum

age for retirement on a service allowance said disability allowance shall be discontinued only upon the death of such disability beneficiary.

Any employe eligible to an accident disability allowance who is also entitled to an allowance under a workmen's compensation act shall be entitled to receive during the period of such compensation only that portion of the retirement allowance provided by this act by which such retirement allowance exceeds said workmen's compensation.

At the close of each fiscal year a charge shall be entered against the account of each contributing employe, which shall be one-half the premium or yearly cost of the risk on behalf of disability retirement.

(b) Once each year the retirement board may require any disability beneficiary while still under the established age for retirement to undergo medical examination by a physician or physicians designated by the retirement board, said examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should the medical board report and certify to the retirement board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, his or her allowance shall be discontinued and the head of the department in which said beneficiary was employed at the time of his retirement shall, upon notification by the retirement board of such report of the medical board, re-employ said beneficiary at a rate of salary not less than the amount of his or her retirement allowance, but after the expiration of five years subsequent to the retirement of such beneficiary his restoration to duty, notwithstanding the recommendation of the medical board, shall be optional with the head of the department.

(c) Should any disability beneficiary while under the established age for retirement refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his or her allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his or her rights in and to any retirement or disability allowance constituted by this act shall be forfeited.

(d) Upon application of any beneficiary under the established age for retirement drawing a pension or a retirement allowance under the provisions of this act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which said beneficiary was employed at the time of his retirement. Upon the restoration of a beneficiary to active service his or her retirement allowance shall cease.

(e) The medical board shall consist of the city physician, a physician to be selected by the retirement board, and a physician to be selected by the employe. ('19, c. 522, § 8; amended '25, c. 335, § 1)

1442-19. Same—Service allowance—Options—At the time of his or her retirement any employe who is eligible to receive a service allowance may elect to receive his or her benefits in a retirement allowance payable throughout life or may on retirement elect to receive the actuarial equivalent at that time of his or her annuity, pension or retirement allowance in a lesser annuity, or a lesser pension, or a lesser retirement allowance, payable throughout life, with the provisions that:

Option I. If said beneficiary dies before receiving in payments the present value of his or her annuity, pension or retirement allowance, as it was at the time

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of his or her retirement, the balance shall be paid to his or her legal representatives or to such person, having an insurable interest in his or her life, as said beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

Option II. Upon the death of the beneficiary, his or her annuity, pension, or retirement allowance, shall be continued throughout the life of and paid to such person, having an insurable interest in his or her life, as said beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

Option III. Upon death of the beneficiary one-half of his or her annuity, pension, or retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his or her life, as said beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

Option IV. Other benefit or benefits shall be paid the beneficiary or such other person or persons as said beneficiary shall nominate, provided such other benefit or benefits shall be certified by the executive secretary of the retirement board to be of equivalent actuarial value and shall be approved by the retirement board. ('19, c. 522, § 9; amended '25, c. 335, § 1)

1442-20. Same—Refunds to employees on separation from service—Payments on death of employee before retirement—Credit for service on reinstatement—

(a) In case of an employe to whom this act applies who shall become absolutely separated from the service without being entitled to a retirement allowance the total net accumulated amount of deductions from his or her salary, pay or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employe with accrued interest.

(b) Upon the death of a contributor before retirement there shall be paid to his or her estate or to such person as he or she shall have nominated, the net accumulated salary deductions standing to his or her credit

(c) Upon reinstatement of a former employe to the service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with interest, from the time of separation; provided this provision shall not apply to service rendered prior to the date that this act becomes effective. ('19, c. 522, § 10; amended '25, c. 335, § 1)

1442-21. Same—Deductions from pay—Amounts—

Retirement before full amounts have been deducted—Increase, decrease or withdrawal of deductions—Beginning on the first day of the year next succeeding that in which this act becomes effective in any city, and thereafter throughout the period of employment, there shall be deducted and withheld from the basic salary, pay or compensation of each employe in the contributing class the following percentage of salary, pay or compensation:

Employes who enter the service at 20 years of age or younger, 3 per cent of salary, pay or compensation; employes who enter the service at 45 years of age or older, 8 per cent of salary, pay or compensation; employes who enter the service after the age of 20 and prior to age 45, a percentage of salary, pay or compensation, which shall be equal to 3 per cent, plus as many times 2/10 of 1 per cent as the age of the employe exceeds 20 at the time service begins.

Every employe to whom this act applies who shall continue in the service after the passage of this act, as well as every person to whom this act applies who may hereafter be appointed to a position or place, shall be deemed to consent and agree to the deductions made and provided for herein, and payment with such deductions, for service, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such person during the period covered by such payment; except his or her claim to the benefits to which he or she may be entitled under the provisions of this act.

(b) In the event that any such employe be retired before he or she has paid into the retirement fund the full amount for which said employe is liable under the term of this act, the installments of the retirement allowance to which such employe would otherwise have been entitled shall be applied to the payment of such sums as are due and payable to the retirement fund, and such employe shall not receive any money as a retirement allowance under the provisions of this act until all sums due from said employe have been paid in full.

(c) No employe shall be required to contribute to the retirement fund for a period in excess of 30 years; all contributions made thereafter to said fund shall be voluntary.

(d) Subject to such terms and conditions and to such rules and regulations as the retirement board may adopt, any contributor, from time to time may:

(1) Increase or decrease his or her rate of contribution to the retirement fund, but in no event shall the contribution be less than the minimum contribution specified in the provisions of this act.

(2) Withdraw from his or her individual account in the retirement fund the amount in excess of the minimum accumulation resulting from the deductions specified in the provisions of this act.

(3) Withdraw, after having become eligible for service re[tire]ment, such part of his or her net accumulated contributions as shall be in excess of the amount necessary to procure the minimum annuity to which he or she would be entitled at the expiration of 30 years of service. ('19, c. 522, § 11; amended '25, c. 335, § 1)

1442-22. Same—Deductions—By whom made and records thereof—The city comptroller or other person having supervision of the payment of salaries to employes shall cause the deductions to be withheld from all specific appropriations for the particular salaries or compensation from which the deductions are made and from all allotments out of lump sum appropriations for payments of such salaries or compensation for each fiscal year; and a record of said sums shall be entered to the credit of the various employes from whose salaries deductions have been made. The amount of said deductions shall be deposited with the city treasury and credited to the retirement fund.

Salary deductions to the credit of an employe shall bear semi-annual interest, the rate therefor being the average rate of income from the invested portion of the retirement fund; provided, however, that interest shall not be calculated at a rate less than the average rate paid on savings deposits by the bank of the city.

At the end of each calendar year and throughout the first 300 months of actual employment there shall be entered to the credit of each employe from whose salary or compensation deductions are made, a credit of \$60.00 per employe, the accumulated amount of which shall be charged to the municipality and payable by the municipality. It shall be the duty of the proper

authorities to levy from time to time a sufficient sum in addition to all other sums to be levied by taxation to meet the liabilities against the municipality created thereby. ('19, c. 522, § 12)

1442-23. Same—City treasurer custodian of funds—Depositories—The city treasurer shall be the custodian of the fund or funds created by this act.

For the purpose of meeting disbursements for retirement allowances and other payments in excess of the receipts, there may be kept an available fund, not exceeding ten per centum of the total amount in the several funds created by this act on deposit in any bank in the city, organized under the laws of the state of Minnesota or under the laws of the United States, or with any trust company incorporated under any law of the state of Minnesota; provided said bank or trust company shall furnish adequate security for said funds; and provided that the sum so deposited in any one bank or trust company shall not exceed twenty-five per centum of the paid-up capital and surplus of said bank or trust company.

Except as herein provided, no trustee or any person connected with the retirement board shall have any interest, direct or indirect, in the gains or profits of any investment made by the retirement board, nor, as such, directly or indirectly, receive any pay or emoluments for his or her services. No trustee or person connected with said retirement board, directly or indirectly, for himself or herself, or as an agent or partner of others, shall borrow any of its funds or deposits, or in any manner use the same, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or person connected with said retirement board become an endorser or surety or become in any manner an obligor, for moneys loaned or borrowed of said retirement board. ('19, c. 522, § 13)

1442-24. Same—Financial responsibility of city—Statements and estimates—Tax levy—Interest as provided for in this act and the payment of all pensions, annuities, retirement allowances, refunds and death benefits granted by the retirement board under the provisions of this act are hereby made obligations of the city. All income, interest and dividends derived from deposits and investments authorized by this act shall be placed to the credit of the retirement fund.

Prior to August 31st of each successive year the retirement board shall prepare an itemized statement showing (1) the aggregate present worth of all retirement allowances and portions thereof chargeable against the city on behalf of employes who were retired during the twelve months ending with the last preceding month of June, (2) the net aggregate of the amounts credited to the employes and charged to the city during the preceding fiscal year, (3) the actuarial deficit or surplus for the preceding fiscal year and (4) an estimate of the administrative expense of the retirement board for the next succeeding fiscal year. This statement shall be submitted to the board of tax levy or other corresponding body, on or before the first day of the next succeeding month of September, together with such recommendations as the retirement board deem advisable. The said board of tax levy or other corresponding body, shall thereupon make an appropriation for the benefit of the retirement fund which shall be not less than the sum of the estimated administrative expense and the said net present worth of all retirement allowances and portions thereof chargeable against the city on behalf of employes who were granted allowances during the twelve months

ending with the last preceding month of June, increased or decreased, as the case may be, by the actuarial deficit or surplus for the preceding fiscal year.

It shall be the duty of the city council or other chief governing body of such city, in addition to all other taxes levied by such city, to annually levy a tax for such purpose and such tax when levied shall be extended upon the county lists and collected and enforced in the same manner as other taxes levied by such city are extended, collected and enforced. The proceeds of such taxes shall be paid into the city treasury to the credit of the retirement fund, which shall constitute and remain a special fund and shall be used only for the payment of obligations created, pursuant to the provisions of this act.

The rate of interest to be used as a basis for calculations, except as otherwise specified, shall be the average rate of interest received from the invested portion of the retirement fund, but not less than the average rate of interest paid by the banks of the city on savings deposits, calculated to the nearest one-fourth per cent. ('19, c. 522, § 14)

1442-25. Same—Retirement board—Members—A retirement board of five members is hereby constituted which shall consist of the following:

- (a) Mayor.
- (b) The city comptroller or corresponding official.
- (c) The chairman of the ways and means committee of the city council or corresponding member of the chief governing body of the city.

(d) Two legally qualified voters of the city, residents thereof for the preceding five years, to be chosen by the employes of the city who are contributors to the retirement fund created by this act. Said employes are hereby authorized to form an association for that purpose. The person first selected shall be chosen to serve for one year from the first of the next succeeding January after his appointment, the second for two years from the first of the next succeeding January after his appointment, after the expiration of which times the respective successors in office shall be appointed to serve for a term of two years, and each shall continue to serve until his or her successor is duly elected. The first two representatives chosen in any city shall be chosen during the first week of June after this act becomes effective therein. Thereafter, such selection shall be made by the employes during the first week of December of each year. Vacancies occurring by death, resignation, or removal of such representative shall be filled by representatives chosen by the employes. ('19, c. 522, § 15)

1442-26. Same—Board as trustee of funds—Investment—Payments from—Special funds—(a) The members of the retirement board shall be the trustees of the several funds created by the act, and shall have exclusive control and management of said funds, and shall have power to invest the same, subject, however, to all the terms, conditions, limitations, and restrictions imposed by law upon savings banks in the making and disposing of their investments; and subject to like terms, conditions, limitations, and restrictions, said trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created by the act shall have been invested as well as of the proceeds of said investments, and of the money belonging to said funds, except that any reserve built up from the city's contributions shall be invested in bonds of that city in preference to other bonds paying an equal or a less rate of interest.

(b) All payments from the funds created by this act shall be made by the treasurer of the city only upon warrant signed by the president of the retirement board and countersigned by the executive secretary, and no warrant shall be drawn except by order of the retirement board duly entered in the records of its proceedings.

(c) The retirement board is hereby authorized and empowered in carrying out the provisions of this act to establish special funds supplementing individual contributions by the employes and to receive, invest and disburse for such purpose all moneys in the form of donations, gifts, legacies, bequests, or otherwise, which may be contributed by private individuals or corporations or organizations for the benefit of the city employes generally, or any special employe or class of employes of the city. ('19, c. 522, § 16)

1442-27. Same—Retirement board—Expenses—Oath—Data—Reports—Records—Mortality tables—Other powers of board—The members of the retirement board shall serve without compensation but shall be reimbursed for any necessary expenditures and no employe shall suffer loss of salary or wages through serving on the retirement board.

(b) Every member of the retirement board shall take a similar oath of office as taken by other employes of the city, and such oath shall be subscribed to by each member and filed with the city clerk of said city.

(c) The retirement board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds and accounts created by this act.

(d) The retirement board shall publish annually a report showing the condition of the various funds created by this act, and setting forth such other facts, recommendations, and data as may be of use in the advancement of knowledge concerning employes, pensions, and annuities; and said retirement board shall submit said report to the mayor of the city and shall file at least one copy thereof with each board or department for the use of its members.

(e) The retirement board shall prepare and keep all needful tables, records, and accounts required for carrying out the provisions of this act, including data showing the mortality and disability experience of the officers and employes of the service and the date of withdrawal from such service, and any other information that may serve as a guide for future valuations and adjustments of the plan for the retirement of officers and employes.

(f) Mortality tables shall be adopted as a basis of calculation for retirement allowances, which tables may be modified from time to time. Pending the action of the retirement board, McClintock's tables shall constitute the basis for all calculations.

(g) The retirement board shall perform such other functions as are required for the execution of the provisions of this act.

(h) For the purposes of this act, the retirement board shall possess the powers and privileges of a corporation, and as such may sue and be sued, and shall have the right to issue subpoenas and to compel the attendance of witnesses. ('19, c. 522, § 17)

1442-28. Same—Retirement board—Meetings—Employees—Rules and regulations—Executive and recording secretaries—(a) The retirement board shall meet on the second Tuesday of each calendar month of each year, and may adjourn from time to time. Special meetings may be held upon the call of the president.

At the first regular meeting, which shall be held on the first Tuesday of July following the date this act becomes effective in any city, or as soon thereafter as practicable, the retirement board shall appoint an executive secretary, who shall have charge of the performance of the duties required by the provisions of this act, and shall appoint other necessary clerical help.

(b) The executive secretary and all other employes under the supervision of the retirement board shall possess all the rights and privileges and be subject to all the obligations and restrictions of other employes of the city. The compensation of all employes of the retirement board shall be fixed by said board.

(c) At the regular meeting in January of each year, the board shall elect one of its members as president, one member as vice-president, and one member as recording secretary, who shall hold office for one year or until successors have been elected and qualified. The president shall preside at all meetings at which he is present. In the absence of the president the vice-president shall preside and shall have all the powers of the president while acting as such. The recording secretary shall keep a record of all proceedings of such board, which shall be open to public inspection. At least one of the officers of said board shall be one of the representatives elected by the employes of said city to said board.

(d) Subject to the limitations of this act and of the law of the state, the retirement board shall from time to time establish rules and regulations for the administration of the fund or funds created by this act and for the transaction of its business. Roberts rules of order shall be the rules of order of the retirement board except as otherwise specifically adopted.

(e) For the purpose of administration, except as otherwise herein provided, the executive secretary, under the direction of the retirement board, shall be, and is hereby authorized and directed to perform or cause to be performed any and all acts and to make such regulations as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect. ('19, c. 522, § 18)

1442-29. Same—Members of independent retirement fund organizations or relief associations—In the event that the members of any retirement fund organization or relief association, on behalf of which a tax is levied against the city, surrender its charter or other legal right to demand the levy of such tax and cease to receive further contributions from either employes or from the city, then and in that case the trustees of such organization or association or other legally constituted representatives thereof shall transfer the total assets of such organization or association to the retirement fund constituted by this act and the city shall thereupon assume and become responsible for the cost of the retirement allowance previously granted by such association or organization. Employes who were members of such organization or association or who were eligible to become members thereof shall thereupon automatically become subject to all the terms imposed by this act on contributing employes, except as hereinafter provided.

Any contributor to the retirement fund who theretofore has been a member of and a contributor to any such retirement fund organization or relief association who claims credit for service during the time of such membership, shall be required to pay into the retirement fund an amount equal to the difference between the accumulated amount that would have been

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contributed under the provisions of this act and the accumulated cost of membership in said organization or association, not including permissible refunds.

At the time of retirement of an employee on an allowance, any such employee shall be entitled to receive an allowance, in addition to other allowances, which shall be the actuarial equivalent of the net cost of such former membership.

On and after the passage of this act no employee of any city to which this act thereafter applies shall be required to become a member of any retirement fund or relief association or to contribute to any fund established for such purpose except a fund established pursuant to the terms of this act. ('19, c. 522, § 19)

1442-30. Same — Applications for allowances — Certificates—No disability or service allowance shall be granted to any employee who may become eligible for retirement as provided in this act until the said employee, or one authorized to act in his behalf, shall have filed with the retirement board, in such form as may be prescribed by said board, an application for such allowance; no instalment or instalments of any such allowance shall be paid for any period prior to the filing of said application and no instalment or instalments of a service allowance shall be paid for any period prior to the expiration of a period of 60 days subsequent to the filing of such application.

Upon receipt of satisfactory evidence the retirement board shall forthwith adjudicate the claim of the applicant, and, if title to the allowance be established, a proper certificate shall be issued to the retiring employee and such certificate shall become evidence of the right of the retiring employee to the allowance as herein provided. ('19, c. 522, § 20)

1442-31. Same—Allowances, etc., not assignable or subject to execution, etc.—None of the moneys mentioned in this act shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment or other legal process. ('19, c. 522, § 21)

1442-32. Same—Supervision by insurance department—On and after the passage of this act all organizations in any city in the state to which this act applies, existing for the purpose of paying retirement allowances or other benefits to civil employes of such city, and all funds from which such allowances are to be paid shall be subject to the supervision of the state department of insurance. ('19, c. 522, § 22)

1442-33. Same—Adoption of law—No such pension system shall be effective until it shall have been adopted by three-fifths of the votes of the electors of the city cast at a general or special election. ('19, c. 522, § 23; amended '25, c. 335, § 2)

1442-34. Same—Cities to which law applies—This act shall apply to each city of the State of Minnesota containing more than 50,000 inhabitants, including each city of the first class now or hereafter having and operating under a Home Rule Charter adopted under and pursuant to Section 36, Article IV, of the State Constitution, and to each such city in which the people, pursuant to Section 23 hereof, have heretofore adopted or may hereafter adopt and put into operation such pension system. ('19, c. 522, § 24, added by '25, c. 335, § 3)

Explanatory note—For section 23 see § 1442-33, herein.

1442-35. Same—Payments to widows of deceased employes—That, in every city of the State now or hereafter having over 50,000 inhabitants, which adopts or

had adopted a system of paying pensions or retirement allowance to retired municipal employes pursuant to Chapter 522, General Laws 1919, the retirement board in control of such system is hereby authorized to pay retirement allowances to the widows of each and every employe who dies while in the service of the city without having elected to accept the provisions of said law and who at the time of the ratification of the system provided by said Chapter 522, General Laws 1919, shall have been employed by said city for a period of 30 or more years. ('25, c. 200, § 1)

Explanatory note—For Laws 1919, c. 522 see §§ 1442-11 to 1442-34, herein.

1442-36. Same—Payments to widows of deceased employes—Determination of worth of retirement allowance—It shall be the duty of said retirement board to determine the value or present worth of said retirement allowance as of the date of death of any such employee in the same manner as would have been pursued had said employee retired from the service of the city at that date and requested a pension pursuant to the provisions of Option 11, Section 9, of said Chapter 522, General Laws 1919. ('25, c. 200, § 2)

Explanatory note—For Laws 1919, c. 522, § 9 see § 1442-19, herein.

1442-37. Same—Payments to widows of deceased employes—Amount—The pension to be granted and paid pursuant to the terms of this act to the residuary beneficiary of any such deceased employee shall be the same as would have been payable had said employee elected to receive his retirement allowance pursuant to Option 11, Section 9 as provided in Chapter 522, General Laws of 1919. For the purposes of this act, the widow of such deceased employee is hereby designated as the residuary beneficiary. ('25, c. 200, § 3)

Explanatory note—For Laws 1919, c. 522, § 9, see § 1442-19, herein.

1442-38. Same — Payments to widows of deceased employes—Amounts included in financial statement—The retirement board in such city shall include in the financial statement required by Section 14 of said Chapter 522, General Laws 1919, the amount, in addition to all other amounts, of the portion of the present worth of any such retirement allowance chargeable against the city and it shall be the duty of the proper city officials in such city to levy a tax sufficient to provide such amount in addition to the amount to be levied pursuant to said Chapter 522, General Laws 1919. ('25, c. 200, § 4)

Explanatory note—For Laws 1919, chapter 522 see §§ 1442-11 to 1442-34, herein.

1442-39. Same — Payments to widows of deceased employes—When payable—The retirement allowance hereby provided shall be payable as of the day following the death of said employee. ('25, c. 200, § 5)

1442-40. Same — Payments to widows of deceased employes—Duties of retirement board—The retirement board provided by said Chapter 522, General Laws of 1919, is hereby invested with all the rights, privileges and obligations relative to such retirement allowance and to the funds from which installments thereof are to be paid as pertaining to the allowances and funds authorized by Chapter 522, General Laws of 1919. ('25, c. 200, § 6)

Explanatory note—For Laws 1919, c. 522 see §§ 1442-11 to 1442-34, herein.

1442-41. Retirement of employes—Credit on time of service of time under disability—Where any city of the first class pays a disability allowance to any em-

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ployee under any provisions of a home rule charter and which provisions require the rendition of services for any specified period immediately preceding the time of retirement to entitle an employee to a retirement allowance, the time during which any such person has heretofore received a disability allowance within such specified period immediately preceding retirement, by reason of any disability arising from an accident occurring in the course of his employment, shall be credited as services with the same force and effect as if he had actually rendered services during such time. ('27, c. 190)

1443. Expenditures of engineering departments—That any city in the state now or hereafter having a population of over fifty thousand inhabitants, in addition to all powers now possessed by it, shall have the power and authority, acting by and through its common council, to fix the maximum expenditures each year for the support and maintenance of its engineering and building inspection departments and to include the amount so fixed in the current annual tax levy for such city. ('07 c. 194 § 1) [1457]

1444. "Board" and "department" defined—The terms "board" or "department," as used in this act, shall mean and embrace board of education, library board, park board, board of charities and corrections and all other boards or departments of every kind and nature expending public funds for the use and benefit of any such city. ('09 c. 374 § 1) [1458]

Cited (111-80, 126+408).

1445. Statements, etc., to comptroller—Contracts—It shall be the duty of every such board or department on the first day of each calendar month and at such other times as the city comptroller, in writing, may demand, including such further information as the city comptroller may demand, to furnish such city comptroller with an accurate and complete statement, properly attested by the proper officer, of all its acts, including all the names, addresses, kind of labor and compensation to be paid to each of its employes and duration thereof, and whenever any such board or department expends or is about to expend, money for the purchase of any lands, goods, materials, labor, supplies or anything of value, and enters into a written contract therefor, such board or department shall immediately furnish such city comptroller with a certified duplicate copy thereof; and no contract shall be valid unless countersigned by said city comptroller. ('09 c. 374 § 2) [1459]

Cited (111-80, 126+408).

1446. Access to books, papers, etc.—For the purpose of fully complying with this act, the city comptroller or any person such city comptroller may designate, shall have full and complete access to all books, papers, documents, statements or accounts on file or of record with any of such boards or departments, at any and all times and any officer, agent, employe or other person in charge of any such board or department, refusing the city comptroller, full and complete access to all such books, papers, documents, statements or accounts shall be guilty of a misdemeanor. ('09 c. 374 § 3) [1460]

Cited (111-80, 126+408).

1447. Deputy comptroller in cities under home rule charters—That in all cities of the first class, the comptroller may appoint and at his pleasure may remove a deputy comptroller, who shall perform such duties as the comptroller may prescribe. During the absence of the comptroller from the city, or his inability for any reason to discharge the duties of his office, the deputy comptroller shall act in his place and stead,

and shall have the same powers and duties, and the comptroller and the sureties on his bond shall be liable for the acts of the deputy comptroller, the same as if they were done by the comptroller. ('11 c. 112 § 1) [1461]

Salary of deputy comptroller, see §§ 1419-1 to 1419-3, herein.

1448. Deputy treasurer—Powers and duties—That in all cities of the first class the treasurer may appoint and at his pleasure may remove a deputy treasurer, who shall perform such duties as the treasurer may prescribe. During the absence of the treasurer from the city, or his inability for any reason, to discharge the duties of his office, the deputy treasurer shall act in his place and stead, and shall have the same powers and duties, and the treasurer and the sureties on his bond shall be liable for the acts of the deputy treasurer, the same as if they were done by the treasurer. ('11 c. 227 § 1) [1462]

1449. To what cities applicable—This act shall be applicable to cities of the first class governed by a charter adopted under and pursuant to section 36 of article 4 of the constitution of the state of Minnesota. ('11 c. 227 § 2) [1463]

1450. Powers of purchasing department—Each and every city of the first class in the state of Minnesota, not having or operating under a home-rule charter adopted pursuant to section 36 of article 4 of the constitution of the state of Minnesota, in addition to all the rights and powers heretofore granted thereto by law, is hereby authorized and empowered and shall at all times hereafter have the power and authority, acting by and through its city council, to establish and maintain a purchasing department as a branch of the city government, which department shall have full charge of the purchase by the city and the several boards of the city of all supplies and materials required for the use of the city and the several departments and boards of the city, including the board of charities and corrections, board of education, board of park commissioners and library board, of the city, and for making and maintaining public works and improvements of the city, excepting from the provisions of this act the purchase of books, periodicals, pamphlets, works of art and other like supplies for the library board and art museum of the city, and the purchase of supplies for the use of the board of park commissioners of the city at its several refectories and places of amusement, and to appoint a purchasing agent who shall be the head of such purchasing department, and to appoint all necessary assistant purchasing agents and other employees required for the proper management of such purchasing department, and to prescribe the duties of such purchasing agent, assistant purchasing agents and other employees, and by ordinance or otherwise to make all rules and regulations necessary for the conduct and management of such purchasing department. ('11 c. 201 § 1; amended '15 c. 234) [1464]

1451. Payment of current bills—The city council or other governing body of any city of the first class not operating under a home-rule charter, notwithstanding any provision of its charter to the contrary, may hereafter provide by ordinance for the payment of all current bills incurred by the city for goods, wares and merchandise, the purchase whereof has been duly authorized for the use of the city or any of its departments, without awaiting the formal vote of said governing body directing payment thereof. The board of park commissioners of any such city may likewise by ordinance provide for the payment of all current bills

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incurred by it or under its authority for goods, wares, and merchandise without awaiting the formal vote of such board directing payment thereof ('13 c. 469 § 1; amended '15 c. 229) [1465]

1452. When city has purchasing department—If a purchasing department has been duly established in and for any such city the ordinance aforesaid may provide for the immediate payment by the city treasurer, out of the appropriate fund, or out of a special fund set aside for the purpose, of all bills approved by the city purchasing agent. And all officers of said city who are authorized by law to sign or countersign warrants or orders for the payment of merchandise accounts may accept the approval of the purchasing agent as a sufficient audit of such bills. ('13 c. 469 § 2) [1466]

1453. Excessive payments, etc.—Should any bill so paid prove to be erroneous or excessive upon examination made within ninety days after payment, the payee thereof shall repay to the city on demand of the city attorney all such excess, or be subject to an action at law for double the amount thereof. ('13 c. 469 § 3) [1467]

1454. Ordinances—Said ordinance or ordinances may contain such further provisions as the governing body shall deem necessary for protecting the city against fraud, irregularity and mistake in the matter of such purchase and may provide that any violation thereof shall be a misdemeanor and punishable as such. ('13 c. 469 § 4) [1468]

1455. Civil service commission—In every city of the first class not organized under section 36, article 4, of the State Constitution, there shall be a civil service commission (hereinafter called the commission) of three commissioners, who shall be citizens of the state and residents of the city, and for this service each commissioner shall receive one thousand (\$1,000) dollars per annum as compensation, payable in equal monthly installments. No commissioner shall at the time of his appointment or while serving hold any other office or employment under the city, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of notary public. The mayor shall with the consent and approval of the council or governing body of any such city expressed by a majority vote thereof appoint, as commissioners persons known to favor the principle of merit and efficiency in the public service. The terms of those first appointed, to be designated in orders of appointment, shall expire, one on the first day of February in the odd numbered year next following the year of the appointment, one on the first day of February next following the first, and one on the first day of February next following the second, and thereafter the appointment shall be for three years to fill expired terms, and in case of vacancy occurring otherwise, the appointment shall be for the unexpired term. In case of cities existing at the time of the passage of this act, the first appointment shall be made on or before the first day of July, 1913.

Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk an oath for the faithful discharge of his duties. Thirty days prior to the appointment of a commissioner the mayor shall file with the city clerk, the name of the person whom he proposes to so appoint. The commissioners shall continue in office until their successors are appointed and have duly qualified. ('13 c. 105 § 1; amended '17 c. 63 § 1) [1469]

138-183, 164-806; 149-325, 183-523.

1456. Civil service fund authorized—The city council shall set apart on the first Monday in January of each year, in the city treasury, a sum not less than twenty-five (25) dollars for each thousand of the population of the city, according to the next preceding state or national census, to be known as the civil service fund and to be used only for the purposes of this act. Unexpended balances at the end of the year shall revert to the current expense fund of the city. To provide such fund, the city council shall levy a sufficient annual tax upon all the taxable property of the city, real and personal, in addition to all other taxes authorized by law. Warrants on the fund shall be drawn by order of the commission and signed by its president or vice-president and secretary and countersigned by the city comptroller. The commission shall audit its own bills and pay-rolls. The city council of any existing city shall provide like funds for the year 1917 by temporary interest bearing loans, if necessary, and add the amount thereof to the next annual tax levy. ('13 c. 105 § 2; amended '17 c. 63 § 2) [1470]

1457. Meetings—The commission shall first meet immediately after its appointment, at the time to be fixed by the mayor, and on the first Monday after the first day of July each year thereafter, and at each said meeting elect a president and vice-president to serve until their successors are elected. The commission at said meeting, or as soon thereafter as practicable, shall select a secretary, who shall keep the records and files of the commission and who shall be ex officio the chief examiner, and appoint other necessary employes, and fix their compensation. The commission shall from time to time fix the times of its meetings, and adopt, amend and alter rules for its procedure. All employes of the commission shall be in the classified service. ('13 c. 105 § 3; amended '17 c. 63 § 3) [1471]

1458. Powers of commission—The powers of the commission shall extend only to the classified service, which shall embrace the entire service of the city except the following officers and employes, which shall be known as the "unclassified service," namely:

Officers who are elected by the people; members of boards and commissions; the city clerk; secretaries of the several boards and commissions serving without pay; the city engineer; the chief health officer; the superintendent of police; the city assessor; superintendents, principals, supervisors of teachers and teachers in the public schools, the city attorney, the attorney of the park board; the librarian and assistants of the public library; the superintendent of parks; a landscape architect, a chief of park police, and the mayor's private secretary. None of the unclassified service shall be subject to examination or affected as to their selection, appointment, discharge or removal by the provisions of this act. ('13 c. 105 § 4; amended '17 c. 63 § 4) [1472]

1459. "Employee" designated—The term "employee," as used in this act, shall include every officer, agent, employe and other person in the classified service of the city. ('13 c. 105 § 5; amended '17 c. 63 § 5) [1473]

1460. Listing, grading and classifying of employes—Immediately after the appointment and organization of the commission, all employes of the city of every nature excepting those in the unclassified service, shall be listed, graded and classified, and a service register prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment, and such other facts and data as to each employe as the commission may deem useful. To enable the commission to make such service register, the mayor, city council, each board and commis-

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sion and each appointing or employing officer shall prepare and furnish to the commission complete lists of all employes in the classified service, containing the names and data aforesaid and such other information as the commission may call for. ('13 c. 105 § 6; amended '17 c. 63 § 6) [1474]

1461. **Rules—Particular employees**—The commission shall, immediately after its appointment and from time to time thereafter, make, amend, alter and change rules, to promote efficiency in the city service and to carry out the purposes of this chapter. The rules shall provide, among other things, for:

a. The classification of all offices, positions and employments in the classified service.

b. Public competitive examinations to test the relative fitness of applicants.

c. Public advertisement of all examinations at least ten days in advance in two newspapers of the city of general circulation, one of which shall be the official newspaper, and posting such advertisement a like time in a conspicuous place in the city hall.

d. The creation of lists of eligible candidates after successful examination, in the order of their standing in the examination, and without reference to time of examination. Such lists shall be embraced in an eligible register. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

e. The rejection of candidates or eligibles who, after the entry of their names, shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or otherwise, or who have been guilty of criminal, infamous or disgraceful conduct, or of any wilful misrepresentation, deception or fraud in connection with the examination or in connection with their applicants for place.

f. The certification of the name standing highest on the appropriate list to fill any vacancy.

g. Temporary employment without examination, but with the consent in each case of the commission, in cases of emergency and pending appointment from the eligible list; but no such temporary employment shall continue longer than sixty days, nor shall successive temporary employments be permitted for the same position.

h. *Transfer from one position to a similar position* in the same class or grade and for reinstatement of persons who, without fault or delinquency, are separated from the service or reduced.

i. Promotion based on competitive examination and upon records of efficiency, character, conduct and seniority. Promotion shall be deemed, among other things, to include increase in salary, and the rules shall be framed to encourage the filling of vacancies by promotion rather than otherwise.

j. Suspension, with or without pay, for not longer than ninety days, and for leave of absence, with or without pay.

k. Appointment of unskilled laborers in the order of priority of application without examination except such tests of physical fitness as the commission may prescribe. Such certification shall be so far as practicable, for each ward of said city. Selection of street commissioners for each ward shall be made from the residents thereof only.

l. Removing names from the service register upon termination of service. The commission shall adopt such other rules not inconsistent with the provisions of this act, as may from time to time be found neces-

sary to secure the purposes of this act. ('13 c. 105 § 7; amended '17 c. 63 § 7) [1475]

1462. **Notice of change of rules**—Before the adoption, amendment or repeal of any rule, the commission shall give notice of consideration thereof by publishing and posting a brief notice, as required in section 7, stating the subject of the rule or rules to be acted on. ('13 c. 105 § 8; amended '17 c. 63 § 8) [1476]

1463. **Second register to be kept**—The commission shall keep a second register, to be known as an application register, in which shall be entered the names and addresses and order and date of application of all applicants for examination, and the offices or employments they seek. All applications shall be upon forms prescribed by the commission. ('13 c. 105 § 9; amended '17 c. 63 § 9) [1477]

1464. **Mayor to be notified of service register and rules**—As soon as the commission has organized and made up the service register and adopted rules, as herein provided, it shall notify the mayor, the city council, the several boards and commissions, and each appointing officer of the city, and thereafter no office, position or employment shall be filled in the classified service except from names certified by the commission and in accordance with the provisions of this act. ('13 c. 105 § 10; amended '17 c. 63 § 10) [1478]

1465. **Removal of officers or employees**—No officer or employee after six months' continuous employment shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard in his own defense. Such charges shall be investigated by or before said civil service commission or by or before some officer or board appointed by said commission to conduct such investigation. The finding and decision of such commission or investigating officer or board, when approved by said commission, shall be certified to the appointing officer, and shall be forthwith enforced by such officer. Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period, not exceeding ninety days for purposes of discipline. In the course of an investigation of charges, each member of the commission and of any board so appointed by it or any officer so appointed shall have the power to administer oaths and shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation. ('13 c. 105 § 11; amended '17 c. 63 § 11) [1479]

138—182, 164+806; 149—322, 183+521.

Formal trial necessary. 164—437, 205+369.

Under the charter of the city of Minneapolis, the power to discharge an employee who has been within the classified service for more than six months is taken from the appointing officer or board and vested in the civil service commission. 157—177, 195+902.

Under the charter of the city of Minneapolis, the right to suspend an employee within the classified service, for the purpose of discipline, remains with the heads of departments. 157—177, 195+902

The right of suspension given to the heads of departments by the city charter cannot be cut off by a rule of the civil service commission. 157—177, 195+902.

1466. **Duties of each office to be ascertained**—The commission shall ascertain the duties of each office, position and employment in the classified service, and designate by rule as well as may be practicable, the grade of each office, employment or position. Each grade shall comprise those offices, employments and positions having substantially similar duties. The commission shall by rule indicate the lines of promotion from each lower to higher grade wherever the experience derived in the lower tends to qualify for the higher. The commission shall prescribe standards of efficiency for each office, position and employment and

for each grade, and adapt its examinations thereto. The commission shall make and keep a record of relative efficiency of each employe in the classified service other than unskilled laborers, and shall provide by rule methods for ascertaining and verifying the fact from which such records of relative efficiency shall be made. ('13 c. 105 § 12; amended '17 c. 63 § 12) [1480]

1467. Examinations—All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust shall be specially examined as to moral character, sobriety and integrity, and all applicants for positions requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. Where written answers are required from applicants for positions calling for expert knowledge, the rules may provide for examination of the answers and the comparative ranking of the various applicants, without a disclosure of the names of the applicants to the examiners. The commission may furnish to the chief examiner such assistance as may be necessary. It shall be the duty of every employe of the city to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission, collectively or individually, may act as examiners or assistant examiners. ('13 c. 105 § 13; amended '17 c. 63 § 13) [1481]

1468. Notice of examination—Notice of the time, place and scope of each examination shall be given by publication and posting, as specified in section 7, and by mailing to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible, after giving credit for character and previous successful experience, shall be entered, with their addresses and percentages, in appropriate lists of the eligible register. No name shall remain upon the eligible register more than two years without a new application, and, if the rules of the commission so require, a new examination. ('13 c. 105 § 14; amended '17 c. 63 § 14) [1482]

1469. Vacancies—When a vacancy is to be filled in the classified service, the mayor, city council, board, commission or employing officer, shall notify the commission, and the commission shall certify the highest name from the appropriate list of the eligible register, except in the case of unskilled labor, and then shall certify the name first in time on the list. All vacancies shall be filled from the names so certified, and the commission shall be immediately notified of the employment and of the compensation to be paid. The names selected shall be stricken from the eligible register and transferred to the service register. All changes in grade, title or compensation shall be likewise reported. ('13 c. 105 § 15; amended '17 c. 63 § 15) [1483]

1470. Positions without examination—In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, the commission, upon satisfactory evidence that competition is impracticable, and that the position can best be filled by the selection of some person of recognized attainments, without examination, and after hearing in an open, regular meeting of the commission and by the affirmative vote of all three members, may suspend competition; but no such suspension shall be general in its application to such posi-

tion, and all such cases of suspension shall be reported, together with the reasons therefor, in the annual reports of the commission. ('13 c. 105 § 16; amended '17 c. 63 § 16) [1484]

1471. Restrictions on city comptroller—After the receipt by the city comptroller of the pay roll, he shall not approve the payment of any salary, wages or compensation for any office or employment in the classified service, nor countersign any warrant therefor, unless the name of the person claiming the same appears upon the service register for the time for which such salary, wages or compensation is claimed, nor at any higher rate than shown on such register; and if the city comptroller shall wilfully or negligently approve any payment or countersign any warrant in violation of this section, he and the sureties on his bond shall be liable to the city for the amount thereof and action may be brought therefor by any taxpayer for the use of the city without making previous request to the city to sue. ('13 c. 105 § 17; amended '17 c. 63 § 17) [1485]

1472. Annual Reports—The commission shall in each year, on or before the 30th day of January, make to the mayor and city council a report, showing as fully as may be the acts and disbursements of the commission for the preceding calendar year; the rules in force at the beginning of such year and changes made during the year; the practical effect and working of the rules and of this act; the results of the efforts to standardize services and compensation and the departures therefrom, together with such recommendations as the commission may see fit to make, to promote the efficiency and integrity of the public service. The commission shall furnish a suitable number of copies of such report to the mayor, the city council and each board and commission and each employing officer of the city. ('13 c. 105 § 18; amended '17 c. 63 § 18) [1486]

1473. Charges against employees—Trial—The commission shall from time to time investigate the enforcement of this act and of the rules made under it; the action of all examiners; the duties of all departments and of all employes of the city; the efficiency of the service, and such other matters as come within the scope of this act. In the course of such investigations each commissioner shall have power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. Any person who shall wilfully testify falsely shall be guilty of perjury and any person who shall refuse to obey the lawful subpoenas or directions of the commission or any commissioner in any such investigation shall be guilty of a misdemeanor. Any member of the commission shall have power of his own motion to file written charges against any employe in the classified service, and thereupon the commission shall try the charges, after not less than ten days' written notice to the person accused, in the manner and with the powers prescribed in this section; but in such case the complaining commissioner shall not sit. If found guilty of breach of duty, such employe may be removed by the commission and his name be stricken from the service register. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of the court. Witnesses shall be entitled to the same fees and mileage as for

attendance upon the district court, except that any officer, agent or employe of the city who receives compensation for his services, shall not be entitled to fees or mileage. ('13 c. 105 § 19; amended '17 c. 63 § 19) [1487]

1474. **Effect of false statements**—Any applicant for an office or employment in the classified service, who shall knowingly make any false answer or statement upon any examination in regard to any material matter upon which he is examined, shall thereby forfeit his right to be entered upon the eligible register, and, in case he has been appointed to any office or employment, shall forfeit the same and shall not within three years thereafter be eligible to any office or employment in the unclassified service of the city, nor shall he during such time be entitled to any of the examinations of the commission. ('13 c. 105 § 20; amended '17 c. 63 § 20) [1488]

1475. **Consideration for position—Penalty**—Any applicant for examination or for appointment to the classified service, who shall, either directly or indirectly, give, render or pay or promote to give, render or pay any money, service or other thing to any person for or on account of or in connection with his examination, appointment or proposed appointment, or who shall ask for or receive any recommendation or assistance from any person in the classified or unclassified service of the city, except a statement of his previous service and the character thereof, if any, to the city, as a subordinate under such officer or employe shall be guilty of a misdemeanor. ('13 c. 105 § 21; amended '17 c. 63 § 21) [1489]

1476. **Assessments prohibited**—Any officer or employe in the classified service of the city, who shall in any manner directly or indirectly solicit or receive or pay or be in any manner concerned in soliciting, receiving or paying any assessment, subscription or contribution for any party or political purpose, shall be guilty of a misdemeanor. ('13 c. 105 § 22; amended '17 c. 63 § 22) [1490]

1477. **Political contributions forbidden**—Any person who shall solicit or receive, directly or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution or payment for any political purpose whatever, from any officer or employe in the classified service of the city, shall be guilty of a misdemeanor. Provided that sections 22 and 23 hereof shall not apply to the solicitation, payment or receipt of regular and fixed dues by or from a member of an established organization, but the solicitation, payment or receipt of additional dues or assessments during a political campaign shall be construed to be a violation of this act. ('13 c. 105 § 23; amended '17 c. 63 § 23) [1491]

Sections 22 and 23, referred to, are §§ 1476, 1477, herein.

1478. **Preferment, etc., for political purpose forbidden**—Any officer or employe in the classified or unclassified service of the city who shall discharge, promote or reduce in rank or in any manner change the official rank or compensation of any other officer or employe, or promise or threaten so to do, for giving or withholding or neglecting to make any service or contribution of money or other valuable thing for any party or political purpose, shall be guilty of a misdemeanor. ('13 c. 105 § 24; amended '17 c. 63 § 24) [1492]

1479. **Contracts for lighting streets**—That in all cities of the first class, the common council may award, enter into and let contracts for lighting the city streets,

parks and other public places, or either, or any of the same for any term not exceeding two years under any one contract. It shall not be necessary before awarding or entering into such contracts that provision by budget appropriations or otherwise, shall first have been made to meet the indebtedness incurred by such contracts, but provision for meeting such obligation or indebtedness may be made after the letting of such contracts. ('11 c. 179 § 1) [1493]

1480. **To what cities applicable**—This act shall be applicable to cities of the first class, governed by a charter adopted under, and pursuant to article 4, section 36, of the constitution of this state. ('11 c. 179 § 2) [1494]

1481. **Rules as to water rentals**—That in all cities of this state now or hereafter having a population of over fifty thousand inhabitants, and owning a municipal waterworks system, the board of water commissioners of such city, or other body or authority having the control and management of such waterworks system, may adopt and enforce such rules and regulations as to the time when water rentals shall become due and payable as such body or authority may deem advisable. ('13 c. 37 § 1) [1495]

1482. **To what cities applicable**—This act shall apply to cities existing under a charter framed pursuant to section 36 of article 4, of the constitution. ('13 c. 37 § 3) [1496]

1482-1. **Extension of waterworks systems**—Any city in this State now or hereafter having a population of 50,000 inhabitants or more, and owning or operating a water department for the purpose of supplying water to its inhabitants, may extend the waterworks so owned and operated so as to draw water from any river in this State, notwithstanding any provisions or limitations contained in the charter of any such city. ('23, c. 285, § 1)

1482-2. **Same—Cities to which law applies**—This act shall apply to cities governed by a charter adopted pursuant to Section 36, Article IV of the Constitution of this State. ('23, c. 285, § 2)

1483. **Disposal of electrical energy to private consumers**—Any city of the first class now or hereafter operating a plant for the production and distribution of electrical energy for municipal purposes may dispose of any surplus thereof so produced, to private consumers within the city desiring the same, at such rates and upon such terms as the city council or other governing body of the city may deem proper. ('13 c. 127 § 1) [1497]

122-348, 142+319.

1484. **"Public utilities" defined**—For the purposes of this act, public utilities shall include street railways, telephones, water works, gas works, electric light, heat or power works, public docks, union depots and terminal systems, ice plants, stone quarries, creosoting works, and public markets. ('13 c. 310 § 1) [1498]

189+429.

1485. **Acquisition and operation**—Every city of this state shall have the power to own, construct, acquire, purchase, maintain and operate any public utility within its corporate limits, and to lease the same, or any part of the same, to any company incorporated under the laws of this state, for the purpose of operating such public utility for any period not longer than twenty years, on such terms and conditions as the city council shall deem for the best interests of the public.

Any city now owning and operating its own water works, or other public utilities, may continue to own and operate the same in the same manner as if now

authorized by law to own and operate the same, without submitting any proposition so to do to the electors thereof, and it may by a three-fifths vote of the city council, or other governing body, and without submission to the electors thereof, as herein provided, issue bonds and certificates of indebtedness in the manner and proportions herein provided for the purpose of refunding all bonds issued for the construction and creation of such utility, and the remainder of the proceeds thereof, if any, shall be covered into the treasury of said city as a sinking fund for the redemption of any existing bonds, or for the purchase and acquisition of any new bonds of said city offered by said city.

It shall be lawful for any city to incorporate in any grant of the right to construct or operate any public utility, a reservation of the right on the part of such city to take over all or part of such public utility, at or before the expiration of such grant upon such terms and conditions as may be provided in the grant; it shall also be lawful to provide in any such grant, that in case such reserved right be not exercised by the city and it shall grant a right to another company to operate such public utility in the streets and parts of streets occupied by its grantee under the former grant, the new grantee shall purchase and take over such public utility of the former grantee, upon the terms that the city might have taken it over, and it shall be lawful for the city council of any city to make the grant containing such a reservation for either the construction or operation or both the construction and operation of such public utility, in, upon, and along any of the public streets, alleys or ways therein, or portions thereof, in which such public utility is already located at the time of making such grant, without the petition or consent of any of the owners of the land abutting or fronting upon any street, public alley or way, or portion thereof, covered by such grant.

No ordinance authorizing the lease of any public utility for any period, nor any ordinance renewing any lease, shall go into effect until the expiration of sixty days from and after its passage. And if, within said sixty days, there is filed with the clerk of such city a petition signed by ten per cent of the voters voting at the last preceding election for mayor, in such city, asking that such ordinance be submitted to a popular vote, then such ordinance shall not go into effect unless the question of the adoption of such ordinance shall first be submitted to the electors of such city and are approved by a majority of those voting thereon.

The signatures of such petition need not all be appended to one paper, but each signer shall add to his signature, which shall be in his own handwriting, his place of residence, giving the street number. One of the signers of each such paper shall make oath before an officer, competent to administer oaths, that each signature to the paper appended is the signature of the person whose name purports to be thereto subscribed. The city council of any city which shall decide by vote of its electors, as herein provided, to acquire or construct any public utility, shall have the power unless otherwise provided by law to make all needful rules and regulations respecting the operation of the same, including the power to fix and prescribe rates and charges. For the purpose of acquiring any such public utility either by purchase or construction, as provided for in this act, or for the equipment of any such public utility, and in addition to the certificates of indebtedness provided for in section 3 [1486] hereof, any city may borrow money and issue its negotiable bonds to an amount not exceeding one-fifth the cost thereof,

pledging the faith and credit of the city therefor; but no such bonds shall be issued until the question of the issuance of certificates of indebtedness shall have been approved by a majority of the electors voting thereon as provided for in section 3 [1486] hereof, and then only upon a three-fifths vote of the city council or other governing body. In the exercise of the powers, or any of them, granted by this act, any such city shall have power to acquire, take and hold any and all franchise or franchises, and necessary property, real, personal or mixed, for the purposes specified in this act, either by purchase or condemnation in the manner provided by law for the taking and condemning of private property for public use, but in no valuation of public utility property for the purpose of any such acquisition, except of such public utilities now operating under such existing franchises shall any sum be included as the value of any earning power of such utility, or of the unexpired portion of any franchise granted by said city.

In case of the leasing by any city of any public utility owned by it, the rental reserved shall be based on both the actual value of the tangible property and of the franchise contained in such lease, and such rental shall not be less than a sufficient sum to meet the annual interest upon all outstanding bonds or certificates issued by said city on account of any such public utility. ('13 c. 310 § 2) [1499]

Section 3 [1500], referred to, is § 1486 herein.

1486. Limit of bonds and certificates.—In addition to the bonds pledging the faith and credit of the city, as provided for in section 2 of this act, any city may issue and dispose of interest-bearing certificates, which shall be a lien or charge against the public utility property for the acquisition or construction of which they were issued and shall be payable out of the specified portion of the revenues or income to be derived therefrom, but which shall under no circumstances be or become an obligation or liability of said city or payable out of the general funds thereof, nor shall such certificates be deemed a part of the indebtedness of said city for any purpose. Such certificates, together with the bonds hereinbefore provided for, shall not be issued on any such public utility property in an amount in excess of the cost to the city of such property as hereinbefore provided, and ten per centum of such cost in addition thereto. In order to secure the payment of such public utility certificates, and the interest thereon, the city may convey by way of mortgage, or deed of trust, any or all of the property thus acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in such a manner as directed by the city council and acknowledged and recorded in the manner provided by law for the acknowledgment and recording of mortgages of real estate, and may contain such conditions and provisions not in conflict with the provisions of this act, as may be deemed necessary to fully secure the payment of the certificates described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the property covered thereby, for a period not exceeding twenty (20) years from and after the date such property may come in the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of said property, for a period not exceeding twenty years. Whenever, and as often as default shall be made in the payment of such certificate issued or secured by mortgage or

deed of trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of twelve months after notice thereof has been given to the mayor and financial officer of the city issuing such certificates, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers and the rights and privileges sold, if he or they be the highest bidders. Any public utility acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings; provided, however, that no such public utility certificates or mortgage shall ever be issued by any city under the provisions of this act, unless and until the question of the adoption of the ordinance of the city council making provision of the issue thereof shall have first been submitted to a popular vote and approved by a majority of the qualified voters of the city voting upon such question. ('13 c. 310 § 3) [1500]

1487. **Books—Report**—Every such city owning and operating any such public utility shall keep the books of account for such public utility distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership, or ownership and operation as the case may be. Such accounts shall be so kept as to show the actual cost to such city of such public utilities owned; all cost of maintenance, depreciation, extension and improvement; all operating expenses of every description, in case of such city operation; the amount set aside for sinking fund purposes. The city council shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership, or ownership and operation. ('13 c. 310 § 4) [1501]

1488. **Submission to voters**—No city shall acquire or construct any public utility under the terms of this act unless the proposition to acquire or construct same has first been submitted to the qualified electors of said city at a general city election or at a special election called for that purpose, and been approved by a majority vote of all electors voting upon such proposition.

The question of issuing public utility certificates as provided in section 3 hereof may at the option of the city council be submitted at the same election as the question of the acquisition or construction of such public utility. ('13 c. 310 § 5) [1502]

Section 3, referred to, is § 1486, herein.

1499. **Submission—Election**—In all cases provided in this act for the submission of questions or propositions to popular vote the city council shall pass an ordinance stating the substance of the propositions or question to be voted upon and designating the election at which such question or proposition is to be submitted, which may be at any general or city election or special election called for that purpose; provided, that such election shall not be held sooner than thirty days from and after the passage of said ordinance.

Notice of special election which shall be held in any city under this act and all proceedings respecting the same shall conform as nearly as may be to the law governing other special elections therein.

And all ballots as to any proposition or question submitted pursuant to the terms of this act shall be delivered to the election judges, shall be deposited in a separate box and shall be counted, canvassed and returned, as is provided by law in case of other ballots, and the tally sheets and return blanks shall contain suitable columns and spaces therefor.

No defect or omission in the calling, giving notice or holding of any election under this act shall in any manner affect the validity of such election unless it shall affirmatively appear that such defect or omission changed the result of such election. ('13 c. 310 § 6) [1503]

1490. **Term of grant or lease**—Nothing in this act contained shall be construed to authorize any city to make any grants or to lease any public utility for a period exceeding twenty (20) years from the making of such grant or lease; provided, that when a right to maintain and operate a public utility for a period not exceeding twenty (20) years is contained in a mortgage or deed of trust to secure any of the certificates hereinbefore mentioned, (and no such right shall be implied), such period shall commence as provided in section 3 of this act. ('13 c. 310 § 7) [1504]

1491. **Union depot and terminal system—Bonds**—Whenever any city shall decide by a vote of the electors thereof in the manner herein provided, to acquire a union depot and terminal system, it may, upon a three-fifths vote of the city council or other governing body, issue such bonds as are provided for herein at such rate and for such period as the council may prescribe notwithstanding any provision in the charter of said city limiting the amount of the bonded indebtedness thereof; providing that such issue of bonds shall never be for an amount which together with all other net bonded indebtedness shall exceed ten per cent of the assessed valuation of said city as of the time of such issue. ('13 c. 310 § 8) [1505]

1491-1. **Issue of waterworks bonds**—That in all cases in which cities of the first class, including all such cities operating under charters adopted in accordance with Section 36 of Article IV of the Constitution of the State of Minnesota, have been authorized by ordinance approved by the people of such cities to issue bonds for the purpose of extending, enlarging and improving the public waterworks plants and waterworks systems owned and operated by such cities, and such ordinance authorizing such bond issue provides that only a specified portion of such authorized bonds shall be issued in any one year, such cities are hereby authorized to issue all, or any part of such bonds remaining unissued at any time, notwithstanding any provision in the ordinance authorizing such bond issue that only a specified portion of such bonds shall be issued in any one year. ('23, c. 36, § 1)

1491-2. **Extension of water mains into and furnishing of water to contiguous cities, towns or villages**—Any city of the first class, including such cities operating under a home-rule charter adopted pursuant to Section 36, Article 4 of the Constitution of the State of Minnesota, which maintains a municipally owned and operated water plant or department, whether such water plant is under the control of the city council or a board of water commissioners, is hereby authorized to furnish water to, and extend its mains into, any city, town or village whose territory is contiguous to

such city, and to assess the cost of extending said mains against the property abutting on the street in which said mains are laid. ('27, c. 134, § 1)

1491-3. Same—Cost of extension—Requests for extension—Whenever any such city extends its mains and furnishes water to contiguous cities, towns or villages, under the provisions of this act, and is operating under a home-rule charter adopted pursuant to Section 36, Article 4 of the Constitution of the State of Minnesota, the cost of such mains shall be assessed and the assessment collected in the manner prescribed by its charter, provided, however, that no such mains shall be extended or ordered furnished to any such contiguous city, town or village except upon the adoption of a resolution requesting such service by the council or town board of such city, town or village, which resolution shall designate the streets, alleys or other public places wherein such mains may be laid, and provided further that the total cost of constructing such mains extended into any city, town or village shall be assessed against the property abutting on the street where the mains are laid. ('27, c. 134, § 2)

1491-4. Gas companies may furnish gas to certain adjacent cities or inhabitants thereof—Receipts not subject to gross earnings tax—Regulations—That whenever in any city now or hereafter having a population of over 50,000 inhabitants (whether operating under a charter adopted pursuant to Section 36 of Article 4 of the State Constitution or otherwise) a franchise has heretofore been granted to any person, firm or corporation giving the right, privilege and authority to enter upon, use and occupy the streets, lanes, alleys, bridges, parks and public grounds of such city for the purpose of laying, maintaining, constructing, and operating pipes, tunnels and conduits for the purpose of supplying gas for any or all purposes to such city or its inhabitants, the grantee of such franchise is hereby given the right, privilege and authority during the life of such franchise to use the pipes, tunnels and conduits so constructed and maintained by it and to enlarge and extend the same for the purpose of supplying gas to any other city having a population of ten thousand inhabitants or less, or its inhabitants, which other city immediately adjoins the city which has granted such franchise, and the proceeds or earnings from gas so supplied to such adjoining city or its inhabitants shall not be subject to any gross earnings tax imposed, levied or collected by or in the city which has granted such franchise. This act shall apply and be effective, any provision of the charter or ordinance of said city notwithstanding.

Provided, however, that the provisions as to exemption from gross earnings tax shall not apply to gas supplied to any such adjoining city, where such gas has heretofore been supplied to such city and been subject to gross earnings tax by virtue of contract between the grantee and the city granting such franchise.

Provided further, that the exercise of the privileges provided for in this act by any grantee shall be subject to reasonable regulation by the city granting such franchise.

Provided further, that nothing herein contained shall be construed as granting to the grantee of such franchise any right or privilege within such adjoining city until and unless such grantee has first complied with all provisions of the charter and ordinances of such adjoining city in respect to obtaining a franchise therein. ('21, c. 93, § 1)

1492. Condemnation of land for public buildings—That hereafter any city in this state now or hereafter having a population of over fifty thousand inhabitants shall have the right, power and authority to condemn lands under the right of eminent domain for sites and grounds for public school buildings, and for all other municipal or public buildings for such cities, or for any of the departments of its government, and such power and authority shall be exercised under and pursuant to the terms and provisions of chapter 41 of the Revised Laws of Minnesota for the year 1905 and acts amendatory thereof; provided, however, that any such city shall have the right, upon the filing of the award of the commissioners provided for in said chapter 41, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the lands so condemned, without the giving of any bond, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded, either by said commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in said chapter 41. In case any such city shall appeal from the award of commissioners appointed pursuant to any such condemnation proceedings, such city shall not be required to give or file any appeal bond therein. ('07 c. 291 § 1) [1506]

Provision binding city absolutely to pay all damages when no bond is given not applicable where city charter contains provision that it may abandon condemnation proceedings at any time. (135-243, 160+775)

1493. Acquisition of lands for hospital—That any city in this state now or hereafter having a population of over fifty thousand inhabitants, in which there is a city and county public hospital, may acquire such additional lands as may be necessary therefor either by purchase or by condemnation thereof in the same manner as lands are condemned for the opening and widening of streets, and may pay the cost thereof either by public taxation or by issuing and selling the bonds of such city therefor; anything in the charter of said city or in any law of this state which may prohibit the issue of any bonds in excess of any specified percentage of taxable property in such city to the contrary notwithstanding; provided, however, that the aggregate amount of bonds issued for such purpose shall not be in excess of the sum of twenty-five thousand dollars, par value, and shall not bear a greater rate of interest than four per cent per annum. ('05 c. 139 § 1) [1507]

1493-1. Tax levy for operating and maintaining hospital—The governing body of any city of this state now or hereafter having a population of more than fifty thousand inhabitants, owning a hospital, is hereby authorized to annually levy and collect a tax not to exceed one mill on each dollar of the taxable property of such city for the purpose of operating and maintaining such hospital. ('19, c. 58, § 1)

1493-2. Same—Special fund—The proceeds of such tax shall be placed in the city treasury of the city levying the same and shall constitute a special fund and shall be kept distinct from all other funds of the city and shall be used only for the purpose of operating and maintaining such hospital. ('19, c. 58, § 2)

1493-3. Same—Cities to which law applies—This act shall apply only to such cities as are or may hereafter be governed by a charter adopted pursuant to section 36, article 4, of the Constitution of this state. ('19, c. 58, § 3)

1493-4. Same—Power granted additional to existing powers—The power of levying the tax in this act provided for shall be and is in addition to all existing

powers and taxes that may now be levied by such cities. ('19, c. 58, § 4)

1494. Contagious hospitals—Bonds—The governing body of any city of this state now or hereafter having a population of more than fifty thousand inhabitants is hereby authorized and empowered, for the purposes herein designated, to issue, from time to time as needed, the negotiable bonds of their respective cities to an amount in the aggregate not exceeding two hundred fifty thousand dollars; said bonds to be made in such denomination and payable at such places and at such times, not exceeding thirty years from the date thereof as may be deemed best, and to bear interest at a rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

Provided that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

Provided that this act shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the common council subject to approval of a Board of Estimate and Taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds. ('23 c. 223 § 1)

See 189+429.

1495.—Tax levy—Sinking fund—The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act, and for the payment of the current interest thereon, and said governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('23 c. 223 § 2)

1496. Form of bonds—All bonds issued under authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned by the city comptroller or city auditor of such city, except that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such city. ('23 c. 223 § 3)

1497. Use of proceeds—The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose of acquiring a site, constructing and equipping a contagious hospital, and the proceeds of said bonds or any thereof shall not be used for any other purpose than those hereinbefore specified. ('23 c. 223 § 4)

1498. Limitations—Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to Section 36, Article 4 of the Constitution of this state requiring the question of the issuance of bonds to be submitted to a vote of the electors. ('23 c. 223 § 5)

1499.—Application—This Act shall apply to cities operating under Home Rule charters adopted pursuant to Section 36, of Article 4, of the State Constitution, and the powers granted in this Act are in addition to all existing powers of such cities. ('23 c. 223 § 6)

1500. Condemnation of land covered by water for slips—Each city in this state having at any time a population of over 50,000, according to the census then last taken, is hereby empowered to acquire by proceedings in condemnation, under the right of eminent domain, any land or lands covered with water or an easement therein, connecting with or adjacent to public navigable waters, other than rivers, within or adjacent to such city, wheresoever situated within the limits of such city, which shall be declared by the city council by resolution necessary to be taken, damaged, injured or destroyed for the purpose of laying out, opening, making, deepening, widening or otherwise improving a slip or other waterway into or connecting with such public navigable waters. ('05 c. 213 § 1) [1508]

1501. To be held for public water highway—Whenever any land or lands covered with water, or an easement therein shall be acquired by any city, pursuant to the provisions of this act, such land shall thereafter be held as and for a public water highway for travel by and the accommodations and passage of boats, steamships, vessels and water craft of all kinds. ('05 c. 213 § 2) [1509]

1502. Proceedings—The land or lands covered with water or an easement therein specified in section one of this act may be acquired by proceedings to be conducted by the city council in the manner provided by chapter 194, General Laws of Minnesota for the year 1903, enabling municipalities to establish and acquire a building line easement along streets, highways, parks and parkways, and the city council in any such city shall under this act, exercise all the powers and perform all the duties imposed in said chapter 194, General Laws of Minnesota for the year 1903, on the "governing body" mentioned in said chapter. ('05 c. 213 § 3) [1510]

For Laws '03, c. 194, see supra §§ 1321-1 to 1321-7.

1503. Land or easement to vest in city—Upon the conclusion of the proceedings and the payment of the awards the several tracts of land shall be deemed to be taken and appropriated for the purposes of this act, and such land or the easement therein for the purposes aforesaid shall vest absolutely in the city in which the lands are situate. ('05 c. 213 § 4) [1511]

1504. Condemnation of land for harbors, wharves, etc.—That hereafter any city in this state now or hereafter having a population of over fifty thousand inhabitants, shall have the right, power and authority to condemn lands under the right of eminent domain, for harbors, wharves, boat-landings and such canals and approaches thereto as may be required, and shall have the right, power and authority to levy taxes for the purpose of raising moneys required for the payment of damages and other expenses arising in or out of such condemnation proceedings; such power and authority to condemn land shall be exercised under and pursuant to the terms and provisions of chapter 41, of the Revised Laws of 1905, and acts amendatory thereof. Provided, however, that any such city shall have the right, upon the filing the award of the commissioners, provided for in said chapter 41, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the land so condemned, without the giving of any bond, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded, either by said commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in said chapter 41. In case any such city shall appeal from the award of

the commissioners appointed pursuant to such condemnation proceedings, such city shall not be required to give or file any appeal bond therein. This act shall apply to cities now having a home rule charter adopted under and pursuant to section 36 of article 4 of the constitution of the state of Minnesota. ('09 c. 327 § 1) [1512]

Explanatory note—For R. L. '05, c. 41, see c. 41, herein.

1504-1. Public landings, wharves, docks, etc.—Acquisition, construction and maintenance—Rates and charges—Any city of this state now or hereafter having a population of more than fifty thousand inhabitants is hereby authorized to establish, construct, maintain and operate public landings, public wharfs and docks, and transfer railroad tracks, and loading, unloading, transfer and storage facilities, either within or without such city; to acquire by condemnation or otherwise, all lands, riparian or otherwise and other rights and easements necessary for the purposes aforesaid and to construct, maintain and operate all necessary buildings and warehouses for such purpose, to lay and collect reasonable duties or wharfage fees on vessels coming to or using said landings, wharfs or docks; to regulate the manner of using other wharfs and docks within the city and rates of wharfage to be paid by vessels using the same; to dredge or deepen the harbor or river or any branch or portion thereof; to prescribe and enforce reasonable rules and regulations for the protection and use of its said properties whether within or without the city and to impose and enforce adequate penalties for the violation of such rules and regulations. Proceedings in eminent domain for the purposes of this act shall be conducted under and pursuant to the provisions of Chapter 41, Revised Laws 1905, and acts amendatory thereof and supplementary thereto. ('21, c. 363, § 1)

Explanatory note—For chapter 41 R. L. '05 see c. 41, herein.

1504-2. Same—Bond issue—The city or common council of any city as herein provided for is hereby authorized and empowered, for the purposes herein designated, to issue from time to time, as needed, the negotiable bonds of such city to an amount in the aggregate not exceeding one hundred and fifty thousand dollars (\$150,000.00); said bonds to be made in such denomination and payable at such places and at such times not exceeding thirty (30) years from the date thereof as may be deemed best and to bear interest at a rate not to exceed six per cent per annum payable semiannually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

Provided, that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon. ('21, c. 363, § 2)

1504-3. Same—Bond issue—Limitation on indebtedness not applicable—The bonds authorized by Section 2 of this act, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city; but the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act and for the payment of the current interest thereon, and the said governing body of any such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for

the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('21, c. 363, § 3)

Explanatory note—For section 2, see § 1504-2, herein.

1504-4. Same—Bond issue—Form of bonds—All bonds issued under the authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned by the city comptroller or city auditor of such city except that the signature to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportion of the whole amount authorized by this act and at such times as may be determined by the said governing body of such city. ('21, c. 363, § 4)

1504-5. Same—Bond issue proceeds to constitute special fund—The proceeds of any and all bonds issued and sold under the authority of this act shall be placed in the city treasury of said city issuing the same and shall constitute a special fund and shall be kept distinct from all other funds of the city and shall be used only for the purposes of carrying out the provisions provided for in Section 1 of this act. The proceeds of said bonds, or any thereof, shall not be used for any other purpose than those herein specified. ('21, c. 363, § 5)

Explanatory note—For section 1 see § 1504-1, herein.

1504-6. Same—Cities authorized—This act shall only apply to such cities as are or may be governed by a charter adopted pursuant to Sec. 36, Art. 4 of the Constitution of this state. ('21, c. 363, § 6)

1504-7. Same—Powers granted are additional—The powers granted in this act are in addition to all existing powers of such cities. ('21, c. 363, § 7)

1505. Levees on navigable stream when channel changed—Any city in this state now or hereafter having a population of over fifty thousand inhabitants and any such city now or hereafter governed by a charter adopted pursuant to section 36, article 4 of the constitution of this state, shall have the power to acquire and hold in fee simple, by purchase or condemnation, levees not exceeding two hundred feet in width on either side of any navigable stream within the limits of such city when the channel thereof is altered or changed by or under the authority of the United States government, and may set aside such portions of said levees when acquired as the public needs may require for use for public travel and may devote the remainder thereof to such uses as the common council of such city shall deem for the best interests of the city, or as required by the United States government. ('11 c. 114 § 1) [1513]

1506. Issuance of bonds—That any such city may by ordinance adopted by a two-thirds vote of all members elect of its common council, issue and sell the bonds of such city of the par value of not exceeding five hundred thousand dollars, (\$500,000.00) to aid in defraying the expense of acquiring and improving the levees mentioned in section one of this act. ('11 c. 114 § 2) [1514]

1507. Limit of debt—Tax levy—The bonds authorized by this act or any portion thereof may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city, and the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act and for the payment of the current interest thereon, and the common council of such city shall each year in-

clude in the tax levy a sufficient amount to provide for the payment of such interest as it accrues and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('11 c. 114 § 3) [1515]
123-435, 143+124.

1508. Term of bonds—Sale—No such bonds shall be issued by any such city for the purposes hereinbefore mentioned, to run for a longer term than thirty years or bearing a higher rate of interest than four per cent. per annum, payable semi-annually, but the place of payment of the principal and interest thereof and the denominations in which the same are issued shall be such as may be determined by the common council and may be in the form of coupon bonds or registered certificates, so-called. All of said bonds shall be signed by the mayor, be attested by the city clerk and countersigned by the city comptroller of the city issuing the same, and shall be sealed with the seal of such city; but the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. None of said bonds shall be sold at less than their par value and accrued interest, and then only to the highest responsible bidder therefor. ('11 c. 114 § 4) [1516]

1508-1. Bridge bonds—Issue and sale—The governing body of any city of this state now or hereafter having a population of more than fifty thousand inhabitants is hereby authorized and empowered, for the purposes herein designated, to issue, from time to time as needed, the negotiable bonds of their respective cities to an amount in the aggregate not exceeding seventy thousand dollars; said bonds to be made in such denomination and payable at such places and at such times, not exceeding thirty years from the date thereof as may be deemed best, and to bear interest at a rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

Provided that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

Provided that this act shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the common council subject to approval of a Board of Estimate and Taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds. ('25, c. 217, § 1)

1508-2. Same—Tax levy for interest and sinking fund—The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act, and for the payment of the current interest thereon, and said governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('25, c. 217, § 2)

1508-3. Same—Issue and sale of bonds—All bonds issued under authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned by the city comptroller or city auditor of such city, except that the signatures to the coupons at-

tached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such city. ('25, c. 217, § 3)

1508-4. Same—Use of proceeds—The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose of constructing bridges and their approaches within the city limits, and the proceeds of said bonds or any thereof shall not be used for any other purpose than those hereinbefore specified. ('25, c. 217, § 4)

1508-5. Same—Construction of law—Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to Section 36, Article 4 of the Constitution of this state requiring the question of the issuance of bonds to be submitted to a vote of the electors. ('25, c. 217, § 5)

1508-6. Same—Cities to which law applies—This act shall apply to cities operating under Home Rule Charters adopted pursuant to Section 36, of Article 4 of the State Constitution, and the powers granted in this act are in addition to all existing powers of such cities. ('25, c. 217, § 6)

1508-7. Bridges over navigable waters—Application to Secretary of War—Any city of the First Class operating under a Home Rule Charter within the limits of which are navigable waters of the United States, is hereby authorized to make application to the Secretary of War of the United States for the privilege of erecting and maintaining a bridge for public use over such navigable waters lying wholly within the boundaries of the State of Minnesota, according to such plans and specifications for said bridge as may be approved by said Secretary of War. ('27, c. 29)

1509. Diversion of unnavigable streams—Raising waters of lakes—Any city of this state now or hereafter having a population of more than 50,000 according to the last preceding state or national census, may, if in the judgment of its city council, the public health or welfare of its citizens will be promoted thereby, divert any unnavigable stream, flowing wholly or partly within the corporate limits, from its natural bed to an artificial channel or to another water course. The diversion may take place at any feasible or desirable point within or without the corporate limits, and the new channel may be created within or without or partly within and partly without the corporate limits. For the purpose of controlling and regulating the flow of such stream in its new channel, the city may, by the erecting of dams or other suitable means, raise the waters of any lake or lakes from which the stream may flow, or through which the new channel may flow, and may control and regulate the discharge from such lake or lakes, and may straighten, enlarge and make such changes and improvements in the channels as may be necessary for such purposes. Such new channels may, where necessary, cross any highway or railway; in which case suitable bridges shall be provided. ('05 c. 18 § 1) [1523]

1510. Ordinance—Survey and map—The city council shall by ordinance first adopt and file with the city clerk a survey and map showing the point at which it is proposed to divert the stream, the route of the new channel, the sites of dams and other controlling works, the lands proposed to be taken for right of way and for flowage purposes, the levels to which it is proposed to raise and between which it is proposed to maintain

the waters of any lake, a profile of the route and of the water surface, the cross-section of the proposed new channel, the enlargement, if any, of any existing channel, the bridges, tunnels, culverts to be built, and in general, the entire extent and scope of the improvement as nearly as may be. ('05 c. 18 § 2) [1524]

1511. **Lands—How acquired**—The city council may acquire in the name of the city by grant, dedication, purchase or devise the lands and the rights necessary to carry out such improvements. ('05 c. 18 § 3) [1525]

1512. **Condemnation — Special assessments** — The power of eminent domain and the power to levy special assessments for benefits are hereby delegated to such cities for the purposes of this act, to acquire the lands and rights needed or any of them, to be exercised as follows: ('05 c. 18 § 4) [1526]

1513.—**Ordinance—Appraisers**—The city council shall by ordinance determine and declare as nearly as may be, the cost of such improvements, exclusive of damages to property, and shall appoint five appraisers, who shall be disinterested free-holders and qualified voters of the county, and none of whom shall be residents of the town or ward or wards of the city in which the property so designated is situated, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making such improvement, and to assess special benefits resulting therefrom. Said appraisers shall be notified as soon as practicable by the city clerk to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the city council. ('05 c. 18 § 5) [1527]

1514. **Oath**—The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the city council. ('05 c. 18 § 6) [1528]

1515. **Notice of meeting for appraisal, etc.**—The appraisers shall give notice of their meeting by publication in the official newspaper of the city, once a week for six consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall name the stream to be diverted, the point of diversion, the general course of the new channel and the height to which it is proposed to raise or maintain any lake, the location of proposed bridges, culverts or tunnels, the estimated cost of construction, and shall contain a description of the lands designated by the city council to be taken for right of way and for flowage purposes, and give notice that a plan of the improvement has been filed in the office of the city clerk, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages for property to be taken, or which may be damaged by the diversion of water or otherwise by such improvement, and to assess benefits in the manner hereinafter specified. If any portion of such stream or of the lands to be taken is outside of the county containing such city, then the notice shall also be published for a like time in some newspaper in such outside county. ('05 c. 18 § 7) [1529]

1516. **Mailing notices**—A copy of all subsequent notices relating to the proceeding which are required to be published, shall be mailed by the city clerk immediately after the first publication thereof to such persons as shall have appeared in said proceedings and requested in writing that such notices be mailed to them. ('05 c. 18 § 8) [1530]

1517. **Meeting of appraisers—Damages and benefits**—At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and shall hear any evidence or proof offered by the parties interested and may adjourn from time to time for the purpose aforesaid. When their view and hearing shall be concluded, they shall determine the amount of damages, if any, suffered by each piece or parcel of land affected by the improvement. They shall also determine the amount of special benefits, if any, occurring by reason of diversion of water, drainage, or otherwise, to each piece or parcel of land wherever situate and whether contiguous to the improvement or not. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages added to the estimated cost of construction; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual special benefits after deducting the damages, if any. ('05 c. 18 § 9) [1531]

1518. **Buildings**—If there be any buildings standing, in whole or in part, upon any parcel of the land to be taken, the said appraisers shall, in such case, determine the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much as may be necessary, should be taken, and shall also appraise and determine the amount of damages to be paid such owner or owners, in case he, or they, shall elect to remove such buildings. ('05 c. 18 § 10) [1532]

1519. **Different owners or interests**—If the land and buildings belong to different persons or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such person, or interests, respectively, may be awarded to them separately by the appraisers. Provided, that neither such award of the appraisers, nor the confirmation thereof by the city council, shall be deemed to require the payment of such damages to the person or persons named in such award, in case it shall transpire that such person or persons are not entitled to receive the same. ('05 c. 18 § 11) [1533]

1520. **Report**—The said appraisers having ascertained and appraised the damages and assessed the benefits as aforesaid, shall make and file with the city clerk, a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them, and also a statement of the costs of the proceeding. ('05 c. 18 § 12) [1534]

1521. **Notice of appraisal—Confirmation or annulment**—Upon such report being filed, the city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the city council at a meeting thereof to be named in the notice, which notice shall contain the schedule of damages awarded and benefits assessed, and shall be published in the official newspaper of said city, once a week for two consecutive weeks, and the last publication shall be at least ten days before such meeting. Any person interested in any building standing in whole or in part upon any land required to be taken by such improvement, shall on or before the time specified for said meeting in such notice, notify the city council

in writing of his election to remove such building, if he so elect. The city council, upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisalment and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that said city council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisalment and assessment is annulled, the city council may thereupon appoint new appraisers, who shall proceed in like manner as in case of the first appraisalment, and upon the coming in of their report, the city council shall proceed in a like manner and with the same powers as in the case of the first appraisalment. ('05 c. 18 § 13) [1535]

1522. **Award—Appeal**—If not annulled or set aside, such award shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The award shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the persons entitled thereto, within six months after the confirmation of the appraisalment and award. But in case any appeal or appeals shall be taken from the order confirming said appraisalment and assessment as herein-after provided, then the time for payment of said awards shall be extended until and including sixty days after the final determination of all appeals taken in the proceedings, and in case of any change in the awards or assessment upon appeal, the city council may, by resolution duly adopted, at any time within sixty days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per centum per annum from the time of the filing of the original appraisers' report, and all subsequent awards and awards upon appeals shall be made as of the day and date of filing of such original reports. ('05 c. 18 § 14) [1536]

1523. **Title vests, when**—Upon the conclusion of the proceedings and the payment of the awards, the several tracts of land shall be deemed to be taken and appropriated for the purposes of this act, and the title thereto shall vest in the city. In case the city council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the city council shall, and in any and every case the city council may in its discretion deposit the amount of damages with the district court of the county in which such city is situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested, and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons. ('05 c. 18 § 15) [1537]

1524. **Removal of buildings**—In case any owner or owners of buildings, as aforesaid, shall have elected to remove his or their buildings, he or they, shall remove them within thirty days from the confirmation of said

report, or within such further time as the city council may allow for the purpose, and shall be entitled to the payment of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time above specified, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold or disposed of as the said city council shall elect. ('05 c. 18 § 16) [1538]

1525. **Appeal — Objections — Notice — Record** — Any person whose property is proposed to be taken or interfered with or assessed under any provision of this act, or who claims to be damaged by the improvement, and who deems that there is any irregularity in the proceedings of said city council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of, or interference with his property, or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the city council, file with the city clerk in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the said city council shall confirm the award or assessment, such persons so objecting shall have the right to appeal from such order of confirmation of the city council to the district court of the county in which said city is situate, within twenty days after such order. Such appeal shall be made by serving a written notice of appeal upon the city clerk, which shall specify the property of the appellant affected by such award or improvement, and refer to the objection filed as aforesaid, thereupon said city clerk at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings and of the award of the appraisers as confirmed by the city council, and of the order of the city council confirming the same, and of the objections filed by the appellant as aforesaid, and of the notice of appeal, all certified by said city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken in the same proceeding, it shall not be necessary that the city clerk in appeals subsequent to the first shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises. ('05 c. 18 § 17) [1539]

1526. **Hearing—Appraisers—Award—Appeal to supreme court**—The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in said written objection. In

case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects; appoint three disinterested freeholders, residents of said county, appraisers, to reappraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits, and proceed in all other material respects as are in this act provided for the government of appraisers appointed by said city council. They shall, after the hearing and view of the premises, make a report to the said court of their award of damages and assessments of benefits in respect to the property of such appellant. The appellant shall within five days of notice of filing the award file his written election to remove the buildings if he so elect. Such election shall not affect his right to a review. The award shall be final unless set aside by the court. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers, as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such awards of costs on such appeal, including the compensation of such appraisers, as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings. ('05 c. 18 § 18) [1540]

1527. Time of payment—In case of any appeal the time for making payment of awards shall be extended as to all tracts embraced in the proceeding to sixty days after final determination of all appeals. ('05 c. 18 § 19) [1541]

1528. Notice of pendency—Persons affected—The notice prescribed in section 7 shall be sufficient to charge all persons whose rights or interests may be affected by the diversion of such waters, but whose lands are not otherwise taken, with notice of the pendency of the proceeding, and all such persons may present to the appraisers evidence of the damages which they will suffer, and the appraisers shall determine and award such damages as they may find, particularly specifying in their award the location and the nature of such damages, and all persons failing to present their claims for damages arising from the diversion of waters, shall be concluded by the proceeding hereunder, whether any award of damages is made to them or not, and shall be barred from claiming damages afterwards in any other form of action or proceeding. ('05 c. 18 § 20) [1542]

Section 7 referred to is § 1515, herein.

1529. Award and assessment, how certified—Assessment, how enforced—Upon the final determination of all appeals in such proceeding, the city clerk shall transmit to the auditor of the county or counties in which the respective lands lie a copy by him duly certified of the awards and assessment of the appraisers as confirmed by the city council; and the clerk of the district court shall, in like manner, certify the

award and assessment as finally made upon all appeals; and the county auditors shall include such assessments of benefits against each tract of land assessed, with and as a part of the taxes upon such respective tracts of land in the next annual list of taxes for general, state, county and other purposes, and the same proceedings shall be had for the collection and enforcement thereof, as for such general taxes, including like penalties in case of non-payment, and including also proceedings for the collection and enforcement of delinquent taxes. Whenever any of such assessments are collected, they shall be credited to the city conducting such proceedings, and paid over and accounted for in like manner as other taxes. ('05 c. 18 § 21) [1543]

1530. Duty of city—It shall be the duty of such city to proceed with all reasonable dispatch to complete such improvements, unless the proceedings are set aside by the city council as hereinbefore provided. ('05 c. 18 § 22) [1544]

1531. Powers and duties of council—Penalties—The city council shall have power and it shall be its duty after the construction of such works to maintain the same and to prevent injury or obstruction to the channel or works and contamination of the waters. And for such purposes the city council may enact suitable ordinances and prescribe penalties for their violation, not exceeding a fine of one hundred dollars for each offense, or confinement in the city workhouse not exceeding ninety days. The municipal court of the city shall have jurisdiction of such offenses. ('05 c. 18 § 23) [1545]

1532. Replacing sidewalks—Whenever a sidewalk in any city of the first class decays or becomes otherwise unsafe, the council thereof, by a four-fifths vote of its members, and without any petition from property owners therefor, may cause the same to be removed and replaced by a new walk, of the same or different material, and assess the cost thereof upon abutting property as in the case of a walk first laid. (759) [1546]

1533. Park funds—The board of park commissioners of any city of the first class may receive and accumulate all moneys arising from the operation and control of parks, and may use the same in the improvement and maintenance of parks. (762) [1547]

1534. Parks, etc., outside limits—The board of park commissioners of any city of the first class may acquire by gift, devise, purchase, or condemnation, for parks or parkways, lands lying outside the city limits, and adjacent to lands devoted to parks and parkways within such limits; and such board may so acquire lands for parkways along the shores of a lake or stream lying partly or wholly without such limits, if such lake or stream be near or connected with a lake lying wholly or partly within such limits, on the shores of which a park or parkway has been acquired or projected; Provided, that no tract so acquired by purchase or condemnation shall exceed forty acres. (763) [1548]

163-223, 203+625, notes under § 1271.

1535. Roads, etc., beyond corporate limits—Any city of the state of Minnesota, now or hereafter having more than fifty thousand inhabitants is hereby authorized and empowered to extend, lay out, open, build, maintain and repair any road, street, avenue, boulevard, parkway or other public highway, or public park adjacent to any such highway, which may be authorized by ordinance of such city passed by a three-fourths vote of all the members of the city council, or other governing body of said city, whether such road, street, avenue, boulevard, avenue, parkway or

other public highway be wholly within or partly within and partly without, or wholly without outside of, or beyond the corporate limits of said city. ('09 c. 485 § 1; amended '21 c. 21 § 2) [1549]

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1536. Acquisition of property—Any city mentioned in section 1 of this chapter may acquire by gift, devise, purchase, condemnation or other means any property necessary or convenient or desirable for the purpose of extending, laying out, opening, building, maintaining and repairing any road, street, avenue, boulevard, parkway or other public highway or public park adjacent to any such highway, authorized in section 1 of this chapter. ('09 c. 485 § 2; amended '21 c. 21 § 3) [1550]

A city cannot maintain condemnation proceedings to acquire land, ostensibly for an alley, with the intention of devoting the land to a purely private purpose in running a switch track to the land of an individual; and parol evidence is admissible to show that such is the purpose of the city, and that the statement in the petition that the property is sought to be condemned for an alley is not true. (133-221, 158+240)

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1537. Condemnation, how conducted, etc.—Whenever the common council or other governing body of any such city shall by ordinance as aforesaid, declare that it is necessary or convenient or desirable to acquire any real property for any such public use, it shall describe such property as nearly as may be convenient in such ordinance, and state the use to which it is proposed to devote such property, and direct the city attorney to take the appropriate proceedings in the proper course for the condemnation of the same, and direct the city engineer to make and present to the common council, or other governing body, such plat and survey of said real estate as will show the property to be taken, and the owner of each parcel thereof according to the records in the office of the register of deeds of such county, and to accompany such plat and survey with such report as will fully explain the situation of such property, and such report may contain any other pertinent statement which the engineer deems best. The common council, or other governing body of such city may cause such plat and survey to be modified or amended as it may deem proper, and when satisfied with said plat and survey may adopt the same and direct a copy of such plat and such ordinance to be filed in the office of the register of deeds of the county in which such land is situate. Such copy of the plat and ordinance when so filed shall operate as notice of the pendency of an action by said city against each piece or parcel of land therein described for the condemnation thereof. The city attorney shall thereupon apply to the district court in and for such county for the appointment of three commissioners to appraise the property so to be taken and the damage for such taking. He shall give a notice of such application in which he shall specify the time and place of application, and in a general way describe the property proposed to be taken, and shall name the owners of such property so far as known to him, but failure to name all or any of the owners correctly shall in no wise affect the proceedings. Such notice shall be served by one publication of the same in the official paper of the city at least twenty days before the date fixed for such application, and a copy of such notice shall at least twenty days before the date fixed for such application be served upon any person or corporation in possession of any parcel therein described, and upon each person or corporation who appears by the records in the office of the register of deeds of the county in which such city is situated, to be interested in any of said parcels, and who can be

found in such county, in the same manner as a summons is served in a civil action. At the time and place named in said notice, or at a duly adjourned time and place, upon proof of the publication of said notice as aforesaid, the court shall appoint three commissioners, all of whom shall be freeholders and electors of the county in which said city is situate, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all property therein described, and the damages for the taking of the same. The city attorney shall forthwith by written notice, notify said commissioners personally of their appointment, and request them to attend at his office on or before a day fixed by him not less than two days after the service of such notice, to qualify and enter upon their duties, and if any commissioner shall refuse or neglect to attend as aforesaid, the mayor of the city shall in writing appoint one or more commissioners in the stead of the said absentees, and shall file such appointment with the clerk of the court which appointed such original commissioners. Said commissioners shall thereupon, and before entering upon the duties of their office, severally take and subscribe an oath to the effect that they are freeholders and electors of the county in question and in no wise interested in any property to be affected by said proceedings, and that they will faithfully perform their duty as such commissioners without partiality and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of said court. The commissioners shall thereupon give at least twenty days' notice, by one publication in the official paper of the city, of the time and place where they will attend to make an assessment of damages in said proceedings. Such meeting may be adjourned from time to time without further publication of notice. It shall be the duty of the city attorney to serve a copy of such notice at least four days before the date named in such notice upon all persons or corporation over whom the court shall acquire jurisdiction, and who shall serve notice upon the city attorney of their appearance in such proceedings. Such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney. At the time and place named in said notice, or at an adjourned time and place, the said commissioners, or a majority of them, after viewing the property involved and hearing the evidence offered, shall make through an impartial appraisement an award of compensation and damage to be paid for each tract or parcel of land to be taken or damaged, but if the remainder of any parcel or piece of property of which a part only is to be taken or damaged shall be benefited by such proposed improvement, then the commissioners in considering and awarding such compensation and damages, shall consider, determine and offset the proportionate benefits which will accrue to the remainder of such parcel not so taken and belonging to the same owner as does the part taken, and shall award only the excess, if any, of the compensation or damages over or above the benefits. Such report shall be in writing, signed by the commissioners, or a majority of them, and filed with the clerk of the court as soon as completed. Upon the filing of such report, the commissioners shall give notice thereof by one publication in the official paper of the city. Such published report shall contain a description of the several parcels of land taken or damaged for such public use and the respective awards therefor. A copy of such notice shall within ten days thereafter be served upon the city

attorney and upon all parties who have appeared in said proceedings, and such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney. Any person or corporation interested in any property described in said report or the city in question may appeal from any award therein at any time within thirty days after the publication of said notice by filing with the clerk of the district court which appointed said commissioners notice of appeal signed by the party or his attorney taking the same, and describing the party the property in which he is interested and the award to which he objects. An appeal made from any award shall in no wise affect an award not appealed from. The clerk shall enter the appeal as an action in said court; there shall be no pleadings therein and such appeal shall be tried as other causes originally commenced in said court are tried and judgment rendered therein. From such determination an appeal may be taken to the supreme court of the state. After said commissioners shall file said report and publish said notice thereof as aforesaid the court shall allow the commissioners such reasonable compensation for their services as it shall deem best, which shall be paid by the city seeking to condemn said property as aforesaid. Whenever an award of damages shall be made and filed as aforesaid, and not appealed from, in any proceedings for the taking of property, under this act, or whenever the court shall render final judgment in any appeal from any such award, the rights of all parties shall be finally fixed and determined thereby and the same shall constitute a lawful and sufficient condemnation and appropriation to the public use of the land for which damages are so awarded and every right, title and interest therein and thereto, and every other lien thereon shall be thereby directed and such city shall become vested with the title to, and become the owner of, the property taken or condemned absolutely for all the purposes for which said city may ever use the same; and such city shall be bound to, and shall within one year of the time of such final determination pay the amount of such award with interest thereon at the rate of five per cent. per annum from the date of the final award or judgment of the court, as the case may be, and if not so paid judgment therefor may be had against the city. In case there shall be any doubt as to who is entitled to such compensation or damages, or any part thereof as may be awarded, the amount so awarded, and in doubt or dispute shall be by the common council or other governing body of such city appropriated and set apart in the city treasury for whoever shall establish his right thereto by some judicial proceedings. Before payment of any such award the owner of such property, or the claimant of the award, shall furnish satisfactory evidence of his right to such award. Any such city may by ordinance passed by a three-fourths vote of all the members of its common council or other governing body, at any time within twenty days after any commissioners appointed by the court hereunder shall file their report with the clerk of said court, or in case of an appeal within twenty days after final determination thereof, abandon such proceedings and shall thereupon pay the costs thereof. Upon the completion of any proceedings under this act for the acquisition of any property by any such city, the mayor or other executive head of such city shall cause an accurate description of the property so taken to be prepared, together with a statement of the amount of damages, if any, awarded or paid, or to

be paid to each owner thereof and shall sign and acknowledge the same as such mayor or executive head, and cause the same to be recorded in the office of the register of deeds of the county in which such property is situated, and it is hereby made the duty of such register of deeds, upon being paid his statutory fees, to record such statement in some appropriate book in his office. Such record or duly certified copy thereof shall be prima facie evidence that the city in question is the owner of the property described therein by good and perfect title. ('09 c. 485 § 3) [1551]

128-432, 151+144.

1538. To what cities applicable—Police protection—This act shall be applicable to any city of the first class existing under a charter framed under and pursuant to section 36, article 4 of the constitution of the state of Minnesota. Any city acquiring any property under this act is empowered to afford police protection to any and every such property. ('09 c. 485 § 4) [1552]

1538-1. Streets and highways—Acquisition of property and easements for—Each city of the first class in this state, acting through its city council or other chief governing body of the city, and in addition to all other powers possessed by the city, is hereby authorized and empowered to acquire, by purchase, gift, devise or condemnation, any lands or property, and any rights and easements therein, which may be needed or required by the city for public street and highway uses or purposes; including among others easements for public streets and highways, and bridges and approaches thereto, with necessary supports and abutments therefor, within its corporate boundaries and notwithstanding the fact that the property so needed or required has been acquired by the owner under the power of eminent domain or is already devoted to a public use. ('27, c. 114, § 1)

1538-2. Same—Condemnation proceedings—Proceedings in eminent domain under this act shall be in pursuance of Chapter 41, Revised Laws 1905, and acts amendatory thereof and supplementary thereto. The city, upon giving the notice required by Section 2528, Revised Laws of 1905, may enter upon and appropriate the lands so condemned or any distinct parcel thereof, without the giving of any bonds, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded, whether by commissioners acting under said laws, or by the court upon appeal from their award, together with all costs and expenses adjudged against it in said proceedings, and the court shall issue a writ to the sheriff of the county to put the city in possession. In case the city shall take appeal in any such proceedings, it shall not be required to give or file any appeal bond. ('27, c. 114, § 2)

Explanatory note—For chapter 41, R. L. '05, see chapter 41, herein.

For § 2528, R. L. '05, see § 6545, herein.

1538-3. Same—Cities operating under home rule charter—This act shall apply to cities of the first class operating under a home rule charter pursuant to Section 36, Article 4, of the state constitution. ('27, c. 114, § 3)

1539. Compensation for land condemned for parks—That when any city in this state now or hereafter having a population of over fifty thousand inhabitants shall cause to be condemned any land for public parks or parkway purposes, such city shall thereupon cause to be paid to the owner of such property the amount of damages, over and above all benefits, which may have been awarded therefor, within one year after confirmation of the award or assessment, or the final de-

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termination of any appeals therefor, with interest at the rate of five per cent per annum, but nothing in this act shall take away any existing right to annul and abandon such proceedings. ('05 c. 103 § 1) [1553]

1540. **Payment from park fund**—That any such city is hereby authorized to pay the whole or any part of any award or judgment for land condemned for park or parkway purposes out of the park fund, in case said city has on hand in the park fund, or can obtain by donation, bequest or otherwise under lawful authority, moneys available therefor. ('05 c. 103 § 2) [1554]

1541. **Abandonment of proceedings**—Nothing contained in this act shall deprive the city of the power to abandon proceedings as now provided by law. ('05 c. 103 § 3) [1555]

1542. **One mill tax for parks and parkways**—Any city in this state now or hereafter having a population of over fifty thousand inhabitants is hereby empowered to levy annually upon all the taxable property of such city a tax not exceeding one mill upon the dollar of the assessed valuation thereof, for the acquisition, maintenance and improvement of parks, parkways and other grounds under the control of the board of park commissioners or other body having jurisdiction and control of parks and parkways in such city. ('09 c. 359 § 1) [1556]

1543. **Regulating travel on parkways**—"Parkway" defined—The board of park commissioners, or other governing body having control of parks and parkways of any city now or hereafter having a population exceeding fifty thousand, shall have power to enact ordinances and to prescribe penalties for the violation thereof for the purpose of regulating, controlling and limiting the use of and travel upon and over all parkways heretofore or hereafter established by any such city, in or adjacent to the city, whether such parkways were originally established as parkways or were streets or highways before being taken as parkways, and among other things to exclude from such parkways all vehicles in use for any purpose except carrying passengers. For the purpose of this act the term "parkway" shall include the roadways and carriage-ways of parks as well as parkways. ('07 c. 440 § 1) [1557]

1544. **Power of council to levy assessments not divested**—That this act shall not divest or deprive the common council of any such city of any jurisdiction or power now existing by virtue of any statute or charter, to levy assessments for the grading, protecting, improving and ornamenting of any public park, square or grounds now or hereafter laid out, and for planting and protecting shade and ornamental trees and for constructing or reconstructing sewers, sidewalks, retaining walls, gutters, curbing, and for boulevards, macadamizing and paving in or upon any such streets set apart for park and parkway purposes. ('07 c. 440 § 2) [1558]

1545. **Sprinkling boulevards**—Jurisdiction of park board—Whenever in any city of this state having more than fifty thousand inhabitants, a majority of the owners of property fronting upon any street or any portion of any street not less than one block in length, wherein have been constructed or shall hereafter be constructed any grass plots between the sidewalks and roadways of such streets, shall file a petition with the common council or other governing body, to place the grass plots in said street, (or such portion of the street upon which the property owned by the petitioners shall front as aforesaid) under the care and management of the board of park commissioners of such city for the purpose of having the grass sprinkled during the sea-

son of the year when the streets adjacent thereto are sprinkled, such common council may, upon the filing of such petition, pass a resolution placing the grass plots in the street or portion of street described in such petition, under the jurisdiction, care and management of said board of park commissioners, for the purpose of having the grass thereon sprinkled between the sidewalk and roadway in any such street, and upon the passage of such resolution it shall be the duty of the clerk of such common councils, or other governing body, to forthwith forward to said board of park commissioners a certified copy of such resolution. ('07 c. 179 § 1) [1559]

1546. **Boulevard defined**—The word "boulevard" as used in this act shall be construed to mean and refer to all that portion of any street upon which shall have been constructed any grass plot between the sidewalk and roadway of such street. ('07 c. 179 § 2) [1560]

1547. **Duties of park board**—On receipt by said board of park commissioners of a certified copy of such resolution, the boulevard upon the street or portion of street described in said petition and resolution shall be under the jurisdiction, care and management of said board of park commissioners for the purpose of sprinkling said boulevard whenever necessary, and thereupon said board of park commissioners may cause said boulevard to be sprinkled whenever necessary, and the expense of such work shall in the first instance be payable out of a general fund of such city. ('07 c. 179 § 3) [1561]

1548. **To keep account of cost**—Assessment—It shall be the duty of the said board of park commissioners at all times to keep accurate account of the cost of sprinkling such boulevards as authorized by this act, in front of such lot or parcel of land fronting on such boulevard, and on or before the first day of October of each year, said board shall assess the cost and expense of such work as has been done in front of each of said lots or parcels of land since the first day of October in the preceding year, including the proportionate cost of making such assessment, upon such lot or parcel of land. ('07 c. 179 § 4) [1562]

1549. **Duty of county auditor**—To be collected like taxes—On or before the first day of November of each year, said board of park commissioners shall transmit to the county auditor of the county in which said city shall be located, a certified copy of the assessment roll and said county auditor shall extend the assessments in the proper columns against the pieces or parcels of land assessed, and such assessment shall be collected and the payment thereof enforced in like manner as state and county taxes are collected in such county and in said state, and the payment thereof enforced. When such assessment shall have been collected, the amount thereof shall be paid by the county treasurer to the city treasurer of such city, and by said city treasurer be placed to the credit of the general fund of such city for the purpose of reimbursing the said city for the cost of doing the work for which said assessment was made. ('07 c. 179 § 5) [1563]

1550.—**Re-assessment**—If any such assessment shall be set aside as to any real estate for any cause by a decision of court or for any cause may be found irregular or defective, the said board of park commissioners may make a re-assessment as to such property from time to time and as often as need be, until each lot or parcel of real estate has paid the cost of sprinkling the boulevard in front thereof, together with its proportionate part of the cost of making such assessment. ('07 c. 179 § 6) [1564]

1550-1. Certificates of indebtedness for street sprinkling—Authority to issue—In all cities of fifty thousand inhabitants or more, where special assessments for sprinkling streets and other public places are collected through the county treasurer's office, the common council may as soon as such special assessment shall have been extended on the general tax lists by the county auditor, by ordinance adopted by a two-thirds vote of all the members of said common council, cause to be issued and sold from time to time, as money is actually needed for the payment of the expense of sprinkling the streets and other public places of such cities, certificates of indebtedness in anticipation of the collection of such special assessments for sprinkling, but the total amount of the principal of all such certificates issued in any one year shall not exceed eighty per cent of the total of such sprinkling assessments levied and assessed for the next preceding year. ('11, c. 152, § 1) [1592]

1550-2. Same—Maturity and interest—No such certificates shall be made to mature at a date later than the fifteenth day of November of the year following that in which the same shall be issued, and the rate of interest shall not exceed six per cent per year, payable semi-annually. The certificates shall state upon the face thereof that the same are issued for the sprinkling fund, and the principal sum of each certificate shall be in such amounts as the common council may in the ordinance directing the issue thereof, provide. ('11, c. 152, § 2) [1593]

1550-3. Same—Payment—The interest and principal of said certificates shall be payable solely out of the special assessments on whose account such certificates were sold, and the liability of the city on such certificates or the interest coupons issued therewith shall be limited to the faithful and ratable application to payment thereof of the amounts of such sprinkling assessments which shall be collected and paid into the city treasury and as the same are received by the treasury, but interest at the rate of six per cent per year shall run upon any unpaid principal, thereof, after maturity until such principal and the interest accruing thereon shall have been fully paid as herein provided. The interest and principal of the certificates sold in any year on account of such sprinkling fund shall be a first charge upon the moneys received by the city treasury from the special assessments levied for any other purpose until the principal and interest of such certificates shall have been fully paid or the moneys for the payment thereof have been set apart in the city treasury. ('11, c. 152, § 3) [1594]

1550-4. Same—Use of proceeds limited—No part of the moneys arising from the sale of any such certificates shall be used for any other purpose than that of the sprinkling fund on account of which such certificates were sold. ('11, c. 152, § 4) [1595]

1550-5. Same—Sale at par—No such certificates shall be sold for less than par and accrued interest, or issued after the close of the year in which the special assessments against which the same were issued, are payable, and no such certificates shall be sold or issued more than four weeks in advance of the actual need of the proceeds for payment of orders drawn upon the sprinkling fund to which such proceeds belong. ('11, c. 152, § 5) [1596]

1550-6. Same—Cities to which law applies—This act shall be applicable to cities governed by a charter adopted pursuant to section 4, article 36 of the Con-

stitution of the State of Minnesota. ('11, c. 152, § 6) [1597]

1551. Exchange lands for parks or playgrounds—Any city in this state now or hereafter having a population of over fifty thousand inhabitants, is hereby empowered to exchange for other lands to be used for parks or playgrounds, any lands acquired by such city for parks or playgrounds; provided, that at least two-thirds of all the members of the common council of such city shall approve such exchange, and the board of park commissioners or other body having jurisdiction and control of parks and playgrounds in such city, shall by a two-thirds vote thereof, request the common council so to do. ('11 c. 26 § 1) [1565]

1552. Designation of land for system of streets, parks and parkways—The city council and the board of park commissioners of any city of the first class may by concurrent resolution adopted by a majority vote of each body, designate lands to be acquired for a system of streets, parks and parkways, and determine that such land shall be acquired by proceedings under this act, to be conducted either by the city council or the board of park commissioners, as such resolution shall specify. If said proceedings are taken by the board of park commissioners, the duties herein specified to be performed by the city clerk, the city engineer and the city attorney respectively, shall be performed by the secretary, the engineer and the attorney elected and employed by the board of park commissioners, and the powers hereinafter specified to be exercised by the city council may for the purposes of this act be exercised by the board of park commissioners. The term system of streets, parks and parkways, as used herein, shall embrace any body of contiguous land of whatever shape or area, designed ultimately to be used in part for streets and in part for parks or parkways, and the concurrent resolution shall designate what part is for streets, what part for parks and what part for parkways. Whenever the city council desires to take or improve, or take and improve, land for street purposes alone, it may proceed under this act for that purpose without the concurrence of the board of park commissioners, and whenever the board of park commissioners desires to take or improve, or to take and improve, land for parks and parkways alone, or either, it may proceed under this act without the concurrence of the city council. ('11 c. 185 § 1; amended '17 c. 103 § 2) [1566]

164-226, 204+934.

An owner whose property was taken in condemnation proceedings by the city of Minneapolis, jurisdiction being acquired, cannot recover damages for the taking, the damages and benefits being offset though not separately stated. Such a taking is not without due process. 212+202.

This act does not apply to cities under home rule charters. 136-1, 161+231; 140-435, 168+189; 142-309 172+135; 188+54; 188+59.

1553. Streets, parks and parkways system—Acquisition of land—procedure—After the adoption of the resolution it shall be the duty of the city engineer to make and present to the council a plat and survey of such proposed improvement, showing the character, course and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer be proper to explain such plat and survey and the character and extent of the proposed improvement.

When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk,

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and it shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

Said plat shall also show the amount of land taken from each owner, so far as the owners may be known, and the lands contiguous to such improvements.

The city council shall then or afterwards appoint five freeholders of said city, no two of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expense of the improvement upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation.

Three or more commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners; and they shall be notified of their appointment, and vacancies in their number shall be filled by the city council, and they shall be sworn to the faithful discharge of their duties. They shall give notice by two publications in the official paper of said city that such survey and plat is on file in the office of the city clerk, for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten days after the first publication of such notice, meet at a place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purposes of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement, and assess thereon in proportion to benefits, amount necessary to pay such compensation and damage and the cost of making the improvement, and that they will then and there hear such allegations and proofs as interested persons may offer. Any such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time, and, after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in said city, and may have the aid and advice of the city engineer and of any other officer of the city, and adjourn from time to time. After viewing the premises and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner, in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits.

The said commissioners shall then assess the amount of such compensation and damages so awarded upon the land and property benefited by such proposed improvements, together with the expense and cost of making the improvements as fixed by the city council, and in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual bene-

fit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the city council their appraisal and award, and if in the judgment of said commissioners the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report and shall state the amount of such excess. Said commissioners shall also report to the city council an assessment list containing their assessment of such compensation, damages, and costs, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed against each parcel of property and the amount of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed.

The commissioners may employ clerical assistance, and the cost thereof, as well as the commissioners' compensation, and the expenses of printing the notices required, including, among others, the notice of consideration by the city council, hereinafter referred to, estimated at the same rate per line as the cost of printing the prior notices, shall be added to the other amounts to be assessed and shall be assessed therewith. The city attorney shall represent the city before the commissioners and produce such evidence as the case may require.

The city council, may, however, provide by the resolution appointing such commissioners that a certain specified percentage, not exceeding thirty-three and one-third (33 1/3%) per cent, of the total damages and cost of improvements, shall in any case be payable out of the city's general funds, and in that case the city's share shall be added to the amount of the certificates to be issued and sold under Section 10, and the city council shall from year to year levy a sufficient tax upon the taxable property of the city to pay the same, with interest. In such case the amount provided to be paid out of the general funds shall not be assessed.

Said commissioners shall, upon the completion of their said report, file the same with the city clerk and thereupon it shall be the duty of said city clerk to give notice to all interested parties by publishing, as soon as possible, in the official paper of said city a notice containing descriptions of the several lots and parcels of land taken for such proposed improvements, the amount awarded for the taking of each such lot or parcel, the names of the owner or owners of the same, descriptions of the several lots or parcels of land upon which benefits have been assessed, the amount assessed against each such lot or parcel and the names of the owner or owners of the same; the names of all owners referred to herein to be obtained from said commissioners, and, so far as may be necessary, from the records in the office of the county treasurer. Said published notice shall also designate and fix a place and time, not earlier than three weeks from date of publication of the same, at which a committee therein designated of the board of park commissioners or of said council will meet to hear and consider, from or on the part of the owner or owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, any and all objec-

tions to the making of such improvement, to the amount of damages awarded for the taking of or interference with the property involved, to the amount of the assessment for benefits to any property affected by such proceeding, and any and all claims of irregularities in the proceedings of the city council, board of park commissioners, or the commissioners so appointed by either thereof.

Immediately after the publication of such notice and at least two weeks prior to the time designated for the meeting of the committee specifically designated in said notice, the city clerk shall serve upon each of the owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, a copy of said published notice, by depositing the same in the postoffice of said city, postage prepaid in an envelope plainly bearing on its front in type no smaller than ten point the words "Notice of Tax Assessments for improvements affecting your property" directed to each of said persons at his last known place of residence, if known, to said city clerk, otherwise as obtained from the records in the office of the county treasurer; provided that the failure of any of such owner or owners to receive such notice shall not in anywise operate to invalidate any of the proceedings covered by this act.

Any person whose property is proposed to be taken, interfered with, or assessed for benefits, under any of the provisions of this chapter, and who objects to the making of such improvement, or who deems that there is any irregularity in the proceedings of the city council, or on the part of the commissioners so appointed by it, by reason of which the award of said commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, or with the amount of the assessment for benefits to any property affected by such proceedings, shall file with said city clerk, at least one week before the hearing designated in such published notice, his written objection to the making of such improvement, or his objection to the damages awarded or benefits assessed, or his claim of said irregularities, specifically designating the same, and a description of the property affected by such proceedings.

At the time and place designated by such published notice for said hearing the city clerk shall present to said committee the report of the commissioner so appointed together with all written objections so filed with said city clerk and such committee shall then consider the same and hear said objectors, or their representatives, in person, and shall adjourn said hearing from time to time as may be necessary.

Within ten days from the conclusion of said hearing or hearings said committee shall file with said city clerk its report and recommendation on the matter so submitted, and upon such filing the city clerk shall give notice that such report and recommendation has been filed and that the same, together with said report of said commissioners, will be considered by said city council at a meeting thereof to be designated in said notice, which notice shall be published in the official newspaper of said city once a week for two consecutive weeks, the last publication thereof being at least two weeks before said meeting of said city council.

Said city council, upon the day fixed for the consideration of said reports and recommendation or at any subsequent meeting to which the same may stand over or be referred, may by resolution annul and abandon said proceeding, or may confirm such awards and as-

sessments, or any or either thereof, or annul the same, or send the same back to said commissioners for further consideration; and said commissioners may in such case again meet at a time and place to be designated in a notice which shall be published by said city clerk once in the official newspaper of said city and copies of which shall be similarly mailed by said city clerk to all interested persons, at least two weeks prior to said meeting, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistakes in such award and assessment and alter and revise the same as they may deem just, and again report the same to said city council, who may thereupon confirm or annul the same.

Whenever the city council shall confirm any such award and assessment such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the city council shall proceed, at the same or at any subsequent meeting, to levy such assessment upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same, which may be in the following form, or any other form the council may adopt:

"The city council 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 compensation and damages awarded for the taking of an injury to private property, and estimated cost of improvement, and in and about the as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment and in proportion to benefits from such improvements to accrue to the parcels and not exceeding the benefits to the parcels so assessed.

Name of Owner, Description Amount
if known of land Lot Block Dollars Cents

Done at a meeting of the city council this day of, A. D. 19...

Attest:.....
City Clerk

.....
Pres't of the Council."

('11. c. 185, § 2; amended '13, c. 345, § 1; '25, c. 417, § 1) [1567]

128-531, 1504398; 136-1, 161+231; 140-435, 168+189; 142-309, 172+135; 188+59.
164-226, 204+934

In a proceeding to widen and grade a street, under the charter of the city of Minneapolis which embodies chapter 185, Laws of 1911, as amended by chapter 345, Laws of 1913, it is proper and legal to offset damages for land appropriated against the special benefits to the land not taken of the same tract. 164-226, 205+640.

1554. Same—Objections to confirmation of assessments, etc.—Appeal to district court—Reappraisal—Appeal to Supreme Court—Any person whose property is proposed to be taken, interfered with or assessed for benefits under any of the provisions of this chapter, and who deems that there is any irregularity in the proceedings of the council or action of the commissioners, by reason of which the award of the commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property or with the amount

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175m 300
221nw 14

of the assessment for benefits to any property affected by such proceedings, specifically shall have the right to appeal from such order of confirmation of the city council, to the district court of the county at any time within twenty days after such order. Such appeal shall be made by serving a written notice of such appeal upon the city clerk of said city, which shall specify the property of the appellant affected by such award and assessment, and refer to the objection filed as aforesaid, and also by delivering to said city clerk a bond to the city, executed by the appellant, or by someone on his behalf, with two sureties, who shall justify in the penal sum of fifty dollars, conditioned to pay all costs that may be awarded against the appellant. Thereupon the city clerk shall make out and transmit to the clerk of said district court a copy of the award of said commissioners, as confirmed by the council, and of the order of the council confirming the same, and of the objection filed by the appellant as aforesaid, all certified by said clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the clerk in appeals subsequent to the first, shall send up anything except a certified copy of the appellant's objections. There shall be no pleading on such appeal but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his said written objections, that as to him the award or assessment of the commissioners ought not to stand and whether said commissioners had jurisdiction to take action in the premises.

The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or annul the proceedings only as the same affects the property of the appellant proposed to be taken, damaged or assessed for benefits and described in said written objection, from such determination no appeal or writ of error shall lie.

In case the amount of damages awarded or assessment made for benefits is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, upon such confirmation, appoint three disinterested freeholders, residents of said city, commissioners to re-appraise such damages or benefits. The parties to such appeal shall be heard by said court upon the appointment of such, and the court shall fix the time and place of the meeting of such commissioners. They shall be sworn to the faithful discharge of their duties as such commissioners, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of such damages or assessments. Such commissioners shall be governed by the same provisions in respect to the method of arriving at the amount of damages and the offset thereto of benefits to other property of the same owners, and in all other material respects, as are in this chapter made for the government of commissioners appointed by said city council. They shall, after such hearing and view of the premises make report to said court of their appraisal of damages or assessments of benefits in respect to such appellant. The award or assessment of such commissioners shall be final unless set aside by the court for good cause shown. In case such report is set aside, the court may, in its discretion, recommit the same to the same commissioners or ap-

point a new board as it shall deem best. Said court shall allow a reasonable compensation to such commissioners for their services, and make such award of costs on such appeal, including the compensation of such commissioners as it shall deem just in the premises.

In case the court shall be of opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant.

An appeal may be taken from the court's final order to the supreme court by the city or any party thereto.

In case of proceedings conducted by the city council all reports and other papers shall be filed in the office of the city clerk, and notices of appeal and other notices to the city shall be served upon the city clerk. In case of proceedings conducted by the board of park commissioners, all papers shall be filed in the office of the secretary or other recording officer of the board, and all notices of appeal and other notices to the city shall be served upon the secretary or other recording officer of the board. ('11, c. 185, § 3; amended '13, c. 345, § 2; '25, c. 417, § 2) [1568]

128-531, 150+398; 136-1, 161+231; 140-435, 168+189; 142-309, 172+135; 188+54.
164-226, 204+934.

1555. Same—Awards—How paid—Assessments—

Whenever any award or awards of damages made to appellants upon any such appeal or appeals to the district court shall exceed the amount of the award or awards appealed from, and when any assessment or assessments of benefits made in respect to any appellant or appellants upon such appeal or appeals shall be less than the amount of the assessment or assessments of benefits appealed from, the amount of such increase in the amount of said award or awards of damages and the amount of such decrease in such assessment or assessments of benefits may be paid by the city from the permanent improvement fund or any fund of the city available therefor, or the city council may cause the same to be assessed upon and against any property benefited by the proposed improvements in addition and without prejudice to prior assessments made thereon in said proceedings, and may refer the matter to the commissioners theretofore appointed by the council in such proceeding or to new commissioners to be appointed by the city council. Such commissioners, whether new or old, shall have the same qualifications as required of commissioners appointed by Section 1553 hereof and such commissioners shall take oath to faithfully discharge their duties as such commissioners and give notice of the time and place when and where they will meet to hear persons interested and assess the amounts of such increase of awards of damages and decrease of assessments of benefits upon the land and property, theretofore assessed for such benefits, or assess benefits on lots or parcels of land not theretofore assessed for benefits in said proceeding. Said notice, as to the owner or owners of the lots or parcels of land entitled to increase of awards upon any such appeal or appeals, and as to the owner or owners of any lots or parcels of land to be then assessed for benefits that were not so assessed in the original proceeding by said commissioners, shall be given by said commissioners by depositing the same in the postoffice of said city, postage prepaid, directed to each of said persons at his last known place of residence, if known to said commissioners, otherwise as obtained from the office of the county treasurer; provided that the failure of any such owner or owners to receive such notice shall not in anywise operate to invalidate any of the proceedings covered by this act. Such commissioners

shall meet at the time and place so designated in their notice and hear all persons interested and assess the amount of such increased awards of damages and decreased assessments of benefits, or new and original assessments of benefits, upon the property benefited by such proposed improvements, in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel of land so assessed, and said commissioners shall prepare and file with the city clerk an assessment list of the assessment so made by the commissioners, containing a brief description of each piece of property assessed, the name of the owners thereof if known, and the amount assessed against the same, and said city clerk shall present such list to the city council for consideration. A brief minute of the presentation of such assessment list to the city council shall be made and published in the record of the proceedings of the city council, which shall be held to be sufficient notice to all persons concerned. Such assessment list shall lie over without action thereon by the city council until the next regular meeting of the council which will occur at least one week thereafter, at which time or at any meeting thereafter the city council may confirm such assessments and assessment roll, or send the same back to the commissioners for further consideration and report thereon. Any person interested who is dissatisfied with the amount of any such assessment may appeal from the confirmation of such assessment by the city council to the district court, in like manner and with like proceedings as provided in Section 1554 hereof in respect to filing objections and taking appeals from original appeals made in such proceedings from such order of confirmation. Any decrease made in any such assessments upon any such appeals may be paid by the city from the permanent improvement fund or from any fund of the city available therefor, or said city council may cause the same to be reassessed as hereinabove provided. ('11, c. 185, § 3a; added by '15, c. 86, § 1; amended '25, c. 417, § 3)

164-226, 204+934.

1556. Right of council to abandon—Effect of award—Payment—The city council shall have the right at any time during the pendency of any proceedings for the improvements authorized in this act, or at any time within ninety (90) days after the final order of the court, on the last of all appeals from such proceedings, to set aside any or all awards and abandon all such proceedings as to any or all parcels whenever it shall deem it for the interest of the city to do so. Such awards, if not set aside as aforesaid, shall be a charge upon the city, for the payment of which the faith and credit of the city shall be pledged and shall entitle the city to immediate possession. The city council may in its discretion order such awards to be paid into the district court of the county for the use and benefit of the persons who shall be found entitled thereto, in which case the moneys so paid into court shall be paid out under order of the court upon application of parties interested and upon such notice as the court may prescribe. ('11 c. 185 § 4) [1569]

136-1, 161+231; 140-435, 168+189; 142-309, 172+135; 143-393, 173+714.

164-226, 204+934.

1557
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1557. Spreading of assessment—Installments—The city clerk shall transmit a certified copy of such assessment roll to the county auditor of the county in which the land lies, and the county auditor shall include 5 per cent of the principal amount of such assessment with and as part of the taxes upon each parcel for each year

for twenty years, together with annual interest at the rate ascertained, as hereinafter provided. The city council and board of park commissioners may, however, by such concurrent resolution, determine that the amount of such assessment shall be collected in five or ten equal annual installments instead of twenty, and in such case the county auditor shall include a corresponding per cent of the principal amount of such assessment with and as part of the taxes of each year, together with such annual interest until the whole is collected. With the first installment the auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first installment are delivered by the county auditor to the county treasurer, and thereafter the auditor shall include in the taxes for each year one of such installments, together with one year's interest upon such installment, and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest, penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs. Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called special street and parkway assessments of the city of..... and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments shall be sufficient identified by the name and number as aforesaid. ('11 c. 185 § 5; amended '13 c. 345 § 4; '17 c. 103 § 3) [1570]

136-1, 161+231; 140-435, 168+189; 142-309, 172+135. 164-226, 205+640.

1558. Same—Method of improvements—Assessments—The City Council and park commissioners may by such concurrent resolution, or by separate resolution when acting separately specify the method of improving any such street, park or parkway, including grading, drainage, planting, paving, curb, gutter and sidewalk, as well as sewer and water mains where necessary, and in the case of parks, the necessary structures

and apparatus for playgrounds and general park uses. The city engineer shall estimate the cost of each item in such improvement separately and submit the estimate with the plat. Such estimates shall be for not to exceed six-inch water mains and not to exceed twenty-four inch sewers. The city council shall examine such estimates and after modifying, if necessary, find and adopt an estimate of such cost. The city council, in appointing commissioners, shall recite said estimate, and the commissioners shall assess the amount thereof or so much thereof as shall be directed by the city council, upon such lots and parcels of land in the city as they shall deem specifically benefited in proportion to such benefits, and not exceeding the actual benefit to any parcel, and add the same to the benefits assessed under section 1553 of this act and report the net result of damages or benefits as required by said section 1553, and with like proceedings thereafter. Provided that if in any proceedings under this act the actual cost of the improvement of any such street, park or parkway in the manner herein designated is less than the estimated cost thereof as found and adopted by the city council, the city council shall immediately cancel and annul the assessments made in any such proceedings to an amount which in the aggregate shall not exceed such fractional part of the total amount of such excess of estimated cost over actual cost as shall be equivalent to the fraction obtained by dividing the total amount of such assessments by the total amount of such estimated cost. In case the assessments in any such proceeding have not been entirely collected, or in case the city council deem that any such assessments can not be fully collected, the city council may direct the city comptroller to retain in the fund in such proceeding a sum sufficient, in the judgment of said city council, to cover the deficiencies in the collection of such assessments, and the city council shall direct that the balance of such excess of estimated cost shall be disposed of in the manner hereinafter provided. The city council shall direct the city comptroller to certify the amount of such balance to the county auditor. The county auditor shall thereupon deduct such amount from the first installment of the assessment to be collected after the receipt of such certificate. Such deduction shall be made from the assessment against each piece or parcel of property in the proportion that such excess as certified by the city comptroller bears to the total of such installment of the assessment. If such balance as certified exceeds one installment, it shall also be deducted in like manner from succeeding installments until the same is fully deducted. Provided further that if any portion of the damages and cost of such improvement has been paid by the city, the city council shall direct the city comptroller to certify to the county auditor only such percentage of such balance or excess of estimated cost as shall be equal to the percentage of the total estimated cost of the improvement and damages which has been or is assessed against benefited property. No such certificate shall be directed by the council or issued to the county auditor until after a report from the city engineer that the work under any such proceeding has been completed and each item of damage or cost in said proceeding has been paid, and such report by the city engineer shall be made to the city council immediately upon the completion of the work in any such proceeding. In any such proceeding where there is or may be such an excess of estimated cost, and there is or shall be a balance in the fund in such proceeding over and above the actual cost, the city council shall

be entitled to withdraw from such fund a percentage of such fund equal to the percentage of the cost of such improvement paid by the city, and cause such percentage to be deposited in the fund from which it was originally drawn or taken by such city council. Any existing street, park or parkway may be improved and the expense thereof assessed and raised in the manner provided by this act for acquiring and opening streets, parks and parkways and improving the same, including any or all of the following improvements, to-wit, widening, grading, drainage, planting, pavement, sidewalks, curb and gutter, sewers and water mains, and in the case of parks, the necessary structures and apparatus for playgrounds and general park uses. In case of streets or parkways exceeding eighty (80) feet in width, the resolution may, for the purpose of facilitating connections with private property, and obviating the necessity of cutting or breaking into the improvements, order a double water main or a double sewer, one on either side of the street or parkway, or adopt such other arrangement or device as may seem most feasible. ('11, c. 185, § 6; amended '13, c. 345, § 3; '17, c. 103, § 4; '23, c. 438, § 1; '25, c. 417, § 4) [1571]

136-1, 161+231; 140-435, 168+189; 142-309, 172+135; 188+54; 188+59.

164-226, 205+640.

Under chapter 281, Sp. Laws 1883, chapter 96, Sp. Laws 1885, and chapters 30 and 103, Sp. Laws 1889, the park board of the city of Minneapolis had power to exempt land from special assessments, provided the exemption was limited to the agreed price or reasonable value of the land acquired in consideration of the exemption of the remainder of the tract. 157-278, 195+1013.

The owner of a tract of land agreed to convey a portion of the tract to a city, to be used for public pleasure drives, parkways, and boulevards, and to be laid out, graded, and embellished according to certain plans. The contract provided that the remainder of the tract should not be subject to future assessments "for any part of the expense of such improvement or the maintenance thereof." Held that under the rule of strict construction applicable to such contracts the exemption did not extend to a special assessment for paving a boulevard after it had been laid out, graded and put in condition for public use. 157-278, 195+1013.

1559. Assessments in five installments—Where lands are acquired hereunder for streets, parks and parkways and the total cost thereof shall be less than three thousand dollars (\$3,000), the amount of the assessment therefor shall be collected in not more than five equal annual installments. ('11 c. 185; amended '17 c. 103 § 3; '19 c. 219)

1560. Title acquired—The title obtained to land designated for park purposes under this act shall be an absolute estate in fee simple unqualified in any way whatever, and shall vest in the city. In other lands an easement only shall be taken. ('11 c. 185 § 7) [1572]

136-1, 161+231; 142-309, 172+135

1561. Streets, parks and parkways, how governed, etc.—When the proceedings are completed, the streets, parks and parkways shall be governed as other streets, parks and parkways by the city council and board of park commissioners respectively; but such streets may be taken by the board of park commissioners for parkways with the consent of the city council and parkways may be taken by the city council for streets with the consent of the board of park commissioners. ('11 c. 185 § 8) [1573]

1562. Improvements, when and how made—The improvements so ordered shall be made as soon as possession after the land is secured, and shall be made by the body which conducts the proceedings for acquisition. ('11 c. 185 § 9) [1574]

1563. Same—Bonds for improvements—The city council, for the purpose of realizing the funds for making such improvement and paying such damages may, from time to time as may be needed, issue and sell special certificates of indebtedness, or special street or parkway improvement bonds, as they may decide, which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more certificates or bonds against any one assessment, or against the assessments in two or more different proceedings, the principal and interest being payable at fixed dates out of the funds collected from such assessments, including interest and penalties, and the whole of such fund or funds is hereby pledged for the pro-rata payment of such certificates or bonds and the interest thereon, as they severally become due. Such certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed as hereinafter provided and for the time specified in section 1557. If the city, because of any such guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of such guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given, to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed five per cent per annum, payable annually or semi-annually. The city clerk shall certify to the county auditor the rate of interest so determined at the first bond sale held for any such improvement, and interest shall be computed upon the assessments at such annual rate, in accordance with the terms of section 1557. In case the rate of interest so determined at any subsequent bond sale for the same improvement is greater than the rate so determined at the first bond sale therefor, the difference between such rates of interest shall be a general city charge.

In case the proceeds of any such special certificates of indebtedness or special street or parkway improvement bonds are in excess of the amount actually necessary to make the improvements for which the same were issued, or in case such proceeds are not immediately required for the prosecution or completion of such improvement, such proceeds may meanwhile be used by the City Council for the making of other improvements authorized under the provisions of this law, and the amount of such proceeds so used shall be replaced and made good so far as may be necessary from the proceeds of special certificates of indebtedness or special bonds issued for the purpose of making such other improvements. ('11, c. 185, § 10; amended '13, c. 345, § 5; '17, c. 11, § 1; '25, c. 417, § 5) [1575]

1564. Scope of act—The provisions of this act shall apply to all cities of the first class, including all cities of the first class having and operating under a charter by it adopted in pursuance of Section 36, Article 4, of the Constitution of Minnesota.

The term city council in this act as amended shall be held to refer to the governing body of such cities, whether so called or called common council or otherwise. The proportion of the cost of any improvement which may be made payable out of the city's general

fund by resolution under section 2 and for which certificates or bonds are issued, shall be accounted a part of the bonded debt of the city, but the city's liability upon any guaranty to make good deficiencies under section 10, shall not be taken into account as part of its indebtedness, until the amount of such deficiency of collection, defined as aforesaid, is determined, and then only for the amount of such deficiency. ('11 c. 185 § 11; amended '13 c. 345 § 6; '23 c. 438 § 2) [1576]

Sections 2 and 10 referred to are §§ 1553, 1563, herein.

1565. Addition to existing powers—The powers herewith granted shall be deemed an addition to all powers under existing laws and city charters and not a repeal or modification thereof. ('11 c. 185 § 12; amended '23 c. 438 § 3) [1577]

1566. Payment by city—Gifts—The city may also, if it have funds available from other sources, pay any such portion of the total cost of any improvement as it deems best and raise the remainder by the methods hereinabove provided. It may also accept gifts to be used for any such purpose. ('11 c. 185 § —, added by '13 c. 345 § 8) [1578]

1566-1. Public parks, parkways and playgrounds—Bond issue—Amount—Mode of issue—Any city in this state now or hereafter having a population of over fifty thousand inhabitants is hereby authorized and empowered, upon request of the Board of Park Commissioners of such city or of such other governing body as may have charge and supervision of the parks, parkways and playgrounds of such city, by ordinance duly enacted by an affirmative vote of not less than two-thirds of all the members elect of its governing body, to issue and sell at such times and in such amount as is deemed expedient, bonds of such city not exceeding One Hundred Twenty-five Thousand (\$125,000) Dollars par value for the purpose of acquiring and improving lands for public parks, parkways and playgrounds, provided that this act shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the common council subject to approval by a Board of Estimate and Taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds. ('25, c. 257, § 1)

1566-2. Same—Tax levy—The bonds authorized by Section 1 of this act, or any portion thereof, may be issued and sold by any such city, but the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act and for the current interest thereon, and the common council of such city shall each year include in the tax levy for such city, a sufficient amount to provide for the payment of such interest, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('25, c. 257, § 2)

1566-3. Same—Issue and sale of bonds—No bonds shall be issued by any such city for the purpose herein above mentioned, to run for a longer term than thirty years or bearing interest at a higher rate than six per cent per annum, but the place of payment of the principal and interest thereon, and the denominations in which the same shall be issued shall be such as may be determined upon by the common council and may be in the form of coupon bonds or registered certificates, so-called. All such bonds shall be signed by the mayor, attested by the city clerk and countersigned by the city comptroller or auditor of such city, and shall be sealed with the seal of such city, except

that the signature to the coupons attached to such bonds, if any, may be lithographed thereon, and none of such bonds shall be sold at less than ninety-five per cent of their par value and accrued interest, and then only to the highest responsible bidder therefor. ('25, c. 257, § 3)

1566-4. Same—Cities to which law applies—This act shall apply to cities governed by a charter adopted pursuant to Section 36, Article 4, of the Constitution of this state; and the powers herein granted are in addition to all existing powers of such cities. ('25, c. 257, § 4)

1566-5. Tax levy for acquisition, etc., of playgrounds as part of park system—Amount—Each city of the first class of the state now or hereafter having a population of 50,000 inhabitants or more, including each city now or hereafter operating under a home rule charter adopted under and pursuant to Section 36, Article 4, of the State Constitution, acting through its city council, or chief governing body thereof by whatever name known, or through its board of park commissioners, is hereby authorized and empowered to levy annually on real and personal property of said city a tax not exceeding 5-10ths of a mill on each dollar on the assessed valuation of said city for the purpose of acquiring, equipping, maintaining and governing playgrounds for the public use as part of the system of parks and parkways of said city, providing nothing in this act shall release the city council or chief governing body or board of park commissioners from the supervision of the limit of the tax as provided in the city charter of each of said cities. ('27, c. 270, § 1)

1566-6. Same—Additional to levies already authorized—Any levy under this act by any city of the first class shall not be in addition to any levy authorized by the charter of said city for said purpose. ('27, c. 270, § 2)

1566-7. Same—Laws repealed—Chapter 267 of the Laws of Minnesota for 1923 is hereby repealed. ('27, c. 270, § 3)

Explanatory note—Laws 1923, c. 267, repealed by this section, amended Laws 1915, c. 230, § 1, as amended by Laws 1919, c. 220, § 1.

1566-8. Same—Certification to county auditor—All taxes so levied shall be certified to the county auditor of the county in which the city is situated on or before the tenth day of October of each year, and shall be included in and as a part of the general taxes for state, city and county purposes, and the same shall be collected with and the payment thereof enforced in the same manner as such general taxes and with like penalties and interest. Such taxes when collected shall be paid to the city treasurer and placed in a fund to be known as playgrounds fund, and shall be paid out by warrants ordered by the board of park commissioners and signed by the president and secretary of such board and countersigned by the city comptroller. ('15, c. 230, § 2)

1566-9. Same—Regulatory ordinances—The board of park commissioners shall have power to adopt ordinances to secure the quiet, orderly and suitable use and enjoyment of such playgrounds by the people and fix and ordain penalties for the violation thereof, which ordinances shall take effect from and after the publication thereof in the official newspaper of the city. The penalties for such violation may include fines not exceeding one hundred dollars (\$100) or confinement in the city workhouse not exceeding ninety (90) days. ('15, c. 230, § 3)

1567. Condemnation of lands for public playgrounds—That any city in this state now or hereafter having

a population of over fifty thousand inhabitants, shall have the right, power and authority to condemn lands under the right of eminent domain for public playgrounds, and such power and authority shall be exercised under and pursuant to the terms and provisions of chapter 41 of the Revised Laws of Minnesota for the year 1905, and acts amendatory thereof. Provided, however, that any such city shall have the right, upon the filing of the award of the commissioners provided for in said chapter 41, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the lands so condemned, without the giving of any bond, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded, whether by said commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in said chapter 41. In case any such city shall appeal from the award of commissioners appointed pursuant to any such condemnation proceedings such city shall not be required to give or file any appeal bond therein. ('11 c. 162 § 1) [1579]

For R. L. '05, c. 41, see c. 41, herein.

1568. To what cities applicable—This act shall also apply to cities existing under a charter framed pursuant to section 36 of article 4 of the constitution. ('11 c. 162 § 2) [1580]

1569. Residence districts—Council may designate—Any city in this state now or hereafter having a population of fifty thousand inhabitants and over may, in the exercise of the police power by ordinance, duly adopted by its city council or common council or other governing body, upon petition of fifty per cent of the property owners of the district sought to be affected, designate residence districts in such cities wherein only buildings for residences may be erected and maintained including duplex houses and double houses and prohibiting the erection and maintenance of hotels, stores, factories, warehouses, dry cleaning plants, public garages or stables, tenement and apartment houses. ('13 c. 98 § 1) [1581]

See, also, §§ 1618 to 1624, herein.
134-228, 158+1018; 136-1, 161+231; 136-479, 162+477;
140-425, 168+189; 142-30, 170+853; 142-309, 172-135; 144-18,
174+887.

164-146, 204+569.

1570. [Omitted here.]

See, supra, §§ 1321-1 to 1321-7.

1571. Residence districts in cities not under home rule charters—Council may designate—Any city in this state now or hereafter having a population of fifty thousand inhabitants or over may, in the exercise of the police power, by ordinance duly adopted by the city council or common council or other governing body, by a two-thirds vote, upon petition of fifty per cent of the property owners of the district sought to be affected, designate residence districts in such cities and prohibit the erection and maintenance of hotels, stores, factories, warehouses, dry cleaning plants, public garages or stables, or any industrial establishment or business whatsoever, tenement and apartment houses. ('13 c. 420 § 1) [1582]

1572. Designation of industrial districts, etc.—Any such city by a like vote of its governing body may also classify industries and industrial establishments, and may designate, define and limit industrial districts within said city where such classes of industries and industrial establishments may be erected, operated and maintained, and may prohibit the erection, operation and maintenance of others within such districts. ('13 c. 420 § 2) [1583]

1573. Change of districts—The said city council, common council or other governing body of said city may, at any time thereafter and whenever it shall find

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that the character of any residence or industrial district shall have changed materially, and on petition of fifty per cent of the property owners of said district, set aside its former determination and establish a residence district out of an industrial district, or an industrial district out of a residence district, by resolution or ordinance, duly passed, provided however, that any industry which may have been heretofore established in such district, shall not be disturbed unless the same shall become a public nuisance. ('13 c. 420 § 3) [1584]

1574. **Ordinances legalized**—Any ordinance providing for such classification of industries and industrial establishments and the establishment of industrial or residence districts, which may have been heretofore passed by any such city, is hereby legalized. ('13 c. 420 § 4) [1585]

1575. **Free water for free public baths**—Any city in the state of Minnesota, now or hereafter having a population of more than 50,000 inhabitants, is hereby authorized and empowered, acting by and through its board of water commissioners, or city or common council or other governing body, to furnish or cause to be furnished free of charge to all persons or corporations who shall provide free public baths in said city, all water necessary for properly maintaining and supplying such baths. ('13 c. 10 § 1) [1586]

1576. **"Free public baths" defined**—The term "free public baths," as used in this act, shall mean all buildings and institutions for bathing purposes which shall be maintained without expense to the city wherein the same shall be located, and which shall be open to use, without charge, by all of the inhabitants of such city without discrimination. ('13 c. 10 § 2) [1587]

1577. **To what cities applicable**—This act shall also apply to cities existing under a charter framed pursuant to section 36 of article IV of the constitution. ('13 c. 10 § 3) [1588]

1578. **Rate of interest on assessment certificates**—That all certificates of sale hereafter issued by the proper authorities of any city of the state of Minnesota now or hereafter having a population of over fifty thousand inhabitants, upon a sale of real property for any assessment for local improvement, shall bear the same rate of interest as was provided by law in such case previous to the enactment of said chapter 205 of the Laws of Minnesota for the year 1905. ('07 c. 132 § 2) [1589]

By section 1 of the act 1905 c. 205, providing for interest at 8 per cent, except where a lower rate was then provided by law, is repealed.

1579. **Unredeemed assessment certificates—Sale**—That any city in this state now or hereafter having a population of over fifty thousand inhabitants, now or hereafter holding or owning any sale certificates issued under and by virtue of any local improvement assessment, made by the proper authorities of such city, upon which the time for redemption has expired, may sell and dispose of the same or any part thereof and all interest acquired by such city thereunder in the lands therein described. ('05 c. 269 § 1) [1590]

1580. **Sale, how made**—Such sale shall be made by the treasurer of such city publishing a notice in the official paper of such city once in each week for three successive weeks that sealed proposals will be received therefor, the last publication to be at least ten days before the date set for receiving such proposals. The notice shall specify the date and the amount of each certificate, together with a description of the lands described therein, and any bidder may include in his proposal any one or more of such certificates. Any

proposals received thereunder by such treasurer shall be reported by him to the next regular meeting of the common council of such city, and if such bids or proposals or any of them are accepted and approved by the common council of such city, the proper city officers shall thereupon execute and deliver to such bidder all necessary assignments and deeds as may be necessary to transfer to said bidder all the right, title and interest in and to the certificates awarded to such bidder, and all lien, right, title and interest of the city in and to the lands described therein, held or acquired by the city, under and by virtue of such certificate, upon payment to the city treasurer of the purchase price designated in such bid or proposal. ('05 c. 269 § 2) [1591]

1581. **Local assessments for streets, parks, etc.—Payment in annual installments**—Whenever any city of the first class including, among others, those cities operating under charters adopted in pursuance of section 36 of article 4 of the constitution of Minnesota, shall have completed, in accordance with the provisions of its charter, any assessment upon benefited real estate for paying the cost of the acquisition of any land, or interest in land, taken for a public use, or for paying the cost of any improvement which shall have been duly authorized, or both, the city council of said city by a five-sixths vote may by resolution provide that said assessment may be paid in any number of equal annual installments, not exceeding twenty (20). Provided, the city council shall not exercise the power granted by this act after the proceeds of such assessment has been pledged by the issue of bonds or certificates of indebtedness to be paid from the proceeds or otherwise. ('13 c. 295 § 1) [1602]

1582. **Same—Duties of clerk and auditor—Assessment, how discharged, etc.**—The city clerk shall thereupon transmit a certified copy of such assessment roll to the county auditor of the county in which the city is situated each of which certified copies shall bear an appropriate name and be numbered consecutively from one (1) upwards. In cases where the whole undertaking requires the condemnation of land and improvements the assessments for the condemnation of land and the assessments for improvements may be consolidated as to each parcel of land and certified to the county auditor as one assessment. And thereupon the county auditor shall include one of the equal annual payments of the principal amount of said assessment with and as a part of the taxes upon each parcel for each year until the whole assessment shall be thus included, together with annual interest at the rate prescribed by the city council, not exceeding five (5) per cent per annum. With the first installment, the county auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first installment are delivered by the county auditor to the county treasurer, and thereafter the county auditor shall include in the taxes of each year one of such installments, together with one year's interest upon such installment and all subsequent installments at the same rate, each of which, together with such interest shall be collected with the annual taxes upon such land together with like penalties and interest in case of default, all of which shall be collected and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment by presenting a local improvement bond sold against such assessment as herein provided sufficient in amount to cover all installments unpaid on such parcel and accrued interest, penalties and costs, and surrendering

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such local improvement bond or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and such assessment shall be sufficiently identified by the name and number as aforesaid. All installments due and payable and all interest or penalties on the same having been paid, nothing herein shall prevent the transfer of said property or any interest therein on the books of the county wherein it is situated, or the recording of instruments or transfers subject to the lien of future installments, interest and penalties. ('13 c. 295 § 2) [1603]

1583. Bonds—The city council, for the purpose of realizing the funds for making such improvement and paying such damages may issue and sell special local improvement bonds which shall entitle the holder thereof to all sums realized upon and such assessment, or if deemed advisable, a series of two or more of said local improvement bonds against any one assessment, the principal and interest being payable at fixed dates out of the fund collected from such assessment including interest and penalties, and the whole of such fund is hereby pledged for the payment of said local improvement bonds and the interest thereon as they severally become due. Such local improvement bonds shall be payable to bearer with interest coupons attached, and the city council may by a five-sixths vote bind the city to make good deficiencies in the collection up to but not exceeding the principal and interest at the rate fixed by the city council upon such local improvement bonds which shall not exceed five (5) per cent. per annum. If the city, because of any such guarantee, shall redeem any local improvement bonds, it shall thereupon be subrogated to the holder's rights. For the purpose of such guarantee, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such local improvement bonds shall be sold at public sale at not less than the par value. ('13 c. 295 § 3) [1604]

1584. To what cities applicable—To supplement charter—This act shall apply to all cities operating under charters adopted in pursuance of section 36 of article 4 of the constitution of Minnesota. The provisions of this act are not intended to and shall not be construed to repeal or abrogate any of the provisions of such charter but are intended to be supplementary to said charter and as conferring additional power upon said cities which may be exercised at their option. The cities' liabilities upon such guarantee shall not be taken into account as part of its indebtedness until the amount of such deficiency or collection defined as aforesaid is determined and only for the amount of such deficiency. ('13 c. 295 § 4) [1605]

1585. Supply of ice—Powers of water commissioners—In any city of this state now or hereafter having over fifty thousand inhabitants, the board of water commissioners thereof, in addition to all the powers now possessed by such board under any general or special law or under the charter of such city, shall have and possess the power to engage in the manufacture, gathering and purchase of ice, and the sale and distribution thereof to such city and to the several boards and departments thereof and to the inhabitants of such city, and to acquire the necessary land, buildings, machinery and equipment for such purpose. ('13 c. 305 § 1) [1606]

1586. Eminent domain—For the purpose of acquiring land, storage plants, side-tracks, spur-tracks, and other rights in real property, necessary or convenient

for the manufacture, gathering, storage or distribution of ice, any such city may exercise the power of eminent domain under and in pursuance of chapter 41, Revised Laws of 1905 and acts amendatory thereof and supplementary thereto, either within or without the corporate limits of such city. ('13 c. 305 § 2) [1607]

1587. Bonds—To provide a fund for the establishment and maintenance of such ice plant, any such city is hereby authorized and empowered, acting by and through the common council or city council of such city, upon request of the board of water commissioners of such city, to issue the bonds of such city from time to time in such sums as may be deemed necessary, not, however, exceeding in the aggregate two hundred fifty thousand dollars (\$250,000) par value. Said bonds may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in the laws of this state prescribing or fixing any limit upon the bonded indebtedness of such city, but the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act and for the current interest thereof, and the common council or city council of such city shall each year include in the tax levy for such city a sufficient amount to provide for the payment of such interest and for the accumulation of a suitable sinking fund for the redemption of such bonds at their maturity, in case the revenues derived from the sale of ice prove insufficient for that purpose. No bonds shall be issued hereunder by any such city for the purpose herein authorized, to run for a longer period than thirty years or bearing a higher rate of interest than five per cent per annum, but the place of payment of the principal and interest thereon and the denominations in which the same shall be issued shall be such as may be prescribed by the common council or city council, and may be in the form of coupon bonds or registered certificates, so-called. All such bonds shall be signed by the mayor, attested by the city clerk, and countersigned by the comptroller, and shall be sealed with the seal of such city; provided, that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon, and none of said bonds shall be sold at less than their par value and accrued interest, and then only to the highest responsible bidder therefor. When said bonds or any of them are issued and sold, it shall be the duty of the board of water commissioners to make suitable provision from the revenues of said ice plant for the prompt payment of all current interest on said bonds as the same accrues and for the redemption of said bonds at their maturity. ('13 c. 305 § 3) [1608]

1588. Prices for ice—Duties of commissioners—The said board of water commissioners shall establish such prices for ice as will at all times insure a sufficient income to pay the interest and to provide a fund to pay the principal upon all the bonds to be issued under this act, as well as to pay all the expenses and cost of the maintenance and repairs of said ice plant and other expenses of operation and equipment. ('13 c. 305 § 4) [1609]

1589. To what cities applicable—This act shall also apply to cities existing under a charter framed pursuant to section 36, article 4 of the constitution. ('13 c. 305 § 5) [1610]

1590. Art commission—The council of any city of the first class may establish by ordinance a city art commission, of five resident members, to be appointed by the mayor, one each from lists, of three persons each, presented to him as follows: One by the oldest incorporated society of fine arts, or other similar

body, of the city, one by the library board thereof, and one by the park board. The other two shall be selected, one from the resident painters, sculptors, and architects, and one from the citizens generally. If any such list be not submitted within thirty days after request so to do from the mayor, he shall appoint without such recommendation. The terms of members shall begin January 1 next after appointment. The first board shall serve for one, two, three, four, and five years, respectively, as designated by the mayor, and thereafter the term of each shall be five years, and until his successor qualifies. Vacancies shall be filled for the unexpired terms by like appointments. After such commission is established, the city shall acquire no work of art, nor shall any such work be placed in any public place therein, unless the design and location thereof be by such commission approved; neither shall any work of art possessed by the city be removed, replaced, or altered without such approval. The mayor or council may request such commission to pass upon the design of any municipal building, bridge, approach, gate, fence, lamp, or other structure to be erected upon any public ground of the city, and upon any proposed grading, platting, or laying out of public grounds or ways; and in such cases the decisions of the commission shall be binding, and shall be obeyed. If the commission shall fail to decide upon any matter within sixty days after such request, its decision may be dispensed with, and in cases of emergency the mayor or council may prescribe a shorter time. The term "work of art," as used herein, shall embrace all paintings, mural decorations, stained glass, statues, bas-reliefs or other sculptures, monuments, fountains, arches, gates, and other permanent structures for ornament or commemoration. Nothing herein shall apply to any building or grounds owned by the state, or require any library or park board to accept any work of art to be displayed upon property under its control. (764) [1611]

1590-1. Expenditures for exhibition, etc., of private scientific and art collections—That hereafter any city of this state now or hereafter having a population of over fifty thousand inhabitants, is hereby authorized and empowered from time to time to appropriate and expend money, in such sums as may be determined by two-thirds vote of all members of its common council or governing body, for the purpose of defraying the expense of housing, maintaining and exhibiting scientific and art collections, for the benefit of the public, which are owned or controlled by private corporations or associations. ('13, c. 32, § 1) [1612]

Explanatory note—Section 4 of Laws '13, c. 32 repeals inconsistent acts and parts of acts.

This section in G. S. '23 constituted Laws '03, c. 184, § 1, as amended by Laws '22, c. 193, § 1. It relates to all cities and should be classified in the subheading in this chapter which relates to all cities. This section, together with the rest of Laws '03, c. 184, as amended, may be found as sections 1321-1 to 1321-7, supra.

1590-2. Same—Conditions precedent—No money shall be appropriated or expended hereunder by any such city unless such collections are kept and maintained within such city for the general use and benefit of the public, under such reasonable rules and regulations as shall be first approved by the mayor of such city; nor unless the corporation or association owning or controlling such collections shall first provide by its articles of incorporation that the mayor and at least two other officials of such city shall be ex-officio members of its governing board. ('13, c. 32, § 2) [1613]

1590-3. Same—Cities to which law applies—This act shall apply to cities with charters adopted pur-

suant to section 36, article 4 of the constitution of this state. ('13, c. 32, § 3) [1614]

1591. Library board may extend privileges to counties and villages—Any public library board in any city of this state having a population of fifty thousand inhabitants or over, whether such board was created by and under the General Laws or by special act of the legislature, may enter into arrangement with the authorities of the county within which it is located, or with the authorities of any adjoining county, or with the authorities of any village within any such county, whereby the inhabitants of any such county, counties or villages, may secure the privileges of using the library and museums of any such library board, and the authorities of any such county, counties or villages are hereby authorized to defray the expenses any such arrangement may involve. ('07 c. 280 § 1) [1619]

1592. One mill tax for library board—There may be annually levied by, or for the benefit of any public library board in, any city of this state, having a population of fifty thousand inhabitants or over, whether such board was created by and under the General Laws or by special act of the legislature, a tax of not to exceed one mill upon each dollar of the property in such city, as the value of such property has been assessed and determined for the purposes of general taxation. ('07 c. 289 § 2) [1620]

1592-1. Gifts or devises for public parks, museums, galleries, or schools of arts or crafts—The board of park commissioners of every city of the first class is authorized to receive and accept in the name of the city, any gift or devise of land or buildings to be used for a public park, museum, gallery, or school of arts or crafts, or for the construction, equipment, improvement, maintenance or use thereof, or for any one or more of such purposes, with the right reserved by the donor or devisor to the free and exclusive occupancy, management, control and use of any such building by any incorporated society of this state organized for the general purposes of fostering and promoting educational, artistic and scientific interests, or some one or more of them, and not for any purpose of pecuniary gain or profit to any of its members, and upon such other conditions, but subject to such regulations and restrictions, as shall be approved by such board of park commissioners.

The board may likewise accept gifts and bequests of money and other personal property to be used for any of the purposes aforesaid. ('11, c. 95, § 1) [1615]

1592-2. Same—Expenditures—Such board, out of any moneys received under the provisions of this act, or from any gift or bequest applicable thereto, shall care for and maintain, as a public park, any land or grounds acquired and used as aforesaid, and shall maintain and keep in repair, alter, enlarge, improve and equip, heat, light and care for, any and all such buildings, shall maintain proper insurance thereon, and shall make suitable provision for the custody of, and for keeping, preserving and exhibiting, any and all collections, objects and specimens contained therein. In case of the destruction or damage of any such building from any cause, the proceeds of any insurance thereon, together with any funds available therefor received under the provisions of this act, shall be used for the restoration of such building. Such board shall have power to make any contracts or arrangements, in the name of the city, necessary or convenient to promote the general purposes of this act, and shall have power to make rules and regulations for the use and government of such lands and buildings, and, for

that purpose, may adopt rules and ordinances, and provide penalties for their violation. ('11, c. 95, § 2) [1616]

1592-3. Same—Tax levy—After the acquirement of any such museum, gallery or school of arts or crafts as aforesaid, there shall be annually levied and it shall be the duty of such board of park commissioners to cause to be included in the annual tax levy, upon all the taxable property of the city, a tax of one-eighth (1-8) of one mill upon each dollar of the assessed valuation of property in said city subject to taxation, and such board shall certify such levy to the auditor of the county in which such city is situated, and the same shall be added to, and collected with and as part of, the general, real and personal property taxes, with like penalties and interests, in case of non-payment and default, and all provisions of law in respect to the levy, collection and enforcement of other taxes shall, so far as applicable, be followed in respect of such taxes. All of said taxes, penalties and interest, when collected, shall be paid to the city treasurer, and shall be credited to a fund to be known and denominated as the park museum fund, and shall be used for the purposes specified in this act, and for no other purpose. Any part of the proceeds of such levy not expended for the purposes specified in section 2 of this act, may be used for the erection of new buildings for the same purposes. ('11, c. 95, § 3) [1617]

Explanatory note—For section 2 see § 1592-2. herein.

1592-4. Same—Cities to which law applies—This act shall be applicable to cities governed by a charter adopted pursuant to section 4, article 36 of the constitution of the State of Minnesota. ('11, c. 95, § 4) [1618]

1592-5. Gifts, devises, etc., in trust for free medical dispensaries and free public libraries—That any city in the state of Minnesota now or hereafter having a population of over fifty thousand inhabitants, shall, in addition to all other powers now possessed by it, have, and it is hereby given, power and authority to accept in trust, gifts, devises and bequests of money or property, whether the same be donated, devised or bequeathed prior or subsequent to the passage of this act, for the purpose of founding, establishing and maintaining free medical dispensaries for the benefit of the poor of any such city or of the county in which any such city is situated, and for the purpose of founding, establishing and maintaining free public libraries for the use and benefit of the inhabitants of any such city or of the county in which any such city is situated. ('13, c. 232, § 1) [1621]

1592-6. Same—Administration of trust—Designation of trustees—Any such city is hereby authorized and empowered to administer any gift, devise or bequest to it in trust for the purposes aforesaid, by such officials, officers or trustees as the donor or testator may designate for that purpose in the will or instrument creating the trust, and in accordance with the terms of such will or instrument, and any officers or officials of any such city or of any county in which any such city is situated, as may be designated to administer any such trust by any will or other instrument creating the trust in any such municipality for either of the purposes aforesaid, are hereby empowered to administer, and are hereby charged with the duty of administering, such trust in accordance with the terms of the will or instrument creating the same. ('13, c. 232, § 2) [1622]

1592-7. Same—Cities to which law applies—This act shall apply to cities having a population of over

fifty thousand inhabitants now or hereafter operating under a home rule charter adopted pursuant to section 36, article 4 of the constitution of the state of Minnesota. ('13, c. 232, § 3) [1623]

1592-8. Salary of librarian—The city council or other governing body of any city of the state of Minnesota now or hereafter having a population of over fifty thousand (50,000) inhabitants, is hereby authorized to fix the salary of the librarian of the public library of such city, and to refix the same from time to time at such sum as said city council or other governing body may deem advisable. ('13, c. 199, § 1) [1624]

1592-9. Same—Cities to which law applies—This act shall apply only to cities having a home rule charter adopted pursuant to Section 36 of Article 4 of the Constitution of this State. ('13, c. 199, § 2)

1593. Auditoriums—Definitions—For the purpose of this act, the term "city council" shall apply to and include the city council, common council or other chief governing body of the city. ('23, c. 21, § 1; amended '27, c. 428)

1594. Same—Authority to acquire—Each city of this state now or hereafter having a population of over fifty thousand inhabitants, including each such city of the first class now or hereafter having and operating under a home rule charter adopted under and pursuant to Section 36, Article 4, of the state constitution, in addition to all other powers now possessed by the city, shall have the power and authority and is hereby empowered and authorized to acquire the land necessary for and to construct, erect, maintain, own, operate and manage a public auditorium building, in the city, or to improve, repair, enlarge or remodel any existing auditorium so as to make the same suitable for the accommodation of large gatherings of people on public occasions, and for the maintenance of public baths, an athletic floor, ice skating rink, or for the conduct of indoor public games, and for the use, convenience and benefit of the city and the inhabitants thereof, and to annually levy and collect the necessary taxes therefor, in addition to all other taxes authorized to be levied and collected by the city. ('23, c. 21, § 2; amended '27, c. 428)

Where an auditorium is no longer needed for municipal purposes it may be leased (137-179, 162-1073).

1595. Same—Condemnation proceedings—The city council shall have the power and authority to acquire the land and buildings necessary for such public auditorium building, or any improvement, addition thereto or enlargement thereof, by purchase or by lease or by gift or by condemnation proceedings under the power of eminent domain. When such land and buildings are acquired by the city under the right of eminent domain, the condemnation proceedings for that purpose shall be commenced and conducted by the city council under and pursuant to the provisions of Chapter 41, Revised Laws of Minnesota, 1905, and the acts of the legislature amendatory thereof and supplementary thereto.

The city, upon giving the notice required by Section 2523, Revised Laws of Minnesota, 1905, may enter upon and appropriate the lands so condemned without the giving of any bonds, but in case of such entry and appropriation the city shall be bound absolutely to pay all damages awarded, whether by commissioners acting under such laws or by the court upon appeal from their award, together with all costs and expenses adjudged against it in said proceedings, and the court shall issue a writ to the sheriff of the county to put

the city in possession. In case the city shall take an appeal in any such proceedings it shall not be required to give or file any appeal bond. ('23, c. 21, § 3; amended '27, c. 428)

Explanatory note—For chapter 41, R. L. '05, see chapter 41, herein; for § 2523 (2528), R. L. '05, see § 6545, herein

1596. Same—Councils to have charge and control of—The city council of each such city shall have full charge and control of the construction, erection, maintenance, use, operation and management of such public auditorium building, and shall have power and authority to enter into and make all contracts necessary therefor, and to engage and secure necessary employes in the maintenance, care, operation and management of such auditorium building, and to fix their compensation. ('23, c. 21, § 4; amended '27, c. 428)

1597. Same—Issue and sale of bonds—Amount, form, interest, maturity, etc.—The city council of each such city is hereby further authorized and empowered, in addition to all other powers by it now possessed, from time to time as may be necessary, by resolution duly passed by an affirmative vote of a majority of all the members of the city council, to issue and sell municipal bonds of such city to an aggregate amount not exceeding \$3,000,000 for the purpose of aiding in defraying the cost of acquiring land and buildings for and constructing, improving, repairing, remodeling, enlarging, erecting and equipping such public auditorium building in the city, said bonds or any part thereof may be sold upon two weeks published notice of the sale thereof.

The bonds issued by any such city under this act for the purpose hereinbefore specified shall not run for a longer period than twenty years from their date, or bear a higher rate of interest than 5 per cent per annum, payable semi-annually.

The place of the payment of the principal and interest of such bonds and the denomination in which the same shall be issued and the rate of interest thereon shall be determined by the city council. All such bonds shall be signed by the mayor and countersigned by the city comptroller and attested by the city clerk, and shall be sealed with the seal of the city issuing the same, except that the signatures to the interest coupons attached thereto if any, may be lithographed thereon. None of such coupons shall be sold for less than their par value and accrued interest, and then only to the highest responsible bidder therefor. Provided that nothing in this act contained shall authorize the issuance of any bonds in excess of \$3,000,000 in any event. ('23, c. 21, § 5; amended '27, c. 428)

Explanatory note—For this act see §§ 1593 to 1600, herein.

1598. Same—Bonds in excess of charter or statutory limitations—Tax levy—Redemption of bonds—Bonds issued not included in net indebtedness of city—The bonds hereby authorized or any part thereof may be issued and sold by each city notwithstanding any limitations contained in the charter of said city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of the city, but the full faith and credit of such city shall at all times be pledged for the payment of any such bonds issued under this act and for the payment of the current interest thereon, and the city council of such city shall without fail, annually levy a tax upon the assessable property in such city, in addition to all other taxes, sufficient in amount to provide for the payment of the interest on said bonds as it accrues and for the ac-

cumulation of a fund for the redemption of such bonds at their maturity. Such funds may be invested under the direction and with the approval of the city council in the bonds of the city issuing the same, or such bonds as are permitted for the investment of the permanent school fund of the state of Minnesota, or in the bonds of any city in the State of Minnesota, having a population of five thousand or more, or in such county or school bonds in the State of Minnesota as may be approved by the city council. In case of the investment of said funds in the bonds of the city issuing the same, such bonds shall not be cancelled but shall be held by the city, and the interest paid over and applied to the increase of said fund.

Whenever the principal of any of the bonds issued by the city hereunder shall become due, the city council shall dispose of as many of the bonds belonging to such fund as, with the money on hand belonging to said fund, shall be necessary to pay such bonds becoming due as aforesaid. The moneys, bonds and securities belonging to such fund shall not be used or diverted to any other purpose than for the payment of the bonds issued by the city under this act, and the interest thereon, unless and until all bonds issued hereunder shall be fully paid and satisfied. Upon the full payment of all bonds issued under this act, any funds or securities remaining in said fund may be used by the city in payment of the bonded indebtedness of the city or for such public purposes as shall be determined by the city council. The amount of all such bonds issued by any such city under this act shall be exempt from and shall not be counted or included in the net indebtedness of the city or in any computation of the city's outstanding indebtedness for the purpose of determining the limit of the net bonded indebtedness of the city. ('23, c. 21, § 6; amended '27, c. 428)

Explanatory note—For "this act" see §§ 1593 to 1600, herein.

1599. Same—Auditorium fund—The proceeds of all such bonds and the taxes levied and collected by the city council under this act, other than the taxes levied for the payment of the principal of said bonds and the interest thereon, and all moneys and revenues derived from such auditorium building and premises, shall be placed in the city treasury and credited to a fund to be known as the auditorium fund, and shall be used by the city only for the purposes, specified in this act. ('23, c. 21, § 7; amended '27, c. 428)

Explanatory note—For "this act" see §§ 1593 to 1600, herein.

1600. Same—Election to determine bond issue—Before any such city shall issue or sell any bonds of the city under the provision of this act the proposition, to issue and sell such bonds shall first be submitted by the city council to the qualified electors of the city at a general or primary election or at a special election called by the city council for that purpose, and approved by a majority of the votes cast upon such proposition by the qualified voters of the city present and voting upon such proposition at such election. The city council may call such special election at any time, and shall make provisions for the submission of such proposition upon a separate ballot, to the electors of the city at any general, primary or special election in the city, and shall cause at least fifteen (15) days posted notice to be given of such submission and election in each election district of the city. ('23, c. 21, § 8; amended '27, c. 428)

Explanatory note—For this act see §§ 1593 to 1600.

1600-1. Stone quarries and docks—Bond issue for—Referendum—The governing body of any city of this state now or hereafter having a population of more than fifty thousand inhabitants is hereby authorized and empowered, for the purposes herein designated, to issue, from time to time as needed, the negotiable bonds of their respective cities to an amount in the aggregate not exceeding five hundred thousand dollars; said bonds to be made in such denominations and payable at such places and at such times, not exceeding ten years from the date thereof as may be deemed best. Said bonds, however, to be serial in form, one-tenth to be retired each year after issue and to bear interest at a rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

Provided that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

Provided that this act shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the common council subject to approval of a Board of Estimate and Taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds. ('25, c. 64, § 1)

1600-2. Same—Tax levy for payment of bonds—The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act, and for the payment of the current interest thereon, and said governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues.

Provided that no tax levy shall be made if sufficient funds exist in the Special Fund, called "Quarry and Dock Fund," herein created and described. ('25, c. 64, § 2)

1600-3. Same—Issue and sale of bonds—All bonds issued under authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned by the city comptroller or city auditor of such city, except that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such city. ('25, c. 64, § 3)

1600-4. Same—Use of proceeds of sale of bonds—Quarry and dock fund—The proceeds of any and all bonds issued and sold under authority of this act shall be used for the following purposes, and none other, to-wit: For acquiring by gift, purchase, or condemnation, a site or sites containing rock and to remove and use the same for any municipal purpose; and especially for the construction of public grounds, public docks, harbor terminals, and a breakwater for their protection; and to procure and pay for the necessary equipment of machinery, tracks and labor required in the making of such public improvements and to clear public highways adjacent to such sites from rock obstruction.

Accurate account shall be kept by the department of such city having in charge the operation of the removal and disposal of rock, of the exact quantity of

such rock or crushed rock manufactured therefrom, removed and used either by the city upon its highways, or sold to contractors for such use, or for use in making any other improvements, under city authority or franchise.

If the city uses said rock or crushed rock manufactured therefrom, upon its highways, then that department of the city charged with maintenance of streets shall pay into a special fund of such city to be known as "Quarry and Dock Fund," an amount of money equivalent to what it would fairly expend for such material if elsewhere obtained in said city.

If such rock is sold to contractors engaged in construction of public improvements in said city, or under franchise from it, then the moneys so derived shall likewise go into said "Quarry and Dock Fund." The moneys in said fund shall be used for payment of interest on said bonds and for the retirement and payment of the principal thereof, and for no other purpose. Recourse to a tax levy shall in no case be had, unless there is a deficiency in said special fund to pay such interest or principal.

If any tax levy shall be necessary to provide for any deficit in said fund, the amount so levied shall be restored to the General Fund of said city, out of proceeds of such fund as soon as it is sufficient for such purpose. ('25, c. 64, § 4)

1600-5. Same — Charter provisions not affected — Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to Section 36, Article 4 of the Constitution of this State requiring the question of the issuance of bonds to be submitted to a vote of the electors. ('25, c. 64, § 5)

1600-6. Same — Cities authorized — This act shall apply to cities operating under Home Rule charters adopted pursuant to Section 36 of Article 4, of the State Constitution, and the powers granted in this act are in addition to all existing powers of such cities. ('25, c. 64, § 6)

1601. Destruction of garbage—Power to acquire plant—That any city in the state of Minnesota, now or hereafter having a population of over fifty thousand, is hereby authorized and empowered to acquire by purchase or condemnation, lands on which to erect plants for the destruction of garbage and other refuse matter; also to purchase, erect, operate and maintain such plants for the destruction of garbage and other refuse matter, also to provide for the collection of all such garbage or refuse matter and delivering the same to such destruction plants or other places, and to pay and contract to pay for the same in such annual installments and at such a rate of interest on deferred payments as the common council of such city may determine. Provided that each and every act and thing herein authorized shall receive at least a three-fourths vote of all members of such common council before the same shall be effective for any purpose. ('05, c. 121, § 1) [1627]

1602. Limit of indebtedness—Tax estimates, etc.—The obligations incurred by any such city in the making of any such contracts shall not be considered as a part of its indebtedness under the provisions of its governing charter, or of any law of this state fixing the limit of amount of indebtedness for such city; nor shall such city be required at any time before making, or during the life of such contracts to have specifically provided for the same by previous tax estimates or levy, or to provide for or have on hand in its treasury more money applicable to such contracts than the

amount to be paid thereon during a single year ('05 c. 121 § 2) [1628]

1602-1. Garbage plants in cities operating under home rule charters—Bond issues for authorized—Amount, interest, maturity, etc., of bonds—The governing body of any city of this state now or hereafter having a population of more than fifty thousand inhabitants and operating under Home Rule charters under the provisions of Section 36, Article 4, of the State constitution is hereby authorized and empowered, for the purposes herein designated, to issue, from time to time as needed, the negotiable bonds of their respective cities to an amount in the aggregate not exceeding \$58,000; said bonds to be made in such denomination and payable at such places and at such times, not exceeding thirty years from the date thereof as may be deemed best, and to bear interest at a rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

Provided that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

Provided that this act shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the council subject to approval of a Board of Estimate and Taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds. ('23, c. 176, § 1)

1602-2. Same—Tax levy—The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act, and for the payment of the current interest thereon, and said governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('23, c. 176, § 2)

1602-3. Same—Form and sale of bonds—All bonds issued under authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned by the city comptroller or city auditor of such city, except that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such city. ('23, c. 176, § 3)

1602-4. Same—Use of proceeds of bonds—The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose of acquiring a site, constructing and equipping plants for the destruction of garbage and other refuse and the proceeds of said bonds or any thereof shall not be used for any other purpose than those hereinbefore specified. ('23, c. 176, § 4)

1602-5. Same—Charter provisions not affected—Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to Section 36, Article 4, of the Constitution of this State requiring the question of the issuance of

bonds to be submitted to a vote of the electors. ('23, c. 176, § 5)

1602-6. Same—Powers granted are additional—The powers granted in this act are in addition to all existing powers of such cities. ('23, c. 176, § 6)

1603. Destruction or removal of rubbish in cities not under home rule charters—In each city in the state of Minnesota now or hereafter having more than fifty thousand (50,000) inhabitants every person and corporation shall by the tenth day of May of each year destroy or remove all rubbish on all lots or lands within such city which he or they may own or control or occupy. ('13 c. 288 § 1) [1629]

1604. Duty of street commissioner—Notice—If the occupant or owner of any such lots or lands shall fail to so destroy or remove such rubbish as so required after having six days' notice in writing by the street commissioner of his ward such occupant or owner shall be reported by said commissioner as delinquent and a tax be levied against such lots and lands as hereinafter provided. ('13 c. 288 § 2) [1630]

1605. Notice to corporation—Whenever it shall become necessary to serve notice as provided in section two (2) of this act upon any manufacturing or other corporation owning or controlling any lots or lands in such city, such notice if served upon any agent of such corporation residing or being in such city shall be deemed good and sufficient notice and if no such agent shall reside or be in such city, then such notice may be served upon any agent of such corporation at its general place of doing business in this state and if such owner of vacant lots or lands is a non-resident by mailing the same to any such owner or agent. ('13 c. 288 § 3) [1631]

1606. Same—Service of notice—It shall be the duty of the street commissioner of each ward of such city to serve or cause to be served the notice referred to in section two (2) of this act upon the proper person or persons, in their respective wards of such city as the case may require. ('13 c. 288 § 4) [1632]

Section two (2) referred to is § 1604, herein.

1607. Destruction or removal by commissioner—
Cost—Tax—The said street commissioner shall carefully inquire concerning the existence of rubbish on the lots or lands in his ward, and in case any person, persons or corporation owning, occupying or controlling any lots or lands in his ward shall neglect after such notice to destroy or remove such rubbish, it shall be the duty of such street commissioner to destroy or remove or cause to be destroyed or removed all such rubbish upon such lots or lands. The cost thereof in the first instance shall be paid out of the ward fund of the particular ward in which the said rubbish is found and thereupon the street commissioner of said ward shall report, under oath, to the city council or other governing body the amount so expended, specifying the separate items thereof and the lot or parcel of land upon which the service was performed and the amount thereof shall thereupon be levied by the city council as a tax against the said lot or parcel of land. Said tax, when collected, shall be placed in the city treasury to the credit of the ward fund from which such cost of removal of rubbish has been paid. ('13 c. 288 § 5) [1633]

1607-1. Metropolitan drainage commission—Appointment—Jurisdiction—First meeting—Whenever it shall appear that two or more cities of the first class are disposing of sewage into any natural water course which in whole, or in part, flows through, or adjacent to, two or more of such cities, the Governor shall appoint a metropolitan drainage commission.

Such commission shall consist of two representatives from each such city, and one person to be selected by the Governor. Within thirty days after taking effect of this act, the city council or other governing body, and the mayor of each such city, shall each select one person and certify their names to the Governor, and the Governor shall, within ten days after the last of said nominations has been so certified to him, appoint said persons so certified, together with the person selected by him, as the members of such drainage commission. If the city council, or the mayor, of either of said cities of the first class shall fail to certify to the Governor within the time specified herein the names of the persons selected by them as members of the commission, the Governor shall thereupon appoint such members. In his order appointing such commission, the Governor shall declare what cities shall be included within the jurisdiction of such drainage commission and shall fix the time and place for the first meeting of the commissioners. ('27, c. 181, § 1)

1607-2. Same—Oath of commissioners—Expenses—Vacancies—Each appointee, before entering upon the duties of his office, shall take and subscribe the oath of office prescribed by Section 8 of Article V of the Constitution and file the same with the Secretary of State, duly certified by the official administering such oath. Each commissioner shall be reimbursed the actual necessary expenses incurred in the performance of his duties, but shall receive no salary or compensation for his services. If a vacancy shall occur on the commission of a representative of any city, the city council or the mayor of such city, as the case may be, shall certify his successor to the Governor in the same manner as in the case of an original selection, and the Governor shall appoint such nominee for the unexpired term. If the city council, or the mayor of either of said cities of the first class shall desire at any time to remove its or his representative on said commission, either may request the Governor, in writing, to remove such representative and to appoint a successor, who shall be named in said written request. The Governor shall thereupon appoint the person so requested to be appointed. Any person so appointed shall become a member of said commission as soon as he qualifies, and the term of the commissioner in whose place he is appointed shall thereupon be terminated. A vacancy occurring in the office of the commissioner appointed by the Governor shall be filled by the Governor. ('27, c. 181, § 2)

1607-3. Same—Quorum—Organization—Secretary—A majority of the commissioners shall constitute a quorum for the transaction of business. As soon as the commissioners first appointed under this section enter upon the duties of their office, they shall organize by electing one of their members Chairman and one a Vice-Chairman, both of whom shall hold office at the pleasure of the commissioners. The Chairman shall preside over all meetings of the commission and shall perform such other duties as are imposed upon him by this section or that may be assigned to him by the commission. In the absence or disability of the Chairman, the Vice-Chairman shall perform the duties and exercise the powers of the Chairman. The commission shall appoint a Secretary, who may or may not be a member of the commission, who shall be removable at pleasure by the commission, and who shall receive, if not a member of such commission, such compensation as the commission may determine. ('27, c. 181, § 3)

1607-4. Same—Meetings—Rules and regulations—Reports—Jurisdiction—The metropolitan sewage commission shall hold meetings and shall make rules and regulations governing the transaction of its business. All sessions or meetings of said commission shall be public, and all records shall be public records. The commission shall prepare annually a full and detailed report of its official transactions and expenses, and shall mail such statement to the Governor of the state, the State Board of Health, the Mayor and the city council or other governing body of each such city of the first class. It may likewise, in its discretion, make other and supplemental reports from time to time, and transmit the same as in the case of its annual report. Said Commission shall not have any jurisdiction to investigate or report as to whether or not any assessment for the cost of sewage disposal shall be borne by any territory, county, city, village or township lying outside of the boundaries of the counties within which are situated said cities of the first class. ('27, c. 181, § 4)

1607-5. Same—Powers—The said metropolitan drainage commission shall have full power to study the subject of sewage disposal and treatment, to make surveys and collect data relating to the methods which might be used in disposing of such sewage or of treating the same so as to protect such water course from pollution, as well as any other water courses or bodies of water lying within the drainage area of which such cities are a part. Said commission shall have power and authority to employ engineers, sanitary experts and such other skilled or technically trained persons as it deems advisable, and shall have power and authority to employ the necessary clerical and office assistants, and to incur such other expenses as may be necessary to carry on its work. ('27, c. 181, § 5)

1607-6. Same—Expenses—Tax levy to pay—The expenses of said commission during the year 1927 shall not exceed the sum of \$30,000.00, and the annual expense thereafter shall not exceed the sum of \$50,000.00. The expenses of said drainage commission shall be apportioned among the cities affected in the same proportion as the last assessed valuation of the real and personal property in each city, excluding moneys and credits, bears to the said total assessed valuation in all such cities. On or before August 1st of each year, the commission shall transmit to each of such cities an estimate of its expenditures for the ensuing calendar year, and each city shall include in its budget a tax levy for such year in an amount equal to its proportionate share of such estimated expenditures. The city treasurer of each such city shall pay the proceeds of such assessment to the state treasurer for the credit of said commission, and said state treasurer shall, from time to time, against said fund, pay warrants or checks as authorized by said commission and signed by the Chairman and Secretary thereof. The amounts of money paid by any city to the credit of said metropolitan drainage commission, under the terms of this act, shall be excluded from any computation of the costs of government of such city under the terms of its charter limiting its governmental expenditures or cost of government. ('27, c. 181, § 6)

1607-7. Same—Funds for expenses—In order to provide funds for the expenses of said commission for the year 1927, after said commission shall organize, it shall transmit to each of such cities an estimate of its expenditures for the year 1927, and each such city shall thereupon, through its proper officers, pay its proportionate share to the state treasurer for the credit

of said commission; or in the event any such city has not on hands funds available to meet its said proportionate share, it is hereby authorized to borrow the same and to pledge the credit of such city to the repayment of the indebtedness so created. Any obligation so incurred shall be authorized by vote of its governing board, and any such obligation shall be signed by the mayor and the city clerk under the city corporate seal, shall bear interest at not to exceed five per cent per annum, and shall be payable not more than one year from its date. Such obligations shall be sold in the manner provided by Section 1943 of the General Statutes of 1923. ('27, c. 181, § 7)

1608. City chemist in cities under home rule charters—Assistants—In all cities of this state now or hereafter having over 50,000 inhabitants, the mayor of such city shall have the power and authority to appoint one city chemist and not exceeding six assistants to such city chemist. ('11 c. 64 § 1, amended '13 c. 250 § 1) [1634]

See 1911 c. 104.

1609. Powers and duties—The said city chemist and his assistants shall have power and authority to make inspection of all gas, gas plants, gas meters, electric light plants, electric lights, electric, heat and water meters, lights for public and street lighting purposes, whether the same be connected with a plant owned by such city or owned or operated by any person, corporation or association in said city. The said city chemist and his assistants shall also, when directed by the mayor, commissioner of public works, board of public works or common council of said city, inspect, analyze, and report upon all cement, cement work and paving material and all stone, wood and timber used or to be used in the erection and construction of any public building or structure or in the laying, making or repair of any public walk or in the paving of any street or in any other public work whatsoever, and shall also inspect, analyze and report to the mayor of said city or to the common council, as directed, upon the quality and sufficiency of the fuel, oils, gasoline, paints or other material or commodity used or to be purchased and used by said city, and perform such other duties and undertake such investigation and researches as may be required by the mayor or the common council. ('11 c. 64 § 2, amended '13 c. 250 § 1) [1635]

1610. Salaries—The said city chemist shall receive as compensation for his services the sum of twenty-five hundred (\$2,500) dollars per year; his first and second assistants, the sum of not to exceed twelve hundred (\$1,200) dollars per year, each; three other assistants, the sum of not to exceed one thousand (\$1,000) dollars per year, each; and one assistant at not to exceed nine hundred (\$900) dollars per year. Not exceeding two of the assistants receiving one thousand (\$1,000) dollars per year, shall receive an additional salary of not to exceed thirty (\$30.00) dollars per month, provided that, if employed as inspectors of street lighting, they shall provide themselves with horses and buggies or other equally effective means of transportation for use in such inspection. ('11 c. 64 § 3, amended '13 c. 250 § 1) [1636]

1610-1. To what cities applicable—This act shall be applicable only to cities of over 50,000 inhabitants, governed by a charter adopted under and pursuant to Article 4, Section 36, of the constitution of this state. ('11, c. 64, § 4, amended '13, c. 250, § 1)

1611. Effect of charter amendment to take effect subsequently—This act shall be in force and in effect

from and after its passage, but if by virtue of any law, charter amendment, or charter heretofore enacted to take effect in the future, said chapter 64 of the Laws of 1911, [1634-1637] shall cease to be operative because superseded by such law or charter, this amendment shall not in any such case be construed to continue said chapter 64 in force beyond the time when it would otherwise cease to be operative by reason of such law, charter amendment or charter. ('11 c. 64 § 5, amended '13 c. 250 § 1) [1637]

The bracket [1634-1637] should be [1608-1611].

1612. Expenditure for publicity—Publicity board—That any city in this state now or hereafter having a population of over fifty thousand inhabitants, in addition to all the powers now possessed by any such city, shall have, and is hereby granted, the power and authority to levy taxes therefor, and to expend money for city publicity purposes, not exceeding, however, in any one year an amount equal to a tax of one-tenth of one mill upon the dollar of the assessed valuation thereof upon all the taxable property of such city, the same to be expended in such manner and for such city publicity purposes as the common council shall direct, and the common council of any such city may establish and provide for a publicity board or bureau to administer such fund, subject to such conditions and limitations as the common council shall by ordinance prescribe. Provided that any moneys already raised by taxation for this purpose and not expended therefor, although not then authorized by law, shall also be applicable to the uses provided for by this act. ('11 c. 111 § 1) [1638]

1613. Same—To what cities applicable—This act shall apply to all such cities governed by a charter adopted pursuant to section 36, article 4 of the constitution of this state. ('11 c. 111 § 2) [1639]

1613-1. Lost, stolen or unclaimed property in possession of city—Notice of—Publication—Whenever any lost, stolen or unclaimed property shall be found or recovered by any person in any city of this state now or hereafter having over fifty thousand inhabitants and not governed under a charter adopted pursuant to section 36, article 4, of the state constitution and said property shall come into the possession of the city municipality within the said city through its proper officials shall forthwith make reasonable efforts to find the owner of such property and restore the same to the owner thereof. In case such lost, stolen or unclaimed property is found or recovered under circumstances which do not give the finder or recoverer thereof knowledge or means of inquiry as to the true owner thereof, the said city through its proper officers shall forthwith give notice of the finding or recovery of such property by causing such notice to be published once a week for three successive weeks in a legal newspaper published in the city in which such lost or unclaimed property is found. ('19, c. 396, § 1)

1613-2. Same—Sale of unclaimed property at public auction—Notice—Publication—Proceeds of sale—If any such lost, stolen or unclaimed property is not claimed by the owner or his agent within six months next after the finding of such property, such property may be sold at public auction by the said city by its agent or attorney, upon giving three weeks' published notice of the sale thereof, describing in such notice the property found or recovered and to be sold and specifying the time and place of the sale thereof. Such notice shall be published once each week for three successive weeks in a legal newspaper published in the city in which the lost, stolen or unclaimed property has been

found or recovered. The proceeds of such sale shall be applied in payment of the expenses of the sale and all necessary costs and charges incurred in relation to such property. The person making such sale shall forthwith pay or cause to be paid the balance of the proceeds of the sale into the treasury of the city in which such sale is made, and at the same time deliver to the city treasurer to whom such balance is paid a statement containing a description of the lost or unclaimed property sold, the gross amount for which sold and the amount of costs, charges and expenses paid to each person. If the owner of the property so sold or his legal representatives shall at any time within five years after such money is deposited in the treasury of the city as herein provided furnish satisfactory evidence of his ownership thereof to the treasurer of the city in the treasury of which such money is deposited, the treasurer shall pay to him the amount so deposited. If such money is not claimed within the time aforesaid, the same shall belong to the city wherein the same is deposited and shall be credited to the general revenue or the current expense fund of such city. ('19, c. 396, § 2)

1614. Height of buildings in cities regulated—That for the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, any city in the State of Minnesota now or hereafter having 50,000 inhabitants or over, acting by and through the governing body of such city, may by ordinance regulate the location, size and use of buildings, the height of buildings, the arrangement of buildings on lots, and the density of population therein, may make different regulations for different districts thereof, and may acquire or prepare and adopt a comprehensive city plan for such city or any portion thereof for the future physical development and improvement of the city, in accordance with the regulations made as aforesaid, and may thereafter alter said regulations or plan, such alterations, however, to be made only after there shall be filed in the office of the City Clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the real estate affected, and after the affirmative vote in favor thereof a majority of the members of the governing body of such city; provided, however, that notwithstanding any resolution, ordinance or law conflicting herewith, the governing body of any such city, by an affirmative two-thirds vote in favor thereof, may by resolution grant a permit for the construction of additions, extensions or improvements to any hospital which is being actually operated and maintained on the premises which it occupies on the date of the passage of this act. ('21, c. 217, § 1; amended '23, c. 364, § 1; '25, c. 284, § 1)

The making of an opening 10 feet square through the wall of a public garage, not indicated on the plans filed with the inspector of buildings upon which the building permit was issued is a change in a structural part of the building, and therefore prohibited by section 15 of the Building Ordinance of Minneapolis, unless the written consent of the inspector of buildings is first obtained. 157-446, 196+648.

1615. May pass ordinances for enforcement—The governing body of any such city is hereby authorized to pass ordinances for the enforcement of the provisions of this act and of the regulations of such governing body under this act, and to provide, in and by such ordinances, penalties for violation thereof. Such governing body is also hereby authorized to enforce its regulations under this act by mandamus, injunction or any other appropriate remedy in any court having jurisdiction thereof. ('21 c. 217 § 2)

1616. In addition to existing powers—In any such city having a city planning commission, the provisions of this act shall be construed as an addition to existing powers and not as an amendment to or repeal thereof, and the governing body may adopt a plan or plans prepared by such city planning commission. ('21 c. 217 § 3)

1617. Not to apply to certain cities—This act shall also apply to any city of the first class in the state operating under a home rule charter adopted pursuant to Section 36, Article 4, of the state constitution. ('21 c. 217 § 4)

1618. Restricted residence districts—Any city of the first class may, through its council, upon petition of fifty (50) per cent of the owners of the real estate in the district sought to be affected, by resolution, designate and establish by proceedings hereunder restricted residence districts and in and by such resolution and proceedings prohibit the erection, alteration or repair of any building or structure for any one or more of the purposes hereinafter named, and thereafter no building or other structure shall be erected, altered or repaired for any of the purposes, prohibited by such resolution and proceedings, which may prohibit the following, to-wit: hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and laundering establishments, billboards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called, schools, churches, or signs advertising for rent or sale the property only on which they are placed.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder.

The term "Council" in this act shall mean the chief governing body of the city by whatever name called.

Any district or any portion thereof created under the provisions of this act may be vacated and the restrictions thereon removed by the council upon petition of 50 per cent of the owners of the real estate in the original district sought to be vacated in the same manner herein provided for the creation of any such district, and in the vacation of any such district or any portion thereof and the removal of such restrictions each and all of the provisions of this act as to allowance of damages and benefits to property affected and as to the appointment of commissioners to appraise such damages and benefits and the duties of such commissioners of the city clerk and of each and all of the other officers upon whom duties are herein imposed shall be complied with, and when such proceedings for the vacation of any such district or portion thereof shall have been completed the property included within such district or portion thereof so vacated shall be deemed relieved of each and all of the restrictions imposed in the proceeding creating such district. ('15, c. 128, § 1; amended '23, c. 133, § 1; '25, c. 122, § 1)

(190-180).
See, also, §§ 1569, 1571 to 1573, herein.
The zoning ordinance of Minneapolis, excluding a four-family flat building from a restricted residence district, is constitutional. 164-146, 204+569.
A vendee in possession under a contract for deed cannot rescind and recover what he has paid thereon because of the existence of an easement which restricts the use

1614-1615
171m 231
213nw 907
29 - 340
222nw 639
9917
1614
35 Fed.
(2d Ed.)
657
1614-1618
31 - 163
176m 151
233nw 831

1618
29 - 389
1618-20
31 - 290

of the property involved, acquired by condemnation proceedings subsequent to the making of the contract. 167-453, 209+323.

1619. Council given power of eminent domain—The council shall first designate the restricted residence district, and shall have power to acquire by eminent domain the right to exercise the powers granted by this act by proceedings hereinafter defined, and when such proceedings shall have been completed the right to exercise such powers shall be vested in the city. ('15 c. 128 § 2)

1620. Appraisal of damage—The council shall appoint five appraisers who shall be disinterested qualified voters of the city, and none of whom shall be a resident of the ward or wards in which any part of the district so designated is situate, to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted.

Said appraisers shall be notified as soon as practicable by the city clerk, as the case may be, to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the council.

Second. The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the council.

Third. The appraisers shall give notice, by publication in the official newspaper of the city, once a week for two consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the council, and give notice that a plat of the same has been filed in the office of the city clerk, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted, and to assess benefits in the manner hereinafter specified.

Fourth. The city clerk shall, after the first publication of such notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person in whose name each tract or parcel of said land is then assessed, a copy of said notice by depositing the same in the postoffice of said city, with postage prepaid, directed to such person at his place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein.

After the first publication of said notice, and at least six days (Sunday excluded) prior to the meeting specified in said notice, a copy of the same shall also be served upon the person in possession of each of said tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them.

Fifth. At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and may hear the evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which each piece or parcel of land in the district is a part. They shall also determine the amount of benefits, if any, to each such piece or parcel of land. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the costs of the proceedings, including printers' fees, appraisers' fees, cost of serving notices and other expenses, shall be added to the amount to be assessed. The total assessments for benefits, however, shall not be greater than the aggregate net award of damages, including the costs of the proceedings as above provided; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any. (Amended '19 c. 297)

151-115, 186+292.

Sixth. If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them separately by the appraisers. Provided, that neither such award of the appraisers, nor the confirmation thereof by the council shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such person or persons are not entitled to receive the same.

Seventh. The said appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them and also a statement of the costs of the proceedings.

Eighth. Upon such report being filed, the city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the council at a meeting thereof to be named in the notice, which notice shall be published in the official newspaper of said city, once a week for two consecutive weeks, and the last publication shall be at least 10 days before such meeting. The council upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that said council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisal and assessment is annulled, the council may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisal, and upon the coming in of their report, the council shall proceed in a like manner and with the same powers as in the case of the first appraisal.

Ninth. If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for

the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the parties entitled thereto, within six months after the confirmation of the appraisal and award. But in case any appeal or appeals shall be taken from the order confirming said appraisal and assessment, as hereinafter provided, then the time for payment of said awards shall be extended until and including sixty days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessments upon appeal, the council may, by resolution duly adopted, at any time within sixty days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six percent per annum from the time of the filing of the original appraisers' report and all subsequent awards and awards upon appeal shall be made as of the day and date of filing of such original reports.

Tenth. Upon the conclusion of the proceedings and the payment of the awards, the several tracts of lands shall be deemed to be taken and appropriated for the purpose of this act, and the right above specified shall vest absolutely in the city in which the lands are situate. In case the council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the council shall, and in any and every case, the council may in its discretion deposit the amount of damages with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

Eleventh. Any owner of land within said district who deems that there is any irregularity in the proceedings of said council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded, to him or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the council, file with the city clerk, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the said council shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the council to the district court of the county where such land is situate, within twenty days after such order. Such appeals shall be made by serving a written notice of appeal upon the city clerk which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, thereupon said city clerk, at the expense of the appellant, shall make

out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the council and of the order of the council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by said city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the city clerk in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises.

Twelfth. The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be included in said district or damaged or assessed, and described in said written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested qualified voters, appraisers to re-appraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in this chapter made for the government of appraisers appointed by said council. They shall, after the hearing and view of the premises, make a report to said court of their award of damages and assessment of benefits in respect to the property of such appellant. The award shall be final unless set aside by the court. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings. ('15 c. 128 § 3; amendments indicated)

Thirteenth. The city council, for the purpose of realizing the funds for making such improvements and paying such damages and the costs of such proceeding may issue and sell special certificates of indebtedness, or special restricted residence district bonds, as it may decide, which shall entitle the holder thereof to all sums realized upon any such assessment, or if

deemed advisable, a series of two or more certificates or bonds against any one assessment, the principal and interest being payable at fixed dates out of the fund collected from such assessments, including interest and penalties, and the whole of such fund is hereby pledged for the pro rata payment of such certificates or bonds and the interest thereon, as they severally become due. Such certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed as hereinafter provided and for the time specified in section 4. If the city, because of any such guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of such guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates of bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed five per cent per annum, payable annually or semi-annually. The city clerk shall certify to the county auditor the rate of interest to be determined, and interest shall be computed upon the assessments at such annual rate, in accordance with the terms of section 4. ('15, c. 128, § 3; amended '19, c. 297; '25, c. 122, § 2, by addition of par. 13)

Explanatory note—Par. 13 added to section by Laws 1925, c. 122, § 2

For section 4 see § 1621. herein.

1621. Same—Maps, plats and lists of districts made and filed—Assessment, etc., of taxes on property in—As soon as such condemnation proceedings have been completed, it shall be the duty of such council to cause maps or plats of such restricted residence district to be made, with a list of the parcels of land within such district, and to file one of such maps and list duly certified by the president of the council and the city clerk, in each of the following offices, to-wit, the office of the city engineer, the office of the register of deeds of the county and the office of the city clerk, and the same shall be prima facie evidence of the full and complete condemnation and establishment of said restricted residence district. As soon as the assessments are confirmed, the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the county auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county and city taxes, against the several tracts or parcels of land, and said assessments shall be collected with and as a part of, and shall be subject to the same penalties, costs and interest, as the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed "Restricted Residence District Assessments," and when collected a separate account thereof shall be kept by the county auditor, and the same shall be transmitted to the treasurer of the city and placed to the credit of the proper fund. Provided, however, that the city council may by resolution determine that the amount of such assessments shall be collected in from one to five equal annual installments, and in such case the county auditor shall include one of said equal annual installments of assessments with and as a part of the taxes upon each parcel of land therein described for each year for the number of years into which said

assessment is by the city council divided, together with annual interest as hereinafter provided. With the first installment the auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first installment are delivered by the county auditor to the county treasurer, and thereafter the auditor shall include in the taxes for each year one of such installments, together with one year's interest upon such installment, and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest, penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs. Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called Restricted Residence District assessments of the city of _____ and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments shall be sufficiently identified by the name and number as aforesaid. ('15, c. 128, § 4; amended '25, c. 122, § 3)

1622. Power to enact ordinances for enforcement of rights given to council—The council shall have the power to enact ordinances for the enforcement of the rights which shall be acquired under this act, and to fix penalties for their violation, including a fine not exceeding one hundred dollars (\$100) or confinement in the city workhouse not exceeding ninety (90) days. Violations of the ordinances may be prosecuted in the municipal court of the city. ('15 c. 128 § 5)

1623.—Buildings declared a nuisance—Any building or structure erected, altered, repaired or used in violation of this act or any ordinance passed under it, shall be deemed a nuisance and may be abated at the suit of the city in a civil action. The city may maintain actions for injunction to prevent violation of the act and of the ordinances passed in pursuance hereof. Owners of land and others interested in land within the district may also maintain similar actions of abatement and for injunction. ('15 c. 128 § 6)

1624. Application—This act shall also apply to cities existing under a charter framed pursuant to Section 36, Article IV of the Constitution of the State of Minnesota. ('15 c. 128 § 7)

1625. Sale of bonds below par—Cities may sell bonds below par in certain cases—Each city of this state now or hereafter having over fifty thousand inhabitants, in addition to all other powers and authorities possessed by the city, is hereby authorized and shall have power and authority, acting by and through its city council, or other chief governing body of the city, to sell to the highest responsible bidder or bidders therefor for cash, for the par value thereof or for less than the par value thereof, any special certificates of indebtedness or any special street or parkway improvement bonds which the city is or shall be authorized by its charter or by any law of this state to issue and sell for the purpose of realizing funds for the acquisition of lands for and improvement of public streets, parks or parkways in the city, or for the purpose of improving existing public streets, parks, or parkways in the city, notwithstanding any provision of the charter of the city or any provision of any law of this state providing for the sale of any such certificates of indebtedness or special street or parkway bonds at not less than their par value. Such special certificates of indebtedness and special bonds may be made to bear interest not to exceed 5 per cent per annum, payable annually or semi-annually, such rate of interest to be fixed and determined by the city council or chief governing body of the city issuing the same, and such certificates of indebtedness and special bonds shall be sold only at public sale or by sealed proposals upon giving at least two weeks' published notice of any such sale. ('21 c. 226 § 1)

1626. Application—This act shall apply to all cities of the first class, including cities of over 50,000 inhabitants existing and governed under a charter framed and adopted under section 36, article 4, of the state constitution. ('21 c. 226 § 2)

1626-1. Municipal flying fields—Acquisition and establishment—Cities authorized—Each city of the first class of this state now or hereafter having a population of 50,000 inhabitants or more, including each such city now or hereafter operating under a Home Rule Charter adopted under and pursuant to Section 36, Article 4, of the State Constitution acting through its City Council or Chief Governing Body thereof by whatever name known, or Board of Park Commissioners, is hereby authorized and empowered to acquire from time to time, by purchase, gift, condemnation or otherwise, all land necessary or convenient for the purpose of establishing and maintaining a Municipal Flying Field. Each such city shall have the power to acquire as aforesaid such a flying field whether the land so to be used and designated for that purpose be within or without the city limits of said city. ('27, c. 62, § 1)

1626-2. Same—Condemnation of land for—In the event, however, that said Council, Chief Governing Body or Board of Park Commissioners shall deem it advisable to acquire said land by condemnation, said Council, Chief Governing Body or Board of Park Commissioners shall be authorized to acquire said land by condemnation, said Council, Chief Governing Body or Board of Park Commissioners, shall be authorized to acquire said land by the procedure authorized by the Statutes of the State of Minnesota, or by any provision of the City Charter of said City, providing for the condemnation of land. ('27, c. 62, § 2)

1626-3. Same—Jurisdiction and authority over—Regulations for use of—Airplane defined—After said land has been acquired for said purpose, the said City Council, Chief Governing Body, or Board of Park Commissioners, having jurisdiction of the same, shall have power and authority to expend the necessary money for the purpose of properly and adequately equipping said field for use by airplanes and for the purposes hereinafter set out. That said Council, Chief Governing Body or Board of Park Commissioners, as the case may be, shall have full and complete authority to govern said land so acquired, and to regulate by general ordinance the use of said field for the purpose of flying or for other purposes. Said Council, Chief Governing Body or Board of Park Commissioners, as the case may be, shall have power to lease such portions of said land so designated for a flying field to the United States Government for purposes of the air mail or for other public purposes, and to the State of Minnesota or any branch of the State Government for public purposes and also shall provide rules, regulations and ordinances providing for the proper use of said field by individuals, co-partnerships and corporations desiring to use the same as a public landing or starting place for airplanes whether used for pleasure, experiment or for commercial purposes. The word "airplane" when used herein shall include all mechanical appliances for navigating the air. ('27, c. 62, § 3)

1626-4. Same—Bond issues for—In order to carry out the purposes of this Act each city of the first class, in the event of the designation, purchase or acquisition of said flying field, shall be authorized to issue the necessary bonds, not in excess of \$150,000.00, for the payment of the same, in such form, amounts and bearing such interest as said Council, Governing Board or Board of Park Commissioners may determine. ('27, c. 62, § 4)

Explanatory note—For this act see §§ 1626-1 to 1626-7. herein.

1626-5. Same—Authority of Board of Park Commissioners—Not more than one field to be acquired—The Board of Park Commissioners of any such City shall have full power and authority to acquire, maintain, govern and provide the bonds necessary to purchase or otherwise acquire land necessary for a Municipal Flying Field upon the aforesaid conditions, provided, however, such city shall be entitled to purchase one flying field only under the terms of this Act, and provided that a city which has already acquired a flying field shall not be authorized to acquire an additional or new flying field under this Act. ('27, c. 62, § 5)

Explanatory note—For this act see §§ 1626-1 to 1626-7. herein.

1626-6. Same—Prior proceedings and bond issues validated—In all cases where a city of the class mentioned in this act has heretofore issued any bonds for the purpose of acquiring land and improving the same for a municipal flying field pursuant to an ordinance approved by the voters of such city, the proceedings heretofore taken in that regard are hereby in all respects validated and confirmed, any bonds already issued thereunder are validated and made legal obligations of such city, and such city is hereby authorized and empowered, pursuant to such proceedings, to issue further bonds for said purposes up to the limit fixed in such approved ordinance, which bonds when issued, shall be legal obligations of said city according to their terms. ('27, c. 62, § 6)

Explanatory note—For this act see §§ 1626-1 to 1626-7. herein.

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1626-7. Same—Bond issues for—Procedure—Any bonds to be issued by any city under or pursuant to this Act shall be authorized and issued in the manner prescribed by the Charter of such city for the issuance and authorization of the issuance of bonds thereof. ('27, c. 62, § 7)

Explanatory note—For this act see § 1626-1 to 1626-7, herein.

1627. Operation of flying machines—No person shall hereafter operate or cause to be operated any heavier than air flying machine or any aircraft of any kind or description over any city of the first class within this state except as hereinafter provided. ('21 c. 433 § 1)

1628. Altitude—It shall be unlawful to operate or cause to be operated any aircraft at a lower altitude than two thousand feet above any such city and all exhibition flights over any such city which include trick flying or aerial acrobatics are hereby prohibited. ('21 c. 433 § 2)

1629. Location of landing field—No landing field for aircraft shall be established within one thousand feet of any public school or other educational institution wherein pupils under the age of sixteen years are enrolled, provided, however, that this act shall not apply to any property which is now being utilized for the purpose of a flying field. ('21 c. 433 § 3)

1630. Violations—Penalties—Any violation of this act shall be a misdemeanor and shall be punishable by a fine of not to exceed one hundred dollars or imprisonment in the county jail for a period not to exceed sixty days or by both. ('21 c. 433 § 4)

157-200, 195+919, note under Const., Art. 4, § 33.

It was within the power of the electors of the city of Minneapolis to withdraw the city from the operation of chapter 338, Sp. Laws 1879, by the adoption of a home rule charter. Taxation for municipal purposes is purely a matter of municipal concern, and may be dealt with in a home rule charter. 157-222, 195+918.

Chapter 338, Sp. Laws 1879, creating a board of tax levy for Hennepin county, is not an indivisible act. The Legislature could repeal it in part, and did so by enacting chapter 252, Gen. Laws 1919. 157-200, 195+919.

The validity of an ordinance requiring a permit from the city council to carry on an occupation liable to become a nuisance in certain localities in a city, sustained under the decisions in *State v. Dirnberger*, 152 Minn. 44, 187 N. W. 972; *State v. Amor & Co.* (Minn.) 190 N. W. 59; *Meyers v. Minneapolis* (Minn.) 191 N. W. 609; and *Fisher v. St. Louis* 194 U. S. 361, 24 Sup. Ct. 673, 48 L. Ed. 1018. 157-276, 195+926.

1630-1. Cemeteries—Conveyance and transfer to cities—Prior to January 1, 1929, it shall be lawful, and the owners, proprietors and or persons in charge and control of any cemetery heretofore established and existing under the laws of this State, shall have the right to sell, transfer and convey by proper deed or conveyance, any such cemetery, and all rights, interests and estates of the owners, proprietors and persons in control thereof and therein to any such city of this state in which such cemetery is located, subject to the existing rights, interests and estates of the several private lot owners therein; and thereupon any such city to which such cemetery has been transferred, shall proceed to possess and enjoy all the rights, interests and estate of such owners, proprietors and persons in control of any such cemetery, and shall have full power and authority to maintain, control, improve and operate for cemetery purposes, any such cemetery so transferred and conveyed as fully and to the same extent and purpose as if such city had originally established, owned and controlled such cemetery. ('27, c. 95, § 1)

Explanatory note—Laws 1925, c. 332, authorizing cities of the first class to condemn public or private cemeteries of 30 acres or less, which had been abandoned as burial places for five years or more, or in which burial had been prohibited by ordinance for five years or more, and which had or might become detrimental to the public welfare, was repealed by Laws 1927, c. 113.

1630-2. Same—Cities to which conveyance may be made—This Act shall apply to all cities of the first class including those organized and operating under a home rule charter adopted under the provisions of Section 36, Article 4 of the State Constitution and the State laws relating thereto. ('27, c. 95, § 2)

HOUSING ACT FOR CITIES OF FIRST CLASS NOT UNDER HOME RULE CHARTERS.

This act has been made a part of the home rule charters of certain first class cities, particularly Minneapolis.

ARTICLE I.

GENERAL PROVISIONS.

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1630-3. Citation of law—Cities to which law applies—This act shall be known and may be cited as The Housing Act for cities of the first class, and shall apply to every city of the first class of the state not organized under section 36 of article IV of the State Constitution. ('17, c. 137, § 1)

1630-4. Definitions—Certain words in this act are defined for the purpose thereof as follows. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as a natural person.

(1) **Dwelling—**A "dwelling" is any house or building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place of one or more human beings, either permanently or transiently.

(2) **Class of dwellings—**For the purpose of this act dwellings are divided into the following classes: (a) "private-dwellings," (b) "two-family-dwellings," and (c) "multiple-dwellings."

(a) A "private-dwelling" is a dwelling occupied by but one family alone.

(b) A "two-family-dwelling" is a dwelling occupied by but two families alone.

(c) A "multiple-dwelling" is a dwelling occupied otherwise than as a private-dwelling or two-family-dwelling.

(3) **Classes of multiple-dwellings—**All multiple-dwellings are dwellings and for the purpose of this act are divided into two classes, viz. Class A and Class B.

Class A. Multiple-dwellings of Class A are dwellings which are occupied more or less permanently for residence purposes by several families and in which the rooms are occupied in apartments, suites or groups. This class includes tenement houses, flats, apartment houses, apartment hotels, bachelor apartments, studio apartments, kitchenette apartments, and all other dwellings similarly occupied whether specifically enumerated herein or not.

Class B. Multiple-dwellings of Class B are dwellings which are occupied, as a rule transiently, as the more or less temporary abiding place of individuals who are lodged, with or without meals, and in which as a rule the rooms are occupied singly. This class includes hotels, lodging houses, boarding houses, furnished-room houses, lodgings, club houses, convents, asylums, hospitals, jails, and all other dwellings sim-

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ilarly occupied whether specifically enumerated herein or not, except fire houses.

(4) **Hotel**—A "hotel" is a multiple-dwelling of Class B in which persons are lodged for hire and in which there are more than fifty sleeping rooms, a public dining room for the accommodation of at least fifty guests, and a general kitchen. Provided that no facilities for cooking shall be provided in connection with any suite or guest room in such hotel. No electrical wiring or equipment of any kind shall be installed or used in any guest room for cooking purposes. Provided, however, that receptacles of a capacity not to exceed ten (10) amperes may be installed and used for other than cooking appliances. Whenever any equipment for cooking is to be installed or used in multiple-dwelling in connection with rooms to be occupied by the tenants or guests of such dwelling, such multiple-dwelling shall be classed, constructed and maintained as herein required for class A multiple-dwelling.

(5) **Mixed occupancy**—In cases of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purposes of this act, and shall comply with the provisions thereof relative to multiple-dwellings.

(6) **Yards**—A "rear yard" is an open unoccupied space on the same lot with a dwelling, between the extreme rear line of the lot and extreme rear line of the house, or between the extreme front line of a building on the rear of the lot and the extreme rear line of the house. A yard between the front line of the house and the front line of the lot is a "front yard." A yard between the side line of the house and the side line of the lot and which extends from the front line of the lot or front yard to the rear line of the lot or rear yard is a "side yard."

(7) **Courts**—A "court" is an open unoccupied space, other than a yard, on the same lot with a dwelling. A court not extending to the street or front or rear yard is an "inner court." A court extending to the street or front or rear yard is an "outer court."

(8) **Corner and interior lots**—A "corner lot" is a lot of which at least two adjacent sides abut for their full length upon a street. A lot other than a corner lot is an "interior lot."

(9) **Front; rear and depth of lot**—The front of a lot is that boundary line which borders on the street. In the case of a corner lot the owner may elect by statement on his plans either street boundary line as the front. The rear of a lot is the side opposite to the front. In the case of a triangular or gore lot the rear is the boundary line not bordering on a street. The depth of a lot is the dimension measured from the front of the lot to the extreme rear line of the lot. In the case of irregular-shaped lots the mean depth shall be taken.

(10) **Public hall**—A "public hall" is a hall, corridor or passageway not within the exclusive control of one family.

(11) **Stair hall**—A "stair hall" is a public hall and includes the stairs, stair landings and those portions of the building through which it is necessary to pass in going between the entrance floor and the roof.

(12) **Basement; cellar, attic**—(a) A "basement" is a story partly under-ground but having at least one-half of its height above the curb level, and also one-half of its height above the highest level of the adjoining ground. A basement shall be counted as a story, except that a basement, the ceiling of which does not extend for more than five feet above the curb

level or above the highest level of the adjoining ground, shall not be counted as a story.

(b) A "cellar" is a story having more than one-half of its height below the curb level, or below the highest level of the adjoining ground. A cellar shall not be counted as a story for the purposes of height measurement. If any part of a story is in that part the equivalent of a basement or cellar, the provisions of this act relative to basements and cellars shall apply to such part of said story.

(c) In the case of private-dwellings and two-family-dwellings an attic or story in a sloping roof shall not be counted as a story, except that no such attic shall contain a kitchen or dining room or be occupied for living purposes as the domicile of a family; the use of such attic shall be confined strictly to the use of the two families occupying the first and second floors of such dwelling. In the case of multiple-dwellings an attic shall be counted as a story.

(13) **Height**—The "height" of a dwelling is the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the gable in the case of pitched roofs, the measurements in all cases to be taken through the center of the front of the dwelling. Where a dwelling is situated on a terrace above the curb level such height shall be measured from the level of the adjoining ground. Where a dwelling is on a corner lot and there is more than one grade or level, the measurements shall be taken through the center of the front on the street having the lowest elevation.

(14) **Curb level**—The "curb level" is the level of the established curb in front of the building measured at the center of such front. Where no curb level has been established the city engineer shall establish such curb level or its equivalent for the purposes of this act.

(15) **Occupied spaces**—Outside stairways, fire escapes, fire towers, porches, platforms, balconies, chimneys and other projections shall be considered as part of the dwelling and not as part of the yards or courts or unoccupied area. When a cornice projects more than two feet into a side yard or court, that portion in excess of two feet shall be considered as a part of the dwelling.

(16) **Fire-proof dwelling**—A "fire-proof dwelling" is one the walls of which are constructed of brick, stone, cement, iron or other hard incombustible material and in which there are no wooden beams or lintels and in which the floors, roofs, stair halls and public halls are built entirely of brick, stone, cement, iron or other hard incombustible material and in which no woodwork or other inflammable material is used in any of the partitions, furrings or ceilings. But this definition shall not be construed as prohibiting elsewhere than in the public halls the use of wooden flooring on top of fire-proof floors or the use of wooden sleepers, doors, windows or trim, nor as prohibiting wooden hand rails or treads of hard wood not less than one and one-half inches thick.

(17) **Wooden building**—A wooden building is a building of which the exterior walls or a portion thereof are of wood. Court walls are exterior walls.

(18) **Nuisance**—The word "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; whatever dwelling is overcrowded with occupants or is not provided with adequate ingress and egress to or from the same, or is not sufficiently supported, ventilated, seweraged, drained, cleaned or lighted, in reference to its intended

or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this act, nuisances; and all such nuisances are hereby declared illegal.

(19) **Construction of certain words**—The word "shall" is always mandatory and not directory, and denotes that the dwelling shall be maintained in all respects according to the mandate as long as it continues to be a dwelling. Wherever the words "charter," "ordinances," "regulations," "inspector of buildings," "department of health," "building department," "commissioner of health," "department charged with the enforcement of this act," "city attorney," "mayor," "city treasurer," "city council," "fire marshal," or "fire limits," occur in this act they shall be construed as if followed by the words "of the city in which the dwelling is situated." The terms "department of health" and "commissioner of health" as used in this act shall embrace the department and the executive head thereof charged with the duty of enforcing the laws and ordinances relating to public health and sanitation. The terms "building department" and "inspector of buildings" shall embrace the department and the executive head thereof charged with the execution of laws and ordinances relating to the construction of buildings. Wherever the word "occupied" or "used" is employed in this act such word shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted to, rented, leased, let or hired out, to be occupied or used." Wherever the words "dwelling," "two family-dwelling," "multiple-dwelling," "building," "house," "premises," or "lot," are used in this act, they shall be construed as if followed by the words, "or any part thereof." Wherever the word "street" is used in this act it shall be construed as including any public alley. "Approved" means approved by the inspector of buildings. All the provisions of this act relative to the size and the opening of windows shall apply equally to storm sash. ('17, c. 137, § 2; amended '19, c. 517, §§ 1, 2)

1630-5. Buildings converted or altered—A building not a dwelling if hereafter converted or altered to such use shall thereupon become subject to all the provisions of this act relative to dwellings hereafter erected. A dwelling of one class if hereafter altered or converted to another class shall thereupon become subject to all the provisions of this act relative to such class. ('17, c. 137, § 3)

1630-6. Alterations and change in occupancy—No dwelling hereafter erected shall at any time be altered so as to be in violation of any provision of this act, and no dwelling erected prior to the passage of this act shall at any time be altered so as to be in violation of those provisions of this act applicable to such dwelling. If any dwelling or any part thereof is occupied by more families than provided in this act, or is erected, altered or occupied contrary to law, such dwelling shall be deemed an unlawful structure, and the commissioner of health may cause such dwelling to be vacated. And such dwelling shall not again be occupied until it or its occupation, as the case may be, has been made to conform to the law. ('17, c. 137, § 4)

1630-7. Dwellings moved—If any dwelling be hereafter moved from one lot to another it shall thereupon be made to conform to all the provisions of this act relative to dwellings hereafter erected, except as to size and height of rooms and window area; provided, however, that no room in such dwelling shall be occupied for living purposes unless it shall have a window of an area of not less than eight square feet opening

directly upon the street or upon a yard or court of the dimensions specified in this act relative to dwellings hereafter erected. ('17, c. 137, § 5)

1630-8. Minimum requirements—Law not to be modified—The provisions of this act shall be held to be the minimum requirements adopted for the protection of the health, welfare and safety of the community. The local legislative body of each city is hereby empowered to enact from time to time supplementary ordinances imposing requirements higher than the minimum requirements laid down in this act, relative to light, ventilation, sanitation, fire prevention, egress, occupancy, maintenance and use, for all dwellings. And such local legislative body is hereby further empowered to prescribe for the enforcement of the aforesaid supplementary ordinances, remedies and penalties similar to those prescribed in this act. But no ordinance, regulation, ruling or decision of any municipal body, board, officer or authority shall repeal, amend, modify or dispense with any of the said minimum requirements laid down in this act. Wherever this act requires a greater width of size of yards or courts, or requires a lower height of building, or requires a greater percentage of lot to be left unoccupied, or imposes any other higher standard, than is required in any local ordinance or regulation, the provisions of this act shall govern. Wherever the provisions of any local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of building, or require a greater percentage of lot to be left unoccupied, or impose any other higher standard than is required in this act, such local ordinance or regulation shall govern. ('17, c. 137, § 6)

1630-9. Dwellings damaged—If a dwelling be damaged by fire or other cause to the extent of not more than two-thirds of its value, exclusive of the value of the foundations, such dwelling in being repaired or rebuilt need not comply with the provisions of this act relative to dwellings hereafter erected. If damaged to the extent of more than two-thirds of such value, it shall not be repaired or rebuilt except in conformity with the provisions of this act relative to dwellings hereafter erected. Where an estimate of damage to buildings is given by the inspector of buildings, an appeal to arbitration shall be allowed to parties believing themselves injured or wronged by the estimate or decision of the inspector of buildings in any such case, as follows:

Any person desiring to make such appeal shall do so within fifteen days after written notice of the decision or order of the inspector of buildings shall have been given him. The request for arbitration shall be in writing, and shall state the object of the proposed arbitration and the name of the person who is to represent the appellant as arbitrator. The inspector of buildings shall thereupon state to the appellant the cost of such arbitration, and such appellant shall within twenty-four hours from the time of filing the original request for arbitration, deposit with the inspector of buildings the sum of money required for defraying the expenses of the same, which sum shall in each case be fixed by said inspector in proportion to the difficulty and importance of the case, but shall in no case be more than the cost of similar expert service in the course of ordinary business of private individuals or corporations.

As soon as such sum of money shall have been deposited with him, the inspector of buildings shall appoint an arbitrator to represent the city, who shall, together with the arbitrator appointed by the appel-

lant, if they cannot agree, select a third arbitrator, and the decision of any two of these arbitrators in writing shall, after investigation of the matter in question, be final and binding upon the appellant as well as upon the city.

The arbitrators themselves, before entering upon the discharge of their duties, shall be placed under oath to the effect that they are unprejudiced as to the matter in question and that they will faithfully discharge the duties of their position. They shall have the power to call witnesses who shall be placed under oath, and their decision or award shall be rendered in writing, both to the inspector of the buildings and to the appellant.

The fee deposited by the appellant with the inspector of buildings shall be paid by the inspector of buildings to the arbitrators upon the rendering of their report, and shall be in full of all costs incident to the arbitration; but should the decision of said board of arbitration be rendered against the inspector of buildings, then the money deposited by the aforesaid appellant shall be returned to him, and the entire cost of such arbitration shall be paid by the city. Provided, however, that whenever the decision of the inspector of buildings upon the safety of any building or part thereof or appurtenances connected therewith is made in a case so urgent, in his opinion, that failure at once properly to carry out his orders to demolish or strengthen such building or part thereof or to alter or change any of the appurtenances connected therewith may endanger life or limb, the decision of the inspector of buildings shall be absolute and final. ('17, c. 137, § 7)

1630-10. Sewer connection and water supply—The provisions of this act with reference to sewer connections and water supply shall be deemed to apply only where there is a sewer and water main in the street on which the dwelling is located, and which extend as far as the lot or plot of ground on which the dwelling is situated.

Wherever there is no sewer in the street on which a dwelling is situated but there is a water main, the required plumbing for the dwelling shall be connected to a cesspool at least twenty feet in depth and four feet by four feet in size, provided that the nature of the soil is such, in the opinion of the inspector of buildings, that such cesspool can be made properly to take care of the sewage from said plumbing system. Wherever it is found by said inspector to be impracticable owing to the nature of the soil adjacent to said dwelling to construct such cesspool, a waterproof privy vault or other approved sanitary privy or similar device may be used temporarily for such dwelling until such time as a sewer is provided in the street adjacent to such dwelling. Whenever a sewer is so provided the owner of the dwelling shall at once install a plumbing system in the dwelling and connect to the sewer. Cesspools shall be placed not less than twenty feet from the building whenever practicable. ('17, c. 137, § 8)

1630-11. Time for compliance—All improvements specifically required by this act upon dwellings erected prior to the date of its passage shall be made within one year from said date, or at such earlier period as may be fixed by the commissioner of health. ('17, c. 137, § 9)

1630-12. Scope of act—All the provisions of this act shall apply to all classes of dwellings, except that in sections where specific reference is made to one or more specific classes of dwellings such provisions shall apply only to those specific classes to which such refer-

ence is made. All provisions which relate to dwellings shall apply to all classes of dwellings. ('17, c. 137, § 10)

ARTICLE II.

DWELLINGS HEREAFTER ERECTED

In this article will be found the provisions which must be observed when a person proposes to build a new dwelling or convert or alter to such purposes a building which is not a dwelling.

Title I.

Light and Ventilation.

1630-13. Percentage of lot occupied—No dwelling hereafter erected shall occupy, either alone or with other buildings, a greater percentage of the area of the lot than as follows:

- (a) In the case of corner lots with streets on three sides, not more than ninety per centum;
- (b) In the case of other corner lots, not more than eighty per centum;
- (c) In the case of interior lots, not more than sixty-five per centum.

The measurements shall be taken at the ground level except that in the case of multiple-dwellings where there are stores or shops on the entrance story, the measurements may be taken at the top of such entrance story. No measurements of lot area shall include any portion of any street. The measurements of lot area for the purposes of this section may be taken to the middle line of the alley where a public alley immediately abuts the lot at the rear or side and extends across its entire width or length, as the case may be. Any portion of a corner lot distant more than eighty feet from the outside side line of the lot, or from said side line extended in the same direction, shall be treated as an interior lot. The provisions of this section shall not apply to hotels. ('17, c. 137, § 20)

1630-14. Height of building—No dwelling hereafter erected shall exceed in height the width of the widest street upon which it abuts unless such dwelling be set back from the front lot line a distance equal to the excess of such height over the width of such street, nor in any case shall it exceed six stories and basement nor seventy-five feet in height. Such width of street shall be measured from front lot line. Where a street borders a public place, public park or navigable body of water, the width of the street is the mean width of such street plus the width, measured at right angles to the street line, of such public place, public park or body of water to opposite front lot line. No dwelling shall hereafter be erected upon any street or alley less than thirty feet in width. The provisions of this section shall not apply to hotels. ('17, c. 137, § 21; amended '19, c. 517, § 3)

1630-15. Rear yards—Immediately behind every dwelling hereafter erected there shall be a rear yard extending across the entire width of the lot. Such yard shall be at every point open and unobstructed from the ground to the sky, except as provided in section twenty-three of this act. Every part of such yard shall be directly accessible from every other part thereof. The depth of said yard shall be measured at right angles from the extreme rear part of the dwelling.

(a) To the middle line of the alley, where a public alley immediately abuts the lot and extends across its entire width;

(b) to the rear lot line where there is no such alley;

(c) to the nearest wall of the building where there is another building at the rear as permitted in section twenty-eight of this act.

The minimum depth of a yard in the rear of a two-story dwelling shall be twenty feet, of a three-story dwelling twenty-two and one-half feet, of a four-story dwelling twenty-six and one-half feet, of a five-story dwelling twenty-nine and one-half feet, of a six-story dwelling thirty-one and one-half feet. No yard in the rear of a multiple-dwelling shall ever be less than twenty feet in depth. No yard in the rear of a one-story private-dwelling or a one-story two-family-dwelling shall ever be less than fifteen feet in depth. Provided that when a private-dwelling or a two-family dwelling is located on the rear of a corner lot not less than fifty feet in width, and such dwelling faces upon the side street, the rear yard for such dwelling may be not less than five feet in depth. A front yard may be any depth. Any portion of a corner lot distant more than eighty feet from the outside line of the lot, or from said side line extended in the same direction, shall be treated as an interior lot. This section shall not apply to hotels. ('17, c. 137, § 22; amended '19, c. 517, § 4)

1630-16. Side yards—Distance between adjoining buildings—In order to ensure adequate light and ventilation and reduce the conflagration hazard and preserve the amenities of residential districts, no dwelling hereafter erected shall approach nearer to a side lot line than as prescribed in this section. The space between any such dwelling and the side lot line shall be deemed a side yard and shall be as follows:

(a) In the case of a dwelling hereafter erected one story in height such space shall not be less than four feet from the side wall of said dwelling to the side lot line.

(b) In the case of a dwelling hereafter erected two stories in height such space shall not be less than five feet to the side lot line; if said dwelling is three stories in height, such space shall be not less than seven feet to the side lot line; and such space shall increase two feet in width for each additional story.

(c) In the case of private-dwellings and of two-family-dwellings hereafter erected, such space shall be not less than three feet from the side wall of the dwelling to the side lot line. Provided, however, that in no case shall the combined width of side yards for any such dwelling be less than double the width as prescribed in sub-division (a) and (b) of this section for a building of like height.

(d) All of the above-mentioned side yards shall be at every point open and unobstructed from the ground to the sky, except as provided in sub-division fifteen of section two of this act. Provided, however, that in the case of multiple-dwellings where the entrance story is used exclusively for business purposes the measurements may be taken at the top of such entrance story.

The width of said side yard may be measured to the middle line of the street or public alley, where a street or public alley immediately abuts the lot and extends along its entire length. The above requirements for side yards shall not apply to hotels hereafter erected outside of residential districts. If, however, side yards are left for such hotels, they shall conform to the requirements of this section.

(e) Except that in the case of a single or two-family-dwelling a portion of the yard not exceeding five hundred square feet in area may be occupied by a one-story private garage, provided that the part of the garage nearest to the dwelling shall be not less than

twelve feet from any part of such dwelling and except in cases where no portion of such garage is above the bottom of the windows of the lowest story used for living purposes.

(f) Wherever a building is so constructed that one side of it, at any story, is to be used for dwelling purposes, and the adjoining side is to be used other than for a dwelling, such adjoining side need not at such story be provided with a side yard, nor the rear of such adjoining part with a rear yard.

(g) No dwelling shall be erected on a gore lot which requires side yards whose combined width exceeds the front width of the lot. ('17, c. 137, § 23; amended '19, c. 517, § 5)

Explanatory note—For section 2 see § 1630-4, herein.

1630-17. Courts—The sizes of all courts for dwellings hereafter erected shall be proportionate to the height of the dwelling. No court shall be less in any part than the minimum sizes prescribed in this section. The minimum width of a one-story court for a dwelling shall be ten feet, of a two-story court twelve feet, and of a three-story court fourteen feet, and shall increase two feet for each additional story above three stories. Except that in the case of hotels such increase shall be one foot for each additional story above three stories. The area of an inner court shall never be less than twice the square of the minimum width prescribed by this section. The length of an outer court except in the case of a side yard, shall never be greater than four times its width. The width of all courts adjoining the lot line shall be measured to the lot line and not to an opposite building. ('17, c. 37, § 24)

1630-18. Courts open at top—No court of a dwelling hereafter erected shall be covered by a roof or skylight. Every such court shall be at every point open and unobstructed from the ground to the sky. Except that in the case of multiple-dwellings where there are stores or shops on the entrance story, the courts may start at the top of such entrance story and such courts may be roofed over by a skylight provided the skylight completely covers the court and is equipped with ventilators having a minimum opening equivalent to forty-four square inches for each story in the height of said court and also with fixed louvres having a minimum opening equal to the superficial area of said court, and such openings into said court shall be kept open and unobstructed at all times. The provisions of this section as to courts starting from the ground shall not apply to hotels. ('17, c. 137, § 25)

1630-19. Air-intakes—In all dwellings hereafter erected every inner court shall be provided with one or more horizontal air-intakes at the bottom. One such air-intake shall always communicate directly with the street or front yard or rear yard, and each shall consist of a passage-way not less than three feet wide and seven feet high which shall be kept open, or be provided with an open-work gate at either end and such gate shall be so constructed as to be readily opened from the inside. ('17, c. 137, § 26)

1630-20. Angles in courts—Nothing contained in the foregoing sections concerning courts shall be construed as preventing the cutting off of the corners of said courts, provided that the running length of the wall across the angle of such corner does not exceed seven feet. ('17, c. 137, § 27)

1630-21. Buildings on same lot with a dwelling—If any building is hereafter placed upon the same lot with a dwelling there shall always be maintained between the said buildings an open unoccupied space extending upward from the ground. If such buildings

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are placed at the side of each other the space between them shall conform to the provisions of section twenty-three of this act relating to side yards but such space shall be twice the minimum required in subdivision (a) and (b) of said section. If such buildings are placed one at the rear of the other the space between them shall be the same as that prescribed in section twenty-two for rear yards. In all cases the height of the highest building on the lot shall regulate the dimensions. No building of any kind shall be hereafter placed upon the same lot with a dwelling so as to decrease the minimum sizes of courts or yards as hereinbefore prescribed. No building shall hereafter be placed upon a lot so that there shall be a dwelling at the rear of another building on the same lot. Except that a private garage or private stable may be built at the rear of a lot on which there is a dwelling at the front. Such garage or stable shall not exceed two stories in height, and may have living rooms therein for the use solely of a household employe, or member of his family, of the occupant of the dwelling on the front of the lot. If so completed the garage or stable shall be fire-proof and the rooms so occupied in addition to complying with the provisions of this act shall have an entrance from the outside of the building without passing through the garage or stable. If any dwelling is hereafter erected upon any lot upon which there is already another building, it shall comply with the provisions of this act, and in addition the space between the said building and the said dwelling shall be of such size and arranged in such manner as is prescribed in this section, the height of the highest building on the lot to regulate the dimensions. ('17, c. 137, § 28)

Explanatory note—For sections 22 and 23 see §§ 1630-15, 1630-16, herein.

1630-22. Rooms—Lighting and ventilation of—In every dwelling hereafter erected every room shall have at least one window opening directly upon the street, or upon a yard or court of the dimensions specified in this article and located on the same lot, and such window shall be so located as properly to light all portions of such room. This provision shall not, however, apply to rooms used as art galleries, swimming pools, gymnasiums, squash courts, or for similar purposes, provided such rooms are adequately lighted and ventilated. In multiple-dwellings of Class A hereafter erected there shall be no apartment, suite or group of rooms which does not contain at least one room opening directly upon the street, or upon a rear yard, side yard or outer court of the dimensions specified in this article and located on the same lot. Except that in hotels the provisions of this section shall apply only to rooms used for sleeping purposes. ('17, c. 137, § 29)

1630-23. Window area of rooms—In every dwelling hereafter erected the total window area in each room shall be at least one-eighth of the superficial floor area of the room and the whole window shall be made so as to open in all its parts. At least one such window shall be not less than eight square feet in area between stop beads. In multiple-dwellings the top of at least one window shall be not less than seven feet above the floor. Provided, however, that where an open porch adjoins a room, one-half of the windows opening upon such porch may be considered as part of the total window area required for such room. ('17, c. 137, § 30; amended '19, c. 517, § 6)

1630-24. Rooms—Size of—In every dwelling hereafter erected all rooms, except water-closet compartments and bath-rooms, shall be of the following minimum sizes:

(a) In multiple-dwellings of Class B every room shall contain at least seventy square feet of floor area.

(b) In two-family-dwellings and in multiple-dwellings of Class A every room shall contain at least one hundred square feet of floor area.

No room shall be in any part less than seven feet wide. The foregoing provisions shall not apply to one kitchenette in each apartment, suite or group of rooms in multiple-dwellings of Class A, provided such kitchenette contains not less than thirty-six square feet of floor area and is provided with a window as required by sections twenty-nine and thirty of this act, but such window need not contain more than six square feet of glass area between stop beads; nor to one sun-parlor or sleeping-porch in each apartment, group or suite containing more than three rooms, provided such sun-parlor or sleeping-porch contains not less than eighty square feet of floor area, is provided on two sides with a window opening as required by sections twenty-nine and thirty of this act and has a total window area between stop-beads of not less than one-half of the floor area of such sun-parlor or sleeping-porch.

In every private-dwelling hereafter erected there shall be at least one room containing not less than one hundred and twenty square feet of floor area. In every two-family-dwelling and in every multiple-dwelling of Class A hereafter erected, in each apartment, suite or group of rooms there shall be at least one room containing not less than one hundred and fifty square feet of floor area. ('17, c. 137, § 31)

1630-25. Height of rooms—No room in a dwelling hereafter erected shall be in any part less than the following heights, from the finished floor to the finished ceiling:

(a) In private-dwellings and two-family-dwellings eight feet high throughout seventy-five per centum of the area of the room. Provided that if at least seventy square feet of the room is eight feet in height, the remainder of the room may be any height.

(b) In multiple-dwellings eight feet six inches high throughout the entire area of the room. Except that an attic room in a private dwelling or two-family dwelling need be seven feet six inches in height in but one-half of its area, provided there are not less than seven hundred and fifty cubic feet of air space within said room. In a private-dwelling one and one-half or two stories in height there may be not more than one such room in the second story. ('17, c. 137, § 32; amended '19, c. 517, § 7)

1630-26. Alcoves and alcove rooms—In a dwelling hereafter erected an alcove in any room shall be separately lighted and ventilated as provided for rooms in the foregoing sections. Such alcove shall not contain a floor area less than is required for rooms in section 31 of this act. No part of any room in a dwelling hereafter erected shall be enclosed or subdivided at any time, wholly or in part, by a curtain, portiere, fixed or movable partition or other contrivance or device, unless such part of the room so enclosed or subdivided shall contain a separate window as herein required and shall have a floor area not less than that required in section 31 of this act. ('17, c. 137, § 33)

Explanatory note—For section 31 see § 1630-24, herein.

1630-27. Access to rooms and water closets—In every dwelling hereafter erected, access to every living room and to every bedroom and to at least one water-closet compartment shall be had without passing through a bedroom. ('17, c. 137, § 34)

1630-28. Water-closets and bath-rooms—Lighting and ventilation—In every dwelling hereafter erected

every water-closet compartment and bath-room shall have at least one window opening directly upon the street, or upon a yard or court of the dimensions specified in this article and located on the same lot. In all dwellings hereafter erected the aggregate area of windows for each water-closet compartment shall be not less than six square feet between stop beads, and in multiple-dwellings hereafter erected one at least of such windows shall be not less in size than three square feet between stop beads. Such windows shall be so located as properly to light all portions of such compartment. The foregoing provisions of this section shall not apply to any water-closet compartment or bath-room in a hotel which is equipped with a proper mechanical ventilating system so installed as to provide four complete changes of air per hour in each such compartment and bath-room. Such ventilating system shall be maintained in constant operation. Every such window shall be made so as to open in all its parts. Nothing in this section contained shall be construed so as to prohibit a general toilet room containing several water-closet compartments separated from each other by dwarf partitions, provided such toilet room is adequately lighted and ventilated to the outer air as above provided, and that such water-closets are supplemental to the water-closet accommodations required by the provisions of section 50 of this act. In hotels hereafter erected in the case of water-closets located on the top floor or at the bottom of a court, a ventilating skylight opening to the sky may be used in lieu of the windows required by this section. ('17, c. 137, § 35)

Explanatory note—For sections 50 see § 1630-38, herein.

1630-29. Windows in public halls—In every two-family-dwelling and multiple-dwelling hereafter erected every public hall shall have at each story at least one window opening directly upon the street or upon a yard or court of the dimensions specified in this article and located on the same lot. Such windows shall be at the end of said hall with the natural direction of the light parallel to the hall's axis. In lieu of the requirement for one window at the end of each hall, there may be windows located at the side of such hall, provided there shall be at least one such window in every twenty feet of length or fraction thereof of said hall; and each such window shall open directly upon the street or upon a yard or court of the dimensions specified in this article and located on the same lot. The above requirement shall not apply to that portion of the entrance hall between the entrance and the nearest flight of stairs provided the entrance door contains not less than ten square feet of glass area. Any part of a public hall which is offset or recessed more than three feet or shut off from any other part of said hall shall be deemed a separate hall within the meaning of this section and shall be separately lighted and ventilated. Except that in hotels a recessed hall need have no window at its end with the natural direction of the light parallel with the hall's axis, but such hall shall have a window so located as to afford proper ventilation for said hall. ('17, c. 137, § 36)

1630-30. Windows and sky-lights for public halls—In two-family-dwellings and multiple-dwellings hereafter erected at least one of the windows provided to light each public hall or part thereof shall be at least two feet six inches wide and five feet high measured between stop beads. In every multiple-dwelling hereafter erected there shall be in the roof directly over each stair well a ventilating skylight provided with ventilators having a minimum opening of forty square

inches, or such skylight shall be provided with fixed or movable louvres. ('17, c. 137, § 37)

1630-31. Windows for stair halls—Size of—In every multiple-dwelling hereafter erected there shall be provided at each story, or at the stair landing part way between stories, at least one window to light and ventilate each stair hall which window shall be at least two feet six inches wide and five feet high measured between stop beads. A sash door shall be deemed the equivalent of a window in this and the foregoing sections, provided that such door contains the amount of glass surface prescribed for such windows. The provisions of this section shall not apply to hotels. ('17, c. 137, § 38)

1630-32. Outside porches—In all dwellings hereafter erected roofed-over outside porches shall not be erected outside of and adjoining windows required by this act for the lighting or ventilation of rooms except as provided in section 30 of this act; they may, however, open from windows supplementary to those required by law, provided they do not diminish the legal light or ventilation of such rooms. The term "outside porches" shall include outside platforms, balconies and stairways. All such outside porches shall be considered as part of the building and not as part of the yards or courts or other unoccupied area. ('17, c. 137, § 39)

Explanatory note—For section 30 see § 1630-23, herein.

Title 2.

Sanitation.

1630-33. Cellar rooms—In dwellings hereafter erected no room in the cellar shall be occupied for living purposes. ('17, c. 137, § 45)

1630-34. Basement rooms—In dwellings hereafter erected no room in the basement shall be occupied for living purposes, except by the janitor of such dwelling and the members of his family. In addition to the other requirements of this act, such rooms shall have sufficient light and ventilation, shall be well drained and dry and shall be fit for human habitation. ('17, c. 137, § 46)

The words, "the janitor," may be construed either as singular or plural, and that more than one janitor may be housed in such basement when necessarily employed in the building. 159-478, 199+100.

1630-35. Cellars—Water-proofing and lighting—Every dwelling hereafter erected shall have a basement, cellar or excavated space under the entire entrance floor, at least three feet in depth, or be elevated above the ground so that there will be a clear air-space of at least twenty-four inches between the top of the ground and the bottom of said floor so as to insure ventilation and protection from dampness. Such space shall in all cases be enclosed but provided with ample ventilation and properly drained.

When necessary to prevent dampness the inspector of buildings may require that all walls below the ground level and the cellar or lowest floor be made damp-proof and water-proof. When necessary to make such walls or floors damp-proof and water-proof, such damp-proofing and water-proofing shall conform to the requirements of the inspector of buildings, shall be applied to all outside walls and up the same as high as the ground level, and shall be continued throughout the floor, and the said cellar or lowest floor shall be so constructed as to prevent dampness or water from entering. All cellars and basements in dwellings hereafter erected shall be properly lighted and ventilated.

In every dwelling hereafter erected when the foundation, basement, or cellar walls are of poured concrete construction, forms shall be built on each side of such foundations or walls from the base to the top in order to insure uniform width. ('17, c. 137, § 47)

1630-36. Courts, areas and yards—In every dwelling hereafter erected all courts, areas and yards shall be so graded and drained that all water may drain freely into a sewer or street. When required by the commissioner of health, such courts, areas or yards shall be concreted in whole or in part as he may direct. ('17, c. 137, § 48)

1630-37. Water supply—In every dwelling hereafter erected, when water mains are accessible as specified in section 8 of this act, there shall be a proper sink or wash-bowl with running water, exclusive of any sink in the cellar. In two-family-dwellings and in multiple-dwellings of Class A there shall be such a sink or wash-bowl in each apartment, suite or group of rooms. The installation of such sink or wash-bowl with running water may be waived by the commissioner of health so long and so long only as the house is not occupied except by its owner and his family. ('17, c. 137, § 49)

Explanatory note—For section 8, see § 1630-10, herein.

1630-38. Water-closet accommodations—In every dwelling hereafter erected, except as provided in section 8 of this act, there shall be a separate water-closet. Each such water-closet shall be placed in a compartment completely separated from every other water-closet; such compartment shall be not less than three feet wide, and shall be enclosed with partitions which shall extend to the ceiling and which shall not be of wood construction. Every such compartment shall have a window opening directly upon the street or upon a yard or court of the minimum sizes prescribed by this act and located upon the same lot. Nothing in this section contained shall be construed so as to prohibit a general toilet room containing several water-closet compartments separated from each other by dwarf partitions, provided such toilet room is adequately lighted and ventilated to the outer air as above provided, and that such water-closets are supplemental to the water-closet accommodations required by other provisions of this section for the tenants of the said dwelling. No water-closet shall be placed out of doors. No water-closet shall be placed in a cellar without a written permit from the inspector of buildings. In two-family dwellings and in multiple-dwellings of Class A hereafter erected there shall be for each family a separate water-closet constructed and arranged as above provided and located within each apartment, suite or group of rooms. In multiple-dwellings of Class B hereafter erected there shall be provided at least one water-closet for every twenty occupants or fraction thereof. Every water-closet compartment hereafter placed in any dwelling shall be provided with proper means of lighting the same at night. In multiple-dwellings hereafter erected the floor of every water-closet compartment shall be made water-proof with asphalt, tile, stone, terrazzo or some other non-absorbent water-proof material. ('17, c. 137, § 50)

Explanatory note—For section 8 see § 1630-10, herein.

1630-39. Urinals—The floor of every urinal compartment shall be made water-proof with asphalt, tile, stone, terrazzo or some other non-absorbent water-proof material; and such water-proof material shall extend at least three feet above the floor so that the said floor can be washed or flushed out without leaking. ('17, c. 137, § 51)

1630-40. Sewer connections—No multiple-dwelling shall hereafter be erected on any street unless there is city water supply accessible thereto nor unless there is a public sewer in such street, or a private sewer connecting directly with a public sewer, and every such multiple-dwelling shall have its plumbing system connected with the city water supply and with a public sewer before such multiple-dwelling is occupied. No cesspool or vault or similar means of sewage disposal shall be used in connection with any dwelling where connection with a public sewer is practicable. ('17, c. 137, § 52)

1630-41. Same—Buildings excepted—The provisions of Section 52, Chapter 137, General Laws 1917, shall not apply to a building which does not exceed two stories in height and contains not to exceed one apartment useful for a dwelling for each lot of a frontage of not less than 40 feet and such a building shall be considered to be a two-family dwelling and not a multiple dwelling. ('25, c. 313)

Explanatory note—For section 52 see § 1630-40, herein.

1630-42. Plumbing—In every dwelling hereafter erected no plumbing fixture shall be enclosed with woodwork but the space underneath shall be left entirely open. All plumbing work shall be sanitary in every particular. All fixtures shall be trapped. Pan, plunger, and long hopper closets shall not be permitted. Wooden sinks and wooden wash-trays shall not be permitted. Tile or earthenware house drains shall not be permitted. In all multiple-dwellings hereafter erected where plumbing or other pipes pass through floors or partitions, the openings around such pipes shall be sealed or made tight with incombustible material, so as to prevent the spread of fire from one floor to another or from room to room. ('17, c. 137, § 53)

Title 3.

Fire Protection.

1630-43. Fire-proof dwellings—When required—No dwelling shall hereafter be erected exceeding three stories in height, unless it shall be a fireproof dwelling; the building, however, may step up to follow the grade, provided no part of it is over three stories in height. ('17, c. 137, § 60)

1630-44. Means of egress—Every multiple-dwelling hereafter erected exceeding one story in height and every building occupied above the first floor as a dwelling, shall have at least two independent ways of egress which shall be located remote from each other, and shall extend from the entrance floor to the top floor. The stairs and public halls therein shall each be at least three feet six inches wide in the clear. The two ways of egress shall be flights of stairs, either inside or outside, constructed and arranged as provided in sections 64 and 65 of this act. In multiple-dwellings of class A, except in kitchenette apartments arranged in suites of not more than three rooms, kitchen and bath, the second way of egress shall be directly accessible to each apartment, group or suite of rooms without having to pass through the first way of egress. In multiple-dwellings of class B and in kitchenette apartments, as above described, the second way of egress shall be directly accessible from a public hall.

Provided, however, that no multiple dwelling shall be hereafter erected unless a stairway, or stairway fire-escape having an exit directly thereto from a public hall, is provided within at least forty (40) feet from the exit from each apartment or flat if such multiple-dwelling is to be non-fireproof construction, or at least

fifty (50) feet from such exit if such multiple dwelling is to be of fireproof construction. ('17, c. 137, § 61; amended '19, c. 517, § 8)

Explanatory note—For sections 64 and 65 see §§ 1630-47, 1630-48, herein.

1630-45. Fire escapes—All fire escapes hereafter erected on multiple-dwellings shall be located and constructed as in this section required. Such fire escapes shall be located at each story the floor of which is ten or more feet above the ground. Access to fire escapes shall not be obstructed in any way. No fire escapes shall be placed in an inner court, except where such inner court is open for its entire width upon a side yard. Fire escapes may project into the public highway to a distance not greater than six feet beyond the building line. All fire escapes shall consist of outside open iron, stone or concrete balconies and stairways. All balconies shall be not less than three feet in width. All stairways shall be placed at an angle of not more than forty-five degrees to the horizontal wherever practicable and in no case to exceed fifty degrees to the horizontal, with flat open steps not less than seven inches in width and twenty-four inches in length and with a rise of not more than eight inches. The openings for stairways in all balconies shall be not less than twenty-four by seventy inches, and shall have no covers of any kind. The balcony on the top floor, except in the case of a balcony on the street or in the case of a peaked-roof house, shall be provided with a stairs or with a goose-neck ladder leading from said balcony to and above the roof and properly fastened thereto. A drop or stationary ladder or stairs shall be provided from the lowest balcony of sufficient length to reach a safe landing place beneath. All fire escapes shall be constructed and erected to sustain safely in all their parts a live load of one hundred and twenty pounds to the superficial foot, and if of iron, shall receive not less than two coats of good paint, one in the shop and one after erection. ('17, c. 137, § 62; amended '19, c. 517, § 9)

1630-46.—Roof egress — Scuttles and bulkheads—Every flat-roofed multiple-dwelling hereafter erected exceeding one story in height or occupied by more than two families on any floor, shall have in the roof directly above each stair hall a bulkhead or scuttle not less than two feet by three feet in size. Such scuttle or bulkhead shall be fireproof or covered with metal on the outside. Every flat-roofed multiple-dwelling hereafter erected exceeding two stories in height shall be provided with stairs leading to such scuttle or bulkhead and easily accessible to all occupants of the building. Such stairs shall be placed at an angle of not more than fifty-five degrees to the horizontal, with flat steps not less than six inches in width and 24 inches in length and with a rise of not more than nine inches, every two story flat-roofed multiple-dwelling hereafter erected having two or more families on any floor shall be provided with stairs or stationary ladder leading to such scuttle or bulkhead and easily accessible to all occupants of the building. No scuttle or bulkhead shall be located in a closet or room, but shall be located in the ceiling of the public hall on the top floor, and access through same shall be direct and unobstructed. ('17, c. 137, § 63; amended '19, c. 517, § 10)

1630-47. Stairs—In multiple-dwellings hereafter erected all stairs shall be constructed with a rise of not more than eight inches and with treads not less than ten inches wide and not less than three feet six inches long in the clear, except that multiple-dwellings not exceeding two stories in height or having not

more than two families on any floor, may have stairs with treads not less than three feet long in the clear. Winding stairs shall not be used. In multiple-dwellings hereafter erected exceeding two stories in height or occupied by more than two families on any floor, one of the stairways shall be constructed of fireproof material throughout. The risers, strings and balusters shall be of metal, concrete or stone. The treads shall be of metal, slate, concrete or stone, or of hard wood not less than one and one-half inches thick. Wooden hand-rails to stairs may be used if constructed of hard wood. ('17, c. 137, § 64)

1630-48. Stair halls—In multiple-dwellings hereafter erected exceeding two stories in height or occupied by more than two families on any floor, the fireproof stairs required by the preceding section shall be enclosed on all sides with walls of brick not less than eight inches thick. The floors and ceilings of such fireproof stair halls shall be of fireproof construction. No wooden flooring shall be used. The doors opening from such stair halls shall be fireproof, self-closing and shall open outward. There shall be no transom or sash or similar opening from such stair hall to any other part of the dwelling, except that such stair hall shall be shut off from all non-fireproof portion of the public halls and from all other non-fireproof parts of the building on each story by a self-closing fireproof sash door with wire-glass therein; on either side and above such door there may be fixed fireproof transoms and sash with wire-glass therein. ('17, c. 137, § 65; amended '19, c. 517, § 11)

1630-49. Entrance halls—Every entrance hall in a multiple-dwelling hereafter erected shall be at least five feet six inches wide in the clear, and shall comply with all the conditions of the preceding sections as to the construction of stair halls. In every multiple-dwelling hereafter erected, access shall be had from the street or alley to the rear yard either in a direct line or through a court or side yard. ('17, c. 137, § 66)

1630-50. Dumb-waiters — Elevators — Shafts—In multiple-dwellings hereafter erected all vertical shafts, whether for dumb-waiter, elevator or other purposes, shall be constructed of fire-proof material, with fireproof doors at all openings at each story, including the cellar. In the case of dumb-waiters such doors shall be self-closing. No elevator shall be permitted in the well-hole of stairs, but every elevator shall be completely separated from the stairs by fire-proof walls enclosing the same. ('17, c. 137, § 67)

1630-51. Cellar stairs—In multiple-dwellings of class A hereafter erected which exceed two stories in height or which are occupied by more than two families on any floor, all inside stairs communicating between the cellar or basement, and the floor next above shall be of fireproof construction with self-closing fireproof door at the top or bottom and shall be enclosed with brick walls not less than eight inches thick; if located underneath the stairs leading to the upper stories, the soffit of such stairs shall be covered with fireproof material. ('17, c. 137, § 68; amended '19, c. 517, § 12)

1630-52. Closets under first story stairs—In multiple-dwellings erected no closet of any kind shall be constructed under any staircase leading from the entrance story to the upper stories, but such space shall be left entirely open and kept clear and free from encumbrance. ('17, c. 137, § 69)

1630-53. Cellar entrance—In every multiple-dwelling hereafter erected there shall be an entrance to the

cellar or other lowest story from the outside of the said building. ('17, c. 137, § 70)

1630-54. Wooden multiple-dwellings—Height of—No wooden dwelling to be occupied by more than one family shall hereafter be erected two stories and attic in height, and in no wooden multiple-dwelling shall the attic be fitted up or used for living or sleeping purposes. ('17, c. 137, § 71; amended '19, c. 517, § 13)

1630-55. Fire walls—In a multiple-dwelling hereafter erected where such multiple-dwelling is completely divided into two or more parts by continuous fire walls and where such fire walls extend from the ground to a distance of two feet at all points above the roof of the building, and without any opening therein, each such part may be considered as a separate dwelling for the purposes of fire protection. Wooden dwellings shall not be built contiguous to each other, and no such dwelling shall hereafter approach nearer to another building than provided in section twenty-three of this act. In non-fire-proof multiple-dwellings hereafter erected, each five thousand superficial feet in ground area covered by such multiple-dwelling shall be separated from the rest of such multiple-dwelling by fire-proof division walls. Such walls shall extend from the ground to a height of two feet above the roof. Standard fire-proof self-closing doors or fire-proof curtains may be installed in such fire-proof division walls. ('17, c. 137, § 72)

Explanatory note—For section 23 see § 1630-16, herein.

1630-56. Outside stand pipes—Outside pipes shall not be required on buildings not exceeding three stories in height. ('17, c. 137, § 73)

ARTICLE III.

ALTERATIONS.

In this article will be found the provisions which must be observed when a person proposes to alter an existing dwelling.

1630-57. Percentage of lot occupied—No dwelling shall hereafter be enlarged or its lot be diminished, or other building placed on its lot, so that a greater percentage of the lot shall be occupied by buildings or structures than provided in section 20 of this act. ('17, c. 137, § 75)

Explanatory note—For section 20 see § 1630-13, herein.

1630-58. Height—No dwelling shall be increased in height so that the said dwelling shall exceed the height prescribed in section 21 of this act. ('17, c. 137, § 76)

Explanatory note—For section 21 see § 1630-14, herein.

1630-59. Yards—No dwelling shall hereafter be enlarged or its lot be diminished, or other building placed on the lot, so that the rear yard or side yard shall be less in size than the minimum sizes prescribed in sections 22 and 23 of this act for dwellings hereafter erected. Provided, however, that new porches, either open or glazed, may be erected, not exceeding the width of the dwelling already erected, and new additions may be built on the side of any such dwelling, but such additions shall not project beyond the side line of the dwelling already erected. ('17, c. 137, § 77; amended '23, c. 215, § 1)

Explanatory note—For sections 22 and 23 see §§ 1630-15, 1630-16, herein.

1630-60. New courts in existing dwellings—Any court hereafter constructed in a dwelling erected prior to the passage of this act used to light or ventilate rooms or water-closet compartments shall be not less than six feet in its least dimension in any part nor

contain less than sixty-four square feet of superficial area, and such court shall under no circumstances be roofed or covered over with a roof or skylight; every such court, if an inner court, shall be provided at the bottom with one or more horizontal air-intakes constructed and arranged as provided in section 26 of this act. Where it is not practicable to construct such passage-way a metal duct not less in area than three hundred square inches nor less in its least dimension than twelve inches may be used. ('17, c. 137, § 78)

Explanatory note—For section 26 see § 1630-19, herein.

1630-61. Additional rooms and halls—Any additional room or hall that is hereafter constructed or created in a dwelling shall comply in all respects with the provisions of article 2 of this act, except that it may be of the same height as the other rooms on the same story of the dwelling. ('17, c. 137, § 79)

1630-62. Rooms and halls—Lighting and ventilation of—No dwelling shall be so altered or its lot diminished that any room or public hall or stairs shall have its light or ventilation diminished in any way not approved by the inspector of buildings. ('17, c. 137, § 80)

1630-63. Alcoves and alcove rooms—No part of any room in any dwelling shall hereafter be enclosed or subdivided, wholly or in part, by a curtain, portiere, fixed or movable partition or other contrivance or device, unless such part of the room so enclosed or subdivided shall contain a window as required by sections 29, 30 and 35 of this act and have a floor area as provided in section 31 of this act. ('17, c. 137, § 81)

Explanatory note—For sections 29, 30, 31 and 35 see §§ 1630-22, 1630-23, 1630-24, 1630-28, herein.

1630-64. Skylights—All new skylights hereafter placed in a multiple-dwelling shall be provided with ventilators having a minimum opening of forty square inches and also with either fixed or movable louvres or with movable sash having a minimum opening of forty square inches, and shall be of such size as may be determined to be practicable by the inspector of buildings. ('17, c. 137, § 82)

1630-65. Water-closet accommodations —Every water-closet hereafter placed in a dwelling, except one provided to replace a defective or antiquated fixture in the same location, shall comply with the provisions of sections 35, 50, 51 and 53 of this act relative to water-closets in dwellings hereafter erected subject to the following exceptions:

(a) In the case of a new water-closet installed on the top floor of an existing dwelling, a ventilating skylight open to the sky may be used in lieu of the windows required by section 35 of this act:

(b) In the case of existing private-dwellings, two-family dwellings or multiple-dwellings of class A where such water-closet is located within or is a part of an apartment, the floor may be of birch or maple:

(c) In the case of existing dwellings where in the opinion of the inspector of buildings it is impracticable to locate a water-closet compartment where light and ventilation are possible provided in section 35 of this act, such water-closet compartment shall be provided with local ventilation as required by the inspector of buildings.

(d) In an existing private dwelling, two-family dwelling or multiple-dwelling where such water-closet is located within or is a part of an apartment, one way of access from any bathroom or water-closet compartment shall be sufficient. ('17, c. 137, § 83; amended '19, c. 517, § 12a)

Explanatory note—For sections 35, 50, 51 and 53 see §§ 1630-28, 1630-38, 1630-39, 1630-42, herein.

1630-66. Fire-proof dwellings—No dwelling shall hereafter be altered so as to exceed three stories in height unless it shall be a fire-proof dwelling. ('17, c. 137, § 84)

1630-67. Fire-escapes—All fire-escapes hereafter constructed on any multiple-dwelling shall be located and constructed as prescribed in section 62 of this act. ('17, c. 137, § 85)

Explanatory note—For section 62 see § 1630-45, herein.

1630-68. Roof stairs—No stairs leading to the roof in any multiple-dwelling shall be removed or be replaced by a ladder. ('17, c. 137, § 86)

1630-69. Bulkheads and penthouses—Every bulkhead and penthouse hereafter constructed in a multiple-dwelling shall be constructed fire-proof or covered with metal on the outside. ('17, c. 137, § 87)

1630-70. Stairways—No public hall or stairs in a multiple-dwelling shall be reduced in width so as to be less than the minimum width prescribed in sections 61 and 66 of this act. ('17, c. 137, § 88)

Explanatory note—For sections 61 and 66 see §§ 1630-44, 1630-49, herein

1630-71. Dumb-waiters, elevators and shafts—All vertical shafts, dumb-waiters and elevators hereafter constructed in multiple-dwellings shall comply in all respects with the provisions of section 67 of this act. ('17, c. 137, § 89)

Explanatory note—For section 67 see § 1630-50, herein.

1630-72. Alteration of existing wooden multiple-dwellings—Except as otherwise provided in this article, no existing wooden multiple-dwelling shall hereafter be enlarged, extended or raised unless the alterations thereto comply with the provisions of this act for the erection of new dwellings. ('17, c. 137, § 90)

1630-73. Wooden buildings on same lot with multiple-dwelling—No wooden building of any kind whatsoever shall hereafter be placed or built upon the same lot with a multiple-dwelling within the fire limits, and no existing wooden structure or other building on the same lot with a multiple-dwelling within the fire limits shall hereafter be enlarged, extended or raised. ('17, c. 137, § 91)

ARTICLE IV.

MAINTENANCE.

In this article will be found the provisions which an owner must observe with regard to the maintenance of a dwelling.

1630-74. Public halls—Lighting in daytime—In every multiple-dwelling exceeding two stories in height, where the public halls and stairs are not sufficiently lighted to permit a person to read ten point type in every part thereof without the aid of artificial light, the owner of such dwelling shall keep a proper light burning in the hallway upon each floor, as may be necessary from sunrise to sunset. ('17, c. 137, § 95)

1630-75. Same—Lighting at night—In every multiple-dwelling exceeding two stories in height or occupied by more than four families, a proper light shall be kept burning by the owner in the public hallways near the stairs upon each floor, every night from sunset to sunrise. In two-story multiple-dwellings containing not more than four families, each family shall be provided with a proper outlet and fixture for a light in the public hall. ('17, c. 137, § 96)

1630-76. Water-closets in cellars—No water-closets shall be maintained in the cellar of any dwelling without a permit in writing from the commissioner of health, who shall have power to make rules and reg-

ulations governing the maintenance of such closets. Under no circumstances shall the general water-closet accommodations of any multiple-dwelling be permitted in the cellar or basement thereof; this provision, however, shall not be construed so as to prohibit a general toilet room containing several water-closets, provided such water-closets are supplementary to those required by law. ('17, c. 137, § 97)

1630-77. Water-closet accommodations—In every dwelling existing prior to the passage of this act there shall be provided at least one water-closet for every two apartments, groups or suites of rooms, or fraction thereof, except that in multiple-dwellings of Class B there shall be provided at least one water-closet for every twenty occupants or fraction thereof. This section shall be subject to the provisions of section 8 of this act. ('17, c. 137, § 98)

Explanatory note—For section 8 see § 1630-10, herein.

1630-78. Basement and cellar rooms—No room in the cellar of any dwelling erected prior to the passage of this act shall be occupied either for living or for sleeping purposes. No room in the basement of any such dwelling shall be so occupied without a written permit from the commissioner of health. No such room shall hereafter be occupied unless all the following conditions are complied with:

(1) Such room shall be at least seven feet high in every part from the finished floor to the finished ceiling.

(2) The ceiling of such room shall be in every part at least three feet six inches above the surface of the street or ground outside of or adjoining the same.

(3) There shall be appurtenant to such room the use of a water-closet.

(4) The lowest floor shall be water-proof and damp-proof.

(5) Such room shall have sufficient light and ventilation, shall be well drained and dry, and shall be fit for human habitation. ('17, c. 137, § 99)

1630-79. Water-closets and sinks—In all dwellings the floor or other surface beneath and around water-closets and sinks shall be maintained in good order and repair. ('17, c. 137, § 100)

1630-80. Repairs—Every dwelling and all the parts thereof shall be kept in good repair, and the roof shall be kept so as not to leak, and all rain water shall be so drained and conveyed therefrom as not to cause dampness in the walls or ceilings. ('17, c. 137, § 101)

1630-81. Water supply—Every dwelling where water supply is accessible, shall, subject to the provisions of section 8 of this act, have within the dwelling at least one proper sink with running water furnished in sufficient quantity at one or more places exclusive of the cellar. In two-family dwellings and multiple-dwellings of Class A there shall be at least one sink for each family located within the apartment occupied by said family. ('17, c. 137, § 102)

Explanatory note—For section 8 see § 1630-10, herein.

1630-82. Cisterns and wells—Where there is no city water supply accessible, there shall be provided one or more adequate cisterns or wells with a pump. Such cisterns or wells shall be of such size and number and constructed and maintained in such manner as may be determined by the commissioner of health. The above requirement shall be subject to the provisions of section 8 of this act. ('17, c. 137, § 103)

Explanatory note—For section 8 see § 1630-10, herein.

1630-83. Catch basins—In the case of dwellings where, because of lack of city water supply or sewers, sinks with running water are not provided inside the

dwellings, one or more catch basins properly connected with a cesspool for the disposal of waste water, as may be necessary in the opinion of the commissioner of health, constructed in such manner as he may specify, shall be provided in the yard or court, level with the surface thereof and at a point of easy access to the occupants of such dwellings. ('17, c. 137, § 104)

1630-84. Cleanliness of dwellings—Every dwelling and every part thereof shall be kept clean and shall also be kept free from any accumulation of dirt, filth, rubbish, garbage or other matter in or on the same, or in the yards, courts, passages, areas, or alleys connected with or belonging to the same. The owner of every dwelling, and in the case of a private dwelling the occupant thereof, shall thoroughly cleanse or cause to be cleansed all rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, water-closets, cess-pools, drains, halls, cellars, roofs and all other parts of the said dwelling, or part of the dwelling of which he is the owner, or in the case of a private-dwelling the occupant, to the satisfaction of the commissioner of health, shall keep the said parts of the said dwellings in a cleanly condition at all times, but this section shall not be construed to require the owner to keep clean the individual apartments of a two-family-dwelling or a multiple-dwelling of Class A, except where such apartments are unoccupied. It shall be the duty of each occupant to keep the portion of the dwelling occupied by him and over which he has control in a cleanly condition at all times. ('17, c. 137, § 105)

1630-85. Walls of courts—In multiple-dwellings the walls of all courts, unless built of a light color brick or stone, shall be thoroughly whitewashed by the owner or shall be painted a light color by him, and shall be so maintained. Such whitewash or paint shall be renewed whenever necessary, and walls of light color brick or stone shall be cleaned or whitewashed whenever necessary, as may be required by the commissioner of health. ('17, c. 137, § 106)

1630-86. Walls and ceilings of rooms—In all multiple-dwellings the commissioner of health may require the walls and ceilings of any room to be whitewashed, kalsomined white or painted with white paint when necessary to improve the lighting of such room and may require this to be renewed as often as may be necessary. ('17, c. 137, § 107)

1630-87. Wall paper—Whenever required by the commissioner of health, all old wall paper shall be removed and the walls and ceilings thoroughly cleaned before being redecorated. ('17, c. 137, § 108)

1630-88. Receptacles for ashes, rubbish and garbage—Suitable tight metal cans, with covers, for holding ashes, rubbish, garbage, refuse and other matter shall be provided and maintained for every dwelling. In the case of private-dwellings and two-family-dwellings such cans shall be provided by the occupant. In the case of multiple-dwellings of Class A where there are janitors, each family shall provide its own cans, but the owner shall provide such general cans to receive such waste materials as may be necessary. Wherever the owner of a multiple-dwelling of Class A provides individual cans for each apartment, it shall be the duty of the occupant of such apartment to keep the cans used by him in a cleanly condition at all times. Garbage chutes and bins are prohibited, but this shall not be construed as prohibiting garbage incinerators, inside of chimneys, if properly constructed. ('17, c. 137, § 109)

1630-89. Prohibited uses—No horse, mule, cow, calf, swine, sheep, goat, chicken, or other fowl shall be kept in any dwelling or part thereof. Nor shall any such animal be kept on the same lot or premises with a dwelling except under such conditions as may be prescribed by the commissioner of health. No such animal except a horse or mule, shall under any circumstances be kept on the same lot or premises with a multiple-dwelling.

No dwelling or the lot or premises thereof shall be used for the storage or handling of rags or junk. ('17, c. 137, § 110)

1630-90. Combustible materials—No dwelling, nor any part thereof, nor of the lot upon which it is situated shall be used as a place of storage, keeping or handling of any article so that it is dangerous or detrimental to life or health; nor of any combustible article, except under such conditions as may be prescribed by the fire marshal under authority of a written permit issued by him. No multiple-dwelling nor any part thereof, nor of the lot upon which it is situated, shall be used as a place of storage, keeping or handling of feed, hay, straw, excelsior, cotton, paper stock, feathers or rags. ('17, c. 137, § 111)

1630-91. Bakeries and fat boiling—No bakery and no place of business in which fat is boiled shall be maintained in any non-fire-proof multiple-dwelling of Class A hereafter erected, and no bakery and no place of business in which fat is boiled shall hereafter be installed in any non-fire-proof multiple-dwelling of Class A. ('17, c. 137, § 112)

1630-92. Dangerous businesses—There shall be no transom, window or door opening into a public hall from any portion of a multiple-dwelling where paint, oil, drugs or spirituous liquors are stored or kept for the purpose of sale or otherwise. This provision shall not apply to hotels. ('17, c. 137, § 113)

1630-93. Janitor or housekeeper—In any multiple-dwelling in which the owner thereof does not reside, there shall be a janitor, housekeeper or other responsible person who shall have charge of the same, if the commissioner of health shall so require. ('17, c. 137, § 114)

1630-94. Overcrowding—If any room in a dwelling is over-crowded, the commissioner of health may order the number of persons sleeping or living in said room to be so reduced that there shall be not less than six hundred cubic feet of air to each adult and four hundred cubic feet of air to each child under twelve years of age occupying such room. ('17, c. 137, § 115)

1630-95. Lodgers—The commissioner of health may prescribe conditions under which lodgers or boarders may be taken in dwellings and may prohibit the letting of lodgings therein. ('17, c. 137, § 116)

1630-96. Infected and uninhabitable dwellings to be vacated—Whenever it shall be certified by an inspector or officer of the health department that a dwelling is infected with contagious disease, the commissioner of health may issue an order requiring all persons therein to vacate such dwelling within twenty-four hours for the reasons to be mentioned in said order.

The commissioner of health shall cause such dwelling to be disinfected, and shall, when the temperature is below freezing, protect from freezing at the expense of the owner of said dwelling all plumbing and heating apparatus in such dwelling.

Whenever it shall be certified by an inspector or officer of the health department that a dwelling is unfit for human habitation or dangerous to life and health by reason of want of repair, or defects in the drainage, plumbing, lighting, ventilation, or the construc-

tion of the same, or by reason of the existence on the premises of a nuisance likely to cause sickness among the occupants of said dwelling, or for any other cause, the commissioner of health may order the owner or other person having control of the dwelling to remedy such defect within a period of not less than five days nor more than thirty days, said order to be served according to the provisions of section 148 of this act. In case such order is not complied with within the time specified, the commissioner of health may issue an order requiring all persons therein to vacate such dwelling within not less than twenty-four hours nor more than ten days for the reasons to be mentioned in said order.

In case an order to vacate is not complied with within the time specified, the commissioner of health may cause said dwelling to be vacated. The commissioner of health, whenever he is satisfied that the danger from said dwelling has ceased to exist, or that it is fit for human habitation, may revoke said order or may extend the time within which to comply with the same. ('17, c. 137, § 117)

Explanatory note—For section 148 see § 1630-118, herein.

1630-97. Repairs to buildings, etc.—Whenever any dwelling or any building, structure, excavation, business pursuit, matter or thing, in or about a dwelling, or the lot on which it is situated, or the plumbing, sewerage, drainage, light or ventilation thereof, is in the opinion of the commissioner of health in a condition or in effect dangerous or detrimental to life or health, the commissioner of health may declare that the same to the extent that he may specify is a public nuisance, and may order the same to be removed, abated, suspended, altered or otherwise improved or purified as the order shall specify. In addition to the above powers the commissioner of health may also order or cause any dwelling or excavation, building, structure, sewer, plumbing pipe, passage, premises, ground, matter or thing, in or about a dwelling, or the lot on which it is situated, to be purified, cleansed, disinfected, removed, altered, repaired or improved. If any order of the commissioner of health issued under the authority of the provisions of this act is not complied with, or so far complied with as he may regard as reasonable, within fifteen days after the service thereof, or within such shorter time as he may designate, then such order may be executed by said commissioner of health, through his officers, agents, employees or contractors. ('17, c. 137, § 118)

1630-98. Fire-escapes—The owner of every multiple-dwelling on which there are fire-escapes shall keep them in good order and repair, and whenever rusty shall have them properly painted. No person shall at any time place any incumbrance of any kind before or upon any such fire-escape. ('17, c. 137, § 119)

1630-99. Scuttles, bulkheads, ladders and stairs—In all multiple-dwellings where there are scuttles or bulkheads, they and all stairs or ladders leading thereto shall be easily accessible to all occupants of the building and shall be kept free from incumbrance and ready for use at all times. No scuttle and no bulkhead door shall at any time be locked with a key, but either may be fastened on the inside by movable bolts or hooks. ('17, c. 137, § 120)

ARTICLE V.

IMPROVEMENTS.

In this article will be found those improvements in the older buildings required as a matter of compulsory legislation.

1630-100. Rooms—Lighting and ventilation—No room in a dwelling erected prior to the passage of this act shall hereafter be occupied for living purposes unless it shall have a window of an area of not less than eight square feet opening directly upon the street, or upon a rear yard not less than ten feet deep, or above the roof of an adjoining building, or upon a court or side yard not less than twenty-five square feet in area, open to the sky without roof or skylight unless such room is located on the top floor and is adequately lighted and ventilated by a skylight opening directly to the outer air. Except that a room which does not comply with the above provisions may be occupied if provided with a sash window not less than fifteen square feet in area opening into an adjoining room in the same apartment, group or suite of rooms, which latter room opens directly upon the street or upon a yard of the above dimensions. Said sash window shall be vertically sliding pulley hung sash not less than three feet by five feet between stop beads; both halves shall be made so as to readily open, and the lower half shall be glazed with translucent glass and so far as possible it shall be in line with windows in the said outer room opening on the street or yard so as to afford a maximum of light and ventilation. Where between such rooms a cased opening already exists of dimensions not less than the combined area of such sash windows and the usual door opening, it shall be deemed the equivalent of the sash window above required. ('17, c. 137, § 125)

1630-101. Public halls and stairs—Lighting and ventilation—In all dwellings erected prior to the passage of this act, the public halls and stairs shall be provided with as much light and ventilation to the outer air as may be deemed practicable by the commissioner of health, who may order the cutting in of windows and skylights and such other improvements and alterations in said dwellings as in his judgment may be necessary and appropriate to accomplish this result. All new skylights hereafter placed in such dwellings shall be provided with ventilators having a minimum opening of forty square inches and also with either fixed or movable louvres or with movable sash; all such skylights and windows shall be of such size as may be determined to be practicable by said commissioner of health. ('17, c. 137, § 126)

1630-102. Sinks and lavatories—In all dwellings erected prior to the passage of this act, the woodwork enclosing sinks and lavatories shall be removed and the space underneath said sinks and lavatories shall be left open. The floor and wall surfaces beneath and around the sink and lavatory shall be put in good order and repair. ('17, c. 137, § 127)

1630-103. Water-closets—In all dwellings erected prior to the passage of this act, the woodwork enclosing all water-closets shall be removed from the front of said closets, and the space underneath the seat shall be left open. The floor or other surface beneath and around the closet shall be put in good order and repair. ('17, c. 137, § 128)

1630-104. Privy vaults, school-sinks, cess-pools and water-closets—Whenever a connection with a sewer is possible, as provided in section eight of this act, all privy vaults, school-sinks, cess-pools or other similar receptacles used to receive fecal matter, urine or sewage, shall before July first, nineteen hundred and eighteen, with their contents, be completely removed and the place where they were located properly disinfected under the direction of the commissioner of health. Such appliances shall be replaced by individual

water-closets of durable non-absorbent material, properly sewer-connected, and with individual traps, and properly connected flush tanks providing an ample flush of water thoroughly to cleanse the bowl. Each such water-closet shall be located inside the dwelling or other building in connection with which it is to be used, in a compartment completely separated from every other water-closet, and such compartment shall contain a window of not less than four square feet in area opening directly to the street, or rear yard or on a side yard, or court of the minimum sizes prescribed in sections twenty-two, twenty-three and twenty-four of this act. The floors of the water-closet compartments shall be as provided in section fifty of this act. Such water-closets shall be provided in such numbers as required by section ninety-eight of this act. Such water-closet and all plumbing in connection therewith shall be sanitary in every respect and, except as in this act otherwise provided, shall be in accordance with the local ordinances and regulations in relation to plumbing and draining. Pan, plunger and long hopper closets will not be permitted. No water-closet shall be placed out of doors.

Whenever a water-closet is installed in a dwelling and connected either to the sewer or to a cesspool, all existing privy vaults on the premises, with their contents, shall be completely removed and the places where they were located properly disinfected under the direction of the commissioner of health. ('17, c. 137, § 129)

Explanatory note—For sections 22, 23, 24 and 50 see §§ 1630-15, 1630-16, 1630-17, 1630-38, herein.

1630-105. Basements and cellars—The floor of the cellar or lowest floor of every dwelling shall be free from dampness and when necessary, shall be concreted with not less than three inches of concrete of good quality and with a finished surface. ('17, c. 137, § 130)

1630-106. Shafts and courts—In every dwelling where there is a court or shaft of any kind, there shall be at the bottom of every such shaft or court an opening giving sufficient access to such shaft or court to enable it to be properly cleaned out. ('17, c. 137, § 131)

1630-107. Egress—Every multiple-dwelling exceeding one story in height shall have at least two independent ways of egress constructed and arranged as provided in section sixty-one of this act. In the case of multiple-dwellings erected prior to the passage of this act where it is not practicable to comply in all respects with the provisions of that section, the inspector of buildings shall make such requirements as may be appropriate to secure the proper means of egress from such multiple-dwellings for all the occupants thereof. No existing fire-escape shall be deemed a sufficient means of egress unless the following conditions are complied with:

(1) All parts of it shall be of iron or other incombustible material.

(2) The fire-escape shall consist of outside balconies which shall be properly connected with each other by adequate stairs or stationary ladders, with openings not less than twenty-four by twenty-eight inches.

(3) All fire-escapes shall have proper drop ladders or stairways from the lowest balcony of sufficient length to reach a safe landing place beneath.

(4) All fire-escapes not on the street shall have a safe and adequate means of egress from the yard or court to the street or alley on the adjoining premises.

(5) Prompt and ready access shall be had to all fire-escapes, which shall not be obstructed by bathtubs, water-closets, sinks or other fixtures, or in any other way.

All fire-escapes that are already erected which do not conform to the requirements of this section may be altered by the owner to make them so conform in lieu of providing new fire-escapes, but no existing fire-escape shall be extended or have its location changed except with the written approval of the inspector of buildings. All fire-escapes hereafter erected on any multiple-dwelling shall be located and constructed as prescribed in section sixty-two of this act. ('17, c. 137, § 132)

1630-108. Same—Additional—Whenever any multiple-dwelling is not provided with sufficient means of egress in case of fire, the inspector of buildings shall order such additional means of egress as may be necessary. ('17, c. 137, § 133)

1630-109. Roof egress, scuttles, bulkheads, ladders and stairs—Whenever so required by the inspector of buildings, every flat-roofed multiple-dwelling exceeding two stories in height erected prior to the passage of this act shall have in the roof a bulkhead, or a scuttle which shall be not less than two feet by three feet in size. All such bulkheads and scuttles shall be fire-proof or covered on the outside with metal and shall be provided with stairs or stationary ladders leading thereto and easily accessible to all occupants of the building. No scuttle or bulkhead shall be located in a room, but shall be located in the ceiling of the public hall on the top floor, and access through the same to the roof shall be direct and unobstructed. When deemed necessary by the inspector of buildings scuttles shall be hinged so as to open readily. Every bulkhead in such multiple-dwelling shall have stairs with guide or hand-rail leading to the roof, and such stairs shall be kept free from incumbrance at all times. No scuttle and no bulkhead door shall at any time be locked with a key, but either may be fastened on the inside by movable bolts or hooks. All key-locks on scuttles and on bulkhead doors shall be removed. ('17, c. 137, § 134)

ARTICLE VI.

REQUIREMENTS AND REMEDIES.

In this article will be found the legal requirements, penalties and violations of the law, procedure, et cetera.

1630-110. Permit to commence building—Before the construction or alteration of a dwelling, or the alteration or conversion of a building for use as a dwelling is commenced, and before the construction or alteration of any building or structure on the same lot with a dwelling, the owner or his agent shall have the lot or plot of ground on which such building is located, or is to be located, surveyed by a competent surveyor or civil engineer and the corners properly marked with iron stakes, and such owner or his agent or his architect shall submit to the inspector of buildings a detailed statement in writing, verified by the affidavit of the person making the same, of the specifications for such dwelling or building, upon blanks or forms to be furnished by such inspector of buildings, and also full and complete indelible copies of the plans of such work. With such statement there shall be submitted a plat of the lot or plot of ground on which any such dwelling or building is to be erected or placed, showing the location and outside dimensions of such proposed dwelling or building; also the location and outside dimensions of other existing buildings, if any, on such lot or plot of ground, together with the size of all

yards and courts in connection therewith. Each such plot so submitted shall bear the certificate of a competent surveyor or civil engineer, stating that he has surveyed said lot or plot of ground, and has set iron stakes, firmly driven, at each corner thereof, and that the dimensions marked on said plat are in accordance with a correct survey of the property. Provided, that if the owner or his agent can show substantial stakes at each corner of the lot or plot of ground on which such building is located, previously set by a competent surveyor, such certificate by a competent surveyor, as above required, need not be demanded by the inspector of buildings; and provided, that whenever alterations affect only the interior of a dwelling no such survey or plat need be filed unless required by the inspector of buildings.

Provided, further, that the plans and specifications for a private dwelling costing less than three thousand five hundred dollars need be only such as will advise the building department of the character of the proposed building, the sufficiency of such plans and specifications to be determined by such building department. Such statement shall give in full the name and residence, by street and number, of the owner or owners of such dwelling or building and the purposes for which such dwelling or building will be used. If such construction, alteration or conversion is proposed to be made by any other person than the owner of the land in fee, such statement shall contain the full name and residence, by street and number, not only of the owner of the land, but of every person interested in such dwelling, whether as owner, lessee or in any representative capacity. Such affidavit shall allege that said specifications and plans are true and contain a correct description of such dwelling, building, structure, lot and proposed work. The statements and affidavits herein provided for may be made by the owner or by the person who proposes to make the construction, alteration or conversion or by his agent or architect. No person, however, shall be recognized as the agent of the owner unless he shall file with the said inspector of buildings a written statement signed by such owner designating him as such agent. Any false swearing or affirming in a material point to any such affidavit shall be deemed perjury. Such specifications, plans and statements shall be filed in the said building department and be deemed public record, but no such specifications, plan or statements, shall be removed from said building department. The inspector of buildings shall cause all such plans and specifications to be examined. If such plans and specifications conform to the provisions of this act, they shall be approved by the inspector of buildings and certified to that effect. Such inspector of buildings, may, from time to time, approve changes in any plans and specifications previously approved by him, provided the plans and specifications when so changed shall be in conformity with law. The construction, alteration or conversion of such dwelling, building, or structure, or any part thereof, shall not be commenced until the filing of such specifications, plans and statements, and the approval thereof, as above provided. The construction, alteration or conversion of such dwelling, building or structure shall be in accordance with such approved specifications and plans. Any permit or approval which may be issued by the inspector of buildings but under which no work has been done above the foundation walls within six months from time of the issuance of such permit or approval, shall expire by limitation. Such inspector of buildings shall have power for just cause to revoke or cancel

any permit or approval in case of any failure or neglect to comply with any of the provisions of this act, or in case any false statement or representation is made in any specifications, plans or statements, submitted or filed for such permit or approval. Whenever improvements or alterations are ordered by the commissioner of health in a dwelling heretofore erected, the plans for such changes must, before a permit is issued by the inspector of buildings, be submitted to the commissioner of health and by said commissioner approved. ('17, c. 137, § 140; amended '19, c. 517, § 14)

1630-111. Certificate of compliance—No building hereafter constructed as or altered into a dwelling shall be occupied in whole or in part for human habitation until the issuance of a certificate by the inspector of buildings that said dwelling conforms in all respects to the requirements of this act relative to dwellings hereafter erected. Such certificate shall be issued within seven days after written application therefor if said dwelling at the date of such application shall be entitled thereto. Nothing in this section contained shall be construed so as to prohibit the inspector of buildings from issuing a certificate for the occupancy of any complete unit of a multiple-dwelling when such unit is entitled thereto. Upon request in writing by the owner of the dwelling, the inspector of buildings shall issue a certificate of compliance up to the stage of the dwelling's development at that time, but shall not be required to issue more than one such certificate. ('17, c. 137, § 141)

1630-112. Unlawful occupation—If any building hereafter constructed as or altered into a dwelling be occupied in whole or in part for human habitation in violation of section one hundred and forty-one of this act, said premises shall be deemed unfit for human habitation and the inspector of buildings may cause them to be vacated accordingly. ('17, c. 137, § 142)

1630-113. Penalties for violations—Every person who shall violate or assist in the violation of any provision of this act shall be punishable by a fine of not more than one hundred dollars or by confinement in the city workhouse for a period not to exceed ninety days, and upon failure to pay such fine, by confinement until such fine is paid. Each day's continuance of the violation of this act shall be deemed a separate offense. ('17, c. 137, § 143)

1630-114. Procedure—In addition to the punishments specified in this act, the city may enforce this act by any appropriate form of civil action and may enjoin violation of the act and compel obedience thereto by mandatory orders and writs, and cause the abatement of everything existing in violation thereof, and cause premises to be vacated, if occupied in violation thereof, and to remain vacant until the court shall find that violation has ceased, and for these purposes any court of competent jurisdiction may render, enter, make and issue any and every appropriate judgment, decree, writ and order and cause the same to be executed. For the purpose of this section violations of orders, regulations and ordinances made pursuant to this act shall be deemed violations of the act. Costs and disbursements shall be allowed in proceedings hereunder as in other civil actions. The acts, proceedings and authority of the commissioner of health and the inspector of buildings shall be treated as prima facie just and legal. ('17, c. 137, § 144)

1630-115. Tenant's responsibility—If the occupant of a dwelling shall fail to comply with the provisions of this act after due and proper notice from the commissioner of health, such failure to comply shall be deemed sufficient cause for the summary eviction of

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such tenant by the owner and the cancellation of his lease. ('17, c. 137, § 145)

1630-116. Registry of agent's name—Every owner, agent or lessee of a dwelling may file in the health department a notice containing the name and address of an agent of such house, for the purpose of receiving service of process, and also a description of the property by street number or otherwise as the case may be, in such manner as will enable the health department easily to find the same. The name of the owner or lessee may be filed as agent for this purpose. ('17, c. 137, § 146)

1630-117. Service of notice and orders—Every notice or order in relation to a dwelling shall be served five days before the time for doing the thing in relation to which it shall have been issued. The posting of a copy of such notice or order in a conspicuous place in the dwelling, together with the mailing of a copy thereof on the same day that it is posted, to each person, if any, whose name has been filed with the health department in accordance with the provision of section one hundred and forty-six of this act at his address as therewith filed, shall be sufficient service thereof. ('17, c. 137, § 147)

1630-118. Service of summons—In any action brought in relation to a dwelling for injunction, vacation of premises or abatement of nuisance, service of the summons shall be made as in civil actions, and the summons may be served by publication if other service cannot be had; but the court may by ex parte order limit the time for answer to ten days. ('17, c. 137, § 148)

1630-119. Indexing names—The names and addresses filed in accordance with section one hundred and forty-six of this act shall be indexed by the commissioner of health in such manner that all of those filed in relation to each dwelling shall be together and readily ascertainable. The proper city authorities shall provide the necessary books and clerical assistance for that purpose and the expense thereof shall be paid by the city. Said indexes shall be public record, open to public inspection during business hours. ('17, c. 137, § 149)

1630-120. Enforcement—The provisions of articles one, two and three of this act shall be enforced by the inspector of buildings; article four shall be enforced by the department of health; the provisions of article five except sections one hundred and thirty-two, one hundred and thirty-three and one hundred and thirty-four thereof shall be enforced by the department of health; the provisions of sections one hundred and thirty-two, one hundred and thirty-three and one hundred and thirty-four shall be enforced by the inspector of buildings. In carrying out any orders of the department of health which involve structural changes, the work shall be done under the supervision of the inspector of buildings, in accordance with the ordinances, laws and regulations relative thereto. Each of said departments shall keep and preserve as to each building a complete record of all inspections, permits and orders issued pursuant to this act. ('17, c. 137, § 150)

Explanatory note—For sections 132, 133 and 134 see § 1630-107, 1630-108, 1630-109, herein.

1630-121. Powers conferred—The powers conferred by this act upon the commissioner of health, city en-

gineer and the inspector of buildings shall be in addition to the powers already conferred upon said officers, and shall not be construed as in any way limiting their powers except as provided in section seven of this act. ('17, c. 137, § 151)

Explanatory note—For section 7 see § 1630-9, herein.

1630-122. Inspection of dwellings—The commissioner of health shall cause a periodic inspection to be made of every multiple-dwelling at least once a year. Such inspection shall include thorough examination of all parts of such multiple-dwelling and the premises connected therewith. The commissioner of health is also hereby empowered to make similar inspection of all dwellings as frequently as may be necessary. ('17, c. 137, § 152)

1630-123. Right of entry—The commissioner of health, the inspector of buildings, and all inspectors, officers and employes of the health department and the building department, and such other persons as may be authorized by the commissioner of health or the inspector of buildings, may, in the performance of their duties, without fee or hindrance, enter, examine and survey all premises, grounds, erections, structures, apartments, dwellings, buildings and every part thereof in the city. The owner or his agent or representative and the lessee and occupant of every dwelling and every person having the care and management thereof shall at all reasonable times when required by any of such officers or persons give them free access to such dwellings and premises. The owner of a dwelling and his agents and employes shall have right of access to such dwelling at reasonable times for the purpose of bringing about a compliance with the provisions of this act or any order issued thereunder. ('17, c. 137, § 153)

1630-124. Laws repealed—All statutes of the state and all local ordinances or parts thereof so far as inconsistent with the provisions of this act are hereby repealed. Wherever this act requires a greater width or size of yards or courts, or requires a lower height of buildings or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than is required in any local ordinance or regulation, the provisions of this act shall govern. Wherever the provisions of any local ordinance or regulation require a greater width or size of yards or courts, or requires a lower height of building, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than is required in this act, such local ordinance or regulation shall govern. ('17, c. 137, § 154)

1630-125. Partial invalidity—If any section or clause or part of this act shall be found invalid, the validity of the remainder shall in no way be affected thereby. The act shall be literally construed to promote its general objects for the health, safety and welfare of the community. ('17, c. 137, § 155)

1630-126. When effective—This act shall take effect sixty days from and after its passage. No dwelling, however, on which work has not progressed above the foundations by November first, 1917, shall be erected under the laws in force when this act takes effect, but such dwelling shall be erected in accordance with the provisions of this act. ('17, c. 137, § 156)

LAWS AFFECTING CITIES OF THE FIRST CLASS

See '07 c. 55 authorizing cities of the first class to maintain auditorium buildings. The power granted here has been extended by Laws 1923.

1630-120	296
134m	296
159nw	627
239nw	821
1630-120	35
33	42
33	158
33	201
33	208
33	239
33	341
33	372
33	409

Cities of the first class operating under home rule charter may accept gifts for free dispensaries and libraries ('15 c. 183). Franchises for street railways in cities of first class not operating under home rule charter ('15 c. 124). Regulation of parks and parkways in cities of the first class not operating under home rule charter ('15 c. 132). One tenth of one mill additional tax for monument to soldiers of civil war in cities of first class operating under home rule charter ('15 c. 146). Composition of board of park commissioners ('15 c. 166). Tax levy for current expense in cities not operating under home rule charter ('15 c. 186). City not operating under home rule charter authorized to dispose of bonds at private sale ('15 c. 204). Hospital bond issue in city of first class not operating under home rule charter ('15 c. 205). Local improvement bond issue in city not operating under home rule charter ('15 c. 206). Bridge bond issue in city not operating under home rule charter ('15 c. 207). Sewer bonds in city not operating under home rule charter ('15 c. 214). Municipal forests in city under home rule charter ('15 c. 217). Tax for ornamental shade trees in city not operating under home rule charter ('15 c. 231). Park bonds in city not operating under home rule charter ('15 c. 232). Transportation of garbage contracts in city not operating under home rule charter ('15 c. 255). School bonds in city not operating under home rule charter ('15 c. 266). Drainage of low lands by cities not operating under home rule charter ('15 c. 276). Park commissioners in cities not operating under home rule charter ('15 c. 277). Bonds for incinerators at crematory plants in cities not operating under home rule charter ('15 c. 289). Leasing of streets and alleys in cities not operating under home rule charter ('15 c. 291). Use of road fund for paving in cities not operating under home rule charter ('15 c. 328). Bond issue for arching or covering creeks in cities not operating under home rule charter ('15 c. 340). Assessments for oil sprinkling on land fronting on parkways in cities not operating under home rule charter ('15 c. 361). Transfer of moneys to sinking fund in cities not operating under home rule charter ('17 c. 78). Regulation of hours of firemen in cities not operating under home rule charter ('17 c. 91). Cemeteries in cities not operating under home rule charter ('17 c. 95). Park bond issue in cities not operating under home rule charter ('17 c. 99). Sinking fund for bonds in cities not operating under home rule charter ('17 c. 100). Transfer of funds in treasury of city not operating under home rule charter ('17 c. 105). Extension of powers of school board in city operating under home rule charter ('17 c. 166). Refunding by city not operating under home rule charter of money advanced for improvements ('17 c. 189). Pensions for disabled firemen ('17 c. 196). Taxes for paving arterial streets in cities not operating under home rule charter ('17 c. 218). Park and playground bonds in city not operating under home rule charter ('17 c. 219). Bonds to care for flood waters in city not operating under home rule charter ('17 c. 379). Tax for park purpose in cities not operating under home rule charter ('17 c. 393). Bridge and viaduct bonds in cities operating under home rule charter ('17 c. 420). Boards of education in cities not operating under home rule charter ('17 c. 446). Salary of aldermen in cities not operating under home rule charter ('17 c. 460). Legalizing fire and police department bonds in cities not operating under home rule charter ('19 c. 3). Bridge and sewer bonds in cities not operating under home rule charter ('19 c. 6). Harvesting ice without permission in city not operating under home rule charter forbidden, ('19 c. 7). Sewer bonds in cities operating under home rule charter ('19 c. 41). Municipal bath bonds in cities not operating under home rule charter ('19 c. 50). Reimbursement of contractors for war losses in cities under home rule charter ('19 c. 59). Police and fire department relief association ('19 c. 68). Refunding bond issue in city not operating under home rule charter ('19 c. 124). City hall bond issue in city under home rule charter ('19 c. 132). Armory leases ('19 c. 135). Library board of city not under home rule charter authorized to accept gifts ('19 c. 148). Bridge bonds in city not operating under home rule charter authorized ('19 c. 196). Current tax levy in city not operating under home rule charter ('19 c. 212). Bonds in city not operating under home rule charter ('19 c. 215). Tax levy for playgrounds ('19 c. 220). Ward boundaries in cities not operating under home rule charter ('19 c. 221). Construction of curbs and gutters for park commissioners of city not operating under home rule charter ('19 c. 223). Elections in city not operating under home rule charter ('19 c. 226). Sale of water to adjacent municipality by city not operating under home rule charter ('19 c. 227). Boards of estimate and taxation in cities not operating under home rule charter ('19 c. 252). Taxes for school purposes in cities not operating under home rule charter ('19 c. 253). Hospital bonds in city not operating under home rule charter ('19 c. 274). Planning department in city not operating under home rule charter ('19 c. 292). Salary of assistant fire chief in city under home rule charter ('19 c. 309). Department of public welfare in city operating under home rule charter ('19 c. 327). Public market bond issue in city not operating under home rule

charter ('19 c. 402). Bureau of health, pension board in city operating under home rule charter ('19 c. 430). Bonds for expense of investigating feasibility of proposed park in city not operating under home rule charter ('19 c. 433). Time of elections in city not operating under home rule charter ('19 c. 452). Bonds for arching creeks in city not operating under home rule charter ('19 c. 475). Park bonds in city not operating under home rule charter ('19 c. 516). Police pensions ('19 c. 523). Bond issue for confort stations in cities not operating under home rule charter ('19 c. 524). Tax levy in city not operating under home rule charter (Ex. Sess. '19 c. 11). School taxes in city not operating under home rule charter (Ex. Sess. '19 c. 60). Refunding bonds in city not operating under home rule charter (Ex. Sess. '19 c. 61). Highways outside corporate limits ('21 c. 21). Notices of claims legalized ('21 c. 31). Bond elections legalized ('21 c. 32). Bond issues by independent school districts in cities of first class ('21 c. 49). Registration of voters ('21 c. 89). Notices of claims legalized ('21 c. 245). Certificates of indebtedness for sewers ('21 c. 299). Additional tax for schools ('21 c. 332). Bonds for garbage incinerators ('21 c. 352). Granting use of park to State University ('21 c. 448). Proceedings and payments firemen's relief associations legalized ('21 c. 526). Park bonds ('23 c. 33). Legalizing bonds for garbage incinerator ('23 c. 104). Legalizing school bonds ('23 c. 111). Bonds for public markets ('23 c. 212). Bond issue for contagious hospital ('23 c. 223). Tax for playgrounds ('23 c. 267). Extension of waterworks to draw water from any river in the state ('23 c. 285). Compensation for injuries received in performance governmental duty ('23 c. 306). Annexation of territory ('23 c. 352). Disposal park property ('23 c. 415).

Explanatory note—Laws 1919, c. 325, § 1 repeals the following acts: '03, c. 343; '05, c. 267; '05, c. 293; '07, c. 283; '07, c. 413; '09, c. 284; '09, c. 397; '09, c. 402; '11, c. 190; '12, c. 6; '13, cc. 45, 181, 292, 349, 461; '15, cc. 220, 221; '17, cc. 93, 102, 104, 340, 349, 368, 373.

PROVISIONS RELATING TO CITIES OF SECOND CLASS

1631. Public bath house—That any city in the state of Minnesota at any time having twenty thousand and not more than fifty thousand inhabitants according to the last official promulgated state census, is hereby authorized and empowered to establish and maintain a public bath house and grounds and park in connection therewith and for that purpose to acquire by grant, gift, purchase, lease or otherwise, lands within or without the corporate limits of such city, including land on any island in any navigable river lying in close proximity to such city in this or adjoining state, and appropriate money therefor and for the maintenance thereof, whenever the common council of such city by a majority vote thereof, deems the same necessary or advisable. ('07 c. 22 § 1; amended '11 c. 53 § 1) [1640]

1632. Board of directors—When the common council of any such city shall have decided to establish and maintain a public bath house and grounds and park in connection therewith, under this act, the mayor of such city shall, with the approval of the common council, proceed to appoint a board of three directors for the same, choosing from the citizens at large, with reference to their fitness for such office, and not more than one member of the common council shall be at any time a member of said board; the president of the board of health and the president of the park board of such city shall be ex officio members of said board. ('07 c. 22 § 2) [1641]

1633. Terms—Removal—Said directors shall hold office, one for one year, one for two years, and one for three years from the first day of May following their appointment, and the mayor of such city appointing such board, shall designate the respective terms of each member so appointed, and annually thereafter, the mayor of said city shall, before the first of May, appoint as before one director to take the place of the

retiring director who shall hold his office for three years and until his successor is appointed. The mayor of said city, may, by and with the consent of the common council, remove any director for misconduct or neglect of duty. ('07 c. 22 § 3) [1642]

1634. Vacancies—Compensation—Vacancies in the board of directors occasioned by removal, resignation or otherwise, shall be reported to the common council and be filed in like manner as original appointments, and no director shall receive compensation for services rendered as such. ('07 c. 22 § 4) [1643]

1635. Duties and powers—Said directors shall, immediately after appointment, file their written acceptance and meet and organize by the election of one of their number, president, and by the election of such other officer as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the bath house, grounds and park, or either of them as may be expedient, not inconsistent with this act, or any ordinance passed by the common council of such city. They shall have the control of the expenditures of all moneys collected and placed to the credit of the bath house fund, and of the construction of any bath house building or addition thereto, or the improvement of the grounds and park in connection therewith, and of the supervision, care and custody of the grounds, bath house and buildings constructed, leased or used in connection therewith, subject to the approval of the common council of such city. Provided, that all moneys received for such bath house and grounds shall be deposited in the treasury of said city to the credit of said bath house and grounds fund, and shall be kept separate and apart from the fund of such city, and shall be paid out only upon the properly authenticated voucher of the bath house board. Said board shall have the power to appoint a suitable person to take care of such bath house and grounds and necessary assistants and fix their compensation, and shall also have power to remove said appointees and shall in general carry out the spirit and intent of this act. ('07 c. 22 § 5) [1644]

1636. Rules and regulations—Every bath house, including the grounds and parks in connection therewith, established under this act, shall be subject to such reasonable rules and regulations as the bath house board may adopt not inconsistent with this act or any ordinance passed by the common council of such city in order to render the use of said bath house and grounds, or either of them, of the greatest benefit to the greatest number, and said board may exclude from the use of said bath house or grounds, or either of them, any and all persons who shall wilfully violate such rules. ('07 c. 22 § 6) [1645]

1637. Annual report—The said board of directors shall make on or before the first day of April of each year, an annual report to the common council of such city, stating the conditions of their trust on the first day of March of that year, the various sums of money received and the sources from which received and how such moneys have been expended and for what purposes, with such other statistics, information and suggestions as they may deem of general interest. ('07 c. 22 § 7) [1646]

1638. Ordinances—The common council of such city shall have power to pass ordinances for the control and regulation of such bath house, grounds and parks

in connection therewith, fixing suitable penalties for the punishment of persons violating the same and for committing injury to such bath house, or grounds and park in connection therewith, or any shrub, plant or other property thereon or connected therewith. ('07 c. 22 § 8) [1647]

1639. Gifts—Any person desiring to make donations of money, personal property or real estate for the benefit of such bath house and grounds and park in connection therewith, or either, shall have the rights to vest the title to the money, property or real estate so donated in such city to be held and controlled by such board, subject to the direction and approval of the common council of such city according to the terms of the deed, gift or device [devise] of such property. ('07 c. 22 § 9) [1648]

1640. Free open air concerts—That in all cities of this state having a population of not less than 20,000 and not more than 50,000, the city council shall have the power annually to raise by taxation and appropriate the sum of not more than fifteen hundred dollars to be expended under the direction of the city council of such city for the purpose of providing free open air concerts for the benefit of the people of such city. ('09 c. 155 § 1) [1649]

1641. Regulation of smoke—That the city council or other governing body of each city in this state which now has or hereafter may have 20,000 and not more than 50,000 inhabitants, is hereby authorized and empowered to enact and publish, and to provide penalties for the violation of, ordinances to regulate, control, prohibit and abate the issuance or emission of dense smoke in such city.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the State of Minnesota. ('17 c. 8 § 1)

1642. Ordinances—Such ordinances may define the meaning of dense smoke, and declare the issuance or emission thereof to be a public nuisance, and provide all effective steps for the abatement thereof. ('17 c. 8 § 2)

1643. Mayor to have supervision of police department—That in each city of the second class in the State of Minnesota the Mayor of such city shall hereafter have the exclusive power to direct the law enforcing activities of the police department, and the chief of police and such other officers as may be acting in such department shall at all times be subordinate to such Mayor. ('23 c. 87 § 1)

1643-1. Police pension fund—Creation—Government and management—In every city of this state now or hereafter having a population of 20,000, and not over 50,000 inhabitants, there may be created a police pension fund, which shall be governed and managed by a police pension board in accordance with the provisions of this act. ('19, c. 152, § 1)

1643-2. Same — Police relief association — Amounts — To whom payable—That every paid municipal police department now existing or which may hereafter be organized may and is hereby authorized to become incorporated pursuant to the provisions of any applicable law of this state, or adopt a constitution and by-laws as a relief association to provide and permit and allow said police relief association so incorporated or so organized to pay out of and from any funds it may

have received from the state of Minnesota, or from any other source, a service pension in such amounts and in such manner as its articles of incorporation or the constitution and by-laws shall so designate, not exceeding, however, the sum of \$30 per month to each of its pensioned members who shall have arrived at the age of 50 years or more, and shall have done active police duty as a member of such paid municipal police department for a period of 20 years or more in the police department of such city in which such relief association has been or shall be so organized, or who having been disabled physically or mentally because of any injury received or suffered while in the performance of his duty as such police officer, so as to render necessary his retirement from active police service may be placed upon the pension list, and shall receive such pension as provided for in said articles of incorporation or constitution and by-laws; provided, however, that said fund shall not be used for any other purpose other than for the payment of service pensions and a disability pension as herein provided. ('19, c. 152, § 2)

1643-3. Same—Increase or decrease—Every such association shall at all times have and retain the right to increase or reduce the amount of such pension not to exceed \$30 per month whenever, because of the amount of funds on hand, or for other good reasons such increase or reduction may seem advisable or proper to the board of management of said relief association. ('19, c. 152, § 3)

1643-4. Same—Persons not entitled to—The pension authorized by this act shall not be paid to any person while drawing salary in any amount from said police department; and no member shall be entitled to said pension if he shall have been convicted of a felony or misdemeanor for which he shall be adjudged to be imprisoned or who is a habitual drunkard; and that any person receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. ('19, c. 152, § 4)

1643-5. Same—Exemption from garnishment, etc.—No payments made or to be made by said board to said member of said police force shall be subject to judgment, garnishment or execution or other legal processes and no person entitled to such payment shall have the right to assign the same, nor shall said association have the authority to recognize or pay over any sum whatever which has been assigned. ('19, c. 152, § 5)

1643-6. Same—Fund—Management and control by association—Said association through its officers shall have full charge, management and control of the police pension fund herein provided for, which said fund shall be derived from the following sources:

First—From the gifts of real estate or personal property, rents, or money or other sources; second, an amount or sum equal to 3/7 of 1 mill shall be annually assessed, levied and collected by the proper officers of such city where a police relief association exists, upon each dollar of all the taxable property in such city as the same appears on the tax records of such city, which said sum shall by the proper officers of said city be placed on the credit of the police pension funds, and shall not be used or devoted to any other purpose other than for the purpose of the police pension fund; provided, however, that if at any time the fund so raised by taxation as in this section provided, together with other resources exceeds the needs of said police pension board in the properly carrying out the provisions of this act; then as often as this shall occur, said sum so to be raised by taxation shall be propor-

tionately reduced to such amount as will sufficiently carry out the provisions of this act, then there shall only be raised by taxation such part of said 3/7 of 1 mill upon each dollar of all the taxable property in such city as shall be necessary for the proper maintenance of said fund as in this act provided. ('19, c. 152, § 6)

1643-7. Same—Real estate—Sale, etc.—The said governing board shall have full power to hold, transfer and sell real estate and personal property, and invest said funds for the betterment of said association. ('19, c. 152, § 7)

1643-8. Same—Membership of governing board of association—The governing board of said association shall consist of five members to be elected annually, who shall hold their terms of office for one, two, three, four and five years respectively, or until their successors are elected and qualified, and the mayor, chief of police and city treasurer shall be ex-officio members of said board, and the city treasurer shall be the custodian of all funds of said association and disburse the same as directed by said board. All vacancies occurring in the elective membership of said board shall be filled by said board for the unexpired term or until the next annual election. ('19, c. 152, § 8)

1643-9. Same—Reports—The said governing board of said association shall file annually, on or before the first day of September of each year, with the comptroller of said municipality, a detailed report of the amount of money so received, expended and still remaining on hand to the credit of said association. ('19, c. 152, § 9)

1644. Fire protection—That the city council or other governing body of each city in this state which now has or hereafter may have 20,000, and not more than 50,000 inhabitants, is hereby authorized and empowered to enact, adopt, repeal and amend, and to provide penalties for the violation of, any and all regulations, rules, resolutions and ordinances, not inconsistent with the laws of this state, relating to building within such city, and the planning, construction, repair, maintenance, fire protection and all other matters relating to buildings within such city.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the state of Minnesota. ('17 c. 190 § 1)

1645. Inspection—Such city council or other governing body of such city shall have power by ordinance, to provide for inspection and regulation of any construction work within such city, whether buildings, plumbing, heating, ventilating, wiring or any other construction whatsoever. ('17 c. 190 § 2)

1646. Appointment of inspectors—Such city council or other governing body is authorized and empowered to appoint a building inspector and such assistants and employes as may be deemed necessary and define their powers and duties and fix their salaries and terms of service.

Such inspector and his authorized assistants under his direction, shall have power and be fully authorized to enter any dwelling house or other building at all hours between seven o'clock in the morning and six o'clock in the evening and examine all chimneys, stoves, furnaces, pipes and other parts of such buildings, and see that the ordinances of such city respecting the same are enforced.

Provided, however, that no such entry shall be made in any building occupied as a dwelling house without written notice of such entry for the purpose of inspec-

tion, served upon an occupant or person in charge of such dwelling house, by such inspector or under his direction at least 24 hours prior to such entry, unless such occupant or person in charge shall consent to such entry. ('17 c. 190 § 3)

1647. **Scope of inspection**—Under such conditions as such city council or other governing body may prescribe, such inspector shall inspect or cause to be inspected all buildings and structures of any character whatsoever within such city and see that they conform to the laws of the state and the ordinances of such city, and shall enforce all laws of the state and all ordinances of such city applying to buildings within such city, whether relating to their planning, repair, fire protection or any other matter. ('17 c. 190 § 4)

1648. **Inspector's powers**—For a more specific enumeration and definition of some of the powers hereinbefore granted and a fuller exposition thereof and as an additional grant thereto, such city or other governing body shall have the following power and authority:

(a) To regulate the construction, alteration, removal and repair of all structures and the permanent equipment thereof, and to provide for the safety of the occupants of all structures and all property in the vicinity thereof against danger from fire or panic or from methods of construction or installation detrimental to life, health or property, and to prohibit the use of buildings or parts of buildings when dangerous to life from collapse, fire or panic.

(b) To prescribe limits within which all roofs shall be covered by non-combustible material.

(c) To compel the installation in all structures of devices, appliances and arrangements for the preservation of life, health and property.

(d) To license, regulate, prohibit and suppress the erection and maintenance of signs, signboards, billboards and fences.

(e) To establish and enforce building lines and to regulate the height of buildings.

(f) To regulate the measurement and inspection of all building materials.

(g) To prescribe the depth of cellars, the material and method of construction of foundations and foundation walls, the material and manner of construction and location of drains and sewer pipes, the thickness, material and construction of party walls, partitions and outside walls, the size and material of floor beams, girders, piers, columns, roofs, chimneys, flues and heating apparatus, and apportion and adjust such regulations to the height and size of buildings.

(h) To regulate the construction and location of privies and vaults.

(i) To prohibit the construction of buildings not conforming to the prescribed standard, either in the whole city or within such building limits as it may prescribe, and to establish, alter or enlarge such building limits from time to time.

(j) To give such inspector and his assistants authority to enter upon, examine and inspect all buildings in process of construction in such city or within such building limits, and to direct the suspension of any such building operation as does not conform to such regulations.

Provided, however, that neither such city council or other governing body nor any inspector of such city shall have control or regulation of any building erected by the United States or the state of Minnesota. ('17 c. 190 § 5)

1649. **Sprinkling of streets**—That the city council of each city of the second class in the state of Minnesota

is hereby authorized to sprinkle the streets, alleys, highways, public ways and public grounds of such city, either by letting the same by contract or without letting the same by contract and to pay the cost of the same from the general fund of such city. ('23 c. 32 § 1)

1650. **Definition**—Sprinkling as used or referred to in this act shall be deemed to include sprinkling, flushing, saturating or treating the surface of streets, alleys, highways, public ways and public grounds with water, oil or any kind of fluid, mineral or other substance, for the purpose of preventing dust in the atmosphere or on the surface of such streets, alleys, highways, public ways and public grounds. ('23 c. 32 § 2)

1651. **Procedure if let by contract**—Before letting such work by contract such city shall proceed in the same manner as when letting contracts for other non-assessable improvements. ('23 c. 32 § 3)

1652. **When not let by contract**—When such work is done by the city, the city council shall by resolution designate what officers or officer shall supervise such work, and it may from time to time appoint one or more persons to assist such supervisor or supervisors and may fix their compensation and term of service, or provide that they shall serve during its pleasure. ('23 c. 32 § 4)

1653. **Sprinkling districts**—The city council may by resolution district and re-district such city for the purpose of sprinkling, whether such work is done by the city or by contract. ('23 c. 32 § 5)

1654. **Records of expenditures**—The supervisors of sprinkling shall keep accurate accounts of the cost of such sprinkling, including the compensation paid to any assistant supervisors, and promptly upon the completion of each season's sprinkling transmit a detailed statement of the same to said council. ('23 c. 32 § 6)

1655. **Tax levy**—The city council of such city, when directing tax levy for the general fund of such city, shall make due provision for the expenses of sprinkling for the next ensuing fiscal year. The cost of future sprinkling in any such city shall not be assessed to property benefited but shall be paid from the general fund of such city. ('23 c. 32 § 7)

1656. **Highways outside of state cannot be improved**—That no municipality "of the second class" in the state of Minnesota shall hereafter appropriate or use any of its funds or make or incur any expenditure, indebtedness or obligation whatsoever for or in the construction, maintenance or repair of any road, roadway, driveway or highway of any kind whatsoever, located or situated outside the boundaries of said state or in aid of any thereof, or in connection therewith. ('21 c. 106 § 1)

1657. **City not liable for failure**—That no municipality shall ever be liable in any way whatsoever for any failure to repair or maintain any such road, roadway, driveway or highway and no action shall be prosecuted or maintained against any such municipality or any of its officers for or on account of any such failure. ('21 c. 106 § 2)

1658. **Not to apply to bridges**—The provisions of this act shall not apply to any bridge which shall span any water forming the boundary of this state. ('21 c. 106 § 3)

1659. **Buildings for sewer pumping stations, rest-rooms, and other public purposes**—That each city of the second class in the State of Minnesota is hereby authorized to construct and to maintain in the public streets or alleys thereof buildings for use as sewer

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pumping stations, public restrooms and other public purposes. ('23, c. 9, § 1; amended '25, c. 70)

1660. Parkways around buildings—That each such city is authorized to maintain a small parkway around each of such buildings. ('23 c. 9 § 2)

1661. No liability for injury therefrom—That no such city shall be liable in damage to anyone suffering injury by reason of the construction or maintenance of such buildings unless such injury was due to a failure on the part of such city to exercise ordinary care in the construction or maintenance of such buildings. ('23 c. 9 § 3)

1662. Condemnation therefor—That each such city is hereby authorized to acquire the necessary property rights and easements to construct and maintain such buildings by condemnation proceedings, gifts, devise or purchase as in other cases of acquiring property for public use. ('23 c. 9 § 4)

1663. Acceptance of gifts—Cities of the second, third and fourth classes, having at any time an assessed valuation of not more than ten million dollars, exclusive of money and credits, as officially equalized by the State Tax Commission, either under home rule charter or under the laws of this state, in addition to all other powers possessed by them, hereby are authorized and empowered to receive and accept gifts and donations for the use and benefit of such cities and the inhabitants thereof upon terms and conditions to be approved by the governing bodies of such cities; and such cities are authorized to comply with and perform such terms and conditions, which may include payment to the donor or donors of interest on the value of the gift at not exceeding 5% per annum payable annually or semi-annually, during the remainder of the natural life or lives of such donor or donors. ('23 c. 395 § 1)

1664. Tax levy to pay interest—Whenever any such city shall so accept such gift or donation the governing body thereof shall have the right to enter such a written contract for the payment of such interest so determined upon and it shall be the duty of the city council annually, at the time other taxes are levied, to levy a tax sufficient to pay such obligation so incurred. ('23 c. 395 § 2)

1664-1. Street sprinkling—Assessments—That the city council or other governing body of each city in the state of Minnesota which now has or hereafter may have 20,000, and not more than 50,000, inhabitants, is hereby authorized and empowered to sprinkle its streets, alleys, highways, public ways and public grounds, without letting the same by contract, and to levy assessments for all or any portion of the cost thereof upon property to be benefited thereby as such city council or other governing body may determine, in the manner and as hereinafter designated, notwithstanding any provisions in the charter of such city or the general laws of this state to the contrary.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the state of Minnesota. ('17, c. 509, § 1)

1664-2. Same—Sprinkling defined—Sprinkling as used or referred to in this act shall be deemed to include sprinkling, flushing, saturating or treating the surface of streets, alleys, highways, public ways and public grounds with water, oil or any kind of fluid, mineral or other substance, for the purpose of preventing dust in the atmosphere or on the surface of such streets, alleys, highways, public ways and public grounds. ('17, c. 509, § 2)

1664-3. Same—Sprinkling districts—Such city council or other governing body may at any time determine by resolution what territory in such city shall be sprinkled during the sprinkling season of that year and may divide such territory into two or more sprinkling districts, describing the boundary lines of each such district. Each district so determined shall be designated by number, and thereafter all reference to such district by number in any notice required by this act or in any other proceeding having reference thereto, shall be deemed a sufficient designation.

Such city council or other governing body may cause to be prepared plans and specifications therefor and may approve the same and upon such approval they shall be filed with the clerk or recorder of such city for the inspection of all parties interested.

Such resolution shall be published once in the official paper of such city. ('17, c. 509, § 3)

1664-4. Same—Procedure by council—After the adoption of such resolution and the approval and filing of such plans and specifications as aforesaid, such city council or other governing body shall designate a time, not less than ten days distant, and a place at which it will meet and act in relation to the doing of the proposed sprinkling, and direct that notice be given by the clerk or recorder of such meeting, and the time, place and purpose thereof. Such notice shall state that the plans and specifications therefor are on file with the clerk or recorder, and that all persons interested will be heard at the time and place of such meeting, and shall be published once in the official paper of such city at least five days before the time of such meeting. At such meeting an opportunity shall be given by such city council or other governing body to any and all interested parties to be heard for or against the proposed sprinkling, and such city council or other governing body may then, by an affirmative vote of a majority of all its members, by resolution in writing, determine what sprinkling shall be done during that year and the manner of doing the same, or may in its discretion, from lack of a quorum or for any other reason postpone the consideration and decision of the whole matter, or any part thereof to a future definite time, of which postponement all parties interested shall be required and deemed to take notice. Such resolution may designate what officer or officers of such city shall supervise such work.

Such city council or other governing body is hereby authorized and empowered to purchase all necessary horses, wagons, sprinklers, vehicles, equipment and outfit and all materials necessary or required for proper sprinkling in such city. ('17, c. 509, § 4)

1664-5. Same—Approval by mayor—After the adoption of the resolution last mentioned it shall be signed by the president of such city council or other governing body and attested by the clerk or recorder of such city, and on the next day after the adoption thereof the same shall be transmitted by such clerk or recorder to the mayor of such city for his approval. If the mayor approves the same, he shall append his signature with the date of his approval thereto and return the same to the clerk or recorder within five days, Sundays excepted, from the date of its transmission to him. If he declines to approve the same he shall within said period of five days, Sundays excepted, return the same to the clerk or recorder with a statement of his objections thereto, to be presented to such council or other governing body at its next meeting thereafter.

Upon the return of said resolution to the city council or other governing body without the mayor's approval,

the same shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if, upon such vote, which shall be taken by a call of the roll, two-thirds of all the members of such city council or other governing body shall vote in favor of the adoption of such resolution, the same shall be declared adopted and shall have the same force and effect as if approved by the mayor.

If such resolution, transmitted to the mayor, shall not be returned by him to said clerk or recorder within said five days, Sunday excepted, after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk or recorder on demand. Such resolution need not be published. ('17, c. 509, § 5)

1664-6. Same—Change in districts—At any time after the adoption of the resolution last mentioned, such city council or other governing body may, by resolution in writing, approved by the mayor, or by a two-thirds vote over his objections, without notice or publication of such resolution, amend or modify the same by adding to the territory of any sprinkling district or omitting any portion thereof or by changing the method or manner of sprinkling therein for the remainder of that year; and such city council or other governing body may at any time discontinue sprinkling from time to time or altogether in any sprinkling district. ('17, c. 509, § 6)

1664-7. Same—Employees—Such city council or other governing body may, from time to time, appoint one or more persons to assist the officer designated to supervise such sprinkling, and may fix their compensation and terms of service, or provide that they shall serve during its pleasure. ('17, c. 509, § 7)

1664-8. Same—Cost kept by supervisor—The supervisor of sprinkling shall keep an accurate account of the cost of such sprinkling, including the compensation paid to such assistant or assistants, in each of such sprinkling districts, and promptly upon the completion of each season's sprinkling under the provisions of this act, transmit to such city council or other governing body a detailed statement thereof. ('17, c. 509, § 8)

1664-9. Same—Assessments—Procedure—The city council or other governing body shall then proceed without necessary delay to apportion and assess the entire cost of such sprinkling including all expenses in connection therewith or such portion thereof as it may determine, upon the real estate by them deemed benefited, to the extent of the benefits received, and in proportion, as near as may be, to the benefits resulting thereto from such sprinkling.

In all proceedings for the making and collection of any assessment under this act, letters, figures and the usual and customary abbreviations may be used to designate lots, parts of lots, lands, blocks, additions, subdivisions, sections, townships, ranges and parts thereof, the year and the amounts. Such assessments shall be in writing, in which shall be given a description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereto. ('17, c. 509, § 9)

1664-10. Same—Assessments—Filing and publication—Upon the completion of such assessment such city council or other governing body shall direct that the same be placed on file with the clerk or recorder, and shall appoint a time, not less than ten days distant, and a place when and where it will meet to consider and act upon such assessment, and such clerk or recorder shall thereupon cause notice of such meeting, and the time, place and purpose thereof, to be given

by one publication of such notice in the official newspaper of such city, at least five days prior to the time appointed for such meeting. Such notice shall state that the assessment has been made for sprinkling, referring to the number of each district sprinkled for which the assessment was made and that the assessment is on file with the clerk or recorder and open to the inspection of all parties interested, and that all objections to the same must be filed in writing with the clerk or recorder of such city at least one day (Sunday and legal holidays excepted) prior to said meeting, and that unless sufficient cause is shown to the contrary, the same will be confirmed. A reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the property embraced in such assessment. ('17, c. 509, § 10)

1664-11. Same—Assessments—Procedure by council—At the time and place so appointed, as provided in section 10 hereof, said city council or other governing body shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and may adjourn as often as deemed expedient to a future definite time and place, and if none of the members are present the clerk or recorder may adjourn to some other convenient time and place, of which postponement all parties interested shall be required and deemed to take notice. All objections to said assessment shall be in writing and filed with said clerk or recorder at least one day (Sunday and legal holidays excepted) prior to the said meeting; provided however, that said city council or other governing body, may, in its discretion, allow any party interested, who has omitted to file his objection as aforesaid, to do so at the time of such meeting. Such city council or other governing body may, at any time cause a new notice of such hearing to be given, if the previous notice is deemed by it to be imperfect, or for any other reason.

Said city council or other governing body, after consideration may make such correction or changes in said assessment and may revise the same as it may deem necessary or proper, and confirm and establish the same.

The assessment, when so confirmed and established, shall be final, conclusive and binding upon all parties interested therein, and the several amounts charged in such assessment as so confirmed and established against the several lots and parcels of land therein mentioned shall be enforced and established as hereinafter provided: If any assessment be annulled or set aside, the said city council or other governing body may proceed de novo to make a new assessment in like manner, and like notice shall be given as herein required in relation to the first and all parties interested shall have the like rights. ('17, c. 509, § 11)

1664-12. Same—Assessments—Lien of—All assessments levied under the provisions of this act shall be a paramount lien on the real estate upon which the same may be imposed, from the date of the confirmation of such assessments. ('17, c. 509, § 12)

1664-13. Same—Assessments—Record of—The clerk or recorder of each such city shall keep in his office, in books to be provided for that purpose, a correct record of all assessments confirmed by the city council or other governing body and authorized by this act. Said books shall be properly ruled and headed so as to show at all times a substantial description and history of each assessment on each lot or parcel of ground,

whether paid to the city treasurer or the county treasurer or remaining unpaid. ('17, c. 509, § 13)

1664-14. Same—Assessments—Collection—Warrants for—When any such assessment shall be confirmed and established as aforesaid, the clerk or recorder of such city shall issue a warrant for the collection thereof under the seal of such city and signed by the mayor and the clerk or recorder thereof, containing a printed or written copy of the assessment roll as so confirmed, or so much thereof as describes the real estate and the amount of the assessment in each case, and deliver the same to the city treasurer of such city as soon as practicable thereafter.

The clerk or recorder shall in each instance take a receipt for such warrant and place the same on file. ('17, c. 509, § 14)

1664-15. Same—Assessments—Warrants for—Publication—Upon the receipt of such warrant the city treasurer shall forthwith give notice by publication once in the official newspaper of such city, that such warrant is in his hands for collection, briefly describing its nature and stating that such assessment is for sprinkling. A reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the property embraced in such assessment. Such notice shall require all persons interested to make payments within thirty days from the date of such notice, at his office or at the option of said treasurer, at some bank in said city acting for him. ('17, c. 509, § 15)

1664-16. Same — Assessments — Delinquent — Collection—If the assessments charged in any such assessment warrant shall not be paid within thirty days after the publication of the notice by the city treasurer that he has received such warrant for collection, he shall return to the clerk or recorder of such city a list, duly certified by said treasurer of the assessments so made which still remain unpaid, giving in such list the description of the several lots and parcels on which the assessments have not been paid, with the name of the respective owners thereof, if known, and the several amounts assessed thereto.

Such clerk or recorder shall thereupon add to each delinquent and unpaid assessment a penalty of ten per cent thereof and transmit a duly certified list of such unpaid assessments with such penalty added, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the auditor of the county in which such city is located, who shall enter the several amounts of said unpaid assessments on the tax list for such city for the next ensuing year, and levy the same upon the several lots and parcels of land to which the same are respectively chargeable, and the same shall thereupon be enforced and collected as other taxes on real estate are enforced and collected under the general laws of this state. ('17, c. 509, § 16)

1664-17. Same — Assessments — Setting aside —No such assessment shall be set aside or held invalid by reason of any informality in the proceedings prior to the entry thereof on the tax list by the county auditor, as hereinbefore required, unless it shall appear that by reason of such informality or irregularity substantial injury has been done to the party or parties claiming to be aggrieved. ('17, c. 509, § 17)

1664-18. Same—New assessments—If for any cause the proceedings of the city council or other governing body of any such city, or any of its officers, may be

found irregular or defective, whether jurisdictional or otherwise, or so deemed by the city council or other governing body, it may make a new assessment from time to time, and as often as needs be, upon all real estate benefited and on which no payment has been made for said sprinkling, until the full amount of all benefits assessed have been realized from the real estate so benefited by such sprinkling. ('17, c. 509, § 18)

1664-19. Same—Payment for—The work of sprinkling authorized by this act shall be paid for upon monthly or semi-monthly estimates made by the person having supervision of such sprinkling and approved by the city council or other governing body, and that portion of the cost of sprinkling which is to be assessed against property benefited thereby shall be paid from the local improvement fund of such city; and all assessments paid for such sprinkling shall be credited to such fund. ('17, c. 509, § 19)

1664-20. Same — Certificates of indebtedness — Authority to issue—Amounts—If, at any time, it is found that the moneys in said fund will not be sufficient to pay the portion of said estimates which will be payable therefrom as the work progresses, such city is hereby authorized and empowered to issue from time to time its certificates of indebtedness, in anticipation of the collection of such assessments, in such amount or amounts as the city council or other governing body may deem necessary to pay for such portion of the estimates as the same become payable, and to negotiate and sell such certificates upon the best terms for said city, subject, however, to all the following conditions. ('17, c. 509, § 20)

1664-21. Same—Certificates of indebtedness—Issue and sale—The issue of such certificates shall first be authorized by a resolution in writing passed by an affirmative vote of a majority of all the members of the city council or other governing body and approved by the mayor of such city.

If the mayor shall not approve such resolution within five days after its transmission to him, then the same may be passed by said city council or other governing body, notwithstanding his objections thereto, by a two-thirds vote of all its members, and shall then have the same force and effect as if approved by the mayor.

Such resolution shall designate the number of such certificates so to be issued, the principal sum of each certificate, the time or times when payable and the purpose for which the money realized thereon is to be paid.

Such certificates shall be numbered consecutively, without regard to the time of issue, and shall be made payable to bearer or to the order of the person or corporation to whom the same may be delivered, as the city council or other governing body may designate, and shall draw interest at a rate not exceeding six per cent per annum and be payable at the city treasury of such city not later than one year from the day of issue and be payable out of the local improvement fund and no other of such city. They shall be signed by the mayor and attested by the clerk or recorder of such city and shall have imprinted thereon the corporate seal of such city.

No certificate shall be sold for less than par value and accrued interest. ('17, c. 509, § 21)

1664-22. Same—Certificates of indebtedness—Record of—The clerk or recorder and the city treasurer shall each keep an accurate record of all certificates so issued, in books to be kept for that purpose.

Any and all proceeds realized from the sale of such certificates shall be turned into the local improvement fund of such city and neither the said certificates nor the proceeds from the sale thereof, shall be used for or devoted to any purpose other than that designated in the resolution authorizing their issue. ('17, c. 509, § 22)

1664-23. Same—Irregularities—No irregularity or informality in any of the proceedings for sprinkling, or in the making or levying of any assessment in anticipation of the collection of which such certificates are issued, shall affect the liability of such city to redeem the same, but the faith and credit of such city issuing the same is hereby irrevocably pledged for the redemption of the certificates so issued. ('17, c. 509, § 23)

1664-24. Same—Cancellation of certificates of indebtedness—The city treasurer shall immediately after any such certificate shall have been redeemed by such city, cancel the same by a writing upon the face thereof showing date of redemption and the amount and to whom paid, and shall affix his signature thereto, and within twenty-four hours thereafter transmit such certificate so cancelled to the clerk or recorder and take his receipt therefor, who shall immediately make an entry of such redemption and cancellation in his certificate register and enter such payment in the said fund account. ('17, c. 509, § 24)

1664-25. Same—Payment of assessments—Any person owning or interested in any piece or parcel of land against which an assessment is levied, as herein provided, may pay such assessment, together with the penalty thereon, to the treasurer of such city at any time before the first Monday in January next following the date on which the same has been certified to the clerk or recorder or to the county auditor, as hereinbefore provided, and said treasurer shall thereupon give his receipt in duplicate for the same, which shall be sufficient authority for the cancellation of such assessment by the county auditor or county treasurer on his books, or by such clerk or recorder, as the case may be. After the first Monday in January next following the date on which any delinquent assessment shall have been certified to the county auditor, the same must be paid to the county treasurer the same as state and county taxes.

Upon the presentation of one of said duplicate receipts by such owner or interested party to the county auditor or county treasurer, as the case may be, he shall cancel such assessment on his books, or if the same has not yet been transmitted to the county auditor, said clerk or recorder shall thereupon cancel such assessment on the delinquent list containing the same. The county auditor, if such receipt be filed with him, shall report the same in the next settlement thereafter with said city treasurer, for taxes collected and payable to such city treasurer.

On the first Monday of each year the city treasurer shall certify to the clerk or recorder of such city all payments made to such treasurer, of assessments certified to the county auditor for collection, and such clerk or recorder shall enter all such payments in the proper records therefor. ('17, c. 509, § 25)

1664-26. Same—Affidavits of publications—When any notice is required to be published in any newspaper, under the provisions of this act, an affidavit of the publisher or printer of such newspaper, or of the foreman or clerk of such publisher or printer, annexed to a printed copy of such notice taken from the paper in which it was published and specifying the time when,

and the paper in which such notice was published, shall be prima facie evidence in all cases and in all courts of this state of the facts contained in such affidavit. ('17, c. 509, § 26)

1664-27. Same—Certificates of payment of taxes—The county auditor shall not issue his certificate that taxes are paid on any piece or parcel of land upon which any delinquent assessment authorized by this act has been certified by him, until such assessment with penalties and interest thereon, if any, has been fully paid. ('17, c. 509, § 27)

1664-28. Same—Application of law—This act shall not be deemed to repeal any provision of any special or home rule charter in force at the date of the passage hereof. ('17, c. 509, § 28)

1664-29. Local improvement fund in cities with not more than 50,000 and not less than 20,000 inhabitants—Transfers from public improvement fund—Tax levy—Payments from—Certificates of indebtedness to augment—Issue, redemption, etc.—There is hereby created in each city having no more than fifty thousand and no less than twenty thousand inhabitants, for the purpose of facilitating the carrying out of contracts for the making of local improvements, a fund to be known and designated as the "local improvement fund," to be constituted and preserved and the moneys therein to be used as hereinafter designated.

The city council of such city may by resolution in writing approved by the mayor, within ninety days after the passage of this act, transfer from the public improvement fund of such city, if there be such a fund, to said local improvement fund, such amount or amounts as it may deem necessary and advisable for the purpose hereinafter designated.

Said council shall have power, from year to year; to include in its estimate of expenses for the levies of taxes such amount or amounts for such fund as it may deem necessary, subject, however, to all the limitations for the levy of taxes in the charter of such city contained. All moneys which may be hereafter collected upon local improvements made or hereafter to be made and to be paid for by special assessment shall be paid into such fund. All moneys so transferred, collected and paid shall constitute such fund and shall be known as the local improvement fund of such city; such fund shall be kept inviolate, and no moneys shall be paid out of such fund for any other purpose whatsoever by the city treasurer than as hereinafter designated.

All contracts heretofore or to be hereafter made for local improvements, which are to be paid for in whole by special assessments, and that portion of all contracts which are to be paid for in part by special assessments, under the provisions of the charter of such city, and no other, shall be paid for out of said local improvement fund.

If, at any time, it shall be found that the moneys in said fund shall not be sufficient to pay all amounts due and earned on any such contracts as the work thereunder progresses, then and in such event such city is hereby authorized and empowered to issue from time to time its certificates of indebtedness, in anticipation of the collection of the special assessments for such contracts, in such amount or amounts as may be deemed necessary by its council to pay for such contract or contracts and to negotiate and sell such certificates upon the best terms for said city, subject, however, to all the conditions in this act contained.

The issue of such certificates shall first be authorized by a resolution in writing passed by an affirmative

vote of a majority of all the members of the council and approved by the mayor of such city.

If said mayor shall decline to approve such resolution within five days after its transmission to him, then the same may be passed by said council, notwithstanding his objections thereto, by a two-thirds vote of all its members, and shall then have the same force and effect as if approved by the mayor.

Such resolution shall designate the number of such certificates so to be issued; the principal sum of each certificate; the time or times when payable, and the purpose for which the money realized thereon is to be paid.

Such certificates shall be numbered consecutively, commencing with number one (1) without regard to the time of issue; shall be made payable to bearer or to the order of the person or corporation to whom the same may be delivered, as the city council may designate; shall draw interest at a rate not exceeding six (6) per cent per annum; shall be payable at the city treasury of such city issuing the same, not later than one year from the date of issue; shall be payable out of the local improvement fund and no other of such city; shall be signed by the mayor and attested by the recorder or clerk of such city, and shall have imprinted thereon the corporate seal of such city.

The clerk or recorder and the city treasurer of said city shall each keep an accurate record of all certificates so issued, in a book to be kept for that purpose.

No certificate shall be sold for less than par value and accrued interest.

Any and all proceeds realized from the sale of such certificates shall be turned into the local improvement fund and no other of such city, and neither the said certificates nor the proceeds from the sale thereof, nor any part or portion thereof, shall be used for or devoted to any purpose other than that designated in the resolution authorizing their issue; the city recorder and the city treasurer of such city shall keep an accurate account of such fund showing in detail all moneys received for and turned into said fund and all expenditures from the same.

No irregularity or informality in the letting of any contract paid for out of the proceeds of such certificates, or in the making of any special assessment in anticipation of which such certificates were issued, shall affect the liability of such city to redeem the same, but the faith and credit of such city issuing the same is hereby irrevocably pledged for the redemption of the certificates so issued.

The city treasurer shall immediately after any such certificate shall be redeemed by such city, cancel the same by a writing upon the face thereof showing date of redemption and the amount and to whom paid, and shall affix his signature thereto; and shall within twenty-four hours thereafter transmit such certificate so cancelled to the city recorder and take his receipt therefor, who shall immediately make an entry of such redemption and cancellation in his certificate register, and enter such payment in the said fund account. ('21, c. 282, § 1)

1664-30. Same—Acts constituting violations of preceding section—If the mayor, clerk or recorder, or city treasurer of any such city shall at any time be guilty of any wilful act, failure or neglect, the design or necessary effect whereof shall be to violate or evade any provision of section 1 of this act, relating to the issuing and sale of certificates of indebtedness of such city or to the maintenance of the local improvement fund in such city, or to divert any moneys from such

fund to purposes for which such moneys cannot legally and appropriately be used under the provisions of this act, he shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not more than five hundred dollars, or to imprisonment in the county jail not exceeding six months or to both such fine and imprisonment; and no vote or resolution or ordinance of the city council, not expressly or by necessary implication authorized by this act, shall be held a justification of such act, failure or neglect. ('21, c. 282, § 2)

1664-31. Enlargement, etc., of public water works plants in cities with Boards of Municipal works—Bond issue for—That each city of the second class in this State, now or hereafter having a Board of Municipal Works, created and existing under the provisions of Chapter 165, Laws 1903, and acts amendatory thereof, be and hereby is authorized and empowered, acting by and through such Board of Municipal Works by ordinance or resolution duly passed by an affirmative vote of not less than five-sixths of all the members of such Board, to issue and sell the bonds of said city in such an amount as in the judgment of such Board may be necessary for the purpose of reconstructing, enlarging and improving the public water works plant and distribution system in such city or for the purpose of providing or securing a new and additional supply of water from other sources than theretofore used; provided that the aggregate principal amount of bonds to be issued by any city under the provisions of this act and of all other laws authorizing bonds to be issued for such purposes shall not exceed two hundred thousand dollars. ('25, c. 25, § 1)

1664-32. Same—Bonds additional to other bonds authorized—The bonds hereby authorized, or any part thereof, may be so issued and sold, notwithstanding any provisions contained in the charter of such city or any law of this state requiring the approval of the voters of said city, or any limitations contained in said charter or laws prescribing or fixing any limit upon the bonded indebtedness of such city, but the full faith and credit of such city shall at all times be pledged for the payment of any such bonds issued hereunder and for the payment of the interest thereon. ('25, c. 25, § 2)

1664-33. Same—Sale of bonds—The Board of Municipal Works of any such city is hereby empowered to negotiate a sale of any bonds issued hereunder, but such bonds shall be sold for not less than par value and to the highest responsible bidder, upon such notice as said Board may deem proper. ('25, c. 25, § 3)

1664-34. Same—Form, maturity, and interest on bonds—No bonds shall be issued hereunder to run for a longer period than thirty years, or bearing a higher rate of interest than five per cent per annum, but the place of payment of principal and interest thereon, and the denominations in which the same shall be issued shall be determined by said Board. All such bonds shall be signed by the president of the Board and attested by the secretary thereof, and shall be sealed with the seal of said Board, but the coupons attached thereto may be signed with the lithographed signature of the secretary. ('25, c. 25, § 4)

1664-35. Same—Use of proceeds of bonds—Said Board hereby is and shall be authorized and fully empowered, in addition to all other powers possessed by it, to use the said bonds or the proceeds of the sale thereof for the purposes herein specified, but neither the same nor any part thereof shall be used for any other purpose. ('25, c. 25, § 5)

1664-36. Same—Sinking fund for redemption of bonds—The Board shall establish and maintain a sinking fund for payment of redemption of bonds issued hereunder and shall pay into such sinking fund all moneys and revenues received by it over and above the amounts required for the operation, maintenance, repair and improvement of the water works plant of such city and interest on its bonded and other indebtedness. Such sinking fund shall be by the City Treasurer kept separate and apart from all other funds and shall be used by the Board for payment, purchase or redemption of its outstanding bonds issued hereunder as, when and in such manner as the Board may deem advantageous and for no other purpose. All moneys in such sinking fund shall be invested by the City Treasurer if, when and as the Board may direct by ordinance or resolution. ('25, c. 25, § 6)

1664-37. Same—Powers of Board additional to other powers—The powers granted in this act are in addition to all existing power of such Board. ('25, c. 25, § 7)

1664-38. Same—Laws repealed—Chapter 180, Laws of Minnesota, 1923, and all acts and parts of acts inconsistent herewith are hereby repealed. ('25, c. 25, § 8)

Explanatory note—Laws 1923, c. 180, repealed by this section, authorized the Board of Municipal Works of any city in the state, created under Laws 1903, c. 165, to issue and sell the bonds of such cities for the purpose of reconstructing, enlarging and improving the public water works plants in such cities. This law was included in Gen. S. 1923 only as a note following § 1391.

1664-39. Storm water sewers, paving, and curbing—Bond issue for construction, reconstruction, etc.—The city council or other governing body of each city of the second class in this state is hereby authorized and empowered, by a vote of two-thirds of its members, by ordinance or resolution duly passed to issue and sell bonds of such city, with coupons attached, to the amount of \$200,000.00, or so much thereof as said council or governing body may deem necessary, for the purpose of constructing, reconstructing, repairing, enlarging and improving storm water sewers, paving and curbing in such city; said bonds to be made in such denomination and payable at such place and at such times, not exceeding 30 years from the date hereof as may be deemed best by said council or governing body, notwithstanding any provisions contained in the charter of such city or any law of this state prescribing or fixing any limit upon the total amount of indebtedness of such city falling due in any one fiscal year, and to bear interest at a rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein. Said council or governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor, and upon the best terms that can be obtained for said bonds. Provided that no such bonds shall be sold for a less amount than par value thereof and accrued interest thereon, and provided further that all of said bonds shall be made for principal sum of not less than \$100.00 or more than \$1,000.00 each. ('27, c. 168, § 1)

1664-40. Same—Issue and sale of bonds—Tax levy—The bonds hereby authorized, or any part thereof, may be so issued and sold, notwithstanding any provision contained in the charter of such city or any law of this state requiring approval of the voters of such city or any limitations contained in said charter or laws prescribing or fixing any limit upon the bonded indebtedness of such city.

The full faith and credit of any such city shall at all times be pledged for the payment of any bonds

issued under this act, and for the payment of the current interest thereon, and said council or governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('27, c. 168, § 2)

1664-41. Same—Form of bonds—All bonds issued under authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city recorder or clerk of such city, but the coupons attached thereto may be signed with the lithographed signature of the recorder or clerk. ('27, c. 168, § 3)

1664-42. Same—Use of proceeds of bonds—said council or governing body hereby is and shall be authorized and fully empowered, in addition to all other powers possessed by it, to use the said bonds or the proceeds of the sale thereof for the purposes herein specified but neither the same nor any part thereof shall be used for any other purpose. ('27, c. 168, § 4)

LAWS APPLICABLE TO CITIES OF SECOND CLASS

Bridge bonds ('15 c. 14). Fire and police board ('15 c. 125). Street sprinkling and assessments therefor ('17 c. 509). Police pension fund ('19 c. 152). Appropriation for Minnesota war records commission ('19 c. 288). Local improvements ('19 c. 224). Bonds for Municipal electric plant ('21 c. 91). Sewer bonds ('21 c. 187). Drainage bonds ('21 c. 188). Nomination of school directors ('23 c. 88). School taxation ('23 c. 255).

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PROVISIONS RELATING TO CITIES OF THIRD CLASS

1665. Special elections—That whenever a special election shall be required in any city of this state having a population of more than ten thousand inhabitants and less than twenty thousand inhabitants, to fill any vacancy in the offices of such city and the charter of such city shall not provide by whom or by what body such special election may or shall be ordered, then in every such case, such special election may be ordered by the city council of such city. ('09 c. 180 § 1) [306]

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1666. Candidates—Nomination—That whenever a special election shall be ordered in any city of this state, having a population of more than ten thousand inhabitants and less than twenty thousand inhabitants, to fill any vacancy in the offices of such city, and the charter of such city shall require such special election to be ordered and held within ten days after such vacancies shall occur, candidates for election at such special election shall not be required to be nominated at a primary election. Candidates for election at such special election may be nominated by delegate conventions called and held in accordance with the laws of this state, relative to the nomination by conventions held to nominate candidates for election at a special election. Candidates for election at such special election may also be nominated by certificates in the manner provided by law relating to nominations by petition or certificates of voters. Provided, however, that all certificates of nomination of candidates for election at such special elections shall be filed with, and the nomination fee fixed by law paid to the city clerk of such city on or prior to the third day before the day appointed for holding such special election.

Whenever a special election shall be ordered in any city of the first class in this state not operating under a home rule charter, to fill any vacancy in the offices of such city, and the charter of such city shall not require such special election to be ordered and held

within ten (10) days after such vacancy shall occur, candidates for election at such special election shall be nominated at a primary election held on the third day, exclusive of any intervening Sunday, before the day appointed for such special election, at the time and places provided under section 309, General Statutes 1913, for the meeting and attendance of the judges of election; and at such time and places there shall be held a primary election for the purpose of selecting two candidates to be voted for at the special election held to fill such vacancy.

The returns of such primary election shall be returned to the city clerk of such city, and shall be canvassed on the next day (not a Sunday or legal holiday), following such primary election, by a canvassing board consisting of the city clerk of such city, the chief accounting officer of such city and the city treasurer of such city.

Such canvassing board shall meet and canvass the returns and determine the result of such primary election on such day provided for their meeting; and shall forthwith certify in writing the result of such canvass to the city clerk of such city, who shall file the same and forthwith, in writing, notify the successful candidates of their nomination.

In the event that any of said officers above named to act on such canvassing board is a candidate for the office so to be filled, or is for any reason unable to act on such canvassing board, the chief executive officer of such city shall designate and appoint another officer of such city as a member of such canvassing board, in place of the officer named who is unable to act.

The action of a majority of such canvassing board, in making such canvass shall be legal and sufficient.

The city clerk of such city shall give fifteen (15) days' notice of the time and places of holding such special election, and at the same time shall give notice of such primary election, designating the officers to be elected.

Notice of both said primary election and special election may be given in one and the same notice, but no defect in such notice or failure to give such notice shall invalidate any election.

All candidates for nomination at such primary election must file their affidavit for such nomination, and pay their fee therefor, in the same manner as provided in the law governing primary elections, except only that such filing shall be made with, and such fee paid to, the city clerk of such city, instead of the county auditor; and such filing must be made, and the fee therefor paid, not later than the fifth day preceding the primary election.

The two persons receiving the highest number of votes at such primary election shall be declared the nominees, and their names shall be placed on the ballot to be used at the special election, and no other names of candidates shall appear on the ballot to be used at such special election except the names of the two candidates receiving the highest number of votes at such primary election; provided, however, that in the event that not more than two persons file as candidates for nomination for the office to be filled at such special election, then, and in such event, no primary election shall be held, but the two persons so filing shall be considered and shall be the nominees for such office, and their names, and their names only, shall be placed on the ballot, to be voted on at said special election for the office so to be filled.

At the primary election so to be held to select candidates to be voted on at such special election all persons entitled to vote at such special election shall be

entitled to vote at such primary election, and except as herein otherwise provided, such primary election and all things pertaining thereto shall be in accordance with and controlled by the laws of the State of Minnesota in respect to primary elections, except only that wherever any act in connection with any regular primary election is required to be done by the county auditor, all such acts in connection with a special primary election shall be done by the city clerk of such city. ('09 c. 180 § 2; amended '17 c. 26) [307]

1667. Fees—Ballots—All nomination fees received by any city clerk under the provisions of this act shall be forthwith paid by him to the city treasurer of such city. Said city clerk shall cause the necessary ballots for use at such special election to be prepared, printed and bound in the form and manner provided by law relating thereto, and shall furnish the same to the judges of election for use at such special election, but such city clerk shall not be required to prepare or post any sample ballot in relation to such special election. ('09 c. 180 § 3) [308]

1668. Judges—Boards of election—It shall not be necessary to appoint judges or to make new registers of voters for such special election, but the judges of election at the last general election in any precinct or district shall continue to be judges of election for such special election and vacancies of judges may be filled the same as in case of general elections. Such judges shall constitute the boards of election for their respective election districts for such special elections. They shall meet on the third day, exclusive of any intervening Sunday, before the day appointed for such special election at six o'clock a. m. at the place where the last election was held, or at such other place as may be lawfully designated as the polling place for such district, and there remain in session until nine o'clock p. m. They shall at such session erase from the registers of voters used at the last election held in such district the names of all voters known to have since died, removed from the district or become disqualified and shall note on such registers opposite each name so erased the reason for such erasure. They shall enter at the proper places in such registers and in the form provided by law relating to the registration of voters, the names of legal voters of said district, who may be lawfully registered as voters at such special election. At the end of said day said board shall compare and correct said registers, shall cause the same to be signed by one of their number at the end of the list on each page thereof, and shall attach certificates to such registers in the form, so far as applicable, required to be attached by boards of registration to registers of voters on completion of the registration of voters in such city. No list of the names of voters appearing on such registers shall be required to be prepared or posted. Before ten o'clock on the next week day, said registers shall be deposited by one of said board in the office of the city clerk, who shall safely keep the same. Such registers shall be used as the registers of voters at such special election. ('09 c. 180 § 4) [309]

1669. Compensation—The compensation for services at such special election shall be the same as provided by law for similar services at elections and with other expenses thereof shall be paid as provided by law relating to the payment of expenses at general elections. ('09 c. 180 § 5) [310]

1670. General election law to apply—Except as otherwise provided in this chapter, or in the charter of the city in which such special election shall be ordered, the nomination of candidates and the registration of

voters for such special election and such special election and all things pertaining thereto, shall be in accordance with and controlled by the laws of this state. ('09 c. 180 § 6) [311]

1671. Cities of third class may hold primaries—The council of any city of the third class operating under a home rule charter may by resolution or ordinance adopted at least four weeks before the date of any municipal election for city officers to be held therein, resolve or ordain that all municipal elections for city officers in said city shall be held and conducted under the primary election system provided for hereby, and thereafter the mode of nomination and election of elective officers of the city to be voted for at any municipal election shall be as follows; provided, however, that the provisions of this act shall not apply to any city whose boundaries extend into more than one county of the state. ('21 c. 13 § 1)

1672. Date—Notice—On a day two weeks preceding the municipal charter election held for the purpose of electing city officers an election of nominees to be designated "city primary election" shall be held in such city for the selection of candidates for elective offices within such city. One week's published and posted notice thereof shall be given by the city clerk. ('21 c. 13 § 2)

1673. Candidates shall file—Fee—Not less than ten days preceding the city primary election any eligible person desirous of having his name placed upon the city primary election ballot as a candidate for an elective city office shall file an affidavit with the city clerk, stating his residence, that he is a qualified voter in such city and naming the office for which he desires to be a candidate. Upon payment by such candidate of a fee of one dollar to the clerk that officer shall place the name of such candidate upon the city primary ballot without any party designation, except that where only two persons have filed for any one office the names of such persons shall not be placed upon said primary ballot but shall be placed upon the charter election ballot as the nominees for the office named. Only the names of candidates who have filed as herein provided shall be printed on the primary ballot and there shall be no party designation or mark on such ballot indicative of the source of the candidacy or the support of any candidate. ('21 c. 13 § 3)

1674. Manner of holding—Canvass—Said primary election shall be held and conducted so far as practicable in the manner provided in the charter of said city for municipal elections of city officers, provided there shall be no blank place on such ballots for the writing in of the names of candidates, and votes cast for the nomination of candidates whose names have not been duly placed thereon shall not be counted as to such office. The results of the municipal primary election shall be canvassed by the council and the two candidates for each office who shall receive the highest number of votes shall be declared to be the nominees for the office named and their names shall be certified to the city clerk, who shall place them upon the charter election ballots without any party designation. ('21 c. 13 § 4)

1675. Vacancies—Whenever a vacancy occurs in any nomination made hereunder the same may be filled by petition as provided in Sections 371 to 374, General Statutes Minnesota 1913, both inclusive, but no candidate defeated at the city primary election shall be eligible for nomination by petition and after one nominating petition for each vacancy shall have been duly filed no other nominating petition for the same office shall be received. ('21 c. 13 § 5)

Explanatory note—For G. S. '13. §§ 371 to 374, see §§ 329 to 332, herein.

1676. Registration—The day of such primary election shall be the first registration day and the day one week after such primary election shall be the second registration day in such city. On said days the election boards shall register voters as provided in the case of general elections for cities of the fourth class. Any person offering to vote at the charter election in such city whose name is not on the list at the opening of the polls but who shall satisfy the board by proper evidence that he is entitled to register and vote shall be allowed to do so. ('21 c. 13 § 6)

1677. Dense smoke—Abatement, etc.—That any city in the state of Minnesota now or hereafter having more than ten thousand and not more than twenty thousand inhabitants, in addition to all the powers now possessed by such city, is hereby authorized and empowered, acting by and through the council, common council or city council of such city by ordinance duly enacted by an affirmative vote of not less than two-thirds of all the members elect of such council, common council or city council, to control, regulate, prevent and prohibit the emission of dense smoke from the smoke stack of any locomotive, engine, stationary engine or building within the limits of any such city, and to declare such emission of dense smoke to be a public nuisance, and to provide for the summary abatement thereof; and in addition thereto to impose such a penalty by fine or imprisonment upon the person or persons who may cause, permit or allow such nuisance to exist, as may be deemed proper, such penalty not to exceed, however, in any case a fine of one hundred dollars, or ninety days' imprisonment. ('13 c. 341 § 1) [1650]

1678. Annexation of territory—Any territory so conditioned as properly to be subjected to city government which has been wholly or partly platted into lots, and which has a resident population of not less than five hundred to the square mile, taken as a whole, and not being within the limits of any city or village and lying adjacent to any city in the same county now or hereafter having a population of not more than twenty thousand or less than ten thousand inhabitants, may be annexed to and become a part of any such city upon the terms hereinafter prescribed. ('09 c. 137 § 1) [1651]

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1679. Annexation of territory to cities—That whenever the majority of the owners of any property which has been platted into lots and blocks or outlots, or the owner of any tract, piece or parcel of land, abutting upon any incorporated city having a population of not less than ten thousand people nor more than twenty thousand people, according to the last federal census, whether such city is incorporated under general or special laws, or is operating under the terms and provisions of a home rule charter, shall petition the city council, city commission, or other governing body of said city, to have such property annexed to the city, the city council or other governing body may by ordinance, and the city commission, acting under a home rule charter, may by resolution, declare the same to be an addition to such city, and thereupon such territory shall become a part of such city, as effectually as if it had been originally a part thereof. ('19 c. 159 § 1)

1680. Duties of city council—It shall be the duty of the city council, city commission, or other governing body of any such city to which such territory shall be annexed and added under this act, to cause a certified copy of the ordinance or resolution aforesaid to be duly filed and recorded in the office of the register of deeds of the county in which said city is located, or, in

the event that said city is located in more than one county, in the office of the register of deeds of the county in which said territory thus annexed to said city is situated, and to also in like manner cause a certified copy of said ordinance or resolution to be filed in the office of the county auditor of said county; provided, that this act shall be construed to be supplementary to any other law providing for the annexation of territory to cities having a population of not less than ten thousand people nor more than twenty thousand people, and not as repealing such law. ('09 c. 159 § 2)

1681. Petition—Census—Duty of county auditor—Ten per cent or more of the voters residing within any city and in such territory proposed to be annexed thereto may petition the county board of the county in which such city and territory are situate to call an election for the determination of such proposed annexation. A census of the resident population of such territory shall first be taken by one or more of such petitioners, and if found to be within the number specified in section 1 [1651] hereof, the petition aforesaid shall be presented within eight weeks thereafter. It shall set forth the boundaries of such territory, that a census has been taken of the number of actual residents therein and the number thereof, and the name of the city to which the same is prayed to be annexed. It shall be verified by the oaths of at least three of the petitioners, declaring that such census was accurately taken within the dates specified therein, and that the statements made in the petition are true. The number of voters shall be ascertained from the number of votes cast for governor at the last preceding general election at any such city prior to the making of such petition. Such petition shall be filed with the county auditor of the county in which such territory is located, and it shall be the duty of the county auditor to cause a copy thereof to be served upon the city clerk of the city to which annexation of such territory is prayed within five days after the same is filed in the office of the county auditor. ('09 c. 137 § 2) [1652]

Section 1 [1651] referred to is § 1678, herein.

1682. Duty of council and clerk—At the next meeting of the city council of the city to which annexation of such territory is prayed, after the service of a copy of any such petition, the city clerk shall lay the same before the council, and at such meeting or a meeting subsequent thereto the city council shall determine by resolution whether the city desires to consent to the annexation of such territory, and the city clerk shall forward to the county auditor, immediately after the adoption of any resolution upon such question, a certified copy of the resolution of the city council accepting or rejecting such annexation, and thereupon the county auditor shall attach such certified copy of such resolution to the original petition for annexation. ('09 c. 137 § 3) [1653]

1683. Duty of county board—In case the resolution of such city council shall be in favor of annexation the county board shall proceed as in the next section specified, and in case the city council shall vote to reject such annexation no further proceedings shall be had by the county board. ('09 c. 137 § 4) [1654]

1684. Election—Notice—If the city council shall vote in favor of such annexation as hereinbefore provided, the county board at its regular meeting shall determine whether the facts stated in such petition are true, and, if they so find, the county board shall order an election to be held by the voters of such city and of the territory described in such petition, and shall cause

a copy of said petition, with a notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries of the territory described in such petition. The time of holding such election shall be not less than twenty nor more than thirty days after such posting, and shall be held within such city and the territory proposed to be annexed thereto. A copy of such petition and notice of election shall also be published in a legal newspaper published within said city, and if there be a newspaper published within the limits of such territory proposed to be annexed, a copy thereof shall also be published in such newspaper, and such publications shall be made once in each week for two successive weeks prior to such election. ('09 c. 137 § 5) [1655]

1685. Election, how conducted—Ballots—Such election shall be conducted in said city in the same manner and the judges and clerks of election therefor shall be appointed in the same manner as at municipal elections therein and the same shall be conducted in all respects as municipal elections, except as hereinafter provided. The county board shall appoint three inspectors, residents of the territory proposed to be annexed, who shall act as judges of said election, who shall appoint two persons clerks of such election, and such judges and clerks shall conduct the same in the same manner as general elections, except as herein provided. Polls shall open at nine o'clock in the morning and close at six o'clock p.m. Only voters residing within said territory and within said city shall be entitled to vote at such election. All ballots at such election shall bear the words "For annexation, Yes, No," with a square after each of said words, in one of which the voter shall make a cross to express his choice. The judges of said election in said city and the inspectors of such election in such territory shall at once upon the close of such election, make and file with the county auditor certificates of the results of such election in such territory and in each election district of such city, declaring therein the time and place of holding such election, that they have canvassed the ballots cast thereat and stating the number of ballots cast both for and against such proposition. The certificates shall be signed and verified by at least two of said inspectors in such territory and two judges in each election district of said city to the effect that the statements thereof are true. ('09 c. 137 § 6) [1656]

1686. Duties of auditor—The auditor shall attach said certificates to the original petition with a copy of the resolution appointing said inspectors and the original proofs of the posting and publication of the election notice, and file the whole as one document in his office. If the certificates show that the majority of all votes cast at such election were in the affirmative, the county auditor shall forthwith make and transmit to the secretary of state a certified copy of said document to be there filed as a public record, and thereupon the annexation of such territory shall be deemed complete. He shall also file a certified copy of said document in the office of the register of deeds of the county and the same shall be recorded, and shall also file a certified copy thereof with the city clerk of the city in which such territory is annexed. If the vote be adverse no subsequent petition shall be entertained within one year next after said election. ('09 c. 137 § 7) [1657]

1687. Expenses of annexation—All proper expenses of the annexation shall be borne by such city in case the city council of any such city shall vote to accept annexation of such territory, including fees for copies, recording, publication and expenses of election. ('09 c. 137 § 8) [1658]

1688. Existing indebtedness—No such territory annexed to any such city shall be in any manner taxed to pay any part of any indebtedness existing on the part of any such city prior to or at the time of such annexation, nor shall any such territory be in any manner released of or from liability to taxation for any debt existing against any municipality of which such territory formed a part prior to such annexation. ('09 c. 137 § 9) [1659]

1689. Property and indebtedness, how apportioned—Appeal—It shall be the duty of the county board to make an equitable division of the public property of the several towns and school districts of which such territory annexed formed a part prior to such annexation, and to apportion the property and indebtedness, if any of each thereof between the respective towns, school districts and city in such manner as shall be just and equitable, having in view the location and value of public buildings and real and personal property where the same remains after annexation, the amount of taxes due and delinquent and the indebtedness of each such town, school district and city, if any, and for what purpose the same was incurred, all in proper relation to the last assessed valuation of all of the taxable property of such town, school district and city, and shall make such apportionment and division thereof by resolution and other appropriate proceedings, first giving at least twenty days' notice to each town or school district and to the city to be affected thereby. Any city, town, school district or territory affected by any resolution, order or proceeding of any county board, as herein authorized to be taken, may appeal to the district court from any such resolution, order or proceeding within twenty days after the making thereof, and in case of appeal by the residents of such territory annexed the same may be taken by forty per cent of the voters thereof; and in case of such appeal all appeals shall be tried and disposed of in one proceeding by the district court in the same manner in all respects as appeals from the decision of the county board on claims against the county, except that the trial thereof shall be by the court without a jury, and an appeal from the determination of the district court shall lie with the supreme court in the same manner as in civil actions. ('09 c. 137 § 10) [1660]

1690. Readjustment of wards—The city council of any such city to which any such territory shall be annexed as herein provided shall have authority by ordinance to provide for a readjustment of the boundaries of the several wards existing in such city in such a manner that the population of each such ward, as the same shall exist at the time of such annexation, shall be made as nearly equal as practicable after the addition of any such territory, provided the several wards shall be composed of contiguous territory. ('09 c. 137 § 11) [1661]

1691. Annexed territory, how governed—Such annexed territory shall in all respects be governed by laws governing the city at the time of such annexation, and said annexed territory shall be governed by all of the laws relating to schools and school districts in said city and the school property awarded to such annexed territory by the county board shall be under the control and management of the officers and proper authorities of such city controlling and governing the school property of such city, subject to the provisions herein with respect to the indebtedness of any such territory, and in case the detaching of any such territory shall divide any school districts outside of the limits of the city, the county board shall have authority to make a proper readjustment of the boundaries

thereof as provided by law. Provided, that no license for the sale of intoxicating liquors in such territory so annexed to any such city shall ever be granted unless the question of issuing the same shall be first submitted to the electors residing therein and shall be authorized by a majority vote of the electors voting at such election on such question. And the city council of any such city is hereby authorized to submit such question to the voters of any such territory so annexed at a special election to be called and held therein and to appoint the necessary judges and clerks for the purpose of conducting the same in the same manner that other municipal elections are held and conducted, and any such license so granted, without complying with the terms of this section, shall be void. ('09 c. 137 § 12) [1662]

1692. New Charter—Within six months after the annexation of any territory to any city as herein provided, the board of freeholders to frame charters as provided by section 749, Revised Laws of 1905, if such board of freeholders shall have been appointed, shall frame a charter for such city as the same exists after such annexation and deliver to the chief executive of such city the draft of such proposed charter as provided in section 751, Revised Laws of 1905, and the same shall be submitted for the approval of the voters of such city as provided by law. ('09 c. 137 § 13) [1663]

1693. Incorporation within city limits of land of state institutions—That any lands adjacent to any city now or hereafter having a population of not less than ten thousand inhabitants, and not more than twenty thousand inhabitants in this state, which are wholly owned by the state of Minnesota, and used as a part of any state institution under the jurisdiction and control of the state board of control of state institutions, may be annexed to any such city by resolution of the city council or other governing body thereof, whenever such city council may be requested to annex such state lands by resolution adopted by the state board of control of state institutions, which resolution shall in all cases describe the lands to be annexed. ('07 c. 349 § 1) [1664]

1694. When annexation is complete—Such annexation shall be deemed complete upon the adoption of any such resolution by the city council or other governing body of such city in the manner above specified, when a duly certified copy of such resolution shall be filed in the office of the secretary of state. A certified copy of such resolution shall also be recorded in the office of the register of deeds of the county in which such city is situate. ('07 c. 349 § 2) [1665]

1695. What lands may be annexed—Any lands owned by the state, as provided in section 1 and adjacent to any city, as herein provided, may be annexed as provided herein, save and except lands situate outside of the limits of the county in which such city is situate. ('07 c. 349 § 3) [1666]

1695-1. Annexation of cities of fourth class to cities of third class for city purposes—Any incorporated city of the fourth class whose territory adjoins the territory of any incorporated city of the third class operating under a home rule charter, whether such city of the fourth class is in the same county as said city of the third class or not, may be annexed to said city of the third class and become a part thereof for city purposes in the manner herein provided for. ('25, c. 279, § 1)

Explanatory note—See Laws 1923, c. 35 (which may be superseded in part), which reads as follows: "Section 1. Any incorporated city of the fourth class whose territory adjoins the territory of any incorporated city of the third class operating under a home rule charter,

whether such city of the fourth class is in the same county as said city of the third class or not, may be annexed to said city of the third class and become a part thereof for city and school purposes in the manner herein provided for.

"Sec. 2. Ten per cent. or more of the legal voters of such city of the fourth class, according to the number of votes cast at the last election in said city of the fourth class, may petition the governing body of such city of the fourth class to call an election for the determination of such proposed annexation, which petition shall be filed with the recorder of the said city of the fourth class.

"Sec. 3. Such governing body shall within ten days after the filing of said petition as aforesaid fix a time and place for the holding of an election for the determination of said matter, which time shall not be later than thirty days after the filing of said petition, and which place shall be within the limits of said city of the fourth class.

"Sec. 4. It shall be the duty of the recorder of the said city of the fourth class to cause a copy of said petition, with a notice attached thereto stating the time and place for holding said election, to be posted in three public places within such city of the fourth class at least ten days before the date of said election.

"Sec. 5. Such governing body shall also appoint three residents of said city of the fourth class as judges of election, and said election shall be conducted as far as practicable in accordance with the laws governing elections in cities of the fourth class. The ballots shall bear the words, "For annexation, Yes.....No....." with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the judges shall canvass the ballots, and forthwith make and file with the recorder of the city of the fourth class a certificate that they have canvassed the ballots cast at such election, and the number of votes cast for and against said proposition.

"Sec. 6. Within five days after such election said governing body shall meet and canvass the returns of said election. If the canvass shows that the majority of the votes cast were in the affirmative the recorder of the said city of the fourth class shall make a certificate to that effect and attach the same to the original petition together with a copy of the resolution fixing the time and place of said election and proof of the posting of the notices of election herein provided for and forthwith file the same with the city clerk or city recorder of the city to which the city of the fourth class is to be annexed.

"Sec. 7. At any time within twenty days after the filing of said certificate the governing body of the said city of the third class may by resolution duly passed declare the said city of the fourth class to be annexed to said city of the third class and to be a part thereof, a certified copy of which resolution shall be duly filed with the secretary of state and the register of deeds of each county in which said city of the fourth class and said city of the third class are situated, and thereafter said city of the fourth class shall be annexed to and form part of said city of the third class, and all property and assets belonging to said annexed city shall belong to and be delivered to said annexing city, and the whole city, as thus enlarged, shall be responsible for all the liabilities, obligations and indebtedness of the said annexed and annexing city.

"Sec. 8. After such annexation the said city of the fourth class shall be part of such ward or form such new and separate ward as the said resolution annexing it shall specify.

"Sec. 9. Such annexed city shall in all respects be governed by the laws governing the annexing city at the time of such annexation, and by all of the laws relating to schools and school districts in said annexing city; and the school and school property of such annexed city shall be under the control and management of the officers and proper authorities of such enlarged city controlling and governing the schools and school property of such city, thus enlarged.

"Sec. 10. No license, however, for the sale of intoxicating liquor in the city so annexed to any such city of the third class shall ever be granted unless the question of issuing the same shall be first submitted to the electors residing within the territory of such annexed city, and shall be authorized by a majority vote of the electors voting at such election on such question. Such question shall only be submitted to the voters of such annexed city by the governing body of such enlarged city upon a petition therefor signed by at least forty per cent. of the legal voters of such annexed city. Any such license granted without complying with the terms of this section shall be void.

"Sec. 11. In all cases where the territory so annexed is situate in a county other than the county in which such annexing city is situate, all city taxes and assessments levied by such enlarged city upon the property situate in such other county shall be certified to the county auditor of the county in which such territory is situate, and the county treasurer of such county, to

whom the said city and school taxes are payable, shall pay to the treasurer of such enlarged city all of such city taxes and assessments and shall pay all school taxes to the proper school officer of such city authorized by law to receive the same."

1695-2. Same—Petition—Thirty-five per cent or more of the legal voters of such city of the fourth class, according to the number of votes cast at the last city election in said city of the fourth class, may petition the governing body of such city of the fourth class to call an election for the determination of such proposed annexation, which petition shall be filed with the recorder of the said city of the fourth class. ('25, c. 279, § 2)

1695-3. Same—Election to determine annexation—Such governing body shall within ten days after the filing of said petition as aforesaid fix a time and place for the holding of an election for the determination of said matter, which time shall not be later than thirty days after the filing of said petition, and which place shall be within the limits of said city of the fourth class. ('25, c. 279, § 3)

1695-4. Same—Notice of petition and election—It shall be the duty of the recorder of the said city of the fourth class to cause a copy of said petition, with a notice attached thereto stating the time and place for holding said election, to be posted in three public places within such city of the fourth class at least ten days before the date of said election. ('25, c. 279, § 4)

1695-5. Same—Judges of election—Ballots—Canvass of votes—Such governing body shall appoint three residents of said city of the fourth class as judges of election, and said election shall be conducted as far as practicable in accordance with the laws governing elections in cities of the fourth class. The ballots shall bear the words, "For annexation, Yes..... No....." with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the judges shall canvass the ballots, and forthwith make and file with the recorder of the city of the fourth class a certificate that they have canvassed the ballots cast at such election, and the number of votes cast for and against said proposition. ('25, c. 279, § 5)

1695-6. Same—Canvass of election returns—Filing certificate—Within five days after such election, the governing body of said city of the fourth class shall meet and canvass the returns of said election, and upon the completion thereof shall make and file with the city recorder a certificate signed by each member of such governing body present and acting, showing the number of votes for annexation and the number of votes against annexation. If a majority of the votes cast were in favor of annexation, as evidenced by said certificates, the recorder of said city shall attach to such certificate the original petition, together with a copy of the resolution fixing the time and place of such election, and proof of the posting of the notices of election herein provided for, and forthwith file the same with the city clerk of the city to which the city of the fourth class is to be annexed. ('25, c. 279, § 6)

1695-7. Same—Resolution and effect of annexation—At any time within twenty days after the filing of said certificate, the governing body of the said city of the third class may by resolution, duly passed, declare the said city of the fourth class to be annexed to said city of the third class and to be a part thereof, a certified copy of which resolution shall be duly filed with the secretary of state and the register of deeds of each county in which said city of the fourth class

and said city of the third class are situated, and thereafter said city of the fourth class shall be annexed to and form part of said city of the third class, and all property and assets belonging to said annexed city shall belong to and be delivered to said annexing city, and the whole city, as thus enlarged, shall be responsible for all liabilities, obligations and indebtedness of the said annexed and annexing city. ('25, c. 279, § 7)

1695-8. Same—Wards in annexed city—After such annexation the said city of the fourth class shall be part of such ward, or form such new and separate ward, as the said resolution annexing it shall specify. ('25, c. 279, § 8)

1695-9. Same—Laws of annexing city to govern—Justice and municipal courts—Such annexed city shall in all respects be governed by the laws governing the annexing city at the time of such annexation. Upon such annexation, the territorial jurisdiction of the established municipal court, whether a municipal court, as such, or a justice court, whether established under general or special law, of the annexing city shall thereby be extended to the boundaries of the city as thus enlarged; and summons issued by or out of said court may be served at any place within the boundaries of the city as thus enlarged, as well as within the other territorial jurisdiction, created by law, of the said court. ('25, c. 279, § 9)

1695-10. Same—Liquor licenses—No license, whatsoever, for the sale of intoxicating liquor in the city so annexed to any such city of the third class shall ever be granted unless the question of issuing the same shall be first submitted to the electors residing within the territory of such annexed city, and unless it shall be authorized by a majority vote of the electors voting at such election on such question. Such question shall be submitted to the voters of such annexed city by the governing body of such enlarged city only upon a petition therefor signed by at least forty per cent of the legal voters of such annexed city. Any such license granted without complying with the terms of this section shall be void. ('25, c. 279, § 10)

1695-11. Same—Taxes and assessments—In all cases where the territory so annexed is situated in a county other than the county in which such annexing city is situated, all city taxes and assessments levied by such enlarged city upon the property situated in such other county, shall be certified to the county auditor of the county in which such territory is situated, and the county treasurer of such county, to whom the said city taxes are payable, shall pay to the treasurer of such enlarged city all of such city taxes and assessments. ('25, c. 279, § 11)

1695-12. Exclusion from city limits of lands upon which are located bridges across navigable streams constituting boundary between two counties—The City Council, City Commission or other governing body of any city of the third class in this state, operating under a Home Rule Charter, may, by resolution duly adopted by unanimous vote, eliminate from the municipal limits of such city any land not exceeding ten (10) acres in area, and not within the platted portion of said city, upon which lands are located any bridge across a navigable stream constituting the boundary line between two counties together with the highway approach thereto situated upon said eliminated territory. ('27, c. 124, § 1)

1695-13. Same—Exclusion resolution filed with county auditor—Effect of exclusion—Upon the adoption of such resolution, duly certified copies thereof shall be filed with the County Auditor of each county where-

in any portion of said bridge and approaching highway is located, and also with the Secretary of State. Upon the completion of said filing, the said change and alteration in the boundary lines of said city shall be complete, and said territory restored to the township or municipality wherein the same is situated. But said elimination shall not relieve the said territory so eliminated from its liability to pay its proportionate part of the existing bonded indebtedness of said city of the third class unpaid at the time of such exclusion. ('27, c. 124, § 2)

1695-14. Street railway franchises—Authority to grant—Connection of street railways with other territory, etc.—That the city council of any city in this state now or hereafter having a population of not less than 10,000 inhabitants and not more than 20,000 inhabitants, according to the then last official state or national census, is hereby empowered to grant by ordinance to any person, persons or corporation the authority, right and privilege to construct, maintain and operate street railway lines by other than steam power upon the streets of any said city, and also authority to connect such street railway lines in any said city with other territory, cities and villages in the state of Minnesota for a period of not exceeding twenty-five years. Provided, however, that nothing herein contained shall be construed to authorize the making of any exclusive franchise. ('05, c. 250, § 1) [1667]

1695-15. Same—Grants legalized—Where any city council of any said city has heretofore granted by ordinance or resolution to any person, persons or corporation the right and authority to use its streets for the construction and operation of street railway lines of the character described in section 1 hereof, for a period not to exceed twenty-five years, and where such ordinance or resolution has been accepted by such person, persons or corporation, every such ordinance or resolution is hereby legalized and declared to be valid, provided that nothing herein shall be construed to confirm or legalize the granting of any franchise to the extent of making the same exclusive. ('05, c. 250, § 2) [1668]

1695-16. Same—Cities to which act does not apply—This act shall not include or apply to cities now governed under a charter adopted under and pursuant to sec. thirty-six, article four, of the constitution of this state, as amended, and chapter three hundred and fifty-one of the Gen. Laws of 1899 and the several acts amendatory thereof. ('05, c. 250, § 3) [1669]

1696. Water works—Power to acquire—That each city in the state of Minnesota, now or hereafter having not less than ten thousand and not more than twenty thousand inhabitants, according to the then last preceding national census, is hereby authorized and empowered, as hereinafter provided, to construct, erect, purchase or otherwise pursuant to authority of law, acquire a system of water works to be operated and governed by such city, in such manner and to be managed and regulated by such boards or commission, or otherwise, as from time to time may be prescribed by lawful authority, and each said city is authorized to issue bonds in payment therefor, as hereinafter provided. ('05 c. 105 § 1) [1670]

123-48, 142+1042.

1697. Issue of bonds—Mortgage—Limit of debt—That each such city is hereby authorized to issue in payment for any such system of water works, or to pay and discharge or refund any bonds secured by a mortgage upon any water works heretofore or hereafter purchased by any such city, and existing at the time of such purchase, in addition to all bonds hereto-

fore authorized to be issued by any such city, its bonds, in an amount to be determined by a two-thirds vote of all the members of its city council, not exceeding in amount five per cent of the assessed valuation of the taxable property of such city, according to the last preceding assessment thereof, for the aforesaid purpose of constructing, erecting, purchasing or acquiring in any lawful manner a system of water works. ('05 c. 105 § 2) [1671]

1698. **Submission to voters**—Before any bond shall be issued as provided in this act, the city council shall by resolution authorize the issuance thereof, subject to the approval of the legal voters of such city, and by such resolution such city council shall determine the amount of bonds to be issued, the rate of interest, which shall not exceed four per cent per annum, payable semi-annually, and the time of the maturity of such bonds, which may be at such time or times and in such installments as the council shall in such resolution provide, and such bonds may be issued in such denominations as such resolution may provide, and such council shall in such resolution fix a time either at an annual or special election to be called for that purpose, when the voters of such city shall vote upon the question of the issuance of such bonds, and at the time so fixed by such city council the legal voters of such city shall vote upon the question of the issuance of such bonds. The form of ballot therefor shall be as follows:

“Shall the city of _____ issue its bonds in the sum of _____ dollars, bearing interest at _____ per cent per annum, payable semi-annually, for the purpose of acquiring and owning a system of water works, pursuant to a resolution of the city council of said city, passed on the _____ day of _____, 190—?”

Yes
No

Voters who desire to vote for the issuance of such bonds shall place a cross (X) opposite the word “Yes” of said ballot, and those who desire to vote against the issuance of said bonds shall place a cross (X) opposite the word “No” of said ballot. Such election, if a special election, shall be conducted in all respects as a general election, except that it shall not be necessary to have more than two days for registration, which days shall be one week and two weeks, respectively, prior to the day of such election. If the majority of the voters who vote upon such question shall vote for the issuance of said bonds, then the same shall be issued, otherwise they shall not be issued. ('05 c. 105 § 3) [1672]

1699. **Bonds**—The bonds of any such city issued pursuant to the terms of this act may be issued and sold from time to time as determined and authorized by ordinance or resolution adopted by the affirmative vote of a majority of all the members of the city council, and all interest upon such bonds shall be evidenced by coupons attached to such bonds, and which interest shall be payable at such times and at such place or places as may be specified in such ordinance or resolution. Such bonds shall be sealed with the seal of the city issuing them and be signed by the mayor and city clerk or recorder, and such coupons shall be signed by the city clerk or recorder, and such bonds shall not be sold for less than par value and accrued interest to the highest responsible bidder after notice published once in each week in a daily newspaper, if there be one in such city, for two successive weeks; if not, then once

in each week for two successive weeks in a weekly newspaper in said city, and also once in each week for two successive weeks in a daily newspaper published in the city of St. Paul, Minnesota. ('05 c. 105 § 4) [1673]

1700. **Proceeds, how used**—None of the proceeds of any of the bonds issued pursuant to the provisions of this act, nor any part thereof, shall be used for any other purpose than the purposes hereinbefore specified, together with the necessary expense attending such purposes, and the purpose or purposes for which such bonds shall be issued shall be distinctly set forth in the ordinance or resolution authorizing the same. ('05 c. 105 § 5) [1674]

1701. **Limit of debt**—None of the bonds of any such city issued pursuant to the terms and provisions of this act shall be deemed or taken to be a part of the indebtedness of such city within the purview of any law limiting the amount of the bonded or other indebtedness of any such city, and the bonds authorized by this act may be issued notwithstanding and without regard to any limitation of the indebtedness of such city, nevertheless the full faith and credit of every such city is irrevocably pledged to the full payment of all such bonds and interest. ('05 c. 105 § 6) [1675]

1702. **Tax levy—Water works fund**—Every such city issuing any bonds under authority of this act is hereby required to levy each year thereafter the necessary tax upon all the taxable property of such city for the purpose of raising an amount which shall be equivalent to the reasonable value of the hydrant rental and other water consumed or used by such city and provided by such system of water works, which sum shall be paid into and credited to a fund known as the “water works fund,” which shall be kept separate from all other moneys of such city, and shall be under the control and management of the governing body, board or commission of such city, which shall have the control, government and management of such water works system as may be from time to time provided by law, and likewise all rentals and revenue derived from such system of water works in any manner shall be paid into such fund, and all expenses of management and operation, and otherwise of such system of water works, shall be paid out of said fund, and from the balance thereof there shall each year be set aside a sufficient amount to pay the interest upon all bonds-issued by authority of this act and such further sums as may be necessary to create a sinking fund, to pay the principal of such bonds as they mature and a sufficient sum to pay the interest as it falls due upon any bonds secured by a mortgage upon such water works, given before any such purchase thereof. Said sinking fund to be known as the “water works sinking fund.” And in case of any deficiency in the amount of said water works fund, every such city is hereby required to levy each year the necessary tax upon all taxable property of such city for the purpose of making up any such deficiency, and of paying the interest upon all such bonds so issued and of creating a sufficient sinking fund to pay such bonds as they mature, and such sinking fund shall not be diverted to or used for any other purpose than that of paying the interest and principal upon the bonds issued by authority of this act; and none of the receipts of said water works system shall be diverted to any other purpose except that of the maintenance, operation and extension of said water works system, and of the payment of the interest and principal of the bonds issued pursuant to this act. ('05 c. 105 § 7) [1676]

1703. Water works, how acquired—Every such city is hereby authorized and empowered by a two-thirds vote of the common council thereof to contract on behalf of said city for the purchase of water works or for the building and construction of a system of water works, but no contract for such building or construction shall be entered into until after said city council, or other governing body, shall cause an advertisement for sealed bids for the performance of such contract to be published by the city clerk or recorder thereof, at least once in each week for three successive weeks, in a daily newspaper published in said city, if one there be; if there be none, then once in each week for three successive weeks in a weekly newspaper published in said city, and also once in each week for three successive weeks in a daily newspaper published in St. Paul or Minneapolis. The council, or other governing body, shall have authority to prescribe such terms and conditions relative to the making of such bonds for such contract and relative to the security which each bidder shall be required to make or deposit with such bid, as to such council shall seem expedient and proper, and shall have authority to reject any and all bids; but no such contract to purchase or construct shall be valid unless, either prior to the making thereof or thereafter, in case bonds are required to be issued to pay for such water works, a majority of the legal voters of such city shall vote in favor of the issuance of such bonds, as hereinbefore provided. ('05 c. 105 § 8) [1677]

1703-1. Electric light and power plants—Authority to construct, operate, etc.—Sale, etc., of electricity—Any city in the State of Minnesota, now or hereafter having a population of not less than ten thousand nor more than twenty thousand inhabitants, in addition to all of the powers now possessed by such city, is hereby authorized and empowered, acting by and through the city council, city commission, or other governing body of said city, to erect and construct a municipal electric light and power plant or plants within said city, and such transmission and distribution systems as may be required in connection therewith and to operate the same, for the purpose of providing electricity for municipal purposes, and to sell and dispose of electricity for light, heat and power purposes to private consumers within such city, and to sell and dispose of electricity to private consumers outside of the corporate limits of said city. ('21, c. 91, § 1)

1703-2. Same—Bond issue—Denominations—Maturity—Interest—In addition to all other bonds that such city is by law authorized to issue, such city may issue its bonds, in an amount not exceeding fifteen (15) per centum of the assessed valuation of the taxable property of such city, according to the last preceding assessment thereof for general taxation, for the purposes herein stated. The amount of bonds issued by any such city under the provisions of this act shall be limited only by the provisions of this act, and the amount of bonds hereby authorized shall not be controlled or limited by the provisions of any general or special law, or the charter of such city. Such city is authorized to sell and dispose of said bonds as herein-after provided, and use the proceeds thereof for the purpose of erecting and constructing such municipal light and power plant or plants, and for the equipment thereof, and site therefor, and for the purpose of providing transmission and distribution systems for such electrical plant, for the purpose of disposing of electricity furnished by such plants as herein provided for. Such bonds shall be of such denominations as the city council, city commission, or other governing body, shall determine, shall be payable at such times, not less than

ten (10), nor more than thirty (30), years from date of issue, and at such place as said governing body may designate; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such governing body may determine, and shall be payable at such place, and shall bear interest, payable semi-annually, at such rate, not exceeding six (6) per centum per annum, evidenced by appropriate interest coupons attached to such bonds, as said governing body may determine. Said bonds and coupons shall be signed by the Mayor, attested by the Clerk, or other similar officer of such city, and the corporate seal of the city shall be impressed upon said bonds. ('21, c. 91, § 2)

1703-3. Same — Bond issue — Election — Notice — Whenever the city council, city commission, or other governing body, of any such city, at any regular or special meeting thereof, shall determine, by resolution duly adopted by not less than two-thirds vote of all members thereof, entered upon the minutes of the proceedings, that it is necessary to construct and operate a municipal light and power plant or plants in said city for the purposes herein stated, and that the funds in the treasury of said city available therefor are not sufficient for such purposes, and that it is necessary to issue and negotiate the bonds of such city in an amount determined and stated in said resolution, but not exceeding the maximum amount herein provided for, such city council, city commission, or other governing body of said city, shall cause the proposition of issuing such bonds in such amount to be submitted to the electors of such city, at a general or special election to be held therein. Such resolution shall fix the time of holding said election, and if the same is submitted at a special election, said election shall be held not less than twenty (20) days after the date of the adoption of said resolution, and that notice of said election shall be given, and that said election shall be conducted as provided by the general laws of the state. The notice of such election, whether general or special, at which said proposition is to be submitted to vote, shall contain a statement of the total amount of the principal of said bonds, the denomination or denominations, date, maturity and interest rate thereof, and the purpose to which it is proposed to put the same. If five-eighths (5/8) or more, of the total number of votes cast at said election are in favor of the proposition of issuing and negotiating said bonds, then the same shall be authorized, and the governing body of such city shall be empowered to forthwith adopt a resolution providing for the issuance of said bonds, and shall be authorized to negotiate and sell the same for not less than par value and accrued interest, upon published notice and competitive bidding, in manner and form as provided for by the general laws of the State of Minnesota. ('21, c. 91, § 3)

1703-4. Same—Bond issue—Election—Ballots—Canvass—In voting upon said proposition, the ballots used shall have written or printed, or partly written or printed thereon, the words "Bond Ballot," and the proposition submitted to said electors shall be in the form as provided for in Section 1883, General Statutes, 1913. The voting shall be conducted in the same manner as provided by law for the election of city officers, and shall be counted, returned and canvassed in the same manner as provided by law for the election of city officers. ('21, c. 91, § 4)

Explanatory note—For G. S. '13, § 1883, see § 1963, herein.

1703-5. Same—Bond issue—Use of bonds or proceeds—Neither the said bonds, nor the proceeds of the sale

thereof, shall be used for any other purpose than as specified in this act, and such purpose shall be again distinctly stated in said resolution of said city council, city commission, or other governing body of said city, authorizing the issuance thereof. ('21, c. 91, § 5)

1703-6. Same—Bond issue—Lien—The principal and interest of any such bonds so issued is hereby declared to be a first lien upon said municipal light and power plant or plants so constructed by means of said bonds, or the proceeds of the sale thereof, and the faith and credit of such city issuing the bonds is hereby irrevocably pledged to the payment thereof, any provisions of the law of this state, whether general or special, to the contrary notwithstanding. ('21, c. 91, § 6)

1703-7. Condemnation of flowage rights for power dams—Any city of the third class now owning and operating a power dam, either within or without its corporate limits, for the purpose of generating electricity for municipal use, is hereby authorized and empowered to acquire necessary flowage rights under the right of eminent domain over and upon any property, including any public easement therein, for the purpose of increasing the height of such dam. ('27, c. 214)

1703-8. Board of water commissioners—Creation—Board to be permanent—That each city in the state of Minnesota, now or hereafter having not less than ten thousand and not more than twenty thousand inhabitants, and now or hereafter owning or operating a system of water works, is hereby authorized and empowered to create a board of water commissioners who shall have the control and management of such system of water works and shall be known as and styled the board of water commissioners of such city. Such boards shall be created by an ordinance of such city and shall be appointed as herein provided and shall have all of the powers and duties hereinafter prescribed. No such city shall after creating such board thereafter annul, vacate or dissolve the same. ('11, c. 21, § 1) [1685]

1703-9. Same—General powers—Every such board may sue and be sued, plead and be pleaded, answer and be answered unto, appear and prosecute unto final judgment in any court or elsewhere in its own name, and may have a corporate seal and alter the same at pleasure. A majority of said board shall constitute a quorum and all contracts and engagements, acts and doings of said board within the scope of its duty and authority shall be obligatory upon and as binding in law as if done by the common council or other governing body of said city. ('11, c. 21, § 2) [1686]

1703-10. Same — Personnel — Appointment — Vacancies—Oath—Said board shall consist of three members who shall be voters of such city and always appointed by its mayor. When first created one member of said board shall be appointed for the term of one year, one for the term of two years and one for the term of three years. Thereafter appointments, except appointments to fill vacancies, shall be for the term of three years. Vacancies in said board from any cause other than expiration of term of office shall be filled by appointment for the unexpired term. Each member of said board shall serve without compensation shall qualify by subscribing to and filing with the clerk of such city an oath that he will faithfully and impartially perform the duties of his office, and his term of office shall continue until his successor is appointed and qualified. ('11, c. 21, § 3) [1687]

1703-11. Same—President and vice president—When first created and in each year after the expiration of the term of any member thereof and the qualifying of

his successor, said board shall elect one of its members president of the board and one of its members vice president of the board. ('11, c. 21, § 4) [1688]

1703-12. Same—Secretary—Duties—Said board shall elect some suitable person as its secretary who shall hold office during the pleasure of said board and who shall, before entering upon his duties, furnish a bond running to said city and with such sureties and in such amount as shall be fixed by said board, conditioned that he will faithfully perform all the duties of his office as required by law and promptly pay over to the treasurer of said board all moneys and deliver up all property belonging to said municipality that he may have in his possession or for which he is or may be accountable. It is made the duty of said secretary under the direction of said board to collect and receive and promptly pay to the treasurer of said board all moneys due on account of the operation of said water works or any transaction of said board. He shall keep an accurate record in books kept for that purpose, of all the proceedings and business transactions of said board; he shall also keep a set of books which shall contain a full and complete statement of the condition and operation of said water works and of all moneys received and paid out on account thereof for any cause whatsoever, together with an accurate account of the expenses of said board and of said system, and of the income thereof, and in such manner as to show at all times the exact financial condition of said board, and he shall make a detailed statement of the same to said board semi-annually at such time as said board shall fix. He shall perform such other and further duties as said board may from time to time require and shall receive such salary or compensation as shall be fixed by said board. ('11, c. 21, § 5) [1689]

1703-13. Same—Treasurer—Duties—Water Works Fund—Reports—Compensation—The treasurer of such city shall be ex officio the treasurer of said board and it shall be his duty to receive all moneys which may be paid to said secretary on account of said board of water commissioners from any source whatever. All moneys so received shall be kept by said treasurer in a fund known as the "Water Works Fund" and separate from all other moneys of said city and shall be paid out only upon the orders of said board signed by the president and countersigned by the secretary thereof. He shall report semi-annually to said board at such times as it may determine and at such other times as said board may require in detail showing the amounts paid into said fund, the sums paid therefrom and the sums remaining to the credit of said fund. Said city treasurer shall receive in addition to the salary or compensation otherwise fixed by law such further sum as said board may determine for services performed by him pursuant to this act. ('11, c. 21, § 6) [1690]

1703-14. Same—Powers of board enumerated—Said board shall have full, absolute and exclusive control of and power over the water works and water plant of such city and all parts, attachments and appurtenances thereto and all apparatus and material of every kind and description used or to be used in operating said plant and owned or controlled by such city. It shall have the power to operate the same and to extend, add to, change or modify the same, and to do any and all things in and about the same which it may deem necessary for the proper and economical operation thereof; provided, it shall not have the right to sell, lease, rent or in any way dispose of or encumber the said property. It shall have authority to buy all material and employ all help necessary to make any extension or addition

to or change or modification of said plant, or it may contract to extend, add to, change or modify said plant or any part thereof. Said board shall also have authority to buy all necessary fuel and supplies, to appoint and remove at pleasure such employees and officers as in its judgment may be necessary and to fix their salaries and compensation from time to time. And in case any person holding any office of said city or employed thereby shall be employed or appointed by said board, said board shall fix the compensation or salary of such person for all services or duties performed by such person for said board. Said board shall also have power to make by-laws and regulations, not inconsistent with law, for the government of its officers and employees, for the control and management of said plant and the several portions thereof and for the regulations and transactions of the business entrusted to them. It shall have power to require payment in advance for water or service furnished by it in or upon any building, place or premises, and in case prompt payment shall not be made it may shut off the water from such building, place or premises and shall not be compelled to again supply such building, place or premises with water until said arrears, with interest thereon together with cost of turning said water off and on as fixed by said board, shall be fully paid. It shall also have power to fix and determine conditions and requirements for making or continuing connections with said plant, to make regulations governing the use of water furnished therefrom and to prevent waste thereof and in case of the default, refusal or neglect of any patron in the due observance of any such requirement or condition or regulations to discontinue the furnishing water to any one so offending. ('11, c. 21, § 7) [1691]

1703-15. Same—Distribution of water—Water rates—Lien of rates—Wastage—Said board shall control and regulate the distribution of water from said system of water works in all places and for all purposes where the same may be required for either public or private use and fix the price and rates therefor and from time to time cause to be assessed the water rate to be paid for any public use thereof, or by the owner or occupant of each house or other building having or using water, upon such basis as it shall deem equitable, provided, that such rate may be greater for the water furnished to the owner or occupant of any building or premises situate on any lot, piece or parcel of land for any reason not liable for or exempt from the frontage tax hereinafter provided, than the rate charged for a like service furnished to the owners or occupants of lands liable for and not exempt from such frontage tax. Every such water rate shall become a continuing paramount lien, until paid, on each house or other building, and upon the lot or lots upon which such house or other building is situate, and it shall erect such number of new public hydrants and in such places as shall be ordered from time to time by the city council of such city. Said board is hereby authorized and required to restrain and prevent any and all wastage of water, whether occurring under public or private use, and to that end may, when in its judgment necessary, turn off the water or take such other action as in its judgment may be proper. ('11, c. 21, § 8) [1692]

1703-16. Same—Use of ground under roads, railroads, etc.—Said board in behalf of such city, and all persons acting under its authority, shall have the right to use the grounds or soil under any road, railroad, highway, street, lane, alley, court or public place for the purpose of constructing, enlarging, empowering or repairing the water works of such city, on condition

that it shall cause the surface of such road, railway, highway, street, lane, alley, court or public place to be restored to its original state and all damages done thereto repaired. Provided, however, that in acting under this section said board shall respect and obey all ordinances of such city. ('11, c. 21, § 9) [1693]

1703-17. Same—Assessment of water frontage tax—Exemptions from—In addition to all other powers conferred upon said board, said board is authorized, for the purpose of defraying in whole or in part the cost of such water works and of subsequent extensions thereof, to assess upon each and every lot, piece or parcel of land in such city, except only lands which are or may be exempt by law from assessments for local improvements, in front of which water mains are or shall hereafter be laid, a water frontage tax at the rate of seventy-five cents on each lineal foot of the frontage of such lot, piece or parcel of land and which shall be a lien upon such lot, piece or parcel of land until paid, and shall be due in fifteen equal installments and collected at the times and as hereinafter provided. Every lot, piece or parcel of land in such city situate at the intersection of two or more streets, each having a water main laid therein, shall be allowed an exemption from such frontage tax on one of said streets at each corner thereof, but no such exemption shall be allowed until after such lot, piece or parcel of land shall have been fully assessed for such frontage tax on one of the streets intersecting at the corner where such exemption is allowed. Such exemption shall be the number of feet of the shorter frontage of every such lot, piece or parcel of land on either of such intersecting streets not exceeding, however, fifty feet at any corner. No property shall be subject to any such frontage on any frontage thereof upon which frontage the owner or owners thereof shall have theretofore and without cost to such city, or to said board, laid or caused a water main to be laid in front of such property and which water main has been thereafter accepted by such city or by said board and made a part of said system of water works. ('11, c. 21, § 10) [1694]

1703-18. Same—Assessment rolls of water front tax—That said board shall after its organization make up a detailed assessment roll duly certified by its president and secretary and under the seal of said board for the frontage tax described in the foregoing section upon each lot or piece of land then liable therefor. Said board shall thereafter, and prior to the first day of August in each year, make up a like assessment roll for the said frontage tax upon each lot, piece or parcel of land then liable therefor by reason of any extension or addition to said system of water works subsequent to the making up of the first or any subsequent assessment roll as hereinbefore provided. Every such assessment roll shall be filed in the office of the secretary of said board and preserved by him and shall be kept as a public record in his office. ('11, c. 21, § 11) [1695]

1703-19. Same—Installments of water frontage tax—Notice of times when due—The first installment of every such frontage tax shall be due immediately upon the filing of the assessment roll for such tax in the office of said secretary and one subsequent installment thereof shall become due on the first day of July in each year thereafter, and, until the respective installments thereof have been certified to the county auditor as herein provided they shall be collected by said secretary. Upon the filing of any such assessment roll in his office said secretary shall prepare a written notice over his signature, stating therein that an assessment roll for the water frontage tax authorized by this act

and assessed under the provisions hereof upon each lot, piece or parcel of land in such city liable therefor, at the date of said assessment roll, has been filed in his office, that the first installment of such assessment is then due, and also stating therein the date of such assessment roll and of the filing thereof. Said secretary shall cause such notice to be published for three successive weeks in the official newspaper of such city and a printed copy thereof to be posted in each of three public places in said city, provided that no defect or irregularity in any such notice or in the publication or posting thereof, shall in any way to any extent impair or invalidate any such assessment roll, or any assessment therein contained or any part thereof, or any penalty thereon hereinafter provided for. ('11, c. 21, § 12) [1696]

1703-20. Same—Delinquent water frontage taxes—Penalties—The first installment of every such frontage tax shall be delinquent at the expiration of sixty days after the assessment roll therefor shall have been filed in the office of said secretary and shall, at the expiration of said sixty days, be subject to and there shall be added thereto a penalty of ten per cent. of the amount of such installment. Every subsequent installment of such frontage tax, if not paid prior to the first day of October in the year in which the same becomes due, shall be delinquent on said day and shall also be subject to and there shall be added thereto a penalty of ten per cent. of the amount of such delinquent installment. ('11, c. 21, § 13) [1697]

1703-21. Same—Delinquent water frontage taxes—Collection—Payment—Cancellation or change of assessments—That between the first day of October and the fifteenth day of October in each year, said board shall make up a detailed statement, duly certified by the president and under its seal, of all installments of such tax or assessments becoming delinquent during the year preceding and of all penalties thereon, which statement shall be transmitted by the secretary of said board on or prior to said fifteenth day of October to the county auditor of the county in which such city is located as delinquent taxes for collection; whereupon it shall be the duty of said county auditor to extend the same in proper columns on his rolls against the property described in said statement as aforesaid for collection, and every such installment of such tax or assessment shall be collected and the payment thereof enforced with and in the like manner as state, county and other taxes are collected and the payment thereof enforced and shall be subject to all the penalties and charges as property delinquent for taxes delinquent for county and state purposes. Every such installment of such tax or assessment, when collected, shall be paid over by the county treasurer to the secretary of said board, together with all costs, penalties and interest collected thereon at the time of making payment of city taxes to the treasurer of such city. At the time of making such payment said county treasurer shall transmit to the secretary of said board a detailed statement showing the several parcels of land upon which collections have been made by him and for which payments are so made and the amount collected on account of each such parcel. Provided, that said board may, prior to sale of any lot, piece or parcel of land for the enforcement of taxes pursuant to state law, by resolution direct its secretary or said county auditor to cancel on any record where the same appears any installment of said tax or assessment, whether because the same be irregular or erroneous or because the extension or improvement for which the same shall have

been assessed shall have been abandoned by said board in whole or in part. Said board may in like manner direct its secretary or said county auditor to divide any such installment of such tax or assessment and place parts thereof on any part of the real estate against which the same is assessed and to make the necessary corrections and records thereof. A copy of any resolution authorized by this section, certified by the secretary of said board and under the seal of said board, filed with said county auditor, shall be sufficient authority for his acts in compliance therewith. ('11, c. 21, § 14) [1698]

1703-22. Same—Cancellation of assessments by court—Reassessments, etc.—If any assessment made by said board as herein authorized and directed shall be cancelled by it or vacated, annulled or set aside, either in whole or in part, by any court for any reason except that the land whereon the same was assessed was and is not liable therefor, in every such case all portions of every assessment so cancelled, vacated, annulled or set aside which have not been theretofore paid or which shall have been repaid by said board, shall be re-assessed by said board and the collection thereof enforced in the same manner as hereinbefore prescribed for the assessment of said frontage tax upon lands becoming liable therefor by reason of an extension of or addition to said system of water works, and in case for any reason any lot, piece or parcel of land liable for such frontage tax shall at any time for any cause be omitted from any assessment made while the same was liable therefor and unassessed, such lot, piece or parcel of land shall be likewise, as soon as such omission shall be discovered, assessed for such frontage tax as though the same had become liable therefor by reason of such extension of or addition to said water works. ('11, c. 21, § 15) [1699]

1703-23. Same—Extension of water works systems—Certificates of indebtedness—Said board is further authorized and empowered whenever at any time or from time to time it shall determine to make an extension or addition to the system of water works of such city, and when authorized by a resolution of the common council of said city to issue the same, to cause to be issued and sold as the proceeds thereof shall be needed for the purpose of paying the cost of the extension of or addition to said system of water works so determined upon certificates of indebtedness in anticipation of the collection of any frontage tax assessed or to be assessed on account of such extension or addition. Such certificates of indebtedness shall be issued to mature serially and as nearly as may be at such times and in such amounts as will correspond with the times of collection of the several installments of the frontage tax assessed on account of such extension or addition, and shall bear interest at not to exceed six per cent. per annum, payable annually, and may have interest coupons attached thereto for such installments of interest and shall be payable at such place as said board may determine. Such certificates shall be issued under the seal of said board, signed by its president and secretary and countersigned by the clerk of such city and shall be issued in such denomination as said board shall determine but shall not be authorized in sums aggregating more than ten thousand dollars in any calendar year. The certificates issued for each extension or addition shall constitute a separate series and shall be consecutively numbered and state upon the face thereof the extension or addition for which the same are issued.

The principal and interest of the series of certificates sold on account of any such proposed extension or addition shall be a first charge on the moneys received by said board from the installments of frontage tax levied for defraying the cost of extension or addition for payment of the cost of which the same were issued, and no part of such moneys shall be used for any other purpose until the principal and interest on such series of certificates shall have been fully paid or the moneys for the payment thereof have been set apart in the treasury of said board.

Such certificates may be sold at such time and manner as said board shall determine but shall not be sold for less than par and accrued interest, and said board may and is hereby authorized to purchase any such certificates at any time, with any funds in its hands available therefor, as an investment of such funds and may again sell certificates so purchased at pleasure. No part of the moneys arising from the sale of any such certificates shall be used for any other purpose than that of the extension or addition for which such certificates were authorized. ('11, c. 21, § 16) [1700]

1703-24. Same—Certificates of indebtedness—Not part of city indebtedness—None of the certificates of indebtedness issued pursuant to the terms of this act shall be deemed or taken to be a part of the indebtedness of such city within the purview of any law limiting the amount of any bonded or other indebtedness of such city and certificates of indebtedness authorized by this act may be issued notwithstanding and without regard to any limitation of the indebtedness of such city, nevertheless the full faith and credit of every such city is irrevocably pledged to the full payment of such certificates and interest. ('11, c. 21, § 17) [1701]

1703-25. Same—Cities to which act does not apply—This act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section 36, article iv, of the constitution of this state, and the several acts of the legislature authorizing cities to adopt their own charters. ('11, c. 21, § 18) [1702]

1704. Repairing and rebuilding bridges—Whenever any city in this state, now or hereafter having a population of not less than ten thousand nor more than twenty thousand inhabitants according to the then last preceding official national or state census, has, by authority of law, constructed, built, purchased or otherwise lawfully acquired any bridge across any navigable stream either wholly within the limits of any such city or partially within and partially without the limits of said city, or partly within the limits of said city and connecting with and partly within any state bordering upon the state of Minnesota, every such city shall have the power and authority to repair, reconstruct and rebuild from time to time any such bridge, whenever the same may be determined to be necessary by a two-thirds vote of all the members of the city council, or other governing body of such city, and every such city is hereby authorized to issue its bonds in the manner hereinafter specified for any or all of the purposes aforesaid, provided that the amount of bonds issued by authority of this act shall not exceed two per cent of the assessed valuation of the taxable property of such city, according to the then last preceding equalized valuation thereof as determined by the state board of equalization. ('05 c. 170 § 1) [1678]

1705. Tax levy—Sinking fund—Every city issuing any bonds under authority of this act is hereby required to levy each year thereafter the necessary tax upon all the taxable property of such city, for the pur-

pose of paying the interest upon bonds so issued and of creating a sinking fund to pay such bonds as they mature, said sinking fund to be known as the bridge bond sinking fund, until the bonded indebtedness hereby authorized shall be extinguished, and such sinking fund shall not be diverted to or used for any other purpose. ('05 c. 170 § 2) [1679]

1706. Not to exceed cost—No bonds shall be issued hereunder by any city for any sum in excess of the actual cost or contract price of repairing, reconstructing or rebuilding any such bridge. ('05 c. 170 § 3) [1680]

1707. Contract for repair or rebuilding—Any such city is hereby authorized and empowered, by a two-thirds vote of the common council or other governing body thereof, to contract on behalf of said city for the repairing, reconstruction or rebuilding of any such bridge, and provide for the payment thereof on such terms and at such times as to such council, or other governing body, shall seem proper. Provided, however, that no such contract providing for any expenditure in excess of \$500 shall be entered into unless the resolution authorizing the same shall be first approved by the mayor of such city or adopted by three-fourths vote of the city council or other governing body when not approved by such mayor and an advertisement for sealed bids for the performance of such contract shall be first published by the clerk or recorder of such city at least once in each week for three successive weeks in the official newspaper of such city. The council, or other governing body, shall have authority to prescribe such terms and conditions relative to the making of such bids for such contract and relative to the security which each bidder shall be required to make or deposit with such bid, as to such council, or other governing body, shall seem expedient and proper, and shall have authority to reject any and all bids. ('05 c. 170 § 4) [1681]

1708. Bonds—The bonds of any such city, issued pursuant to the terms of this act, may be issued and sold from time to time as determined and authorized by ordinance or resolution adopted by the affirmative vote of two-thirds of all the members of the city council, or other governing body of such city, and shall be issued in such denominations and shall be payable at such times and at such place or places and in such installments as may be provided in such ordinance or resolution, and shall bear interest at not to exceed four per cent per annum, which shall be evidenced by coupons attached to such bonds, and such interest shall be payable at such times and at such place or places as may be specified in such ordinance or resolution. Such bonds shall be sealed with the seal of the city issuing them and be signed by the mayor and city clerk, or recorder, and such coupons shall be signed by the mayor and city clerk, or recorder; and such bonds shall not be sold for less than par value and accrued interest to the highest responsible bidder after notice published once in each week in a daily newspaper, if one there be in such city; if not, then in a weekly newspaper in such city, and also in a daily newspaper published in the city of St. Paul. A failure to publish said notices, however, shall not invalidate such bonds. ('05 c. 170 § 5) [1682]

1709. Proceeds—None of the proceeds of any of the bonds issued pursuant to the provisions of this act, nor any part thereof, shall be used for any other purpose than the purposes hereinbefore specified, which purpose or purposes shall be distinctly set forth in the ordinance or resolution authorizing the same. ('05 c. 170 § 6) [1683]

1710. Limit of debt—None of the bonds of any such city, issued pursuant to the terms and provisions of this act, shall be deemed or taken to be a part of the indebtedness of such city within the purview of any law limiting the amount of the bonded or other indebtedness of any such city, and the bonds authorized by this act may be issued notwithstanding and without regard to any limitation of the indebtedness of such city. Nevertheless, the full faith and credit of every such city is pledged to the full payment of all such bonds and interest. ('05 c. 170 § 7) [1684]

1710-1. Soldiers' memorials—The council of any city of the third class in this state may, after the approval of a majority of the voters of such city voting at a special election called for the purpose or at a general election or an annual election, in the notice whereof the proposal to do so has been submitted for approval or rejection, adopt an ordinance providing for the erection and maintenance of a building or monument in recognition of the services performed by soldiers, sailors, marines and war veterans of the United States. Said ordinance may also provide for the maintenance, supervision and control of such monument or building after its erection. ('21, c. 257, § 1)

Explanatory note—See §§ 1933-6 to 1933-11, herein.

1710-2. Same—Bond issue—Said council, may whenever it shall have resolved that it is expedient to borrow money for such purpose and a proposal to do so in an amount specified shall have been duly submitted to and approved by a majority of the voters of such city voting at a special election called for the purpose or at a general or annual election in the notice whereof the proposed issue shall have been plainly submitted for approval or rejection, issue and sell the bonds of such city for such purpose in the manner now provided by law for the issuance of bonds by cities for other purposes. The proposal to erect a monument or building and the proposal to issue bonds to defray the cost thereof may be submitted at the same election. The proceeds of such bond issue shall be used for the erection and maintenance of the monument or building provided for by the council, and such bonds may be issued without regard to existing charter limitations, but such bonds shall not exceed in amount five per cent, of the taxable value, as finally equalized by the Minnesota Tax Commission, of the real and personal property within said city, "provided, that no sum shall be expended under the provisions of this act in excess of \$50,000. ('21, c. 257, § 2; amended '23, c. 414, § 1)

1711. Public playgrounds—That all cities in the state of Minnesota now or hereafter having not less than ten thousand and not more than twenty thousand inhabitants, whether incorporated under general or special law, shall, in addition to all other powers now or hereafter given such cities by any law of this state, have power and authority to acquire and maintain public parks and public playgrounds and places of recreation for children, and to provide by ordinance or otherwise rules and regulations for the use, government and protection thereof, and to provide for the arrest and punishment of any person violating the provisions of any such ordinance. (11 c. 105 § 1) [1703]

1712. Lands outside city limits, etc.—The power of every such city to acquire lands for park purposes shall extend to the acquisition of lands lying outside of the corporate limits of any such city and contiguous to and adjacent to a park or parks of such city lying within its corporate limits. ('11 c. 105 § 2) [1704]

1712-1. Tax levy for musical entertainments—The council of any city of the third class is hereby author-

ized and empowered to levy a tax of not exceeding one mill on all the taxable property within such city for the purpose of providing free musical entertainment for the general public. Such tax shall be levied by the council in the same manner and at the same times as taxes for other purposes are levied, and shall be collected in the same manner. The proceeds of such tax shall be used only for the purpose of providing free musical entertainment for the public, provided, the annual expenditure for such purpose under this act is hereby limited to the sum of \$2,000.00. ('23, c. 337, § 1)

Explanatory note—This section probably supersedes, as to cities of third class, Laws 1915, c. 316, as amended. See § 1367, herein.

1713. Cities empowered to make local improvements and to assess costs to property benefited—That all cities in the state of Minnesota which now have or hereafter may have no more than fifty thousand (50,000) and not less than ten thousand (10,000) inhabitants are hereby authorized and empowered to fill, grade, curb, plank, pave, gravel and macadamize its streets, lanes, alleys and highways; to construct, lay, relay, enlarge and repair sidewalks, retaining walls, area walls, gutters, sewers and private drains; to construct, lay, relay, enlarge and repair service or supply pipes and branch pipes from any and all main lines of water, sewer and gas pipes, to the lines of the street or alley on either and both sides of said main lines, whether such main lines have theretofore been constructed or are then in process of construction, and to connect such service or supply pipes and branch pipes to such main lines; to build and place protection fences and railings along streets, alleys and highways for the safety of pedestrians; to plant, maintain and protect shade and ornamental trees along its streets, lanes, alleys and highways; to abate nuisances and to drain swamps, marshes and ponds and to fill the same in such cities; to sprinkle its streets, lanes, alleys, highways and public grounds with water and oil, and to saturate or treat the surface thereof with any kind of fluid, mineral or substance for the prevention of dust in the atmosphere or on the surface of such highways or grounds; and to provide either or both electric or gas, or any other means, lamp posts and fixtures and appliances for illuminating such portions of its streets as its city council may determine to specially light, and to levy assessments for the cost of all the improvements mentioned above upon property to be benefited by such improvements in the manner and as hereafter designated. ('01 c. 379 § 1; amended '13 c. 7; '13 c. 49; '19 c. 424 § 1)

1713-1. Division of assessments—In all cities of this state having a population of not less than ten thousand people, nor more than twenty thousand people, according to the last Federal census, whether operating under a Home Rule Charter, or under any general or special law of this state, wherein any assessment, or re-assessment of real estate for local improvements has heretofore been made and confirmed, and which real estate, as thus originally assessed, or re-assessed, in one body was, pursuant to law, duly sub-divided and platted into lots and blocks, or tracts or parcels of a lesser area than that originally assessed, the City Council, City Commission or other governing body of such city is hereby specifically authorized and empowered to sub-divide said assessment, or assessments, and apportion the same to each or any of said lots, blocks, or other smaller tracts and parcels of said assessed real estate. Said power hereby delegated shall be in addition to the existing statutory or charter powers, or both, of said city and its governing body. Said assessment as thus

sub-divided and apportioned may include the original assessment for said improvement or improvements, together with all subsequent additional or supplemental assessments of such real estate for said local improvement or improvements. ('23 c. 40 § 1)

1713-2. Procedure—Upon presentation and filing with the City Clerk or recorder of any such city of a petition, addressed to the City Council, City Commission, or other governing body of such city, signed by the owner, or owners of said lot, or lots, block, or other smaller tracts or parcels of real estate included within the boundaries of any tract or governmental sub-division so originally assessed, or re-assessed, asking for the sub-division and apportionment of said original assessment, or assessments, and the determination of the amount thereof chargeable against said lot, or lots, or other smaller tracts of land, said City Council, City Commission, or other governing body of said city may sub-divide and apportion said assessment, or assessments, to the tract, or tracts so owned by said petitioning owners, and on payment of the proportionate part of said assessment, as thus ascertained and determined, release said lots, or other smaller portions of said real estate from the lien of said original assessment, or assessments, or from any installment of said original assessment, if said property owner or his predecessor in interest has elected to avail himself of any charter privilege or law permitting the sub-division of said original assessment into annual, or other installments. The apportionment of said smaller tracts of real estate and the payment in settlement, in whole or in part, of the amount of said assessment, as thus sub-divided and apportioned, shall be without prejudice to the lien of said city upon the balance of the tract or parcel of real estate as thus originally assessed. And said city, by and through its said City Council, City Commission, or other governing body, shall have further power, upon like petition signed and presented by property owners owning at least one-half of the lots, blocks or other parcels of land thus originally assessed, or re-assessed, as one tract, to sub-divide and apportion said original assessment, or assessments against said entire tract or governmental sub-division among each and all of the several lots or parcels of land into which said original tract was later sub-divided and platted, and to determine the proportionate part of said original assessment, or assessments applicable to and chargeable against each of said several lots or parcels of land, and upon payment thereof, to release, or cause to be released from the lien of said original assessment, or assessments, the tract, or tracts upon and against which said assessment, as thus sub-divided, is paid. ('23 c. 40 § 2)

1713-3. County auditor authorized to subdivide assessments—In the event that any such assessment, or assessments, or any unpaid installment or installments thereof, has heretofore been certified up to the County Auditor of the county, or counties within which said city is situated, and which assessment shall cover and include said original tract or governmental sub-division of lands as originally assessed, and which assessments are in process of collection and settlement, the County Auditor of said county within which said affected tracts are situated, upon the filing in his office of the certificate signed by the City Clerk of said city, setting forth the amount of said assessment or installment apportioned and sub-divided by said City Council, City Commission, or other governing body, to said smaller tract of real estate, is authorized to sub-divide said assessment, or assessments as previously certified up. Thereupon said County Auditor shall file his certi-

ificate with the County Treasurer of said county within which said affected lands are situated, showing the amount of said sub-divided assessment or assessments applicable to the lots or parcels of land so held and owned by said individual petitioning property owners to whom said relief has been afforded by the action of said City Council, City Commission, or other governing body of said city. Upon the filing of said County Auditor's certificate with the County Treasurer of said county, the said County Treasurer of said county is hereby specifically authorized and empowered to accept the amount of said sub-divided and apportioned assessment, and issue his receipt covering the full payment and discharge of such assessment or installment thereof against said lot, block, or other smaller tract of real estate, which receipt shall be in the form of the ordinary Treasurer's Tax Receipt for the payment of general taxes and assessments against city real estate. There shall be included in the collection to be made by said County Treasurer such lawful penalties as may have accrued, upon the basis of the assessment as thus sub-divided and apportioned to such smaller tract or area of said real estate. The County Auditor of said county, in the event that judgment for delinquent real estate taxes, which include said assessments for local improvements, has been entered, may permit redemption of said smaller tracts or parcels of real estate from said tax judgment at any time prior to the sale of said premises at tax sale, upon payment of the amount as thus determined and certified up to him by said City Council, City Commission, or other governing body of the city, together with penalties, interest, and other lawful costs and charges there-against, required for the redemption thereof, and issue his redemption receipt therefor. ('23 c. 40 § 3)

1714. Rates for gas or electric current to be prescribed—That in addition to all other powers now conferred upon any cities of the third and fourth classes in the state of Minnesota, whether existing under a general or special law or under a home rule charter, any such city is hereby authorized and empowered, through its city council or like governing body, by ordinance, to prescribe from time to time the rates which any public service corporation supplying gas or electric current for lighting or power purposes within said city may charge for such service. Provided, that nothing herein shall be construed to impair the obligation of any contract or franchise provision now existing between any such city and any such public service corporation. It shall be the right and duty of any such council or governing body to prescribe a rate which shall permit any such corporation to make a reasonable return on the capital investment in the business, under an economical and efficient management of the same; and for the purpose of making such determination it shall be the duty of any such corporation, upon request by said council or other governing body, to give to any such council or other governing body or any authorized agent of such council or other governing body access to the books of any such corporation for the obtaining of such information as may be necessary and proper in the making of such determination. Provided, that in any case where any such corporation supplies gas or current for lighting or power purposes to customers outside the limits of any such city, any such city council in fixing the rates to be charged shall take into consideration the effect of such rates, if any, upon the rates to be charged to such customers living outside the limits of such city, but said city council shall not have power to fix the rates of customers supplied outside of the city limits. ('19 c. 469 § 1)

Rates fixed by contract between city and gas companies could not be changed under this act. 265 U. S. 352.

1715. Fixing rates—Such rates shall be prescribed only after hearing and twenty days' notice of the time and place of such hearing shall have been given to such public service corporation, which notice shall be served in the manner prescribed by law for the service of summons in district court. Such proceedings may be instituted by the council or other governing body of said city or upon petition of any such public service corporation, or upon petition of twenty-five per cent of the customers served by such corporation within such city, and failure on the part of such council or other governing body to make a determination as to such rates within sixty days after such petition is filed with the clerk of said city shall be deemed a denial of such petition and a determination adverse to such petitioners, provided, however, that such council or other governing body of such city shall not be required to act upon the petition of any such public service corporation which shall refuse to give such council or other governing body access to the books of such corporation and other information relative to the operation of the business of such corporation necessary and proper to the determination of such rates. In case of the failure or refusal of any such public service corporation to give to such council or other governing body access to the books of such corporation or other information relative to the business of such corporation necessary and proper for such a determination, such council or other governing body may proceed to determine and prescribe such rates upon such information and evidence as may be adduced at such hearing. The words "public service corporation" as used in this act shall be construed to include any person, co-partnership or corporation supplying gas or electric current for lighting or power purposes to the public within any such city. ('19 c. 469 § 2)

1716. Appeal—Right of appeal—Any such city, public service corporation or person aggrieved by any such determination of rates shall have the right of appeal from such determination to the district court of the county in which such city, or any part thereof, is situate, at any time within twenty days after the filing of determination with the clerk of such city. Said appeal shall be made by filing with the clerk of such city a written notice of appeal specifying the determination of such council or other governing body from which the appeal is taken. Thereupon such city clerk shall make out and file with the clerk of such district court a copy of the determination of the council or other governing body from which such appeal is taken and of the notice of appeal, certified by such clerk to be true copies thereof, and shall transmit and file with the clerk of said court all papers in the case upon which such determination was made. There shall be no pleadings upon such appeal and the only question that shall be passed upon or considered shall be whether the rates prescribed by the determination of such council or other governing body of such city were fair and just to such public service corporation and the consumers and would permit such public service corporation a fair and reasonable return on the capital investment in the business under an economical and efficient management of the same. Such appeals shall have precedence over all other civil cases, except tax cases, and during the pendency of such appeal and until final determination of such appeal by the courts, the rates fixed and prescribed by such council or other governing body shall be and remain in force. ('19 c. 469 § 3)

LAWS AFFECTING CITIES OF THE THIRD CLASS

Hospitals in cities of the third class not operating under home rule charters ('13 c. 215). Local improvements in cities, not under home rule charters, payment out of general fund ('13 c. 278). Bond issues for local improvements ('15 c. 58). Current tax for general expenditures in cities not under home rule charter ('15 c. 188). Cities of third class operating under a home rule charter are authorized to erect and maintain dams across streams navigable portions of which lie wholly within the state ('15 c. 198). Bond issue for construction or repair of bridges not interstate or international waters ('17 c. 15). Acceptance of land without the state for park purposes ('17 c. 127). Validating indebtedness of special school district ('17 c. 138). Issuance of city hall bonds authorized ('17 c. 258). Certain cities of third class authorized to transfer hospitals to county ('19 c. 267). Sewer bonds authorized ('19 c. 275). Filtration plant bonds authorized ('19 c. 276). Water works bonds authorized ('19 c. 277). Appropriation to Minnesota War Records Commission ('19 c. 288). Annexation of cities of fourth class to cities of third class for school purposes ('23 c. 35).

Special assessments for local improvements in cities with more than 10,000 and not more than 20,000 inhabitants not having home rule charters ('13. 253).

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PROVISIONS RELATING TO CITIES OF FOURTH CLASS

Annexation of fourth class cities to third class cities for city purposes, see §§ 1695-1 to 1695-11, herein.

1717. Incorporating land in adjoining county—That any city, containing a population of ten thousand or less, whether incorporated by a general or special act, may include within its corporate limits, land (lands) which are not already incorporated, lying within an adjoining county and contiguous to the corporate limits of such city. Provided, however, that such lands shall not be within ten miles of any other incorporated city or village within this state; and provided further, that for the purposes of this act lands separated from such city by an intervening river shall be considered contiguous to the corporate limits thereof. ('05 c. 191 § 1)

1717½. Proceedings—Jurisdiction acquired—The city council of such city, desiring to include within its corporate limits lands lying within an adjoining county as provided in section one of this act, shall pass a resolution describing the land (lands) desired to be included within such corporate limits, which resolution shall be submitted to the town supervisors of the town in which the said lands are included and to the board of county commissioners in which said lands are situate. If the supervisors of such town and the board of county commissioners of such county shall approve the said proposed annexation by resolution duly made and entered on the minutes of the town and by resolution duly made and entered on the minutes of the board of county commissioners, a duly certified copy of the resolution, together with duly certified copies of the resolution of the board of supervisors and of the board of county commissioners, shall be filed in the office of the secretary of state and recorded in the office of the register of deeds of the county within which said city is situate and of the county within which said lands are situate, and a copy of such record duly certified by the register of deeds shall be filed in the office of the secretary of state, and thereupon the said lands in said adjoining county shall become part of the said city for all purposes and be subject to the laws, ordinances and jurisdiction of said city for all purposes whatsoever, except as hereinafter provided. ('05 c. 191 § 2) [1729]

132-59, 155+1040.

1718. Taxation—School districts—No territory so acquired shall at any time be subject to taxation for any indebtedness of said city incurred at any time

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prior to the date of such annexation. If the boundaries of the special or independent school district existing in said city, shall by the law under which said school district is organized, be co-extensive with the limits of said city, then and in that case, the said territory so included within said corporate limits under this act, shall be construed to be part of the said school district, but shall not be subject to taxation for any indebtedness incurred by said school district before the date of such annexation. ('05 c. 191 § 3) [1730]

1719. Consent required—No such territory shall be annexed, however, unless the majority of the owners thereof shall consent thereto in writing. ('05 c. 191 § 4) [1731]

1720. Detachment of lands—Petition—Notice—The owner of any unplatted tract of land containing not less than forty acres, included within the corporate limits of any city in this state containing 10,000 inhabitants or less, and used and occupied exclusively for agricultural purposes, may petition the district court of the county in which such tract of land is situated for a decree detaching such tract of land from such city. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall not be less than thirty days from the date of the filing of such petition; and the petitioner shall serve or cause to be served a notice of such hearing upon the mayor or city recorder of such city at least twenty days before the time fixed for such hearing, and shall also cause a copy of such notice to be published in a newspaper, published in said city, at least two weeks before the time so fixed for such hearing. ('07 c. 221 § 1) [1732]

1907 c. 221, is constitutional (104-378, 116+922; 105-84, 117+157).

Held not applicable to borough of Belle Plaine (105-84, 117+157).

If the court finds the facts authorizing it, it has no discretion to refuse a decree detaching such land (104-378, 116+922; 116-464, 134+121).

Cited (112-330, 127+1118).

167-519, 209+3.

G. S. 1923, §§ 1720-1725 is not applicable to the facts stated in the opinion. 167-299, 209+2.

1721. Hearing and decree—If, upon the hearing, the court shall find that such tract of land is of the nature and quantity as hereinbefore set forth, and that it may be detached from such city without unreasonably affecting the symmetry of the settled portions of such city, it may grant such decree, and said tract of land shall thereon become detached from such city and shall thereafter form a part of the township in which it was originally situated, and shall in all things be subject to the town government of such township. ('07 c. 221 § 2) [1733]

1722. Existing indebtedness—[Repealed.]

This section is repealed by Laws 1927, c. 122, § 6, post, § 1726-12, herein.

1723. Agricultural lands may be detached from cities—The owners of 75 per cent, or more, of any contiguous unplatted tracts or parcels of land containing not less than 300 acres, included within the corporate limits of any city in this state, containing 10,000 inhabitants or less, and used and occupied exclusively for agricultural purposes, may petition the district court of the county in which such tracts and parcels of land are situated for a decree detaching such tracts and parcels of land from such city. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall not be less than thirty days from the date of the filing of such petition; and the petitioner shall serve or cause to be served a notice of such hearing upon the mayor or city clerk of

such city at least twenty days before the time fixed for such hearing ('23 c. 417 § 1)
167-519, 209+3.

1724. Court to order tracts detached—If, upon the hearing, the court shall find that such tracts and parcels of land are of the nature and quantity as hereinbefore set forth, and that they may be detached from such city without unreasonably affecting the symmetry of the settled portions of such city, it may grant such decree, and said tracts and parcels of land shall thereupon become detached from such city for all purposes as effectively as if they had never been a part thereof. ('23 c. 417 § 2)

1725. Detached part to become part of township—Where there is no organized town or township government in the town from which said lands were detached exclusive of the city government of such city, it shall be the duty of the board of county commissioners of the county in which said lands are situated to attach any part or all of said lands so detached from such city by the decree of the court made under the provisions of this act to any towns or townships adjoining said lands and within the said county and thereafter said lands shall, in all things, be subject to the government of the township to which they are so attached. ('23 c. 417 § 3)

1726. Not to affect other statutes—The provisions of this act shall be supplemental to and in addition to the provisions of Sections 1732, 1733 and 1734 of the General Statutes of 1913, and shall not in any way supersede the provisions of the last aforesaid section of the General Statutes of 1913. ('23 c. 417 § 4)

Explanatory note—For G. S. '13, §§ 1732, 1723 and 1734 see §§ 1720, 1721 and 1722 herein.

1726-1. Detachment of unplatted land from city and special or independent school district in such city—The owners of ninety per cent or more of any contiguous, unplatted tract or tracts of land containing not less than 400 acres, included within the corporate limits of any city of this state containing 10,000 inhabitants or less, and included within the limits of any special or independent school district included within the corporate limits of such city, and used and occupied exclusively for agricultural purposes, may petition the district court of the county in which such land is situated for a decree detaching such land from such city and from such school district in all cases where the state of Minnesota owns and occupies a farm of not less than 400 acres in connection with any of its asylums or state institutions, which said farm lies between the platted and settled portion of such city and the land proposed to be detached, and where the usual route of travel between such land proposed to be detached and platted and the settled portion of such city is over and across such farm so owned by said state of Minnesota. ('19, c. 239, § 1; amended '23, c. 234, § 1)

1726-2. Same—Petition to district court—Form of—Said petition shall, among other things, designate by name and number the city and school district from which such land is proposed to be detached and the township and school district to which such land may be attached; it shall describe such land proposed to be detached and give the names of the owners thereof, if known; it shall also describe the land, owned by the State of Minnesota, lying between the platted and settled portion of such city and the land proposed to be detached therefrom. ('19, c. 239, § 2; amended '23, c. 234, § 2)

1726-3. Same—Hearing on petition—Upon the filing of such petition, the court shall fix a time for the hearing thereof, which shall be not less than thirty

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days from the date of the filing of such petition; and the petitioners shall serve, or cause to be served a notice of such hearing, upon the mayor or city clerk of such city and upon the president or clerk of such school district from which such land is proposed to be detached, at least twenty days before the time fixed for such hearing. ('19, c. 239, § 3; amended '23, c. 234, § 3)

1726-4. Same—Decree of court—If, upon the hearing, the court shall find that such land proposed to be detached is of the nature, quality and quantity as hereinbefore set forth and is situated as hereinbefore described and that it may be detached from such city and school district without unreasonably affecting the symmetry of the settled portion of such city and school district it may grant such decree and such lands shall thereupon become detached from such city and from such school district for all purposes and as effectively as if it had never been a part thereof. ('19, c. 239, § 4; amended '23, c. 234, § 4)

1726-5. Same—Detached lands attached to other municipalities—Where there is no organized town or township government in the town from which said lands were detached exclusive of the city government of such city, it shall be the duty of the Board of County Commissioners of the county in which said land is situated to attach any part or all of said land so detached from such city and school district by the decree of the court made under the provisions of this Act, to any town or townships, school district or school districts adjoining said land and within the said county and thereafter said land shall, in all things, be subject to the government of the township or school district to which it is so attached. ('19, c. 239, § 5; amended '23, c. 234, § 5)

1726-6. Detachment of unplatted agricultural or horticultural lands from cities and school districts therein—Petition—Notice—Hearing—The owners of seventy-five per cent or more of any contiguous unplatted tracts or parcels of land containing not less than 200 acres, or the owners of any unplatted tract of land containing not less than 40 acres, included within the corporate limits of any city in this state containing 10,000 inhabitants or less and included within the limits of any special or independent school district included within the corporate limits of such cities and regardless of how said city and school district may have been organized and which said unplatted tract or tracts of land are used or occupied exclusively for agricultural or horticultural purposes, may petition the district court of the county in which such tract or tracts of land are situated for a decree detaching such tract or tracts of land from such city and school district. Upon the filing of such petition the court shall fix a time for the hearing thereon which shall not be less than 30 days from the date of the filing of such petition and the petitioner shall serve or cause to be served a notice of such hearing upon the mayor or city clerk of such city and upon the president or clerk of such school district, from which such land is proposed to be detached at least 20 days before the time fixed for such hearing. ('27, c. 122, § 1)

1726-7. Same—Hearing and decree—Effect of detachment—If upon the hearing the court shall find that such tract or tracts of land are of the nature, quality and quantity as hereinbefore set forth and that the same may be detached from such city and school district without unreasonably affecting the symmetry of the settled portions of such city, it shall grant such decree and such lands shall thereupon become detached from such city and school district for all pur-

poses as effectively as if it had never been a part thereof and shall thereafter form a part of the township in which it was originally situated and that on the filing of such decree with the auditor of said county, said land so detached shall be by the board of county commissioners of the county in which said lands are situated attached to and included in such school district or districts adjoining said lands and within said county as said board of county commissioners shall fix and determine, and thereafter said lands shall in all things be subject to said government of the township and school district to which said lands are so attached, to the same extent as if originally included therein, provided that where there is no organized town or township government in the town from which said lands were detached, exclusive of the city government of such city, it shall be the duty of the board of county commissioners of the county in which said lands are situated to attach any part or all of said lands so detached from such city and school district by the decree of the court made under the provisions of this act to any towns or townships, school district or school districts adjoining said land and within the said county and thereafter said lands shall in all things be subject to the government of the township and school district to which said lands are so attached, to the same extent as if originally included therein. ('27, c. 122, § 2)

1726-8. Same—City or school district indebtedness—Tax levies—If upon such hearing it shall be made to appear to the court that there is any outstanding bonded indebtedness of such city or school district, in the payment of which the lands sought to be detached should in good conscience and justice contribute because of actual benefits received, then in such case the court shall determine and designate in its order and decree the amount thereof which such land should bear and in order that such detached territory shall pay such designated share of such outstanding indebtedness and of any renewal of such indebtedness or extension thereof and interest thereon, unless the same is paid in full by the owner of such lands so detached, which may be made at any time, there shall be levied at the time of the levying of the various taxes for city and school purposes upon the taxable property of said city or school district an equal rate upon the taxable real estate within such detached territory each year until the amount so designated and fixed by the court shall have been paid in full, and the county auditor shall levy the same upon such detached lands and place the same upon the tax list in the taxing district where the same is then situate in the same manner as other taxes therein and such taxes shall be collected with and in like manner as county and state taxes are paid and payment thereof enforced and the county treasurer shall pay such taxes when collected over to the treasurer of such city or school district in the same manner as other taxes are paid over. ('27, c. 122, § 3)

1726-9. Same—Cities to which law not applicable—This act shall not apply to any city which at the time of the commencement of proceedings in court for the detachment of any territory therefrom has within its corporate limits less than 3,000 acres of land used exclusively for agricultural or horticultural purposes, nor to any city in which the territorial limits thereof are not identical with the limits of a school district situated therein. ('27, c. 122, § 3a)

1726-10. Same—Partial invalidity of law—If any provision or part of this act be held unconstitutional or invalid, it shall not invalidate or in any way affect any other provision or part thereof. ('27, c. 122, § 4)

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Art 4 §33

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Art 4 §27
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1726-11. Same—Law additional to other laws—The provisions of this act shall be supplemental to and in addition to the provisions of Sections 1720, 1721, 1723, 1724 and 1725 of the General Statutes of 1923. ('27, c. 122, § 5)

1726-12. Same—Repeal—Section 1722, General Statutes 1923, is hereby repealed. ('27, c. 122, § 6)

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1727. Taxes for general purposes—That the governing body of any city of the fourth class in this state be and the same is hereby authorized to annually levy taxes against the taxable property in any such city for all general city and municipal purposes, not exceeding twenty-five mills on the dollar of the assessed valuation of said city. In case any such city is operating under any special law or under any form of charter which authorizes such city to levy taxes for general city and municipal purposes in excess of twenty-five mills on the dollar, the provisions of this bill shall not limit any such city. ('11 c. 318 § 1) [1735]

1727-1. Rate of tax levy for certain cities—Any village or city of the fourth class, whether organized under any general or special statutory law, not operating under a home rule charter, which is limited by law to the levy of a tax for municipal purposes to an amount less than fifteen (15) mills on the dollar of the assessed valuation of the taxable property therein, may by resolution of the village or city council levy a tax for village or city purposes as the case may be upon all the taxable real and personal property of said village or city to an amount not exceeding fifteen (15) mills on the dollar of the assessed value of the taxable real and personal property therein; provided, however, that the provisions of this act shall not be construed as reducing the amount of taxes which may be levied by any other village or city for all purposes under existing laws. ('19, c. 360, § 1)

1727-2. Tax levy to retire floating indebtedness—The council or governing body of any city of the fourth class, operating under a home rule charter, having an assessed valuation not exceeding \$150,000.00 and an outstanding indebtedness, whether evidenced by bonds or orders, or both, not exceeding \$50,000.00, at the time of the passage of this act, is hereby authorized to levy a tax each year, not exceeding in amount twenty-five (25) mills on each dollar of the assessed valuation of such city, in addition to all other taxes now authorized by law, for the purpose of paying the principal and interest on said indebtedness, until said indebtedness is fully paid and discharged, such levy to be made and the proceeds derived therefrom to be used solely and exclusively for the purpose of paying and discharging such indebtedness. ('23, c. 83, § 1)

1728. Salaries of mayor and council—Submission to voters—That in all cities in this state having a population not to exceed ten thousand inhabitants the common council of such cities may, prior to any annual city election, to be held therein hereafter, pass a resolution fixing the annual salaries of the mayor and the members of such common council; at not to exceed one hundred dollars per annum for each of said officers, and said common council shall cause notice thereof to be given to the voters of such city in the notice of the annual city election, and the recorder of such city shall place upon the official ballot of said city, to be used therein at said annual city election the proposition "in favor of paying the sum of \$. . . as salary to the mayor and each member of the common council," and also the proposition "against paying the sum of \$. . . as salary to the mayor and each member of the common council." That said recorder shall place the

amount of money in each of the above propositions on said ballots, as said common council shall determine by resolution, as aforesaid, but not to exceed one hundred dollars. That the voters of said city, at such annual city election shall vote for or against the proposition of paying the mayor and the respective members of the common council as salary the amount placed upon said ballot, as aforesaid, and if a majority of the voters of said city voting on said proposition shall vote in favor of the paying of said salary then said proposition shall be deemed carried, and said mayor and each member of said common council shall be entitled to be paid out of the city treasury the sum so voted for, as an annual salary for services to be rendered by them thereafter. That said amount voted for annual salary of said officers shall thereafter be paid to each of said officers as their annual salary until otherwise changed by a vote of the legal voters of said city as herein provided for fixing said salaries. ('05 c. 301 § 1) [1736]

1729. Votes, how cast, etc.—That the voter wishing to vote for or against the proposition of paying said amount for salary to the said officer shall place a cross mark (X) opposite the proposition for which he intends to vote. All the votes cast for or against said proposition shall be canvassed, counted and returned to the city recorder, the same as the votes are for city officers in said city. ('05 c. 301 § 2) [1737]

1730. To what cities applicable—This act shall apply to all such cities herein mentioned, whether incorporated under a general or special law, but nothing herein contained shall be construed to apply to any municipality now operating under a home rule charter. ('05 c. 301 § 3) [1738]

1731. Parks—That any city of this state, now or hereafter having a population of not more than ten thousand inhabitants, is hereby authorized and empowered, in addition to the other powers conferred upon it by law, to acquire by gift, purchase, devise, condemnation or lease, lands within its corporate limits, or lands contiguous to such city, and lying outside of its corporate limits, not exceeding fifty acres in extent of area, for use by the public for a park, and for park purposes, and may provide for the improvement thereof by the planting and preservation of trees and shrubs, by inclosing, ornamenting and protecting the same, and in such other ways as may be necessary to make such lands suitable for the uses of a public park. ('05 c. 335 § 1) [1739]

1732. Park board—Powers and duties—That the city council of every such city may by a majority vote create a park board for such city, to be composed of three members, to be chosen by said council for terms of one, two and three years respectively, all of whom shall be free holders and residents of such city, and who shall serve without compensation. Such park board shall be authorized and empowered, for and on behalf of and in the name of such city, to acquire by gift, purchase, devise, condemnation or lease, the land to be held and used for park purposes, and shall provide for the improvement thereof as specified in section one of this act. Said park board shall have general supervision, management and control of such park and may appoint a suitable person to care for and take charge of the same, and may prescribe his duties and fix his compensation therefor. ('05 c. 335 § 2) [1740]

1733. Annual appropriation—That for the purposes of carrying out the provisions of this act the city council of every such city may appropriate annually out of any of the revenues of the city received from taxes, saloon or other licenses and fines, a sum of money not

exceeding ten per cent of such revenues, the money so received to be disbursed for the purposes herein mentioned, in such manner and subject to such rules and regulations as said city council or said park board shall direct. ('05 c. 335 § 3) [1741]

1734. Not to apply to cities under home rule charters—This act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section thirty-six, article four of the constitution of this state, as amended, and chapter three hundred and fifty-one of the General Laws of 1899 and the several acts amendatory thereof. ('05 c. 335 § 5) [1742]

For Laws 1899, c. 351, see note § 1310, herein.

1734-1. Acquisition of land for public park and fair ground purposes—Any city of the fourth class, operating under a home rule charter, may acquire by purchase or condemnation a tract of land not exceeding twenty-five acres, lying within the corporate limits of such city, and devote the same to the uses of a public park and incidentally may grant to the county agricultural society of the county in which such city is situated the right to hold the annual county fair in such part of such park as shall not interfere with its general usefulness for park purposes. ('19, c. 345, § 1)

1735. Park board may furnish entertainment—That any city of this state having a population of not more than 10,000 inhabitants and in which said city a park board has been created, may authorize said park board, in addition to the other duties, to furnish educational or musical entertainment for its inhabitants. ('11 c. 165 § 1) [1743]

1736. Appropriation—That for the purpose of carrying out the provisions of this act the city council of every such city, may appropriate annually out of the revenues of the city received from taxes, a sum of money not exceeding two hundred (200) dollars, the money so received to be disbursed for the purpose herein mentioned, in such manner and subject to such rules and regulations as said park board shall direct. ('11 c. 165 § 2) [1744]

1737. Entertainment tax—The governing body of any city of the fourth class in this state operating under a home rule charter or commission form of government, is hereby authorized to annually levy a tax not exceeding one mill on the dollar against taxable property in such city for the purpose of providing musical entertainments to the public in public buildings or upon public grounds; provided, that if the governing body in any such city shall by resolution determine that the funds in the city treasury available therefor are insufficient to furnish proper musical entertainments as herein provided during the year 1919, it may in said year levy a tax not exceeding two mills on the dollar against the taxable property in such city, and issue warrants during said year to meet the expenses of such entertainments, said warrants to be paid as soon as there are funds available therefor in the city treasury; provided, however, that said warrants shall not exceed in the aggregate an amount equal to a tax of one mill on the dollar of the taxable property in such city. Provided, however, that in any such city the total sum that may be levied or expended in any year shall not exceed the sum of \$2,500.00. ('13 c. 329 § 1; amended '19 c. 518 § 1) [1745]

See, also, §§ 1367, 1712-1, herein.

1738. Park districts—Provisions, how availed of—Any incorporated city in the state of Minnesota having a population of less than ten thousand inhabitants may by a two-thirds vote of its council by yeas and nays at a regular meeting thereof, take advantage of the provisions of this act. ('09 c. 486 § 1) [1746]

1739. Ordinance—Submission to voters—Ballots—Any city desiring to take advantage of this act shall do so by the ordinance expressing its intent and desire so to do, whereupon the territory embraced in such city shall be deemed and it is thereby declared to be a park district of the state of Minnesota. But before such resolution or ordinance shall take effect the same shall be submitted to the electors of such city at a regular city or special election and approved by a majority of those voting thereon. The ballots may be substantially as follows, to-wit:

"For the creation of a park district to be known as 'Park District of the State of Minnesota' and creating a board of park commissioners, and providing for the government thereof;"

Or "Against the creation of a park district to be known as 'Park District of the State of Minnesota' and creating a board of park commissioners, and providing for the government thereof." ('09 c. 486 § 2) [1747]

1740. Park districts, how known—Powers—Each park district so created shall be known as "Park District of the City of" and as such shall have a seal and perpetual succession, with power to sue and be sued, contract and be contracted with, acquire by purchase, gift, devise or otherwise and hold, own, possess and maintain real and personal property in trust for the purpose of parks, boulevards and ways and to exercise all the powers hereinafter designated or which may hereafter be conferred upon it. ('09 c. 486 § 3) [1748]

1741. Board of park commissioners—Membership and qualifications, etc.—The powers of such park district shall be exercised by a board of park commissioners consisting of five members who shall hold office for the period of five years from and after the date of their election and qualification and until their successors are duly elected and qualified except the members of the first board, who shall hold office as follows: One member until one year from the last mentioned date, one member until two years from the last mentioned date, one member until three years from the last mentioned date, and one member until four years from the last mentioned date. The members of the park commissioners shall qualify by taking and filing with the clerk or recorder of the city the oath prescribed by law. The city treasurer shall be ex-officio treasurer of the park district, he shall take the oath prescribed by law and shall furnish such bond as may be required by the commission. The members of the commission shall be elected by qualified electors of the park district at the annual city election, shall qualify within ten days of this election, and shall within twenty days after said election organize by the selection of a president, vice-president and secretary. The first board may be elected at a regular annual city election or at a special election called for that purpose by the city council. The members of the board shall receive no compensation for their services as such and shall have the qualifications of electors of such district. They shall not be interested in any contract entered into by said commission. Vacancies on such board shall be filled by the board until the next regular election of members of the board, when such vacancies shall be filled by election. Removal of residence from the park district by any member of the commission shall create a vacancy. ('09 c. 486 § 4) [1749]

1742. Powers of commission—The park commission shall have power:

1. To acquire by purchase, gift, devise, condemnation or otherwise, land within its territorial limits or within two miles therefrom, for parks, boulevards and

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ways, and shall have sole and exclusive authority to maintain, govern, erect and improve the same.

2. To lay out, open, grade, curb, pave and otherwise improve any path, way or street, in, through, or around said parks and to construct, erect, build, maintain, manage, govern and erect any and all buildings, pavilions, play and pleasure grounds or fields and such other improvements of a like character as may be deemed necessary.

3. To pass all ordinances necessary, requisite and needful for the regulation and government thereof, and to make, change and enforce any order with reference thereto.

4. To levy special assessments on all property specially benefited by the purchase, opening, establishment and improvement of such parks, boulevards, and ways or streets or ways about the same.

5. To appoint such engineers, surveyors, clerks and other officers and employes, including such police force as may be necessary and to define and prescribe their respective duties and authority and to fix their compensation.

6. To issue the negotiable bonds of the park district in a sum not to exceed two per cent of the value of the taxable property therein situated, for the sale [sole] and exclusive purposes of purchasing and acquiring lands for such parks, boulevards and ways, and for the permanent improvement thereof, including the erection and construction of buildings, pavilions, play and pleasure fields, provided such bonds shall not bear a rate of interest to exceed six per cent and provided, further, that upon the affirmative vote of the electors of such district as by law provided, such commission may be authorized to issue such bonds in an amount in the aggregate not to exceed five per cent of such assessed value.

7. To levy taxes upon all the property within said district for the purpose of maintaining and improving said parks, boulevards and ways and to defray the expenses of such board; provided, that such tax so levied shall in no year exceed the sum of five mills on each dollar of the taxable property within said district.

8. To establish building lines for all property fronting on any park, boulevard or way under the direction and control of such commission, and to control the subdivision and platting of property within four hundred feet thereof.

9. To borrow money in anticipation of taxes already levied to defray the expenses of the year and to issue therefor the notes of obligation of the district.

10. To connect any park or parks owned or controlled by it with any other park or parks, and for that purpose to select and take charge of any connecting street or streets or parts thereof, and the said park commission shall have sole and exclusive charge and control of such street or streets so taken for such purpose. ('09 c. 486 § 5 [1750])

The fact that commissioners, in district court appointed to reappraise and reassess benefits resulting from a park improvement, took into consideration the report of the commissioners, appointed by the park board to fix such benefits, is not fatal 161-515, 200+807.

Commissioners, to determine such benefits, need not formally fix the value of the property without and with the improvement; it is sufficient if they determine the benefits. 161-515, 200+807.

1743. Meetings — Ordinances — Contracts — Claims, etc.—The park commission shall hold a regular meeting on the first Tuesday of each month at such hour as it may by rule designate, and such special meetings as it may deem necessary. Special meetings may be called by the president and must be called by him upon the request in writing of two members of the board. The commission shall have power

to adopt rules of procedure as it may deem necessary. The powers of the commission shall be exercised by ordinance unless otherwise provided. All ordinances shall be read twice and at least eight days shall intervene between the readings. They shall be adopted by ye and nay vote and shall be approved by the president and published in the official newspapers of the city and shall go into effect upon such publication. The enacting clause of all ordinances shall be as follows: "Be it enacted by the park commissioners of the park district of the city of, state of Minnesota;" the ye and nay vote shall be taken on all propositions involving the expenditure of money, and levying of taxes or the issuance of bonds or other certificates of indebtedness. All contracts shall be let to the lowest responsible bidder after advertisement in the official newspaper of the city for three successive weeks, once in each week, provided, that such commission shall have the power to reject all bids. All contracts shall be in writing and signed by the president and clerk of the board and unless so executed shall be void. At no time shall the debt of the park district exceed five per cent of the taxable property within the district, according to the last preceding assessment. No bill, claim, account or demand against the district shall be audited, allowed or paid until a full itemized statement in writing properly verified shall be filed with the park commission. All claims against the park district arising out of negligence shall be in writing and verified by the claimant, and shall obtain a full, clear and concise statement of the transaction out of which it is alleged to arise giving time, place, extent of injury or damage, and shall be filed within thirty days from the date thereof with the clerk of the board. No action shall be maintained unless begun after thirty days and within six months from the date of the filing of the claim. ('09 c. 486 § 6) [1751]

1744. Jurisdiction of municipal court, etc.—The municipal court of the city shall have exclusive jurisdiction to try and determine all causes of action for violation of the rules or ordinances enacted by the board and the procedure therein with the right of appeal, shall be as prescribed by general law. ('09 c. 486 § 7) [1752]

1745. General laws, when applicable—In the issuing of bonds, warrants, certificates of indebtedness and in levying any tax or special assessment and in otherwise carrying out, enforcing or making effective any of the powers herein granted, the park commissioners and their officers and the park district shall be governed by and shall follow the laws enacted for the government of cities, except as herein specially provided. ('09 c. 486 § 8) [1753]

1746. Parking lake shores—Donations—Contracts for water and ice—That all cities of the fourth class and the city councils of the same, in addition to all powers now possessed by such cities, shall have the power to dredge lakes wholly or partly within the corporate limits of such cities, to park the shores thereof, maintain a water level in such lakes and expend money therefor.

Such cities are also given the right to accept donations from any person, firm or corporation to aid in defraying such expenses, and such cities and the city councils thereof shall have the power to make contracts with any person, firm or corporation for the taking of water and ice from such lake upon such terms and conditions as may be agreed upon between such city council and the person, firm or corporation acquiring the right to the use of said water and ice. ('13 c. 331 § 1) [1754]

1747. **Water frontage tax**—The city council of any city having a population of ten thousand inhabitants or less shall have power to levy a water frontage tax upon every lot, piece or parcel of land in front of which water pipes are or thereafter shall be laid. ('09 c. 174 § 1) [1755]

1748. **Amount of tax—Lien**—That the annual tax or assessment shall not exceed ten cents per lineal foot of the frontage of such lot, piece or parcel of land and which shall be a lien upon such lot, piece or parcel of land and shall be collected as hereinafter provided. That no property shall be subject to such tax or assessment after ten such annual tax or assessments have been levied against it. ('09 c. 174 § 2) [1756]

1749. **Petition of property owners**—The common council of such cities shall proceed upon the petition of the property owners of the property fronting on the street of the proposed main, but the consent and signature of three owners of any platted block shall be sufficient. ('09 c. 174 § 3) [1757]

1750. **Notice—Power of council—Assessment**—The common council shall thereupon give ten days' notice by publication of such proposed tax levy of such proposed water frontage tax, and if a majority of the common council are of the opinion that such improvement is necessary and proper, the common council shall make an assessment upon the property which fronts upon the proposed water main; such assessment shall state the amount per foot levied, the name of the owners or reputed owners and the lot and block number. ('09 c. 174 § 4) [1758]

1751. **Delinquent taxes—Annual statement—Extension of tax, etc.**—That the common council shall make up, on or before the first day of October in each and every year, a detailed statement, duly certified to by the mayor and city clerk of such city, under the seal of said city showing the delinquent frontage taxes for the year preceding and ending on the first day of January following, which statement shall be transmitted by the city clerk to the county auditor of the county as delinquent taxes for collection. Thereupon it shall be the duty of the county auditor to extend the same on his rolls against the property in said statement as aforesaid for collection, and if not paid within the time prescribed by law then the same shall become a lien upon the real estate, and said real estate shall be subject to all the penalties and charges as property delinquent for taxes. ('09 c. 174 § 5) [1759]

1752. **Moneys collected—Water fund**—All moneys collected or paid into the treasury of the county on account of such assessments or taxes shall be paid over from time to time to the respective cities wherein such frontage taxes is levied for the use of the water fund, and all moneys that are collected shall be kept separate and distinct and be put into the water fund to be kept by the respective cities separate and distinct in maintaining, constructing, repairing or leasing water systems within their corporate limits. ('09 c. 174 § 6) [1760]

1753. **Contracts for water from other cities—Mains—Provisions applicable**—The common council of any city containing a population of ten thousand inhabitants or less may enter into contracts and agreements with any adjoining municipality, which has water system, water commission or water board, for the furnishing of water to the citizens of said city, containing ten thousand inhabitants or less, for the laying of water mains in the streets of such city, containing ten thousand inhabitants or less, by the said adjoining municipality, the water commission or water board thereof. And upon the making of such agreement or contract,

or upon permission to that effect being given by the common council of such city, containing ten thousand inhabitants or less, the said adjoining municipality or its water board or commission may lay said water mains, under the direction of said common council, and furnish water to the citizens of said city containing ten thousand inhabitants or less. All the provisions of this act relative to frontage tax, petitions, notice, tax levy, assessment, statements relative to delinquent frontage taxes, the collection thereof, and the other provisions hereof shall be followed in such cases the same as if such water was furnished directly by said city, containing ten thousand inhabitants or less, from a water plant owned and controlled by said city itself. ('09 c. 174 § 7) [1761]

1753-1. **Water works and light plants**—Whenever at any general or special election, held in any city in the class hereinafter mentioned, the electors thereof by an affirmative vote of three-fifths of the legal voters, voting thereat, so determine, each city in the state of Minnesota having ten thousand inhabitants or less, whether organized or existing under special or general law, or under and by virtue of the provisions of chapter three hundred and fifty-one (351) of the General Laws of Minnesota for the year eighteen hundred and ninety-nine (1899), as amended, is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its city charter or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue, to issue its bonds in the aggregate amount hereinafter mentioned to be determined as hereinafter set forth, and to dispose of the same as hereinafter provided, and to use the proceeds thereof for the purpose of constructing, extending, enlarging, improving or purchasing municipal water works or light plants or either or all thereof, but in each case the said city may either acquire such existing water works system or electric light plant by purchase at such price, not exceeding its fair value, and on such terms as may be agreed on between said city and the owner thereof, or if such arrangement as to price and terms cannot be arrived at, may acquire such system by condemnation thereof. The procedure in the event of condemnation, shall be that prescribed by chapter 41, Revised Laws of 1905, or that prescribed by such city's charter, and the purchase price of said plant or system as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by this act authorized to be issued. ('05, c. 334, § 1; amended '07, c. 59, § 1) [1910]

Explanatory note—For R. L. '05, chapter 41, see chapter 41, herein.

For Laws 1899, c. 351, see note § 1310, herein.
For a somewhat similar law see §§ 1754 to 1760, herein and see Laws 1907, c. 67, which reads as follows: "Section 1. In addition to the rights and powers heretofore granted by law to the several cities of the state of Minnesota, which rights and powers shall not be abridged or affected by this act, there is hereby granted to all cities that are or may be hereafter organized within the state of Minnesota, having a population of ten thousand inhabitants or less, according to the last officially promulgated state or United States census, the right and power to issue bonds for the purpose of installing, purchasing or otherwise acquiring a system of water works, and constructing, enlarging, extending and improving such water works, now owned by any such city or acquired under this act, and such cities are hereby authorized and empowered, subject to the approval of the legal voters of such city as is hereinafter provided, to purchase, acquire, install and construct any such water works system and plant and extend, enlarge and improve the same.

"Sec. 2. The bonds of any city issued pursuant to the terms of this act may be issued from time to time by a majority vote of the electors of such city, as hereinafter provided, but the total amount of such bonds outstanding shall not at any time exceed in the aggregate the sum of fifty thousand dollars. All bonds authorized by this

act shall run not more than thirty years from the date of issuance, bearing interest at not more than five (5) per cent per annum, principal and interest payable at such time and place as may be fixed by the common council of such city, such bonds to be sealed with the seal of the city issuing them and signed by the mayor and attested by the clerk or recorder and countersigned by the comptroller, if there be one, and shall be sold at not less than par value and accrued interest to the highest responsible bidder, after notice published once in each week for two (2) successive weeks in a daily paper, if one there be, if not, then in a weekly paper in the city where such bonds are to be issued and also in a daily paper published in the city of St. Paul. A failure to publish said notice, however, shall not invalidate said bonds.

"Sec. 3. Bonds issued under or pursuant to the provisions of this act shall be so issued only when authorized by the voters of such city at a general or special election called for that purpose in the manner hereinafter provided.

"Sec. 4. All elections provided for in this act shall be called and conducted in the manner prescribed for municipal elections in such cities and the notices of election shall contain a statement of the amounts and purposes for which such bonds are proposed to be issued with the date of their maturity and the rate of interest they shall bear. All elections provided for in this act may be called by resolution of the common council, passed by a majority vote of all members thereof, which resolution shall distinctly state the purpose of the election and the question to be submitted to the vote of the people. The ballot to be voted at all elections under this act may read as follows: 'In favor of the proposition of issuing water works bonds to the extent of \$..... Yes. No.' Those voting for such proposition shall mark a cross (X) opposite the word 'Yes,' and those against such proposition shall mark a cross (X) opposite the word 'No' on said ballot in a space provided for that purpose. If a majority of votes cast at any such election shall be in favor of issuing the kind and amount of bonds designated in the ballot, the city voting in favor thereof, through its proper officers without further act is authorized to issue such bonds to the amount voted and to issue and sell the same. The votes cast at such election shall be counted, returned and canvassed the same as at any other municipal elections and the result certified to the clerk or recorder by the canvassing board. It shall be the duty of the common council to expend the moneys derived from the sale of said bonds in accordance with the directions of the voters as shown by said election. None of the proceeds of any of the bonds issued pursuant to the provisions of this chapter shall be used, or any part hereof, for any purpose except such as is designated in the resolution and vote of the electors cast at any election authorizing the issuance of said bonds and any member of the common council or officer of said city who shall vote for or in any manner participate in the appropriation or expenditure of any of the proceeds of any of such bonds for any other purpose shall be deemed guilty of a misdemeanor and punished as by law provided.

"Sec. 5. None of the bonds of any such city, issued pursuant to the terms and provisions of this act, shall be deemed or taken to be a part of the indebtedness of such city within the purview of any law limiting the amount of the indebtedness of any city, and the bonds provided for in this act may be issued without regard to the indebtedness of any such city.

"Sec. 6. This act shall not be construed as in any manner superseding, repealing amending or qualifying the provisions of any home rule charter heretofore adopted by any city or village, under the laws of this state, and this act shall not in any manner apply to any such city or village."

1753-2. Same—Bond issue—Powers of council—Submission to voters—Notice of election—Whenever the city council of any such city, at a regular called meeting thereof, determine by resolution, duly adopted by a three-fourths majority vote of all the members thereof, entered upon the minutes of the proceedings, that it is necessary either to purchase water works or light plants already in existence, or construct, extend, enlarge or improve a municipal water or light plant or either or all thereof, as the case may be, and that the funds in the treasury of said city available therefor, are not sufficient for such purpose, and that it is necessary to issue the bonds of such city in an amount to be determined by such city council in such resolution, such city council may cause the proposition of issuing such bonds in such amount to be submitted to the electors of such city at any general or special

election, to be held therein. Such resolution shall fix the time of said voting, if the same be submitted at a special election, which shall be not less than ten (10) days after the date of the adoption of said resolution, and said special election shall be conducted as provided by law for general elections. The notice of such election at which said proposition is to be submitted, whether general or special, shall contain a statement of the total amount of the principal of said bonds, and the purpose to which it is proposed to put the same. ('05, c. 334, § 2; amended '23, c. 181, § 1) [1911]

1753-3. Same—Bond issue—Ballots—Conduct of election—In voting upon such proposition, those in favor of issue of bonds, shall have written or printed, or partly written and partly printed on the ballots used, the words, "Issue of Bonds," "Yes," "No," and each elector voting on such proposition shall make a cross mark thus: (X), in one of the two spaces left for the purpose, upon the margin of the ballot used as provided in section twenty-eight (28), chapter four (4), General Laws of Minnesota for 1893. The elector desiring to vote in favor of issuing bonds shall make a cross mark thus: (X) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds, shall mark a cross mark thus: (X) in the place so left opposite the word "No," and no ballot shall be counted on said proposition except those having said cross mark (X) opposite one (1) only of said words "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city officers and shall be counted, returned and canvassed in the same manner as provided by law for the election of city officers, and if upon such canvass it appears that a three-fifths majority of all the votes cast upon said proposition, shall be in favor of issuing bonds, the same may thereafter be issued in accordance with the provisions of this act, but not otherwise. ('05, c. 334, § 3) [1912]

1753-4. Same—Bond issue—Sale and use of proceeds—Whenever the electors of any such city at any such election shall declare in favor of issuing the bonds of such city hereunder, such city, and the city council thereof, is hereby authorized and empowered by an affirmative vote of three-fourths of the members of such city council, to issue the bonds of said city, in an amount to be determined by said city council, not exceeding in the aggregate the amount contained in the said proposition, adopted by the electors at said election, and such city council may dispose of the same, as hereinafter provided, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in section two (2) of this act shall specify, but not otherwise. ('05, c. 334, § 4) [1913]

1753-5. Same—Bond issue denominations—Maturity—Interest—Such bonds shall be of such denomination as the city council may determine; shall be payable at such place as the city council may designate; at such times, not less than ten nor more than thirty years from the date of issue; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such city council may deem best, and shall draw interest payable semi-annually, at such place as the city council may determine, at a rate not exceeding five per cent (5 per cent) per annum, to be represented by coupons attached to said bonds. Said bonds and coupons shall be signed by the mayor and attested by the clerk, or similar officer, or recorder of such city, and the corporate seal of the

city shall be imprinted upon said bonds. ('05, c. 334, § 5; amended '07, c. 178, § 1 [1914])

1753-6. Same—Bond issue—Sale of bonds—Use of proceeds—The city council of any such city shall have authority by a majority vote of all its members to dispose of such bonds in such manner as in the judgment of said city council shall best subserve the interest of the city, but it shall not negotiate the sale, dispose of, nor sell said bonds, nor any of them, at less than their par value and accrued interest, and neither the said bonds or the proceeds of the sale thereof shall be used for any other purpose than specified in said resolution contemplated by section two (2) hereof, and such purpose shall be again distinctly stated in said resolution of said council authorizing the issuance thereof. ('05, c. 334, § 6) [1915]

1753-7. Sale—Bond issue—Lien of bonds—The principal and interest of any such bonds so issued is hereby declared to be a first lien upon the municipal water works or light plants respectively constructed or purchased by means of said bonds or the proceeds of the sale thereof, and the faith and credit of such city issuing the same is hereby irrevocably pledged to the payment thereof, any provision of the law of this state, whether general or special, or by virtue of said chapter three hundred and fifty-one (351), as amended, of the General Laws of Minnesota, for the year eighteen hundred and ninety-nine (1899), to the contrary notwithstanding. The bonds of any such city issued pursuant to the terms and provisions of this act at any time outstanding shall not be included in determining any such city's net indebtedness under the provisions of its charter or of any applicable law. ('05, c. 334, § 7; amended '23, c. 181, § 3) [1916]

For Laws 1899, c. 351, see note § 1310, herein.

1754. Waterworks and light plants—Whenever at any general or special election, held in any city in the class hereinafter mentioned, the electors thereof by an affirmative vote of three-fifths of the legal voters, voting thereat, so determine, each city in the State of Minnesota, having ten thousand inhabitants or less or existing under special or general law, or under a home rule charter is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its city charter, or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue, to issue its bonds in the aggregate amount hereinafter mentioned to be determined as hereinafter set forth and to dispose of the same as hereinafter provided, and to use the proceeds thereof for the purpose of acquiring, constructing, extending, enlarging, improving or purchasing municipal waterworks, or light, or power plants or either or all or any part thereof, and the lands or flowage rights therefor whether the whole or any part of such plant or the land or flowage rights therefor is situate within or without the corporate limits of the city, but in each case the said city may either acquire such waterworks system or light or power plants or any part or portion thereof or any or all lands or flowage rights necessary therefor by purchase at such price not exceeding its fair value and on such terms as may be agreed on between said city and the owner or owners thereof or by condemnation. The procedure in the event of condemnation shall be that prescribed by Chapter 41, General Statutes of 1913, and any amendments thereof or that prescribed by said city charter and the purchase price of said plant or system or portion thereof, or lands or flowage rights as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by this act authorized to be issued and the bal-

ance of the proceeds, if any, may be used for extension, enlargement or improvement of such plant or plants so acquired. ('09 c. 43 § 1; amended '17 c. 134 § 1) [1762]

Explanatory note—For G. S. '13, c. 41, see c. 41, herein. Also whether there had been such delay in issuing the bonds that the authority granted by the election had expired was a question of fact, to determine upon a trial and not upon affidavits. 156-467, 195+145.

Whether a city election, authorizing the council to issue and sell bonds, was legally called was an issue raised by the pleadings which in the opinion of the court below, might well warrant a full trial. 156-467, 195+145.

1755. Powers of council—Submission to voters—Notice—Whenever the city council of any such city, at a regular called meeting thereof, determine by resolution, duly adopted, by a three-fourths majority vote of all the members thereof, entered upon the minutes of the proceedings, that it is necessary either to acquire by purchase or condemnation, water works or light plants already in existence, or construct, extend, enlarge, or improve a municipal water or light plant, or either or all thereof, as the case may be, and that the funds in the treasury of said city available therefor, are not sufficient for such purpose, and that it is necessary to issue the bonds of such city in an amount to be determined by such city council in such resolution, not exceeding in the aggregate fifteen (15) per cent of the assessed valuation of the taxable property of such city according to the last preceding assessment thereof, such city council may cause the proposition of issuing such bonds, in such an amount, to be submitted to the electors of such city at any general or special election to be held therein. Such resolution shall fix the time of said voting, if the same be submitted at a special election, which shall be not less than ten (10) days after the date of the adoption of said resolution, and said special election shall be conducted as provided by law for general elections. The notice of such election at which said proposition is to be submitted, whether general or special, shall contain a statement, of the total amount of the principal of said bonds, and the purpose to which it is proposed to put the same. ('09 c. 43 § 2; amended '11 c. 289 § 1) [1763]

1756. Election, how conducted—In voting upon such proposition those in favor of issue of bonds, shall have written or printed, or partly written and partly printed on the ballots used, the words "Issue of Bonds," "Yes," "No," and each elector voting on such proposition shall make a cross mark thus: (X) in one of the two spaces left for the purpose, upon the margin of the ballot used as provided in section twenty-eight, chapter four, General Laws of Minnesota for 1893. The elector desiring to vote in favor of issuing bonds shall make a cross mark thus: (X) in the place left opposite the word "Yes," and the elector desiring to vote against the issuing of bonds, shall make a cross mark thus: (X) in the place so left opposite the word "No," and no ballot shall be counted on said proposition except those having said cross mark (X) opposite one only of said words "Yes," "No." The voting shall be conducted in the same manner as provided by law for the election of city officers, and shall be counted, returned and canvassed in the same manner, as provided by law for the election of city officers, and if upon such canvass it appears that a three-fifths majority of all the votes cast upon said proposition, shall be in favor of issuing bonds, the same may thereafter be issued in accordance with the provisions of this act, but not otherwise. ('09 c. 43 § 3) [1764]

1757. Bonds, when issued—Whenever the electors of any such city at any such election shall declare in

favor of issuing the bonds of such city hereunder, such city, and the city council thereof, is hereby authorized and empowered by an affirmative vote of three-fourths of the members of such city council, to issue the bonds of said city, in an amount to be determined by said city council, not exceeding in the aggregate the amount contained in the said proposition, adopted by the electors at said election, and such city council may dispose of the same, as hereinafter provided, and may use the same and the proceeds thereof for any of the purposes which the resolution provided for in section two [1763] of this act shall specify, but not otherwise. ('09 c. 43 § 4) [1765]

Section 2 [1763] referred to is § 1755, herein.

1758. Bonds, denominations—Such bonds shall be of such denomination as the city council may determine, shall be payable at such place as the city council may designate; at such times, not more than thirty years from date of issue, as the city council may determine; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such city may deem best, and shall draw interest payable semi-annually, at such place as the city council may determine, at a rate not exceeding five per cent per annum, to be represented by coupons attached to said bonds. Said bonds and coupons shall be signed by the mayor and attested by the clerk, or similar officer, or recorder of such city, and the corporate seal of the city shall be imprinted upon said bonds. ('09 c. 43 § 5; amended '17 c. 507 § 1) [1766]

1759. Bonds, how disposed of—The city council of any such city shall have authority by a majority vote of all its members to dispose of such bonds in such manner as in the judgment of said city council shall best subserve the interest of the city, but it shall not negotiate the sale, dispose of, nor sell said bonds, nor any of them, at less than their par value and accrued interest, and neither the said bonds or the proceeds of the sale thereof shall be used for any other purpose than specified in said resolution contemplated by section two [1763] hereof, and such purpose shall be again distinctly stated in said resolution of said council authorizing the issuance thereof. ('09 c. 43 § 6) [1767]

Section two [1763] referred to is now § 1755, herein.

1760. Lien of bonds, etc.—The principal and interest of any such bonds so issued is hereby declared to be a first lien upon the municipal water works or light plants respectively constructed or acquired by means of said bonds or the proceeds of the sale thereof, and the faith and credit of such city issuing the same is hereby irrevocably pledged to the payment thereof, any provision of the law of this state, whether general or special, or by virtue of said chapter three hundred and fifty-one, as amended, of the General Laws of Minnesota, for the year eighteen hundred and ninety-nine, to the contrary notwithstanding. ('09 c. 43 § 7) [1768]

For Laws 1899, c. 351, see note § 1310, herein.

1760-1. Bonds for storm sewer mains—Election—Amount — Denominations — Maturity — Interest — Sale—The governing body of any city of the fourth class in the State of Minnesota operating under Home Charter pursuant to the provisions of Section 36, Article 4 of the State Constitution after an affirmative vote of a majority of the electors thereof, voting at an election called for such purpose is hereby authorized and empowered, for the purposes herein designated, to issue the negotiable bonds of such city to an amount in the aggregate not exceeding \$25,000; said bonds to be made in such denomination and payable at such

places and at such times, not exceeding thirty years from the date thereof, as may be deemed best, and to bear interest at the rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

Provided that no such bonds shall be sold for less amount than the par value thereof and accrued interest thereon.

Provided also that such bonds shall be issued and sold in accordance with the particular method prescribed by the charter of the city so issuing such bonds.

Provided further also, that the bonds authorized by this act or any portion thereof may be issued and sold by any such city, notwithstanding any limitations contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city. ('25, c. 51, § 1)

Explanatory note—For this act see §§ 1760-1 to 1760-6, herein.

1760-2. Same—Tax levy for interest and sinking fund—The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act and for the payment of the current interest thereon, and said governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('25, c. 51, § 2)

Explanatory note—For this act see §§ 1760-1 to 1760-6, herein.

1760-3. Same—Sale of bonds—All bonds issued under the authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk, except that the signatures to the coupons, attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such city. ('25, c. 51, § 3)

Explanatory note—For this act see §§ 1760-1 to 1760-6, herein.

1760-4. Same—Use of proceeds of sale of bonds—The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose of constructing a storm sewer main for the use of such city and to take care of the overflow of any lake partially within the limits of such city, and the outlet for which lake flows through such city. ('25, c. 51, § 4)

Explanatory note—For this act see §§ 1760-1 to 1760-6, herein.

1760-5. Same—Charter provisions for elections—Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to Section 36, Article 4, of the Constitution of this State, requiring the question of the issuance of bonds to be submitted to the vote of electors. ('25, c. 51, § 5)

1760-6. Same—Powers granted are additional—The powers granted in this act are in addition to all existing powers of such cities. ('25, c. 51, § 6)

Explanatory note—For this act see §§ 1760-1 to 1760-6, herein.

1761. Extension of electric lines—That the common council of any city, in this state, having a population

of ten thousand or less and owning and operating an electric light plant, are hereby authorized and empowered to extend the lines, wires and fixtures of its plant to and into any incorporated village lying within three miles of the limits of said city, with the consent of the council or other governing body of said village and to appropriate and expend money therefor. ('09 c. 218 § 1) [1769]

1762. Powers of city council—Said common council is also authorized and empowered to make such contracts and arrangements with person or persons, village or villages to and in which their electric light line may be so extended, necessary for the proper extension, operation and maintenance of said line, the collecting of compensation for the light or current, and service that may be furnished thereby, and for the reimbursement of the cost of such extension. ('09 c. 218 § 2) [1770]

1763. Use of streets—Contracts—That the village council or other governing body of any village to which an electric line may be extended pursuant to this act, are hereby authorized and empowered to grant to such city making such extension, the right of the use of the streets, alleys, and other public grounds of such village for the erection, operation and maintenance of such line for said purpose, and to make contracts and arrangements for the lighting of such village thereby and the payment therefor. ('09 c. 218 § 3) [1771]

1764. Purchase of electricity—That any city of this state now or hereafter owning an electric light and power plant and now or hereafter having a population of ten thousand (10,000) inhabitants or less, shall be authorized and empowered to enter into a contract or contracts for the purchase by such city of electricity for the purpose of operating such electric plant, upon such terms as may be approved by a two-thirds vote of all of the members of the governing body thereof; Provided, that such contract or contracts shall not be made to run for a period exceeding fifteen (15) years. ('13 c. 103 § 1) [1772]

1765. Obligation not indebtedness—The obligation incurred by any such city in the making of such contracts shall not be considered as a part of its indebtedness under the provisions of its governing charter or of any law of this state fixing a limit of indebtedness for such city. ('13 c. 103 § 2) [1773]

1765-1. Disposition of surplus electricity to private consumers outside city—Any city of this state now or hereafter owning and operating an electric light and power plant for the production and distribution of electricity, and now or hereafter having a population of ten thousand (10,000) inhabitants, or less, shall be authorized and empowered to dispose of any surplus electricity so produced to private consumers desiring the same residing outside the corporate limits of said city, at such rates and upon such terms as the city council, or other governing body of such city, may deem proper. ('15, c. 34, § 1)

1766. Changing of electric street lighting system—Whenever a petition shall be presented to the common council or any other governing body of any city of the fourth class in this state, whether operating under a home-rule charter or the general laws of this state, which petition asks that said city council change the plan or system of electric street lighting or any part thereof in use in said city, or change the equipment for electric street lighting in use in said city at the time of presenting said petition and such petition is signed by the owners of a majority in area of the real estate of such city, which may be deemed by said common coun-

cil to be specially benefited, then and in such case the said common council or other governing body may make such investigation as to the advisability, expediency and feasibility of the doing of the things asked in said petition as it deems necessary, and, if it deems it advisable, expedient and feasible to do them or any of them, it may and is hereby authorized and empowered to grant such petition or any or all of its requests at its discretion. ('17 c. 180 § 1)

§ 3 repeals '15 c. 263.

1767. Special assessment—In case such petition shall be granted and to the extent rendered necessary by the granting of the same in whole or in part, the said common council or other governing body may levy and collect by special assessment the entire or a portion of the cost and expense of such change, alteration, replacement, reconstruction or installment against such real estate as may, in the judgment of said common council, derive special benefits therefrom. ('17 c. 180 § 2)

1767-1. Dams and power houses for generation of electricity—**Acquisition**—**Election**—Whenever the city council of any city having a population of 10,000 inhabitants or less in any county in this state, having an area of neither more nor less than Forty Congressional Townships according to the Government Survey, shall determine by resolution duly adopted that it is necessary and expedient either to acquire by purchase or condemnation, under the general laws relating to the exercise of the right of eminent domain, any flowage rights, lands or easements lying outside the corporate limits of such city for the purpose of constructing on said lands a dam and power house for the generation of electricity to be used by said city and to be furnished to the inhabitants thereof, such city council shall cause the proposition of such purchase or such condemnation for the above mentioned purpose to be submitted to the electors of such city at any general or special election to be held therein. Such general or special election shall be conducted as provided by law or charter for general elections or special elections in such city. The notice of such election at which said proposition is to be submitted shall contain a statement setting forth in a clear, concise manner such proposition. The ballots to be used in voting upon such proposition shall have printed thereon the words, "in favor of purchase (or condemnation)," "yes," "no," and each elector voting on such proposition shall make a cross mark, thus: (X), in one of the two places left for the purpose upon the margin of the ballot so used. The elector desiring to vote in favor of such proposition shall make a cross mark, thus: (X), in the place left opposite the word "yes", and the elector desiring to vote against such proposition shall make a cross mark, thus: (X), in the place left opposite the word "no", and no ballot shall be counted on said proposition except those having said cross mark (X) opposite one only of said words "yes" or "no". The voting shall be conducted in the same manner as provided by law for the election of city officers of such city, and shall be counted, returned and canvassed in the same manner as provided by law for the election of officers of such city. ('21, c. 321, § 1)

1767-2. Same—**Acquisition of flowage rights, etc.**—**Construction of dams, etc.**—If upon such election and canvass it appears that a majority of all of the votes cast upon said proposition are in favor thereof, the city council of such city is hereby authorized, empowered and directed to carry out the wishes of the people as expressed at such election, and either to purchase or

condemn, under the laws relating to the right of eminent domain, the flowage rights, lands and easements outside the corporate limits of such city as are necessary and expedient for the purpose of constructing on said lands a dam and power house for the generation of electricity to be used by said city and to be furnished to the inhabitants thereof. Said council is hereby authorized and empowered to do all acts necessary or incidental to the acquisition of such flowage rights, lands and easements for the construction of such dam and power house and for the furnishing of electricity generated thereat to said city and the inhabitants thereof. ('21, c. 321, § 2)

1767-3. Same—Bond issue—If necessary for the carrying out of the aforesaid purposes, bonds may be issued in accordance with Chapter 10, General Statutes 1913, as amended. ('21, c. 321, § 3)

Explanatory note—For Chapter 10, G. S. '13, see Chapter 10 of this compilation.

1768. Heating plants—Any city of this state having a population of not more than 10,000 inhabitants, or any village in this state, is hereby authorized and empowered:

(a) To grant to any person, persons, company or corporation, the right of the use of the streets, alleys and other public grounds of such city or village for the erection, operation and maintenance of any heating system to furnish heat to the inhabitants of such city or village, the same to be on such terms and subject to such conditions as the governing body of such city or village shall determine, including therein the right to sell to such person, persons, company or corporation, at a profit to such city or village, any steam generated or water heated by any plant owned and operated by such city or village, and to make contracts and arrangements for the furnishing of heat to the inhabitants of such city or village thereby, and for the regulation and control of such heating system.

(b) To grant to any person, persons, company or corporation the right of the use of the streets, alleys, and other public grounds of such city or village for the installation, without any expense to such city or village of pipes, conduits, and other equipment necessary and incidental to the construction, operation and maintenance of a heating system to furnish heat to the inhabitants of such city or village, the same to be on such terms and subject to such conditions as the governing body of such city or village shall determine, including the right to make all necessary and incidental contracts and arrangements for the furnishing of heat to the inhabitants of such city or village, at a profit to such city or village, from any steam generated or water heated by any plant owned and operated by such city or village, including the right to acquire, own, operate and enlarge the heating system after the same shall have been installed, and including the right to issue certificates of indebtedness of such city or village payable in heat to be sold by such city or village; any such city or village in which there is now in operation, or in which there may be hereafter in operation a municipal electric light and water plant, or either, may agree with any such service company which the city or village may authorize to furnish steam or hot water heat to its inhabitants, to supply from such municipal plant to such company, upon such terms as may be mutually agreed upon between the city or village and the company, the necessary steam or hot water or both to be supplied to the patrons of the company, and by such agreement may provide for joint approval of plans, joint supervision of construction and ascertain-

ment and determination at the time of completion of the cost of the company's plant, and by such agreement may fix and establish the rates to be charged to the company's patrons for the heat supplied, the charges to be billed to and collected from the consumer either by the city or village or the service company, as agreed upon, the revenue received therefrom to be apportioned and divided between the city or village and the company upon such reasonable and proper basis of division as they may agree upon with appropriate provision for the purchase of the company's plant by the city or village at cost, plus reasonable interest thereon, and the payment therefor from the moneys received and accumulated by the city or village as its share of the derived revenues.

(c) Any such city or village in which there is already constructed, or in which there may be hereafter constructed any such heating system not owned by the city or village is authorized to acquire such existing heating system by purchase at such price not exceeding its fair value and on such terms as may be agreed on between such city or village and the owners of such system, and in order to provide the funds for such purchase the city or village council or other governing body, by whatever name denominated, is hereby authorized to issue and sell the bonds of such city or village to such an amount as may in its judgment be necessary for the purpose, said bonds shall be in such form and denomination, shall bear such rate of interest not exceeding six per cent per annum, payable semi-annually, and shall become due and payable at such time or times, not more than twenty years from their date, all as the city or village council or other governing body shall determine. Said bonds shall be signed by the mayor, and countersigned by the clerk if issued by such a city, and shall be signed by the president of the village council and countersigned by the clerk or recorder, if issued by any such village, and shall be sold for not less than par and accrued interest. ('17 c. 122 § 1, amended Ex. Sess. '19 c. 25 § 1; '21 c. 108 § 1)

1769. Not part of indebtedness—The obligations incurred by any such city or village in the making of such contracts and arrangements shall not be considered as a part of its indebtedness under the provisions of its governing charter or of any law of this state fixing the limit of indebtedness for such city or village. The powers conferred by this act are additional to all other powers conferred by law, and the amount of any bonds issued hereunder at any time outstanding shall not be included in determining any such city's or village's net indebtedness under the provisions of its charter, or of any other applicable law. ('17 c. 122 § 2; amended Ex. Sess. '19 c. 25 § 2; '21 c. 108 § 2)

1770. Application—This act shall apply to all cities of the indicated class whether organized under general or special laws, including those operating under home rule charters and to all villages having a population of not more than 10,000 inhabitants, whether organized under general or special laws. (Ex. Sess. '19 c. 25 § 3; amended '21 c. 108 § 3)

1771. Rates for electric service—In all cities of the fourth class in this state where any person or corporation sells, conveys or delivers electricity or electric current that is manufactured, created or obtained in another state and where such person or corporation occupies or uses any of the streets, alleys or public grounds of such city for the purpose of erecting or maintaining any towers, masts, poles, wires or conduits

therein for the purpose of conveying or conducting electricity or electric current, or conducts or conveys electricity or electric current into or through such city, without having a written franchise, license or authority from such city therefor, the city council or governing body of such city may, by resolution, at any regular or special meeting thereof, name, fix and regulate an amount in money that such person or corporation shall pay into the city treasury of such city each month for the privilege of so doing, or so using such streets, alleys or public grounds. ('15 c. 311 § 1)

1772. Resolution to fix amount—Such resolution shall state and fix the amount of such monthly payments and the time and manner of paying the same and the amount so stated and fixed shall be a legal charge against any such person or corporation and may be recovered by such city in a civil action in any court having jurisdiction. ('15 c. 311 § 2)

1773. Vested rights not granted—Nothing herein contained shall be construed as granting to any such person or corporation any vested rights, license or authority in such city, or to prevent any such city from at any time causing the removal from the streets, alleys and public grounds thereof of any and all towers, masts, poles, wires or conduits, of such person or corporation. ('15 c. 311 § 3)

See also '19 c. 469.

1774. Expenditure of moneys for roads, bridges and streets in cities situate in two or more counties—In all cities of the fourth class situated in two or more counties the common council or other governing body shall have exclusive power to expend all moneys arising from taxation for roads, bridges and streets upon the real and personal property within the corporate limits of such cities, except as herein provided. ('13, c. 183, § 1; amended '25, c. 300, § 1) [1774]

1775. Taxes for roads, bridges and streets—Levy and collection—Payment into city and county treasuries—Such tax shall be levied and collected as other taxes are levied and collected, and when collected such taxes except the State Road and Bridge tax shall be paid by the respective counties into the treasury of such city, except that in all cases where any such county or counties shall have heretofore constructed or shall hereafter construct a bridge across any stream or river connecting parts of any such city, then the road and bridge fund in such county or counties shall in such case be paid into the county treasury and disbursed by the county board as in the case of other roads or bridges constructed by such county. ('13, c. 183, § 2; amended '25, c. 300, § 2) [1775]

1776. Control of expenditures for roads, bridges and streets—Except as provided in Section 2 of this Act, the governing body of any such city shall have the control of all expenditures for roads, streets and bridges, within such city, and may at its pleasure expend moneys from the city road and bridge fund for building and repairing roads and bridges outside of its corporate limits. ('13, c. 183, § 3; amended '25, c. 300, § 3) [1776]

Explanatory note—For Section 2 of this act see § 1775, herein.

Sections 1774, 1775 and 1776 are constitutional as against the objection that the same constitutes special legislation. 142-225, 1714-801.

1777. Street commissioners—The governing body of any such city shall appoint one or more street commissioners who shall have charge of all road, street and bridge work, and who shall serve during the pleasure of such governing body. He shall keep an accurate account of all money received and expended

by him, and shall make an itemized statement thereof to such governing body ten days before any annual city election, and at such other times as such governing body may direct. ('13 c. 183 § 4) [1777]

1778. Rules—The governing body of any such city shall have the power to make all rules and regulations for the collection and disbursement of road, street and bridge funds, not inconsistent with law. ('13 c. 183 § 5) [1778]

1779. Curbs and gutters—Whenever the governing body of any city have a population of ten thousand inhabitants or less, incorporated under the general laws of this state, shall deem it necessary and expedient to construct or rebuild any curb or gutter, or both, in said city, they may, acting on their own motion, and if a majority of the owners of the property fronting on the street or streets where it is proposed to construct or rebuild such curb or gutter, or both, shall petition the common council of such city therefor, they shall adopt a resolution to that effect, which resolution shall specify the place or places where such curb or gutter, or both, shall be constructed or rebuilt, the kind and quality of materials to be used therein, the width, the size and manner of construction thereof, and the time within which the same shall be completed, which shall not be less than forty days after the service of said resolution, as hereinafter provided.

Said resolution shall contain the names of the owners of all lots, parcels of lots, and parcels of ground fronting the street or streets where such curb or gutter, or both is to be constructed or rebuilt. ('17 c. 123 § 1)

1780. Proceedings for construction—Such resolution shall be served upon the persons named in said resolution at least forty days prior to the time therein named for the completion of said curb or gutter, or both, in the following manner.

First: By causing a copy thereof to be handed to and left with each of the persons therein named who are residents of and within said city, and are actually therein.

Second: If any of the persons so named in said resolution are not residents of said city, or cannot be found therein, then said resolution shall be published in one issue of a newspaper regularly published in said city, in the English language, and having a general circulation therein, or in the designated official paper of said city.

Third: If there be no such newspaper published in said city, then such service and publication may be made by posting a copy of said resolution in at least three public places in said city, at least forty days prior to the time named therein for the completion of said curb or gutter, or both.

Affidavits shall be made by the person serving or posting said resolution of the manner, time and place of serving or posting the same, and by the foreman, editor or publisher of such newspaper of the time and manner of publishing the same, and such affidavits shall be attached to said resolution and with it filed with the city recorder. Any and all such service when made in accordance with the provisions of this act, shall for the purposes thereof, be deemed personal service of such resolution upon the persons named therein. ('17 c. 123 § 2)

1781. Performance of work—If such work shall not be fully done and said curb or gutter or both shall not be fully constructed or rebuilt in the manner and at the time prescribed in said resolution, then the governing body of said city may order the same to be done by the street commissioner or commissioner of public

works, or cause the same to be done by contract let to the lowest responsible bidder, the entire expense thereof to be paid out of the general revenue fund of said city.

At any time within thirty days after said city shall have completed the construction of said curb or gutter or both as aforesaid, the city council or governing body of such city shall adopt a resolution fixing the time and place when and where they shall hear testimony of all persons interested or affected and ascertain the amount of benefits to property fronting on said curb or gutter, or both, or by reason of the construction thereof, and such resolution shall be served on all the persons named in the resolution adopted under section 1 of this act, and in the manner therein provided.

At the time and place named in said resolution said city council or governing body of said city shall hear any and all testimony offered by or on behalf of all parties interested or affected by the construction of said curb or gutter, or both, and for said purpose the president of the council or other presiding officer is hereby authorized to administer oaths to witnesses. Thereupon, by resolution, the city council or governing body of said city shall determine the amount of benefits caused by said construction, to each lot, part of lot, or parcel of ground fronting the street or streets where such curb or gutter, or both shall have been constructed or rebuilt as aforesaid; and a full and complete record thereof shall be made and kept by the city recorder in a separate book kept for that purpose, which record shall contain a description of the property benefited and charged with the construction of such curb or gutter, or both, the amount of benefit determined in each case as aforesaid, and when so determined the amount of each annual installment thereof; when transmitted to the county auditor of the county for assessment; the amount paid thereon and when paid. Such record to be used in making each annual levy and assessment, as in this act provided.

The amount of the benefits to each lot, part of lot, or parcel of ground so determined as aforesaid shall be and become a charge against the same and shall be assessed thereon, as in the case of county, city or state taxes, in three annual installments. ('17 c. 123 § 3)

1782. Certificate of indebtedness—If such assessments for either or any of the purposes aforesaid be not fully paid to the city treasurer or other officer authorized by law to collect the same, within twenty days after said assessment shall have been made as aforesaid, the council or governing body of said city may issue or cause to be issued the certificates of indebtedness of said city or for the aggregate amount of unpaid balance of each of said assessments payable in three annual installments, each of which installments shall be represented by a separate certificate bearing interest payable annually at a rate to be determined by said city, not exceeding six per cent and payable as follows:

One payable on or before the first day of June of the year next following the issuance thereof; one payable the first day of June of the second year next following; and one payable the first day of June of the third year next following. Said certificates shall be made payable to the bearer and the same may be issued, negotiated and sold by said city for not less than their par or face value. The proceeds of such sale shall be paid into the city treasury, as the case may be. All of said certificates shall be substantially in the following form:

§ Dated at, Minnesota 19. .

The treasurer of the (city) of will pay to the bearer hereof the sum of dollars and cents on or before the 1st day of June, A. D. 19. . . . , with interest from date hereof, at the rate of per cent per annum, interest payable on the first day of June, 19. . . . , and the first day of June, 19. This certificate represents one-third of the amount expended in the construction of a (curb or gutter or both) in said (city) in the year 19. . . .

A record of said certificates shall be made and kept by said city recorder, which record shall show the date the same was issued, amount thereof, date when due, to whom sold, amount sold for, for what purpose the same was issued, when the same was paid, and the amount paid as shown by the treasurer's books. Books shall be provided for said purposes. ('17 c. 123 § 4)

1783. Tax levy authorized—After the completion of said curb or gutter or both as aforesaid, by said council or governing body of said city, said city council or governing body of said city shall annually on or before the first day of October, of each year until the whole of said assessments have been levied as herein provided, cause to be transmitted with the city taxes of that year, to the auditor of the county a statement of the amount of the annual installment next thereafter payable, together with interest at the rate of six per cent per annum on the amount of the total assessment from the time of the completion of the work to the first day of June next following its completion, or in case any installment or installments shall have been paid to the treasurer or transmitted to the county auditor and extended as herein provided for, then with interest at said rate for one year on the total of the installment or installments not previously so transmitted and remaining unpaid, and the said auditor shall extend the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection and payment thereof and the same shall be enforced with and in like manner as city, county and state taxes are collected and payment thereof enforced and with like penalties and interest in case the same are not paid before the same become delinquent.

After the completion of said curb or gutter or both, the owner or owners of land adjoining the same or interested therein shall have the privilege of paying all or any portion of the cost of construction thereof to the treasurer of the city at any time within twenty days after the assessment of benefits and before said levy has been made and the amount so paid shall be deducted from the amount of said assessment. ('17 c. 123 § 5)

1784. Not to affect assessments already levied—This act shall not in any way affect any assessments heretofore made by any city or any assessment hereafter to be made by any city upon any contract made prior to the time when this act shall take effect. ('17 c. 123 § 6)

1785. Application—The provisions of this act shall not modify or repeal the provisions of the city charter of any city of the fourth class having a home rule charter, but any such city may, however, avail itself of the benefits of this act. ('17 c. 123 § 7)

1786. Regulation of public utilities—Definitions—For the purposes of this act, the term "public utilities" shall include electric light, heat and power works, water works, gas works, ice plants, stone quarries and crushing works, telephone systems, public markets, public slaughtering establishments, creosoting and

other paving works, and sewer systems; and the term "public improvements," shall include city halls, lock-ups, fire department buildings, streets, alleys, public ways, sidewalks, curbs, gutters, paving, parks, and all other public grounds and works thereon or therein, (not including library grounds and buildings), and all public buildings and structures other than libraries not hereinbefore specifically mentioned. ('17 c. 358 § 1)

1787. Application—To apply to all cities of the fourth class after adoption by electors—This act shall apply to all cities of the fourth class; but it shall not be in force in any such city until its adoption by the electors as hereinafter provided. ('17 c. 358 § 2)

1788. Civil service commission—In every city to which this act is made applicable there shall be a civil service commission, consisting of one member for every four hundred (400) of population according to the last preceding state or federal census, not, however, in any case to consist of less than nine nor more than fifteen members, all of whom shall be citizens of the state and residents of the city, and serve without compensation. No such commissioner shall at the time of his election, or while serving, hold any other office or employment under the city, the United States, the state of Minnesota, or any public corporation or political division thereof, other than the office of notary public, nor shall he be interested, directly or indirectly, in any contract, express or implied, with such city, or any board, officer or department thereof, as a contractor, subcontractor, employee, or otherwise.

The members of the first commission shall be elected (conditionally on the adoption of this act) at the same election at which the question of the adoption of this act is submitted to the electors in any such city, and shall hold their offices until noon on the Thursday next following the first regular city election held more than one year after their election, and until their successors are elected and qualified; and thereafter such commissioners shall be elected at regular city elections for the term of two years and until their successors are elected and qualified; and in case a vacancy occurs at any time in said commission, the same shall be filled for the unexpired term by a majority vote of the remainder of the commissioners. Each commissioner before entering upon his duties shall subscribe and file with the city clerk or recorder an oath for the faithful discharge of his duties. ('17 c. 358 § 3)

1789. Meetings of commission—The first commission shall hold its first meeting within ten days after its election, at a time and place to be fixed by the mayor of the city, written notice of which shall be given to each member by said mayor, either personally or by mail, at least three days before the date of such meeting. At said meeting, or as soon thereafter as practicable, at an adjourned regular or special meeting, the commission shall elect from its own members a president, a vice-president and a secretary. It shall be the duty of the president to preside at all meetings of the commission, and in his absence the vice-president shall preside. The secretary shall keep the records and files of the commission.

The commission shall, from time to time, fix the times and places of its meetings and adopt, amend and alter rules for its procedure. Four members shall constitute a quorum at any legally provided or called meeting for the transaction of any business, except as otherwise herein provided. ('17 c. 358 § 4)

1790. Jurisdiction of commission—All officers and employees of such cities who are not elected by the people shall be under the jurisdiction of the civil service

commission and subject to the provisions of this act. After the adoption of this act, the mayor, alderman, treasurer and recorder or clerk of such cities shall be elected by the people; but all other officers and employees, except as herein otherwise expressly provided, shall be elected, appointed or employed by the public utilities board, civil service commission or in other manner provided by this act and shall be included within the term "Employee" as used in this act. ('17 c. 358 § 5)

1791. Public utilities board—In every city to which this act is made applicable there shall be a public utilities board, which shall consist of three members to be elected by the civil service commission, for the term of one year, subject, however, to removal at any time by a majority vote of the commission. Two of the members of such board, one of whom shall be designated as chairman, and the other as vice-chairman, may be elected from the members of the civil service commission, and shall serve without salary or compensation; but the third member of such board shall be selected without regard to his residence, and he shall receive such salary, or compensation as shall be prescribed by the civil service commission, payable in monthly installments. He shall be designated as "City Manager," and shall have such authority and perform such duties in connection with all public utilities and public improvements of said city, subject to the general approval, control and direction of the public utilities board, as are hereinafter prescribed, and subject, also, to removal at the end of any month by, written notice signed by the other two members of the board, whenever in their judgment the best interests of the city will be served thereby. He shall also be ex-officio city surveyor, city engineer and street commissioner, and may also at any time be made assistant secretary of the civil service commission, and, if elected thereto, may also hold the office of city recorder or clerk. If the office of city manager shall be vacant at any time for any reason and the board is unable to find a person to fill the same having the requisite qualifications, the other two members of the board may make a temporary appointment, at a reduced salary, of some person with less than the prescribed qualifications; provided, however, that such temporary appointment shall at no time continue for a longer period than four months. After the adoption of this act by the electors of any city the common council of such city shall have no authority to elect or appoint any city surveyor, engineer, or street commissioner and upon the appointment and qualifications of a city manager under the provisions of this act the terms of all persons holding any such offices in any such city, by election, or by appointment of the common council, shall at once terminate. Such city manager shall be selected upon the recommendation of the other members of such board and with special reference to his qualification and fitness to act as executive officer of such board and to take charge of and manage the public utilities and public improvements of said city and discharge the duties of his ex-officio offices. Before entering upon the discharge of the duties of his office the city manager shall be or become a citizen of the United States and a resident of the city, and he shall take, sign and file with the city clerk or reporter, an oath for the faithful performance of his duties, and he shall also give a surety bond in form and amount to be prescribed by order or rule of the public utilities board. The city treasurer shall be ex-officio treasurer of such board, and shall keep the funds under control of such board separate from the other funds of said city and

1788 Et seq. 29 — 299
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pay the same out only on the order of the chairman or vice-chairman of such board and countersign by the city manager. ('17 c. 358 § 6)

1792. City manager superintendent—In addition to the duties prescribed by law for the city surveyor, city engineer and street commissioner, the city manager shall be superintendent of all public utilities of the city, have charge of the operation and repair thereof and of all buildings, appliances and improvements used in connection therewith, as well as of the installation and maintenance of all extensions and appliances connected therewith; and shall perform such other and further duties, not inconsistent with law, as the public utilities board may, from time to time, by order, rule or direction, prescribe. He shall, by and with the consent and approval of the public utilities board, appoint all assistants and deputies required by him in the discharge of his duties, and may remove them for cause, subject to appeal to the public utilities board, and shall hire and discharge, from time to time, such subordinate employes and laborers as may be provided for by the public utilities board; and all such subordinate employes of every character elected, appointed or employed in connection with the public utilities or public improvements of the city shall be under the direct supervision and control of the city manager. ('17 c. 358 § 7)

1793. Police and health departments—In all cities to which this act is made applicable the police, health, library and fire department shall continue to be governed in the same manner as before the taking effect of this act and all taxes and assessments of every kind shall be levied and collected in the same manner as before the taking effect of this act. All money derived from the operation and management of all public utilities shall be under the exclusive control of the public utilities board and all other money appropriated by the common council of this city, or in any other lawful manner, for any purpose or purposes connected with the public utilities or public improvements of any such city, shall after the same has been so appropriated or provided, be under the exclusive control of such public utilities board; but the same shall be expended only for the purpose for which the same was appropriated or provided. The common council of any such city shall not appropriate any money or levy any tax or assessment of any kind for the purpose of obtaining any money for the use of such public utilities board unless a recommendation therefor, setting out in detail the purposes for which such money is required, together with estimates of the cost of the various items thereof, shall first have been presented to the common council of such city by said public utilities board; but such board shall not be required to present any such recommendation or estimate for any such improvement in any case where the money for the same has already been provided, either from the earnings of the public utilities and improvements of such city or otherwise. ('17 c. 358 § 8)

1794. Rules—The commission shall, immediately after its election, and from time to time thereafter, make, amend and alter, rules to promote efficiency in the city service and to carry out the purposes of this act. All rules so adopted shall be published once in the official newspaper of the city and shall take effect three days after such publication. The public utilities board, city manager, or other appointing authority, shall be governed by such rules in the appointment and discharge of all subordinate officers and employes. Immediately after the adoption of any such rule, or any amendment or alteration thereof, the commission

shall cause to be delivered to the mayor and the city clerk or recorder copies thereof. ('17 c. 358 § 9)

1795. Removal and discharge of employees—Nothing in this act contained shall in any manner prohibit the mayor, the city council, or any other board or officer having the power to appoint or employ any city employee not under the control of the public utilities board or civil service commission, from removing or discharging such subordinate employee, but in case of any such removal or discharge the same shall be forthwith reported in writing, together with the cause thereof, to the civil service commission and the city clerk or recorder. ('17 c. 358 § 10)

1796. Investigations by commission—The civil service commission shall ascertain the duties of each office, position and employment under the management and control of the public utilities board, and shall designate by rule as well as may be practicable the grade of each office, employment or position; and shall prescribe standards of efficiency for each grade. The commission may by rule recommend the maximum and minimum to be paid for each office and employment, and for each grade and the title thereof, annually, or more frequently if deemed necessary. The commission shall make and keep a record of relative efficiency of each employee in the service under its jurisdiction other than unskilled laborers and shall provide by rule methods for ascertaining and verifying the facts from which such records of relative efficiency shall be made. ('17 c. 358 § 11)

1797. Commission, powers of—The commission shall from time to time investigate the enforcement of this act and of the rules made under it; the duties of all departments and of all employees of the city; the efficiency of the service, and such other matters as come within the scope of this act. In the course of such investigations each commissioner shall have power to issue subpoenas, to administer oaths, and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. Any person who shall on any such hearing or investigation willfully testify falsely shall be guilty of perjury, and any person who shall refuse to obey the lawful subpoenas or directions of the commission in any such investigation shall be guilty of a misdemeanor. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe the notice to be given to the person accused and require him to obey the commission's subpoena or order, if found within the lawful powers of the commission, and punish disobedience as contempt of the court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent or employee of the city who receives compensation for his services shall not be entitled to fees or mileage. ('17 c. 358 § 12)

1798. Commission, findings of—To make written findings and deliver to certain officials—It shall be the duty of the commission, on the completion of any such investigation as provided for in the foregoing section, to make written findings of facts and recommendations or orders with reference to the matters so investigated; and copies thereof shall be forthwith delivered to the city manager, mayor, and city recorder or clerk, by each of whom the same shall be kept open to public inspection, and the same may also be published in the official newspaper of said city by the commission. All recommendations and orders so made by the commission shall be carried out by the proper officers and employees under the jurisdiction of the commis-

sion, and a failure so to do shall be cause for removal or discharge of the offending officer or employee by the commission; but no such removal or discharge shall be made without reasonable notice to and an opportunity to be heard by the accused official or employee. ('17 c. 358 § 13)

1799. Adoption of act—This act shall not be in force in any city until the question of its adoption in such city shall first have been submitted to the electors at a general election or at a special election called for that purpose, and it is approved by a majority of those voting on that question at such election. The common council of any such city on its own motion may, and on petition of a number of electors of said city equal to twenty per cent of those voting at the last preceding election shall, by ordinance or resolution, direct that the question of the adoption of this act by such city be submitted to a vote of the electors of such city at a general city election, or special city election called for that purpose to be held in such city on a day specified, not less than ten days nor more than thirty days after the last publication of such ordinance or resolution. The signatures to such petition need not be all appended to one paper, but one of the signers on each such paper shall make oath, before any officer competent to administer oaths, that each signature to the paper appended is the signature of the person whose name purports to be thereto subscribed and that all the subscribers thereto are legal voters of said city. Such petition shall be filed with the city recorder or clerk, and it shall be his duty then to forthwith give written notice to the mayor and each alderman of said city, by mail, of the filing of such petition, and in such notice to fix a time and place, not less than three nor more than ten days thereafter, for the common council to meet and act on such petition. Such ordinance or resolution shall be published and posted, as soon after its adoption as conveniently may be, in manner now provided, or as may be hereafter provided, by law for such cities. ('17 c. 358 § 14)

1799-1. Bonds for sewage disposal plants—Issue and sale—The governing body of any city of the fourth class in the State of Minnesota operating under some Rule charter pursuant to the provisions of Section 36, Article 4 of the state Constitution is hereby authorized and empowered for the purpose herein designated, to issue the negotiable bonds of such city to an amount authorized by such city council; said bonds to be made in such denomination and payable at such places and at such times, not exceeding thirty years from the date thereof, as may be deemed best, to mature serially, and to bear interest at the rate not to exceed six per cent per annum, payable, semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein.

Provided that no such bond shall be sold for less amount than the par value thereof and accrued interest thereon.

Provided also that such bonds shall be issued, negotiated and sold in accordance with the particular method prescribed by the charter of the city so issuing such bonds.

Provided further also, that the bonds authorized by this act or any portion thereof may be issued and sold by any such city, notwithstanding any limitations contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city. ('27, c. 85, § 1)

Explanatory note—For this act see §§ 1799-1 to 1799-6, herein.

1799-2. Same—Tax levy for interest and sinking fund—The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act and for the payment of the current interest thereon, and said governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of sinking fund for the redemption of such bonds at their maturity. ('27, c. 85, § 2)

Explanatory note—For this act see §§ 1799-1 to 1799-6, herein.

1799-3. Same—Form and sale of bonds—All bonds issued under the authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk, except that the signatures to the coupons, attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such city. ('27, c. 85, § 3)

Explanatory note—For this act see §§ 1799-1 to 1799-6, herein.

1799-4. Same—Use of proceeds of sale of bonds—The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose of constructing a sewage disposal plant for such city. ('27, c. 85, § 4)

Explanatory note—For this act see §§ 1799-1 to 1799-6, herein.

1799-5. Same—Charter provisions for elections—Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to section 36, Article 4, the Constitution of this State, requiring the question of the issuance of bonds to be submitted to the vote of electors. ('27, c. 85, § 5)

1799-6. Same—Powers granted are additional—The powers granted in this act are in addition to all existing powers of such cities. ('27, c. 85, § 6)

Explanatory note—For this act see §§ 1799-1 to 1799-6, herein.

1800. Inspection of milk, dairies, etc.—The council of every city in this state, having 10,000 inhabitants or less, may provide for the inspection of milk sold within its limits, and of dairies, and of dairy herds kept for the production of such milk. ('09 c. 354 § 1) [1779]

1801. Dairy inspector — Appointment — Fees—The council may appoint a competent licensed veterinarian as city dairy inspector for such city, and said dairy inspector shall once a year inspect all dairies and dairy herds kept for the production of milk sold within the limits of such city. For each inspection he shall be entitled to a fee of 25 cents for each animal inspected, to be paid by the owner of such animal. The dairy inspector of such city shall be appointed at the first meeting of the city council after the municipal election in such city and shall hold office until his successor is appointed. ('09 c. 354 § 2) [1780]

1802. Certificate of sanitary condition—If the inspector finds that such dairies or dairy herds are in a sanitary and wholesome condition he shall issue to the owner of such dairy or dairy herd a certificate setting forth such facts, which certificate shall be and remain in force for a period of one year after its issuance, and no longer. ('09 c. 354 § 3) [1781]

1803. Sale of milk without certificate, etc.—Penalty—Every person who sells or attempts to sell in such city any milk produced by a dairy or dairy herd

without having a certificate to the effect that such dairy or dairy herd has been inspected within the preceding year and is in a sanitary, wholesome and healthy condition, shall be guilty of a misdemeanor. ('09 c. 354 § 4) [1782]

1804. Transfer of funds in certain cities—That any city of the fourth class incorporated and now or hereafter operating under the provisions of chapter 8 of the Laws of 1895, may by a resolution adopted by a unanimous vote of its council, transfer funds from the permanent improvement revolving fund to the permanent improvement fund, at any time, provided said permanent improvement revolving fund shall not be so reduced to an amount less than the aggregate of all outstanding certificates of indebtedness and other obligations incurred and payable from said last mentioned fund. ('13 c. 542 § 1) [1783]

For Laws 1895, c. 8, see notes at the end of this chapter (c. 9).

1805. Elections—In all cities of the fourth class the election of all officers required to be chosen by the voters of such city shall be held and conducted as hereinafter prescribed, unless otherwise provided by the law under which such city is organized and operating or by the charter of such city, if organized under section 36, article 4, of the constitution. ('23 c. 317 § 1)

1806. Candidates—Not less than fifteen days preceding the city election, any eligible person desirous of having his name placed upon the official election ballot as a candidate for an office to be voted for at such election by the voters of such city, shall file an affidavit with the city clerk, stating his residence, that he is a qualified voter in such city and the name of the office for which he desires to be a candidate, and upon payment of a fee of one dollar to the city clerk that officer shall accept such affidavit and place the name of such candidate upon the official election ballot without any party designation. There shall be no primary election but the filing of such affidavit shall be a prerequisite to having the name of the candidate placed on the official ballot for the city election. ('23 c. 317 § 2)

1807. Ballots—The city clerk shall prepare and cause to be printed at the expense of the city necessary poll lists, tally sheets and ballots for such election. The ballots shall be printed on yellow tinted paper but need not bear the facsimile of the signature of any officer. Each ballot shall be headed, "City Election Ballot," and shall state the name of such city and the date of the election, and, except as herein otherwise provided, shall conform to the state ballot used at general elections. Names of candidates shall be arranged thereon alphabetically according to surnames without any party designation. ('23 c. 317 § 3)

1808. Polling places—Not less than ten days before the day of the city election, the city council shall select and designate one polling place for each voting district into which the city may be divided and shall appoint three judges and two clerks for each such polling place, who shall be paid by the city the same compensation as judges and clerks at general elections, and not less than five days before such election the city clerk shall post in three conspicuous places in said city, and publish once in a qualified newspaper in such city if there is one, otherwise in a qualified newspaper in the county, a notice of the election, stating the time and place thereof, the location of each polling place, the names of the candidates, the offices to which they desire to be chosen and also any question or proposal which may be voted on at such election, and the city clerk shall also post and publish in the same manner samples of the official ballot. ('23 c. 317 § 4)

1809. Australian ballot system to be used—The election shall be held and conducted under the Australian ballot system as provided by law for general elections. The polls shall be open from six o'clock A. M. to eight o'clock P. M. The name and residence of each person voting at such election shall be entered by the judges and clerks on a poll list. The ballots shall be counted, tallied and preserved as at general elections, except that the clerk shall be the final custodian thereof. After the ballots have been counted, the board shall publicly announce the result and certify the same, together with the ballots, to the city council. The results of the election shall be canvassed by the council and the candidate for each office who receives the highest number of votes therefor shall be declared elected thereto and shall be given a certificate of election by the city clerk. ('23 c. 317 § 5)

1810. Challengers—Not to adjourn until polls are closed—The election board shall allow one voter selected by each candidate or group of candidates and having a written statement from the candidate or group he represents, stating that he has been appointed by the signers as a challenger, to remain within the railing in the room where the election is being held in each voting district until the votes are counted and the results announced, and such person shall exercise all the powers and duties of challengers at general elections. No adjournment shall be had until the polls are closed and the results announced and at least two judges and one clerk shall be present and in session at all times while the polls are open. ('23 c. 317 § 6)

1811. General election laws to apply—So far as practicable, all the provisions of law relating to general elections, including provisions relating to the arrangement of polling places, peace officers, challengers, gatekeepers, procuring ballots, boxes and supplies, and all laws defining offenses and fixing penalties at general elections are hereby made applicable to city elections held under this act. ('23 c. 317 § 7)

1812 to 1814. [Omitted here.]

These sections relate to cities of the third class only. See supra, §§ 1713-1 to 1713-3.

1815. Street and alley improvements in cities of fourth class or villages—Definitions—In any city of the fourth class or village of this state, whether said city or village is acting under general or special law or home rule charter, the council shall have power to improve any street, streets, alley or alleys, or parts thereof, by laying and maintaining pavements, gutters and curbs thereon of any material which it may deem suitable or by grading or graveling the same, when petitioned for by the owners of not less than thirty-five per cent (35%) in frontage of the real property abutting on such street, streets, alley or alleys, or parts thereof, as may be named in the petition as the location for such improvement. By the word "council" as used in this act is meant the governing body; by the word "mayor," the chief executive officer, and by the word "clerk," the officer who performs the functions thereof, of such municipality, by whatever title they may be respectively denominated. ('19, c. 65, § 1; amended '21, c. 419, § 1; '27, c. 185, § 1)

146-181, 178+741.

In a proceeding for the paving of streets in a city of the fourth class, it will be presumed, in the absence of proof to the contrary, that the city council did its duty and satisfied itself of the qualifications of the petitioners. 158-433, 197+970.

It is common knowledge that paving necessarily requires drainage, the cost of which may be properly included in the general expense for the improvement. 158-433, 197+970.

Engineer's expenses held to be a matter for the council and the trial court, and, in the absence of a showing of some irregularity, the same will not be disturbed by this court. 158-433, 197+970.

1815
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29 — 44
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1915
31 — 317
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The proceeding for the improvement of a street was based upon a petition not signed by the requisite percentage of abutting owners. The improvement should be enjoined. 161-299, 201+604.

Villages organized under chapter 145, Laws 1885, may at their option proceed with a street-paving improvement in one of three methods: (a) Under chapter 145, Laws 1885; (b) under chapter 65, Laws 1919; (c) under chapter 382, Laws 1925. 166-202, 207+309.

These laws are cumulative in their application. They are not repugnant, but are reconcilable.

Neither of these laws creates any repeal by implication. 166-202, 207+309.

Chapter 65, Laws 1919 and chapter 382, Laws 1925, grant powers, and are not construed as imposing conditions or limitations on the municipalities therein mentioned to make public improvements. 166-202, 207+309.

1816. Same—Assessment of abutting property—The cost of any such improvement may be assessed upon the abutting property based upon the number of feet fronting upon said street or alley proposed to be so improved, or the cost of any such improvement may be assessed upon all the property within any block abutting on said street or alley and located not more than one-half block from the said street or alley to be so improved, whether such property abut on such improvement or not, based upon the benefits received, but the council may pay the cost of a pavement across intersecting streets and alleys and one-half the cost of a pavement opposite any public park or municipal property, and the entire cost of gutters out of the general road fund, if any there be, or out of the general fund of such municipality. The improvement of two or more connecting streets may be included in one proceeding and conducted as one improvement. ('19, c. 65, § 2; amended '25, c. 210)

1817. Resolution for improvement—No action shall be taken for the making of any such improvement except upon the adoption of a resolution to that effect by a majority vote of the council after a meeting at which all property owners whose property is liable to be assessed therefor, have been notified to be present by a notice of such meeting published for two weeks in the official newspaper. ('19 c. 65 § 3)

Where the statute requires notice of process to be served by publication for a stated number of weeks, the service becomes complete a week after the last publication. 158-433, 197+970.

When it appeared that the city council was without jurisdiction to order the improvement because of failure to publish the notice of hearing called for by this section, the assessment could not be confirmed, unless there was proof and finding of waiver of notice or of estoppel. 158-433, 199+746.

No waiver or estoppel is to be found in the fact that appellant, while the appeal from the confirmation was pending in the district court, paid his general taxes which included an installment of the assessment for the improvement. 158-433, 199+746.

Failure to publish for two weeks. 161-299, 201+604.

1818. Branch sewers and water pipes—Before making any such improvement the council may by resolution require the owners of the abutting property to lay branch sewers and water pipes from the mains to the curb or lot line of each lot, and in case any property owner neglects to lay such sewer or water pipe, within sixty (60) days after being served with a copy of said resolution, the council may cause the same to be put in and may assess the cost of the same against the property and collect the same as taxes are collected. All such water pipe connections shall be of such material as the council may prescribe. ('19 c. 65 § 4)

1819. Plans, specifications, and advertisements—Whenever the council of any such municipality shall determine to make any such improvements, it may cause plans and specifications thereof to be made and filed with the clerk of such municipality and may advertise for bids for such improvement in the official paper and such other paper or papers and for such

length of time as it may deem advisable. Such advertisement shall specify the work to be done, shall call for such bids on the basis of cash payment for such work and shall state the time when the bids will be opened and considered by the council, and that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit or certified check payable to the clerk, for such percentage of the amount of such bid as the council may specify.

In letting contracts for any such work, it shall be the duty of the council to require the execution of a written contract and a bond in such sum as it may require, conditioned for the faithful performance of the contract, and for saving the municipality harmless from any and all liability in the prosecution and completing of the work, and conditioned further for the payment for all material used and labor performed thereon. The council, if a contract is awarded, may award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then such defaulting bidder shall forfeit to the municipality the amount of his cash deposit or certified check, and the council may thereupon award the contract to the next lowest responsible bidder; provided, the council shall have the right to reject all bids; and provided further, that whenever it shall appear to the council that the cost of the entire work projected shall be less than five hundred dollars, then the council may directly purchase the materials therefor and cause the work to be done by day labor. The council may have the work supervised by the municipality's engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, it may order and cause the suspension of the work at any time and relet the contract therefor, or order a reconstruction of any portion of the work improperly done, and where the work to be done shall call for an expenditure of less than five hundred dollars to complete the work or the reconstruction necessary, the council may do it by the employment of day labor. ('19 c. 65 § 5)

1820. Payments—In case the contractor shall properly perform the work, the council may, from time to time, before the completion of the work, in its discretion, pay to such contractor seventy-five (75) per cent of the amount already earned thereunder, upon the estimate of the engineer or other competent person selected by the council. ('19 c. 65 § 6)

1821. Assessment—After a contract is let, or after the work is ordered done by day labor as hereinbefore provided, the clerk, with the assistance of the engineer or other person selected by the council to perform the duties of engineer, shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of section 2 of this act, and the proposed assessment so made up shall be filed with the clerk and be open to public inspection. The clerk shall thereupon under the council's direction cause notice of the time and place when and where the council will meet to pass upon such proposed assessment, to be published in the official paper at least one week prior to such meeting of the council.

At such meeting the council shall hear and pass upon all objections thereto, if any, and may, if it deems it just, amend such proposed assessment as to any lot or lots, and upon the adoption by resolution of such assessment, the same shall constitute the special assessments against the lands named therein. Such assess-

ment, with the accruing interest thereon, shall be a lien upon the property included therein, concurrent with general taxes, and shall be payable in equal annual installments extending over such period not exceeding twenty (20) years as the council may by resolution determine the first of said installments to be payable on or before the first day of June following the adoption of the assessment, and any deferred payments to bear interest at the rate of six per cent per annum from the first day of June following the adoption of the assessment.

It shall then be the duty of the clerk immediately thereafter to transmit a certified duplicate of such assessment to the county auditor of the county, to be extended on the proper tax lists of the county, and such assessments shall be collected and paid over in the same manner as other municipal taxes; provided, that the owner of any property, so assessed, may, at any time, pay the whole of such assessment, or any annual installment thereof with interest, as to any lot, piece or parcel of land affected thereby. ('19 c. 65 § 7)

158-433, 197+970.

1822. County boards and school districts to pay assessments—It shall be the duty of county boards and proper school district officials to pay assessments levied under the provisions of this act against property owned respectively by counties or school districts, and in the event of failure so to do, the amount of such unpaid assessments so levied may be recovered in a civil action brought by such cities or villages against the municipal corporation owning the property so assessed. ('19 c. 65 § 7a)

1823. Supplemental assessments—In case of omission, errors or mistakes, in making such assessment, in respect to the total cost of such improvement, or otherwise, it shall be competent for the council to provide for and make supplemental assessments to correct such omissions, errors or mistakes. ('19 c. 65 § 8)

1824. Certificates of indebtedness authorized—After a contract or contracts for the making of any such improvement shall have been entered into by any city of the fourth class or any village, it may, acting through its council, issue its certificates of indebtedness in such amount as may be necessary to defray in whole or in part the expense incurred or to be incurred in making any such improvement. The word "expense" shall be construed to mean and cover every item of cost of such improvement from its inception to its completion, and all fees and expenses incurred or to be incurred in pursuance thereof. Such certificates shall be payable in annual installments as near equal in amount as conveniently may be, over a period not exceeding twenty (20) years from their date, shall bear interest at a rate not to exceed six (6) per cent, payable annually, or semi-annually, which interest may be evidenced by appropriate coupons and shall be in such form and denominations, all as the council shall by resolution determine, and shall be signed by the mayor and countersigned by the clerk. A separate special assessment fund shall be provided for each improvement and the proceeds from the sale of any certificates issued on its account shall be placed in such fund. The council shall provide moneys for the payment of the principal and interest of said certificates, as they severally mature, which moneys shall be placed in such fund and into such fund shall also be paid all moneys received from the payment of any liens created under the provisions of this act. And the council shall pay the principal and interest of any such certificates out of any funds in the treasury when the moneys on hand in the appropriate special assess-

ment fund are insufficient to meet the payment of the principal or interest when the same matures, but the fund from which such moneys have been taken or used for the payment of such principal or interest shall be replenished with interest at the rate of six per cent per annum from the collection of unpaid assessments on account of such improvements.

The amount of any such certificates at any time outstanding shall not be included in determining any such municipality's net indebtedness under the provisions of any applicable law. ('19 c. 65 § 9)

1825. Reassessment—In all cases where any assessment or any part thereof as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any reason whatever, is set aside, the council may cause a reassessment or a new assessment to defray the expenses of such improvement to be made. ('19 c. 65 § 10)

Invalid assessment must be set aside before proceeding under this section. 160-38, 199+748.

1826. Objection to assessment—The party desiring to object to the assessment, or his duly authorized agent or attorney, shall on or before the date of hearing upon such assessment file with the clerk a written statement of the objections and all objections not specified therein shall be deemed waived. ('19 c. 65 § 11)

Where the act authorizing a special assessment provides when and in what manner a property owner may contest the validity and amount of the assessment and gives him a proper opportunity to do so, he must make his defense at the time and in the manner provided and cannot attack the assessment in proceedings subsequently brought to enforce its collection. 157-296, 196+178.

Record examined, and held, that appellant waived the shortage of time between the last publication and the day of hearing upon the petition. 158-433, 197+970.

1827. Appeal to district court—Within ten days after the adoption of the assessment, any person aggrieved who appeared and filed objections thereto, may appeal to the district court by serving a notice upon the chief executive officer of the municipality, which notice shall be filed with the clerk of the district court within ten days after service thereof. The clerk shall furnish appellant a certified copy of his objections filed therein, and the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal, the costs incurred, if not paid, shall be included in the special assessment. ('19 c. 65 § 12)

157-296, 196+178, note under § 1826.

1828. Application—The provisions of this act shall apply to all cities of the fourth class and villages, howsoever organized, and shall be construed to confer additional powers to all such municipalities notwithstanding any prohibition or limitation to the contrary in the Home Rule Charter or law under which any such municipality is organized or acting. ('19 c. 65 § 12a; repealed '21 c. 419 § 2; amended '21 c. 419 § 3) 166-202, 207+309.

1828-1. Same—Pending proceedings—This act shall not affect any action or proceeding now pending in any of the courts of this state in which the validity of any proceeding taken or certificates of indebtedness heretofore issued under the provisions of Chapter 65, Laws 1919, as amended, is questioned, and shall not impair the power of a council to make improvements in proceedings commenced previous to the passage of

1824
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Note

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36-38
65 By
33 — 203

this act under and pursuant to said Chapter 65, as amended, or levy assessments therefor, or sell certificates of indebtedness to defray the expenses incurred or to be incurred in making any such improvement. ('27, c. 185, § 2)

Explanatory note—For this act, see § 1815, herein. For Laws 1916, c. 65, see §§ 1815 to 1828, herein.

1828-2. Extension or repair of pumping plants, reservoir systems or water main systems—That in addition to the power heretofore granted by law, any city in the state of Minnesota of the fourth class is hereby authorized and empowered to issue and sell its bonds for the purpose of extending or repairing any pumping plant, reservoir system, or any system of water mains or any of them, now owned and operated by any such city. ('19, c. 262, § 1)

1828-3. Same—Bond issue—The bonds hereby authorized shall be ordered to be issued by an ordinance duly passed by the council of such city. All bonds issued under the authority of this act shall become due not later than thirty (30) years after date and bear interest at not exceeding five and one-half per centum per annum, payable semi-annually. Such bonds shall be signed by the mayor, attested by the city clerk or recorder, with the seal of the city thereto affixed, and the coupons evidencing the interest upon such bonds may be executed with the facsimile signatures of said officers. ('19, c. 262, § 2)

1828-4. Same—Bond issue—Election—No election shall be required before the issuance of bonds unless a petition signed by not less than ten (10) resident freeholders of any such city, asking for the submission of the question of the issuance of said bonds shall be filed with the city clerk or recorder within twenty days after the ordinance directing the issuance of the bonds is published in the official newspaper, and in the event that a petition shall be filed asking for the submission of the question, the city council shall call a special election for the submission of the question of the issuance of such bonds to the voters of said city, giving at least fifteen (15) days' notice thereof, in which shall be stated the polling places, the amount of bonds proposed to be issued and purpose of issue, which said notice shall be published at least twice in the official newspaper. Whenever such petition signed by at least ten (10) resident freeholders as aforesaid is filed with the city clerk or recorder, as required under and by this section 3, the questions of the issuance of such bonds shall be submitted to the vote of the people of such city, and unless so submitted such bonds shall be void and of no force. ('19, c. 262, § 3)

1828-5. Same—Bond issue—Limitation on—No bonds in excess of eighty thousand dollars (\$80,000) shall be issued by any city under the authority of this act. ('19, c. 262, § 4)

1828-6. Same—Tax levy—Every city issuing bonds under the authority of this act is hereby required to annually levy taxes upon all the taxable property in such city in an amount sufficient to pay the interest on such bonds and to provide a sinking fund for the payment of the principal of such bonds at maturity. ('19, c. 262, § 5)

1828-7. Same—Laws repealed—Chapter 205, Laws 1909, and chapter 253, Laws 1915, are hereby repealed except as to pending proceedings. ('19, c. 262, § 6)

1828-8. Vacation of public grounds, streets or alleys—Whenever any public ground, street, alley, highway, or any part thereof, in any city of the fourth class, organized under chapter 8, Laws 1895, has not been used by the public for such public ground, street, alley or highway for a period of twenty-five years or

more, the city council may, by a resolution passed by a three-fourths vote of the members elect, declare such public ground, street, alley, highway, or any part thereof, vacated, which resolution shall be published as in the case of ordinances. ('21, c. 94, § 1)

For Laws 1895, c. 8, see notes at the end of this chapter (c. 9).

1828-9. Same—Transcript filed—A transcript of said resolution, duly certified by the city clerk, shall, before the same shall take effect, be filed for record and duly recorded in the office of the register of deeds of the county wherein the property is situated. ('21, c. 94, § 2)

1828-10. Permanent improvement fund bond issues legalized—In all cases where a city of the fourth class, acting under a home rule charter, has heretofore taken proceedings to issue the bonds of such city for and on account of the permanent improvement fund of such city, for the purpose of raising money to purchase real estate in such city, to be paid for from the permanent improvement fund of such city, and the question of the issuance of such bonds has been submitted to, and approved by, the voters of such city, at an election duly held in accordance with law, that then and in every such case such proceedings are hereby legalized and such bonds so issued, or that may be issued, under the authority of such proceedings within three months from the passage and approval of this act, are legalized and made valid; provided, such bonds when so issued shall not increase the indebtedness of such city beyond the limit prescribed by its charter, and that such bonds when so issued shall comply with the provisions of the charter of such city as to their form, execution, interest rate and method of sale. ('25, c. 16, § 1)

1828-11. Same—Pending proceedings not affected—This act shall not apply to any such proceedings or bonds the validity of which is questioned, in any action now pending in any of the courts of this state. ('25, c. 16, § 2)

1828-12. Warrants against water and light fund—Legalized—Where any city of the fourth class, operating under a home rule charter adopted pursuant to Section 36, Article 4 of the State Constitution, has heretofore, through its Water and Light Commission, issued its warrants against its Water and Light Fund, to pay for, or to provide funds which have been used for, the operation, enlargement, extension or improvement of the water and light systems in such city, which warrants are now outstanding and unpaid, such warrants are hereby declared to be the valid obligations of such city, notwithstanding any defect or irregularity in the manner of issuing or executing said warrants or any want of authority therefor under such charter. ('27, c. 26, § 1)

1828-13. Same—Bond issues to fund—Any such city may issue and sell its general obligation bonds in the manner specified by Chapter 10, General Statutes of 1923, for the sole purpose of funding such warrants, and the amount of any such bonds at any time outstanding shall not be included in determining any such city's net indebtedness under the provisions of its charter, or of any other applicable law. ('27, c. 26, § 2)

1828-14. Same—Pending proceedings not affected—This act shall not affect any warrants or bonds the validity of which is questioned in any litigation now pending. ('27, c. 26, § 3)

1828-15. Street improvement proceedings legalized—In all cases where a city of the fourth class having a home rule charter adopted under Section 36 of Article IV of the state constitution has heretofore, acting

through its council, determined by proper resolution to improve any street or streets within said city by paving and making other necessary permanent improvements in connection therewith as curbs and gutters, sanitary and storm sewers, water mains and street lights, pursuant to a petition for said improvements duly filed as provided by law, but which petition is conditioned upon the city being reimbursed in whole or in part by the state by reason of said streets or any part thereof being a part of a trunk highway, said petition and all proceedings heretofore or hereafter taken pursuant thereto are hereby legalized and validated as fully and completely as if said petition had not contained said condition. ('27, c. 167, § 1)

1828-16. Same—Pending proceedings not affected—This act shall not apply to or affect any actions or appeals now pending in which the validity of any such proceedings is called in question. ('27, c. 167, § 2)

GENERAL INCORPORATION ACT FOR CITIES OF FOURTH CLASS.

1828-17. Incorporation—Petition to probate judge—First election—The inhabitants of contiguous territory not organized as a city and having not less than one thousand (1,000) inhabitants and not more than ten thousand (10,000) inhabitants may become incorporated as a city of the Fourth Class as hereinafter provided:

Whenever two thirds (2/3) of the legal voters residing within the limits of such territory, whether all or part of such territory had been theretofore organized into a borough or village, or not, and which territory they desire to have incorporated as a city shall sign and have presented to the Judge of Probate of the county in which such territory is situated a petition setting forth the metes and bounds of said city and of the several wards thereof, and praying that said city may be incorporated under such name as may therein be designated, the Judge of Probate shall issue an order declaring such territory duly incorporated as a city and shall designate the metes, bounds, wards and name thereof as in said petition described. And the said Judge of Probate shall in said order designate the time and place of holding the first election of officers for said city, which shall not be less than thirty (30) nor more than sixty (60) days from the presenting of such petition, and shall specify therein that the polls will be open from nine o'clock in the forenoon to five o'clock in the afternoon and shall cause said order to be posted in five (5) public places in said city, at least twenty (20) days prior to the date of such election, and also cause same to be published in some newspaper published in said city at least once in each week for two (2) consecutive weeks prior thereto, and if there be no newspaper published in said city, then in a newspaper published in the county in which said city is situated. ('21, c. 462, § 1)

A city organized under this act, may include an existing village or borough, but not a part only of such village or borough. 161-171, 201+139.

So much of this act as imposes upon the probate judge non-judicial duties is unconstitutional and void; but the invalid portion is separable from the rest of the act, and the main portion of the act is valid. The act is not a delegation of power, since its application is simply conditional on local action. 186+694.

The act authorizes the incorporation only of territory urban in character. That the act applies only to cities of from 1,000 to 10,000 inhabitants, does not render it void. 186+694.

If the act contains provisions void because they grant unconstitutional privileges to a certain class of cities, the whole act does not therefore fall. 186+694.

The territory incorporated must be so conditioned as to be properly subject to Municipal government.

While the question of incorporation is legislative in character, primarily for the voters, they do not have unlimited legislative discretion. The question whether the territory is so conditioned as to be properly subject to municipal government is a fundamental condition to incorporation, and will be considered by the court, and if it appears that it is not, and that the limits of the territory have been fixed so as to reach taxable property rather than lands and people properly subject to a single municipal government, the incorporation will not be sustained. 189+592.

Certain territory sought to be incorporated held improperly incorporated, and the incorporation held invalid. 182+592.

City incorporated under this act may include an existing village or borough, but not a part only of such village or borough. 201+139.

1828-18. Corporate powers in general—Villages or boroughs included—Upon presenting the petition aforesaid, the inhabitants within the metes and bounds therein described shall thenceforth be a body politic and corporate subject to and with the power to act under the authority of all of the provisions of this act. They shall have power to sue and be sued, complain and defend in any court; make and use a common seal and alter it at pleasure; and take, hold and purchase, lease and convey such real and personal or mixed estate as the purpose of the Corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted and shall have and possess all the powers granted and applicable to cities of the fourth class not existing or operating under a Charter adopted in pursuance of Section 36, Article 4 of the Constitution of the State of Minnesota, or a special Charter, and the authorities thereof shall have perpetual succession.

And in case the territory included in any city which shall be hereafter formed and established under the provisions of this act shall include the territory embraced in any village or borough corporation, such village or borough corporation shall, upon the establishment of such city corporation cease; and such city corporation shall thereupon succeed to and become vested with the ownership of all the property, real, personal and mixed which belonged to or was owned by such village or borough corporation at the time when the same ceased to exist; and such city corporation shall also thereupon become and be liable and responsible for all debts, obligations and liabilities then existing against such village or borough corporation for any cause or consideration whatever, in the same manner and to the same extent as if such debts, obligations and liabilities had been originally contracted or incurred by such city corporation. By the words "establishment of such city corporation" is meant the incorporation of said city and the organization of the city government of the same; and the officers elected or appointed in any village or borough embraced in the territory included in such city shall continue to exercise the powers conferred upon like officers in this state until the officers for the said city shall be elected and qualified. ('21, c. 462, § 2)

1828-19. First election—Conduct of—That the said Judge of Probate in his order designating the time and place of holding the first election of officers of any city incorporated under this act shall name three electors of each ward who shall conduct the said first election for their respective wards and who shall be the inspectors thereof, and shall take the usual oath or affirmation as prescribed in the general laws of the State to be taken by the judges and inspectors of elections, and shall have the power to appoint clerks of

such elections and to administer the necessary oaths; and the persons so named as inspectors of the election shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this State regarding elections and shall have power to fill vacancies in the board of inspectors.

When the said city election is closed and the number of votes for each person voted for shall have been counted and ascertained, the judge and clerks of election shall make return thereof stating the number of votes for each person for each and every office and shall deliver or cause to be delivered such returns to one of the said inspectors within two (2) days after such election, and the said inspectors, (or a majority thereof) shall meet and canvass said returns and declare the result within one (1) day thereafter. The inspectors canvassing said returns and declaring the result shall forthwith notify the officers elected of their election by written notice served upon such officers in person or left at their usual place of abode with some person of suitable age and discretion. ('21, c. 462, § 3)

1828-20. Terms of office of officers—The terms of all officers elected at said election shall extend to the beginning of the terms of their successors elected at the first succeeding regular city election under the provisions of this act and until their successors are elected and qualified.

The terms of all officers appointed or elected by the Common Council or the Mayor shall hold their offices until the first Tuesday after the first Monday in January next succeeding the first succeeding regular city election. ('21, c. 462, § 4)

1828-21. Biennial elections—There shall be a biennial election for elective officers hereinafter provided held on the first Tuesday after the first Monday of November of each and every odd-numbered year at such place in each ward as the common council shall designate and the polls shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon and ten (10) days preceding, notice shall be given by the Common Council of the time and place of holding such election and of the officers to be elected by posting notices thereof in three public places in each ward. ('21, c. 462, § 5)

1828-22. Wards—Each city governed by this act shall be divided into not less than two wards and each ward shall contain as nearly as practicable an equal number of legal voters. ('21, c. 462, § 6)

1828-23. Corporate name—Service of process and notices—The corporate name of each city governed by this act shall be: "The City of" and all and every process and notice affecting any such city shall be served upon the Mayor and in his absence upon the President of the Council, and in the absence of both, upon the Recorder and in the absence of these officers from the city, then by leaving a certified copy in the office of said recorder. ('21, c. 462, § 7)

1828-24. Elective and appointive officers—The elective officers of each city shall be Mayor, Treasurer, Recorder, one alderman at large, and one Justice of the Peace, who shall be styled City Justice, all of whom shall be qualified voters of the city and two aldermen in each ward who shall be qualified voters therein. All officers for said city shall be appointed by the Common Council unless otherwise provided and all said officers shall hold their offices for two years and until their successors are elected and qualified. ('21, c. 462, § 8)

1828-25. Removal of officers—Every person appointed to any office by the common council or elected to

any office by the people may be removed from said office by a vote of two-thirds (2/3) of all the aldermen authorized to be elected. But no officers elected by the people shall be removed except by cause nor unless furnished with a written statement of the charges against him nor until he shall have had a reasonable opportunity to be heard in his defense. The common council shall fix a time and place for the trial of such officers 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 shall neglect to appear and answer the charge against him, the common council may declare the office vacant. ('21, c. 462, § 9)

1828-26. Filling vacancies in offices—Whenever a vacancy shall occur in the office of Mayor or Alderman by death or removal or resignation or otherwise, the common council shall have power and it shall be their duty to declare the office vacant by resolution entered upon their minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after said vacancy is declared, and held within twenty days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council unless otherwise provided for. A person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof, for the unexpired term and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill. ('21, c. 462, § 10)

1828-27. Elections—Ballots—Tie votes—All elections by the people shall be by ballot and each ballot shall contain the names of the persons voted for with a proper designation of the office written or printed thereon and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council at such time and in such manner as they shall direct. ('21, c. 462, § 11)

1828-28. Qualifications of electors and candidates for office—Election districts—Conduct of elections—All persons entitled to vote for State and County officers and who shall have resided in the city for three (3) months next preceding the election and ten (10) days in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law and to hold any office hereby created; and the different wards established by law shall constitute election districts for State and County as well as city elections and the mode of conducting all state and county elections in said city shall be in the manner as by law provided. ('21, c. 462, § 12)

1828-29. Judges of elections—General election laws to govern—The elections in said city shall be held and conducted by three judges of election to be appointed by the common council and who take the usual oath or affirmation as prescribed by the general laws of the state to be taken by judges of election and shall have power to appoint clerks of such elections and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties as required by the laws of this State regarding elections. ('21, c. 462, § 13)

1828-30. Returns and canvass of elections—When a city election shall be closed and the number of votes for each person voted for shall have been counted and

ascertained, the said judges shall make returns thereof, stating therein the number of votes for each person for each and every office and shall deliver or cause to be delivered such returns to the city recorder within three days after any election, and the common council shall meet and canvass said returns and declare the results as it appears from the same within three days thereafter. *The City Recorder shall forthwith notify the officer or officers elected of their election by written notice served upon such officer in person or left at their usual place of abode with some person of suitable age and discretion.* ('21, c. 462, § 14)

1828-31. Special elections—Special elections to fill vacancies or for any other purpose shall be held and conducted in the same manner and the returns thereof made in the same form and manner as in general and biennial elections and within such time as may be prescribed by resolution of the common council. ('21, c. 462, § 15)

1828-32. Offices vacated, when—Any officer removing from the city or ward for which he is elected or any officer who shall refuse or neglect for ten (10) days after notice of his election or appoint to enter upon the discharge of the duties of his office shall be deemed to have vacated his office and the common council shall proceed to fill the vacancy as herein prescribed. ('21, c. 462, § 16)

1828-33. Terms of office of elective officers—The term of every officer elected under this law shall commence on the first Tuesday after the first Monday in January next succeeding his election, and shall unless otherwise provided, continue for two years until his successor is elected and qualified. ('21, c. 462, § 17)

1828-34. New election on failure to elect—Should there be a failure by the people to elect any officer therein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place being given. ('21, c. 462, § 18)

DUTIES OF OFFICERS.

1828-35. Oaths of office — Bonds—Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the City Recorder; and the treasurer and such other officers as the common council may direct, shall severally, before entering upon the duties of their respective offices, execute to the city a bond, with at least two sureties, (to be approved by the common council) who shall make affidavit that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same. ('21, c. 462, § 19)

1828-36. Mayor—Duties—Peace officers—The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers and watchmen, except when otherwise provided for.

And in case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary; and any police officer or watchman, appointed by the mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it, or a reduction of their number renders it necessary. ('21, c. 462, § 20)

1828-37. Same—Approval or rejection of ordinances and resolutions—All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof, he shall sign the same; and such as he shall not sign he shall return to the common council with his objection thereto, by depositing with the recorder, to be presented to the common council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor the same vote by which the same was passed shall be reconsidered, and if, after such reconsideration, the common council shall pass the same by a vote of two-thirds of the members elected, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and noes, which shall be entered in the records by the recorder. If an ordinance or resolution shall not be returned by the mayor within five days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him. ('21, c. 462, § 21)

1828-38. Council — Organization — Meetings — President and vice-president—The common council shall biennially on the first Tuesday after the first Monday in January next succeeding the city election, organize and at the time of its organization, proceed to elect from their number a president, and vice-president for the ensuing two years and such other officers as may be necessary for the transaction of their business, except assessor, who shall be elected annually in the month of March. Such elections shall be by ballot and the affirmative vote of the majority of all the members elected shall be necessary to elect. The President shall preside over the meetings of the common council and during absence of the mayor from the city or his inability from any cause to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the President shall be absent at any meeting of the common council, the vice-president shall act as presiding officer for the time being, and discharge the duties of said president. The president of the common council, or temporary presiding officer, while performing the duties of mayor as aforesaid, shall have the same force and validity as if performed by the mayor. The mayor and president and vice-president of the common council shall have the right to administer oaths and affirmations. ('21, c. 462, § 22)

1828-39. Recorder — Duties—There shall be a recorder of said city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the council may determine. He shall keep the corporate seal, and all the papers and records of the city; and keep a record of the proceedings of the common council, at whose meeting it shall be his duty to attend. Copies of all papers filed in office, and transcripts from all records of the common council, 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 treasurer in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have

power to administer oaths and affirmations, and take acknowledgement of deeds and other writings. ('21, c. 462, § 23)

1828-40. Same—Financial reports—Estimates—Accounts—Special tax levies—It shall be the duty of the city recorder to report to the common council the financial condition of the city, whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually, on or about the first day of January to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of January.

He shall make or cause to be made estimates of the expenses of any work done by the city, and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the common council or by any city officer. And every contract made in behalf of the city, or to which the city is a party, shall be void unless signed by the recorder. The city recorder shall keep regular books of account in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city, the amount of bonds, orders, certificates, or other evidences of indebtedness issued by the common council, the amount of all bonds, orders, certificates, or other evidences of indebtedness which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts with all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or any other purpose, and, before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the common council a schedule of all lots or parcels of land which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on, such lots or parcels of land, which said schedule shall be certified by the affidavit of the recorder, and shall be "prima facie" evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. If before the first day of January of any year, the amount expended, or to be expended, chargeable to any city fund, (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund,) shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund, he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract the expenses of which shall exceed the revenue actually collected for the fund to which such

expenses are properly chargeable. The recorder shall examine all reports, books, papers, vouchers and accounts of the city treasurer, and from time to time shall perform such other duties as the common council may direct. All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the recorder. And he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such record shall be open to the inspection of all parties interested. He shall not be interested, directly or indirectly, in any contract or job to which the city is a party, or in which the city is interested; and any contract in which he may be interested shall be null and void. ('21, c. 462, § 24)

1828-41. City attorney—Election—Duties—The common council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office, and, when required, shall furnish opinions upon any subject submitted to him by the common council or its committees. ('21, c. 462, § 25)

1828-42. Treasurer—Duties—The treasurer shall receive all moneys belonging to the city, including all taxes, license money and fines, and keep accurate and detailed account thereof, in such a manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least fifteen days before the biennial election, or sooner if required by them, a full and detailed account of the receipts and expenditures after the date of the last report, and also of the state of the treasury, which account shall be filed with the clerk, and a copy of the same published in one or more of the city newspapers, or in the paper published nearest to said city. He shall also report to the common council at such times and in such manner as they may require. ('21, c. 462, § 26)

1828-43. Chief of police—Police officers and watchmen—Execution of process, etc.—There shall be a chief of police of said city, who shall be appointed by the mayor, by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace. All police officers and watchmen of said city shall 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 of the ordinances or by-laws of said city; and also all writs and process whatever, issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the state, and, when performing the duties of constables aforesaid, shall be entitled to like fees. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or any violation of the laws of this state, or of the ordinances or by-laws of the city; and for these purposes shall possess the powers of constables at common law, while on duty. ('21, c. 462, § 27)

1828-44. Arrests—By whom made—Outside city—All warrants issued by city justices for the violation of any general laws of this state shall run to the sheriff or any constable of the county, or to the chief of police or any policemen of the city; but no chief of police or policeman, where he goes outside of the county to make an arrest, shall receive any fees therefor, unless the commissioners of the county are satisfied that a delay in obtaining the sheriff or his deputy,

or a constable, to make the arrest, might endanger an escape. ('21, c. 462, § 28)

1828-45. Street commissioner—Election—Duties—Bond—The common council shall at their first meeting in January succeeding the biennial election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for two years and until his successor is elected and qualified. It shall be the duty of the street commissioner to superintend all work and improvements on the streets, bridges and public grounds of the city, and carry into effect all orders and ordinances of the common council in relation to work or improvements upon the streets, roads, bridges and public grounds of the city; and he shall be required to execute a bond, with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity, or belonging to the city. ('21, c. 462, § 29)

1828-46. City assessor—Election—Duties—Term of office—The common council shall, in the month of March in each year, elect an assessor, who shall be styled the city assessor, who shall perform all duties in relation to the assessing of property for the purpose of levying of all city, county and state taxes. And upon the completion of the assessment roll, he shall return the same to the common council, who may alter, revise and equalize the same, as they may deem it just and proper. Said city assessor shall hold his office for one year, and until his successor is elected and qualified. ('21, c. 462, § 30)

1828-47. Justices of the peace—Jurisdiction—Procedure—Contempts—Fines and penalties—The justices of the peace of the city, styled city justices, shall possess all the authority, power and rights of a justice of the peace of the county under the laws of this state, and shall have, in addition thereto, exclusive jurisdiction to hear and try all complaints for violation of any provision or provisions of the city charter, or any ordinance, by-law, rule or regulation made or adopted under or by virtue thereof, and of all cases cognizable before a justice of the peace in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the said city or its charter, and in all cases of offenses committed against the same. And said city justices shall have jurisdiction in cases of larceny, and may hear and try the same where the amount claimed to have been stolen does not exceed the sum of twenty-five dollars.

In all prosecutions for assaults, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said city justices, the same forms and proceedings shall be had and used, where not otherwise 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; and appeals from the judgment and decisions of said city justices shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinances of the city for breach 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 justices shall have power, in addition to the fines or penalties imposed, to compel said offenders to give security for their good behavior, to keep the peace,

for a period not exceeding six months, and in a sum not exceeding five hundred dollars. The said justices shall have the same power and authority in cases of contempt as a justice of the peace under laws now in force. All fines and penalties imposed by the city justices for offenses committed within the city limits, for the violation of any ordinance, by-laws or regulation of said city, shall belong to and be a part of the finances of said city; for offenses against the laws of the state, of the county treasury. ('21, c. 462, § 31)

1828-48. Same—Reports to council—Accounting for fines and penalties—Fees—The city justices shall, as often as the common council may require, report to the common council all the proceedings instituted before them in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected or received by them belonging to said city; and said justices shall be entitled to receive from the county such fees in criminal cases as are allowed by statute to justices of the peace for similar services. ('21, c. 462, § 32)

1828-49. Same—Office hours—Complaints to—Writs and process—Said justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by them at all times, in court or otherwise. ('21, c. 462, § 33)

1828-50. City surveyor—Election—Duties—The common council may at any regular meeting elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city and the common council shall prescribe his duties, fix his term, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of persons interested; and the same, together with all the books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor, or the common council. ('21, c. 462, § 34)

1828-51. City printing—The common council, at their first meeting in the month of January of each year or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing said printing. The bid or bids received by said clerk to do said printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper published in said city, shall give satisfactory security for the performance of the work shall be declared city printer for the ensuing year, and in the newspaper designated in said accepted bid or proposal, shall be published all ordinances, by-laws, and other proceedings and matters required by this act or by the by-laws or ordinances of the common council to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published shall file with the city recorder a copy of such publication, with his affidavit or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be "prima facie" evidence of the publication of such notice, or-

dinance or resolution, provided, that if no person will publish or offer to publish, in any newspaper published in said city such ordinances or other matters as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding. ('21, c. 462, § 35)

1828-52. Officers to deliver property, books, etc., to successor—Penalty for failure—If any person, having been an officer of said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one thousand dollars, besides all damages caused by his neglect or his refusal so to deliver; and said successor may receive possession of such books, papers and effects, in the manner prescribed by the laws of this state. ('21, c. 462, § 36)

1828-53. Officers — Other duties — Compensation —The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for; but no officer elected or appointed by the common council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than two years, and until his successor is elected or appointed and duly qualified. The common council shall have the power, unless otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution; and in regard to all offices created by this charter, the compensation shall be fixed within three months from the first organization and meeting of the common council; after the first year, the compensation of officers shall be fixed for the fiscal year in the month of April of each year, except for such offices as may hereafter be created, in regard to which the compensation shall be fixed at the time of creation of such office; nor shall the compensation of any officer, after having been fixed, be increased or diminished during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions of this charter shall be a party or interested in any contract in which the city is interested, made while such officer is holding office; provided, that the mayor and alderman shall receive no compensation for their services as such officer. ('21, c. 462, § 37)

1828-54. Officers to enforce peace—The mayor, or acting mayor, recorder, and each alderman, the city justices, police officers and watchmen, shall be officers of the peace, with powers of constables at common law, and may command the peace, 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 the bystanders, and, if need be, of all the citizens 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 fifty (50) dollars; and in each case where the civil powers may be required to suppress riots or disorderly behavior,

the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings. ('21, c. 462, § 38)

COMMON COUNCIL—GENERAL POWERS AND DUTIES.

1828-55. Aldermen to constitute council—Style of ordinances—Meetings—Quorum—The aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the citydo ordain, &c. The common council shall meet at such time and place as they by resolution may direct. A majority of the aldermen shall constitute a quorum. ('21, c. 462, § 39)

1828-56. Regular and special meetings of council—Determination of election and qualifications of members—The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be delivered personally or left at their usual place of abode. The common council shall be the judges of the election and qualification of its own members, and in such cases shall have power to send for persons and papers, and shall also determine the rules of its own proceedings, and have power to compel the attendance of absent members. ('21, c. 462, § 40)

1828-57. Powers and duties of council enumerated—The common council shall have the management and control of the finances and all 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 repeal all such ordinances, by-laws, rules and regulations for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison; provided, that until otherwise ordered by the common council, the county jail of the county shall be used as a city prison, and it shall be the duty of the sheriff or jailor of the county to take into custody and safely keep in said jail all persons committed thereto until discharged according to law. The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any provisions of any ordinance or by-law passed or ordained by them, and all such ordinances, rules and by-laws are hereby declared to have all force of law; provided, that they be not repugnant to the constitution and laws of the United States, or of this state; and for these purposes shall have authority by ordinance, resolution or by law:

1. To regulate the use of, and to prevent and remove encroachments on and over streets, alleys; avenues and public grounds and public places, to prevent injury to the same, and to regulate the construction of coal holes, and hatchways, and coverings, and guards therefor in sidewalks, or to prohibit the same.
2. To regulate and prevent throwing or depositing of ashes, offal, dirt, garbage or any offensive matter in or upon any street, alley or public ground or place, and to require the owner or occupant of any premises to keep the sidewalks along or in front of the same free from snow, ice or other obstruction.
3. To regulate openings and excavations in streets, alleys and public grounds, for the laying of gas, electric conductors, water mains and pipes, or for other purposes, and the building of sewers, tunnels and

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drains, and to regulate the construction and use of all structures and conduits underneath the streets, alleys and sidewalks.

4. To provide and regulate cross walks, curbs and gutters.

5. To regulate and prevent the use of streets, sidewalks and public grounds for signs, sign posts, awnings, awning posts, telegraph poles, horse troughs, racks, and the posting and distributing of handbills and advertisements; to prevent the incumbering of the streets with vehicles, lumber, boxes, or any other things or material; to remove and abate any nuisance, obstruction and encroachment upon the walks, streets, alleys and public grounds; to provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit the same in any portion of the city, at its discretion; and shall prohibit the piling of snow or other incumbrances upon any street by persons owning or operating any railway along or across the same.

6. To regulate and control or prohibit the placing of poles and the suspending of wires along or across the streets and alleys.

7. To regulate and prohibit the exhibition or carrying or distribution or throwing of banners, placards, advertisements and hand bills in or upon streets, public grounds and sidewalks.

8. To regulate and prevent the flying of flags, banners and signs across the streets, and to regulate the construction and use of bill boards adjacent to or near the streets or public places.

9. To regulate and prohibit traffic and sales upon the streets, sidewalks or public places.

10. To regulate the speed of horses and other animals, vehicles, cars and locomotives upon the streets and within the limits of the city, and to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing in the streets.

11. To name and change the names of streets, avenues, alleys and other public places.

12. To regulate the use of all bridges, viaducts, tunnels, drains, sewers and cesspools within the city, and to prohibit the use or maintenance of cesspools and privies in such portions of the city as it may designate, and to compel sewer connections in such portions, and to make the same and to assess the cost thereof on the property so connected with the sewer.

13. To regulate the numbering of houses and lots and to compel the owners of houses and other buildings to have the numbers of such houses and buildings shown conspicuously thereon or adjacent thereto.

14. To prevent and regulate or prohibit the locating, construction and paving of street railway tracks, in, under or over any street, alley or public place; provided, that it shall grant all public franchises and rights over, upon or under the public streets and highways of the city only to such parties as will contribute to the city the greatest amount of money and give the best service in the exercise of the same.

15. To provide for and change the location, grade and crossing of any railroad, and to compel railroad companies to lower and bridge over their tracks and to fence their respective railroads, or any portion of the same, and to construct cattle guards on the streets and public roads, and keep the same in repair within the limits of the city. In case any railroad company fails to comply with any such ordinance it shall be liable for all damages to the owner of any cattle, horses or domestic animals which he may sustain by reason of injuries thereto while on the tracks of such railroad

company, in like manner and extent as under the general laws of the state relative to the fencing of railroads; and actions to recover such damages may be instituted before any justice of the peace or other court of competent jurisdiction.

16. To require railroad companies to keep flagmen, and to erect and maintain gates at railroad crossings of streets, and to provide protection against injury to persons and property in the use of such railroad.

17. To regulate or prohibit the whistling of locomotives, and the discharge of steam, cinders, sparks and dense smoke therefrom.

18. To compel railroad companies to raise or lower their tracks to conform to any grade which may be established in said city and to keep such tracks on a level with the street surface, and to compel the planking of such tracks by such railway company so that they may be crossed at any place on the said street, alley or highway.

19. To compel and require railway companies to make and keep open and in repair, ditches, drains, sewers and culverts along and under their railroad tracks, so that filthy or stagnant water cannot stand on their grounds or right of way, and so that the natural drainage of adjacent property shall not be impeded.

20. To restrain the pollution of the waters of any creek, river, pond, lake or water course within or adjacent to the city; to prevent the dumping of refuse or other matter therein, and to provide for the cleansing and purification of water, water courses and canals, and the draining or filling of ponds or pools on private property, whenever necessary to prevent or abate nuisances, and to compel the owner or occupant of any building or grounds to remove from the premises owned or occupied by him all such offensive substances as the city council or commissioner of health may direct, and upon his default to authorize the removal or destruction thereof by some officer of the city at the expense of said owner or occupant.

21. To compel the owner of low ground where water is liable to collect and become stagnant to fill or drain such low places, and upon his default to authorize such draining or filling at the expense of such owner, and to make the expense of the destruction or removal of such substance, specified in subdivision 20, or expense of filling or draining any such low ground, a lien upon the property from which such substances are removed or destroyed, or in which said low ground is filled or drained, and to make a special assessment for the same upon such property, to be collected as other special assessments are collected.

22. To regulate the use and maintain general supervision and control of navigable waters within, upon and adjacent to the city limits; to regulate the use of public and private docks, landings, wharves and levees in such city; to establish, alter and maintain docks, dock lines, landings and levees; to regulate and control the anchorage, moorage and landing of all water craft and their cargoes within the city; to license and regulate or prohibit wharf boats, tugs and other boats used about the harbors or within the jurisdiction of the city; and to fix the rates of wharfage and dockage, and to collect wharfage and dockage from all boats, rafts or other craft landing at or using any public landing place, wharf, dock or levee within the city.

23. To make regulations in regard to the use of steamers, towing of vessels, opening and passing of bridges, to appoint harbor masters and define their duties; and to prevent and prohibit the removal of

sand and other material from or near any levee, embankment or boundary line of public waters.

24. To fix the amount, terms and manner of issuing licenses not inconsistent with law; provided, that no licenses shall be issued for a longer term than one year.

25. To license and regulate or prohibit and to suppress billiard, pool, pigeon hole tables, pin alleys, bowling alleys, shooting galleries, taverns and victualing houses.

27. To license and regulate the exhibitions of common showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concerts, theatrical performances, skating rinks and all places of amusement and museums. for entrance into which money is charged.

28. To license and regulate auctioneers, pawnbrokers, second-hand dealers and junk dealers, and to compel all such persons to keep such records of their transactions as it may direct, and make report thereof.

29. To license and regulate keepers of intelligence of employment offices, and all persons doing the business of seeking employment for or furnishing employes to others, and to require such persons to keep such records as it may direct, and make reports thereof, and to punish unfair dealings by said persons in their said business.

30. To license and regulate or prohibit hackmen, draymen, expressmen, porters and all other persons engaged in carrying passengers, baggage or freight, and to regulate their charges therefor, and to prescribe standing places or stations within the streets or near railway stations where the same may remain while waiting for business, and to prohibit the same from standing or waiting for business at any other place than the places so prescribed.

31. To license and regulate all peddlers, book agents, canvassers, street hawkers, venders and public criers doing business in the city.

32. To tax, license and regulate pawnbrokers.

33. To license and regulate butchers' stalls and shops, and stands for the sale of game, poultry, meat, fish and perishable provisions.

34. To license and regulate plumbers, and to regulate sewer and water connections of all kinds and the laying of branch sewer and water pipes.

35. To license, regulate and control or prohibit the carrying of concealed weapons, and to provide for the confiscation of the same.

36. To license and regulate the keeping of dogs, and to prevent the same running at large, and to authorize the destruction thereof in a summary manner.

37. To regulate and prevent the storage of gunpowder, dry pitch, resin, coal oil, benzine, naphtha, gasoline, turpentine, hemp, cotton, nitro-glycerine or any products thereof, and other combustible or explosive materials within the city, and the use thereof, and of lights in stables, shops and other places, and the building of bonfires; and to regulate and restrain the use of firecrackers, torpedoes, roman candles, sky-rockets and other fireworks.

38. To prevent and suppress riots, routs, affrays, disturbances, disorderly assemblies, cock fights, dog fights, sparring matches and all brutal or depraving exhibitions or sport.

39. To restrain and punish vagrants, mendicants, street beggars and prostitutes, and to regulate bathing and swimming in waters within the city limits, and to prevent and punish drunkenness, fighting, assaults, batteries and disorderly conduct and obscenity in the

city; and to prohibit within the city the circulation, sale or exhibition of libelous, obscene and immoral publications, prints, pictures, advertisements and illustrations, and any printed matter naturally tending to provoke a breach of the peace or impair the morals of the community.

40. To suppress bawdy and disorderly houses and houses of ill fame and assignations within the limits of the city.

41. To restrain and prohibit lotteries, and to prohibit all descriptions of gambling and playing of cards, dice, hazard, roulette or other games of chance; the use of blackboards, lists and tickets for the purpose of gambling; all pool rooms and betting rooms; and the selling of pool and making of books on horse races or other contests, real or fictitious, to suppress and prohibit all mechanisms and devices used for gambling or betting; to prohibit all fraudulent practices and the use of fraudulent devices, and to authorize the destruction of all instruments used for the purpose of gambling, or other unlawful purpose as aforesaid.

42. To establish pounds and pound districts; to restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese and other animals, and to authorize the distraining and sale of the same.

43. To establish and regulate the location of markets and market houses, and to provide for the use thereof.

44. To regulate the making and sale of bread, and prescribe the weight and quality of the bread in the loaf, and provide for the seizure and forfeiture of bread baked contrary thereto.

45. To provide for and regulate the inspection of meats, poultry, fish, game, butter, cheese, lard, eggs, vegetables, flour, meal, milk, fruits and other provisions, and to provide for the taking and summarily destroying of any such provisions which are unsound, spoiled or unwholesome.

46. To provide for and regulate the place and manner of weighing hay and straw and selling the same, and measuring and selling of fire wood, coal and lime.

47. To provide for a standard of weights and measures and for the inspection and sealing of all weights and measures and to enforce the keeping and use by venders of proper weights and measures duly tested and sealed.

48. To regulate the construction of all buildings, chimneys and stacks; to prohibit and prevent the erection or maintenance of insecure or unsafe buildings, walls, stacks or chimneys, and to provide for their summary abatement; to prescribe the depth of cellars, the material and methods of construction of foundations, and foundation walls, the manner of construction and location of drains and sewer pipes, the thickness, material and construction of party walls, partitions and outside walls, the size and material of floor beams, girders, piers, columns, roof, chimney flues and heating apparatus, and to apportion and adjust such regulations to the height and size of the building to be erected; to regulate the construction of privies and vaults in buildings; to prohibit the construction of buildings not conforming to such prescribed standard as it may prescribe, and to vary such regulations according to the location of such buildings, and to direct the suspension at any time of the erection of any such buildings as does not conform to such regulations.

49. To prescribe the limits within which wooden buildings shall not be erected nor placed nor repaired without permission; and to direct that all and any buildings within such fire limits, when damaged by

fire, decay or otherwise, to the extent of fifty (50) per cent of the value shall be torn down and removed, and to prescribe the manner of ascertaining such damages; and to provide for and requiring the owners of buildings or other structures, which shall have been destroyed or partly destroyed by fire or otherwise, to take the same or any part thereof down, to prevent accident, and in case of refusal or neglect of said owner to so take the same down when ordered by officers designated by said city council, then to cause the same to be done at the expense of the owner, the cost thereof to be made a special assessment on the land on which said buildings stand, and collected as other special assessments.

50. To require the owner or lessee of any building or structure now or hereafter built in the city to place thereon such fire escapes and appliances for protection against or for extinguishment of fires as it may direct, and to require such owner or lessee to do any act necessary or advisable to lessen the danger to human life in case of fire or accident.

51. To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stove-pipes, ovens and boilers, and apparatus used in or about any building or manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous; to regulate and prevent the carrying on of manufactures dangerous in causing and permitting fires; to prevent the depositing of ashes or accumulation of shavings, rubbish or other combustible material in unsafe places, and to cause all such buildings and enclosures as may be in a dangerous state to be placed in a safe condition, and to make provisions to guard against fire and to prevent the spreading of fires.

52. To regulate the operation of blasts and blasting, and the construction, location and operation of derricks, windlasses, freight and passenger elevators and other mechanical structures, apparatus or operations, hazardous to life or property.

53. To declare the emission of dense smoke from chimneys, stacks, boats and locomotives within the limits of the city a nuisance, and to prohibit and prevent the emission of dense smoke in any portion of or through the city, and to require the use, in connection with furnaces, of such practical appliances as it may designate to prevent and lessen the emission of dense smoke, and to designate the kind of fuel which shall not be used in any furnace, stove or fireplace without the use of such appliances to prevent the emission of dense smoke.

54. To regulate the construction of chimneys and smoke stacks, and to prevent the emission of sparks and cinders from the chimneys and smoke stacks, and to declare the emission of sparks and cinders a nuisance, and to prescribe and require the use of such practical appliances as it may designate to prevent the emission of such sparks and cinders.

55. To declare what shall be a nuisance, to abate the same, and to impose fines upon parties who may create, continue or suffer nuisances to exist.

56. To regulate or prevent the burial of the dead within the city, and to regulate and determine the manner in which bodies have been buried in a vault or tomb or other place for the purpose of burial may be removed, and to regulate and control the location of cemeteries and crematories, and to vacate and cause the removal of bodies interred in any cemetery not existing according to law.

57. To direct the location and regulate the management and construction of stock yards, slaughter houses, packing houses, renderies, tallow chandlers, store-houses for hides, bone or glue houses, gas works, soap factories, dye houses and tanneries within the limits of the city or within a distance of one (1) mile without the limits thereof.

58. To direct the location and regulate the use and construction of stables, livery stables, blacksmith shops and founderies within the limits of the city.

59. To declare what is a nuisance and prohibit any offensive or unwholesome business or establishment within on (1) mile of the limits of the city.

60. To compel the owner of any grocery, cellar, or soap and tallow chandlery, pig sty, privy or other unwholesome or noxious house or place, to cleanse, abate or remove the same, and to regulate and prescribe the location thereof.

61. To regulate or prohibit the keeping of any lumber yard, and the places for piling of timber, wood and other combustible material within the fire limits of said city, and to require any person maintaining any lumber, shingles or lath piles or millwood yards in the city to remove the same when they become dangerous to any building or buildings or other property near the same.

62. To establish and enforce rules for the use and regulation of all buildings maintained by the city.

63. To prevent or regulate the rolling of hoops, playing of ball, flying of kites or any other amusement or practice having a tendency to annoy persons on the street or sidewalks, or to frighten horses and to regulate the use of bicycles and any other vehicles on sidewalks and streets.

64. To require and provide for the removal or destruction throughout the city in such districts or on such streets and avenues, and in such manner as the council may direct, of any and all swill, offal, garbage, ashes, street sweepings, barn yard litter, manure, rubbish, yard cleanings and the contents of privy vaults, cesspools and sinks, decaying animal matter and dead animals, or any other vile or unhealthy material, and to provide for the removal to a point beyond the city limits of any or all such matter or things, and the city council is hereby authorized and empowered to make and enter into contracts with persons or corporations of such removal of such materials and substances, or any of them, upon such terms and conditions as it may deem best, and for any time not to exceed five (5) years.

65. 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 regulation to prevent the introduction of contagious, infectious or other diseases into the city, and to make quarantine laws, and to enforce the same within the city, and to regulate, control and prevent the landing of persons, baggage, merchandise or property from boats, vessels, cars or other conveyances, whereon are infectious or contagious diseases or disorders, and to make such disposition of such person or property as to preserve the health of said city, and to prevent infected boats, vessels, cars or other property conveyances from coming within or near the limits of the city.

66. To establish and regulate public wells, cisterns, hydrants and reservoirs.

67. To regulate and control the quality and measurement of gas, and to prescribe and enforce regulations for the manufacture and distribution of gas, and to inspect gas and gas meters, and to control and

regulate the measurement and use of electricity and electrical apparatus for furnishing light, heat and power in the city.

68. To establish offices for inspectors, weighers, gaugers, scalers, electricians, wharf masters, market masters, quarantine masters and such other officers as it may be necessary to carry into effect the inspection laws of the city, and the powers herein granted; and to regulate the duties of said officers and to authorize and direct said officers to enforce and carry into effect the provisions of any ordinance passed hereunder.

69. To regulate lodging and tenement houses, and to prevent the overcrowding of the same, and to require the same to be kept in proper sanitary condition.

70. To prohibit and punish cruelty to animals and to require the places where such animals are kept to be maintained in healthful condition; and to inspect and regulate dairies and dairy products, and to regulate persons selling milk within the city.

71. To regulate and require licenses to be obtained for the pursuit and prosecution of such occupations or kinds of business not hereinabove expressly referred to and provided for, as in the opinion of the city council may require regulation and, in general, to adopt all such measures and to establish all such regulations, in cases for which no express provision is hereinbefore made, as the city council may from time to time deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, the suppression of vice and the enhancement of public welfare in said city.

72. To compel the owner or owners of vacant property within the city limits to keep the same clear of any brush, timber or other material or substances liable to receive or communicate fire to adjoining property, and in case the owner or owners of such property shall neglect or refuse to remove the same within ten days after being notified so to do by the city council either personally or by one publication in the official newspaper of said city, said city council shall have the authority to have the same done at the expense of owner or owners, and in case such owner or owners shall refuse to pay such expense, shall have the right to assess the same against said property, and to make, enforce and collect such assessment as other assessments for local improvements for benefits are made, enforced and collected.

73. No rule, resolution or ordinance shall be passed appropriating money, or obligating any city to pay any money, and no franchise shall be granted save by a three-fourths (3/4) vote of all members elect of the council, and it shall require at least a majority vote of all members elect of the council for the council to do any official act, save to adjourn and, save as in this act otherwise expressly prescribed, no council shall have any power or authority to obligate its city beyond the revenues then in the possession of such city or embraced in its then current and uncollected tax levy.

OTHER POWERS. The city council shall prescribe by ordinance all regulations proper and necessary to carry into effect any and all powers granted by this act, and may provide by such ordinances for the punishment of the violation of any of the same by subjecting the offender to pay a fine not to exceed one hundred (100) dollars, or to be confined and kept at hard labor in the workhouse of the city, or upon the public streets, or to be confined in any place of confinement maintained by the city, or in case there be no such place, then to be confined in the county jail

of the county in which the city is located, not to exceed the term of ninety (90) days, and may provide that such imprisonment may be cumulative or for an indefinite term, not to exceed ninety (90) days, subject to suspension or termination by reason of or during good behavior of the person so imprisoned. ('21, c. 462, § 41)

1828-58. Revocation of licenses—The city council shall have the power to revoke any license granted by it. ('21, c. 462, § 42)

1828-59. Exclusive or perpetual franchises not to be granted—No exclusive or perpetual franchise nor privilege shall be granted by the city council. ('21, c. 462, § 43)

1828-60. Protection of streets and city property—It shall have the power to punish any person wilfully damaging any sidewalk, pavement or appurtenance to the water works or sewer system, or to any other property in or upon the public works of the city, and shall have the power to punish interference with or the withholding of any property of the city by any officer thereof, or any other party, and to require any officer, member or employe of any department to produce the books and accounts thereof at any time for inspection and examination, and at the expiration of the time for which elected, appointed or employed, to turn over the same and all property in his possession to the proper custodian thereof, or his successor in office, and to require reports at any time from any such person of the condition or operation of the business under his management. ('21, c. 462, § 44)

1828-61. Ordinances, regulations, resolutions, by-laws and appropriations—Enactment and effect—All ordinances, regulations, resolutions and bylaws shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and noes, and published in the official paper, before the same shall be in force; and shall be admitted as evidence in any court in the state, without further proof; they shall be recorded by the city recorder in books provided for that purpose. No appropriation shall be made without a vote of a majority of the members of the council present in its favor, which votes shall be taken by ayes and noes, and entered among the proceedings of the council. ('21, c. 462, § 45)

1828-62. Abatement of nuisances—The power conferred upon the common 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. Depots, houses or buildings of any kind within the limits of said city, wherein more than twenty-five pounds of gunpowder or more than five barrels of thirty-six gallons each, (or such greater or less quantity as said common council may direct by ordinance,) of petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous vinous or fermented liquors are sold without license required therefore within the limits of said city, are hereby declared and shall be deemed public or common nuisances. ('21, c. 462, § 46)

1828-63. Audit of accounts by council—The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioners, city justice, and all other officers and agents of the city, at such times as they deem proper, and also at the end of each year, and before the terms for which the officers of said city were elected or appointed shall

have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agents shall refuse to comply with the orders of said council, in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts, or present his books and vouchers to the council, or committee thereof, and it shall be the duty of the common council to declare the office of such person vacant. And the common council shall institute suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlement and adjustment. ('21, c. 462, § 47)

1828-64. Borrowing money and issuing bonds—Tax levies—Passage of ordinances, etc.—That the common council of the city shall have full power from time to time to borrow money to pay the indebtedness of the city, and in order to pay such indebtedness the city may issue city bonds therefor, bearing interest not to exceed eight per cent per annum, redeemable at any time within ten years at the discretion of the common council; provided, that at no time shall it be lawful for said indebtedness, bonded or otherwise, to exceed the sum of fifteen thousand dollars, unless the same be authorized by two-thirds of the legal votes cast at the election held for such purposes; and provided further, that the city council shall each and every year levy a tax of one mill on the dollar of the taxable property of the city for every thousand dollars that may be funded by the said city into bonds to pay the interest on said bonds and create a sinking fund to pay the same when due. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council and be signed by the mayor, and shall be published in the official paper of the city, before the same shall be in force; and within twenty days thereafter they shall be recorded by the recorder in books provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, as aforesaid, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication. ('21, c. 462, § 48)

TAXES.

1828-65. Levy for general purposes—The common council shall have power to levy, upon all taxable property of said city, taxes to provide for the current expenses of the city government and police for the opening, maintenance, and improvement of public grounds, and the construction of improvements of a general character; provided, that such taxes shall in no year exceed one per cent of the assessed valuation. ('21, c. 462, § 49)

1828-66. Special taxes—The common council shall have power to levy a special tax upon all taxable property in the city, or of the different wards of the same, for the purpose of maintaining bridges and culverts, and opening, constructing, maintaining and repairing roads, highways, streets and alleys; for the construction of reservoirs, cisterns, sewers, drains and street gutters, and grading of streets, and for other purposes conducive to good order and cleanliness, and for protection against crime, disease and fire; provided, that

such taxes shall, in no year, exceed one per cent of the assessed valuation; and provided further, that for the improvements in this section mentioned, the common council shall have power to assess the tax, to pay the same upon the ward or wards benefited by such improvements, in such manner and to such extent as the common council may think just and equitable. The tax shall be apportioned upon a cash valuation of the property which it shall be determined is liable to assessment for such improvements. No debt shall be incurred or created by the city, common council, or any officer of the city, except pursuant to the authority herein expressly given for that purpose; and no order or orders shall be issued on the city treasury exceeding the amount of tax collected or assessed and in process of collection. ('21, c. 462, § 50)

1828-67. Tax levies to pay bonds and interests—The common council shall have power, and it shall be the duty of the common council, to levy annually upon the taxable property of said city, taxes sufficient to pay all bonds or other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless that previously to the first day of September in each year some other adequate provision has been made for the payment of the same. The common council shall have the power to issue bonds and levy taxes exceeding the amount authorized by other sections of this act; provided, the same be authorized by a majority of the voters present and voting at a election to be held for that purpose. The time, place and manner of holding such election to be prescribed by the common council, the same notice to be given as at other elections. And no bonds for any purpose shall be issued by the common council unless so authorized. ('21, c. 462, § 51)

1828-68. Tax levies—How made—Validity—Disposition of—Taxes may be levied by resolution of the common 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 which the same is levied; but in such case the surplus shall, if the tax be a general tax, go into the general fund of the city; if it be a bond or an interest tax, it shall be kept and used for the future payment of principal or interest of the same class of bonds, or the purchase thereof before due; if it be kept for improvements, it shall be kept and used for future improvements of the same character. ('21, c. 462, § 52)

1828-69. Certification and collection of taxes—The common council shall cause to be transmitted to the county auditor of the county, on or before the first day of September of each year, a statement of all taxes by them levied; 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 treasurer of said city. ('21, c. 462, § 53)

1828-70. Disbursements to be authorized by council—Orders for—No money shall be paid out of the city treasury, unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, 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 common council may determine. ('21, c. 462, § 54)

1828-71. Same—Orders to be canceled—When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same, and file the same away in his office, keeping the orders drawn upon each fund separate. ('21, c. 462, § 55)

1828-72. Poll tax—It shall be lawful for the common council of said city, at any time, to levy a corporation poll-tax upon every qualified voter in said city; provided, that said tax shall not in any one year exceed the sum of two dollars on each person. ('21, c. 462, § 56)

OPENING AND VACATING STREETS, ALLEYS, ETC.

1828-73. Powers of council—The common council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds within the limits of said city, and shall cause all streets which may have been opened and graded, to be kept open and in repair and free from nuisances. ('21, c. 462, § 57)

1828-74. Laying out, opening, altering and vacating streets, etc.—Procedure—The common council of said city, by a vote of not less than two-thirds of the members present, and constituting a quorum of any stated or special meeting, such vote to embrace a majority of all the members elect, shall have power to lay out, open, alter and vacate public squares, streets, grounds, highways and alleys, and to widen and straighten the same; provided, that whenever it shall be required to take private property for the purposes above stated, they shall proceed in the manner hereinafter provided.

First—The common council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as there may be wards, of said city, selecting one from each ward, who shall be a disinterested freeholder and qualified voter of said city, to view the premises, and assess the damages which may be occasioned, by the taking of private property or otherwise, in making said improvement. Said commissioners shall be notified as soon as practicable by the city clerk of said city, to attend at his office, at a time to be fixed by him for the purpose of qualifying and entering upon their duties; and in case any such commissioner, upon being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty dollars, and shall be liable to be prosecuted therefor before the city justice of said city, as in the case of fines imposed for a violation of an ordinance of said city; and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

Second—The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make due return of their actions and doings to the common council.

Third—The said commissioners shall, with all reasonable speed, with the assistance of the city surveyor of said city, cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting, as far as practicable, the land or parcels of property required to be taken, or which may be damaged thereby; and shall thereupon give notice by

publication in the official newspaper of said city, for at least ten days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them, and thence proceed to view the premises, and assess the damages for property to be taken, or which may be damaged by such improvement.

Fourth—At the time and place according to said notice, the said commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary for the purpose aforesaid. When their view and hearing aforesaid shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by said improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and also the advantages which will accrue to such owner or owners in making such improvement.

Fifth—If there should be any building standing in whole or in part upon the land to be taken, the said commissioners shall in each case determine and assess the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much thereof as might be necessary, should be taken; and shall also determine and assess the amount of damages to be paid to such owner or owners in case he or they should elect to remove such building; and the damages in relation to buildings aforesaid shall be assessed separately from the damages in relation to the land upon which they are erected.

Sixth—If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, (the) injury or damage done to such persons or interests respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

Seventh—The said commissioners, having ascertained and assessed the damage aforesaid, shall make and file with the city clerk a written report to the common council, of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the name of the owners, if known to them, and also a statement of the costs of the proceeding.

Eighth—Upon such report being filed in the office of the city clerk, said city clerk shall give at least ten days' notice by publication in the official newspaper of said city, to the effect that such assessment has been returned, and that the same will be confirmed by the common council, at a meeting thereof, to be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be taken by such improvement, shall, on or before the time specified in said notice, notify the common council in writing of their election to remove such buildings, according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over or be referred, shall have power, in their discretion, to confirm, revise or annul the assessment, giving due consideration to any objections interposed by parties interested.

Ninth—The damages assessed shall be paid out of the general funds of said city, and shall be paid or

tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessment and report; and the land or property required to be taken for the purposes aforesaid shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the common council, in the district court of the county, in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim to the same.

Tenth—In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same, within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct, and the same or the proceeds thereof shall belong to the said city.

Eleventh—When any known owner of lands or tenements, affected by any proceeding under this act, shall be an infant, or labor under legal disability, the judge of the district court of the county, or, in his absence, the judge of any court of record, may, upon application of said commissioners, or of said city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by this act shall be served upon such guardian.

Twelfth—Any person feeling himself aggrieved by such assessment, may by notice in writing served on the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county, within twenty days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury, as in ordinary cases; but no pleadings shall be required; and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified, considered; and a transcript of such report, certified by the city clerk, or the original thereof, shall be "prima facie" evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects, as appeals from justices of the peace in civil suits. ('21, c. 462, § 58)

1828-75. Surveys and profiles to be made and filed—Whenever any public ground, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an ac-

curate survey and profile thereof to be made and filed in the office of the city surveyor, and also filed in the office of the register of deeds of the county. ('21, c. 462, § 59)

1828-76. Vacation of streets, etc.—Procedure—No public grounds, streets, alleys or highways within said city shall be vacated or discontinued by the common council, except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys or highways, resident within the said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of at least two of the petitioners. The common council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of said city, for four weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the common council, or a committee appointed by them, on a certain day and place therein specified, not less than ten days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of parties interested. The common council, thereupon, after hearing the same, or upon the report of such committee in favor of granting such petition, may, by resolution passed by a two-thirds vote of all the members elect, declare such public grounds, streets, alleys or highways, vacated; which said resolution, after the same shall go into effect, shall be published as in the case of ordinances, and thereupon a transcript of such resolution, duly certified by the city clerk, shall be filed for record and duly recorded in the office of the register of deeds of the county. ('21, c. 462, § 60)

1828-77. Same—Appeals—Any person aggrieved thereby may, within twenty days after the publication thereof, appeal to the district court of the county, under the same regulations as in the case of opening streets, and alleys, and the judgment of the court thereon shall be final. ('21, c. 462, § 61)

1828-78. Records kept by clerk—It shall be the duty of the clerk to keep in his office a record of all proceedings taken under this chapter; and, after the confirmation of any report mentioned in sections two and four of this chapter, said clerk shall carefully record and transcribe in such record all the proceedings taken in relation to the matter in said report, including all petitions, orders and appointments of commissioners, returns and reports of commissioners, notices and proofs of publication thereof, and orders or resolutions of the council; and the said record, or a certified transcript thereof, or the original papers, petitions, proofs of publication, orders or resolutions on file in his office, shall be "prima facie" evidence of the facts therein contained, in any court in this state. ('21, c. 462, § 62)

Explanatory note—The reference in this section to sections 2 and four is incorrect. See §§ 1828-73, 1828-75, herein.

FIRE DEPARTMENT.

1828-79. Fire limits—The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden

buildings, or other buildings the material or construction of which shall be regarded as dangerous to surrounding property, shall not hereafter be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall hereafter be built and constructed in such manner, and of such materials as, in the judgment of the common council, shall (not) be dangerous to surrounding property; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise to the extent of fifty per cent of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power, by resolution, to order any building, structure, or materials therefor, hereafter erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city; and shall have power or prescribe the notice to be given to the owner or agent to remove such building, and, in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the common council may see fit. And the common council may prescribe penalties for the violation of any of the provisions of this section, or of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred dollars, which may be imposed by a city justice, upon the complaint of any citizen. ('21, c. 462, § 63)

1828-80. Regulation of construction and use of buildings—The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stovepipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe or secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and alleys; to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; to regulate and prevent the use of fire-arms and fireworks; to compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all by-standers to aid in the extinguishment of fires and the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient. ('21, c. 462, § 64)

1828-81. Purchase of fire apparatus—The common council shall have power to purchase fire-engines and all other apparatus which may be required for the extinguishment of fires, and to authorize the formation of fire-engine and hook-and-ladder and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited, and their apparatus to be given up. Every member of each company which may be authorized to be formed, shall be exempt from highway work and poll-tax, from serving on juries, and from military duty, during the continuance of such membership. ('21, c. 462, § 65)

1828-82. Chief engineer, assistant engineers and fire-wardens—The common council shall have power to

appoint the chief engineer and two assistant engineers of the fire department, and also one fire-warden in each ward, and to prescribe the duties of such officers. ('21, c. 462, § 66)

1828-83. Assisting firemen—Penalty for refusal—Whenever any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order, to arrest, or direct orally any constable, police officer, watchman or any citizen, to arrest such person, and confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest, or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall be liable to such penalty as the common council may prescribe, not exceeding a fine of fifty dollars. ('21, c. 462, § 67)

STREET GRADES AND SIDEWALKS.

1828-84. Street grades—The common council may cause to be established from time to time, and as rapidly as the convenience of the inhabitants may require, under the direction of the city surveyor, the grade of all streets, sidewalks and alleys in the city, and it shall cause accurate profiles thereof to be made and kept in the office of the city surveyor. ('21, c. 462, § 68)

1828-85. Sidewalks—Construction or repair—Notice to property owners—Whenever the common council shall deem it necessary to construct or repair any sidewalk in said city, they shall require the street commissioner to notify all owners and occupants of any lot or lots, or parcels of land adjoining such sidewalk, to construct or repair the same at his or their own proper expense and charge, within a time designated by the publication in the official paper of said city, for not less than two weeks, of a notice to said owners or occupants, setting forth what work is to be done, and the character of the same, by such owners or occupants, and the time within which they are required to do the same. ('21, c. 462, § 69)

1828-86. Same—Construction, etc., by city—Assessments—If such work is not done, and the said sidewalks not built or repaired, in the manner and within the time prescribed, the common council may order the same to be done by the street commissioner, at the expense of the lots and parcels of land adjoining said sidewalks, and said expenses shall be assessed upon such lots and parcels of land so chargeable, by the street commissioner, and returned by him to the common council. And said assessment so made and returned, if approved by the common council, shall become a lien upon said lots and parcels of land, as in case of city, county and state taxes. ('21, c. 462, § 70)

1828-87. Same—Delinquent assessments—Collection—If said assessment be not paid to the street commissioner or the city treasurer, on or before the twentieth day of August, in any year, the common council shall cause a statement of the same to be transmitted, with the city taxes levied for that year, to the auditor of the county, on or before the first day of September in each year, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof enforced with and in like manner as city, county and state taxes are col-

lected, and payment thereof enforced. ('21, c. 462, § 71)

1828-88. Same—Width of and material for—The common council shall prescribe the width of sidewalks, and may establish different widths in different localities, and determine the kind of material of which they shall be constructed, having regard to the business and the amount of travel in the vicinity of each. ('21, c. 462, § 72)

LIGHTING OF STREETS—SUPPLY OF WATER.

1828-89. Contracts for street lighting—The common council shall have authority to contract with any person, persons or corporation for the lighting of such streets or parts of streets and public places as they shall deem proper for the convenience and safety of the inhabitants. ('21, c. 462, § 73)

1828-90. Gas pipes—Laying—The common council may permit the laying of gas-pipes in any and all the streets, alleys, highways and public grounds of the city; but in all cases the common council shall regulate the laying of the same, so that said gas-pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof, or with the proper and convenient location of water-mains and pipes, and may at any time require the location of any gas-pipes to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers or water-mains and pipes. ('21, c. 462, § 74)

1828-91. Water mains—Laying—The common council may permit any party or corporation to lay water mains and pipes in any and all streets, alleys, highways, and public grounds of the city, and shall regulate the position of the same, so that (they) shall not obstruct or interfere with common sewers, or with the proper drainage of the city. ('21, c. 462, § 75)

MISCELLANEOUS PROVISIONS.

1828-92. Action of council rescinded, how—No vote of the common council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of aldermen as were present when the vote was taken. ('21, c. 462, § 76)

1828-93. Remission of judgments or penalties in favor of city—No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two-thirds of the aldermen elect. ('21, c. 462, § 77)

1828-94. Prosecutions—Warrants—Procedure—In all prosecutions for any violation of this act, the first process shall be by warrant on complaint being made; provided, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance or by-law of the city; but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, process or writs by a city justice for the violation of an ordinance and by-laws of said city, shall be directed to the chief of police or any police officer of said city. ('21, c. 462, § 78)

1828-95. Fines and imprisonments—In all cases of the imposition of any fine or penalty, or of the rendering of any judgment by a city justice of said city,

pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-law of the said city, as punishment for any offense, or for the violation of any ordinance or by-law as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the county jail of the county, and be there imprisoned for a term not exceeding three months, in the discretion of the city justice, unless the said fine or penalty be sooner paid or satisfied; and from the time of the arrest of any person or persons for any offense whatever, until the time of trial, the person or persons so arrested may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the county. ('21, c. 462, § 79)

1828-96. Residents not disqualified as judge, justice, witness or juror—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. ('21, c. 462, § 80)

1828-97. Ownership, etc., of real estate—Each city may purchase and hold real and personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation. ('21, c. 462, § 81)

1828-98. Powers, authority and limitations—All cities incorporated and organized under this act shall have and possess all the powers and authority and be subject to all limitations and duties contained in any and all laws heretofore or hereafter enacted which refer and apply specifically to cities of the Fourth Class not existing or operating under a charter adopted in pursuance of Section 36, Article 4 of the Constitution of the State of Minnesota. ('21, c. 462, § 82)

1828-99. Laws repealed—All acts and parts of acts inconsistent with this act are hereby repealed. ('21, c. 462, § 83)

LAWS AFFECTING CITIES OF THE 4TH CLASS.

Sale of surplus electricity ('15 c. 34). Registration in home rule cities unnecessary ('15 c. 246). Water Works bonds ('15 c. 253). Oiling streets ('15 c. 285). Sale of electricity without franchise ('15 c. 311). Tax levy for entertainments ('15 c. 316). Municipal contracts for road work ('15 c. 330).

Paving bonds in home rule cities ('17 c. 46). City hall or jail bonds in home rule cities ('17 c. 57). Legalizing proceedings for municipal heating plants ('17 c. 125). Tax levy for sewers ('17 c. 126). Change of electric street lighting ('17 c. 180; repealing '15 c. 263). Legalizing bonds for water works ('17 c. 191). Legalizing bonds for water or sewer system ('17 c. 195). Refunding bonds ('17 c. 335). Tax for musical entertainments ('17 c. 246). Consolidation of school districts ('17 c. 453; amended 21 c. 441).

Legalizing bonds ('19 c. 171). Separation of unplatted territory ('19 c. 239). Water works bonds ('19 c. 262). Lands for parking space ('19 c. 281). Appropriation for War Records Commission ('19 c. 288). Acquiring lands by home rule cities for parks and fair grounds ('19 c. 345). Tax levy ('19 c. 360). Legalizing sewer bonds ('19 c. 392). Tax levy for musical entertainments ('19 c. 518).

Legalizing bonds of home rule cities ('21 c. 4). Street improvements in home rule cities ('21 c. 18). Proceedings for street improvements legalized ('21 c. 50). Legalizing proceedings to establish electric plants ('21 c. 151). Payment of pavements by school districts ('21 c. 239). Payment of contractors' claims ('21 c. 277). Contracts for street improvements legalized ('21 c. 456); see also 151-534, 186+694; 189+592).

Consolidation for school purposes ('23 c. 35). Bond issues legalized ('23 c. 39). Tax levy for floating indebtedness ('23 c. 83). Bonds for water or light plants ('23 c. 181). Refunding bonds legalized ('23 c. 341).

PROVISIONS RELATING TO CITIES, VILLAGES, BOROUGHES AND TOWNS

Street improvements in villages, see §§ 1815, 1816, 1828-1, herein.

1829. Right of eminent domain—All cities and villages may exercise the right of eminent domain for the purpose of acquiring private property within or without the corporate limits thereof for any purpose for which it is authorized by law to take or hold the same by purchase or gift and may exercise the right of eminent domain for the purpose of acquiring a right of way for sewerage or drainage purposes and an outlet for sewage or drainage within or without the corporate limits thereof. The procedure in the event of condemnation shall be that prescribed by chapter 41, General Laws of the state of Minnesota for the year 1913, or that prescribed by the charter of such village or city. (R. L. '05 § 766; G. S. '13 § 1784; amended '17 c. 424 § 1)

For c. 41, Gen. St. 1913, see c. 41, herein. 85-76, 88+423.

1830. Gifts to municipalities—Any city or village may accept a grant or devise of real () or personal property () and may maintain and administer such property for the benefit of its citizens in accordance with the terms prescribed by the donor. Provided, that nothing herein shall authorize such acceptance or use for religious or sectarian purposes. Every such acceptance shall be by resolution of the council adopted by a two-thirds majority of its members, expressing such terms in full. (R. L. § 767, amended '13 c. 319 § 1) [1785]

Village may accept grant of abandoned right of way, and sell same (101-298, 112+216). 134-343, 159+833.

Under the charter of the city of Eveleth, the council had no authority to pay claims against a hockey rink, which was to be transferred to the city for no other consideration than the payment of such claims. 156-171, 194+404.

1831. Damages—Notice of claim—Limitation—Every person who claims damages from any city, village or borough for or on account of any loss or injury sustained by reason of any defect in any bridge, street, sidewalk, road, park, ferry-boat, public works or any grounds or places whatsoever, or by reason of the negligence of any of its officers, agents, servants or employees, shall cause to be presented to the common council or other governing body, within thirty days after the alleged loss or injury, a written notice, stating the time, place and circumstances thereof, and the amount of compensation or other relief demanded. No action therefor shall be maintained unless such notice has been given; or if commenced within ten days thereafter, or more than one year after the occurrence of the loss or injury. ('13 c. 391 § 1) [1786]

Section 4 repeals R. L. § 768, and all inconsistent acts and parts of acts.

By Section 6 the act takes effect July 1, 1913. Under R. L. § 768—Constitutional (72-539, 75+745. See 82-127, 84+788; 106-94, 118+259). Applicable only to injuries to person (97-23, 106+89). Cf. 30-545, 16+410. Not applicable to actions for death by wrongful act (87-237, 91+843; 111-253, 126+826). Not applicable to action by servant of municipality (95-293, 104+231; 97-171, 106+305; 119-63, 137+199; 139+716; 124-257, 144+955; but see 116-323, 133+804). Mandatory and applicable to all cities, villages and boroughs (72-539, 75+745; 78-200, 80+962; 74-157, 76+1029). Supersedes similar provisions in charters (80-415, 83+375; 80-414, 83+376; 86-26, 90+8). Notice sufficient where it complies with home rule charter (94-45, 101+940, 1133; 101-62, 111+840). Object to give municipal officers notice so that they may investigate promptly and determine advisability of resisting or settling claim (80-415, 83+375; 84-341, 87+917; 77-76, 79+653; 74-157, 76+1029; 30-545, 16+410; 66-14, 63+178). Place of accident must be described with reasonable certainty (76-20, 78+868; 40-446, 42+350; 110-55, 124+449). Amount claimed to be stated. Demand for "other relief" (72-539, 75+745).

Amount claimed by parent and child (129-190, 151+976). Sufficient although it contains inaccuracies, if it conveys necessary information to proper person (40-446, 42+350; 116-55, 124+449; 111-544, 127+1134; 112-311, 127+1129; 116-17, 133+80; 132-170, 156+287). Cf. 91-207, 97+879; 138-350, 165+134. Date (130-410, 153+619). Error in address immaterial if service on proper person (52-364, 54+735). Signature of claimant with initials of husband sufficient (81-519, 84+458). To whom directed and how served (76-20, 78+868; 74-157, 76+1029; 76-456, 79+519; 84-205, 87+615; 77-76, 79+653; 87-484, 92+401; 90-158, 95+908; 86-26, 90+8). Claimant not concluded by amount claimed (84-341, 87+917). Meaning of "any defect in any bridge, etc." (38-536, 38+621; 54-279, 56+80). Pump-house included in "public works" (82-127, 84+788).

Not applicable to injunction against nuisance (132-121, 155+1067). Not applicable to action for damages to real property growing out of the re-establishment of a grade line of a street, etc. (133-405, 158+616).

This section does not give rise to a cause of action for negligence arising out of the operation of diversion and exercise instrumentalities in a public park, without charge. (188+561). See also 144-60, 174+517. Fevers contracted from contaminated water supplied from water-works (130-41, 153+121).

Plaintiff, while lawfully on private property, was injured by being struck by a piece of rock hurled by blasting, in a negligent manner by defendant in one of its streets. Held, within the statute (116-323, 133+804).

In 1897 c. 248, the clause "or by reason of the negligence of its officers, agents or servants" was not germane to the title, and no effect was given to it (82-127, 84+788; 97-23, 106+89). The clause, as it appears in the revision is valid (116-323, 133+804).

Not applicable to claim of liability under R. L. § 4536 [8246], for loss sustained by one furnishing labor or material to contractor with municipal corporation by reason of failure to take from contractor bond required by R. L. § 4535 [8245] (119-60, 137+192).

Notices of claims filed against cities of the first class during the month of January, 1920, legalized. ('21 c. 31).

Notices filed against villages during the month of May, 1920, legalized. ('21 c. 110). 165-67, 205+628.

Notice of injury from electrical burns, describing them and claiming that they were caused "as the natural consequence of * * * some defect in the wiring system and equipment" of the electric plant belonging to defendant village, and that the injuries were the result of the negligence of the village, its officers, and employees held a sufficient compliance with the statute. 157-228, 196+171.

Action for personal injuries resulting from a fall on a defective sidewalk. The evidence justified the jury in finding that the defect had existed a sufficient length of time to charge the city with notice. 158-104, 196+932.

Liable for injury caused by smooth ice on walk caused by artificial conditions. 160-398, 200+354.

The evidence warranted the jury in finding that there were ridges of ice on a sidewalk on which plaintiff slipped and fell. 163-198, 203+776.

The notice of injury described the place where plaintiff fell with sufficient definiteness and certainty. 163-198, 203+776.

The evidence warranted the jury in finding that a sidewalk at the place where the plaintiff fell and was injured was defective, in that it was rough, and had ridges of ice from 2 to 4 inches in height. 164-19, 204+562.

Defective description of place in husband's notice of wife's injury was cured by wife's notice. 164-63, 204+562.

Not applicable to action for damages from flooding. 166-336, 207+721.

The claim that the icy condition of the sidewalk upon which plaintiff fell was caused by the negligence of defendant's janitor is not sustained by the evidence. 166-411, 208+134.

Evidence examined and found to sustain the direction of a verdict for defendant, on account of a lack of proof of negligence on its part. 209+902.

The evidence was insufficient to prove that the defendant was negligent in permitting ice and snow to accumulate upon its sidewalk. 211+819.

Negligence of the village was not shown in failing to have its streets sufficiently lighted. 211+819.

Where a carbon duplicate of a typewritten notice is signed at the same time as the original (the paper receiving the first impression), and the one who prepared the instruments testified that he presented the original to the village council, in open meeting, and retained the carbon duplicate, such duplicate is properly admissible in evidence without first showing a demand on the village to produce the original; the statute not requiring the notice to be filed or kept by the village recorder. 211+952.

The notice was sufficient to permit testimony as to conditions immediately adjacent to the defect described. 211+952.

Notice of accident and claim for damages sufficient to designate place where accident occurred. The service of notice is sufficient. 212+186.

1829 — 383

1831
177m 547
226nw 898
227nw 653

1831
178m 326
178m 489
179m 553
227nw 177
230nw 80

Whether there was driveway at the place referred to in notice as an alley properly submitted to jury. 212+186.

The charter of Minneapolis requires that notice of an injury be given to the city within 30 days after its occurrence as a condition to the maintenance of a suit for negligence. The cause of action is given directly or indirectly or impliedly by statute, and the giving of the notice is an essential part of the cause of action. 213+557.

The giving of notice is not excused by the fact that the person injured is a minor. 213+557.

Legalizing notice of claims filed against cities of first class—Laws 1925, c. 376 reads as follows: "That all notices of claims pursuant to Section 1 of Chapter 391, General Laws, 1913, or pursuant to any charter provision filed against cities of the first class or the Board of Water Commissioners thereof during the month of January or February, 1925, for damages claimed to have been suffered within five months prior to the time of serving said notice and subsequent to the thirty-day period fixed by said act, or any other period fixed by said charter if otherwise regular, shall be and hereby are declared valid and sufficient for all purposes, notwithstanding such notices were not filed within thirty days specified in said act or within any other period fixed by said charter and shall not be affected in any manner by reason of such fact, provided such notices were in fact filed with the proper body during such month of January or February, 1925, and provided further that said city or said Board of Water Commissioners shall have had actual knowledge of said claim or injury and the circumstances thereof within thirty days after the happening of the same." Laws 1925, ch. 376, is invalid. 213+557.

1832. Claims for death—Notice—The provisions of section 1 shall also apply when the claim is one for death by wrongful act or omission, and in that case, the notice may be presented by the personal representative, surviving spouse or next of kin, or the consular officer of the foreign country of which the deceased was a citizen, within one year after the alleged injury or loss resulting in such death; provided, however, that if the person for whose death the claim is made, shall have duly presented within thirty days, a notice which would have been sufficient had he lived, the same shall be deemed sufficient within the terms of this act. ('13 c. 391 § 3) [1788]

1833. To what cities and villages applicable—This act shall also apply to cities and villages existing under a charter framed pursuant to section 36, article 4 of the constitution. ('13 c. 391 § 5) [1789]

Cities of the first class authorized to compensate for injuries sustained not more than six months prior to passage of act, '23 c. 306.

1834. Judgment against municipality—Payment—No execution shall issue on a judgment for the recovery of money against a city, village, or borough, except as hereinafter provided. Upon delivery of a certified copy of the judgment, the treasurer of such municipality shall pay it out of any moneys in or coming into his hands not otherwise appropriated, unless collection thereof be stayed on appeal, always retaining a sufficient sum to pay necessary current expenses; and, if he fails so to do, he and his bondsmen shall be liable for the amount. In case there be no such treasurer, then, upon delivery of such certified copy and an affidavit of the judgment creditor, his agent or attorney, showing the amount due, and that the judgment has not been stayed on appeal, the county treasurer shall pay such judgment out of the funds of the municipality in or coming into his hands, taking receipt therefor. (769) [1790]

1835. Claims based on relation of master and servant—The provisions of section 1 shall also apply when the claim is based on the failure of the city, village or borough in one of the duties assumed by or imposed upon it as a master or employer. ('13 c. 391 § 2) [1787]

133-405. 158+616; 124-257, 144+955.

1836. Tax levy—Execution—When a judgment against a city, village, or borough is unpaid at the

time of the annual tax levy, unless the proper officers thereof have otherwise provided sufficient funds to pay the same before the time for collection of such tax levy, they shall levy a tax to pay such judgment, and certify the same, and the purpose thereof, to the county auditor. If the judgment be not paid within twenty days after the time fixed by law for the county treasurer to pay over to the treasurer of the municipality the moneys in his hands belonging to it on account of such annual tax levy, execution may issue on such judgment, but only the property of such municipality shall be liable thereon. If there be no officers of the municipality to levy such tax, the judgment creditor may apply to the county auditor, who, upon being satisfied that the judgment has not been paid or stayed, shall levy and extend the tax. (770) [1791]

1837. Codification of charter, etc.—Evidence—Any city or village may cause its charter, and all general and special laws, ordinances, resolutions, rules, and by-laws in force therein, to be codified, printed, and published, and may declare, by ordinance, such codification to be prima facie evidence of the law of such municipality. It shall thereupon be received in evidence by the courts. (771) [1792]

1838. Assessment abandoned or excessive—Limitation—Whenever any special assessment shall have been levied upon real estate to defray the cost of a proposed local improvement, and the improvement shall be abandoned, or the total amount of the assessment shall exceed the cost of the improvement, the municipality shall be liable to the owner in the first case for the amount of the assessment paid by him, and in the second case for such proportion of the excess as the amount of the assessment paid by him bears to the total assessment, and it is hereby made the duty of the proper authorities to make refundment. Provided application therefor is made by or on behalf of the party entitled thereto, or any action to recover the same is brought within six years after funds to pay the same have been appropriated and made available by the proper officers to fully pay the same. (R. L. § 772; amended '13 c. 306 § 1) [1793]

1839. Transient dealers—No person, without permission granted by vote of the council, shall engage temporarily in the business of selling goods in any city or village, unless such goods have been duly assessed for taxation within the state for the current year. No such permission shall be granted by the council until the applicant shall have paid to the treasurer such sum as it may require, not exceeding fifty dollars per week, for the period for which permission is sought, which sum shall be fixed upon consideration of the kind, amount, and value of the goods offered. A transient dealer violating any provision of this section shall be guilty of a misdemeanor, and the fact that such goods are not listed for taxation in the county shall be prima facie proof that they are not assessed for taxation in the state. (773) [1794]

1840. Power to regulate transient merchants—That every city or village of the state of Minnesota, whether incorporated under a home rule charter or a general or special law of this state, in addition to all other powers given such city or village by any law of this state, shall have power by ordinance to regulate, control and license transient merchants, and to provide for the punishment of persons violating such ordinances. ('09 c. 84 § 1) [1795]

1841. Deposit of public funds—The council of any village, or of any city of the fourth class, may designate as a depository of city or village funds such national, state, or private banks as it may deem proper.

Each shall give bond to the municipality, in at least double the amount authorized to be deposited therein, to be approved by the council, conditioned to repay all sums deposited therein upon proper demand therefor, and for the performance of such other duties as the council may require. And such council from time to time may require the city or village treasurer to deposit all or any part of the public funds in his hands in such banks, and to withdraw the same when so directed. No such deposit shall be made for a time extending beyond the term of the council then in office, and all the terms and conditions of deposit shall be set forth in the resolution designating the several depositaries, which resolution shall be filed with the clerk or recorder. The treasurer shall not be liable on his bond for any money so deposited by direction of the council, and lost through the failure, bankruptcy, or other default of such bank. All interest accruing upon such deposits shall belong to the city or village. (774) [1796]

1842. Roads, bridges and ferries outside city or village—The council of any village or of any city of the fourth class may appropriate and expend such reasonable sums as it may deem proper to assist in the improvement and maintenance of roads lying beyond its boundaries and leading into it and to improve and maintain bridges and ferries thereon whether they are within or without the county in which it is situated. (R. L. § 775, amended '13 c. 111 § 1) [1797]
135-384, 160+1026.

1843. Annexation of territory to certain cities and villages having 10,000 inhabitants or less—Ordinance—That whenever the majority of the owners of any property which has been platted into lots and blocks or outlots, or the owner of any tract, piece or parcel of land abutting upon any incorporated city or village having ten thousand inhabitants or less, whether such city or village is incorporated under general or special laws, shall petition the city or village council to have such property annexed to the city or village, the city or village council may by ordinance declare the same to be an addition to such city or village and thereupon such territory shall become a part of such city or village, as effectually as if it had been originally a part thereof. ('05 c. 220 § 1; amended '09 c. 383 § 1) [1798]

Where territory wholly unsuitable for the purpose and, therefore, not within the statute on the subject, was attempted to be annexed by a village, and the supposed annexation was immediately and successfully attacked by the state in quo warranto proceedings, the attempted annexation never acquired a de facto character so as to entitle the annexing village to retain any of the tax moneys derived from the territory attempted to be annexed. 158-271, 197+266.

The action of a city council in annexing territory to the municipality, being legislative and not judicial in character, cannot be reviewed by writ of certiorari. 167-307, 209+3.

1844. Duty of council—Act supplementary—It shall be the duty of the council of any city or village adding territory under this act to cause a certified copy of the ordinance aforesaid to be recorded and filed in the office of the register of deeds of the county in which such city or village is located in the same manner as city or village charters are filed and recorded under the general laws of this state. Provided, that this act shall be construed to be supplementary to any other law providing for the annexation of territory to villages and cities of less than 10,000 population, and not as repealing such law. ('05 c. 220 § 2; amended '09 c. 383 § 2) [1799]

1845. Annexation of territory to certain cities and villages—Any territory containing a population of not less than 75 persons, and not included in any incor-

porated city or village, but adjoining any city or village now or hereafter existing under the laws of the state of Minnesota, and no part of which territory is more than one and one-half miles from the present limits of the city or village which it adjoins, may be annexed to such city or village and become a part thereof, as follows: ('09 c. 113 § 1) [1800]

127-452, 149+951; 146-311, 178+815; 150-203, 184+850, 151-534, 186+592; 189+592.

1846. Petition for election—Five or more of the legal voters residing within such territory may petition to the governing body of such city or village to call an election for the determination of such proposed annexation. The petitioners shall first cause to be taken a census of the resident population of said territory, and if found to be 75 or more, the petition shall be presented to the said governing body within four weeks thereafter. It shall set forth the boundaries of such territory, the quantity of land embraced therein and the number of actual residents thereon. It shall be verified by the oaths of at least three of the petitioners, declaring that such census was accurately taken within four weeks and that the statements within the petition are true. ('09 c. 113 § 2) [1801]

132-48, 155+1064; 132-59, 155+1040.

1847. Duty of governing body—Such governing body shall receive such petition and may in its discretion cause a copy thereof, with a notice attached thereto, fixing a time and place for holding an election, to be posted in three public places within such territory. The time for holding the election may not be less than ten nor more than thirty days after such posting, and the place, within the limits of such territory. ('09 c. 113 § 3) [1802]

1848. Election, how conducted—Ballots—Said governing body may also appoint three inspectors, residents of said territory, who shall act as judges of said election and conduct the same, so far as practicable, in accordance with the laws regulating the election of town officers. Only voters residing within said territory shall be entitled to vote. The ballot shall bear the words "For annexation, Yes....., No.....," with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the inspectors shall canvass the ballots and forthwith make and file with the city or village clerk or recorder of such city or village, a certificate stating the time and place of holding said election, that they have canvassed the ballots cast thereat, and the numbers cast for and against said proposition. The certificate shall be signed and verified by all of said inspectors to the effect that the statements therein are true. ('09 c. 113 § 4) [1803]

127-452, 149+951.

1849. Duty of city or village clerk, etc.—Such city or village clerk or recorder shall attach said certificate to the original petition with a copy of the resolution appointing said inspectors and the original proofs of posting of the election notices, and file the whole as one document in his office. If the certificate shows that the majority of votes cast were in the affirmative, he shall forthwith make and transmit to the secretary of state a certified copy of said document to be filed as a public record, and shall also transmit to the county auditor of the county in which such city or village is situated a certified copy of said document to be filed as a public record and thereupon the annexation of said territory to said city or village shall be deemed complete. If the certificate shows that the majority

of votes cast were in the negative, no subsequent petition shall be entertained within two years next after said election. ('09 c. 113 § 6) [1804]

1849-1. **Annexation of contiguous territory to cities of fourth class, villages or boroughs**—That the council of any incorporated city of the fourth class, village or borough, owning property situated outside of but contiguous to or abutting on the corporated limits of such city, village or borough, may, by ordinance, declare such property to be a part of the said city, village or borough, and such territory shall thereupon become a part of such city, village or borough, as effectually as if it had been originally a part thereof. ('15, c. 240, § 1)

1849-2. **Same—Certified copy of ordinance filed**—It shall be the duty of the council of any city, village or borough, adding territory under this act, to cause a certified copy of the ordinance aforesaid to be recorded and filed in the office of the register of deeds of the county in which said city, village or borough is located, in the same manner as city or village charters are filed and recorded under the general laws of this state. ('15, c. 240, § 2)

1850. **Change of names**—That whenever twenty per cent (20%) of the legal voters of any incorporated village or city of the fourth class of this state shall petition the governing body of such municipality for a change of the name of such municipality, the question of such change of name may be submitted to the voters of such municipality at any general or special election, and if a majority of all the votes cast upon the question are in favor of such change, the governing body of such municipality may, by ordinance, by a four-fifths vote of all members thereof, change the name of such municipality. ('13 c. 431 § 1) [1805]

1851. **Effect of change, etc.**—Upon the filing of a certified copy of such ordinance with the county auditor of the county in which such village or town is located and with the state auditor and secretary of state, the name of such village or town shall be changed as in such ordinance provided. Such change in name shall in no way affect any liability, obligation, power, duty, law or ordinance or other matter or thing in any way relating to such village or town, excepting that the new name of such village or town shall thereafter be substituted for and used in the place of its old name. ('13 c. 431 § 2) [1806]

1851-1. **Street commissioners in boroughs—Appointment**—The street commissioner in all boroughs shall be appointed by the mayor thereof, concurred in by the borough council. ('21, c. 30, § 1)

1851-2. **Same—Term of office**—The street commissioner of all boroughs shall hold office from the first Monday in May in each year until the first Monday in May of the following year. ('21, c. 30, § 2)

1851-3. **Same—Duties**—The duty of the street commissioner shall be to take charge of and attend to the care and maintenance of all public streets, alleys and highways in the said borough, under the direction of the Borough Council, and such other duties not inconsistent therewith, as the Borough Council may provide. ('21, c. 30, § 3)

1851-4. **Same—Salary**—The street commissioner shall receive such wages or salary as the Borough Council may by resolution provide, and the same shall not be decreased during the term for which he is appointed. ('21, c. 30, § 4)

1851-5. **Same—Vacancy in office**—In case of vacancy in the office of street commissioner, the mayor shall appoint another to fill the unexpired term, which appointment shall be subject to the approval of the Bor-

ough Council, as in the case of an original appointment. ('21, c. 30, § 5)

Explanatory note—Section 6 of Laws 1921 repeals all inconsistent acts.

1852. **Water, light, power and building commission in cities and villages having less than 10,000 inhabitants**—There may be created in every city and village in the state of Minnesota having a population of less than ten thousand inhabitants, a water, light, power and building commission, with powers and duties as hereinafter provided. ('07 c. 412 § 1) [1807]

Fowers of Commission (113-237, 129+377).

No power to employ attorney (117-323, 136+402).

A village council has not the authority to remove at will and without hearing members of its water, light, power, and building commission, created under chapter 412, Laws 1907 and amendatory acts (Gen. St. 1913, § 1807-1815.) 156-276, 194+624.

1853. **Population, how determined**—In determining the population of any such municipality, the last census taken therein and by authority of the state of Minnesota shall be conclusive as to the population thereof, for the purpose of this act. ('07 c. 412 § 2) [1808]

1854. **Appointment of members of water, light, power and building commissions in cities having less than 10,000 inhabitants**—Said Commission shall consist of three members and shall be appointed by the common council of said city or village, as the case may be, and when first created one shall be appointed for the term of one year, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified by subscribing to an oath that he will faithfully and impartially perform the duties of this office. There shall be appointed each year thereafter by the said council one member of the said commission, whose term of office shall be for three years, and each member of said commission shall be president thereof during the last year of the term for which he is appointed; provided, however, that in and as part of the resolution of the common council of any such city or village having more than 6,000 and less than 9,000 inhabitants, and not less than \$3,500,000 and not more than \$4,500,000 of assessed valuation; hereafter accepting the provisions of this act, it may be determined and provided that said commission shall include two additional members to be chosen from the members of said council, whose term of office shall be fixed by said council at the time of their appointment, and shall not in any event extend beyond the time that they shall respectively hold office as such councilors; upon the expiration of the term of office of any member so appointed, the council shall appoint from among its number another member of said commission and shall fix the term of office which shall not extend beyond the time that he shall hold office as such councilor. ('07, c. 412, § 3; amended '25, c. 327, § 1) [1809]

1855. **President, how appointed**—[Repealed.]

This section (Laws 1907, c. 412, § 4) is repealed by Laws 1925, c. 327, § 2.

1856. **Secretary—Appointment—Duties and powers—Bond—Compensation**—The said water, light, power and building commission shall have the power and authority, and it is hereby given the power and authority to appoint and employ a secretary of said commission, who shall qualify as hereinafter stated, and upon such qualification shall be the secretary of said water, light, power and building commission, provided, that in cities organized under the provision of Chapter 8, General Laws 1895, the city clerk shall be the secretary of said commission; and provided further,

that said commission may appoint as such secretary a member of said commission, who shall serve as such secretary only one year in any three years, and such term as secretary shall be during the second year of the term for which he is appointed. Such secretary shall keep an accurate record, in books kept by him for that purpose, of all the proceedings and business transactions of said commission and he is also empowered and it is hereby made his duty to collect water, light and rent charges from patrons for the said city or village as the case may be, and at once pay the same into the treasury of said municipality and he shall make a detailed statement of the same at the regular monthly meeting of said commission, which shall be held on the first Tuesday of each month. He shall be furnished by said municipality with all the necessary books and stationery to properly perform all the duties of his office and he shall be required to furnish a corporate bond running to such municipality, in such amount to be fixed by said commission, that he will faithfully perform all the duties of his office as is required of him by law and promptly pay over to the treasurer of said city or village, as the case may be, all moneys and deliver up all property to the council of said city or village, belonging to said municipality, that he may have in his possession. Said bond shall be approved by the said commission and filed with the city or village treasurer, as the case may be. The compensation of said secretary for his said services shall be fixed by the said commission in a sum not to exceed seventy-five dollars (\$75) per month, the same to be when so fixed full compensation for services performed as secretary of said commission, which compensation shall be paid out of the treasury of said municipality. Said commission shall be authorized and fully empowered, and it is hereby authorized and fully empowered to revoke its said appointment and discharge its said secretary any time it may see fit and whenever it does so revoke such appointment and discharge its secretary it shall have and is hereby given the power and authority to reappoint and employ such other secretary as it may desire or determine. ('07, c. 412, § 5, amended '11, c. 239, § 1; '27, c. 357) [1811]

For Laws, 1895, c. 8, see notes at the end of this chapter (c. 9).

1857. Powers of commission—Said commission shall have full, absolute and exclusive control of and power over the water, light, and power plant or plants, and all parts, attachments and appurtenances hereto, and all apparatus and material of every kind and description used or to be used in operating said plants, or any or either of them in all said municipalities aforesaid, including all other public buildings and halls owned by said municipality. They shall have the power and authority to operate the same and each thereof, and to extend, add to, change or modify the same, and to do any and all things in and about the same which they may deem necessary for a proper and economical operation of the same; provided, they shall not have the right to sell, lease, rent or in any way dispose of or incumber, or suffer, or permit, the said property or any part thereof, to come under the control of any other person or corporation whatever, provided, however, this shall not prevent the said commission from renting or leasing public halls or buildings for public use and entertainments. They shall have authority to buy all material, and employ all help necessary, or they may contract to extend, add to, change or modify said plants, buildings and halls, or any part thereof; they shall also have authority to buy all fuel

and supplies, and employ all help necessary to operate said plants. ('07 c. 412 § 6) [1812]
113-237, 129+377; 117-323, 136+402.

1858. Rates, how fixed—Warrants—Publication of proceedings—Said commission shall fix all water and lighting rates to patrons, and rents for public halls and buildings as hereinbefore provided; provided, however, that the provisions of this act shall not impair the obligations of existing contracts; said commission shall audit all claims and the said secretary of said commission shall draw his warrant upon the treasurer of said city or village for the amount allowed by said commission, and said warrant shall be countersigned by the president of the said commission. Said commission shall publish in the official newspaper in said municipality at the end of each three months, all proceedings of said commission, together with a detailed statement of all the revenue received by said commission during the three preceding months. This act shall apply to all cases where the plant or plants or buildings are wholly or in part within, or wholly or in part without, the corporate limits of said municipality. ('07 c. 412 § 7; amended '11 c. 239 § 2) [1813]
113-237, 129+377.

1859. Act, how availed of—Any city or village in the class mentioned in the title of this act which may wish to avail itself of the provisions of this act shall do so by resolution of its common council, expressly accepting the provisions hereof, which resolution shall be adopted by a vote of a majority of all the members of said council, and be approved by the mayor of such city or the president of such village council, and this act shall not apply to any sub-city or village until the adoption as aforesaid of such resolution. ('07 c. 412 § 8) [1814]

1860. Not to apply to cities under home rule charters—This act shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to section 36, article 4 of the constitution of this state, and the several acts of the legislature authorizing cities to adopt their own charter. ('07 c. 412 § 9) [1815]

1860-1. Electric light and power plants in cities of fourth class, villages or boroughs—Erection of poles, etc.—In any city of the fourth class, village or borough, howsoever organized, the council or other governing body thereof shall have power to erect poles and string wires and cables thereon within the corporate limits of such city, village or borough and install in connection therewith such equipment as may be necessary to light the streets of such municipality and furnish electrical current to the inhabitants thereof; and shall have power to connect such a system of poles, wires and cables with an electric light and power plant being maintained and operated without the corporate limits of such city, village or borough, whether the same is being so maintained and operated as a municipal plant or otherwise, by erecting poles along any public road or highway and extending from such city, village or borough to such electric light and power plant, subject to the provisions of law relating to the use of public roads, highways and streets by light and power companies and string along such poles wires and cables for the transmission of electrical current from such plant to the system of poles, wires and cables erected in such city, village or borough; and such council may enter into such contract or contracts for and on behalf of its municipality and the inhabitants thereof for furnishing electrical current and power as to it may be deemed advisable and may

prescribe the rates to be charged for such current and power. ('23, c. 29, § 1)

1860-2. Same—Submission to voters—Before incurring any expense under the powers conferred by Section 1 of this act the approval of the voters of such city, village or borough shall first be had at a general or special election held therein. If a majority of the voters of such city, village or borough participating at such election shall vote in favor of the construction of the system of poles, wires and cables herein authorized to be made, the council shall proceed with such construction. ('23, c. 29, § 2)

1860-3. Same—Bond issue—The expense incurred in carrying out the provisions of this act may be paid out of any money in the general fund of the city, village or borough available for the purpose. If there is no money in such fund available, the bonds of the city, village or borough may be issued under and pursuant to the provisions of Chapter 10 of the General Statutes of Minnesota for 1913. The proposition of constructing a system of poles, wires and cables and the proposition to issue bonds therefor may be submitted at the same election. ('23, c. 29, § 3)

Explanatory note—For chapter 10 of G. S. '13 see c. 10, herein.

1861. Inspectors of gas, electric light, heat and water meters—That in addition to the powers heretofore granted by law to the cities and villages in this state, which power shall not be limited or abridged by the provisions of this act, there is hereby granted to the council or governing board of any such city or village the power and authority to appoint inspectors of gas, electric light, heat and water meters. ('07 c. 343 § 1) [1816]

1862. Powers and duties—Term—Salary—Such inspector shall have power and authority to, at all reasonable hours, inspect and read any gas, electric light, heat or water meters, whether the same be connected with a plant owned by such municipality, or owned or operated by any person, corporation or association in said city or village. Such inspection may be made either under the direction of the council or governing board of any such city or village, or at the request of any private owner or patron of any such gas, electric light, heat or water plant, and such inspector—when requested or required so to do—shall report upon the condition of any such meter and in reference to such other matters concerning the same as shall be required of such inspector, that the term of office of such inspector shall not be for a longer period than two years and that the said inspector's salary shall not exceed fifteen hundred dollars annually. ('07 c. 343 § 2) [1817]

1863. Compensation and term, how fixed—The council or governing board of any such city or village shall have the power and authority to fix and determine the compensation to be paid to or received by such inspector, and his term of office. ('07 c. 343 § 3) [1818]

1864. Extending water pipes on streets, etc.—Any city or village in the state of Minnesota now or hereafter owning and operating water works is hereby authorized to extend its water works and water pipes over, under and along any road, street, alley or public highway in this state, whether within or without the corporate limits of such city or village, and to supply water for a reasonable compensation to the occupants of property adjacent or accessible to the line so extended, whether within or without the corporate limits of such city or village; provided, however, this act shall not be construed as granting any rights to any

city or village within the corporate limits of any other city or village; provided, further, that such line shall be so extended as not to interfere with the safety or convenience of ordinary travel over said roads, streets, alleys and public highways. ('05 c. 228 § 1) [1819]

1865. Leasing, selling or abandoning of water works and lighting plants—Any village or city of the fourth class in this state wherein there is constructed and in operation water works and lighting plant or water works or lighting plant for supplying water and light, or either of them, for public purposes or for the private use of its inhabitants or both, owned by any such city or village, may by resolution or ordinance of its governing body, passed and adopted in the usual manner, sell, lease or abandon any such plant or any specific part thereof; if a specific part of such plant is to be sold, leased or abandoned, such resolution shall state the specific part to be so sold, leased or abandoned. Before any such resolution or ordinance shall become effective, the same shall be submitted to the legal voters of such village or city at a regular village or city election or special election therein and approved by a two-thirds vote of the electors voting thereon at any such election. The ballots at any such election shall be printed and contain in full the resolution or ordinance to be voted upon and thereon immediately following the resolution or ordinance, there shall be printed in appropriate manner the words "yes" and "no" on separate lines and every voter desiring to vote in favor of such proposition shall thereupon make his cross (X) mark opposite the word "yes" and every voter desiring to vote against such proposition shall make such mark opposite the word "no." In case of villages such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for village officers, and in case of cities of the fourth class, such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for city officers in the respective cities of the fourth class according to the law or charter governing such city. ('17 c. 172 § 1)

§ 4 repeals '15 c. 79.

1866. Execution of lease, etc.—Thereupon if any such proposition shall be declared adopted and carried at any such election, the proper officers of any such village or city of the fourth class shall forthwith proceed to carry out the same according to such resolution. ('17 c. 172 § 2)

1867. Application—This act shall apply to all villages in this state and to all cities of the fourth class however organized and whether operating under general or special laws or home rule charters, or otherwise. ('17 c. 172 § 3)

1868. Park boards—There may be created, in the discretion of the governing board thereof, in every city or village in the state of Minnesota, having a population of less than twenty thousand and more than one thousand inhabitants, a park board with powers and duties hereinafter provided. ('09 c. 441 § 1; amended '23 c. 26 § 1) [1820]

1869. Population, how determined—In determining the population of any such municipality, the last census taken thereby by authority of the state of Minnesota or of the United States government shall be conclusive as to the population thereof for the purposes of this act. ('09 c. 441 § 2) [1821]

1870. Board, how constituted and appointed, etc.—Said board shall consist of three members and shall be appointed by the mayor of the city or president

1865
31 — 133

1865
242nw 714
See 1764

of the village council and confirmed by the common council of said city or village; and when first created one shall be appointed for the term of one year, one for the term of two years, and one for the term of three years, and said members shall hold their offices for the term of three years and until their successors are appointed and qualified; and each member so appointed shall qualify within ten days after notification of his appointment by subscribing an oath that he will faithfully and impartially perform the duties of his said office, and shall file his said oath in the office of the village recorder or the clerk as the case may be. There shall be appointed each year thereafter by said council one member of said board whose term of office shall be three years, and each member of said board shall be president thereof during the last year of the term for which he is appointed. ('09 c. 441 § 3) [1822]

1871. Powers and duties—Said park board shall have full, absolute and exclusive control of, and power over, all real estate now or hereafter acquired by said municipality and set apart for park or boulevard purposes therein or in adjoining territory, and all public property used therein or therefor. Said board shall have power and authority to maintain the same, and to beautify and improve any and all such lands and the approaches thereto for the benefit of the general public; to erect and construct therein such roadways and paths, buildings, fountains, toilet rooms, or other improvements necessary to meet the requirements of the visiting public; to buy all necessary material and fuel required to carry out the provisions of this act; to make such reasonable rules and regulations for the government of the same as may be deemed necessary and proper; to employ such help in and about the conduct of such parks and boulevards as may be found necessary; to provide musical and other free entertainment for the general public; to employ a secretary at a salary not exceeding five hundred dollars per annum, whose duty it shall be to keep a full and complete record of all the transactions of said board, attend its meetings, and do and perform such other duties as may from time to time be required of him, by said board; to employ an attorney if found necessary to assist the board at a salary of not exceeding five hundred dollars per annum; to fix the compensation of any and all persons employed by said board; to audit and allow all just claims for labor, services or material furnished by order of said board, and endorse its approval of such claims thereon when allowed, which claims when so audited and allowed and endorsed shall be presented to the council of said municipality for payment and paid by said municipality as other claims are paid; provided, said board shall not have the right to sell, rent, lease or in any other way dispose of or encumber, or suffer, or permit the said property, or any part thereof, to come under the control of any other person or corporation whatever. Said board shall also have power and authority to receive on behalf of said municipality any proper donations of statuary, shrubbery, trees, material, or other personal property for use in and about the said parks and boulevards. Said board shall make detailed report of all its doings and proceedings to the council at least once in three months. ('09 c. 441 § 4; amended '23 c. 26 § 2) [1823]

1872. Compensation of members—Said members of said board shall serve without compensation except such as may be provided by the council of said municipality, which council shall in no case fix any greater compensation for service of each of such members than one hundred dollars per annum, which said salary, if

any be allowed, shall be paid by the municipality as other claims are paid by it; and nothing in this act shall be construed so as to prevent any person from holding membership in said board, and also in the light, water and power commission. ('09 c. 441 § 5) [1824]

1873. Act, how availed of—Any city or village mentioned in the title of this act which may wish to avail itself of the provisions hereof shall do so by resolution of its council, expressly accepting the provisions hereof, which resolution shall be adopted by a majority of all the members of said council and approved by its presiding officer, and this act shall not apply to any such city or village until the adoption as aforesaid of such resolution. This act shall not be construed as in any manner superseding, repealing, amending or qualifying the provisions of any home rule charter heretofore adopted by any city or village under the laws of this state, and this act shall not in any manner apply to any such city or village. ('09 c. 441 § 6) [1825]

1874. Boulevards, power to construct or rebuild—Whenever the village council of any village, incorporated under the General Laws of this state, or the common council of any city having a population of ten thousand inhabitants or less, incorporated under the General Laws of this state, shall deem it necessary and expedient to construct or rebuild any boulevard in said village or city, they may, acting on their own motion, and if a majority of the owners of the property fronting on the street or streets where it is proposed to construct a boulevard, shall petition the village council or common council of any such city therefor, they shall adopt a resolution to that effect, which resolution shall specify the place or places where such boulevard shall be constructed, the width, the size and manner of construction thereof, and the time within which the same shall be completed, which shall not be less than forty days after the service of said resolution, as hereinafter provided. Said resolution shall contain the names of the owners of all lots, parts of lots, and parcels of ground fronting the street or streets where such boulevards are to be constructed. ('05 c. 330 § 1) [1826]

1875. Service of resolution—Such resolution shall be served upon the persons named in said resolution at least forty days prior to the time therein named for the completion of said boulevard in the following manner:

First—By causing a copy thereof to be handed to, and left with, each of the persons therein named who are residents of and within said village or city, and are actually therein.

Second—If any of the persons so named in said resolution are not residents of said village or city, or cannot be found therein, then said resolution shall be published in one issue of a newspaper regularly published in said village or city, in the English language, and having a general circulation therein, or in the designated official paper of said village or city.

Third—If there be no such newspaper published in said village or city, then such service and publication may be made by posting a copy of said resolution in at least three public places in said village or city, at least forty days prior to the time named therein for the completion of said walk or sewer.

Affidavits shall be made by the person serving or posting said resolution of the manner, time and place of serving or posting the same, and by the foreman, editor or publisher of such newspaper of the time and manner of publishing the same, and such affidavits shall be attached to said resolution and, with it, filed

with the village or city recorder. Any and all such services, when made in accordance with the provisions of this act, shall for the purposes thereof, be deemed personal services of such resolution upon the persons named therein. ('05 c. 330 § 2) [1827]

1876. Assessments—If such work shall not be fully done, and said boulevard shall not be fully constructed or rebuilt in the manner and within the time prescribed in said resolution, then the village council or common council of said city may order the same to be done by the street commissioner, or commissioners of public works, or cause the same to be done by contract let to the lowest responsible bidder, the entire expense thereof to be paid out of the general (revenue) funds of said village or city. At any time within thirty days after said village or city shall have completed the construction of said boulevard as aforesaid, the village council or common council of such city shall adopt a resolution fixing a time and place when and where they shall hear testimony of all persons interested or affected and ascertain the amount of benefits to property fronting such boulevard by reason of the construction thereof, and such resolution shall be served on all the persons named in the resolution adopted under section one of this act, and in the manner therein provided. At the time and place named in said resolution said village council, or the common council of said city, shall hear any and all testimony offered by or on behalf of all parties interested or affected by the construction of said boulevard and for said purpose the president of the council or other presiding officer is hereby authorized to administer oaths to witness. Thereupon by resolution, the village council, or common council of said city, shall determine the amount of benefits caused by said construction, to each lot, part of lot, or parcel of ground fronting the street or streets where such boulevard shall have been constructed or rebuilt as aforesaid; and a full and complete record thereof shall be made and kept by the village or city recorder in a separate book kept for that purpose, which record shall contain a description of the property benefited and charged with the construction of such boulevard, the amount of benefit determined in each case as aforesaid, and when so determined the amount of each annual installment thereof; when transmitted to the county auditor of the county for assessment; the amount paid hereon and when paid. Such record to be used in making each annual levy and assessment, as in this act provided. The amount of (the) benefits to each lot, part of lot, or parcel of ground so determined as aforesaid, shall be and become a charge against the same and shall be assessed thereon, as (in) the case of county, city or state taxes in three annual installments. ('05 c. 330 § 3) [1828]

1877. Issue and sale of treasury orders—If such assessments for either or any of the purposes aforesaid be not fully paid to the street commissioner, village or city treasurer, or other officer authorized by law to collect the same, within twenty days after said boulevard has been fully constructed or rebuilt, as aforesaid, the village council, or common council of said city, may issue, or cause to be issued, the orders of said village or city, on the treasurer thereof for the aggregate amount of the unpaid balance of each of said assessments, payable in three annual installments, each of which installments shall be represented by a separate order, bearing interest at a rate to be determined by said village or city council, not exceeding 6 per cent per annum, from their date until maturity, and payable as follows: One payable on or before the first day of June, of the year next following the issuing thereof;

one payable on the first day of June of the second year next following; and one payable on the first day of June on the third year next following. Said orders shall be made payable to bearer, and the same may be issued, negotiated and sold by said village or city for not less than their par or face value. All said orders shall be in substantially the following form:

\$..... Dated at, Minnesota,..... 19....

The treasurer of the (village or city) of..... will pay to the bearer hereof the sum of..... dollars and cents on or before the first day of June, A. D. 19...., with interest thereon at the rate of per cent per annum from date hereof until maturity. This order represents one-third of the amount expended in the construction of a boulevard in said (village or city) in the year 19....

A record of all said orders shall be made and kept by said village or city recorder, which record shall show the date same was issued, amount of order, date when due, to whom sold, amount sold for, and for what purpose the same was issued, when the same was paid, and the amount paid as shown by the treasurer's books. Books shall be provided for said purpose. ('05 c. 330 § 4) [1829]

1878. Tax levy—After the completion of said boulevard as aforesaid by said village council or common council of said city, said village council or common council of said city, shall annually, on or before the first day of October of each year, until the whole of said assessments have been levied as herein provided, cause a statement of the amount of one of the said three annual installments, with six per cent annual interest thereon computed from the time of completion of said work to the first day of June following the making of said levy added thereto, to be transmitted, with the village or city taxes for that year, to the auditor of the county, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection and payment thereof, and the same shall be enforced with, and in like manner, as city, county and state taxes are collected and payment thereof enforced. After the completion of said boulevard the owner or owners of said land adjoining the same, or interested therein, shall have the privilege of paying all or any portion of the cost of construction thereof to said village or city at any time within twenty days thereafter, and before said levy has been made, and the amount so paid shall be deducted from the amount of said assessment. ('05 c. 330 § 5) [1830]

1879. Application—Chapter forty-nine of the General Laws of Minnesota for the year 1899, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Provided, however, that this act shall not apply to any city or village of this state having a population of less than ten thousand operating under a special law or special charter. Provided, further, that this act shall not in any way affect any assessments heretofore made by any city or village or any assessments hereafter to be made by any city or village upon any contract made prior to the time when this act shall take effect. ('05 c. 330 § 6) [1831]

1899 c. 49, was repealed by § 9307.

1880. Sewer systems—In any city of this state having a population of ten thousand (10,000) or less, and in all villages and boroughs of this state, whether organized under the General Laws or a special law, the city, village or borough council shall have power to

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maintain and extend any existing sewer system, to relay, alter or extend any existing sewer system and to establish and maintain a general system of sewers, to create sewer districts, and change, diminish or enlarge the boundaries thereof from time to time; to establish and maintain sewage treatment plants when deemed necessary. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 2; '21 c. 295 § 1)

166-202, 207+309.

1881. **Classification of sewer systems**—The city, village or borough council may at any time establish a general sewer system, and may classify sewers as general, district, joint-district and lateral. General sewers shall be the designation of such large sewers as shall be common to the entire city, village or borough or used as outlets for district or joint-district sewers, and shall not include those which may or shall be constructed for the immediate draining of any particular district. District sewers shall be the designation of all main sewers laid for the immediate draining of a particular sewer district. Joint-district sewers shall be the designation of such large sewers as may be laid through or be used jointly by two or more sewer districts between a district sewer and a general sewer or independently of general sewers, and for all purposes of construction, maintenance, repairing and taxation or providing for the cost therefor, shall be treated as though in a single district. Lateral sewers shall be the designation of all sewers of whatever size, capacity or length, which may be constructed to drain any portion of a sewer district directly into any district, joint-district or general sewer. Sewer districts shall be wherever practicable laid out to include any particular portion of the city, village or borough, which may be drained entirely by itself, or which may be first drained by itself and then through connection with a general sewer. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 3)

1882. **Location of sewers**—All general, district and joint-district sewers shall be laid when practicable, in public grounds, streets or alleys. Whenever it shall be necessary in the judgment of the city, village or borough council to lay and maintain any general, district, joint district, or lateral sewer in or through other than public lands, the city, village or borough, may acquire the right thereto by purchase, or by condemnation under the right of eminent domain. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 4)

1883. **Ordinance for improvement**—No action shall be taken for the extension of any existing sewer nor for the construction of an entire or partial system, except upon the adoption of an ordinance or resolution by a majority vote of all the members of the city, village or borough council. The creation of sewer districts and the alteration of the boundaries thereof shall be by ordinance, and the council may at all times cause inspections, surveys, plans and profiles to be made by the city, village or borough engineer, or other competent engineer to be selected by the city, village or borough council, and reported to the city, village or borough council for its guidance in determining the form and extent of any sewer district to be created, enlarged or diminished; and such sewer districts shall be consecutively numbered. ('03 c. 312, amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 5)

1884. **Cost of system**—The cost of constructing a general sewer, plant or plants for treating the sewage therein or the securing an outlet therefor shall be paid out of the sewer fund, if any, or if there is no sufficient sewer fund, then out of the general revenue fund of the city, village or borough. ('03 c. 312;

amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 6; '21 c. 295 § 2)

1885. **Spreading of assessments**—The cost of constructing any district sewer, plant or plants for treating the sewage therein and the securing of an outlet for such district sewer or treatment plant into any county or judicial ditch, may be assessed against all the land in the sewer district subject to assessments for local improvements, according to special benefits to each lot, piece or parcel of land in the district without regard to cash valuation. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 7; '21 c. 295 § 3)

1886. **Assessments in more than one district**—The cost of constructing every joint district sewer, plant or plants for treating the sewage therein and the securing of an outlet for such joint district sewer or treatment plant, into any county or judicial ditch, may be assessed against all the land in the two or more sewer districts which it drains, and for that purpose all of the districts so drained by any joint district sewer shall be treated as one district, and the same plant, method and means employed as in assessing for the cost of a district sewer, treatment plant for same or outlet therefor. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 8; '21 c. 295 § 4)

1887. **Cost of lateral sewers**—The entire cost of constructing all lateral sewers may be assessed against every lot, piece or parcel of land abutting thereon, subject to assessment for local improvement at an equal sum per front foot without regard to cash valuation. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 9)

1887-1. **Cost of sewer serving as lateral and as district or joint district sewer**—In case a sewer shall be so constructed that it serves both as a lateral and as a district or joint district sewer, or as a relief for either, the council shall first determine what the cost of constructing such sewer would be if used solely as a lateral, and that amount shall be assessed against the abutting property in the manner provided for assessing for lateral sewers; and, second, determine the amount over and above the cost of such lateral sewer which is caused by reason of constructing said sewer so as to be used as a district or joint district sewer or relief for either, and such excess cost shall be paid in the same manner as provided for the payment of joint or joint district sewers as the case may be. ('15, c. 35, § 9a, added '25, c. 144, § 1)

1888. **Estimate of cost**—Whenever the city, village or borough council shall determine by ordinance or resolution to alter, repair, relay or extend any existing sewer, or to construct any new sewer, the cost thereof shall be estimated by the city, village or borough engineer or some other competent engineer to be selected by the city, village or borough council, who shall draw plans and specifications and tabulate the results of his estimate of the cost, and report the same to the city, village or borough council; and such plans and specifications shall be filed with the clerk or recorder of such city, village or borough before any proposals for bids for work thereunder shall be advertised, and shall remain on file, open to the inspection of all persons until after the contract for such work shall be let and copies of such plans and specifications shall be furnished by the engineer who shall prepare the originals, to any person applying therefor, at a cost of seventy-five cents per hour for the time necessarily employed in making such copies. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 10)

1889. Advertisements for bids—The city, village or borough council shall then cause proposals for bids for such work to be advertised in the official paper of the city, village or borough, and in a newspaper or trade paper published in a city of the first class in the state, at least once in each week for three successive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for the work, and shall state the time within which bids will be received and the exact time at which the same will be opened for consideration by the city, village or borough council. For the purposes of this act, a trade paper in order to be qualified as a medium of such proposals for bids shall have all the qualifications prescribed for a legal newspaper in Section 9413 of General Statutes of Minnesota for 1913 and the amendments thereto except that instead of the requirement that it shall contain general and local news as provided by sub-division 3 of said Section, such trade paper may and shall contain in lieu thereof, building and construction news of interest to contractors in this state among whom it shall have a general circulation. No bid shall be considered unless the same shall be accompanied by a cash deposit or duly certified check payable to the order of the treasurer of the city, village or borough or a bidder's bond executed by the bidder as principal, and such corporate surety or personal sureties as shall be approved by the council of such city, village or borough, for at least fifteen per cent of the amount bid, and be directed to the clerk or recorder of the city, village or borough, securely sealed, so as to prevent its being opened without detection, and be indorsed upon the outside wrapper with a brief statement or summary as to the work for which the bid is made. In letting contracts for any such work it shall be the duty of the city, village or borough council to require the execution of a written contract and a bond in such sum as the city, village or borough council may require, conditioned for the faithful performance of the contract and for saving the city, village or borough harmless from any and all liability in the prosecution and completing of the work. The city, village or borough council, if a contract is awarded, shall award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then such defaulting bidder shall forfeit to the city, village or borough the amount of his cash deposit or certified check, and the city, village or borough council may thereupon award the contract to the next lowest responsible bidder; provided the city, village or borough council shall have the right to reject all bids, and provided further, that whenever the estimates made for the city, village or borough council for the entire work projected shall be less than five hundred dollars, then the city, village or borough council, may directly purchase the materials therefor and cause the work to be done by day labor. Every contract awarded under this act shall be made between the city, village or borough as one party, in the name of the city, village or borough, and the successful bidder as the other party, and such contract shall be executed on the part of the city, village or borough by the mayor or executive officer thereof and countersigned by the clerk or recorder of said city, village or borough, with the corporate seal of the city, village or borough affixed, and an attested copy thereof shall be filed and remain in the office of the clerk or recorder of the city, village or borough.

In every contract executed under this act, whether or not so stated therein, there shall be reserved the right

of the city, village or borough council to have the work supervised by the city, village or borough engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, to order and cause suspension of the work at any time and to re-let the contract therefor or to order a reconstruction of any portion of the work improperly done, or where the remaining work to be done or the work of reconstruction to be made shall call for an expenditure of less than five hundred dollars to complete the work of reconstruction by the employment of day labor. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 11; '21 c. 443 § 1)

Explanatory note—For G. S. 1913, § 9413, see § 10935, herein.

1890. Allowance of estimates—In case the contractor to whom any such contract may be let shall properly perform the work therein designated, the city, village or borough council may, from time to time, before the completion of the work, in its discretion, pay to such contractor eighty (80) per cent of the amount already earned thereunder upon the estimate of the city, village or borough engineer or other competent engineer selected by the city, village or borough council. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 12)

1891. Amount of special assessment—Whenever any work or improvement provided for by this act shall have been determined upon and a contract let therefor, or outlet secured, the city, village, or borough engineer, or other competent engineer selected by the city, village or borough council, shall forthwith calculate the proper amount to be specially assessed for such district, joint district and later all sewers, treatment plants or outlet against every assessable lot, piece or parcel of land within sewer district affected, without regard to cash valuation, in accordance with the provisions of Sections 7, 8 and 9 of this act.

Provided that no property shall be especially assessed for the cost of a sewer in excess of the cost of a sewer twenty-four inches in diameter, and that whenever any district, joint district or lateral sewer of larger diameter than twenty-four inches shall be laid or re-laid, the cost thereof in excess of the estimated cost of a like sewer twenty-four inches in diameter shall be paid out of the sewer fund, if any, or in case there is no sufficient sewer fund, then out of the general revenue fund of the city, village or borough.

Provided further, that in calculating the special assessment for any district sewer or joint district sewer, the cost of laying or relaying such sewer in any public ground, street or alley; and all catch basins, manholes, lamp holes and flushing valves and tanks and treatment plants shall be taken as a part of such district sewer or joint district sewer and to be paid for by such special assessment.

And provided further, that private owners may lay, relay, or extend any lateral sewer through any public ground, street or alley and connect the same with any general, district or joint district sewer, upon permission granted by a majority of the city, village or borough council, and that any private owner alone, or two or more owners jointly, may lay, relay, or extend lateral sewers through private ground pursuant to rights acquired therefor by agreement or purchase from any private owner or owners. In the event that any private owner alone or jointly with others lay, relay or extend any such lateral sewer through public ground, the city, village or borough shall not be or

become in any manner or in any respect liable for any act or negligence involved therein.

When such engineer shall have finished his calculation of the amount to be specially assessed, as aforesaid against each lot, piece or parcel of land in the sewer district affected, he shall at once prepare and file with the clerk or recorder of the city, village or borough tabulated statements in duplicate, showing the proper description of each and every lot, piece or parcel of land to be specially assessed and the amount he has calculated against the same, and such statement shall be the basis of the assessment and be known as the proposed assessment to be made by the city, village or borough council, as hereinafter prescribed, and shall be laid before the city, village or borough council for its approval at its next regular meeting, to be held not less than ten (10) days thereafter. The clerk or recorder of the city, village or borough shall thereupon cause notice of the time and place when and where the city, village or borough council will meet in regular session to pass upon such proposed amendment, to be published in the official paper of the city, village or borough at least ten (10) days prior to such meeting of the city, village or borough council.

During all the time between the filing of such proposed assessment with the clerk or recorder of the city, village or borough and such meeting of the city, village or borough council such proposed assessment shall be open to inspection and copying by all persons interested.

At such meeting of the city, village or borough council all persons aggrieved by such proposed assessment may appear before the city, village or borough council and present their reasons why such proposed assessment or any particular item thereof should not be adopted, and the city, village or borough council shall hear and pass upon all objections thereto, if any, and may alter, or affirm and adopt such proposed assessment as may be deemed just in the premises, and upon the adoption by resolution of such proposed assessment the same shall be certified by the clerk or recorder of the city, village or borough and filed in his office and shall thereupon be and constitute the special assessment. The amount assessed against each lot, piece or parcel of land by such special assessment shall bear interest from the date of the adoption of such special assessment until the same have been paid, the rate of interest to be designated by a resolution of the city, village or borough council at the time of the adoption of such special assessment but not to exceed six per cent (6%) per annum, and such special assessment, with the accruing interest thereon, shall be paramount lien upon the property included therein from the time of the adoption of such assessment by the city, village or borough council and shall remain such lien until fully paid, and shall have precedence over all other liens, except general taxes and as to such shall be concurrent, and shall not be divested or impaired by any judicial sale and no mistake in the description of the property or in the name of the owner shall invalidate the lien.

The city, village or borough council may at any time by resolution direct the clerk or recorder of the city, village or borough to make up and file in the office of the county auditor a certified statement of the amount of all such unpaid assessments and the amount of interest which will be due thereon on the first day of January of the following year, and the clerk or recorder of said city, village or borough shall within twenty (20) days thereafter make up and file such certified state-

ment in the office of the auditor of the county, which statement shall also contain a description of the lands affected by the assessment. Such resolution may also direct that such special assessment shall be payable in equal annual installments not exceeding ten, and payable on the first day of January of each year, each of said installments to bear interest at the rate hereinbefore provided until fully paid, provided in case such assessments are made to cover the cost of securing an outlet for a district or joint district sewer into a county or judicial ditch and in the order granting such outlet, the charge therefor is made payable in installments, then the assessment levied to cover same may be made in like installments payable at the same time and with interest at the same rate as may be necessary to meet such obligation, and the certified statement of the clerk or recorder shall in this case show the amount of each of such installments, the date when each installment becomes due and the amount of interest to be paid on each installment in each year. After said statement is filed in the office of the County Auditor it shall be the duty of such Auditor to extend upon the tax roll of each year the amount of such assessment or installment thereof, as the case may be, and the amount of interest which will become due on the first day of January of the following year as shown by said certified statement against the different lots or parcels of land therein described, and such amounts when so extended each year shall be carried into the tax becoming due or payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of the state and county taxes and the assessments and interest paid to the County Treasurer shall be paid over by him to the Treasurer of such city, village or borough upon the apportionment of general taxes, but in case such assessments or installments thereof are to cover payments due for a district or joint district sewer outlet as herein provided, then such payments shall be applied on same. Provided that any person named at any time before the transmission of the certified statement of the clerk or recorder of such city, village or borough to the County Auditor pay such special assessment as to any lot, piece or parcel of land affected thereby, together with the interest accrued thereon at the date of such payment, to the city, village or borough treasurer, and receive the proper receipt therefor, and the clerk or recorder of the said city, village or borough shall upon the presentation of such receipt from said city, village or borough treasurer, cancel upon the special assessment roll the special assessments so paid.

Provided further, that any person may pay any such assessment with accrued interest thereon after the same has been so certified to the County Auditor, provided the tax roll containing such assessment has not in due course been delivered to the county treasurer for collection and the receipt of such city, village or borough treasurer shall be sufficient authority upon presentation to the county auditor for him to mark such assessment "paid" upon his roll, but after the roll has been delivered to the county treasurer for collection, the said assessment must be paid to him, with the penalties allowed by law.

The same penalties and interest shall attach and be collected by the county treasurer on assessment as upon general taxes, which penalties and interest shall belong to the city, village or borough and to be turned over by the county treasurer to the city, village or borough with the assessments. ('03, c. 312; amended

'07, c. 141; '09, c. 364; '09, c. 385; '13, c. 396; '15, c. 35, § 13; '21, c. 295, § 5; '25, c. 145)

For sections 7, 8 and 9 of this act, see §§ 1885 to 1887, herein.

1892. Supplemental assessment—In case of omission, errors or mistakes, in making such assessments in respect of the total cost of such improvement, or otherwise, it shall be competent for such city, village or borough council to provide for and make supplemental assessments to correct such omission, errors or mistakes; and such supplemental assessments shall be a lien as in case of the original assessment, drawing interest at the same rate and be payable and enforceable in the same manner as is herein provided with respect to the original assessment. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 14)

1893. Fund for each proposed sewer—All moneys collected on any such special assessments, other than to pay for sewer or treatment plant outlets, shall constitute a fund for the payment of the cost of the improvement in the district for which such assessment was made, and the same shall be credited to the proper sewer district fund under the designation: "Fund of Sewer District No." and in anticipation of the collection of such special assessment the city, village or borough may issue warrants on such fund, to be known as "sewer warrants" payable at such times and in such amounts as, in the judgment of the city, village or borough council, the collections of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed six (6) per cent per annum, payable annually, and may have coupons attached representing each year's interest. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the mayor or executive officer and countersigned by the clerk or recorder of the city, village or borough and be in denominations of not less than fifty dollars nor more than five hundred dollars. Such warrants may be used in making payments on contracts for the improvements or may be sold by the city, village or borough for not less than par and the proceeds thereof used in paying for such improvement. It shall be the duty of the city, village or borough treasurer on presentation to pay such warrants and interest coupons as they mature, out of the proper sewer district fund, and to cancel the same when paid. If any such warrants shall become due, or any interest shall become due on any such warrant, when there are no funds to pay the same, the city, village or borough council is hereby authorized to effect a temporary loan for the payment thereof. ('03 c. 312, amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 15; '21 c. 295 § 6)

1894. Payment of warrant—Any matured sewer warrant or interest coupon may be used in payment of any such special assessment on any particular property situate within the district for which such warrant or coupon shall have been issued; and the warrants and coupons so used shall be cancelled and retired by the city, village or borough treasurer. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 16)

1895. Conveyance not to be recorded until assessments are paid—No conveyance of any land upon which any such special assessment, or portion thereof, is due and unpaid, shall be recorded until such delinquent assessment, or portion thereof, shall have been paid. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 17; '19 c. 261 § 1)

1896. Proceedings for denoting lots and parcels of land—In all proceedings and records prepared or used in the making, levy or collection of such special assessments, letters, figures and proper ditto marks may be used to denote lots, pieces and parcels of land, and blocks, sections, townships, ranges and parts thereof and dates. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 18)

1897. Assessment not to be invalidated by errors or omissions—No error or omission which may be made in any of the proceedings of the city, village or borough council or any officer of such city, village or borough, in refusing to, reporting upon, ordering or otherwise acting, concerning any local improvement provided for in this act, or in making any such special assessment or in levying or collecting the same, shall invalidate such assessment; unless it shall appear that by reason of such error or omission substantial injury has been done to the party claiming to be aggrieved. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 19)

1898. Reassessment in case proceedings are set aside—In all cases where any assessment, or any part thereof, as to any lot, lots or parcels of land assessed under any of the provisions of this act, or of any law of any city, village or borough prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside, or declared void by any court, the city, village or borough council shall, without unnecessary delay, cause a reassessment or new assessment to defray the expenses of such improvement to be made, whether such improvement was made under this act or any laws of any city, village or borough prior to this act, and such reassessment or new assessment shall be made as nearly as may be, as herein provided for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the city, village or borough council, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act and in all cases where judgments shall hereafter be refused or denied by any court for the collection and enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lot or parcel may be reassessed or newly assessed from time to time, until each separate piece or parcel of land has paid its proportionate part of the costs and expenses of said improvement as near as may be. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 20)

1899. Prior assessments validated—Nothing in this act shall effect any valid assessment made by any city, village or borough prior to the passage of this act, but all such prior assessments shall be collected in accordance with the provisions of law in respect of the same in force prior to the passage of this act, provided, that the provisions hereof applying to the levying of assessments and collection thereof for sewer or sewage treatment plant outlets into county or judicial ditch, shall apply to such outlet heretofore obtained as well as those hereafter if the charges therefor were made due and payable at future day or dates and have not yet been paid, or provision made for the payment thereof. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 21; '21 c. 295 § 7)

1900. Hearings on proposed assessments—The notice of the time and place when and where the city, village or borough council will meet in regular session to adopt any proposed assessment under section 13 of this act, and to be prepared by the clerk or recorder of such city, village or borough and published, shall

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specify the particular sewer district or districts in which the improvement is to be made and shall describe with all reasonable certainty the location, extent and termini of the sewer or sewers to be laid, re-laid or extended; provided that no omission or inaccuracy in such notice shall invalidate the notice or the assessment, unless substantial injury shall be shown by the person claiming to be aggrieved thereby.

When the city, village or borough council shall meet for the purpose of adopting any proposed assessment under the provisions of section XIII of this act, no grievance or objection thereto, or to any item therein shall be heard by the city, village or borough council, unless the party objecting, or his duly authorized agent or attorney shall on or before the date of such session of the city, village or borough council file with the clerk or recorder of such city, village or borough for presentation to the city, village or borough council, a complete written statement of the objection with specific reference to the matter or items called in question and to which objection is made. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 22)

Section XIII referred to is § 1891, herein.

1901. Appeals from special assessment—Any person feeling himself aggrieved by such special assessment may, by notice in writing served upon the mayor or executive officer, and also upon the clerk or recorder of the city, village or borough, a copy whereof, with proof of service shall be filed in the office of the clerk of the district court of the proper county, within twenty days after the adoption of such special assessment, appeal from such special assessment to the district court aforesaid, and such appeal shall be disposed of in a summary manner by the court. And at the trial of such appeal no pleadings shall be required, but the party appealing shall in his notice of appeal specify and enumerate the particular grounds of his objection to such special assessment, and shall not be entitled to have considered on such appeal any grounds of objections or items other than those specified in such notice, and no question shall be tried on such appeal as to any fact which may have arisen or existed prior to the letting of the contract or contracts for the improvement; and a copy of the assessment roll in question and of the resolution of the city, village or borough council confirming or adopting the same, certified by the clerk or recorder of the city, village or borough, or the originals thereof, shall be prima facie evidence of the facts therein stated or denoted, and that such assessment was regular, just and made in conformity to law, and the judgment of the court on the determination of such appeal shall be final. Such appeal shall be entered and brought on for hearing and be governed by the same rules as far as applicable as in appeals from justices of the peace in civil actions, and like bonds shall be given to the city, village or borough by the person appealing as are required in the appeals from justices of the peace in civil actions, but such bond shall, to render such appeal effective, be approved by the judge of such district court. Provided, that no appeal to the district court shall be made, heard or determined as to such special assessment, or any item therein, unless such objection shall have been, as in this act specified, previously presented to and passed upon by the city, village or borough council. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 23)

1902. Sewer to be kept in repair—Whenever any such sewer shall be laid, re-laid or extended, it shall be the duty of the city, village or borough council to maintain and keep the same in repair, at the expense

of the city, village or borough. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 24)

1903. Connections to be made only on permission—All private connections shall be made with lateral sewers, unless some insurmountable obstacle of a practical or scientific nature shall prevent, and no private connection with any sewer whatever shall in any event be made without formal permission therefor granted by the city, village or borough council, and the making of all private connections with any sewer shall be subject to supervision and control by the city, village or borough council; provided that such supervision and control may be delegated by the city, village or borough council to the city, village or borough engineer or other person to be selected by the city, village or borough council at its discretion. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 25)

1904. Right of eminent domain—Whenever it shall become necessary for the city, village or borough to exercise the right of eminent domain for the purposes included within this act all proceedings therein shall conform as near as may be to the provisions of Sections 2620 to 2632, both inclusive of the General Statutes of 1894 and amendments thereto. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 26)

1905. Act not to affect home rule charter cities or villages—This act shall not be construed as in any manner superseding, repealing, amending or qualifying the provisions of any home rule charter heretofore or hereafter adopted by any city or village under existing laws; under which charter provisions a sewer system has been heretofore established; provided that any proceedings taken or commenced by any city or village under the provisions of this act before the time when such home rule charter shall take effect may be carried out and completed according to the terms and provisions of this act. ('03, c. 312; amended '07, c. 141; '09, c. 364; '09, c. 385; '19, c. 396; '15, c. 35, § 27; '25, c. 144, § 2)

Explanatory note—For this act see §§ 1880 to 1906, herein.

1906. Inconsistent acts repealed—All acts and parts of acts inconsistent with this act, except as qualified in Section 27 hereof, are hereby in all things repealed. ('03 c. 312; amended '07 c. 141; '09 c. 364; '09 c. 385; '13 c. 396; '15 c. 35 § 28)

(See also '17 c. 126, '19 c. 10, '21 c. 195.)

1906-1. Paving bonds in third and fourth class cities—Power to issue—In addition to the rights and powers heretofore granted by law to cities of the Third and Fourth Class in the State of Minnesota, which rights and powers shall not be abridged or affected by this act, there is hereby granted to all cities of the Third and Fourth Class, whether such cities are organized and existing under special act of the Legislature, or charter adopted by the freeholders thereof or otherwise, the right and power to issue bonds for the purpose of paying the costs, or any part thereof, of paving any streets within the limits of said city. ('23, c. 174, § 1)

1906-2. Same — Amount — Maturity — Interest — Sale—Such bonds may be issued in an amount not to exceed \$200,000 and shall be of such denomination and payable at such places, and such time, not exceeding 20 years from the date thereof as may by the council or other governing body be deemed advisable. Such bonds shall bear interest at a rate not to exceed six per cent per annum, and shall have interest coupons

attached, and shall be sold for not less than par and accrued interest in such manner as the City Council or other governing body may designate. ('23, c. 174, § 2)

1906-3. Same—Proceeds of sale of bonds—Form of bonds—The proceeds of the sale of any such bonds shall be placed in the City Treasury of said City; and shall be used only for the purposes above expressed. Said bonds shall bear the seal of the City, be signed by the Mayor, attested by the City Clerk, except that the signatures upon the coupons thereof may be lithographed. ('23, c. 174, § 3)

1906-4. Same—Tax levy—The full faith and credit of any such City issuing such bonds shall be pledged at all times for the payment of the same, and the interest thereon, and such City shall each year levy a sufficient tax to pay the annual interest on such bonds, and the principal of such bonds as shall mature during each ensuing year, or shall provide a sinking fund sufficient to insure the redemption of such bond at maturity. ('23, c. 174, § 4)

1906-5. Same—Limitation of indebtedness—The obligations incurred by any City in the issuing of any bonds pursuant to the provisions hereof shall be considered as a part of its indebtedness under the provisions of its governing act or charter, or of any law of this State fixing the limit of indebtedness of such City, provided that nothing herein contained shall be construed as authorizing any indebtedness in excess of the constitutional provisions limiting home rule charter cities. ('23, c. 174, § 5)

1906-6. Same—Submission to voters—Bonds issued under this act shall be so issued only when authorized by the voters of any such City at a general or special election called for that purpose in the manner herein-after provided. ('23, c. 174, § 6)

1906-7. Same—Conduct of election—All elections provided for in this act shall be called and conducted in the manner prescribed for municipal elections in such cities, and the notices of election shall contain a statement of the amounts and purposes for which such bonds are proposed to be issued with the date of maturity and the rate of interest. All elections provided for in this act may be called by resolution of the common council or other governing body, passed by a majority of all the members thereof, which resolution shall distinctly state the purpose of the election and the question to be submitted to the vote of the people. The ballot to be voted at all elections under this act may read as follows: "In favor of the proposition of issuing bonds for street paving to the extent of Dollars" "Yes" "No." The voters voting in favor of such proposition shall mark a cross (X) opposite the word "Yes" and those against said proposition shall mark a cross (X) opposite the word "No" on said ballot in a space provided for that purpose. If the required number of votes cast at any such election shall be in favor of issuing kind and amount of bonds designated in the ballot the city voting in favor thereof, through its proper officers without further act is authorized to issue such bonds to the amount voted and to sell the same. The votes cast at such election shall be counted, returned and canvassed the same as at other municipal elections. ('23, c. 174, § 7)

1907. Pavements and gutter curbs—In any village of this state, whether organized under a general or special law, now or hereafter having a population of ten thousand (10,000), or less, the common council shall have power to lay and maintain macadam or

pavement and gutter and curbs, upon any of its streets and alleys, with any material which the common council may deem suitable, the council may, upon a petition of the owners of more than one-half the property affected, proceed with such improvement. ('17 c. 364 § 1)

1908. Cost assessed against abutting property—The costs of constructing any macadam, pavement, gutter or curb may be assessed upon the abutting property based upon the number of feet fronting upon said street or alley proposed to be paved or upon the basis of benefits; but the common council may pay the cost of constructing the macadam or pavement across intersecting streets and alleys, and one-half the costs opposite any public park or municipal property, and the entire costs of the gutters out of the general road fund, if any there be, or out of the general fund of said village. ('17 c. 364 § 2)

1909. Ordinance for improvement—No action shall be taken for the construction of any such improvement except upon the adoption of an ordinance or resolution by a majority vote of all members of the common council, at a meeting at which all property owners whose property is liable to be assessed therefor, have been notified to be present, by a notice of such meeting published for two weeks in the official newspaper. ('17 c. 364 § 3)

1910. Branch sewers and water pipes—Owners may be required to lay branch sewers and water pipes—Before making any such improvement the common council may by resolution require the owners of the abutting property to lay branch sewers and water pipes from the mains to the curb or lot line of each lot, and in case any property owner neglects to lay such sewer or water pipe, within sixty days (60) after being served with a copy of said resolution, the council may cause the same to be put in and may assess the cost of the same against the property and collect the same as taxes are collected. All such water pipe connections shall be of lead or such material as the council may prescribe. ('17 c. 364 § 4)

1911. Plans, specifications—Bids—Whenever the common council of any such municipality shall determine by ordinance or resolution to lay any such macadam, pavement, gutter or curb it may cause plans and specifications thereof to be made and filed with the recorder or clerk of such municipality and may advertise for bids for such improvements in the official paper and such other paper or papers as the council may deem advisable, once in each week for three successive weeks, which advertisement shall specify the work to be done and shall call for such bids on the basis of cash payment for such work and shall state the time when the bids will be open and considered by the council; no bids shall be considered unless sealed and filed with the clerk or recorder, and accompanied by a cash deposit or certified check payable to the clerk or recorder, for at least ten per cent (10%) of the amount of such bid.

In letting contracts for any such work, it shall be the duty of the common council to require the execution of a written contract and a bond in such sum as the council may require, conditioned for the faithful performance of the contract and for saving the village harmless from any and all liability in the prosecution and completing of the work; and conditioned further for the payment of all material used and labor performed thereon. The common council, if a contract is awarded, may award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written

contract and to furnish such bond, then such defaulting bidder shall forfeit to the municipality the amount of his cash deposit or certified check, and the council may thereupon award the contract to the next lowest responsible bidder; provided the council shall have the right to reject all bids; and provided, further, that whenever the estimates made for the council for the entire work projected shall be less than five hundred dollars, then the council may directly purchase the materials therefor and cause the work to be done by day labor. The village council may have the work supervised by the village engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by a contractor, it may order and cause the suspension of the work at any time and relet the contract therefor, or order a reconstruction of any portion of the work improperly done, and where the work to be done shall call for an expenditure of less than five hundred dollars to complete the work, or the reconstruction necessary, the council may do it by the employment of day labor. ('17 c. 364 § 5)

1912. **Payments to contractor**—In case the contractor shall properly perform the work, the village council may, from time to time, before the completion of the work, in its discretion, pay to such contractor seventy-five (75) per cent of the amount already earned thereunder upon the estimate of the city engineer or other competent person selected by the village council. ('17 c. 364 § 6)

1913. **Spreading of assessment**—After a contract is let, or the work ordered done, if it will cost less than five hundred dollars, the city engineer or other person selected by the council may forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of section 2 of this act. The clerk or recorder may thereupon cause notice of the time and place when and where the village council will meet, to pass upon such proposed assessment, to be published in the official paper of the village at least one week prior to such meeting of the village council.

At such meeting the council shall hear and pass upon all objections thereto, if any, and may if it deems just, alter such proposed assessment, and upon the adoption by resolution of such assessment, the same shall constitute the special assessment. And such assessment, with the accruing interest thereon, shall be a lien upon the property included therein, concurrent with general taxes.

It shall then be the duty of the clerk or the recorder immediately thereafter, to transmit a certified duplicate of such assessment to the county auditor of the county, to be extended on the proper tax lists of the county and such assessment shall be collected and paid over in the same manner as other municipal taxes. Such assessments shall be payable in equal annual installments extending over a period not exceeding ten years, and the interest thereon shall not exceed the rate of six (6) per centum per annum.

Provided, that the owner of any property, so assessed, may at any time pay the whole of such assessment, or any annual installment thereof with interest, as to any lot, piece or parcel of land affected thereby. ('17 c. 364 § 7)

1914. **Omissions and errors**—In case of omission, errors, or mistakes, in making such assessment in respect of the total cost of such improvement, or otherwise, it shall be competent for the council to provide

for and make supplemental assessments to correct such omission, errors or mistake. ('17 c. 364 § 8)

1915. **Warrants to pay cost**—In anticipation of the collections of such special assessment, the village may issue warrants on such fund, to be known as "pavement warrants" payable at such times and in such amounts as the collection of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed six (6) per cent per annum, payable annually, and may have coupons attached representing each year's interest. The warrant shall specify the particular fund against which it is drawn, and shall be signed by the mayor and countersigned by the clerk or recorder, and be in denominations of not less than fifty dollars, nor more than five hundred dollars. Such warrants may be sold by the village for not less than par. If any such warrants shall become due, or any interest shall become due on any such warrant, when there are no funds to pay the same, the village council is hereby authorized to effect a temporary loan for the payment thereof. The municipality may call in and pay any warrants not due on any interest paying date. ('17 c. 364 § 9)

1916. **Reassessment**—In all cases where any assessment or any part thereof, as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any cause whatever, is set aside, the council may cause a reassessment or new assessment to defray the expenses of such improvement to be made. ('17 c. 364 § 10)

1917. **Objections**—The party desiring to object to the assessment, or his duly authorized agent or attorney, shall, on or before the date of hearing upon such assessment, file with the clerk or recorder a written statement of the objections, and all objections not specified therein shall be deemed waived. ('17 c. 364 § 11)

1918. **Appeal to the district court**—Within ten days after the adoption of the assessment, any person, aggrieved, who appeared and filed objections thereto, may appeal to the district court by serving a notice upon the president of the village council, or other chief executive officer of the village, which notice shall be filed with the clerk of the district court within ten days after service thereof. The clerk or recorder shall furnish appellant a certified copy of his objections filed therein, and the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal, the costs incurred, if not paid, shall be included in the special assessment. ('17 c. 364 § 12)

1918-1. **Water mains and appurtenances in cities of fourth class, villages and boroughs—Definitions**—In any city of the fourth class, organized under the general laws or a special or home rule charter, or in any village or borough of this state, the Council shall have power to lay water mains and appurtenances required in connection therewith, such as valves and hydrants and also service connections, along any street or public alley in such city, village or borough for the purpose of supplying water to the inhabitants thereof. By the word "Council," as used in this Act, is meant the governing body, by the word "Mayor," the chief executive officer, and by the word "Clerk," the officer who performs the functions thereof, of such municipality, by whatever title they may be respectively denominated. ('21, c. 425, § 1)

Villages organized under chapter 145, Laws 1885, may at their option proceed with a street paving improvement in one of three methods; (a) Under Chapter 145, Laws 1885; (b) under chapter 65, Laws 1919; (c) under chapter 382, Laws 1925, 166-202, 207+309.

These laws are cumulative in their application. They are not repugnant, but are reconcilable. Neither of these laws creates any repeal by implication. 166-202, 207+309.

Chapter 65, Laws 1919, and chapter 382, Laws 1925, grant powers, and are not construed as imposing conditions or limitations on the municipalities therein mentioned to make public improvements. 166-202, 207+309.

1918-2. Same—Assessment of cost of improvements against abutting owners—The cost of any such improvement, including the cost of engineering, interest during construction and necessary incidental expenses, may be assessed against property abutting upon the street or public alley in which such water mains, appurtenances and service connections are laid, upon the basis of benefits to such property, but the Council may pay the cost of laying such mains across street and alley intersections and one-half of the cost of laying such mains in any street or public alley opposite any public park or municipal property and the cost of fire hydrants and their connections to the mains, and may also pay such portion of the cost of laying such mains between street intersections or between street and alley intersections, as the council may determine. ('21, c. 425, § 2)

1918-3. Same—Resolution for improvements—Publication—No action shall be taken for the making of any such improvement, except upon the adoption of a resolution to that effect and determining the necessity of the work in question by a majority vote of the Council after a meeting at which all property owners whose property may be assessed therefor have been notified to be present, by a notice of such meeting published for at least two weeks, in the official newspaper. The last of such publications shall be not less than three days before the meeting at which such resolution is adopted. ('21, c. 425, § 3)

1918-4. Same—Plans and specifications—Advertisement for bids—Whenever the Council of any such municipality shall determine to make any such improvements, it may cause plans and specifications thereof to be made and filed with the clerk of such municipality and may advertise for bids for the construction of such improvement in the official paper and such other paper or papers and for such length of time as it may deem advisable. Such advertisement shall specify the work to be done, shall call for such bids on the basis of cash payment for such work and shall state the time when the bids will be opened and considered by the Council, and that no bids will be considered unless sealed and filed with the clerk and accompanied by a cash deposit or certified check payable to the clerk, for such percentage of the amount of such bid as the Council may specify. ('21, c. 425, § 4)

1918-5. Same—Contracts—Letting—In letting contracts for any such work, it shall be the duty of the Council to require the execution of a written contract and a bond in such sum as it may require, conditioned for the faithful performance of the contract, and for saving the municipality harmless from any and all liability in the prosecution and completing of the work, and conditioned further for the payment for all material used and labor performed thereon. The Council, if a contract is awarded, may award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then

such defaulting bidder shall forfeit to the municipality the amount of his cash deposit or certified check, and the Council may thereupon award the contract to the next lowest responsible bidder; provided, the Council shall have the right to reject all bids; and provided further, that whenever it shall appear to the Council that the cost of the entire work projected shall be less than five hundred dollars, then the Council may directly purchase the materials therefor and cause the work to be done by day labor. The Council may have the work supervised by the municipality's engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, it may order and cause the suspension of the work at any time and relet the contract therefor, or order a reconstruction of any portion of the work improperly done and where the work to be done shall call for an expenditure of less than five hundred dollars to complete the work or the reconstruction necessary, the Council may do it by the employment of day labor. ('21, c. 425, § 5)

1918-6. Same—Payments to contractor—In case the contractor shall properly perform his contract, the Council may, from time to time during the progress, and before the completion of the work, in its discretion, pay to such Contractor eighty-five per cent (85%) of the amount earned thereunder, which shall be determined by the estimate of the engineer or other competent person selected by the Council to supervise the work. ('21, c. 425, § 6)

1918-7. Same—Assessments against property—After a contract is let or work ordered done by day labor, as herein provided, the Clerk, with the assistance of the engineer or superintendent of the work, shall forthwith calculate the amount proper and necessary to be especially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of Section 2 hereof. The proposed assessment so made shall be filed with the Clerk, for public inspection. Thereupon the Clerk, under the direction of the Council, shall cause notice of the time and place when and where the Council will pass upon such proposed assessment. Such notice shall be published in the official paper at least one week prior to the hearing on such proposed assessment. Such hearing may be had at a regular or special, or adjourned regular or special, meeting of the Council. The Council shall hear and pass upon all objections, if any, and may amend the proposed assessment as to any lot or lots; and upon the adoption of such assessment by resolution of the Council, the same shall become and constitute the special assessments against the lots, pieces and parcels of land therein described. Such assessment, together with the interest accruing on the total amount thereof, at the rate of six per cent per annum, from the adoption of the same to the first day of June, following, shall be a lien upon the property described therein, and all thereof, which lien shall be concurrent with that of the general taxes assessed against such properties. The amount of such assessment and accrued interest shall be payable in equal annual installments, extending over such period, not exceeding twenty years, as the council may determine by resolution. The first of said installments shall be payable on or before the first day of June following the adoption of the assessment, and all deferred payments shall bear interest at the rate of six per cent per annum from the first day of June, following the adoption of the assessment. It shall be the duty of the Clerk,

immediately after the adoption of such assessment by the Council, to transmit a certified duplicate thereof to the County Auditor, by whom the same shall be extended on the proper tax lists, and such assessment shall be collected, accounted for, and paid over in the same manner as other municipal taxes, PROVIDED, that the owner of any lot, piece or parcel of land so assessed may, at any time, pay the whole of such assessment, or any installment thereof, with accrued interest. ('21, c. 425, § 7)

Explanatory note—For section 2 see § 1918-2, herein.

1918-8. Same—Counties and school districts liable for assessments—It shall be the duty of County Boards and the proper School District officials to pay any assessments levied hereunder against property owned by such Counties or School Districts. In default of such payment, the amount of such unpaid assessments may be recovered in a civil action, brought by the City, Village or Borough against the County or School District owning the property so assessed. ('21, c. 425, § 8)

1918-9. Same—Correction of errors in assessments—In case of errors or omissions in such assessment with respect to total cost of improvement or otherwise, the Council shall have power to, and shall, make supplemental assessments to provide for and correct such errors or omissions. ('21, c. 425, § 9)

1918-10. Same—Certificates of indebtedness—After a contract or contracts for the making of any such improvement shall have been entered into by any city of the fourth class, or any village or borough, it may, acting through its Council, issue its certificates of indebtedness in such amount as may be necessary to defray in whole or in part the expense incurred or to be incurred in making any such improvement. The word "expense" shall be construed to mean and cover every item of cost of such improvement from its inception to its completion, and all fees and expenses incurred or to be incurred in pursuance thereof. Such certificate shall be payable in annual installments as near equal in amount as conveniently may be, over a period not exceeding twenty (20) years from their date shall bear interest at a rate not to exceed six (6) per cent, payable annually, or semi-annually, which interest may be evidenced by appropriate coupons and shall be in such form and denominations, all as the Council shall by resolution determine, and shall be signed by the mayor and countersigned by the clerk. A separate special assessment fund shall be provided for each improvement and the proceeds from the sale of any certificate issued on its account shall be placed in such fund. The Council shall provide moneys for the payment of the principal and interest of said certificates, as they severally mature, which moneys shall be placed in such fund and into such fund shall also be paid all moneys received from the payment of any liens created under the provisions of this act. And the Council shall pay the principal and interest of any such certificates out of any funds in the treasury when the moneys on hand in the appropriate special assessment fund are in sufficient to meet the payment of the principal or interest when the same matures, but the fund from which such moneys have been taken or used for the payment of such principal or interest shall be replenished with interest at the rate of six per cent per annum from the collection of unpaid assessments on account of such improvements.

The amount of any such certificates at any time outstanding shall not be included in determining any such municipality's net indebtedness, under the provisions of any applicable law. ('21, c. 425, § 10)

1918-11. Same—Reassessments—In all cases where any assessment or any part thereof as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any reason whatever, is set aside, the Council may cause a reassessment or a new assessment to defray the expenses of such improvement to be made. ('21, c. 425, § 11)

1918-12. Same—Assessments for existing mains—Whenever any such city, village or borough shall have heretofore caused water mains to be laid under a general bond issue and not by special assessment, to equalize the frontage assessments, the council may cause such existing mains, if they are of cast iron, to be examined by a competent engineer and if same are of suitable size and condition for continued use, such existing mains may be assessed against the property abutting thereon at an average cost of not to exceed eighty per cent. of the assessment spread against the abutting property for the extension of new mains and this assessment of not exceeding eighty per cent. shall be calculated by the engineers or other competent person, and such assessment shall be prepared and provision made for its collection as in the case of new mains.

A hearing shall be held on old main assessments at the same time as the hearing of the assessment of new mains and in all respects the action shall be the same as prescribed for the new mains. ('21, c. 425, § 11½, added by '23, c. 380, § 1)

1918-13. Same—Objections to assessments—The party desiring to object to the assessment, or his duly authorized agent or attorney, shall, on or before the date of hearing upon such assessment, file with the clerk a written statement of the objections and all objections not specified therein shall be deemed waived. ('21, c. 425, § 12)

1918-14. Same—Appeals from assessments—Within ten days after the adoption of the assessment, any person aggrieved who appeared and filed objections thereto, may appeal to the district court by serving a notice upon the chief executive officer of the municipality, which notice shall be filed with the clerk of the district court, within ten days after service thereof. The clerk shall furnish appellant a certified copy of his objections filed therein, and the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice, and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal, the costs incurred, if not paid, shall be included in the special assessment. ('21, c. 425, § 13)

1918-15. Public improvements in villages, boroughs, and cities of fourth class—Definitions—By the word "municipality," as used herein, is meant a village, borough or city of the fourth class, however organized. By the word "council" as used herein, is meant a municipality's governing body; by the word "Mayor," its chief executive officer, and by the word "Clerk," its officer charged with the duty of performing clerical functions, irrespective of their actual titles. In the word "street" as used herein, are included alleys, boulevards, parkways and public roads of any sort within the limits of a municipality. In the term "public improvement" or "improvement" as used herein, are included (a) street paving, (b) the construction or extension of sanitary or storm sewers, and (c) the laying and re-laying of watermains and the extension of watermains, (d) the laying, re-laying and extension of steam heating mains and (e) the installation and

extension of street lights. By the word "street paving" as used herein, is meant the laying of a pavement in any municipality on any street or graveling any street, and in the word is included all work incidental to any such improvement, such as grading and the construction of proper gutters, curbs, catch basins and storm sewers. The words "construction or extension of sanitary or storm sewers" means the construction of a sewer system of either class, including outlets, tanks or disposal plants, and trunk district and lateral sewers of any of the foregoing. By the words "extension of water mains" as used herein, is meant the laying of water mains and appurtenances required in connection therewith, such as valves, hydrants and service connections in municipalities already having a water system. Any of the foregoing definitions may be modified in the act by appropriate words in the context in connection with which they may be used and the singular shall include the plural where the context so requires. ('25, c. 382, § 1)

1918-16. Same—Making of improvements and assessment of costs—A municipality may make any of said improvements and assess the cost thereof on the property abutting thereon, or on the property benefited thereby to the extent and in the manner hereinafter provided. Any two or more of the improvements aforesaid, may be made at the same time and as part of the same proceedings, and the assessment therefor likewise levied and collected. ('25, c. 382, § 2)

1918-17. Same—Petition for improvement—Before the council shall take any proceedings in reference to the making of any such improvement, a petition that an improvement be made shall be signed by the owners of at least 51% in frontage of the real property abutting on the parts of the street or streets named in the petition as the location of an improvement petitioned for. The petition may be in informal language and may pray that one or more than one improvement be made. It shall be filed with the clerk and he shall compare the signatures thereon with the records in the office of the Register of Deeds, and shall present the petition to the council and report to it his findings as to the percentage of necessary owners who have signed the same. The owner of a life estate in any property shall be deemed an owner as the word is used herein. The council shall thereupon determine by resolution whether or not the petition has been signed by the required percentage of owners, and its determination so made to the effect that the necessary percentage has signed said petition, shall be final and conclusive, unless reversed on appeal as hereinafter provided. ('25, c. 382, § 3)

166-202, 207+309.

1918-18. Same—Procedure by council on petition—Notices—On the presentation of such petition the council, if it shall determine that the required percentage of property owners has signed the same, shall refer the petition to a competent engineer of its selection, who shall report thereon to the council with all convenient speed. The report shall advise the council in a preliminary way as to whether in the opinion of the person selected the proposed improvement should best be made as expressly petitioned for, or in connection with some other improvement not petitioned for, and as to the probable cost of the improvement or improvements, if made as petitioned for, or otherwise, and such other information as may be pertinent to the matter under consideration. On the filing of such report with the clerk the council shall by resolution fix a time, hour and place when the petition will be considered, and action taken in reference to the

matter, and shall direct the clerk to give notice thereof. The time of such hearing shall be not less than fifteen days from the date of the first publication of the notice of hearing hereinafter provided for. The notice shall be published in a newspaper published in the municipality once in each week for at least two successive weeks, and the last publication shall be at least seven days prior to the date set for the hearing. The council may direct other and further notices to be given, but its failure so to do, or the failure to give any other and further notice which it may direct to be given, shall not affect the validity of the subsequent proceedings. The notice shall describe, in general language the improvement or improvements petitioned for and the estimated cost thereof, but it need not include a description of the properties liable to be assessed therefor or the names of their several owners. ('25, c. 382, § 4)

1918-19. Same—Hearings by council—At the time fixed in the notice or at some subsequent time or times to which the hearing may be adjourned, the council shall hear such persons as care to be heard in reference thereto. In case the hearing is not had or completed at the time named in the notice, no notice of subsequent hearings need be given except by entry in the minutes of the council proceedings of the subsequent dates to which the hearing may be from time to time adjourned. At the conclusion of the hearing the council shall determine by resolution whether the improvement or improvements shall be made. Such resolution shall describe the improvement or improvements, to be made and the limits thereof in general language. ('25, c. 382, § 5)

1918-20. Same—Orders and contracts for improvements—If after such hearing the council shall determine that any improvement or improvements shall be made, it shall cause plans and specifications therefor to be made by a competent person of its selection, and filed with the clerk, and may advertise for bids for such improvement or improvements in the official newspaper, and in such other newspaper or newspapers, and for such length of time as it may deem advisable. Such advertisement shall specify the work to be done and shall call for bids on the basis of cash for such work, and shall state the time when the bids will be opened and considered by the council, and that no bids will be considered unless sealed, and filed with the clerk, and accompanied by a cash deposit or certified cheque payable to the clerk for such percentage of the amount of such bid as the council may specify; such deposit or cheque to be forfeited to the municipality in the event that the successful bidder shall fail to enter into a contract awarded to him in accordance with the terms of his bid. The council also may call for alternative bids on the basis of the use of different materials for any improvement. After the receipt of bids the council may reject all of them and call for new bids on like notice, or it may award the contract for one improvement, and reject all bids for another, or it may determine to proceed with one improvement and not with another, or not to proceed with any improvement.

In letting contracts for any such work, it shall be the duty of the council to require the execution of a written contract and a bond in such sum as it may require, conditioned for the faithful performance of the contract as provided by law for public contractors' bonds, also for saving the municipality harmless from any and all liability in the prosecution and completing of the work and conditioned further for the payment of all materials used and labor performed thereon. The council, if a contract is awarded, may award the same to the

lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then such defaulting bidder shall forfeit to the municipality the amount of his cash deposit, or certified check, and the council may thereupon award the contract to the next lowest responsible bidder; provided, the council shall have the right to reject any or all bids. The council may have the work supervised by the municipality's engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, it may order and cause the suspension of the work at any time and relet the contract therefor, or order a reconstruction of any portion of the work improperly done. Improvements on two or more streets, whether connecting or segregated, may be made in one proceeding but if the streets are not connecting the contracts shall specify separately the cost or the proportion of the cost applicable to the work to be done on each street, or if a contract is let on a piece price basis the estimates issued from time to time to the contractor shall be issued separately for work done on each street, and shall specify the amount applicable thereto. ('25, c. 382, § 6)

1918-21. Same—Improvements by property owners—Before making any such improvement the council may by resolution require the owners of the abutting property to lay branch sewers and water pipes from the mains to the curb or lot line of each lot, and in case any property owner neglects to lay such sewer or water pipe, within sixty (60) days after being served with a copy of said resolution the council may cause the same to be put in and may assess the cost of the same against the property and collect the same as taxes are collected. All such sewer or water pipe connections shall be of such material as the council may prescribe. ('25, c. 382, § 7)

1918-22. Same—Proportionate share of costs of improvements paid by municipalities—The municipality shall contribute to the cost of any such improvement its proportionate share thereof on account of real property owned by it abutting on the improvement or benefited thereby in the same amount as would be the assessment against such property, if owned by an individual. A county or school district owning real property abutting on or found benefited by any improvement, shall contribute to such cost the amount which would be assessable against such property were it owned by an individual. A right of way of a railroad or of any other privately owned public utility abutting on or crossed by or found benefited by any improvement shall contribute to such cost the amount which would be assessable against it were it privately owned and privately used property. ('25, c. 382, § 8)

1918-23. Same—Cost of certain improvements paid by municipalities—The municipality also may if the council shall so determine, pay the cost of any such improvement applicable to intersecting streets and the cost of fire hydrants and their connections to the mains, and may also pay such portion of the cost of such improvements between street intersections and between street and alley intersections as the council may determine. In case of street paving, it may, if the council shall so determine, pay the cost of curbs and gutters or any part of such cost. In the case of storm sewers, it may include the cost of the construction of the same or a part of such cost in the cost of the paving, to which the storm sewer is in any measure pertinent, or

it may treat their construction as a separate improvement.

The cost of outlets and disposal plants for a sewer and the excess cost of a storm sewer, over the part assessed against property assessed for said paving under this act, may be paid by the municipality or may be assessed against other property found benefited thereby. In the case of a sanitary sewer, the assessment against abutting property shall not exceed in any case, the estimated cost of a sewer of an eighteen-inch diameter plus its proper proportion on the basis of benefits of the excess cost of trunk sewers over this sum and its proper proportion on such basis of the cost of outlets, tanks and treatment of disposal plants.

The cost of outlets, tanks and treatment or disposal plants and the excess cost of trunk sewers over the estimated cost of a sewer of an eighteen-inch diameter, or any part thereof, may be paid by the municipality or may be assessed against property found benefited thereby including the property abutting on such sewer. ('25, c. 382, § 9)

1918-24. Same—Assessments—Levy and confirmation—Payment in installments—After a contract for an improvement shall have been entered into, the expense incurred or to be incurred in its making shall be calculated under the direction of the council. The word "expense" shall mean and include every item of the cost of such improvement from its inception to its completion, and all charges, fees and outlays incurred or to be incurred in pursuance thereof. In the calculation of such expense there shall be taken into consideration the cost of such improvement as fixed by any contract or contracts or determinable therefrom, all other items of cost then determinable, and the estimated amount of items of cost not then exactly determinable. From the aggregate of these items shall be deducted the part of the cost which the municipality itself will pay under the terms hereof, other than the amount, if any, which the municipality will pay as a property owner, and the council shall thereupon by resolution declare the sum so calculated, as the assessable cost of such improvement. Thereupon the clerk with the assistance of a competent person selected by the council to perform the duty shall forthwith calculate the proper amount to be specially assessed for such improvement against every lot, piece or parcel of land without regard to cash valuation, and the amount which will be payable by the municipality on account of real property owned by it or by any county, school district or on account of any right of way. Such calculation is hereinafter called "proposed assessment." The proposed assessment so made shall be filed with the clerk and be open to public inspection. The clerk shall thereupon under the council's direction cause notice of the time and place when and where the council will meet to pass upon such proposed assessment, to be published in the official newspaper of the municipality at least one week prior to such meeting of the council. It shall not be necessary to include in any such published notice the description of the properties assessable under proposed assessment, or the names of their several owners, or the amount of the proposed assessment against the several tracts or the amount to be paid by the several owners, but it will be sufficient if the published notice refers to the proposed assessments as being on file with the clerk, and open for public inspection. No error in the description of any tract in any proceeding shall invalidate the proceedings as to such tract, unless the Court shall find that the objector has been misled or otherwise prejudiced by such error. At such meeting or some adjournment thereof the Council shall

hear and pass upon all objections, if any, and may, if it deems it just, amend such proposed assessment as to any property therein specified. Upon the confirmation of such assessment by the Council by resolution at said meeting or some adjournment thereof the same shall constitute the special assessments on account of such improvement against the lands and properties named therein and the amounts to be paid on account of such improvement by the municipality, or by any county or school district as property owner, and on account of any right of way. The assessments so confirmed and the resolution confirming them are hereinafter called the "assessment roll." The assessments shall be payable in annual installments as near equal as conveniently may be over such period not exceeding twenty (20) years as the Council may, by resolution, determine, with interest as hereinafter provided. But any installment may be paid at any time with such interest. ('25, c. 382, § 10)

1918-25. Same — Assessments — Installments — Payment—Interest—Spreading on tax lists—Collection of installments certified—Penalties—On the confirmation of such assessment the clerk shall deliver a certified copy of the assessment roll to the municipality's Treasurer. The Treasurer shall thereupon cause a brief notice to be published for two weeks in the municipality's official newspaper, to the effect that he has received as of a day named in such notice, a copy of the assessment roll for the improvement named. The whole or any installment of such assessment may be paid to the municipality's Treasurer, without interest, if paid within thirty days from a date named by him, which shall be the date of the first publication of said notice. This date is hereinafter called the "due date." The first installment of any such assessment shall be a lien concurrent with general taxes against the property upon which it is assessed from the due date and the lien of each subsequent installment shall attach on the first Monday of January of the year for which such installment is certified for collection to the County Auditor of the county in which such municipality is located, as hereinafter provided. Each installment of each such assessment shall bear interest at the rate of six (6) per cent per annum payable annually from the due date. Up to the first Monday of January in the year following the certification for collection to the County Auditor, any installment may be paid to the municipality's Treasurer with interest as aforesaid from the due date until date of payment. When any installment is paid to the municipality's Treasurer he shall make duplicate receipts therefor, one of which shall be delivered to the Clerk, who shall thereupon mark upon the assessment roll, opposite the appropriate parcel of land, word indicating the payment of the installment and the date of such payment.

Not later than the 15th day of October following the due date of any assessment the Clerk shall certify to the County Auditor a list of each and every lot, part or parcel of land against which there is a first installment unpaid and also the amount of such installment, together with interest on such installment, at the rate of six (6) per cent per annum, computed from the due date to the first day of June following such delinquency.

It is hereby made the duty of the County Auditor to spread and place on the tax lists of real property which are to be delivered to the county treasurer on the January following, the amount of such installment and the interest so certified. If a payment is made to the municipality's Treasurer after the delivery of such list

to the County Auditor the clerk, on receiving notice thereof from the municipality's Treasurer, shall forthwith certify to the County Auditor the fact of such payment and the County Auditor shall forthwith strike the assessments and the interest against such lots, parts or parcels of land from the tax list aforesaid.

Not later than the 15th day of October in each and every subsequent year the Clerk shall certify to the County Auditor a list of each and every lot, part or parcels of land against which there is assessed a second or subsequent installment, as the case may be, which is unpaid, and which has not been theretofore certified to said County Auditor, and the total amount of such installment, such total amount being the original amount of such installment, plus the interest thereon from the due date to the first day of June following and the interest on all other unpaid and uncertified installments from the due date to the first day of June following. The County Auditor shall place and spread such total amounts aforesaid as shown by said lists against each tract of land respectively, on the tax lists which are to be delivered to the County Treasurer for collection the following January. But in the event that after the delivery of such list and prior to the first Monday of January thereafter payment of any such installments shall have been to the municipality's Treasurer, the Auditor shall, on notice thereof, strike such assessment from the tax list as hereinbefore provided in reference to the first installment. Any and all installments so certified to the County Auditor shall be collected by the County Treasurer, in the same manner and as part of the collection of State and County taxes and any installments on account of any such assessments not paid or collected prior to June 1st shall be subject to like penalties, costs and interest charges as are County or State taxes and shall in all respects be treated and enforced as if the same were county or state taxes. Any penalties and interest which may be collected by the County Treasurer upon any such installment shall belong to the municipality and be turned over by the County Treasurer to the municipality's Treasurer, along with the assessment.

It is hereby made the duty of the County Auditor and the County Treasurer to carry out the foregoing provisions. ('25, c. 382, § 11)

1918-26. Same—Assessments—Confirmation notices—Amounts payable by county or school district—On the confirmation of any assessment the Clerk shall mail to the County Auditor a notice specifying the amount payable by any County and shall mail to the Clerk of any School District a notice specifying the amount payable by the school district, and shall mail to the owner of any right of way, at its principal office in the State of Minnesota, a notice specifying the amount payable on account of any right of way. The amounts payable by any county, school district or any account of any right of way shall be payable to the municipality's Treasurer and shall be paid in like installments and with like interest and penalties as herein provided for in reference to the installments payable on account of assessable real property.

It shall be the duty of the County Board and the school board, respectively, to provide for the payment of such amounts and to take appropriate action to that end. The municipality may collect the amount due on account of the right of way of any railroad or privately owned public utility by distress and sale of personal property in the manner provided by law in case of taxes levied upon personal property or by suit brought to enforce the collection of any such indebtedness. But

if a different method of collecting such amounts is provided for by any contract between the owner of any such right of way and the municipality it shall obtain. ('25, c. 382, § 12)

1918-27. Same—Errors or omissions in assessments—In the case of omission, errors or mistakes in making such assessments in respect to the total cost of such improvement or otherwise it shall be competent for the Council to provide for and make supplemental assessments to correct such omissions, errors or mistakes. In all cases where any assessment or any part thereof assessed or fixed under any of the provisions of this act for any reason whatsoever, is set aside, the council may cause a reassessment or a new assessment to be made as to any property assessed or charged under the provisions of this act for the expenses of such improvement. ('25, c. 382, § 13)

1918-28. Same—Publications required—Where provision is made in this act for publication in a newspaper, if there is no newspaper published in the municipality the notice may be given by posting the same in at least three public places in the municipality for at least the length of time herein provided for the publication thereof. ('25, c. 382, § 14)

1918-29. Same—Disposition of funds received from assessments—Improvement warrants—Tax levy—All moneys collected on any such special assessments shall constitute a fund for the payment of the cost of any such improvement for which such assessment was made and the same shall be credited to the proper improvement fund under the designation: "Fund of Improvement No." and in anticipation of the collection of such special assessments and the levy and collection of taxes to pay the portion of the expense and cost of such improvement payable by the municipality, the municipality may issue warrants on such fund, to be known as "Improvement Warrants," payable at such times and in such amounts as, in the judgment of the council, the collections of such special assessments and taxes will provide for, the earliest maturing warrants shall be payable not more than two years from their date and the latest maturing warrants not more than twenty years from their date. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the mayor or executive officer and countersigned by the clerk or recorder of such municipality, shall bear interest at a rate not to exceed six (6) per cent per annum, payable annually, which interest may be evidenced by appropriate interest coupons, and shall be in denominations of not less than fifty dollars nor more than one thousand dollars. Such warrants may be used in making payments on contracts for the improvements or may be sold by the council for not less than the par value thereof together with the interest accrued thereon. The council of each municipality shall at or before the time of the issuance of any warrants levy a tax for the payment of that portion of the cost of such improvement chargeable to the municipality, which tax shall be spread in annual installments in the same proportion as assessments are spread against privately owned property. Such tax shall be a direct annual tax and when collected shall be credited to the proper improvement fund. It shall be the duty of the treasurer of the municipality on presentation to pay such warrants and interest coupons, as they mature, out of the proper improvement fund, and to cancel the same when paid. If any such warrant, or interest thereon, shall become due and there are not funds to pay the same, the council of such

municipality is hereby authorized to effect a temporary loan for the payment thereof. ('25, c. 382, § 15)

1918-30. Same—Appeals—Sale of certificates—Within thirty days after the publication of the treasurer's notice provided for in Section 11, hereof, any person, deeming himself aggrieved by an assessment, may appeal to the district court of the county in which is located the assessed property in which he is interested, by serving upon the clerk of the municipality a notice of appeal which shall briefly state the grounds upon which the appeal is taken, and a bond of \$250 in which the municipality shall be obligee, to be approved by the clerk, conditioned, that the appellant will duly prosecute the appeal, and pay all costs and disbursements which may be adjudged against him, and abide the order of the court. The clerk shall furnish the appellant with a certified copy of the assessment roll, or part complained of, and all papers necessary to present the appeal, on payment by the appellant of the clerk's proper charges therefor. The appeal shall be placed upon the calendar of the next general term commencing more than thirty days after the date of serving the notice and bond and shall be tried as are other appeals in such cases. Provided, however, that the taking of any such appeal shall not in any way hinder or delay any such improvement, and the Council may notwithstanding any such appeal or appeals proceed with the making of any such improvement in the manner set forth in this act. All such certificates shall be sold and negotiated as provided in Section 1943 of the General Statutes of Minnesota for 1923, and not otherwise. ('25, c. 382, § 16)

1918-31. Same—Powers granted are supplementary—The provisions of this act shall be supplementary and additional to the powers in reference to the making of any such improvement now conferred by law on any such municipality. ('25, c. 382, § 17)

1918-32. Same—Other powers not affected—Nothing herein contained shall operate to affect the rights of a municipality under Article 16, of the Constitution, or any legislation in pursuance thereof. ('25, c. 382, § 18)

1918-33. Improvements in villages, boroughs, or cities of fourth class for cost of which special assessments may be levied—Petition—When any petition for the making of any improvement in any village, borough or city of the fourth class, however organized, for the cost of which special assessments may be in whole or in part levied therefor, is presented to the governing body of such municipality, such body shall by resolution determine whether or not the petition has been signed by the required percentage of owners of property affected thereby. ('27, c. 311, § 1)

1918-34. Same—Appeals to district court from determination of legality of petition—Any person, being aggrieved by such determination, may appeal to the district court of the county in which said property is located by serving upon the clerk of the municipality within thirty days after the adoption and publication of such resolution a notice of appeal briefly stating the grounds of appeal and giving a bond in the penal sum of Two Hundred Fifty Dollars (\$250.00), in which the municipality shall be named as obligee, to be approved by the clerk of such municipality, conditioned, that the appellant will duly prosecute the appeal and pay all costs and disbursements which may be adjudged against him, and abide by the order of the court. The clerk shall furnish the appellant a certified copy of the petition, or any part thereof on being paid by appellant of the proper charges therefor. The appeal shall be placed upon the calendar of the next general

term commencing more than thirty days after the date of serving the notice and filing the bond as aforesaid and shall be tried as are other appeals in such cases. Unless reversed upon such appeal, the determination of the governing body as to the sufficiency of the petition shall be final and conclusive. ('27, c. 311, § 2)

1918-35. Sidewalks and sewers in villages and cities with 10,000 or less inhabitants—Construction or rebuilding—Petition of property owners—Resolution—Whenever the village council of any village, incorporated under the General Laws of this state, or the common council of any city having a population of ten thousand inhabitants or less, incorporated under the General Laws of this state, shall deem it necessary and expedient to construct or rebuild any sidewalk or sewer in said village or city, they may, acting on their own motion, and if a majority of the owners of the property fronting on the street or streets where it is proposed to construct or rebuild such walk or sewer shall petition the village council or common council of such city therefor, they shall adopt a resolution to that effect, which resolution shall specify the place or places where such sidewalk or sewer shall be constructed or rebuilt, the kind and quality of materials to be used therein, the width, the size and manner of construction thereof, and the time within which the same shall be completed, which shall not be less than forty days after the service of said resolution, as hereinafter provided.

Said resolution shall contain the names of the owners of all lots, parts of lots, and parcels of ground fronting the street or streets where such walk or sewer is to be constructed or rebuilt. ('01, c. 167, § 1)

Explanatory note—This act (Laws 1901, c. 167, §§ 1918-35 to 1918-40) seems to have been omitted from previous statutes. It has been amended and supplemented by Laws 1925, c. 383 (§§ 1918-41 to 1918-43. herein); and is therefore inserted here.

1918-36. Same—Service of resolution—Such resolution shall be served upon the persons named in said resolution at least forty days prior to the time therein named for the completion of said walk or sewer in the following manner:

First—By causing a copy thereof to be handed to, and left with, each of the persons therein named who are residents of and within said village or city, and are actually therein.

Second—If any of the persons so named in said resolution are not residents of said village or city, or cannot be found therein, then said resolution shall be published in one issue of a newspaper regularly published in said village or city, in the English language, and having a general circulation therein, or in the designated official paper of said village or city.

Third—If there be no such newspaper published in said village or city, then such service and publication may be made by posting a copy of said resolution in at least three public places in said village or city, at least forty days prior to the time named therein for the completion of said walk or sewer.

Affidavits shall be made by the person serving or posting said resolution of the manner, time and place of serving or posting the same, and by the foreman, editor or publisher of such newspaper of the time and manner of publishing the same, and such affidavits shall be attached to said resolution and, with it, filed with the village or city recorder. Any and all such services, when made in accordance with the provisions of this act, shall for the purposes thereof, be deemed personal

services of such resolution upon the person named therein. ('01, c. 167, § 2)

1918-37. Same—Work, how done—Assessment of benefits—If such work shall not be fully done, and said sidewalk or sewer shall not be fully constructed or rebuilt in the manner and within the time prescribed in said resolution, then the village council or common council of said city may order the same to be done by the street commissioner, or commissioner of public works, or cause the same to be done by contract let to the lowest responsible bidder, the entire expense thereof to be paid out of the general revenue funds of said village or city.

At any time within thirty days after said village or city shall have completed the construction of said walk or sewer as aforesaid, the village council or common council of such city shall adopt a resolution fixing a time and place when and where they shall hear testimony of all persons interested or affected, and ascertain the amount of benefits to property fronting such sidewalk or sewer, by reason of the construction thereof, and such resolution shall be served on all the persons named in the resolution adopted under section one (1) of this act, and in the manner therein provided.

At the time and place named in said resolution said village council, or common council of said city, shall hear any and all testimony offered by or on behalf of all parties interested or affected by the construction of said walk or sewer, and for said purpose the president of the council or other presiding officer is hereby authorized to administer oaths to witnesses. Thereupon, by resolution, the village council, or common council of said city, shall determine the amount of benefits caused by said construction, to each lot, part of lot, or parcel of ground fronting the street or streets where such walk or sewer shall have been constructed or rebuilt as aforesaid; and a full and complete record thereof shall be made and kept by the village or city recorder in a separate book kept for that purpose, which record shall contain a description of the property benefited and charged with the construction of such walk or sewer. The amount of benefit determined in each case as aforesaid, and when so determined the amount of each annual installment thereof; when transmitted to the county auditor of the county for assessment; the amount paid thereon and when paid. Such record to be used in making each annual levy and assessment, as in this act provided.

The amount of the benefits to each lot, part of lot, or parcel of ground so determined as aforesaid shall be and become a charge against the same and shall be assessed thereon, as in the case of county, city or state taxes in three annual installments. ('01, c. 167, § 3)

1918-38. Same—Orders for unpaid assessments—If such assessment for either or any of the purposes aforesaid be not fully paid to the street commissioner, village or city treasurer, or other officer authorized by law to collect the same, within twenty days after said walk or sewer has been fully constructed or rebuilt, as aforesaid, the village council, or common council of said city, may issue, or cause to be issued, the orders of said village or city, on the treasurer thereof for the aggregate amount of the unpaid balance of each of said assessments, payable in three annual installments, each of which installments shall be represented by a separate order, bearing interest at a rate to be determined by said village or city council, not exceeding six per cent per annum from their date until maturity, and payable as follows:

One payable on or before the first day of June, of the year next following the issuing thereof; one payable on the first day of June of the second year next following; and one payable on the first day of June of the third year next following.

Said orders shall be made payable to bearer, and the same may be issued, negotiated and sold by said village or city for not less than their par or face value.

All said orders shall be in substantially the following form:

\$.... Dated at..... Minnesota,19....

The treasurer of the (village or city) of will pay to the bearer hereof the sum of dollars and cents on or before the 1st day of June, A. D. 19... with interest thereon at the rate of per cent per annum from date hereof until maturity. This order represents one-third of the amount expended in the construction of a (sidewalk or sewer) in said (village or city) in the year 19...

A record of all said orders shall be made and kept by said village or city recorder, which record shall show the date same was issued, amount of order, date when due, to whom sold, amount sold for, and for what purpose the same was issued, when the same was paid, and the amount paid as shown by the treasurer's books.

Books shall be provided for said purpose. ('01, c. 167, § 4)

1918-39. Same—Tax levy for payment of assessments—Payments by property owners—After the completion of said walks or sewers as aforesaid by said village council or common council of said city, said village council, or common council of said city, shall annually, on or before the first day of October of each year, until the whole of said assessments have been levied as herein provided, cause a statement of the amount of one of said three annual installments, with six per cent annual interest thereon computed from the time of completion of said work to the first day of June following the making of said levy added thereto, to be transmitted, with the village or city taxes for that year, to the auditor of the county, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection and payment thereof, and the same shall be enforced with, and in like manner, as city, county, and state taxes are collected and payment thereof enforced.

After the completion of said walk or sewer, the owner or owners of said land adjoining the same, or interested therein, shall have the privilege of paying all or any portion of the cost of construction thereof to said village or city at any time within twenty days thereafter, and before said levy has been made, and the amount so paid shall be deducted from the amount of said assessment. ('01, c. 167, § 5)

1918-40. Same—Effect of law—Chapter 49 of the General Laws of Minnesota for the year 1899, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

Provided, however, that this act shall not apply to any city or village of this state having a population of less than ten thousand (10,000) operating under a special law or special charter.

Provided, further, that this act shall not in any way affect any assessments heretofore made by any city or village or any assessments hereafter to be made by any city or village upon any contract made prior to the time when this act shall take effect. ('01, c. 167, § 6)

Explanatory note—The first proviso of this section was repealed as to the construction of sewers and sidewalks in cities of less than 10,000 by Laws 1903, c. 121.

1918-41. Same—Original act supplemented, extended, and amended—Chapter 167, General Laws 1901, is hereby supplemented, extended and amended so as to authorize the use of its provisions in the cases and in the manner hereinafter provided. ('25, c. 383, § 1)

Explanatory note—See §§ 1918-35 to 1918-40, herein.

1918-42. Same—Assessment of benefits on property benefited but not fronting on improvements—Whenever the council of any village or city affected by and acting under said chapter shall have determined, or the petition in Section 1 of said act provided for shall set forth, that the proposed improvement would benefit other property in addition to that fronting on the street or streets where it is proposed to construct or rebuild a walk or sewer, and such petition is signed also by a majority of the owners of such other property, the resolution of the council therein provided for shall contain the names of the owners of all lots, parts of lots and parcels of ground which it is so determined or alleged would be so benefited, and may, in addition to or in lieu of fixing a time when such improvement shall be completed, fix a time and place, not less than twenty days after the service of said resolution, for a hearing on the question whether such improvement shall be ordered and completed as provided in Section 3 of said act, and the benefits and cost thereof assessed on and charged against all of the property benefited thereby; and after such hearing, the council, if it deem expedient, may proceed to so order and complete such improvement. In such case the resolution aforesaid, and that provided for in section 3 of said act, shall be served, in the manner as therein provided, upon all the owners of property so alleged or determined to be affected; and the benefits and cost determined, after the completion of the improvement, shall be assessed and charged against all the property benefited thereby; provided, an equitable adjustment shall be made of the benefits and cost, if any, assessed against property whose owner has already made or contributed to the cost of a like improvement beneficial to the same area, or any part thereof. ('25, c. 383, § 2)

1918-43. Same—Construction of supplemental law—This act shall be construed as adding to the existing provisions of said Chapter 167, and not as repealing any part thereof; and in all cases hereby authorized the procedure of said chapter shall be followed so far as capable of being applied. ('25, c. 383, § 3)

1918-44. Public docks and wharves in certain villages and adjacent organized towns—In cases where any Village in this State which is situated upon navigable waters and has no railroad connections but is dependent upon such navigable waters for transportation and organized towns in the vicinity of such Village desire to combine and organize for the purpose of building, maintaining and operating one or more docks or wharves on the shore of such navigable waters with warehouse connections for the use by the people in the territory affected, they may so combine and build, maintain and operate such docks, wharves and warehouses and raise funds for such enterprise by proceeding as herein directed. Provided, that no such territory shall so organize unless the whole thereof, when taken together, will constitute one contiguous body of land. ('23, c. 229, § 1)

1918-45. Same—Submission to vote—Special election—Limitation on amount of bond issue—Upon the filing with the Village Council of such Villages or the

Supervisors of such town of a petition signed by one per cent or more of the legal voters of such town or village praying that the question of so combining with the other legal divisions of said territory for the purpose of building, maintaining and operating docks, wharves and warehouses, be submitted to a vote of the people of such village or town and praying that the bonds of such town or village be issued for the purpose of assisting in the building of such docks, wharves and warehouses, the council of such village or the supervisors of such town shall call an election of the legal voters thereof to vote upon such proposition. Such petition shall name the village and towns or the towns alone, as the case may be, with which the combination is to be made and shall state the amount of bonds proposed to be issued by the village or town for the purpose of such enterprize, and the date of the same, the rate of interest they are to draw, the denominations thereof, when they are to mature and where to be made payable. In no case shall the bonds so to be issued be in an amount in excess of five (5) per cent of the assessed value of the real and personal property of the town or village issuing the same. ('23, c. 229, § 2)

1918-46. Same—Notice of special election—Notice of the time and place of holding such election shall be posted in three public places in such town or village for fifteen days prior to the time of holding the same, and shall be published in the newspaper issued nearest the town or village giving such notice once in each week for two successive weeks prior to the time of the holding of such election. Such notice shall be in substantially the following form, viz:

Notice of Special Election.

Notice is hereby given that a special election will be held in the (village or town) of (name) on the day of 192.... for the purpose of voting on the proposition of combining with the towns (or village) of (naming them) County, Minnesota, and organizing to build one or more docks, wharves and warehouses for public use on the navigable waters of in said village and upon the proposition of issuing the bonds of said (town or village) in the aggregate sum of \$..... bearing interest at the rate of per cent per annum, the proceeds thereof to be used for the purpose of acquiring a site for, and building, maintaining and operating a dock or docks, wharf or wharves together with warehouse connections on the shore of in said village, such bonds to be numbered and to mature as set forth in the petition of legal voters of said (town or village) now on file in the office of the clerk (or other officer of said town or village.)
Dated 192....

Such notice shall be signed by the Clerk of the town or village issuing the same. ('23, c. 229, § 3)

1918-47. Same—Conduct of election—Ballots—Such special election may be held on a day separate or on the day fixed for any other election in such town or village, in which latter event the judges and clerks acting as such for the election then to be held, shall act as judges and clerks for said special election but in either case a special ballot box shall be provided and the ballots cast on the proposition of organizing such town or village with the other towns or village in the vicinity for the purpose of constructing, maintaining and operating docks and warehouses and the

proposition of issuing bonds for such purpose shall be kept separate from all other ballots cast. If such election is to be held on a day different from that of some other election in the town or village, then, the supervisors of the town or council of the village, as the case may be, shall appoint judges and clerks to conduct such special election.

Such election shall be conducted in substantially the same manner as is required for the conduct of general state and county elections; such special elections shall be by ballot, and the ballot to be used thereat, shall be in the following form:

Organization and Bond Ballot.

Shall the (Town or Village) of (naming it) unite with the towns of and village of to build, maintain and operate docks, wharves and warehouses and shall said (town or village) of issue its bonds in the sum of \$..... for the purpose of building, maintaining and operating docks, wharves and warehouses, such bonds to be numbered, issued and to draw interest as provided in the petition therefor, now on file in the office of the clerk of said (town or village.)

Yes.....

No.....

Electors desiring to vote in favor of such proposition shall make their cross "X" opposite the word "YES" and the electors desiring to vote against the proposition shall make their cross mark "X" opposite the word "NO." ('23, c. 229, § 4)

1918-48. Same—Return of election—In case a majority of the voters of such village or town voting thereat shall vote favorably upon such proposition, the Supervisors or Village Council, as the case may be, shall cause a return to be filed with the County Auditor of the county in which such town or village are situated of all of the proceedings had by the town or village, relative to the calling and conduct of such election, which returns the County Auditor shall preserve in his office for the inspection of any person or persons who shall be interested therein. ('23, c. 229, § 5)

1918-49. Same—Dock and warehouse commission organized—In case the voters in the various towns and village affected shall vote favorably upon the proposed proposition, there shall be organized in such territory a commission to be known as "Dock and Warehouse commission of the County of" (designating the county in which such territory is situated.) In case more than one such organization shall be effected in any county, then, there shall be added to the name of such commission, as herein provided for, organized after the first one, the designation No. 2 or 3 or 4, as the case may be. ('23, c. 229, § 6)

1918-50. Same—Organization of commission—General powers—The commission so to be organized shall be composed of the President or other chief officer of the village in the territory affected and the Chairman of each of the several town boards in such territory. The President or other chief officer of the village shall be chairman of such dock and warehouse commission. Within one month after a favorable vote upon such organization, such chairman shall call together the members of such commission and upon organization, the commission shall elect one of its members, other than the Chairman, as Secretary of the commission. The Commission shall, at all times, keep records of all its proceedings and doings for that purpose. The commission shall have power to purchase a site for a dock,

wharf and warehouse or docks, wharves and warehouses and are authorized to build and maintain upon such site, one or more docks, wharves and warehouses and for that purpose to use the monies obtained as the proceeds of the bonds issued by the several divisions affected as herein provided, and have power to direct the institution and defense of all action in which the said organization is interested, to employ necessary counsels and attorneys for the prosecution or defense of the same, and is hereby authorized to acquire by condemnation such land or parcels of land as the said commission shall determine to be necessary for the use for such docks, wharves and warehouses or either of the same, and to raise such sums of money for that purpose as may be deemed necessary. ('23, c. 229, § 7)

1918-51. Same—Superintendent and employees—Rates and charges—Donation of sites—The dock commission herein provided for, may hire one or more Superintendents for the care and operation of such dock or docks and may charge all users of such docks and warehouses, reasonable rates for the use of the same. The proceeds of the income derived from such charges shall be paid by the party collecting the same into the dock fund of such organization with the County Treasurer of the County in which such organization is situated. In case any person, village or town shall offer to donate one or more sites for such dock, docks or warehouses, the commission may accept such donation. The title to any site acquired by such commission for such docks or warehouses shall be taken in the name of the commission which body is hereby empowered to hold the title to such property and such dock site or sites and all wharves, docks and warehouses connected therewith shall always be held and used for public dock purposes under the provisions of this act. ('23, c. 229, § 8)

1918-52. Same—Bonds—Issue and sale—The bonds to be voted for at the election provided for in this act and issued by the town or village, voting the same, shall be general obligations of such town or village; they shall run for a period not exceeding twenty years and shall draw a rate of interest not exceeding 6 per cent per annum, such bonds shall be issued by the Supervisors of the town or the council of the village, as the case may be, and be signed and countersigned in the same manner as in other bond issues of villages or towns and provided for by law, and shall be sold and negotiated by the authorities of the town or village issuing the same and the proceeds thereof and all monies pertaining to such organization for dock and warehouse purposes, shall be paid to the County Treasurer of the county in which such territory is situated and all such funds together with other funds of such Dock Commission Organization shall be kept by such treasurer in a separate fund to be known as "Dock and Warehouse Funds of (Designating the organization.)

All monies in such fund shall be paid out by the County Treasurer only upon orders drawn thereon and signed by the Chairman and Secretary of the Board of Dock Commissioners to which such fund belong.

In case there shall be remaining in said dock and warehouse funds at any time a surplus of monies after the properties purchased and constructed by the Dock Commission are completed and paid for, such Dock Commission may apportion such surplus to the several towns and villages comprising such organization in proportion to the amount of bonds issued, sold and contributed by each town or village to the fund of such commission. ('23, c. 229, § 9)

1918-53. Same—Compensation of commissioners—Duties—The several members of the Board of Dock Commissioners herein provided for, shall receive as compensation for their services in attending the meetings and conducting the business of such commission, a compensation of not to exceed Four Dollars (\$4.00) per day with mileage at 6 cents per mile to and from the place of residence of the member of the commission receiving the same and the place where such meetings are held, which compensation shall be paid out of the fund created for the purpose by this act upon orders signed by the chairman and secretary of the commission. The Chairman of the commission shall be the ex-officio manager of the dock, docks or warehouses under the control of the commission but shall at all times be subject to the direction of the commission itself. ('23, c. 229, § 10)

1919. Tax for fire department relief fund—The village or city council or other governing body of every village and city in this state that now or hereafter may have a population of less than 50,000 inhabitants, which has a regularly organized fire department, may, each year, at the time the tax levies are made for the support of the village or city, and in addition thereto, levy a tax of one-tenth of a mill on all the taxable property of such village or city. The tax so levied shall be transmitted to the auditor of the county in which the village or city is situated at the time all other tax levies are transmitted, and shall be collected and payment thereof enforced in like manner as state and county taxes are collected and the payment thereof enforced. The village or city treasurer, when the tax is received by him, shall pay the same over to the treasurer of the duly incorporated firemen's relief association of such village or city, if there is one organized with the consent of the governing body of such municipality, together with all penalties and interest collected thereon; but if there is no firemen's relief association so organized in any such village or city, or if any such association resign, be dissolved or removed, or any successor of such association resign, be removed or has heretofore resigned or has been removed as trustee of such money, then the treasurer of such municipality shall keep the money in a special fund to be disbursed only for the purposes authorized by this act. Provided, that the village or city council of any village or city in this state which now has or hereafter may have a population of less than 50,000 inhabitants is hereby authorized and empowered, when in its discretion it deems it necessary or desirable so to do, to levy on the taxable property of such village or city an additional amount not to exceed nine-tenths of one mill; such additional tax to be collected and disbursed as herein provided. ('09 c. 197 § 1) [1832]

1920. Board of trustees of firemen's relief associations—Control, etc., of funds—The board of trustees of every fireman's relief association of this state shall be composed of the following persons, to-wit; six trustees elected annually by such fireman's relief from its own members and also the following ex officio members taken from the officers of the municipality in which the relief association is located, viz: The mayor or president, the recorder or clerk, the treasurer and the chief of the fire department thereof, and any such board of trustees of a duly incorporated relief association shall have exclusive control and management of all funds received by its treasurer under the provisions of this act, and all moneys or property donated, given, granted or devised for the benefit of said funds, and the funds received under the provisions of this act shall be kept in a special fund on the books of the

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secretary and treasurer of said association and shall never be disbursed for any purpose whatever except the following, viz: (1st) For the relief of sick, injured and disabled members of any fire department in such village or city: (2nd) for the payment of pensions to disabled firemen and the widows and orphans of firemen: (3rd) for the payment of pensions to retired firemen pursuant to the laws of the state. Provided, that the funds received by any relief association from dues, fines, initiation fees and entertainments shall be kept in a fund called the general fund, and may be disbursed for any purpose authorized by the articles of incorporation and by-laws of said association. Provided, further, that said relief association is hereby authorized and empowered to invest its funds in such income paying properties and securities as the council of the village or city in which such organization is located shall from time to time, authorize. Provided, further, that none of the money raised by taxation as provided herein shall be paid to any fireman's relief association, or other trustee or officer, except the treasurer of the municipality wherein the same is levied, unless such fireman's relief association, or the treasurer thereof, or trustee authorized to receive the same, shall file a bond with the city clerk or village recorder, as the case may be, with sufficient sureties approved by the common council, or other governing body of such municipality, in double the amount received by virtue hereof, and shall from time to time, whenever required by such council or other governing body of such municipality, file a new or additional bond conditioned to safely keep all of said money and to disburse the same only for the purposes authorized by this act. ('07, c. 197, § 2) [1833] (Amended '23, c. 163, § 1)

1921. Public wagon scales in certain municipalities—That any city containing not to exceed ten thousand inhabitants, or any village or borough in this state, is hereby authorized and empowered to maintain a public wagon scales therein as hereinafter provided. ('05 c. 286 § 1) [1834]

1922. Acquisition and maintenance—The common council of any such municipality is hereby authorized and empowered to buy, establish and maintain public wagon scales in such municipality, and said council is hereby authorized and empowered to hire, buy and maintain scales already in use in said municipality, the same to be used and maintained as a public wagon scale in such municipality for the public use therein. ('05 c. 286 § 2) [1835]

1923. Rules and regulations—Weighmaster—Duties—Charges—The common council of such municipality wherein such public scales are maintained shall have control of such scales and shall make such rules or regulations in regard to the maintenance and use of the same as they shall deem proper, and said council shall annually appoint a public weighmaster, whose duty it shall be to have charge of such scales and properly weigh all articles and commodities thereon as hereafter provided and give a statement in writing of the weight of such articles or commodities weighed thereon to the person applying to have such article weighed, and such statement shall be prima facie the correct weight of said articles or commodities, and the common council shall fix the compensation of said weighmaster, which compensation shall be paid out of the treasury of such municipality, and shall, from time to time, fix the price to be charged for weighing any article or commodity thereon, and the weighmaster shall collect such charge at the time of weighing such

article or commodity, and he shall at the end of each month pay all moneys collected by him for such charge into the treasury of the municipality and file with the recorder of such municipality a statement of the amount of such money collected. ('05 c. 286 § 3) [1836]

1924. Scales to be tested, etc.—Who may use—Such scales shall be tested, stamped and sealed by the sealer of weights and measures, before being used, and as often thereafter as may be necessary. Any person either buying or selling any article or commodity by weight to be delivered in such municipality wherein such public scales are maintained may have the same weighed upon such public scales by paying the fee charged for weighing thereon. ('05 c. 286 § 4) [1837]

1925. Not to apply to certain cities—Provided that this act shall not apply to any city having a charter which provides for a city weighmaster. ('05 c. 286 § 5) [1838]

1926. Council may prohibit bucket shop—The common council of any municipal corporation in this state may by ordinance prohibit the keeping or causing to be kept within such municipality any bucket shop, office, store, or other place wherein is conducted or permitted the pretended buying or selling of the shares of stocks or bonds of any corporation, or petroleum, cotton, grain, provisions or other products, either on margins or otherwise, without any intention of receiving and paying for the property so bought, or of delivering the property so sold, or wherein is conducted or permitted the pretended buying or selling of any such property on margins, or when the party buying any such property or offering to buy the same, does not intend actually to receive the same, if purchased, or to deliver the same if sold, and to punish any corporation or person, whether acting individually or as a member, or as an officer, agent or employe of any corporation, association or co-partnership, who shall keep, maintain or cause to be maintained any such bucket shop, office, store, within said corporate limits, by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding ninety days. ('07 c. 174 § 1) [1839]

1927. Submission to voters, etc.—Electors residing within the corporate limits of any such municipality, equaling or exceeding in number ten per cent of the vote cast in such municipality at the last general election, may present to the common council or board of trustees thereof a petition signed by them and containing a proposed ordinance, as authorized in section 1 [1839] of this act, and it shall be the duty of said common council, or board of trustees, to receive the same and to submit said proposed ordinance to the electors of said municipal corporation at the first general or special election occurring more than fifteen days after the receipt by it of such petition. The clerk of such municipal corporation shall give ten days' notice of the submission of said proposed ordinance to the electors of said municipality, by publishing same in some newspaper published in said municipality, or if no newspaper is published therein, then in some newspaper published in the county seat of the county in which such municipality is situated, more than ten days prior to said election, and by posting same in three public places in said municipality at least ten days prior to said election. At said election said question shall be voted upon by ballot, which shall have printed thereon, "A proposed ordinance to prohibit the keeping of bucket shops. Yes. No." which vote shall be canvassed, returned and announced as other votes of such election. ('07 c. 174 § 2) [1840]

1928. Adoption of ordinance—If a majority of the vote cast at said election upon said proposed ordinance favor the adoption thereof, said ordinance shall thereupon be in full force and effect and binding upon every person within the corporate limits of said municipality. ('07 c. 174 § 3) [1841]

1929. When offense is committed—It shall not be necessary, in order to commit the offense defined in an ordinance adopted under the provisions of this act, that both the buyer and the seller shall agree to do any of the acts therein prohibited, but said crime shall be complete against any corporation, association, co-partnership or person thus pretending or offering to sell, or thus pretending or offering to buy, whether the offer to sell or buy is accepted or not. ('07 c. 174 § 4) [1842]

1929-1. Itinerant carnivals, street shows, street fairs, side shows, circuses, etc., within mile of corporate limits of city of fourth class—Town licenses or permits for—Consent of city—No town board or other public authority shall hereafter issue any license or permits for—Consent of city—No town board or other thing the operation or carrying on of any itinerant carnival, street show, street fair, side show, circus, or any similar enterprise, within one mile of the corporate limits of any city of the fourth class in this state, without having first obtained in writing the consent thereto of the council or other governing body of such city. ('25, c. 366, § 1)

1929-2. Same—Licenses or permits void—Any license, permit or other grant of authority issued or made in violation of the provisions of this act shall be absolutely null and void. ('25, c. 366, § 2)

1929-3. Same—Shows, etc., prohibited without lawful license or permit—Misdemeanor—Public nuisance—No person, firm, co-partnership, corporation or association of any nature or kind shall operate or attempt to operate or carry on any itinerant carnival, street show, street fair, sideshow, circus, or any similar enterprise, within one mile of the corporate limits of any city of the fourth class in this state without license or permit so to do lawfully granted under the restrictions provided in this act.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor; and any such enterprise operated without license or permit as herein prescribed is hereby declared to be a public nuisance. ('25, c. 366, § 3)

1929-4. Same—Definition—An itinerant carnival, street show, street fair, side show, circus, or other similar enterprise, within the meaning of this act, is any itinerant carnival, street show, street fair, side show, circus, or other similar enterprise, which is held, operated or carried on in the open or indoors or upon or within any public or private ground, at which there congregates and assembles, with or without the payment of an admission fee, a promiscuous gathering of people as spectators or otherwise. ('25, c. 366, § 4)

1929-5. Same—Sections 10242 to 10244 not affected—Issue of license where city of third class and city of fourth class are contiguous—Nothing in this act shall be construed as in any way abrogating or detracting from the provisions of Chapter 428, Session Laws for 1923, but said act shall be and remain in force and effect; provided further that in cases where a city of the third class and a city of the fourth class are contiguous, either municipality may issue such license without the consent of the other. ('25, c. 366, § 5; Amended '27, c. 16)

1930. Lands deeded to state—Modification of conditions—Any city or village in this state, that has here-

before or may hereafter deed to the state of Minnesota any lands to be used by said state for a public purpose in such deed stated, conditioned, among other things, that such lands shall be so used by the state for a period of time, which time exceeds twenty years, and in case such use is not made thereof for the stated time, then such land shall revert to such city or village, may at any time after fifteen years from the date of said deed by a majority vote of the city or village council at any regular meeting thereof, or at a properly called special meeting of such council, pass a resolution or enact an ordinance modifying the terms and conditions above specified and permit the noncompliance by the state with such terms and conditions as originally made, either wholly or in part, and such resolution so adopted shall operate as a release of said state from such terms and conditions to the extent provided in such resolution and the action by said state in conformity with such resolution shall not in any way cause a reversion to such city or village of said lands or any part thereof or interest therein. ('11 c. 182 § 1) [1843]

1931. Condemnation of property for fire damage—In all villages, boroughs and cities of less than ten thousand inhabitants, where any property has been condemned or ordered removed, by virtue of damages by fire or other cause, the owner of such property may appeal to the district court of such county, from the decision of such board of aldermen or other officers condemning such property, within thirty (30) days after notice served of such decision; provided, however, this act shall not apply to buildings made of brick or stone. ('13 c. 178 § 1) [1844]

1932. Notice of appeal, etc.—Trial—Notice of such appeal shall be filed with the clerk of such village, borough or city. It shall be the duty of such clerk to file in the office of the clerk of said court, copies of the proceedings had in such matter, with the notice of appeal within ten days after the filing of such notice of appeal. The case shall thereupon be tried in said court in the same manner as if originally commenced therein and the court may order issues joined and pleadings filed. ('13 c. 178 § 2) [1845]

1933. Municipal forests—Any city, village or town in this state, by resolution of the governing body thereof, may accept donations of land that such governing body may deem to be better adapted for the production of timber and wood than for any other purpose, for a forest, and may manage the same on forestry principles. The donor of not less than one hundred acres of any such land shall be entitled to have the same perpetually bear his or her name. The governing body of any city, village or town in this state, when funds are available or have been levied therefor, may, when authorized by a majority vote by ballot of the voters voting at any general or special city or village election or town meeting where such question is properly submitted, purchase or obtain by condemnation proceedings, and preferably at the sources of streams, any tract of land for a forest which is better adapted for the production of timber and wood than for any other purpose, and which is conveniently located for the purpose, and manage the same on forestry principles; the selection of such lands and the plan of management thereof shall have the approval of the state forester. Such city, village or town is authorized to levy and collect an annual tax of not exceeding five mills on the dollar of its assessed real estate valuation, in addition to all other taxes authorized or permitted by law, to procure and maintain such forests. ('13 c. 211 § 1) [1846]

1933-1. Decoration of soldiers' graves on memorial day by cities, villages and towns—Duty of clerks or recorders—It shall be the duty of the clerks or recorders of all cities and villages, and the town clerks of all towns, within the State of Minnesota, to ascertain,—as far as it shall be practicable so to do,—if within their respective city, village or town, there are any graves of soldiers of the United States which probably will not be decorated at the next Memorial Day, and if any such grave or graves shall be found, it shall be the duty of such city or village clerk or recorder and of such town clerk, to cause any and all such graves within their respective town, city or village, to be decorated annually, upon Memorial Day by placing thereat an American flag. ('15, c. 280, § 1)

1933-2. Same—Payment of expense of—The reasonable value of the service and expense necessary to comply with the foregoing section shall be a charge upon such town, city or village, and the governing body thereof, after due examination shall audit any bill which shall be duly itemized, verified and presented by such town clerk or city or village clerk or recorder, for such service and expense and shall order paid out of the treasury of such respective town, city or village, such bill or portion thereof as shall be found just and reasonable. ('15, c. 280, § 2)

1933-3. Villages and cities of fourth class may acquire parking places—Villages and cities of the fourth class are hereby authorized and empowered to acquire a suitable tract of land within the corporate limits thereof, by gift, purchase or condemnation proceedings, for use as a place within which to tie and stable horses and to park automobiles, and to that end may expend a part of the funds of such village or city for the purpose of acquiring, equipping and maintaining the same. ('19, c. 281, § 1)

1933-4. Cities, villages or boroughs may pay dues to League of Minnesota Municipalities—Any City or Village or Borough of this State, whether organized under the general laws or a special or home rule charter may appropriate through its governing body, out of its general fund, money to pay the annual dues in the League of Minnesota Municipalities, and the actual and necessary expenses of such delegates as such governing body may designate to attend meetings of any such League. ('23, c. 211, § 1)

1933-5. Public rest rooms—That all incorporated boroughs, villages and cities of the fourth class in this state shall each provide and maintain in or near the business center of the village or city a public rest room; such rest room shall be furnished with a suitable number of chairs and a table or tables; shall be heated and lighted between the hours of ten o'clock in the forenoon and six o'clock in the afternoon; the entrance thereto shall be from a public street and there shall be placed on or over the entrance thereto a sign bearing the words "PUBLIC REST ROOM." ('21, c. 294, § 1)

1933-6. Same—Facilities for women and children—There shall be provided and at all times maintained in connection with such rest room suitable toilet facilities for women and children. ('21, c. 294, § 2)

1933-7. Same—Free use of—Defiling, destroying, etc.—Sanitary condition—Such rest rooms, toilet and lavatories shall be open to free use and enjoyment by the public subject to such reasonable rules and regulations as may be prescribed by the city or village council. The city or village council is hereby authorized to provide by ordinance for the punishment of any person wilfully defiling any such premises or injuring or destroying any property used in connection with such rest

room. Such rest room and the toilets and lavatories and the accessories thereto shall at all times be kept and maintained in a clean, neat and sanitary condition. ('21, c. 294, § 3)

1933-8. Same—Location in hotel or other public building—It shall be deemed a compliance with the provisions of this act for any city or village to make arrangements with the proprietor of any hotel or any other public building for the furnishing by the latter to the public without charge of the facilities hereinbefore specified by permitting the public to use the hotel lobby or other public room as a rest room and likewise permitting the public to use the toilet and lavatory facilities of such hotel. In such case there shall be placed on or near the entrance of any such hotel in plain and conspicuous words a sign reading "PUBLIC REST ROOM" and the said premises, toilet and lavatories shall in such case be kept and maintained in a neat, clean and sanitary condition and the rest room shall be lighted and warmed as hereinbefore specified. ('21, c. 294, § 4)

1933-9. Tourist camping grounds in cities, villages, towns and boroughs—That all cities, villages, towns and boroughs in the State of Minnesota are hereby authorized and empowered to establish and maintain public tourist camping grounds and the City Council or other legislative or governing body thereof is hereby empowered to acquire by lease, purchase, or by gift suitable lands located either within or without the corporate limits for use as such public tourist camping grounds and to provide for the equipment, operation and maintenance of the same; provided, however, that the amount expended for the acquisition of any such public tourist camping grounds shall not exceed the sum of Six Thousand Dollars (\$6,000.00), and provided further that the amount that may be expended for the maintenance, improvement or operation of such tourist camping grounds shall not exceed in any one year a sum equal to the amount which may be raised by a one mill tax upon the taxable property of such municipality and in no event to exceed the sum of five Thousand Dollars (\$5,000.00) per annum. ('23, c. 227, § 1)

1933-10. Memorial buildings, monuments or parks for soldiers, sailors, marines and war veterans in cities or villages—Submission to voters—Ordinance for—The governing body of any city or village of this state, however organized, may, after the approval of a majority of the voters of such city or village, voting on the question at a special election called for the purpose, or at a general election or an annual election, in the notice whereof the proposal to do so has been submitted for approval or rejection, adopt an ordinance providing for the erection, equipment and maintenance of a building or monument or parks in recognition of the services performed by soldiers, sailors, marines and war veterans of the United States. Said ordinance may also provide for the supervision and control of such building or monument or parks after its erection. The estimated cost as determined by the governing body, of such monument or parks or building, shall be stated in such notice and in the proposal to be voted upon, provided that no sum shall be expended for any such purpose more than ten per cent in excess of the amount so stated in such notice. The governing body of such city or village, after such approval, is authorized to acquire a site within such city or village upon which such monument or parks or building may be erected, provided that before such election the site shall be designated and the cost thereof specified in such election notice. ('23, c. 325, § 1)

1933-10 1/2. Same—Tax levy—For the purpose of meeting the cost of such building or monument or parks, any such city or village may levy, within the limits permitted by law, amounts sufficient to cover the cost of such building or monument, or parks, but any such sums so levied shall be separately levied, and when collected, shall be paid into a special separate fund and used only for the purpose of paying for the cost of such building or monument or parks. ('23, c. 325, § 2)

1933-11. Same—Bond issue—Said governing body, may, whenever it shall have resolved that it is expedient to borrow money for the erection of or establishment of such building, monument or park and a proposal to do so shall have been duly submitted to and approved by a majority of the voters of such city or village, voting on the question, at a special election called for the purpose, or at a general or annual election, in the notice whereof the proposed issue shall have been plainly submitted for approval or rejection, issue and sell bonds of such city or village for such purpose in the manner now provided by law for the issuance of bonds by any such city or village for other purposes. The proposal to erect, equip, and maintain a monument or parks or building, and the proposal to issue bonds to defray the cost of the erection or establishment thereof may be submitted at the same election. The proceeds of such bond issue shall be used only for the erection, or establishment of the monument or parks or building provided for by the governing body. ('23, c. 325, § 3)

1933-12. Same—Bond issue—Tax levy for interest and retirement—For the purpose of meeting the indebtedness created by such bond issue any such city or village may levy within the limits permitted by law, amounts sufficient to discharge such bonded indebtedness and interest thereon but any such sums so levied shall be separately levied and when collected shall be paid into a special separate fund and used only for the purpose of paying such bonded indebtedness and interest thereon. ('23, c. 325, § 4)

1933-13. Same—War and historical museum—The governing body of any such city or village may provide in such building for a war and historical museum, and for such other features as it may determine. ('23, c. 325, § 5)

1933-14. Same—Construction of law—Insofar as this act affects cities of the third class, it shall be deemed as amendatory of and supplementary of Chapter 257 Session Laws of Minnesota for the year 1921, but shall not affect any building, monument or parks or proceedings heretofore commenced under such act. ('23, c. 325, § 6)

Explanatory note—For Laws 1921, c. 257 see §§ 1710-1, 1710-2, herein.

1933-15. Licensing restaurants, etc., in villages and boroughs—There is hereby conferred upon villages and boroughs authority by ordinance or by-law to license and regulate the business of keeping restaurants, cafes and public eating houses, to impose reasonable license fees therefor and to prescribe penalties for violations of such ordinances or by-laws. ('23, c. 378)

1933-16. Contracts by villages or towns with private hospitals for care of indigent sick—The governing body of any village or town lying within a distance of fifteen miles of not more than one private hospital is hereby authorized and empowered to enter into a contract with such hospital for a specified term of years not exceeding five years whereby the municipality becomes obligated to appropriate to such hospital not to exceed \$100.00 annually in the case of towns, and \$200.00

annually in the case of villages, and such hospital in consideration thereof becomes obligated to care for and treat the indigent sick of such municipality at reduced rates, which shall not exceed three-fourths of the customary rates and charges made by such hospital, and after such contract has been duly executed it shall be lawful for such municipality to appropriate its funds to such hospital in accordance with the terms of such contract. ('25, c. 311; Amended '27, c. 38)

1933-17. Municipal bands in cities of second, third and fourth class, villages, or boroughs—Tax levy for—Cities of the second, third and fourth class, villages or boroughs, however organized, may when authorized as hereinafter provided, levy each year a tax not to exceed two mills for the purpose of providing a fund for the maintenance or employment of a band for municipal purposes; provided, however, that no such levy by any such municipality shall exceed in any one year the sum of \$10,000.00. Any and all sums so levied shall be separately levied, and when collected shall be paid into a separate, special fund and used only for the purposes aforesaid; no such levy shall be made for any such fund when, at the proper time for the making thereof, according to the municipal records of the receipts thereof and disbursements therefrom, there shall be in such fund an unexpended balance amounting to as much as the maximum levy permitted by law therefor, reckoning in such receipts all uncollected but not delinquent taxes, and reckoning in such disbursements all outstanding obligations against such fund. ('27, c. 79, § 1)

1933-18. Same—Petition for election—Said authority shall be initiated by a petition signed by ten per cent of the legal voters of the city, village or borough, as shown by the last regular municipal election. Said petition shall be filed with the governing body of each city, village or borough, and shall request that the following question be submitted to the voter, to-wit: "Shall a tax of not exceeding . . . mills be levied each year for the purpose of furnishing a band fund?" ('27, c. 79, § 2)

1933-19. Same—Election—When such petition is filed, the governing body of such city, village or borough shall cause said question to be submitted to the voters at the first following general municipal election. ('27, c. 79, § 3)

1933-20. Same—Election—Vote required to carry—Said levy shall be deemed authorized if a majority of the votes cast at said election be in favor of the proposition, and the governing body of such city, village or borough shall then levy a tax sufficient to support or employ such band, not to exceed the rate authorized by the election. ('27, c. 79, § 4)

1933-21. Same—Petition and election for rescission of tax levy—A like petition may at any time be presented to the governing body of each city, village or borough asking that the following proposition be submitted, to-wit: "Shall the power to levy a tax for the maintenance or employment of a band be cancelled?" Said submission shall be made at any general municipal election as heretofore provided, and if a majority of the votes cast at such election be in favor of said question no further levy for said purpose shall be made until such time as the said question may again be voted upon favorably as heretofore provided. ('27, c. 79, § 5)

1933-22. Same—Use of funds—All funds derived from said levy shall be expended as set out in Section one hereof by the governing body of each city, village or borough. ('27, c. 79, § 6)

1933¹⁷
31 — 171
1933^{17,22}
27 — 79
See 1102

1933²²
Sec. 23
Added
29 — 57
29 — 299
33 — 64

INCORPORATION ACTS FOR CITIES.

ACT OF 1870, AS AMENDED.

Laws 1870, c. 31, entitled "An act to authorize the Incorporation of Cities", as amended. This act was not repealed by the Revision of 1905. As to cities incorporated under the act it is still applicable, except as otherwise changed by subsequent laws. There seems to be five cities to which this law is still applicable. It reads as follows:

"CHAPTER I.

"Section 2. That cities may be organized within the limits of this state as herein provided. Whenever two-thirds of the legal voters residing within the limits of a territory comprising not less than two thousand inhabitants, and not more than fifteen thousand, and which territory they desire to have incorporated as a city, shall sign and have presented to the judge of probate of the county in which such territory is situated, a petition setting forth the metes and bounds of said city, and of the several wards thereof, and praying that said city may be incorporated under such name as may therein be designated, the judge of probate shall issue an order declaring such territory duly incorporated as a city, and shall designate therein the metes, bounds, wards and name thereof, as in said petition described. And the said judge of probate shall in said order designate the time and place of holding the first election of officers for said city, which shall be not less than thirty nor more than sixty days from the presenting of said petition, and shall cause said order to be posted in five of the most public places in said city, at least for thirty days prior to the day of such election, and also cause the same to be published in some newspaper published in said city, at least once in each week for three consecutive weeks prior thereto, and if there be no newspaper published in said city, then in the paper published nearest thereto, and if there be more than one newspaper published in said city, then in one of such papers. Upon presenting the petition aforesaid to the judge of probate as aforesaid, the inhabitants within the metes and bounds therein described shall henceforth be a body politic and corporate, subject to and with power to act under the authority of all the provisions of this act. They shall have power to sue and be sued; complain and defend in any court; make and use a common seal; and alter it at pleasure; and take, hold and purchase, lease and convey such real and personal or mixed estate as the purposes of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall (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. 3. That the said judge of probate in his order designating the time and place of holding the first election of officers of any city incorporated under this act shall name three electors of each ward who shall conduct the said first election for their respective wards and who shall be the inspectors thereof and shall take the usual oath or affirmation as prescribed by the general laws of the state to be taken by the judges and inspectors of elections, and shall have the power to appoint clerks of such elections, and to administer the necessary oaths, and the persons so named as inspectors of the election shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this state regarding elections, and shall have power to fill vacancies in the board of inspectors as provided by law. (Added '72, c. 91)

"CHAPTER II.

"Elections.

"Section 1. There shall be an annual election for elective officers hereinafter provided, held on the first Tuesday of April of each and every year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until five in the afternoon; and ten days previous notice shall be given by the common council, of the time and place of holding such election, and of the officers to be elected, by posting notices thereof in three public places in each ward, and by publishing the same in at least one of the papers published in the city, if one shall be published in said city.

"Sec. 2. Each city governed by this act shall be divided into not less than two nor more than five wards, as may be provided by ordinance of the city council thereof, and each ward shall contain as nearly as prac-

ticable, an equal number of legal voters, and also an area equal to each other.

"Sec. 3. The corporate name of each city governed by this act, shall be "The City of _____," and all and every process and notice whatever affecting any such city shall be served upon the mayor, and in his absence, upon the president of the council, and in the absence of both, upon the clerk, and in the absence of these officers from the city, then by leaving a certified copy at the office of said clerk.

"Sec. 4. The elective officers of each city shall be a mayor, treasurer, recorder, one justice of the peace for each ward, who shall be styled city justice, all of whom shall be qualified voters of the city, and two aldermen in each ward, who shall be qualified voters therein; all other officers for said city shall be appointed by the common council, unless otherwise provided. At the first general election for city officers, there shall be elected in each ward two aldermen, one for one year, and one for two years, at every annual election thereafter one alderman shall be elected from each ward, who shall hold his office for two years and until his successor is elected and qualified. The city justices shall hold their offices for two years and until their successors are elected and qualified; all other elective officers shall hold their offices for one year and until their successors are elected and qualified.

"Sec. 5. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from said office by a vote of two-thirds of all the aldermen authorized to be elected. 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 shall have had a reasonable opportunity to be heard in his defence. The common council shall fix a time and place for the trial of such officer, of which not less than ten 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 shall neglect to appear and answer the charges against him, the common council may declare the office vacant.

"Sec. 6. Whenever a vacancy shall occur in the office of mayor or alderman by death, removal, resignation, or otherwise, the common council shall have power, and it shall be their duty to declare the office vacant by resolution entered upon their minutes. Such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after said vacancy is declared, and held within twenty days after such declaration, and reasonable notice of such election shall be given. Any vacancy happening in any other office shall be filled by the common council unless otherwise provided for. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

"Sec. 7. All elections by the people shall be by ballot, and each ballot shall contain the names of the persons voted for, with a proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

"Sec. 8. All persons entitled to vote for state or county officers, and who shall have resided in the city for four months next preceding the election, and ten days in the ward where they offer to vote shall be entitled to vote for any officer to be elected under this law, and to hold any office hereby created, provided their names shall have been duly inserted in the list of qualified electors of the ward in which they reside, as in the case of the election of state and county officers; and the different wards established by law shall constitute election districts for state and county as well as city elections, and the mode of conducting all state and county elections in said city shall be in the manner herein provided in reference to city elections, except that the returns thereof shall be made by the judges of election to the county auditor of the county within the time and manner prescribed by law.

"Sec. 9. The elections in said city shall be held and conducted by the aldermen of each ward, and one other elector of each ward, to be appointed by the common council, who shall be inspectors of election, and shall take the usual oath or affirmation as prescribed by the general laws of the state to be taken by the judges and inspectors of elections, and shall have power to appoint clerks of such elections, and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled as required by the laws of this state regarding elections. Provided, That no candidate for office shall act as inspector or clerk at such election.

"Sec. 10. When a city election shall be closed and the number of votes for each person voted for shall have

been counted and ascertained, the said judges shall make returns thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered such returns to the clerk of the common council, within three days after any election, and the common council shall meet and canvass said returns and declare the result, as it appears from the same, within three days thereafter. The recorder of the common council shall forthwith notify the officer or officers elected, of their election by written notice served upon such officers in person, or left at their usual place of abode with some person of suitable age and discretion.

"Sec. 11. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, in the same manner, and the returns thereof made in the same form and manner as in general and annual elections, and within such time as may be prescribed by resolution.

"Sec. 12. Any officer removing from the city or ward for which he is elected, or any officer who shall refuse or neglect for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

"Sec. 13. The term of every officer elected under this law shall commence on the second Tuesday of April for the year, for which he was elected, and shall, unless otherwise provided, continue for one year and until his successor is elected and qualified.

"Sec. 14. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place being given.

"CHAPTER III.

"Duties of Officers.

"Section 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same duly certified by the officer taking the same, with the recorder of the city, and the treasurer and marshal and such other officer as the common council may direct, shall severally before entering upon the duties of their respective offices, execute to the city a bond, with at least two sureties, (to be approved by the common council) who shall make affidavit that they are each worth the penalty specified in said bond over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper, and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

"Sec. 2. The mayor shall take care that the laws of the State and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers and watchmen, except when otherwise provided for; and in case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary; and any police officer or watchmen appointed by the mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it, or a reduction of their number renders it necessary.

"Sec. 3. All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof, he shall sign the same, and such as he shall not sign he shall return to the common council with his objection thereto, by depositing with the recorder to be presented to the common council at their next meeting thereafter; and upon the return of any resolution or ordinance by the mayor, the same vote by which the same was passed shall be reconsidered, and if after such reconsideration the common council shall pass the same by a vote of two-thirds of the members elected, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and noes, which shall be entered in the record by the recorder. If an ordinance or resolution shall not be returned by the mayor within five days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him.

"In case of a tie vote in the common council upon any measure, when all the aldermen are present and voting, he shall be called in and may vote with the common council upon the question upon which the vote is a tie. (Amended '13, c. 81, § 1)

"Sec. 4. At the first meeting of the common council in each year, they shall proceed to elect by ballot from their number a president and vice president. The presi-

dent shall preside over the meetings of the common council, and during the absence of the mayor from the city or his inability from any cause to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the president shall be absent at any meeting of the common council, the vice president shall act as presiding officer for the time being, and discharge the duties of said president. The president of the common council, or temporary presiding officer, while performing the duties of mayor, shall be styled the acting mayor, and acts performed by him while acting as mayor as aforesaid, shall have the same force and validity as if performed by the mayor. The mayor and president and vice president of the common council shall have the right to administer oaths and affirmations.

"Sec. 5. There shall be a recorder of said city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the council may determine. He shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meeting it shall be his duty to attend. Copies of all papers filed in office, and transcripts from all records of the common council, 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 treasurer in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have power to administer oaths and affirmations, and take acknowledgment of deeds and other writings.

"Sec. 6. It shall be the duty of the city recorder to report to the common council the financial condition of the city, whenever the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purposes, when and where payable, and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually on or about the first day of April to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of April.

"Sec. 7. He shall make or cause to be made estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the common council or by any city officer. And every contract made in behalf of the city, or to which (the city) is a party, shall be void unless signed by the recorder. The city recorder shall keep regular books of account, in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city; the amount of bonds, orders, certificates, or other evidences of indebtedness issued by the common council, the amount of all bonds, orders, certificates, or other evidences of indebtedness which have been redeemed, and the amount of each outstanding, to countersign all bonds, orders or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts with all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or any other purpose, and before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the common council a schedule of all lots or parcels of land which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of land, which said schedule shall be certified by the affidavit of the recorder, and shall be prima facie evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this act. If before the first day of January of any year, the amount expended, or to be expended, chargeable to any city fund, (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund) shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund, he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all reports, books, papers, vouchers and accounts of the city treasurer, and from time to time shall perform such other

duties as the common council may direct. All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the recorder. And he shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such record shall be open to the inspection of all parties interested. He shall not be interested directly or indirectly in any contract or job to which the city is a party, or in which the city is interested; and any contract in which he may be interested shall be null and void.

"Sec. 8. The common council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office, and when required, shall furnish opinions upon any subject submitted to him by the common council or its committees.

"Sec. 9. The treasurer shall receive all moneys belonging to the city, including all taxes, license money and fines, and keep accurate and detailed account thereof, in such a manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of the receipts and expenditures after the date of the last annual report, and also of the state of the treasury, which account shall be filed with the clerk, and a copy of the same published in one or more of the city newspapers, or in the paper published nearest to said city. He shall also report to the common council at such times and in such manner as they may require.

"Sec. 10. There shall be a chief of police of said city, who shall be appointed by the mayor, by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace. All police officers and watchmen of said city shall 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 of the ordinances or by-laws of said city; and also all writs and process whatever, issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the state, and when performing the duties of constables aforesaid, shall be entitled to like fees. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or any violations of the laws of this state, or of the ordinances or by-laws of the city; and for these purposes shall possess the powers of constables at common law, while on duty.

"Sec. 11. The common council shall, at their first meeting after the annual election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for one year, and until his successor is elected and qualified. It shall be the duty of the street commissioner to superintend all work and improvements on the streets, bridges and public grounds of the city, and carry into effect all orders and ordinances of the common council in relation to work or improvements upon the streets, roads, bridges and public grounds of the city; and he shall be required to execute a bond, with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity, or belonging to the city.

"Sec. 12. The common council shall, in the month of April in each year, elect an assessor, who shall be styled the city assessor, who shall perform all the duties in relation to the assessing of property for the purpose of levying of all city, county and state taxes. And upon the completion of the assessment roll, he shall return the same to the common council, who may alter, revise and equalize the same, as they may deem it just and proper. Said city assessor shall hold his office for one year, and until his successor is elected and qualified.

"Sec. 13. The justices of the peace of the city, styled city justices, shall possess all the authority, power and rights of a justice of the peace of the county under the laws of this state, and shall have, in addition thereto, exclusive jurisdiction to hear and try all complaints for violation of any provision or provisions of the city charter, or any ordinance, by-law, rule or regulation made or adopted under or by virtue thereof, and of all cases cognizable before a justice of the peace in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the said city or its charter, and in all cases of offenses committed against the same. And the said city justices shall have jurisdiction in cases of larceny, and may hear and try the same where the amount claimed to have been stolen does not exceed the sum of twenty-five dollars. In all prosecutions for assaults, batteries and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before said city justices the same forms and proceedings shall be had and used, where not otherwise directed, as are established and required to be had in civil and criminal actions by the laws of this state be-

fore a justice of the peace; and appeals from the judgment and decisions of said city justices shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of convictions under any ordinances of the city for breach 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 justices shall have power, in addition to the fines or penalties imposed, to compel said offenders to give security for their good behavior, and to keep the peace for a period of not exceeding six months, and in a sum not exceeding five hundred dollars. The said justices shall have the same power and authority in cases of contempt, as a justice of the peace under laws now in force. All fines and penalties imposed by the city justices for offenses committed within the city limits, for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city, for offenses against the laws of the state, of the county treasury.

"Sec. 14. The city justices shall, as often as the common council may require, report to the common council all the proceedings instituted before them in which the city is interested, and shall at the same time account for and pay over to the city treasurer, all fines and penalties collected or received by them belonging to said city; and said justices shall be entitled to receive from the county such fees in criminal cases as are allowed by statute to justices of the peace for similar services.

"Sec. 15. Said justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by them at all times, in court or otherwise.

"Sec. 16. In all suits brought on behalf of said city for the recovery of any forfeiture, fine or penalty, in all cases arising on complaints for the violation of any ordinance, by-law or regulation of said city, and on complaints for assault, battery or affray, or other misdemeanor, or criminal offense, not indictable, committed within said city, the said justices shall be authorized to tax, with the other legal costs, one dollar for each trial, for the benefit of said city, and their residence in said city shall not deprive them of jurisdiction of actions brought in favor of or against said city, when said actions are otherwise within the jurisdiction of a justice of the peace.

"Sec. 17. The common council, at their first meeting in each year, or as soon thereafter as may be, shall elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in said city, and the common council shall prescribe his duties, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of persons interested; and the same, together with all the books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor, or the common council.

"Sec. 18. The common council, at their first meeting after each annual election, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing said printing. The bid or bids received by the clerk to do said printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person or persons offering to do said printing for the lowest sum or price in any newspaper published in said city, and shall give satisfactory security for the performance of the work, shall be declared city printer for the ensuing year, and in the newspaper designated in said accepted bid or proposal, shall be published all ordinances, by-laws and other proceedings and matters required by this act or by the by-laws or ordinances of the common council to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the city recorder a copy of such publication, with his affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be prima facie evidence of the publication of such notice, ordinance or resolution; Provided, That if no person will publish, or offer to publish in any newspaper published in said city, such ordinances or other matters as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding.

"Sec. 19. If any person, having been an officer of said city, shall not, within ten days after notification and request, deliver to his successor in office all property books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one thousand dollars besides all damages caused by his neglect or his refusal so to deliver, and said successor may receive possession of such books, papers and effects, in the manner prescribed by the laws of this state.

"Sec. 20. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, unless otherwise provided for, but no officer elected or appointed by the common council, or appointed by the mayor, as hereinbefore provided, shall be appointed for a longer term than one year, and until his successor is elected or appointed and duly qualified. The common council shall have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act, and such compensation shall be fixed by resolution; and in regard to all offices created by this charter, the compensation shall be fixed within three months from the first organization and meeting of the common council after the first year, the compensation of officers shall be fixed for the fiscal year in the month of April of each year, except for such offices as may hereafter be created, in regard to which the compensation shall be fixed at the time of the creation of such office, nor shall the compensation of any officer, after having been fixed, be increased or diminished during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions of this charter shall be a party to or interested in any contract in which the city is interested, made while such officer is holding office. Provided, That the mayor and aldermen shall receive no compensation for their services as such officers.

"Sec. 21. The mayor or acting mayor, recorder and each alderman, the city justices, police officers and watchmen, shall be officers of the peace, with powers of constables at common law, and may command the peace, 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 the by-standers, and, if need be, of all the citizens and military companies; and if any person, by-stander, military officer or private, shall refuse to aid in maintaining the peace when so required, each person shall forfeit and pay a fine of fifty dollars; and in cases where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

"CHAPTER IV.

"The Common Council—Its General Powers and Duties.

"Section 1. The aldermen shall constitute the common council, and the style of all ordinances shall be, 'The common council of the city of _____ do ordain,' &c. The common council shall meet at such time and place as they by resolution may direct. A majority of the aldermen shall constitute a quorum.

"Sec. 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be delivered personally or left at their usual place of abode. The common council shall be the judges of the election and qualification of its own members, and in such cases shall have power to send for persons and papers, and shall also determine the rules of its own proceedings, and have power to compel the attendance of absent members.

"Sec. 3. The common council shall have the management and control of the finances and all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, by-laws, rules and regulations for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they shall deem expedient; they shall have power to establish and maintain a city prison: Provided, That until otherwise ordered by the common council, the county jail of the county shall be used as a city prison, and it shall be the duty of the sheriff or jailor of the county to take into custody and safety keep in said jail all persons committed thereto until discharged according to law. The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any provisions of any ordinance or by-law passed or ordained by them, and all such ordinance, rules and by-laws are hereby declared to have all force of law: Provided, That they be not repugnant to the constitution and laws of the United States, or of this state, and

for these purposes shall have authority by ordinance, resolution or by-laws—

"First—To license and regulate the exhibitions of common showmen, and shows of all kinds, or the exhibition of caravans, circuses, concerts, or theatrical performances, billiard tables, nine or ten-pin alleys, bowling saloons, to grant licenses to and regulate auctions and auctioneers, tavern keepers and victualing house-keepers, and all persons dealing in spirituous, vinous or fermented liquors: Provided, That all licenses for so dealing in spirituous, vinous or fermented liquors, shall not be less than fifty dollars a year, and no license shall be granted for a less term than one year, and all licenses shall commence and terminate on the first day of May of each year.

"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 restrain any person from selling, giving or dealing in spirituous, vinous or fermented liquors, unless duly licensed by the common council.

"Third—To prevent any riots, disorderly assemblages in said city, and provide for the arrest of and punishment of any person 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 thereof, and to authorize the seizure and destruction of all instruments used for the purpose of gambling.

"Fourth—To compel the owner or owners of any cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome structure or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

"Fifth—To direct the location and management of slaughter-houses and markets, breweries and distilleries, and to establish rates for and license vendors of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

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

"Seventh—To prevent and punish immoderate driving or riding in the streets, to regulate (the speed of) cars and locomotives in said city, and to prevent their obstructing the streets of said city, 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 the city.

"Eighth—To restrain the running at large of cattle, swine, sheep, poultry and geese, 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 such animals, shall be deposited in the office of the treasurer of said city, for the use and benefit of the owners thereof, if called for by such owner within one year from the day of such sale.

"Ninth—To prevent the running at large of dogs, and may impose a tax on the same, in a summary manner, when at large contrary to the ordinance.

"Tenth—To prevent any person from bringing, depositing or having within said city any putrid carcass or unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substances, or any putrid or unsound meat, flesh, or fish, or hides or skins of any kind, and to authorize the removal of the same at the expense of the owners.

"Eleventh—To establish and construct public pounds, pumps, wells, cisterns, reservoirs, and hydrants; to erect lamps, and provide for the lighting of the city, and to control the erection of gas works or other works for lighting the streets, public grounds and public buildings, and to create, alter and extend lamp districts; to regulate and license hacks, carts, omnibuses, and the charges of hackmen, draymen, cabmen and omnibus drivers in the city.

"Twelfth—To establish and regulate boards of health, provide hospitals and hospital grounds, and 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.

"Thirteenth—To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

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

"Fifteenth—To prevent the discharging of fire arms or crackers, and to prevent the exhibition of any fire works

in any situation which may be considered by the common council dangerous to the city or any property therein, or annoying to any of the citizens thereof.

"Sixteenth—To prevent open and notorious drunkenness, brawling and obscenity in the streets or public places of the city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

"Seventeenth—To restrain and regulate parties, runners, agents and solicitors for boats, vessels, stages, cars and public houses or other establishments.

"Eighteenth—To establish public markets and other public buildings, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

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

"Twentieth—To regulate the place and manner of weighing and selling hay, and measuring and selling of fire wood, coal, peat and lime, and to appoint suitable persons to superintend and conduct the same.

"Twenty-first—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 to compel such owner or occupant 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, at the expense of such owner or occupant.

"Twenty-second—To regulate, control and prevent 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.

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

"Twenty-fourth—To provide for watchmen, and to prescribe their number and duties, and regulate the same, and to create and establish the police of said city, and to prescribe the number of police officers and their duties, and to regulate the same.

"Twenty-fifth—To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and 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.

"Twenty-sixth—To regulate the inspection of flour, pork, beef, fish, salt, whiskey, and other liquors and provisions; and to appoint inspectors, measurers, weighers and gaugers; to regulate their duties and prescribe their compensation.

"Twenty-seventh—To direct and regulate the planting and preservation of ornamental trees in the streets, alleys, highways and public grounds of the city.

"Twenty-eighth—To remove and abate any nuisance injurious to the public health or safety, and to remove or require to be removed any building, which, by reason of dilapidation, defects in structure or other causes may have or shall become imminently dangerous to life and property; and to provide for the punishment of all persons who shall cause or maintain such nuisances, and to charge and assess the expense of removing or abating the same upon the lot or lots upon which such nuisance or dangerous building may be maintained.

"Twenty-ninth—To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds, and highways of the city.

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

"Thirty-first—To restrain and punish vagrants, mendicants, street beggars, and provide for the punishment of the same.

"Thirty-second—Fines, penalties and punishments, imposed by the common council for the breach of any ordinance, by-law or regulation of said city, may extend to a fine not exceeding one hundred dollars, and imprisonment in the city prison or county jail, not exceeding thirty days, or both, and to be fed on bread and water at the discretion of the city justice; and offenders against the same may be required to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars.

"Sec. 4. All ordinances, regulations, resolutions and by-laws, shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and noes, and published in the official paper, and posted in three conspicuous places in each ward for two weeks, before the same shall be in force, and shall be admitted as evidence in any court in the state, without further proof; they shall be recorded by the city recorder in books provided for that purpose. No ap-

propriation shall be made without a vote of a majority of the members of the council present in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

"Sec. 5. The power conferred upon the common 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. Depots, houses or buildings of any kind within the limits of said city, wherein more than twenty-five pounds of gunpowder, or more than five barrels of thirty-six gallons each, (or such greater or less quantity as said common council may direct by ordinance,) of petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored or kept at any one time, gambling houses, houses of illfame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

"Sec. 6. The common council shall examine, audit and adjust the accounts of the recorder, treasurer, street commissioners, city justice and all other officers and agents of the city, at such times as they may deem proper, and also at the end of each year, and before the terms for which the officers of said city were elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council, in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts, or present his books and vouchers to the council, or a committee thereof, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall institute suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustment.

"Sec. 7. That the common council of the city shall have full power from time to time to borrow money to pay the indebtedness of the city, and in order to pay such indebtedness the city may issue city bonds therefor, bearing interest not to exceed ten per cent. per annum, redeemable at any time within ten years, at the discretion of the common council. Provided, That at no time shall it be lawful for said indebtedness, bonded or otherwise, to exceed the sum of fifteen thousand dollars, unless the same be authorized by two-thirds vote of the legal votes cast at the election held for such purposes. And provided further, That the city council shall each and every year levy a tax of one mill on the dollar of the taxable property of the city for each thousand dollars that may be funded by the said city into bonds to pay the interest on said bonds and create a sinking fund to pay the same when due. All laws, ordinances, regulations and by-laws, shall be passed by an affirmative vote of the majority of the common council, and be signed by the mayor, and shall be published in the official paper of the city, before the same shall be in force, and within twenty days thereafter they shall be recorded by the recorder in books provided for that purpose, but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, as aforesaid, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication.

"CHAPTER V.

"Taxes.

"Section 1. The common council shall have power to levy upon all the taxable property of said city taxes to provide for the current expenses of the city government and police, for the opening, maintaining and improvement of public grounds, and the construction of buildings and improvements of a general character; Provided, That such taxes shall in no year exceed one per cent. of the assessed valuation.

"Sec. 2. The common council shall have power to levy a special tax upon all the taxable property in the city, or of the different wards of the same, for the purpose of constructing, maintaining bridges and culverts, and opening, constructing, maintaining and repairing roads, highways, streets and alleys; for the construction of reservoirs, cisterns, sewers, drains and street gutters and grading of streets, and for other purposes conducive to good order and cleanliness, and to protection against crime, disease and fire. Provided, That such taxes shall, in no year, exceed one per cent. of the assessed valuation. And provided further, That for the improvements in this section mentioned, the common council shall have power to assess the tax to pay the same upon the award or awards benefited by such im-

provements, in such manner and to such extent as the common council may think just and equitable. The tax shall be apportioned upon a cash valuation of the property, which it shall be determined is liable to assessment for such improvements. No debts shall be incurred or created by the city, the common council, or any officer of the city, except pursuant to the authority herein expressly given for that purpose; and no order or orders shall be issued upon the city treasury exceeding the amount of tax collected or assessed and in process of collection.

"Sec. 3. The common council shall have power, and it shall be the duty of the common council, to levy, annually upon the taxable property of said city, taxes sufficient to pay all bonds or other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless that previously to the first day of September in each year some other adequate provision has been made for the payment of the same. The common council shall have the power to issue bonds and levy taxes exceeding the amount authorized by other sections of this act; Provided, The same be authorized by a majority of the voters present and voting at an election to be held for that purpose. The time, place and manner of holding such election to be prescribed by the common council, the same notice to be given as at other elections. And no bonds for any purpose shall be issued by the common council unless so authorized.

"Sec. 4. Taxes may be levied by resolution of the common 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 which the same is levied; but in such case the surplus shall, if the tax be a general tax, go into the general fund of the city; if it be a bond or interest tax, it shall be kept and used for the future payment of principal or interest of the same class of bonds, or the purchase thereof before due; if it be for improvements, it shall be kept and used for future improvements of the same character.

"Sec. 5. The common council shall cause to be transmitted to the county auditor of the county, on or before the first day of September of each year, a statement of all taxes by them levied, 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 treasurer of said city.

"Sec. 6. No money shall be paid out of the city treasury unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, 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 common council may determine.

"Sec. 7. When any such order shall have been paid or received by the treasurer, it shall not again be issued, but he shall immediately cancel the same, and file the same away in his office, keeping the orders drawn upon each fund separate.

"Sec. 8. It shall be lawful for the common council of said city, at any time, to levy a corporation poll tax upon every qualified voter in said city; Provided, That said tax shall not in any one year exceed the sum of two dollars on each person.

"CHAPTER VI.

"Opening and Vacating Streets, Alleys, &c.

"Section 1. The common council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds within the limits of said city, and shall cause all streets which may have been opened and graded, to be kept open and in repair, and free from nuisances.

"Sec. 2. The common council of said city, by a vote of not less than two-thirds of the members present, and constituting a quorum of any stated or special meeting, such vote to embrace a majority of all the members elect, shall have power to lay out, open, alter and vacate public squares, streets, grounds, highways and alleys, and to widen and straighten the same. Provided, That whenever it shall be required to take private property for the purposes above stated, they shall proceed in the manner hereinafter provided.

"First—The common council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as there may be wards of said city, selecting one from each ward, who shall be a disinterested freeholder and qualified voter of said city, to view the premises, and assess the damages which may be occasioned by the taking of private property or otherwise, in making said improvement. Said commissioners shall be notified as soon as practicable by the city clerk

of said city, to attend at his office, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties; and in case any such commissioner, upon being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty dollars, and shall be liable to be prosecuted therefor before the city justice of said city, as in the case of fines imposed for a violation of an ordinance of said city; and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

"Second—The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make due return of their actions and doings to the common council.

"Third—The said commissioners shall, with all reasonable speed, with the assistance of the city surveyor of said city, cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting, as far as practicable, the land or parcels of property required to be taken, or which may be damaged thereby, and shall thereupon give notice by publication in the official newspaper of said city, for at least ten days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them, and thence proceed to view the premises, and assess the damages for property to be taken, or which may be damaged by such improvement.

"Fourth—At the time and place appointed according to said notice, the said commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary, for the purpose aforesaid. When their view and hearing aforesaid shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by said improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and also the advantages which will accrue to such owner or owners in making such improvement.

"Fifth—If their should be any building standing in whole or in part upon the land to be taken, the said commissioners shall in each case determine and assess the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much thereof as might be necessary, should be taken, and shall also determine and assess the amount of damages to be paid to such owner or owners in case he or they should elect to remove such building, and the damages in relation to buildings aforesaid, shall be assessed separately from the damages in relation to the land upon which they are erected.

"Sixth—If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate in it less than an estate in fee, (the) injury or damage done to such persons or interests respectively, may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

"Seventh—The said commissioners having ascertained and assessed the damage aforesaid, shall make and file with the city clerk a written report to the common council, of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the name of the owners, if known to them, and also a statement of the costs of the proceeding.

"Eighth—Upon such report being filed in the office of the city clerk, said city clerk shall give at least ten days' notice by publication in the official newspaper of said city, to the effect that such assessment has been returned, and that the same will be confirmed by the common council, at a meeting thereof, to be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be taken by such improvement, shall on or before the time specified in said notice, notify the common council in writing of their election to remove such buildings, according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over or be referred, shall have power, in their discretion, to confirm, revise, or annul the assessment, giving due consideration to any objections interposed by parties interested.

"Ninth—The damages assessed shall be paid out of the general funds of said city, and shall be paid or tendered, or deposited and set apart in the treasury of said city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessment

and report, and the land or property required to be taken for the purposes aforesaid, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the common council, in the district court of the county, in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim to the same.

"Tenth—In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same, within the time prescribed, such buildings or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct, and the same or the proceeds thereof, shall belong to said city.

"Eleventh—When any known owner of lands or tenements, affected by any proceeding under this act, shall be an infant, or labor under legal disability, the judge of the district court of the county, or, in his absence, the judge of any court of record may, upon application of said commissioners, or of said city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by this act, shall be served upon such guardian.

"Twelfth—Any person feeling himself aggrieved by such assessment, may, by notice in writing, served on the mayor of said city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county, within twenty days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury, as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified, considered, and a transcript of such report, certified by the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits.

"Sec. 3. Whenever any public ground, street, or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city surveyor, and also filed in the office of the register of deeds of the county.

"Sec. 4. No public grounds, streets, alleys, or highways within said city shall be vacated or discontinued by the common council, except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys or highways, resident within the said city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys, or highways proposed to be vacated, and shall be verified by the oath of at least two of the petitioners. The common council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed of record with the city clerk who shall give notice by publication in the official paper of said city, for four weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief, its object, and that said petition will be heard and considered by the common council, or a committee appointed by them on a certain day and place therein specified, not less than ten days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of parties interested. The common council thereupon after hearing the same, or upon the report of such committee, in favor of granting such petition, may by resolution passed by a two-thirds vote of all the members elect, declare such public grounds, streets, alleys, or highways, vacated, which said resolution, after the same shall go into effect shall be published as in the case of ordinances, and thereupon a transcript of such resolution duly certified by the city clerk, shall be filed for record and duly recorded in the office of the register of deeds of the county.

"Sec. 5. Any person aggrieved thereby, may within twenty days after the publication thereof appeal to the district court of the county, under the same regulations as in the case of opening streets and alleys, and the judgment of the court thereon shall be final.

"Sec. 6. It shall be the duty of the clerk to keep in his office a record of all proceedings taken under this chapter, and after the confirmation of any report mentioned in sections two and four of this chapter, said clerk shall carefully record and transcribe in such record all the proceedings taken in relation to the matter in said report, including all petitions, orders and appointments of commissioners, returns and reports of commissioners, notices and proofs of publication thereof, and orders or resolutions of the council, and the said record, or a certified transcript thereof or the original papers, petitions, proofs of publication, orders or resolutions, on file in his office shall be prima facie evidence of the facts therein contained, in any court in this state.

"CHAPTER VII.

"Fire Department.

"Section 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or other buildings, the material or construction of which shall be regarded as dangerous to surrounding property, shall not hereafter be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed, shall hereafter be built and constructed in such manner and of such materials, as in the judgment of the common council, shall not be dangerous to surrounding property, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged by fire or otherwise to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power, by resolution, to order any building, structure, or materials therefor, hereafter erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property to be taken down or removed beyond the fire limits of the city, and shall have power to prescribe the notice to be given to the owner or agent to remove such building, and in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police, or in such manner as the common council may see fit. And the common council may prescribe penalties for the violation of any of the provisions of this section, or of any ordinance made or enacted to carry out the provisions thereof, not exceeding one hundred dollars, which may be imposed by a city justice, upon the complaint of any citizen.

"Sec. 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe or secure condition, when considered dangerous. To prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and alleys. To require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire. To regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires. To regulate and prevent the use of fire arms and fireworks. To compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same. To authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient.

"Sec. 3. The common council shall have power to purchase fire engines and all other apparatus which may be required for the extinguishment of fires, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited and their apparatus to be given up. Every member of each company which may be authorized to be formed, shall be exempt from highway work and poll tax, from serving on juries, and from military duty during the continuance of such membership.

"Sec. 4. The common council have power to appoint the chief engineer and two assistant engineers of the fire department, and also one fire warden in each ward, and to prescribe the duties of such officers.

"Sec. 5. Whenever any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order to arrest or to direct orally any

constable, police officer, watchman or any citizen, to arrest such person, and confine him temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest, or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing to obey, shall be liable to such penalty as the common council may prescribe, not exceeding a fine of fifty dollars.

"CHAPTER VIII.

"Street Grades and Sidewalks.

"Section 1. The common council may cause to be established from time to time, and as rapidly as the convenience of the inhabitants may require, under the direction of the city surveyor, the grade of all streets, sidewalks and alleys in said city, and it shall cause accurate profiles thereof to be made and kept in the office of the city surveyor.

"Sec. 2. Whenever the common council shall deem it necessary to construct or repair any sidewalk in said city, they shall require the street commissioner to notify all owners and occupants of any lot or lots, or parcels of land adjoining such sidewalk, to construct or repair the same at his or their own proper expense and charge, within a time designated by the publication in the official paper of said city, for not less than two weeks, of a notice to said owners or occupants, setting forth what work is to be done, and the character of the same, by such owners or occupants, and the time within which they are required to do the same.

"Sec. 3. If such work is not done and the said sidewalks not built or repaired in the manner, and within the time prescribed, the common council may order the same to be done by the street commissioner, at the expense of the lots and parcels of land adjoining said sidewalks, and said expenses shall be assessed upon such lots and parcels of land so chargeable, by the street commissioner, and returned by him to the common council. And said assessment so made and returned, if approved by the common council, shall become a lien upon said lots and parcels of land, as in case of city, county and state taxes.

"Sec. 4. If said assessment be not paid to the street commissioner or the city treasurer, on or before the twentieth day of August, in any year, the common council shall cause a statement of the same to be transmitted, with the city taxes levied for that year, to the auditor of the county, on or before the first day of September in each year, and the said auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection, and payment thereof enforced, with and in like manner as city, county and state taxes are collected and payment thereof enforced.

"Sec. 5. The common council shall prescribe the width of sidewalks, and may establish different widths in different localities, and determine the kind of material of which they shall be constructed, having regard to the business and the amount of travel in the vicinity of each.

"CHAPTER IX.

"Lighting of Streets—Supply of Water.

"Section 1. The common council shall have authority to contract with any person, persons or corporation for the lighting of such streets or parts of streets and public places as they shall deem proper for the convenience and safety of the inhabitants.

"Sec. 2. The common council may permit the laying of gas pipes in any and all the streets, alleys, highways and public grounds of the city; but in all cases the common council shall regulate the laying of the same, so that said gas pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof, or with the proper and convenient location of water mains and pipes, and may at any time require the location of any gas pipe to be changed, if the same shall be found to interfere with the proper and convenient location of common sewers or water mains and pipes.

"Sec. 3. The common council may permit any party or corporation to lay water mains and pipes in any and all streets, alleys, highways and public grounds of the city, and shall regulate the position of the same, so that (they) shall not obstruct or interfere with common sewers or with the proper drainage of the city.

"CHAPTER X.

"Miscellaneous Provisions.

"Section 1. No vote of the common council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as

large a number of aldermen as were present when the vote was taken.

"Sec. 2. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two thirds of the aldermen elect.

"Sec. 3. In all prosecutions for any violation of this act, the first process shall be by warrant on complaint being made; Provided, That no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, or ordinance or by-law of the city, but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, process or writs by a city justice for the violation of an ordinance and by-laws of said city, shall be directed to the chief of police or any police officer of said city.

"Sec. 4. In all cases of the imposition of any fine or penalty, or of the rendering of any judgment by a city justice of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance or by-laws of the said city, as punishment for any offence, or for the violation of any ordinance or by-law as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the common jail of the county, and be there imprisoned for a term not exceeding three months, in the discretion of the city justice, unless the said fine or penalty be sooner paid or satisfied; and from the time of the arrest of any person or persons for any offense whatever, until the time of trial, the person or persons so arrested may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the county.

"Sec. 5. 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. 6. Each city may purchase and hold real and personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

"Sec. 7. No law of the 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. 8. The street commissioner shall collect the corporation or poll tax, which may be levied by the common council, and said street commissioner shall have all the power as possessed by road supervisors as provided by the laws of the state, and shall report to the common council when required.

"Sec. 9. This act shall take effect and be in force from and after its passage."

ACT OF 1895, AS AMENDED.

Laws 1895, c. 8, entitled "An act to provide for the incorporation, organization and government of cities," as amended Sub-chapter I of this act, §§ 1 to 40 were repealed by the Revision of 1905 (See § 10975 herein). The remainder of the act has not been repealed. As to cities incorporated under the act it is still applicable, except as otherwise changed by subsequent laws. There seems to be five cities to which this law is applicable. It reads as follows:

"CHAPTER I.

Repealed by Revision of 1905 (see § 10975, herein).

"CHAPTER II.

"Election, Appointment and Duties of Officers.

"Sec. 41. Elective officers.—The elective officers of cities shall be mayor, treasurer, one ward alderman elected from each ward and aldermen elected from the city at large; the number of aldermen elected at large to be as follows:

"In cities with six wards or less, two aldermen shall be elected from the city at large; in cities having more than six wards and less than ten wards, four aldermen shall be elected from the city at large; in cities having ten or more wards, eight aldermen shall be elected from the city at large. In cities with a population of 30,000 or more, there shall be elected in addition to the officers above provided for, a city comptroller. In all cities wherein there are any justices of the peace, judges of the municipal court or other city officers except school officers not provided for by this act, who are elected by the people such officers shall be elected at the city election held under this act, but shall qualify at the time and hold such offices for terms provided by the laws under which such offices exist.

"Sec. 42. Time of election.—The regular city election shall be held on the first Tuesday after the first Monday in November of each odd numbered year.

"Sec. 43. Terms of elective officers.—The terms of officers elected by the people under this act shall be two years; and provided, that where there is in any city reorganized under this act under the laws governing such city prior to such reorganization, a legislative body, the members of which are elected at large, they shall serve as aldermen at large under the provisions of this act to the ends of the terms for which they were respectively elected, and where, in any city reorganized under this act, there is, under the law governing such city prior to such reorganization a legislative body, the members of which are elected by wards, such members shall serve as ward aldermen under the provisions of this act to the end of the terms for which they were respectively elected, and at the city elections respectively next preceding the expiration of the terms of such existing aldermen at large or ward aldermen, successors shall be elected for partial or full terms, to conform to the provisions of this act. And provided further, that at the first election in any city originally incorporated under the provisions of this act, five aldermen shall be elected from the city at large and no other aldermen shall be elected at such election. Such aldermen at large shall serve until the then next city election and until the aldermen elected thereto shall have qualified, as provided in section 44 hereof. At the said second city election there shall be elected aldermen as in this section provided for the first election held under this act.

"Sec. 44. Commencement and end of term.—The term of each elective officer, unless herein otherwise provided, shall commence on the first Tuesday after the first Monday in January next succeeding his election; and all officers elective and appointive shall serve to the expiration of their respective terms and until their successors are elected or appointed and have qualified, except when removed as herein provided.

"Sec. 45. Removal of officers.—Every person appointed to any office under the provisions of this act may be removed from such office by a vote of two-thirds of all the members of the city council, except as otherwise provided in this act; but no such officer shall be removed by the city council except for cause, nor unless he first been furnished with a copy of the charges, nor until he shall have had reasonable opportunity to be heard in person or by council in his own defense. The city council shall have power to fix the time and place for the trial of such officer, of which he shall be given not less than ten (10) days' notice, to compel the attendance of witnesses and the production of papers, and to hear and determine the case. If such officer shall neglect to answer to such charge, the same shall be cause for removal.

"Sec. 46. Vacancy—how filled.—Whenever a vacancy shall occur in the office of any officer elected by the people or appointed by the city council, such vacancy shall be filled by appointment by the city council for the unexpired term.

"Sec. 47. What shall constitute an election.—A plurality of votes for elective officers shall constitute an election. When two or more persons shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the city council, at such place and in such manner as they may direct. Officers appointed by the city council shall receive a majority vote of all its members to constitute an appointment.

"Sec. 48. Removal, refusal or failure to act.—Any officer removing from the city or ward for which he was elected or appointed, and any officer elected under the provisions of this act, who shall refuse, or without cause neglect to enter upon the discharge of the duties of his office for ten (10) days after the beginning of the term which he was elected to fill, he having at least ten (10) days prior thereto been notified by the city clerk of his election, or any officer appointed under the provisions of this act who shall refuse or neglect to enter upon the discharge of the duties of his office for ten (10) days after receiving notice from the city clerk of his appointment, shall be deemed to have vacated or abandoned the same.

"Sec. 49. Resignation.—Any officer having entered upon the duties of his office may resign the same by and with the consent of the city council.

"Sec. 50. Oaths and bonds.—Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the city clerk. The treasurer, clerk, comptroller, and such other officers as the city council shall require, shall severally, before they enter upon the duties of their office, execute to the city bonds in such amounts and upon such conditions as the city council may prescribe. Such bonds shall be approved by the city council, and it may from time to time require new or additional bonds, and it may remove from office any officer neglecting or refusing to give same.

"Sec. 51. Interest in city contract disqualifies for holding office.—No mayor, member of the common council or other city officer, shall while such mayor, member of the common council, or other city officer, vote for

or make any contract in behalf of said city or any department of said city, with himself or with any firm of which he is a member, or with any corporation or association of which he is an officer or director, nor shall he be in any manner, directly or indirectly, interested in any contract with said city, and any contract in which said mayor, member of common council, or other city officer, is or becomes directly or indirectly interested, shall be and become absolutely void, and any such officer by said act shall forfeit his said office.

"Sec. 52. Penalty for failure to observe duties imposed.—Any officer or employe of the city who shall offend against any of the provisions of this act by refusing to do any act or thing required to be done by him, or by wrongfully doing the same, or who shall willfully violate any of the provisions of this act, or commit any fraud upon the city, or convert any of the public property to his own use, or knowingly permit any other person to so convert it, or by gross and culpable neglect allow the same to be lost to the city, shall be guilty of a misdemeanor and shall be punished therefor as misdemeanors are punished by the criminal laws of the state, and shall, as a consequence thereof, forfeit his office and be forever disqualified from holding any office of trust or profit under the city government, and shall be liable to the city for any amount lost or damage suffered by reason of such wrongful act or violation of law.

"Sec. 53. The salaries of all officers and employes of the city shall be fixed by a resolution passed by a three-fourths vote of all the members of the city council and the salaries of the officers and employes shall be paid monthly and the salaries of employes may be paid weekly, unless otherwise provided by law, out of the treasury of the city, and the salaries of officers whose terms of office are fixed by this act shall not be increased or diminished during the term for which the officer shall have been chosen, nor during the time intervening between his election or appointment and the commencement of his said term; provided, however, that the salary of aldermen in cities containing a population exceeding thirty thousand inhabitants shall not exceed five hundred dollars per annum; and in cities containing a population exceeding fifteen thousand and not exceeding thirty thousand inhabitants the same shall not exceed three hundred dollars per annum; and in cities containing a population not exceeding fifteen thousand inhabitants, the same shall not exceed one hundred dollars per annum; provided, however, that until the city council shall have so fixed the salaries as herein provided, no salary or compensation shall be allowed or paid to any of the following named officers or employes or any of them, in cities where the same may exist, in excess of the following named sums, to-wit: The mayor, three thousand dollars (\$3,000) per annum; the mayor's private secretary, twelve hundred dollars (\$1,200) per annum; the treasurer, four thousand dollars (\$4,000) per annum; the comptroller, four thousand (\$4,000) per annum; the city clerk, four thousand dollars (\$4,000) per annum; the city attorney, four thousand dollars (\$4,000) per annum; the city engineer, four thousand dollars (\$4,000) per annum; the secretary of the board of water commissioners, two thousand dollars (\$2,000) per annum; the superintendent of the water department, eighteen hundred dollars (\$1,800) per annum; the commissioner of health, or health officer, twenty-four hundred dollars (\$2,400) per annum; the building inspector, eighteen hundred dollars (\$1,800) per annum; the chief engineer of the fire department, twenty-five hundred dollars (\$2,500) per annum; the first assistant engineer of the fire department, fifteen hundred dollars (\$1,500) per annum; the second assistant engineer of the fire department, twelve hundred dollars (\$1,200) per annum; the chief of police, twenty-five hundred dollars (\$2,500) per annum; the judge or judges of the municipal court, each, three thousand dollars (\$3,000) per annum; the clerk of the municipal court, eighteen hundred dollars (\$1,800) per annum; the superintendent of the workhouse, twenty-five hundred dollars (\$2,500) per annum; the commissioner of public works, two thousand dollars (\$2,000) per annum; and provided further, that where the duties performed by any of the officers aforesaid are by the terms of this act imposed upon officers otherwise designated, the limitations herein contained shall be construed to apply to such newly designated officers and in no event to perpetuate or authorize any office or position not recognized by this act.

"Sec. 54. Reports of officers.—Every elective and appointive officer shall continue to reside in the ward or district for which elected or appointed, and shall keep and attend his office at such time and place as may be prescribed by the city council, and except members of the city council, shall annually and in the years when the city election is to be held, not less than ten (10) nor more than thirty (30) days before such election, make and transmit to the city council an accurate varied report of the business of his office for the preceding year, together with a true, verified inventory of all moneys, property and other effects of the city in his possession or under his control; and at the time of

making such report he shall likewise make and transmit to the city council and the city comptroller an estimate of the cost and expense of the operation of his office for the ensuing fiscal year; and he shall likewise, whenever requested by the mayor or city council, make to them, or either of them, a similar report, and shall exhibit to them, or either of them, all the books of account, papers and other records of property kept in and controlled by his office. At the expiration of his term, or when removed from his office, he shall, on demand, turn over to the city or to his successor in office, all the books, papers, records, files, money and other property and things whatever pertaining to his office, or received by him, by virtue or reason of the exercise thereof.

"Sec. 55. No gift nor gratuity shall be accepted—turning over fees.—No officer shall directly or indirectly, in or about the performance of the duties of his office, receive any gift, commission, gratuity or reward or other valuable thing whatever; and every such officer and member shall account for and pay over to the city at the end of each month all fees, collected by him during the preceding month, by virtue or reason of his office, except as may be herein otherwise provided. Any violation of the provisions of this section shall be deemed corruption in office and punished as provided in this act.

"Sec. 56. Exemption from jury service.—All officers and employees of the city while engaged in its service shall be exempt from serving as jurors in any court.

"Sec. 57. Fiscal year.—The fiscal year of the city shall commence on the first day of January of each year.

"CHAPTER III.

"Powers and duties of the Mayor.

"Sec. 58. The chief executive.—The mayor shall be the chief executive officer of the city. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced within the city. He shall see that all other officers of the city discharge their respective duties. He shall from time to time give the city council such information and may recommend such measures as he shall deem advantageous to the city.

"Sec. 59. Approval of ordinances and resolutions—veto power.—Every ordinance, order and resolution shall, before it takes effect, be presented to the mayor for approval. If he approves he shall sign the same, but if he disapprove it, he shall return it to the city council with his objections thereto, by depositing the same with the city clerk, to be presented to the city council at the next regular meeting thereafter.

"Sec. 60. Reconsideration.—Upon the return of any ordinance, order or resolution by the mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall be again put upon the passage of the same, notwithstanding the objections of the mayor; and if upon such vote, the city council shall pass the same by a vote of three-fourths ($\frac{3}{4}$) of all its members, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by yeas and nays, which shall be entered by the city clerk of record; provided, however, that in all cases where the original action of the council requires a three-fourths ($\frac{3}{4}$) vote, the veto of the mayor shall be effectual unless overruled by unanimous vote of all the members of such council; provided, upon the return by the mayor without his approval of any ordinance, order or resolution authorizing the issuance of bonds or certificates of indebtedness without the submission for ratification to the electors of the city, or granting a franchise, such ordinance, order or resolution shall not be passed over the veto of the mayor, and shall be of no more force and effect than if the same had failed of passage by the council in the first instance.

"Sec. 61. Time limited for approval by the mayor.—No ordinance, order or resolution shall be signed by the mayor within four (4) days after the same is presented to him, and if the same shall not be returned by him on the tenth (10) day (Sunday excepted) after it shall have been presented to him, it shall have the same force and effect as if approved by him.

"Sec. 62. Indorsement by clerk.—The city clerk shall indorse upon each such ordinance, order and resolution the time when the same was delivered to the mayor, and the time when it was returned to his office by the mayor.

"Sec. 63. Acting mayor.—During the absence of the mayor from the city, or in case of his death or disability for any reason to discharge the duties of his office, the president of the city council, or in his absence or in case of his disability, the vice-president of the city council shall for the time being exercise all the powers and discharge all the duties of the mayor. The president or vice-president so performing the duties of the mayor shall be styled the "acting mayor," and his acts while so acting as mayor shall have the same force and validity as if performed by the mayor.

"Sec. 64. Control of police.—The mayor shall be chief magistrate of the city and shall have command and control of its entire force of police.

"Sec. 65. Mayor's secretary and stenographer.—He may appoint a secretary and stenographer when authorized by the city council, who shall perform such clerical duties as the mayor may prescribe in his department and in the department of police.

"Sec. 66. Executive contingent fund.—The mayor shall have authority to expend from the executive contingent fund such moneys as he may deem necessary in case of emergency to secure information and evidence of crime and arrest convicts and to relieve distress in the event of public calamity in this state.

"Sec. 67. Shall sign bonds, obligations and contracts.—He shall sign all bonds and obligations of the city and all warrants drawn on the city treasurer, unless otherwise provided by law. He shall also sign all contracts entered into by the city.

"Sec. 68. Process and notices.—He shall, upon service of notice or process upon him in an action or proceeding against the city, forthwith inform the city attorney and city council thereof.

"Sec. 69. Annual report.—He shall make an annual written report at the close of each fiscal year to the city council of the general condition of affairs of the city.

"CHAPTER IV.

"Duties of Comptroller.

"Sec. 70. To keep books of account.—It shall be the duty of the city comptroller to keep regular books of account, both of the city and the boards and departments of said city, in which he shall enter all indebtedness of said city, and which shall at all times show the precise financial condition of the city and of the amount of bonds or other evidence of indebtedness outstanding, and the redemption of the same when redeemed. The city council shall provide for the salaries of such assistants and clerical force as may be needed by the comptroller. All such assistants and clerical force shall be appointed by the comptroller. The city comptroller shall designate one of his assistants as deputy city comptroller, and such deputy shall have in the absence or disability of the city comptroller the same powers and duties as are herein prescribed for the city comptroller.

"Sec. 71. Warrant account.—He shall keep accounts of warrants drawn on the treasury in separate books, and shall note thereon the cancellation thereof whenever the same shall be cancelled and shall keep such other books and records as shall be necessary for the preservation of the accounts of the transactions and business of the city, and all books, lists and records heretofore kept, or which shall be kept in the comptroller's office, and copies thereof by him certified, and shall be competent evidence of all matters shown by them.

"Sec. 72. He shall keep accounts with the city treasurer and all other receiving or disbursing officers of said city; in such accounts he shall charge such officers with all amounts received by them from all sources of revenue, and with all city property in their hands or control, as such officers, and credit them with all amounts disbursed, or property disposed of on proper authority, and with all money or property turned over to the city or to their successors in office.

"Sec. 73. To countersign bonds and other evidences of indebtedness.—He shall countersign all bonds, warrants or other evidences of indebtedness of the city; and no such bond, order, certificate or other evidence of indebtedness shall be valid until so countersigned.

"Sec. 74. To examine accounts of other officers.—He shall examine the reports, books, papers and vouchers of the treasurer and of other receiving and disbursing officers, and perform such other duties pertaining to his office as the city council may prescribe, and it shall be the duty of the city comptroller to make a report of the financial condition of the city to the city council at any time he may deem it advisable, with such recommendation as he may think proper.

"Sec. 75. To report financial condition to city council.—He shall, within sixty days after the close of each fiscal year, report to the city council the financial condition of the city.

"Sec. 76. To countersign all contracts.—He shall countersign all contracts made in behalf of said city, and no such contract shall be valid for any purpose until so countersigned, and he shall be the custodian of all such contracts. He shall countersign no contract in behalf of said city unless there be sufficient funds applicable by law thereto in the treasury of such city for the payment of any liability arising under such contract, or unless provision shall have been made therefor as in this act otherwise provided. He shall keep a book, in which he shall enter all contracts, which shall be open to the inspection of all parties interested.

"Sec. 77. To audit all claims.—All claims and demands against the city before the same shall be allowed

by the city council shall be audited and adjusted by the comptroller, and all warrants on the treasury, either on the part of the city or its boards, or of any officer or department thereof, shall be examined and countersigned by him, and by him kept until delivered to the person entitled thereto, and he shall take and preserve receipts for all warrants so delivered, and all claims and demands against any board or department of the city shall be allowed by the city council before payment thereof.

"Sec. 78. Auditing and adjusting claims.—It shall be the duty of the city comptroller or city clerk in auditing and adjusting claims and accounts against the city, to designate and specify upon each claim, demand and account so audited and adjusted, the particular fund out of which the same shall be paid; and no claims whatsoever shall be reported to nor allowed by the city council until the same shall have been audited and adjusted by the city comptroller or clerk, as in this section provided. When so audited and reported to the city council, the same may be passed upon and allowed by the city council at any meeting thereof, duly had and upon the approval of the same by the mayor, as provided by law, a warrant of said city, drawn upon the treasury thereof, signed by the mayor and countersigned by the city clerk or comptroller, shall be issued for such claim or account and delivered to the party entitled thereto. When such warrant is presented to the city treasurer, if there are no funds on hand applicable to the payment thereof, said warrant shall be endorsed "Presented but not paid for want of funds," and thereafter said warrant shall bear interest at six per cent per annum until paid. Provided, further, that all warrants heretofore issued by cities organized under the provisions of Chapter 8 of the General Laws for Minnesota for 1895, now outstanding and unpaid, at the time this act shall take effect, which warrants were issued in payment of legal claims against such city, are hereby declared to be the valid and subsisting indebtedness of each such city, respectively issuing the same. (Amended '13, c. 174)

"Sec. 79. In any city of this state where the office of city comptroller does not exist under this act, the duties imposed upon the city comptroller by the terms of this act shall be performed by the city clerk of such city.

"Sec. 80. Reports to state auditor.—The comptroller of each city shall annually, within sixty days after the close of the fiscal year, report to the state auditor in writing, showing the receipts and disbursements on account of each fund and in each department of the city, and the condition of each of the city funds and the amount of bonds outstanding at the close of such fiscal year. The state auditor shall furnish to each comptroller at least thirty days before the close of the fiscal year, blanks upon which such statements shall be made, and the comptroller shall make the statement in detail upon and in accordance with such blanks.

"CHAPTER V.

"Finances—Duties of Treasurer.

"Sec. 81. Bond and management of finances.—The city treasurer shall give a bond in amount double that of all moneys likely to be in his control at any time, to be executed by at least four (4) sureties, who shall justify in an aggregate amount equal to the penal amount of the bond, and which shall be approved by the city council, filed and recorded in the office of the city comptroller, and shall be conditioned for the safe keeping of all moneys of the city that may come into his possession, and for the faithful performance of his duty, and the record of such bond, as well as the original, shall be evidence of the contents and execution thereof.

"Sec. 82. To receive all moneys.—The treasurer shall receive and safely keep all moneys belonging or accruing to the city, and shall keep accurate and detailed accounts thereof, and in cities of 30,000 population or more he shall be entitled to and shall demand and receive of the treasurer of the county wherein such city is located on the tenth business day of each month all moneys which shall have been paid to such county treasurer during the calendar month preceding for taxes, assessments, and interests and penalties thereon on account of levies and assessments made for the city or for any local improvement.

"Sec. 83. To apportion and deposit all moneys received.—The treasurer shall upon receipt of any moneys on any such account, or upon any such settlement, forthwith credit the same to the various funds to which the same belong, or for which they are levied, and shall deposit the same in the name of the city, subject to the order of the treasurer, in the various depositories which shall have been designated by the city council, and in so doing shall not deposit with any such depository an amount in excess of one-half ($\frac{1}{2}$) of the penalty of the bond furnished by such depository, and all interest that may accrue to any such moneys shall be credited to the current expense fund.

"Sec. 84. To pay money on warrants.—He shall pay money out of the city treasury, except for principal and interest of bonds and certificates of indebtedness, only upon warrants properly drawn, the same having been first authorized by the city council, which warrants shall specify the purpose for which they are drawn and the fund out of which, and the person to whom they are payable; and he shall, when directed so to do, pay employees of any department of the city upon pay rolls; and upon the payment or receipt by him of any such warrant, he shall cancel and file the same, and it shall not be again issued; and he shall keep separately warrants drawn upon each particular fund; provided, that no ordinance warrant or order of the city council or of any officer, board or department of any city shall have any power or authority to authorize the city treasurer to divert any separate funds or money from the specific purposes for which the same were estimated, levied, collected and credited, as aforesaid, or to borrow and transfer any balance or portion of one of the said funds to the credit or for the use of another fund, except in the purchase of certificates as by this act provided.

"Sec. 85. To make reports to the city council.—The treasurer shall make monthly statements to the city council, and to each board or department having control of any fund, of the amount received and disbursed on account of each fund controlled by the city council or such board or department respectively, and a statement of the amount of money in the various funds deposited with each depository and in his hands. He shall manage all moneys in the interest of the city, and shall endeavor to secure interest thereon consistent with their safekeeping, but shall not postpone or defer any payment after the same becomes due in order to secure interest. He shall, whenever he shall deem the public interest to so require and whenever notified so to do by the city council, withdraw all funds from any depository, and notify the city council thereof, and shall thenceforth deposit no more therein until directed so to do by the city council.

"Sec. 86. Banks or trust companies may become depositories.—Any bank or trust company having its principal place of business in this state may be designated as a depository of the moneys in the city treasury as hereinafore provided; and when so designated shall execute to the city a bond in double the amount it may desire or agree to receive on deposit, which shall also be executed by five (5) or more sureties, none of whom shall be acting officers of such bank or trust company, who shall justify in an aggregate amount double the penalty of the bond, conditioned for the safe keeping and payment of the funds so deposited and interest thereon, all of which bonds shall be approved by the city council. Such bonds shall be filed and recorded in the office of the city comptroller, and whenever required so to do by the city council, such depository shall furnish a new bond and other sureties to be likewise approved, and the record of any such bond, as well as the original, shall be evidence of the contents and execution thereof, and when the moneys in the hands of the treasurer shall be deposited with any such depository as herein provided the treasurer and his sureties upon his official bond shall be exempt from all liability by reason of the loss of said moneys while so deposited.

"Sec. 87. General fund.—There shall be maintained in the city treasury a fund to be designated as the general fund, into which shall be paid all moneys not specifically designated as belonging to any particular fund, and from which there may be drawn to be credited to any such fund, or for such other purposes as may be designated by law or authorized by the city council.

"Sec. 88. Current expense fund.—There shall be maintained in the city treasury a fund to be designated as the current expense fund, into which shall be paid all moneys derived from licenses, rents, fines, costs and judgments collected in favor of the city and not otherwise appropriated, and which shall further be maintained by an annual tax levy to be made by the city council for an amount necessary; and prior to the levy of such tax, a certain proportion of the said fund shall by the city council be set aside to each of the departments dependent thereon, to defray the expense of the ensuing year, and no more money than the sum thus appropriated shall be expended in such fiscal year for such department. Out of such fund shall be paid all the salaries and expenses of the city government not otherwise provided for, and the cost of the operation of all the departments of the city government having no special funds created therefor, and the purchase, construction and repair of all appliances and apparatus used therein.

"Sec. 89. Permanent improvement fund.—There shall be created, when not already existing and maintained in the city treasury, a fund to be designated as the permanent improvement fund, into which shall be paid all the moneys received from the sale of any property or permanent improvements of the city not otherwise provided, and such amounts from time to time as may be realized from the sale of any bonds or certificates of indebtedness issued on account of such fund, and all amounts collected on special assessments advanced in

first instance out of such fund, and the principal sum of all excess of assessments for water mains and sewers. It shall be further maintained by an annual tax levy to be made by the city council of an amount necessary. And out of such fund shall be paid the cost of acquiring all real property and appurtenances, and the construction and improvement of all buildings and permanent improvements which shall not be otherwise provided for out of other funds, and also the cost of all local improvements, unless the city council maintains a permanent improvement revolving fund; and the city shall maintain such fund sufficient to meet the expenses of all such improvements as the same become payable as in this act provided.

"Sec. 90. Permanent improvement revolving fund.—There shall be created, if necessary, and maintained in the city treasury, if the city council shall so direct by ordinance, a fund to be designated as the permanent improvement revolving fund, into which shall be paid all accounts realized from the sale of certificates of indebtedness issued on account of such fund, and the principal sum of all special assessments and benefits assessed and levied on account of any local improvements, as well as all taxes levied on account of such fund, and there shall be paid out of such fund that portion of all local improvements for which special assessments are levied, also that portion of all local improvements which must be paid out of the permanent improvement fund in anticipation of taxes levied for that purpose, and such amount of excess assessment as may in any instance be refunded, and for no other purpose whatever. And the city shall maintain such fund sufficient to meet the expenses of all such improvements as the same become payable, as in this act provided. And the city council may from time to time by ordinance by a three-fourths (¾) vote, issue, negotiate and sell certificates of indebtedness for the creating or maintaining of such fund, and such certificates shall not be sold for less than par and accrued interest, and shall bear interest at a rate not to exceed six (6) per cent per annum, and shall be made payable from said fund and at such times as the city council may determine; provided, however, that the amount of certificates so issued shall not exceed at any one time three fourths of one per cent of the total value of taxable property of such city, according to the last preceding assessment for purposes of taxation; provided, however, that cities already having created a permanent improvement revolving fund, by the issuance of bonds up to the limit prescribed by existing laws, shall not have the authority to issue certificates of indebtedness as permitted by this section. (Amended '11, c. 49; '13, c. 184)

"Sec. 91. Water and light works account.—Where any city is the owner of its own water and light works, or either, an accurate account shall be kept of all rents, fines, dues, assessments, excess of assessments and appropriations made on account of or accruing in the water and light works department, or either, and the proceeds of the sale of all bonds issued on account of the same, the proceeds of any property used or operated by the department; and also all salaries and expenses incurred in the operation of the department and the maintenance of the system of water and light works, or either, and the cost of the construction, enlargement, alteration or repair of any and all stations, machinery and hydrants, and of the proportion of the cost of any main or appurtenances chargeable to the city and not specially assessable. But all moneys received for rents, fines and dues shall be paid into and accredited to the current expense fund, and receipts from assessments and other sources shall be paid into and credited to the proper fund above provided. And an appropriation shall be made to defray the expenses of the department from the current expense fund, as appropriations are made for other departments.

"Sec. 92. Park fund.—In any city now or hereafter having a system of public parks there shall be maintained in the city treasury a fund to be designated as the park fund, and into such fund shall be paid all amounts received from the sale of any park property, and the principal sum of all special assessments and benefits assessed or levied on account of the acquisition, opening, laying out, extending or improving of any park, parkway or boulevard, and the cost of which is provided to be advanced out of such fund, and all amount of taxes, interest and penalties accruing thereto by reason of the levy of any tax for the use of park purposes, and out of such fund shall be paid all interest upon bonds issued by or on account of parks, and all salaries and expenses incurred in the operation of the department of parks and the maintenance of the park system and the cost of acquiring, opening, laying out, extending and improving any park, parkway or boulevard.

"Sec. 93. Library fund.—In any city now or hereafter having a library board there shall be maintained in the city treasury a fund to be designated as the library fund, which shall be under the control of such library board and subject to be paid out upon its order, and into such fund shall be paid all amounts received from the sale of any property under the control of such board, and all appropriations thereto and the proceeds received from the sale of any property under the control of such board,

and all taxes, interests and penalties accruing thereto by reason of the levy of any taxes for such board, and out of such fund shall be paid the expenses of such board and all salaries, and the cost of the acquisition, maintenance and operation of the system of public libraries of the city, and of the property under the control of such board.

"Sec. 94. Educational fund.—There shall be maintained in the city treasury a fund to be designated as the educational fund, into which fund shall be paid all moneys received from the sale of any property under the control of the educational department of the city, and all taxes, interests and penalties accruing thereto by reason of the levy of any taxes, as well as all other moneys received for educational purposes. Such fund shall be under the control of and disbursed upon orders of the board of education in cities where a board of education exists, and out of such fund shall be paid the expense and cost of the maintenance of the educational system of the city, and the salaries and compensation of the officers, teachers and employes thereof; provided, however, that nothing herein contained shall apply to any city or village whose territory has heretofore, in whole or in part, been organized as an independent school district, and so exists at the present time.

"Sec. 95. Interest fund.—There shall be maintained in the city treasury a fund to be designated as the interest fund, which shall be maintained by an annual levy upon all the taxable property of the city of an amount which, in addition to any balance remaining in said fund, shall be sufficient to pay the interest to become due during the next fiscal year, upon all the bonds or debts of the city. There shall be maintained in the city treasury such other funds, and the city treasurer shall perform such other duties as are prescribed by law or ordinances.

"Sec. 96. Sinking fund.—In every city of this state, in order to provide for the certain payment of the bonds of the city, the city council shall establish and maintain a sinking fund, and where the same has been heretofore established, shall maintain the same. It shall provide by ordinance for the care, investment and security of such fund, but shall have no authority to abolish the same until all the bonds of the city are fully paid, nor shall it divert said fund, nor any revenue nor increase thereof, for any purpose.

"Sec. 97. How maintained.—Such fund shall be maintained by an annual tax levy of one-tenth (1/10) of one per cent of the assessed valuation of all the taxable property in the city which shall be made by the city council at the time of levying taxes for other purposes. There shall also be placed in such fund any and all amounts of taxes collected to pay the interest on the bonds of the city in excess of the amount of such interest, if any there be, and all revenues of the city not otherwise appropriated.

"Sec. 98. Sinking fund commissioners.—The mayor, comptroller and treasurer shall constitute a board of sinking fund commissioners, and the city council shall define such of their duties as are not herein enumerated. Such commissioners shall have charge of such sinking fund, and by and with the consent of the city council may invest the same in the bonds and certificates of the city and such other bonds as are permitted for the investment of the permanent school fund of the state of Minnesota, and in the bonds of any city in the state of Minnesota, and in such county and school bonds in the state of Minnesota as may be approved by the city council, and not otherwise.

"Sec. 99. Bonds of city in sinking fund not canceled.—In case of investment in the bonds or certificates of the city for whose benefit the such sinking fund is established, such bonds or certificates shall not be canceled before the maturity thereof, but shall be held by said commissioners, and the interest thereon paid over and applied to the increase of such sinking fund.

"Sec. 100. Payment of bonds from sinking fund.—Whenever the principal of any bonds or certificates of the city shall become due such commissioners shall, by and with the consent of the city council, dispose of such of the bonds or certificates belonging to such funds as, with the money on hand belonging to the same, shall be necessary to pay such bonds or certificates.

"Sec. 101. Discontinuance of sinking fund tax.—Whenever the amount of such sinking fund shall, with the interest or revenue thereof computed to the time of the maturity of the bonds of the city, be sufficient to pay all of said bonds at the maturity thereof, the levy of the one-mill tax above provided for shall be omitted, but in case, by reason of decrease of interest or depreciation of investment or other cause, such funds shall become insufficient, said levy shall be resumed.

"Sec. 102. Action against commissioners.—In case the sinking fund commissioners, or other city officers, shall violate or neglect to perform any of the provisions of this section, any taxpayer of the city or any owner of any of its bonds shall have the right to maintain in any court of competent jurisdiction any proper action to enforce compliance therewith. The substantial maintenance of the provisions of this and the preceding section for the payment of the principal and interest of

the bonds of the city is hereby declared to be part of the contract with the holder of any bonds or certificates of indebtedness of the city that may hereafter be issued and shall be kept inviolate.

"Sec. 103. Bonds for sinking fund.—Whenever such sinking fund shall be insufficient to pay all the bonds of the city that may at any time become due, or when it shall by the city council be deemed advisable and for the interest of the city to take up any outstanding bonds of the city not due, which may be offered for sale by the holders thereof, the city council may issue the bonds of the city, to run not to exceed thirty (30) years, on such terms as to place of payment and rate of interest as may be deemed advisable, to such an amount as may be necessary, to meet such deficiency, or to take up and refund such bonds not due; provided, that the refunded bonds shall in no case draw a higher rate of interest than the bonds so taken up.

"Sec. 104. Conference committee.—There shall be a conference committee in each city which shall consist of the president of the city council, the president of each election or appointive board and the head of each department of the city. Such committee shall meet on or before the first day of September of each year and shall report to the board of tax levy an estimate of the amount of the expenses of each department for the next ensuing fiscal year, and the amount required in each of the funds for which a levy may be made during the next fiscal year.

"Sec. 105. Board of tax levy.—There shall be a board of tax levy in each city which shall consist of the mayor, comptroller and president of the city council. Said board of tax levy shall meet at the office of the mayor of said city on the second Monday in September in each year and may adjourn from time to time as may be necessary by the duties hereby required, but not later than the first Tuesday in October. A majority vote of said board shall decide all questions coming before said board. The said board shall consider, determine and fix a maximum rate of taxation for the various purposes for which the city council of said city is authorized to levy taxes for such year, and it shall be the duty of the said board to reduce the maximum rate of taxation for the various purposes to the lowest practical limit. The city comptroller shall on or before the first Tuesday of October in each year certify and transmit to the city council the maximum rate of taxation for the various purposes for which said council is authorized to levy taxes, as fixed and determined by said board of tax levy, and no taxes shall be levied for said year by said city council in excess of the maximum rate so fixed and determined by said board.

"Sec. 106. Report of estimates.—The city comptroller shall, at the time of the certifying of the report of the board of tax levy, as above provided, report to the city council an estimate of the current expenses of the city for the fiscal year commencing on the first day of January next ensuing, together with a statement of the amount of all revenues received by the city for the then current year.

"Sec. 107. The city council shall, on or before the tenth day of October of each year, upon the coming in of the said reports of the board of tax levy and the city comptroller, levy an annual tax upon all property in such city, taxable under the laws of this state, for the purpose of defraying and paying all the expenses, obligations and liabilities existing or authorized by this act, and the said levy so made, as aforesaid, shall be reported by the city clerk forthwith to the county auditor of the proper county and shall be entered upon the tax duplicate of such county and collected annually in like manner as county and state taxes are collected.

"Sec. 108. No debt or liability to be created in excess of levy.—Neither the city council of any city nor any officer or officers of said city shall, except as in this act provided, have authority to issue any bonds or create any debt or any liabilities against said city in excess of the amount of revenue actually levied and applicable to the payment of such liabilities.

"CHAPTER VII.

"Powers and Duties of City Council.

"Sec. 109. Legislative power vested in the city council.—The legislative power and authority of the city shall be vested in a city council, composed of the aldermen of such city as herein provided.

"Sec. 110. Organization.—The city council shall, biennially, on the first Tuesday after the first Monday in January next succeeding the city election, organize, and at the time of its organization, proceed to elect from their own number a president and vice-president for the ensuing two years, and such other officers as may be necessary for the transaction of its business. Such election shall be by ballot and the affirmative vote of the majority of all the members elect shall be necessary to elect.

"Sec. 111. Duties of president.—The president, and in case of the absence of the president, the vice-presi-

dent, shall preside over the meetings of the city council, and shall sign all resolutions and ordinances passed by the city council, and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, shall have and exercise all the powers and duties of the mayor, under the style of "acting mayor." The acts of such acting mayor shall have the same force and effect as if performed by the mayor.

"Sec. 112. Rules and special meetings.—The city council shall prescribe rules for its own guidance and the time for its regular meetings, and provide for the calling of special meetings. No business shall be transacted at a special meeting unless the same shall have been specified in the call therefor.

"Sec. 113. Quorum.—A majority of the members shall constitute a quorum, but less than a majority may adjourn from time to time, and a minority as well as a majority may compel the attendance of absent members.

"Sec. 114. Canvassing votes.—The city council shall have power to, and it shall, canvass the returns of votes cast at all city elections and declare the results thereof. (Amended '07, c. 274, § 1)

"Sec. 115. Ordinances and resolutions.—Every legislative act of the city council shall be by ordinance or resolution. The style of all ordinances shall be: "The city council of the city of . . . do hereby ordain as follows:" No ordinance, except for general appropriations, shall contain more than one subject, which shall be expressed in its title, nor shall any ordinance be amended after its introduction so as to change its original purpose.

"Sec. 116. Readings of an ordinance.—No ordinance shall be introduced except at a regular meeting, at which meeting it shall have its first reading. Its second reading shall be had at subsequent regular or adjourned regular meeting occurring not less than one (1) week after its first reading, and such ordinance shall not be amended after the meeting at which it receives its second reading. It shall receive its third reading and be passed only at a regular or adjourned regular meeting occurring at least one (1) week subsequent to the time at which the second reading was had.

"Sec. 117. Passage of ordinances and resolutions.—Every ordinance, order and resolution, except as in this act otherwise provided, shall be passed by a majority vote of the members of the city council, taken by yeas and nays, which shall be entered upon its journal. It shall then forthwith, before it takes effect, be presented to the mayor for his approval as herein provided. Every ordinance, order and resolution shall be published in the official newspaper of the city before it takes effect. No vote of the city council shall be reconsidered or rescinded at subsequent meeting unless at such a meeting there are present as large a number of its members as were present when said vote was taken.

"Sec. 118. Contract awarded and warrants drawn pursuant to resolution.—The award of every contract and order for the payment of money shall be made and authorized only by resolution, except that the pay roll of city officers or employes whose salaries or compensation have been fixed by law or resolution may be passed and warrants ordered therefor by motion.

"Sec. 119. Two-thirds vote required.—Every ordinance, order and resolution appropriating money or creating any liability (or for the issuing of certificates of indebtedness in anticipation of tax or assessment levies), awarding or approving of any contract for the payment of money, ordering any condemnation of private property, or the making of any local improvements, shall require a two-thirds (2/3) vote of all the members of the city council.

"Sec. 120. Issuance of bonds and incurring of indebtedness.—Any ordinance or resolution authorizing the issuance of bonds of the city shall require the affirmative vote of three-fourths (¾) of all the members of the city council; if, however, it receive a majority, but less than a three-fourth (¾) vote of all the members of the city council, it may be submitted for ratification to the electors of the city at the next regular city election, or at a special election called for that purpose, the form of ballot to be used at which shall be prescribed by the city council. If two-thirds of all the electors voting upon such question shall vote in favor of the issuance of such bonds, then said ordinance or resolution shall take effect and be in force; otherwise, the same shall become null and void; provided, however, that a majority vote of the member of the city council shall be sufficient to pass an ordinance or resolution authorizing the issuance of bonds for the purpose of paying maturing bonds of the city without submission to the electors; provided, further, that the amount of all such bonds, except as hereinafter provided, shall be controlled by the limitations herein made on the power to issue bonds, and the city council shall not in any manner, either with or without a vote of the people, authorize the issuance of any bonds, or create any indebtedness of the city in excess of the said limit herein prescribed, except as hereinafter provided.

"Sec. 121. Whenever a special or private ordinance is enacted, the city council shall require a bond from the

beneficiary thereof to protect the city against any claim for damages resulting from the grant of right or privileges under such ordinance, the amount of such bond and the conditions thereof to be fixed and determined by the city council, and further security may be required at any time and the terms of the grant shall so provide.

"Sec. 122. Aldermen not to solicit appointment.—No member of the city council shall demand, request or solicit any board, officer or employe connected with the city to engage or appoint to a position in said city, and upon proof of the violation of this provision the office of such member shall become and be declared vacant by the city council.

"Sec. 123. Witness before the city council.—The city council, and any of its committees authorized by it so to do, shall have the power to compel the attendance of witnesses and the production of books, papers and other evidence at any of its meetings, or before such committee, and for that purpose may issue subpoenas or attachments in any case of inquiry or investigation, to be signed by its president, or the chairman of such committee, as the case may be, which shall be served and executed by any officer or person authorized by law to serve subpoenas and other process.

"Sec. 124. Punishment for refusal to testify.—If any witness shall refuse to testify to the facts, within his knowledge, or to produce any books or papers in his possession, or under his control, the city council shall have the power to fine or commit him for contempt.

"Sec. 125. Witness not to be excused.—No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such proceeding or inquiry before the city council or any committee thereof, or before any officer of the city having power to conduct the investigation, but such testimony shall not be used against him in any criminal prosecution except for perjury.

"Sec. 126. City council to control finances.—Limit on bond issue.—The city council shall control the property and finances of the city, and shall have the power to appropriate money for city purposes only, except as herein-after provided; to provide for the payment of its debts and expenses, to borrow money on its credit for city purposes, and to issue bonds therefor, as herein provided; to issue bonds in the place of, or to supply means for paying maturing bonds or to consolidate or fund the same;

"Provided, that the total indebtedness of such city, except as herein-after provided, shall not thereby be made to exceed five (5) per cent of the total value of the taxable property of such city, except in cities where such limit has already been reached or expenditures have already been authorized by vote of the people of said city which will cause the said limit to be reached, provided, however, that the certificates of indebtedness issued for the creation and maintenance of the permanent improvement revolving fund shall not be considered as a portion of the indebtedness of the city for the purposes of this section. Provided, further, however, that in case of any such city now organized or territory hereinafter to be organized, the total indebtedness of which at the time of the passage of this act exceeds five (5) per cent of the total value of taxable property of said city, according to the last preceding assessment for the purposes of taxation, when such city shall accept the provisions of this act, the city council of such city may issue bonds sufficient to pay all the floating indebtedness then existing of such city, and any certificates of indebtedness of such city then outstanding, the proceeds of which bonds shall be used solely for the purpose of paying such indebtedness; and thereafter the city council of such city shall not be authorized to issue any bonds, except as herein-after provided, and except for the purposes of paying maturing bonds of said city, until the total indebtedness of said city, except as herein-after provided, shall be reduced to an amount less than five (5) per cent of the total value of the taxable property of such city, according to the last preceding assessment for the purposes of taxation; and thereafter the city council of such city may issue bonds in accordance with the provisions hereof and within the limit herein first prescribed.

"Provided, further, that in any city having a population of less than 8,000, an indebtedness of not to exceed ten per cent of the total value of the taxable property of such city, may be incurred by the issuing of bonds in the same manner as above provided for the incurring indebtedness not to exceed five (5) per cent.

"Provided, further, that any ordinance or resolution authorizing the issuance of bonds that would increase the bonded indebtedness to an amount exceeding five (5) per cent of the total value of the taxable property of the city, shall be submitted for ratification to the electors of the city at the next regular city election, or at a special election called for that purpose, the form of ballot to be used at which shall be prescribed by the city council. If two-thirds of all electors voting upon such question shall vote in favor of the issuance of such bonds, the said ordinance or resolution shall take effect and be in force; otherwise, the same shall become null and void.

"Provided, further, however, that the city council of any city heretofore organized and existing under the provisions of Chapter 8 of the General Laws of Minnesota for 1895 which has an outstanding floating indebtedness of \$5,000 or more may within 6 months after passage of this act by resolution duly adopted by the unanimous vote of the said council and approved by the mayor and approved by the 2/3 vote of the electors of said city voting on said question at a general or special election duly called and held in said city as herein before provided authorize, issue and negotiate the negotiable coupon funding bonds of said city, for the purpose of taking up and funding any or all of its outstanding floating indebtedness, due or to become due, within six months from the time of such issuance.

"The term 'floating indebtedness,' as used herein, shall be construed to include all debts and liabilities of such city of every kind, including past due bonds, contract liabilities, outstanding warrants or certificates of indebtedness and interest charges.

"The refunding bonds so issued shall run for not more than twenty (20) years, and shall bear interest at a rate not to exceed six per cent per annum, principal and interest payable at such times and places as may be fixed by the city council, such bonds to be of such denominations as the council may, by resolution prescribe, and shall be sold at not less than par value to the highest bidder after notice published at least once in each week for two consecutive weeks prior to the date of such sale, in the official paper of such city. Such bonds shall not be limited by the restriction hereinbefore provided, upon the indebtedness of such city.

"Provided, further, that any bonds or other certificates of indebtedness issued and sold, or to be issued and sold, by any city for the purchase, construction, maintenance, enlargement or improvement of a water or light plant, or local telephone exchange plant, or system, or other thereof in such city, shall not be considered a portion of the indebtedness which such a city is in this section forbidden to make, and any city organized and existing under this charter [chapter] is hereby expressly empowered to issue and sell bonds or other certificates of indebtedness, payable not less than ten nor more than thirty years from the date of issue, bearing interest not to exceed six per cent per annum, payable semi-annually for the purchase, construction, maintenance, enlargement or improvement of a water or light plant, or local telephone exchange plant or system or either, irrespective of the bond limitations hereinbefore or hereafter prescribed.

"Such bonds shall be authorized, issued, negotiated and sold in the same manner as other city bonds, except that an ordinance or resolution authorizing such bonds shall require an affirmative vote of four-fifths of all members of the council and shall then be ratified by an affirmative vote of a majority of the electors voting thereon at a regular city election or at a special election called for that purpose. The principal and interest represented by said bonds shall be first lien upon the water or light plant, or local telephone exchange plant or system, or either, as the case may be, purchased, constructed or improved by the proceeds of said bonds.

"Provided, further, that the city council by a majority vote thereof may issue such bonds in place of, or to supply means, for, paying maturing bonds which have been issued for either of said purposes, or to be consolidated or fund the same, and if any plant or plants acquired by the city by purchase have outstanding bonds which by their terms were not due at the time of such purchase and the city has assumed said bonds or has purchased the plant or plants subject thereto, the city council may at any time exchange the bonds of said city for such outstanding bonds of said plant or plants or any part thereof, the bonds so exchanged not to bear any greater rate of interest or to be greater in amount than the rate of interest of the amount of the par value of such outstanding bonds for which they are exchanged, and said bonds so issued for the purpose aforesaid, or either of them, shall not be deemed a part of the total indebtedness of said city, which said city is hereinbefore forbidden to make to exceed five per cent of the total value of the taxable property in such city, according to the last preceding assessment for the purpose of taxation.

"Provided, further, that the city council shall set aside annually such portion of the gross income for the water and light works, or either, of the city as they shall determine to create a sinking fund for the payment of said water and light bonds, or either as they become due. (Amended '99, c. 319, § 1, '07, c. 235, '11, c. 362; '13, c. 173)

"Sec. 127. Power to levy taxes and make assessments.—It shall have power to fix the rate of, subject to the restrictions in this act contained, and levy and collect general and special taxes for municipal purposes on real and personal property within the city, and to levy assessments for local improvements, and to prescribe the procedure in making local improvements and assessing therefor, in so far as the same is not fixed and prescribed by the terms of this act.

"Sec. 128. Condemnation.—It shall have power to acquire by condemnation, dedication or otherwise, lands for and to lay out, open, widen and extend streets, alleys, avenues, bridge approaches, parks and public grounds, and to establish the grade and width of such streets, alleys and avenues, and to change the same; and to acquire by condemnation or otherwise easements for slopes, cuts and fills; to acquire by condemnation or otherwise land for docks, landings, wharves and levees, and to construct and improve the same; by condemnation or otherwise to extend or widen any street, alley or highway over or across or to construct any sewer under or through any railroad track, right of way or land of any railroad or other corporation, and to acquire by condemnation or otherwise the right to take, use or divert water from any lake, stream or water course, for the water supply of said city.

"Sec. 129. Improvement and vacation of streets.—It shall have power to extend, widen, straighten, grade, drain, pave, repave, macadamize or otherwise improve any street, alley or public ground, and to lay or order laid sidewalks, curb and gutter thereon, also to establish a building line for any residence, avenue or street, and prevent the erection of buildings in front of such line, but no such line shall be established on any such street or avenue until a majority of the owners of the property affected thereby fronting on such street or avenue shall have petitioned the city council therefor.

"Sec. 130. Maintaining and altering water courses and lakes.—It shall have the power to build and maintain bridges and viaducts, to deepen, widen, dock and cover, wall, alter or change the channel of any water course within the city, and by condemnation or otherwise, to acquire the land and rights necessary or otherwise, to acquire the lands and rights necessary therefor, and may remove any obstruction or unsightly structures from any lake in the city and prevent the dumping of any garbage therein.

"Sec. 131. Approval of plats.—It shall have the sole power to accept and approve plats of additions within or adjoining the city, and to prescribe the width and location of streets and alleys required in such plats of property.

"Sec. 132. Light, water and transportation plants.—It shall have power to provide for the lighting of streets, avenues and public grounds and buildings, and to purchase, acquire or establish gas, electric and other lighting plants, and to furnish gas, heat and electricity to persons within the city limits on such terms as it may provide; to purchase, procure or establish water works and to provide water for the use and convenience of the inhabitants of such city, and to prescribe and fix the charge for the same and the manner in which the same shall be paid; and to provide for systems of public transportation within the city and to regulate the operation thereof. It shall also have the power to make contracts with individuals, firms or corporations for the use of water for protection against fire and other purposes. It shall also have the power to contract with individuals, firms or corporations for the use of electric or gas light for street lighting and other purposes. Such contracts for water and electricity and gas to be made for such time as the council may deem for the best interests of the city, not to exceed thirty (30) years for water, and not to exceed five years for gas or electricity for street lighting and other public purposes.

"Sec. 133. Power to maintain buildings.—It shall have power by a three-fourths ($\frac{3}{4}$) vote of all the members thereof to erect, provide for, improve and repair a city hall, police stations, fire stations, armories, jail auditorium, workhouse, houses of correction for females and children, and parental schools, hospitals, medical dispensaries, sanitariums, public baths and public lodging houses, infirmaries, public cemeteries, founding homes, school houses, libraries, markets, and market houses, public wharves, pounds, pest houses, quarantine hospitals, dumping places, dumping stations, sewer stations and such appurtenances, accessories, apparatus, and equipments in connection therewith as may be necessary for the transaction of the business of the city, either within or without its limits, for its government, or the operation of its departments; and to acquire by purchase, gift or condemnation lands for sites for said buildings or to be used in connection therewith; and to acquire by purchase, condemnation or otherwise, any real property for municipal purposes, and by resolution passed by a three-fourths ($\frac{3}{4}$) vote of all its members, to sell or authorize the sale of any of the same. Provided, that in any city having a board of education the power to erect, provide for, improve and repair school houses and acquire sites by purchase, gift or condemnation, shall be vested in the board of education of such city.

"Sec. 134. Depositing of funds and auditing of accounts.—It shall designate the depositories of the funds of the city treasurer, and by resolution approve all bonds given for the safe keeping thereof, and it shall examine and audit the accounts of all city officers.

"Sec. 135. Specific powers.—The city council shall have power by ordinance, not inconsistent with the constitution and laws of the state and the United States, as follows: First—To regulate the use of, and to prevent and remove encroachments on and over streets, alleys, avenues and public grounds and public places, and to prevent injury to the same, and to regulate the construction of coal holes, and hatchways, and coverings, and guards therefor in sidewalks, or to prohibit the same. Second—To regulate and prevent throwing or depositing of ashes, offal, dirt, garbage or any offensive matter in or upon any street, alley or public ground or place, and to require the owner or occupant of any premises to keep the sidewalks along or in front of the same free from snow, ice or other obstruction. Third—To regulate openings and excavations in streets, alleys and public grounds, for the laying of gas, electric conductors, water mains and pipes, or for other purposes, and the building of sewers, tunnels and drains, and to regulate the construction and use of all structures and conduits underneath the streets, alleys and sidewalks. Fourth—To provide for and regulate cross walks, curbs and gutters. Fifth—To regulate and prevent the use of streets, sidewalks and public grounds for signs, sign posts, awnings, awning posts, telegraph poles, horse troughs, racks, and the posting and distributing of handbills and advertisements: to prevent the incumbering of the streets with vehicles, lumber, boxes, or any other things or material; to remove and abate any nuisance, obstruction and encroachment upon the walks, streets, alleys and public grounds; to provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit the same in any portion of the city, at its discretion; and shall prohibit the piling of snow or other incumbrances upon any street by persons owning or operating any railway along or across the same. Sixth—To regulate and control or prohibit the placing of poles and the suspending of wires along or across the streets and alleys, and to require any and all wires within prescribed limits or throughout the city to be placed, as it may designate, beneath the surface of the streets or sidewalks, and to require any poles already erected or wires already suspended to be removed and the wires likewise placed in conduits beneath the surface of the street, and to compel any or all such wires, pipes and other constructions and conduits to be placed in a common area beneath the surface, upon such terms as it may designate. Seventh—To regulate and prohibit the exhibition or carrying or distribution or throwing of banners, placards, advertisements and hand bills in or upon streets, public grounds and sidewalks. Eighth—To regulate and prevent the flying of flags, banners and signs across the streets, and to regulate the construction and use of bill boards adjacent to or near the streets or public places. Ninth—To regulate and prohibit traffic and sales upon the streets, sidewalks or public places. Tenth—To regulate the speed of horses and other animals, vehicles, cars and locomotives upon the streets and within the limits of the city, and to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing in the streets. Eleventh—To regulate and prescribe the width of tires on the wheels of vehicles used in the city, and the highest weight of a load to be drawn over any street in the city; and may direct upon what streets heavily loaded vehicles may be drawn, and from what streets, avenues and boulevards the same may be excluded, and to license any and all vehicles of every description. Twelfth—To name and change the names of streets, avenues, alleys and other public places. Thirteenth—To regulate the use of all bridges, viaducts, tunnels, drains, sewers and cesspools within the city, and to prohibit the use or maintenance of cesspools and privies in such portions of the city as it may designate, and to compel sewer connections in such portions, and to make the same and to assess the cost thereof on the property so connected with the sewer. Fourteenth—To regulate the numbering of houses and lots and to compel the owners of houses and other buildings to have the numbers of such houses and buildings shown conspicuously thereon or adjacent thereto. Fifteenth—To prevent and regulate or prohibit the locating, construction and laying of street railway tracks in, under or over any street, alley or public place; provided, that it shall grant all public franchises and rights over, upon or under the public streets and highways of the city only to such parties as will contribute to the city the greatest amount of money for and give the best service in the exercise of the same. Sixteenth—To provide for and change the location, grade and crossing of any railroad, and to compel railroad companies to lower and bridge over their tracks and to fence their respective railroads, or any portion of the same, and to construct cattle guards on the streets and public roads, and keep the same in repair within the limits of the city. In case any railroad company fails to comply with any such ordinance it shall be liable for all damages to the owner of any cattle, horses or domestic animals which he may sustain by reason of injuries thereto while on the tracks of such railroad company, in like manner and extent as

under the general laws of the state relative to the fencing of railroads; and actions to recover such damages may be instituted before any justice of the peace or other court of competent jurisdiction. Seventeenth—To require railroad companies to keep flagmen, and to erect and maintain gates at railroad crossings of streets, and to provide protection against injury to persons and property in the use of such railroad. Eighteenth—To regulate or prohibit the whistling of locomotives, and the discharge of steam, cinders, sparks and dense smoke therefrom and to designate the kind of coal any yard or switch engine may consume while operating within the limits of the city. Nineteenth—To compel railroad companies to raise or lower their tracks to conform to any grade which may be established in said city and to keep such tracks on a level with the street surface, and to compel the planking of such tracks by such railway company so that they may be crossed at any place on the said street, alley or highway. Twentieth—To compel and require railway companies to make and keep open and in repair ditches, drains, sewers and culverts along and under their railroad tracks, so that filthy or stagnant water cannot stand on their grounds or right of way, and so that the natural drainage of adjacent property shall not be impeded. Twenty-first—To restrain the pollution of the waters of a creek, river, pond, lake or water course within or adjacent to the city; to prevent the dumping of refuse or other matter therein, and to provide for the cleansing and purification of water, water courses and canals, and the draining or filling of ponds or pools on private property whenever necessary to prevent or abate nuisances, and to compel the owner or occupant of any building or grounds to remove from the premises owned or occupied by him all such offensive substances as the city council or commissioner of health may direct, and upon his default to authorize the removal or destruction thereof by some officer of the city at the expense of said owner or occupant. Twenty-second—To compel the owner of low ground where water is liable to collect and become stagnant to fill or drain such low places, and upon his default to authorize such draining or filling at the expense of such owner, and to make the expense of the destruction or removal of such substances, specified in subdivision 21, or expense of filling or draining any such low ground, a lien upon the property from which such substances are removed or destroyed, or in which said low ground is filled or drained, and to make a special assessment for the same upon such property, to be collected as other special assessments are collected. Twenty-third—To regulate the use and maintain general supervision and control of navigable waters within, upon and adjacent to the city limits; to regulate the use of public and private docks, landings, wharves and levees in such city; to establish, alter and maintain docks, dock lines, landings and levees; to regulate and control the anchorage, moorage and landing of all water craft and their cargoes within the city; to license and regulate or prohibit wharf boats, tugs and other boats used about the harbors or within the jurisdiction of the city; and to fix the rates of wharfage and dockage, and to collect wharfage and dockage from all boats, rafts or other craft landing at or using any public landing place, wharf, dock or levee within the city. Twenty-fourth—To make regulations in regard to the use of steamers, towing of vessels, opening and passing of bridges, to appoint harbor masters and define their duties; and to prevent and prohibit the removal of sand and other material from or near any levee, embankment or boundary line of public waters. Twenty-fifth—To fix the amount, terms and manner of issuing licenses not inconsistent with law; provided that no licenses shall be issued for a longer term than one year; and provided further, that nothing herein contained shall affect laws now in force pertaining to the issuance of licenses for the sale of intoxicating liquors. Twenty-sixth—To license and regulate or prohibit and to suppress billiard, pool, pigeon hole tables, pin alleys, bowling alleys, shooting galleries, taverns and victualing houses. Twenty-seventh—To license and regulate or prohibit conductors of gift, fire, auction or bankrupt sales, itinerant merchants and transient vendors of merchandise, and tax the proceeds of their sale, and to license and regulate runners, agents and solicitors for stages, cars, vessels, public houses or other things or persons. Twenty-eighth—To license and regulate the exhibitions of common showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concerts, theatrical performances, skating rinks and all places of amusement and museums, for entrance into which money is charged. Twenty-ninth—To license and regulate auctioneers, pawnbrokers, second-hand dealers and junk dealers, and to compel all such persons to keep such records of their transactions as it may direct, and make report thereof. Thirtieth—To license and regulate keepers of intelligence or employment offices, and all persons doing the business of seeking employment for or furnishing employees to others, and to require such persons to keep such records as it may direct, and make reports thereof,

and to punish unfair dealings by said persons in their said business.

Thirty-first—To license and regulate newsboys, boot-blacks, fortune tellers, clairvoyants, astrologists and massage doctors.

Thirty-second—To license and regulate or prohibit hackmen, draymen, expressmen, porters and all other persons engaged in carrying passengers, baggage or freight and to regulate their charges therefor, and to prescribe standing places or stations within the streets or near railway stations where the same may remain while waiting for business, and to prohibit the same from standing or waiting for business at any other place than the places so prescribed.

Thirty-third—To license and regulate all peddlers, book agents, canvassers, street hawkers, vendors and public criers doing business in the city.

Thirty-fourth—To license and regulate the sale of intoxicating liquors, and the city council may designate within the territory in the city more particularly devoted to trade and manufacture than to residences, certain definite limits to be known as the patrol limits, wherein intoxicating liquors may be sold, and no such limits shall comprise any territory devoted more especially to residence than to trade and manufacture, and no license shall be granted to any person to keep or maintain a saloon or place where such liquor may be sold outside of such limits (except to regularly licensed druggists to sell for medicinal, chemical or mechanical purposes, not to be used or drunk upon the premises), and where such limits now exist or are, or shall be hereafter established by law or ordinance, the same shall not be enlarged or added to except as follows: Upon a petition signed by four-fifths (4-5) of the owners of real property within the territory sought to be included within such limit being presented to the city council, by a four-fifths (4-5) vote of all its members, the city council may include such territory within such limits; provided, that where in any city in the state limits are now prescribed by law, outside of which no license shall be granted to any person to vend and deal in or dispose of any spirituous, vinous, fermented or malt liquors (except to regularly licensed druggists to sell for medicinal, chemical or mechanical purposes, not to be used or drunk upon the premises), upon the acceptance of this act by any such city, the limits so established and fixed by law shall remain established and fixed, and no license shall be granted by the city council, of such city to any person or persons to vend, deal in or dispose of any such liquors, outside the limits so established, or within any territory where the sale or licensing of persons to sell such liquors is now prohibited by law or ordinance; provided, that where any territory has, by law, been incorporated or made part of any city and by such law the city council of such city is prohibited from ever granting a license to sell or dispose of any wines, spirituous or malt liquors within such territory, or any part thereof, no license to sell or dispose of any such wines, spirituous or malt liquors within such territory shall ever be granted; provided, further, that in no case shall a license be granted by the city council of such city to any person or persons to vend, deal in or dispose of any such liquors within a distance of three hundred feet of any public school located within such limits.

Thirty-fifth—To tax, license and regulate distilleries, breweries and pawnbrokers.

Thirty-sixth—To license and regulate butchers' stalls and shops, and stands for the sale of game, poultry, meat, fish and perishable provisions.

Thirty-seventh—To license and regulate plumbers, and to regulate sewer and water connections of all kinds and the laying of branch sewer and water pipes.

Thirty-eighth—To license, regulate and control or prohibit the carrying of concealed weapons, and to provide for the confiscation of the same.

Thirty-ninth—To license and regulate the keeping of dogs, and to prevent the same running at large, and to authorize the destruction thereof in a summary manner.

Fortieth—To regulate and prevent the storage of gunpowder, dry pitch, resin, coal oil, benzine, naphtha, gasoline, turpentine, hemp, cotton, nitro-glycerine or any products thereof, and other combustible or explosive materials within the city, and the use thereof, and of lights in stables, shops and other places, and the building of bonfires; and to regulate and restrain the use of firecrackers, torpedoes, roman candles, skyrockets and other fireworks.

Forty-first—To prevent and suppress riots, routs, affrays, disturbances, disorderly assemblies, cock fights, dog fights, sparring matches and all brutal or depraving exhibitions or sports.

Forty-second—To restrain and punish vagrants, mendicants, street beggars and prostitutes, and to regulate bathing and swimming in waters within the city limits, and to prevent and punish drunkenness, fighting, assaults, batteries and disorderly conduct and obscenity in the city; and to prohibit within the city the circulation, sale or exhibition of libelous, obscene and immoral

publications, prints, pictures, advertisements and illustrations, and any printed matter naturally tending to provoke a breach of the peace or impair the morals of the community.

"Forty-third—To suppress bawdy and disorderly houses and houses of ill fame and assignation within the limits of the city.

"Forty-fourth—To restrain and prohibit lotteries, and to prohibit all descriptions of gambling and playing of cards, dice, hazard, roulette or other games of chance; the use of blackboards, lists and tickets for the purpose of gambling; all pool rooms and betting rooms; and the selling of pools and making of books on horse races or other contests, real or fictitious; to suppress and prohibit all mechanisms and devices used for gambling or betting; to prohibit all fraudulent practices and the use of fraudulent devices, and to authorize the destruction of all instruments used for the purpose of gambling, or other unlawful purpose as aforesaid.

"Forty-fifth—To establish pounds and pound districts; to restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese and other animals, and to authorize the restraining and sale of the same.

"Forty-sixth—To establish and regulate the location of markets and market houses, and to provide for the use thereof.

"Forty-seventh—To regulate the making and sale of bread, and prescribe the weight and quality of the bread in the loaf, and provide for the seizure and forfeiture of bread baked contrary thereto.

"Forty-eighth—To provide for and regulate the inspection of meats, poultry, fish, game, butter, cheese, lard, eggs, vegetables, flour, meal, milk, fruits and other provisions, and to provide for the taking and summarily destroying of any such provisions which are unsound, spoiled or unwholesome.

"Forty-ninth—To provide for and regulate the place and manner of weighing of hay and straw and selling the same, and measuring and selling of fire wood, coal and lime.

"Fiftieth—To provide for a standard of weights and measures and for the inspection and sealing of all weights and measures and to enforce the keeping and use by vendors of proper weights and measures duly tested and sealed.

"Fifty-first—To regulate the construction of all buildings, chimneys and stacks; to prohibit and prevent the erection or maintenance of insecure or unsafe buildings, walls, stacks or chimneys, and to provide for their summary abatement; to prescribe the depth of cellars, the material and methods of construction of foundations and foundation walls, the manner of construction and location of drains and sewer pipes, the thickness, material and construction of party walls, partition and outside walls, the size and material of floor beams, girders, piers, columns, roof, chimney flues and heating apparatus, and to apportion and adjust such regulations to the height and size of the building to be erected; to regulate the construction of privies and vaults in buildings; to prohibit the construction of buildings not conforming to such prescribed standard as it may prescribe, and to vary such regulations according to the location of such buildings, and to direct the suspension at any time of the erection of any such buildings as does not conform to such regulations.

"Fifty-second—To prescribe the limits within which wooden buildings shall not be erected nor placed nor repaired without permission; and to direct that all and any buildings within such fire limits, when damaged by fire, decay or otherwise, to the extent of fifty (50) per cent of the value shall be torn down and removed, and to prescribe the manner of ascertaining such damages; and to provide for requiring the owners of buildings or other structures, which shall have been destroyed or partially destroyed by fire or otherwise, to take the same or any part thereof down, to prevent accident, and in case of refusal or neglect of said owner to so take the same down when ordered by officers designated by said city council, then to cause the same to be done at the expense of the owner, the cost thereof to be made a special assessment on the land on which said buildings stand, and collected as other special assessments.

"Fifty-third—To require the owner or lessee of any building or structure now or hereafter built in the city to place thereon such fire escapes and appliances for protection against or for extinguishment of fires as it may direct, and to require such owner or lessee to do any act necessary or advisable to lessen the danger to human life in case of fire or accident.

"Fifty-fourth—To prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens and boilers, and apparatus used in or about any building or manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous; to regulate and prevent the carrying on of manufactures dangerous in causing and permitting fires; to prevent the depositing of ashes or accumulation of shavings, rubbish or other combustible material in unsafe places, and to cause all such build-

ings and enclosures as may be in a dangerous state to be placed in a safe condition, and to make provisions to guard against fire and to prevent the spreading of fires.

"Fifty-fifth—To regulate the operation of blasts and blasting, and the construction, location and operation of derricks, windlasses, freight and passenger elevators and other mechanical structures, apparatus or operations, hazardous to life or property.

"Fifty-sixth—To declare the emission of dense smoke from chimneys, stacks, boats and locomotives within the limits of the city a nuisance, and to prohibit and prevent the emission of dense smoke in any portion of or through the city, and to require the use, in connection with furnaces, of such practical appliances as it may designate to prevent and lessen the emission of dense smoke, and to designate the kind of fuel which shall not be used in any furnace, stove or fireplace without the use of such appliances to prevent the emission of dense smoke.

"Fifty-seventh—To regulate the construction of chimneys and smoke stacks, and to prevent the emission of sparks and cinders from the chimneys and smoke stacks, and to declare the emission of sparks and cinders a nuisance, and to prescribe and require the use of such practical appliances as it may designate to prevent the emission of such sparks and cinders.

"Fifty-eighth—To declare what shall be a nuisance, to abate the same, and to impose fines upon parties who may create, continue or suffer nuisances to exist.

"Fifty-ninth—To provide for and compel the reporting and recording of all births and deaths within the city.

"Sixtieth—To regulate or prevent the burial of the dead within the city, and to regulate and determine the manner in which bodies have been buried in a vault or tomb or other place for the purpose of burial may be removed, and to regulate and control the location of cemeteries and crematories, and to vacate and cause the removal of bodies interred in any cemetery not existing according to law.

"Sixty-first—To direct the location and regulate the management and construction of stock yards, slaughter houses, packing houses, renderies, tallow chandlers, store-houses for hides, bone or glue houses, gas works, soap factories, dye houses and tanneries within the limits of the city, or within a distance of one (1) mile without the limits thereof.

"Sixty-second—To direct the location and regulate the use and construction of breweries, dispensaries, stables, livery stables, blacksmith shops and founderies within the limits of the city.

"Sixty-third—To declare what is a nuisance and prohibit any offensive or unwholesome business or establishment within or within one (1) mile of the limits of the city.

"Sixty-fourth—To compel the owner of any grocery, cellar, or soap and tallow chandlery, pig sty, privy or other unwholesome or noxious house or place, to cleanse, abate or remove the same, and to regulate and prescribe the location thereof.

"Sixty-fifth—To regulate or prohibit the keeping of any lumber yard, and the places for piling of timber, wood and other combustible material within the fire limits of said city, and to require any person maintaining any lumber, shingles or lath piles or mill-wood yards in the city to remove the same when they become dangerous to any building or buildings or other property near the same.

"Sixty-sixth—To establish and enforce rules for the use and regulation of all buildings maintained by the city.

"Sixty-seventh—To prevent or regulate the rolling of hoops, playing of ball, flying of kites or any other amusement or practice having a tendency to annoy persons on the streets or sidewalks, or to frighten horses and to regulate the use of bicycles and any other vehicles on sidewalks and streets.

"Sixty-eighth—To require and provide for the removal or destruction throughout the city in such districts or on such streets and avenues, and in such manner as the council may direct, of any and all swill, offal, garbage, ashes, street sweepings, barn yard litter, manure, rubbish, yard cleanings and the contents of privy vaults, cesspools and sinks, decaying animal matter and dead animals, or any other vile or unhealthy material, and to provide for the removal to a point beyond the city limits of any or all such matter or things, and the city council is hereby authorized and empowered to make and enter into contracts with persons or corporations for such removal of such material and substances, or any of them, upon such terms and conditions as it may deem best, and for any time not to exceed five (5) years.

"Sixty-ninth—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 regulation to prevent the introduction of contagious, infectious or other diseases into the city, and to make quarantine laws and to enforce the same within the city, and to regulate, control and prevent the landing of persons, baggage, merchandise or prop-

erty from boats, vessels, cars or other conveyances, whereon are infectious or contagious diseases or disorders, and to make such disposition of such person or property as to preserve the health of said city, and to prevent infected boats, vessels, cars or other conveyances from coming within or near the limits of the city.

"Seventieth—To establish and regulate public wells, cisterns, hydrants and reservoirs.

"Seventy-first—To regulate and control the quality and measurement of gas, and to prescribe and enforce regulations for the manufacture and distribution of gas, and to inspect gas and gas meters, and to control and regulate the measurement and use of electricity and electrical apparatus for furnishing light, heat and power in the city.

"Seventy-second—To establish offices for inspectors, weighers, gaugers, scalers, electricians, wharf masters, market masters, quarantine masters and such other officers as it may be necessary to carry into effect the inspection laws of the city, and the powers herein granted; and to regulate the duties of said officers and to authorize and direct said officers to enforce and carry into effect the provisions of any ordinance passed hereunder.

"Seventy-third—To regulate lodging houses and tenement houses, and to prevent the overcrowding of the same, and to require the same to be kept in proper sanitary condition.

"Seventy-fourth—To prohibit and punish cruelty to animals and to require the places where such animals are kept to be maintained in healthful condition; and to inspect and regulate dairies and dairy products, and to regulate persons engaged in selling milk within the city.

"Seventy-fifth—To regulate and require licenses to be obtained for the pursuit and prosecution of such occupation or kinds of business not hereinabove expressly referred to and provided for, as in the opinion of the city council may require regulation and, in general, to adopt all such measures and to establish all such regulations, in cases for which no express provision is hereinbefore made, as the city council may from time to time deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, the suppression of vice and the enhancement of public welfare in said city.

"Seventy-sixth—To license, regulate and control the employment and occupation of minors on the public streets and other public places.

"Seventy-seventh—To compel the owner or owners of vacant property within the city limits to keep the same clear of any brush, timber or other material or substance liable to receive or communicate fire to adjoining property, and in case the owner or owners of such property shall neglect or refuse to remove the same within ten days after being notified so to do by the city council either personally or by one publication in the official newspaper of said city, said city council shall have the authority to have the same done at the expense of owner or owners, and in case such owner or owners shall refuse to pay such expense, shall have the right to assess the same against said property, and to make, enforce and collect such assessment as other assessments for local improvements for benefits are made, enforced and collected.

"Seventy-eighth—No rule, resolution or ordinance shall be passed appropriating money or obligating any city to pay any money, and no franchise shall be granted save by a three-fourths (¾) vote of all members elect of the council, and it shall require at least a majority vote of all members elect of the council for the council to do any official act, save to adjourn and, save as in this act otherwise expressly prescribed, no council shall have any power or authority to obligate its city beyond the revenues then in the possession of such city or embraced in its then current and uncollected tax levy.

"Sec. 136. Other powers.—The city council shall prescribe by ordinance all regulations proper and necessary to carry into effect any and all powers granted by this act, and may provide by such ordinances for the punishment of the violation of any of the same by subjecting the offender to pay a fine not to exceed one hundred (100) dollars, or to be confined and kept at hard labor in the workhouse of the city, or upon the public works, or to be confined in any place of confinement maintained by the city, or in case there be no such place, then to be confined in the county jail of the county in which the city is located, not to exceed the term of ninety (90) days, and may provide that such imprisonment may be cumulative or for an indefinite term, not to exceed ninety (90) days, subject to suspension or termination by reason of or during good behavior of the person so imprisoned.

"Sec. 137. Revocation of license.—The city council shall have power to revoke any license granted by it.

"Sec. 138. No exclusive nor perpetual franchise to be granted.—No exclusive nor perpetual franchise nor privilege shall be granted by the city council.

"Sec. 139. Protection of streets and city property.—It shall have the power to punish any person willfully damaging any sidewalk, pavement or appurtenance to the water works or sewerage system, or to any other property in or upon the public works of the city, and

shall have power to punish interference with or the withholding of any property of the city by any officer thereof, or any other party, and to require any officer, member or employe of any department to produce the books and accounts thereof at any time for inspection and examination, and at the expiration of the time for which elected, appointed or employed, to turn over the same and all property in his possession to the proper custodian thereof, or his successor in office, and to require reports at any time from any such person of the condition or operation of the business under his management.

"Sec. 140. Appointment by ballot.—The appointment of any officer by the city council shall require the affirmative vote of a majority of all its members, taken by roll call and recorded by the clerk.

"Sec. 141. Letting of contracts.—It shall have power to let contracts for the erection, improvement and repair of any of the public works or buildings of such city, and for the performance of any work required to be done, and material to be furnished in carrying into execution its powers, and the operation of its department; provided, however, that the city council may authorize the doing of the same by the employes of the city under the direction of the department in charge of such work or building, when the cost thereof shall not exceed three hundred (300) dollars. And provided further, that where proposals have been received for the doing of any public work, if the lowest of such proposals be higher than the estimate of the cost of such work, the city council may, if it deem it for the best interest of the city so to do, by a two-thirds (2/3) vote of all its members elect, direct such work to be done by day's labor.

"Sec. 142. Advertisements.—It shall let no contract for the performance of work or the furnishing of material or supplies or property or lighting service involving the expenditure of more than one hundred (100) dollars by the city, nor authorize the purchase, or sale, of any property of a greater value than one hundred (100) dollars, nor grant any public franchise, nor authorize the sale or negotiation of any bond or evidence of indebtedness issued by the city, nor designate any depository for the money of the city, except upon advertisements for proposals therefor as provided by law.

"Sec. 143. Contracts to lowest bidders.—It shall let all such contracts to the lowest responsible bidder who will enter into the contract and give security for the performance thereof, and shall let no contract to any party in default to the city in the performance or by reason of any other contract. It shall sell all property, bonds and evidence of indebtedness only to the highest bidder for cash therefor, and shall not sell nor negotiate any such bond or evidence of indebtedness below its par value, the same being its face value and accrued interest. It shall designate as city depositories only such duly incorporated banks or trust companies in this state as shall furnish the bonds required by law, and shall be satisfactory to the city council.

"Sec. 144. Bonds of contractors.—It shall require of every party entering into a contract with the city or any of its departments, or accepting any license, immunity, privilege or franchise from or under the city pursuant to any power of authority herein vested, a bond to be approved by the mayor for the full and faithful performance of such contract, or the just and lawful exercise of the powers and privileges conferred, which bond shall be sufficient in amount to indemnify the city against any loss or damage that may be sustained by a breach of contract, or any wrong committed in the exercise of such power or privilege.

"Sec. 145. Advertising for proposals.—Every advertisement for proposals shall be made by the publication in the official paper of the city at least twice, of a notice containing a general description of the contract to be let or the property to be purchased or sold, or bond or other indebtedness to be negotiated, or funds to be deposited, or franchise to be granted, and shall invite sealed proposals therefor, which proposals shall be filed with the city clerk at such time as shall be designated in said advertisement, not less than one (1) week after the last publication. All proposals shall be opened and read by the city clerk in the presence of the city council before any of the same are acted upon or accepted.

"Sec. 146. Designation of official papers.—The city council shall annually, at its second regular meeting in January of each year, or as soon thereafter as practicable, designate some newspaper printed in the English language which is, and shall have been printed, published and of general circulation in the city, for one (1) year prior to its designation as the official paper of the city, and shall let the contract of publishing the ordinances and proceedings of the council, and other public notices required by law, to such newspaper, as other contracts are required to be let. The compensation paid for printing shall never exceed two-thirds (2/3) of the amount allowed by law for legal advertising. Whenever in any city no newspaper is published, any paper printed in the English language, and published in the county in which such city is situated, may be designated as the

official paper; provided, that if each and all of said proposals shall fix a price in excess of the maximum as herein provided, or if no proposal shall be received, then in either event the city council may adopt such other method for publication of ordinances, proceedings and other matters as it may determine, the compensation in no event to exceed the amount herein provided; provided further, that in any city in which three (3) or more daily papers are printed and published in the English language, the city council may, in the first instance, direct that proposals shall be received for the publication, in a daily paper published in the English language, or ordinances and proceedings and other public notices required by law to be published in the official paper of the city; and in such case the city council shall not consider any proposals for the publication of the same in any weekly paper unless no proposal to publish the same in a daily paper, as provided herein, shall have been received.

"Sec. 147. Power to enter private property.—It may authorize the entry into any lands or tenements for the purpose of carrying into effect its inspection laws, and may enter upon any lands to lay any branch sewer or water mains, or drain any marsh, or make any changes or erections in, upon or about any water course.

"Sec. 148. Relief funds.—It may set aside from the fines and penalties paid to the city such sums as it may deem proper for the maintenances of a police relief fund, pension fund and a fireman's relief fund.

"Sec. 149. Mayor's contingent fund.—The city council of each city shall have power to appropriate by resolution, passed by a three-fourths ($\frac{3}{4}$) vote of all the members elect of such council, such amount for the mayor's contingent fund as it may deem proper to advance the interest of the city; provided, however, that the sum so appropriated shall not exceed in any one year such sum as would be realized by the tax of one-fifteenth (1-15) of one per cent upon the assessed valuation of all the taxable property in such city, and that none of such funds shall be used for any charitable or religious purpose, nor for the use of any person, company or corporation outside of the state of Minnesota. (Amended '11, c. 364.)

"Sec. 150. Vacation of streets.—The city council of each city shall have the sole and exclusive power to vacate and discontinue public grounds, streets, alleys or highways within said city, and also all county, territorial and state roads, whether actually traveled and used at the date of the petition for such vacation or not. No such vacation or discontinuance shall be granted or ordered by the city council except upon the petition of a majority of the owners of property on the line of such public ground, street, alley or highway, resident within such city, which petition, provided for in this section, shall state the facts and reasons for such vacation and be accompanied by a plat of such public grounds, street, alley or highway, county, territorial or state road proposed to be vacated, and shall be verified by the oath of one (1) of the petitioners. The city council, if it deem it expedient that the matter be proceeded with, shall order the petition to be filed of record with the city clerk, who shall give notice by a publication in the official paper of the city for four (4) weeks at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the city council at a certain time and place therein specified, not less than ten (10) days from the expiration of said publication. The city council, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested, and thereupon, after hearing the same, may by resolution passed by a three-fourths ($\frac{3}{4}$) vote of all the members elect declare such public ground, street, alley or highway, county, territorial or state road vacated, which resolution shall, before the same shall go into effect, be published as in the case of ordinances, and thereupon transcript of such resolution, duly certified by the city clerk, shall, before the same shall take effect, be filed for record and duly recorded in the office of the register of deeds of the county wherein the property is situated.

"Sec. 151. Vacation to take effect, when.—No such vacation shall take effect until the value of the premises so vacated shall have been deposited in the treasury of the city, which value shall be fixed by a resolution of the city council by a three-fourths ($\frac{3}{4}$) vote of all the members elect, and shall in no case be less than the proportionate average value of the abutting property according to the last previous assessment for taxation; provided, in case the city council shall have approved a plat embracing the premises proposed to be vacated, which plat dedicates to the public use, in the opinion of the city council, land equivalent in area and value to the premises sought to be vacated, then the city council may, by a three-fourths ($\frac{3}{4}$) vote of all its members, accept said plat and pass said resolution of vacation, and after said plat and resolution have been recorded in said register of deeds' office said vacation shall be valid without the payment of any money into the said city treasury; provided, further, however, that vaca-

tions and discontinuance of such county, territorial or state road may be granted upon the petition of a majority of the owners of property through which the same or portions thereof sought to be vacated exist, when such owners shall have platted the same and shall have provided in lieu of such road sufficient streets in the opinion of the city council, of which fact the approval and acceptance of such plat and the resolution of vacation shall, when recorded, be conclusive evidence.

"Sec. 152. Prohibiting any relief from assessment, etc.—The city council shall not have the power to relieve any citizen from the payment of any lawful tax, assessment, judgment, fine or license, bond or security, nor to exempt him from any burden imposed upon him by law or ordinance, or to ordain the payment of any demand not authorized and audited according to law. The city council shall not have power to ordain nor authorize any compromise of any disputed demand arising under contract, nor any allowance therefor or therein, except as provided in the contract therefor.

The city council shall not have power nor authority to authorize or ordain the payment of any damages or claim for alleged injuries to persons or property except by resolution, adopted by the vote of three-fourths ($\frac{3}{4}$) of all the members elect.

"Sec. 153. Compilation of laws and ordinances.—The city council may from time to time provide for the compilation and publication, in book or pamphlet form, of the ordinances and regulations of the city, rules of the city council, police rules, regulations adopted by the board of health, and such resolutions of the city council as it may designate; and may provide for the distribution by sale or otherwise of copies of such compilation and publication; and such books or pamphlets so issued, purporting on the title page to have been published by authority of the city council and to contain the ordinances of the city or other matter in this section above mentioned, shall be prima facie evidence of their contents in all courts of this state; and in the absence of evidence to the contrary, all ordinances, rules, regulations and resolutions found therein shall be presumed to have been duly and legally passed, promulgated or adopted. Copies, duly certified by the city clerk of such city, of ordinances, or rules, regulations or resolutions in writing or other papers in his official custody, or of any records kept by him in his official capacity, shall also be received as prima facie evidence of their contents in all courts of this state. All municipal courts, justice courts and other city courts located in such city shall take judicial notice of all ordinances duly passed by the city council of such city.

"Sec. 154. Care of streets.—The city council shall have and maintain an active care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds, as in this act provided, and of all other public improvements and public property within the limits of the city, and shall cause all streets which have been opened and graded under the authority of the city or with its assent, to be kept open and in repair and free from nuisances.

"Sec. 155. City exempt from liability for injuries caused by railway cars.—The city shall be exempt from all liability or damages caused by railroads, either to persons or property, when said railroads or engines or cars are passing along, across, under, over or upon any street, lane, alley or other public way within the limits of the city.

"CHAPTER VII.

"Police Department

"Sec. 156. Organization.—There shall be in each city a police department, of which the mayor shall have control and supervision and be the chief executive officer and head, and which shall consist of a superintendent of police and such other officers of police, patrolmen, detectives and employes as may from time to time be authorized by the city council. Such superintendent of police and all other officers of police, patrolmen, detectives and employes so authorized shall be appointed and may be removed by the mayor of such city.

"Sec. 157. Eligibility.—No person shall be eligible to appointment as superintendent of police, or other officer of police, or patrolman who is not a citizen of the United States and able to read and write the English language, and all officers patrolmen and superintendent, shall have been for at least three (3) years residents of the city wherein appointed before they are eligible to such appointment.

"Sec. 158. Extra police.—On occasions of large public gatherings, or in case of riot, unlawful assemblages or disturbances requiring additional police force the mayor may appoint such number of special or temporary police officers at a compensation not exceeding three (3) dollars a day, as he may deem necessary; but such special or temporary appointment shall not continue in force for more than one (1) week without consent of the city council.

"Sec. 159. Special police.—The mayor may likewise, at the request of persons, firms, corporations, societies or organizations requiring special police protection, appoint special police or watchmen, who shall serve without expense to the city, and possess police power to preserve the peace, protect property and make arrests for crime at such places and within such limits as may be designated by the mayor; but such special policeman or watchman shall not exercise any official authority nor wear any badge or office outside of the limits so designated, except that, in the event of an arrest made by him, he may so wear such badge while taking the person so arrested to the nearest police station or city lock-up.

"Sec. 160. Appointments.—The mayor shall, within twenty-four (24) hours after making any appointment of superintendent of police, officer of police, patrolman, detective or employe, or after removing any person from office in said department, notify the city clerk in writing of such appointment or removal.

"Sec. 161. Powers of police.—The superintendent of police and all regular police officers of such city shall possess the powers of constables at common law, and under the statutes of this state, and in addition thereto shall have the power to serve and execute any warrant, summons, commitment, writ, subpoena, and process issued out of the municipal or other court of such city, and shall have authority to pursue and arrest in such city or in any part of the state beyond the limits of such city any person charged with, or who has committed any violation of any ordinance of such city, or any other offense or crime within the limits of such city; provided, that no such officer shall have power to arrest without a warrant, except in cases in which arrests without a warrant are authorized by the General Statutes of the state; and the violation of any city ordinance shall be deemed a public offense.

"Sec. 162. Appointments and promotions.—All appointments and promotions in the police force in the city, except superintendent of police, shall be under and in pursuance of rules providing for the ascertainment of the comparative fitness of all applicants therefor by a systematic, open and competitive examination thereof, which rules it shall be the duty of the mayor and superintendent of police to make, subject to the general laws of the state.

"Sec. 163. Approval of rules.—Said rules shall be submitted to the city council for approval, and when so approved they shall be adopted and enforced as permanent rules, and shall only be changed in the manner herein provided for their adoption.

"Sec. 164. Appointment subject to rules.—No officer nor member of said police force shall be appointed until such rules have been promulgated, except to fill vacancies caused by death or resignation, nor shall any member of said force, under the grade of captain, be removed until after charges are preferred in writing and an opportunity to appear and defend against the same with witnesses before the city council, but any member may be suspended pending such hearing.

"Sec. 165. Suppression of riots.—The mayor, or acting mayor, the superintendent of police, the captain of police, the sheriff of the county and all police officers shall be conservators of the peace, and may command the peace, and suppress in a summary manner all riotous or disorderly behavior or proceedings within the city limits, and for such purpose may require the assistance of all bystanders, and, if need be, of all citizens; and in suppressing any riotous and disorderly behavior or proceedings, the supreme authority to command and direct shall reside in the senior or superior officer present, in the order in this section above mentioned.

"Sec. 166. Penalty for failure to assist.—If any bystander or citizen shall refuse to aid in preserving the peace, or in suppressing riotous or disorderly behavior or proceedings, when thereto required as provided in the last preceding section, he shall be liable to a fine of not less than ten (10) dollars or more than one hundred (100) dollars.

"Sec. 167. Acting without authority.—If any person shall without lawful authority assume to act as a police officer of said city, or falsely pretend to be authorized so to act, or wear the badge of a police officer within said city he shall be liable to a fine of not less than ten (10) dollars nor more than fifty (50) dollars, or to imprisonment for a term not exceeding thirty (30) days.

"Sec. 168. Citizens must assist.—If any person shall willfully refuse or neglect to assist the superintendent of police or any police officer of said city in making a lawful arrest when requested by such superintendent or officer so to do, or shall willfully resist, impede or obstruct such superintendent or officer in making or attempting to make a lawful arrest, or in the performance of any other official duty, such person so offending shall be liable to a fine of not less than ten (10) dollars or more than fifty (50) dollars, or imprisonment for a term not exceeding thirty (30) days.

"Sec. 169. Police relief fund.—In any city having, or in which there shall hereafter be, a police department relief association, whose articles of incorporation and by-laws shall have been approved by the city council,

there shall be paid to such association, in addition to other sums now provided by law, the following: All rewards for the apprehension and conviction of offenders, all witness fees or other fees, emoluments, gifts or gratuities received or receivable by any member of the police department in the line of his duty; such portion of all sums obtained from the forfeiture of city criminal bonds and receipts from the licensing of dogs, and of moneys paid into the municipal court of any police court of the city as fines collected in criminal cases as the city council may determine.

"Sec. 170. Treasurer.—The city treasurer shall be treasurer of the police department relief association, and all moneys paid for said association shall be paid directly to said treasurer.

"Sec. 171. Police pension fund.—Any city may, by ordinance, provide for the establishment of a police pension fund to be under the control of a board of trustees to consist of the mayor, controller and treasurer, and appropriations therefrom for pensions may be granted to any member of the police force serving as superintendent, captain, lieutenant, sergeant, inspector, detective or patrolman at the time of the passage of such ordinance, or to any person who has been or may hereafter become a member of the police force in either of the capacities aforesaid, to be paid from the police pension fund by appropriations thereof, as follows:

"First.—To any such member of the police force in either of the capacities aforesaid, who shall have performed police duty in said city for a period of twenty-five (25) years or upwards, and shall have arrived at the age of not less than fifty-five (55) years, and who shall have retired from such service, and during the period of such retirement; provided, whenever a police officer who has been or hereafter may be so pensioned shall thereafter accept a position on the police force, such officer shall forever forfeit his rights to be placed back on the pension list.

"Second.—To any such member of the police force who shall be rendered unfit for service as a member of such force from injury received while in actual performance of police duty. Such sum awarded, granted and paid as a pension to any person, as provided in subdivisions 1 and 2 above, shall not amount to an annual sum during his lifetime greater than one-half ($\frac{1}{2}$) the full pay of a member of said police force of the rank of the member so pensioned; provided, however, that no pension granted under the provisions of this act shall exceed the sum of six hundred (600) dollars per annum nor a greater total than four thousand (4,000) dollars.

"Third.—To the widow (while she remains such) of any member of the police force in either of the capacities aforesaid at the time of, or prior to the passage of this act and such ordinance, or who may thereafter become a member of the police force, who shall have been killed while in the actual performance of police duty, or shall have died from the effect of any injury received while in the actual discharge of such duty, a sum not to exceed four hundred (400) dollars per annum, and such pension may date from the time of the death of such member, the total amount not to exceed two thousand (2,000) dollars.

"Sec. 172. Fund, how constituted.—Such police pension fund shall consist of the appropriation of such portion of the moneys paid into the municipal or other court of the city as fines collected from criminal cases, as the city shall in such case determine, and all fines imposed by the mayor of such city upon members of the police force; and if, at any time, there shall not be sufficient money to the credit of the police pension fund to pay all claims against it in full an equal percentage shall be paid upon such claims to the full extent of the fund on hand, and shall be accepted as payment in full of his claims by the pensioner, and no pensioner shall have a legal or equitable demand or cause of action against said city, save as to the extent of his proportionate share of such fund under the provisions of this act and such ordinance; provided, however, that any person who has been heretofore retired from any police force of any city in this state under any existing law, shall continue to receive from such city such sum as has been heretofore granted to such person under any such law.

"CHAPTER VIII.

"Fire Department.

"Sec. 173. Appointment of chief engineer.—In all cities of the state maintaining a fire department, the city council shall at the time of the appointing of other city officers, appoint a chief engineer of the fire department, and in cities not now having a fire department the city council thereof may by ordinance establish such department.

"Sec. 174. Duties of engineer.—The chief engineer, under the direction of the city council, shall have the custody and general superintendence of the fire department, engines and engine houses, hooks and ladders, hose and horses, public cisterns and other property and

conveniences for the extinguishment and prevention of fire; and it shall be his duty to see that the same are kept in order, and to see that the rules and regulations and ordinances relative to the fire department and to the prevention and extinguishment of fires are duly executed; and to make detailed and particular report of the state of the department and conduct of the members thereof and such other matters as may be required by the rules and regulations of the city council.

"Sec. 175. The city council may provide for the appointment of one or more assistant engineers and for one or more fire wardens, and shall provide for the appointment of a proper number of firemen and such number of hook and ladder men and hose men as they may deem necessary, and shall fix the salaries thereof.

"Sec. 176. The chief engineer shall appoint, subject to the regulations herein made, all assistants, wardens, firemen, hook and ladder and hose men provided for by the city council, and shall report such appointments to the city council.

"Sec. 177. All appointments and promotions to and in the fire force made by the chief engineer shall be made under and in pursuance of rules to be prescribed by the city council, providing for the ascertainment of the comparative fitness of all applicants therefor by a systematic, open and competitive examination of such applicants. No appointments to positions in said fire force shall be made by the city engineer except of men in said force prior to the adoption of this act, until such rules have been promulgated, except to fill vacancies caused by death or resignation.

"Sec. 178. The city council shall prescribe rules for the punishment and discipline of members of the fire department, and may provide for the summary suspension, without pay, of any member of the department, except the chief engineer, for any misconduct, insufficiency or insubordination, and the chief engineer shall have power to make such suspension.

"Sec. 179. The chief engineer of the fire department shall be subject to removal by the city council in the same manner as herein provided for the removal of other city officers. Any other member of the fire department may be removed upon recommendation of the chief engineer of the department by the chief engineer, mayor and president of the city council, acting as a board of removal, whenever such board shall deem it for the best interest of the city to remove such member; and the chief engineer shall have authority to suspend, without pay any member of the department pending an investigation by said board concerning the removal of such member. But no member of said department, under the grade of captain, shall be removed until after charges are preferred in writing and an opportunity to appear and defend against the same with witnesses before said board.

"Sec. 180. In appointing members of the department, as herein provided, the chief engineer shall, in all cases, reappoint the members in the department immediately prior to such appointment, unless said board of removal shall deem it for the best interest of the city not to reappoint certain members of the department, and in that case the chief engineer shall at the time of reporting to the city council the appointments made by him, report the certificate of said board of removal, stating the names of the members that such board deemed should not be reappointed.

"Sec. 181. *Duties of fire force.*—The city council shall prescribe the duties of the chief engineer and other members of the fire department at fires, and may vest in them such power as shall be deemed necessary to preserve property from being stolen, and to extinguish and prevent fires; but in no case shall any member of said council, or any officer of the city direct the chief engineer or assistants during any fire; the council may provide for the removal and keeping away from fires of all idle, disorderly or suspicious persons, and may confer powers for that purpose upon the engineer, fire warden and other officers of the city; they shall require reports from the chief engineer and other officers in charge of the department of all fires, fire alarms, losses and insurance on all property destroyed, and keep proper record thereof, and it shall be competent for the city council to provide for the sending of any steam or fire engines, with hose and apparatus, to the relief of any community in the vicinity of the city.

"Sec. 182. The city council shall have power to establish and maintain an efficient system of fire alarm, telegraphic and telephone apparatus, and to purchase or lease such fire engines and other fire apparatus and fire protection as may be necessary to secure the highest efficiency of the department.

"Sec. 183. The city council may provide for the allowance to firemen injured in actual service in the department and rendered incapable of performing the duties of firemen, full or half pay for a period not to exceed twelve months, but not exceeding in any case the period of disability; but this provision shall not apply to cities where a fireman's relief fund is maintained in whole or in part by funds received otherwise than by contribution of the firemen.

"Sec. 184. Destruction of buildings adjacent to fires.—Whenever any building of said city shall be on fire it shall be the duty of and be lawful for the chief engineer to order and direct such or any other building in the vicinity, which he may deem hazardous and likely to communicate fire, or any part of such buildings, to be pulled down and destroyed, and no action shall be maintained against any person or said city therefor.

"CHAPTER IX.

"Department of Parks.

"Sec. 185. In addition to the other city officers in cities maintaining a system of public parks, there shall be a board of park commissioners, consisting of five members, and who shall serve without compensation, who shall be appointed by the mayor and who shall each hold office for the term of five years and until their successors shall have been appointed and qualified; provided, however, that in making the first appointment under this act such commissioners shall be so classified that the term of office of one shall expire on the second Tuesday of the first January after his appointment; one on the second Tuesday of the second January after his appointment; one on the second Tuesday of the third January after his appointment; one of the second Tuesday of the fourth January after his appointment; and one on the second Tuesday of the fifth January after his appointment; and thereafter upon the expiration of terms of office appointments shall be made for full terms of five years; provided, however, in filling of vacancies appointments shall be made only for unexpired terms; and in cities not now maintaining a system of public parks the city council thereof may by ordinance establish a system of public parks, and thereafter there shall exist in said city a board of park commissioners, who shall be appointed as herein provided.

"Sec. 186. The board of park commissioners shall appoint a superintendent of parks and may employ and dismiss such employes as may be necessary in the maintenance of said parks, and fix the compensation of such employes, subject, however, to the rules and regulations of the city council governing city employes.

"Sec. 187. The superintendent of parks shall, under the direction of the board of park commissioners, have general supervision of all work and improvements on any public park, parkway or boulevard in the city, and shall see that all ordinances and rules of the city council relating to such public parks, parkways and boulevards are properly enforced.

"Sec. 188. The board of park commissioners shall have power to recommend to the city council the acquirement by gift, purchase or condemnation of real estate for public parks, and may from time to time make such recommendations affecting the public parks of the city as they may deem proper.

"CHAPTER X.

"Civil Service.

"Sec. 189. Examinations.—All assistant engineers, inspectors and assistant inspectors, the proper discharge of whose duties require technical skill, knowledge or training, shall be appointed only after a fair competitive and open examination of all applicants for such appointment, said examination to be conducted before an impartial board of not less than three nor more than five experts, unless otherwise provided by law, which board shall certify to the qualification of such candidates as they deem thoroughly competent, and no candidate shall be appointed until so certified to. The city council shall by ordinance provide for the appointment of such board and the time of holding and manner of conducting such examination; provided, any candidate for any of said positions who, at the time, is holding the position to which he desires reappointment, if such officer has once been examined and certified to as competent, he need not be again examined as a condition of such reappointment, and preference over other applicants shall always be given to any such officer who has been efficient in the discharge of his duties.

"Sec. 190. Clerks.—All clerks employed in the various departments shall be appointed for competency only, and in making appointments to any such position preference shall always be given to the person occupying such position, if he has been efficient in the discharge of his duties.

"Sec. 191. Registration of laborers.—The city council shall provide books for registering the names of persons desiring employment on the public works of the city, and shall prescribe rules governing such registration. Any person desiring employment by the city shall first register his name as herein provided and shall be a bona fide resident of such city.

"Sec. 192. Selection of laborers.—The city council and all heads of departments empowered to employ labor under the provisions of this act shall give preference to persons registered as provided in section one hundred

and eighty-nine, and shall, as far as possible consistent with the best interests of the city, give employment to the persons so registered in the order of their registration.

"CHAPTER XI.

"City Clerk.

"Sec. 193. City clerk.—The city council, at the meeting of its organization, shall appoint a city clerk, whose term of office shall be two (2) years, and who shall keep the corporate seal of the city and all the papers and records of the city, except as in this act otherwise provided, and a record of the proceedings of the city council, whose meetings it shall be his duty to attend.

"Sec. 194. Copies of records—Legal evidence.—Copies of all papers filed in his office and transcripts from the records of the city council, certified by him under the corporate seal, shall be received in evidence in all courts the same as though the originals thereof were produced by the city clerk at the trial, and he shall receive for certified copies of papers and instruments the same fee as allowed by law to the clerk of the district court of the county in which such city is situated, for like services. He shall draw and sign all orders on the treasury on the order of the city council, and shall keep a full and accurate account thereof in the books provided for that purpose, and shall sign all contracts and affix the seal of the city thereto and deliver the same to the city controller. All fees received by him shall be covered into the city treasury each month.

"Sec. 195. May administer oaths.—The city clerk shall have power to administer oaths and affirmations and take and serve acknowledgments of deeds and other instruments in all cases in which the same are required or sanctioned by law, and shall perform all other services required of clerks in cities or townships in this

"Sec. 196. Supervision of official publications.—The city clerk shall have the supervision of all printing and official publications ordered by the city council. He shall cause to be published in the official paper the minutes of all proceedings of the city council as soon after each meeting as practicable.

"Sec. 197. Assistants.—The city clerk shall have power when authorized by the city council to appoint a deputy city clerk, who shall hold his office during the pleasure of the city clerk, and shall have authority, under the direction of the city clerk, to perform all the duties of the city clerk. The city clerk may, when authorized by the city council, select such other assistants as may be necessary in his office, the salary of said assistant city clerk and all such assistants to be paid by the city, the amount of compensation to be fixed and determined by the city council.

"CHAPTER XII.

"City Attorney

"Sec. 198. Appointment.—The city council, at the meeting of its organization, shall appoint a city attorney, whose term of office shall be two years.

"Sec. 199. Duties.—He shall be the legal advisor of the city and shall perform all the services incident to the office, and shall appear in and conduct all civil suits, prosecutions and proceedings in which the city shall be directly or indirectly interested, except as otherwise provided in this act, and when necessary, take charge of and conduct all prosecutions for violation of city ordinances and perform such other duties as may be required of him by law.

"Sec. 200. Opinions.—He shall, when so required, furnish opinions upon any subject submitted to him by the city council or any of the committees or boards thereof. He shall advise the city council and all city officers in respect to their official duties. He shall personally or by an assistant attend all the meetings of the city council and such of its committees or boards as shall request his attendance, and no board, department nor officer of the city shall have or employ any other attorney in connection with their official duties.

"Sec. 201. Assistants.—The city council may determine the number and fix the salaries of such assistants and clerical force as may be necessary in the department of the city attorney, and all such assistants and clerical force shall be appointed by the city attorney. He shall designate one of such assistants as the first assistant city attorney. Such first assistant attorney shall have, in the absence or disability of the city attorney, the same powers and duties as are prescribed herein for the city attorney, and the city council may provide for such temporary assistants to the city attorney—to be appointed by the city attorney—as may be necessary. In case no assistant city attorney is provided for, the city attorney, in case of absence, sickness or other inability, may at his own expense appoint an attorney to act in his stead for the time being.

"Sec. 202. Appeals.—The city attorney, unless otherwise ordered by the city council, shall have the right to decide whether or not, in any case in which the city is a party in any court, to take an appeal from any order, judgment or determination of the court, and in case of any such appeal, or in case of suing out any writ of error, certiorari, mandamus, attachment or any writ from any court, the city shall not be obliged to give any bonds, either for costs, supersedeas or any other purposes whatever. The city attorney shall notify the city council of the result of all actions to which the city is a party, or in which it is interested.

"CHAPTER XIII.

"City Assessor.

"Sec. 203. Appointment.—The city council, at the meeting for its organization, shall, by resolution, appoint a city assessor, whose term of office shall be for two (2) years.

"Sec. 204. Deputy assessors and clerks.—The city assessor shall each year appoint such number of deputies as may be required to enable him to properly perform the duties of his office, who shall serve during the time of the making of the list of property for taxation, but only so long as their services may be needed. The city assessor shall discharge such deputies from time to time as he can spare, and the city council may order said deputies or any of them to be discharged at any time. The city assessor shall present to the city council at the second regular meeting thereof in March in each year the names of such persons as he shall desire to have for deputies, designating in each case the time when the appointees shall, with the approval of the city council, commence to serve as such deputies, which time shall be long enough before May 1st so that each may, before that day, be assigned to his portion of the work and be properly prepared and instructed to do the same. The city assessor shall also employ such clerks as may be necessary, their number to be reduced or increased as occasion may require or the city council may direct.

"Sec. 205. Duties.—The city assessor and his deputies shall qualify in the manner and form prescribed by general law. The city assessor and his deputies shall perform all the duties required by the General Laws of this state respecting the listing of property for taxation.

"Sec. 206. Duties of deputies.—Notices may be signed and given and other acts in the line of his duty done by any deputy assessor in the name of the city assessor; provided, however, that in cities situate in counties where there is a county assessor provided for by law, then such city, if accepting the provisions of this act, shall continue to be governed in that respect under such law, and shall not elect a city assessor as provided in this act.

"Sec. 207. Board of equalization.—The board of equalization shall consist of the president and four (4) members of the city council, to be chosen by it. Such board shall meet at the city council chamber on the fourth Monday in June of each year, and the members shall be sworn according to law as such board of equalization, and at such time and from day to day thereafter as they may adjourn to, such board shall proceed to amend, revise and equalize the assessments made by the assessor. (Amended '99, c. 275, § 1.)

"Sec. 208. Powers of board.—Such board shall be vested with all the powers which are or may be vested in county boards of equalizations, so far as applicable, but shall not be restricted as to reducing the aggregate sum of real or personal property as returned by the assessor. It shall complete such equalization on or before the second Monday in July of each year, and when completed the same shall be certified to the county auditor by the board of equalization. (Amended '99, c. 275, § 2.)

"Sec. 209. Grievances.—Any person deeming himself aggrieved by any assessment may appear before such board personally or by counsel and present his grievance for consideration, and the said board shall have power to compel the attendance of witnesses and the production of papers, and to examine any person as to any taxable property in said city.

"CHAPTER XIV.

"City Engineer.

"Sec. 210. Appointments.—In cities containing a population of over fifteen thousand inhabitants, the city council shall, at the meeting for its organization appoint a city engineer, who shall be a practical civil engineer, and who shall perform and have direction of all civil engineering work for all departments of the city. In cities containing a population of less than fifteen thousand inhabitants the city council shall, at the meeting for its organization, appoint a street commissioner, who shall have, under the direction of the city council, charge and control of the streets of the

city, and shall perform such other duties as the city council shall order. The term of office of the city engineer and street commissioner shall be for two (2) years. Any city having a population of less than fifteen thousand inhabitants may also employ from time to time a civil engineer to perform such civil engineering for the city as may be necessary. The city engineer, whose term of office shall be for two years, shall keep his office at some convenient place in said city, and the city council shall prescribe his duties and fix his compensation and the compensation of all the assistants employed by him.

"Sec. 211. Assistants.—The city engineer may, with the consent of the city council, appoint an assistant city engineer, who shall act as city engineer in the absence or disability of the city engineer. The city engineer may also employ such permanent and temporary assistants as the city council may deem necessary.

"Sec. 212. Duties.—He shall have the supervision and general charge of all the work done for the city and all work done on any street, highway or alley in the city; may direct the manner of performing such work and the manner of the construction of all sidewalks, street crossings, bridges or other structures in or upon said streets; may suspend any such work when the construction thereof shall not conform to, and shall take care that the terms of all contracts for any work or construction on behalf of the city are fully complied with.

"Sec. 213. Surveys, etc.—All surveys, profiles, plans and estimates made by him or any of his assistants for the city shall be the property of said city and shall be carefully preserved in the office of the engineer and be public records of the city. All deeds of conveyance to the city shall, after being recorded in the proper office, be filed in the office of the city engineer, and the city engineer shall perform such other duties as are in this act, or may be by the city council required.

"CHAPTER XV.

"Eminent Domain; Local Improvements and Assessments. Division I.

"Sec. 214. Condemnation, property and rights acquired by.—Any city existing under this act is hereby authorized and empowered by proceedings in condemnation acquire any real property or easement therein, for the purpose of the erection or improvement of any public building or any permanent improvement incident to the operation of any department, and for the opening, widening, laying out, extending, altering or straightening of any street, avenue, alley, highway, levee, lane or public square, park, parkway or boulevard, to acquire land for and the right to raise, lower, divert or change the course of any stream of water, ditch or drain; to acquire an easement in the land over, across or under the property of corporations, for streets, bridges, approaches, culverts, depots, sewers, conduits or water mains; to acquire an easement in any land for the construction of slopes or retaining walls for cuts and fills, upon the real property abutting upon any street, levee, lane, alley or highway, now ordered, or such as shall hereafter be ordered, to be opened, widened, extended, altered, straightened or graded; to acquire the right to take or divert from any lake, stream, dam, pond, reservoir or any public water, whether the same be public or private property or rights, any and all water necessary or convenient for the use of said city and the inhabitants thereof, and for that purpose to construct and maintain dams and in-take pipes, and to acquire land, abate nuisances, to drain swamps, marshes and ponds, and to fill the same in said city, and to acquire any property, real or personal, and rights in property, either within or without the limits of said city, for the purpose of erecting, maintaining, extending or improving water or light works, or that may be needed in connection therewith for the protection of the purity of the water supply, or otherwise, or for other municipal purposes, and to levy assessments for all improvements mentioned above, and for such other local improvements as may be ordered by said city upon property fronting upon such improvements, or upon property to be benefited by such improvement, without regard to cash valuation.

"Sec. 215. Improvements for which assessment is made for benefits; designation and plat of improvement.—When the city council shall vote to lay out, open, widen, extend, alter or straighten any street, avenue, alley, highway, levee, lane or public square, park or parkway, or boulevard, or to raise, lower, divert or change the course of any stream of water, ditch or drain, or to acquire an easement in the land over, across or under the property of corporations, for streets, bridges, approaches, culverts, depots, sewers, conduits or water mains, or to acquire an easement in any land for the construction of slopes or of retaining walls, for cuts and fills, upon real property abutting upon any street, levee, lane, alley or highway now ordered, or such as shall be hereafter ordered to be opened, altered, extended,

straightened or graded; or to acquire land to abate nuisances; or to drain swamps, marshes and ponds, or to fill the same, making it necessary to injure, take or interfere with private property, it shall determine in a general way, as nearly as may be convenient, the character and extent of the proposed improvement; and thereupon it shall be the duty of the city engineer to make and present to the city council a plat and survey of such proposed improvement, showing the character, course and extent of the same, and the property necessary to be taken, injured or interfered with therefor, together with the name of the owner of each parcel of such property, so far as the engineer can ascertain the same, with such statements as may be, in the opinion of the engineer, proper to explain the character of such survey and the character and extent of such proposed improvement. Such plat shall show approximately the amount of land to be taken from each owner, so far as the owners can be readily ascertained, and the lands contiguous to such improvement; and the city council may cause such plat and survey to be modified, amended or changed, as it may deem proper. When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk and shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

"Sec. 216. Appointment and qualification of commissioners.—The city council shall then or at a subsequent meeting appoint five (5) commissioners (all of whom shall be freeholders and electors of the city and not in any way interested in any property to be taken or affected by the proceedings) to view the premises and ascertain and award the amount of damages and compensation to be paid for the property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expenses of the improvement so far as the same can be improved in proportion to the benefits to be received by each parcel, without regard to cash valuation. Three or more of the said commissioners shall constitute a quorum and be competent to perform any duties required of the whole number thereof.

"Sec. 217. Meeting and qualification.—Said commissioners shall be notified forthwith by the city clerk by a notice served personally or by mail, of their said appointment, and of a time not less than three (3) nor more than seven (7) days from the appointment, when they shall meet at the office of the city clerk. At the time specified in such notice said commissioners shall meet and shall take and subscribe an oath to discharge their duties as such commissioners with fidelity, and to make a just and impartial appraisal and award of damages and assessment of benefits, which oath shall be filed with the city clerk. In case of failure of any said commissioner to qualify, the city council may appoint others to fill the vacancy, who shall be notified and qualified as those appointed in the first instance.

"Sec. 218. Notice given by commissioners.—Said commissioners shall give notice by two publications in the official paper of said city that they will go on a day designated in such notice (which shall be at least ten [10] days after the first publication), meet at a place designated in such notice, and thence proceed to view the property proposed to be taken and appropriated, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement and assess thereon, in proportion to the benefits, the amount necessary to pay such compensation and damages and the expenses of the improvement or such part thereof as can be so assessed, and hear such allegations and proofs as any persons may offer.

"Sec. 219. Proceedings and award of damages.—At the time and place specified in such notice, and from day to day thereafter, and at such other places in said city as they may adjourn to, said commissioners shall attend and view the property to be taken and affected by such proceedings, and hear allegations and proofs that may be offered by persons interested herein, and for that purpose may administer oaths. After viewing the premises and taking the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid for each parcel or piece of property taken or injured by such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners in considering and awarding such compensation or damage shall also consider, estimate and offset the benefits which shall accrue to the remainder of the same property belonging to the same person, and shall award only the excess, if any of the compensation or damages over and above the benefits; and, in case such benefits are in excess of the compensation or damages, the commissioner shall so state in their report of award, and shall assess such property for benefits in the proportion that such excess of benefits bears to the benefits accruing to other property. In case there are buildings or improvements upon

any land proposed to be taken in such proceedings, the awards shall be for the damage to land and improvements separately.

"Sec. 220. Assessments for benefits.—The said commissioners shall then assess the amount of such compensation and damages as awarded together with the expenses of the improvement, less such portion thereof as the city council shall order, upon the land and property benefited by such improvement, in proportion to such benefits, but in no case shall the amount of said assessments exceed the actual benefit to the lot or parcel of land so assessed. If in the judgment of said commissioners, the whole amount of such compensation and damages awarded, together with the expenses of the improvement, shall exceed the actual benefit to the property subject to assessment, they shall so indicate in their report, and shall state the amount of such excess.

"Sec. 221. Report of commissioners.—Said commissioners shall prepare and report to the city council their appraisal and award, and assessment list containing their assessment for benefits; which list shall contain a brief description of each tract or parcel of property taken or injured or assessed, the name or the names of the owners thereof, so far as known to said commissioners, and the amount of damages awarded to or assessed against each parcel of property; which report shall, upon completion thereof, be filed with the city clerk, by said commissioners, for presentation to the city council.

"Sec. 222. Notice of presentation to the city council.—Upon the filing of such report, the city clerk shall give notice to all interested parties, by one publication in the official paper of said city, of the filing of such report and that he will, at the meeting of the city council named in said notice, or as soon thereafter as practicable, present the same to the city council for consideration (5) days before such presentation. Such published notice shall contain description of the several lots and parcels of land taken for such proposed improvement and the amount of award for taking such lot or parcel, together with the names of the owner or owners of the same, as nearly as they may be readily ascertained; also description of the several lots and parcels of land upon which benefits have been assessed and the amount assessed against each such lot or parcel, together with the names of the owner or owners of the same as nearly as the same can be readily ascertained.

"Sec. 223. Presentation of report and objections thereto.—Such report shall be presented to the city council in accordance with such notice, and shall lie over until the next regular meeting thereof, occurring one week or more thereafter. Any person whose property is proposed to be taken or interfered with or affected, or to be assessed for benefits, may at any time within ten (10) days of the publication of such notice, file with the city clerk, who shall present same to the city council, his objections to such award or compensation or damages or assessment for benefits; which objections shall contain a description of the property affected and shall specify the particular irregularity of which he complains, as to amounts either awarded or assessed, or as to the proceedings of the city council or commissioners.

"Sec. 224. Action of city council on report.—At such subsequent meeting the city council may confirm such award or assessment or may annul the same, or may refer the same to a committee to consider the same and the objections thereto, and report thereon, or refer the same back to the same or new commissioners, or abandon the proceedings, and in case of abandonment may institute them anew. In case the same be referred back to the commissioners, notice of such fact and of the time and place of meeting shall be served by the city clerk upon the commissioners. In the same manner as the original notice of the appointment of commissioners was served, and thereupon the commissioners shall meet and proceed to act as though no report had been made and shall make a new report or amend the former report upon such proposed improvement, and all proceedings therein shall be had in like manner as in the first instance. In case the city council shall confirm any such award or assessment, such confirmation shall make such award or assessment final and conclusive upon all parties interested, unless an appeal be taken as hereinafter provided.

"Sec. 225. Condemnation without assessment for benefits, designation and plat.—Whenever the city council shall consider it necessary to acquire by condemnation any real property or easement therein for the purpose of erection or improvement of any public building, or any permanent improvement incident to the operation of any department, or to acquire any water power, or right to take or divert any lake, stream, dam, pond, reservoir or any public waters, whether the same be public or private property, or rights, any and all waters necessary or convenient for the use of said city and the inhabitants thereof, and thereto to construct and maintain dams and intake-pipes, or to acquire any

other property, real or personal, or rights in property situated within or without the city, it shall designate the same as nearly as may be convenient, and vote to acquire the same, and thereupon it shall be the duty of the city engineer to make and present to the city council such plat or survey or description as may be necessary to show or explain the same and the property necessary to be taken, or interfered with thereby. The city council may cause such plat or survey or description to be modified, amended or changed as it may deem proper, and may adopt the same, and thereupon shall direct the same to be filed in the office of the city clerk.

"Sec. 226. Appointment of commissioners.—The city council shall then or afterwards appoint five (5) commissioners having the qualifications prescribed for commissioners as hereinbefore provided in condemnation proceedings, to view the land, property or water power, or to investigate the rights to be acquired, taken or appropriated, and ascertain and award the amount of damages or compensation to be paid for the property or rights to be acquired, taken or appropriated.

"Sec. 227. Proceedings and report of commissioners.—Said commissioners shall be notified of their appointment and time of meeting, and shall meet and give like notice thereof, and shall qualify and be governed by the same rules and the same number may act as hereinbefore provided for commissioners in condemnation proceedings. After viewing the premises and hearing the evidence offered, said commissioners shall make a true and impartial appraisal and award of the compensation and damages to be paid for each tract or parcel of land, property or rights to be taken, acquired, appropriated or interfered with, and report the same to the city council. Upon the completion of said report, they shall file the same with the city clerk for presentation by him to the city council.

"Sec. 228. Notice by the city clerk of reception of report.—The city clerk shall give notice to all interested parties by one publication in the official paper of said city, of the filing of such report, and that he will, at its first meeting, or as soon thereafter as practicable, present the same to the city council for consideration and action, which publication shall occur at least five (5) days before such presentation; such published notice shall contain a description of the several lots and parcels of land, or the property taken for such proposed improvement, and the amount of award for taking each lot or parcel of property, together with the name of the owner or owners of the same, as nearly as they can be readily ascertained.

"Sec. 229. Presentation of report and objections thereto.—Such report shall be presented to the city council in accordance with such notice, and shall lie over until the next regular meeting of the city council occurring at least one week after the reception of such report. Any person whose property is proposed to be taken or interfered with, may at any time within ten (10) days of the publication of such notice, file with the city clerk, who shall present the same to the city council, his objections to such award of compensation of damages, which objection shall contain a description of the property affected, and shall specify the particular irregularity of which he complains, as to the amounts awarded or as to the proceedings of the council or of the commissioners.

"Sec. 230. Action of city council on the report.—At such subsequent meeting the city council may act upon such report and award, and may hear any objection thereto, or may refer the matter to a committee to hear such objections and report thereon. The city council may confirm such award or annul the same, or send the same back to the same or new commissioners for further consideration, in which case such commissioners shall give notice and proceed in like manner as herein prescribed in the case of a second reference to commissioners by the city council in condemnation proceedings. When any such report and award shall be confirmed by the city council, the same shall be final and conclusive upon all parties interested, unless an appeal be taken therefrom as hereinafter provided.

"Sec. 231. Appeals from confirmation of report.—Any person who shall have objected as aforesaid to the confirmation of any such award or assessment may appeal therefrom to the district court of the county in which the property affected is situated, by filing with the city clerk, within ten (10) days after such confirmation, a notice in writing of such appeal, specifying the grounds thereof and the irregularities in the proceedings complained of, and such appellant shall, within said time, enter into a bond or undertaking with the city in at least the sum of one hundred (100) dollars, conditioned to pay all costs that may be awarded against appellant, which bond shall be executed by two sureties and approved by the city attorney or by the judge of said court, and filed with the city clerk.

"Sec. 232. City clerk to transmit record to the district court.—Upon the filing of such notice and bond the city clerk shall within ten (10) days, make and transmit to the clerk of said district court, a certified copy of the report of the commissioners as confirmed by the

city council, and of the order of confirmation thereof, and the objections and notice of appeal by the appellant. In case more than one appeal be taken therefrom, upon such subsequent appeal copies of the appellant's objections and notice of appeal only shall be transmitted.

"Sec. 233. Proceedings in court of appeal.—There shall be no pleadings on such appeal, but the court shall determine in the first instance whether there were in the proceedings any such irregularities or omission of duty prejudicial to the appellant and specified in both his written objections and notice of appeal, that, as to him, the award or assessment of the commissioners ought not to stand, and whether the commissioners had jurisdiction to take action in the premises. The case may be brought on for a hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to either confirm or annul the proceedings only as the same shall affect the property of the appellant proposed to be taken, damaged or assessed for benefits and described in said written objection. From such determination no appeal nor writ of error shall be allowed.

"Sec. 234. Commissioners appointed by the court to determine award or assessment as to the appellant.—In case the amount of damages awarded or assessments made for benefits are complained of by such appellant, the court shall, if the proceedings shall be confirmed in other respects, appoint three disinterested freeholders, residents of said city, as commissioners to re-appraise such damages or re-assess such benefits.

"The parties to such appeal shall be heard by said court, upon the appointment of such commissioners, and the court shall fix the time and place for meeting of such commissioners. They shall be sworn to the faithful discharge of their duties as such commissioners, and shall proceed to view the premises and hear the parties interested, with their allegations and proofs pertaining to the question as to the amount of such damages or assessments. The commissioners shall be governed by the same provisions in respect to arriving at the amount of damages and the offset thereto of benefits to the remainder of the same property and in all material respects as are in this act made for the government of commissioners appointed by the city council.

"They shall, after such hearing and view of the premises, make a report to said court of their appraisal of damages or assessment of benefits in respect to such appellant.

"Sec. 235. Report of commissioners, if confirmed, to be final.—Upon the filing of such report, the court may, in its discretion, upon motion, set aside the same or re-commit the same to the same commissioners, or appoint a new commission, or it may confirm the same. Upon such confirmation by the court, the award or assessment of such commission shall be final, and no appeal nor writ of errors shall be allowed from any order of the court in the premises. Said court shall allow a reasonable compensation to such commissioners for their services, and make such award of costs on such appeal, including such compensation, as it shall deem just in the premises.

"Sec. 236. Right of abandonment.—The city council shall have the right at any time during the pendency of the proceedings for the improvements authorized in this act, or in case an appeal be taken as herein provided, at any time within sixty days after the final order of the court upon such appeal, to abandon all such proceedings whenever it shall deem it for the best interests of the city so to do.

"Sec. 237. Effect of final determination of proceedings.—Whenever an award of damages and compensations shall be confirmed by the city council, and not appealed from, and whenever the same, when appealed from, shall not be annulled by the court, and whenever commissioners are appointed on such appeal and the award of such commissioners in confirmed by the court, and the proceedings are not abandoned by the city council, within sixty (60) days thereafter, then the rights of all parties shall be finally determined and fixed thereby, and the same shall constitute a lawful and sufficient condemnation and appropriation to public use of the land, property and rights in property for which compensation and damages are so awarded or determined, and every right, title, interest or lien thereto, and the city shall become vested with the title to the property taken and condemned absolutely for all purposes to which the city may ever have the occasion to use the same, and may forthwith enter upon and use the same; and the city shall be bound to and shall within one year of such final determination, pay the amount of such award and compensation, with interest thereon at the rate of six (6) per cent per annum from the date of the confirmation of the commissioners' report by the city council.

"Sec. 238. City clerk to file plat and certificate.—Within twenty (20) days after such final determination of the condemnation proceedings the city clerk shall file in the office of the register of deeds of the county in which the property is situated an accurate plat, certified

to by the city engineer, showing the property condemned thereby, and the same shall be there recorded.

"Section 239. Payment of awards.—Before payment of any award the owner of such property, or the claimant of the award, shall furnish an abstract of title, showing himself entitled to all of the compensation and damages claimed. In case of neglect to furnish such abstract, or in case there shall be any doubt as to who is entitled to such compensation or damage, or any part of the same, the amount so awarded shall be by the city council appropriated and set apart in the city treasury for whomsoever shall show clear right to receive the same. The city council may, in its discretion, require of said claimant a bond, with good and sufficient sureties, conditioned to indemnify and save the city harmless against all other claims for such compensation or damages, or for the property for which the same was awarded, and all loss, costs or expenses on account of such claims; provided, that whenever the city attorney shall certify in writing to the city council that, in his opinion, he is in doubt to whom the said awards shall be paid, the city council may order a warrant to be drawn for the same, payable to the clerk of the district court of the county; and the city clerk shall deliver the same to said clerk of the court and take his receipt for the same, which deposit with said clerk of the court shall be deemed a full and sufficient payment of such award under the provisions hereof. The parties entitled to any award so deposited shall establish their right to the same by a petition to the said district court, setting up the facts entitling them thereto, and by proving the same to the satisfaction of the court; and, when so established, the court shall make an order directing to whom the same shall be made.

"Sec. 240. Proceedings in case award is annulled by court.—Whenever any portion of any award made by commissioners, and confirmed by the council, under the provisions of this act, shall be annulled by the court upon appeal, as hereinbefore provided for, the city council may again appoint commissioners to view the property which was affected by such appeal and appraise and award the compensation and damages to be paid for the taking or appropriation of the same, and the like proceedings shall be had, so far as practicable, as are prescribed herein to be had in the first instance, except that such commissioners shall make no new assessments of costs and expenses. They shall, however, in arriving at the compensation and damages to be awarded, take into consideration and offset any benefits, which, in their judgment, the contemplated improvement will be to the remainder of the property, part of which may be taken or appropriated, and report their award to the city council, whereupon the same proceedings may be had as far as practicable as upon an original award. If such award shall again, upon appeal, be annulled by the court, still another commission may be appointed and award made in the same manner, and so on, until a valid award shall be made, but no new assessment for benefits shall be made merely by reason of any change in the amount of the sum awarded for compensation and damages, and any sum which may be lacking to pay the award shall be paid from the permanent improvement fund.

"Sec. 241. Right of city to have condemnation instituted during pendency of suit.—Whenever the city council shall have made or cause to be made, erected, constructed or laid on, across, through, in or upon any land or real estate to which said city council has not the title or right to enter upon the same, for the purpose of so making, erecting, constructing or laying any water main, sewer, conduits, building, structure, in-take pipe, dam, improvement, pavement, sidewalk, curbstone, gutter or other public work, or street grade, the city council shall have the right at any time in any suit in which the title to said real estate or land, or the right of said city to so be thereon for said purposes, is called in question, may by answer admit and allege the taking of the claimant's land or other real estate for public purposes, and that no compensation has been made for such taking, and that the said city is ready and willing to pay such compensation on having the same assessed and ascertained in the manner in this act provided; provided, the claimant on the trial shall establish his right to recover the land or other real estate in question, and in such case the court shall first determine whether the claimant is entitled to recover the land or other real estate in controversy; and if the court shall first determine that such claimant is so entitled, the city council may, within such time as the court shall limit, appoint commissioners as herein provided in condemnation proceedings, and like proceedings shall be had therein as herein provided in condemnation proceedings; provided, that when it shall appear that the land or other real estate was so taken or appropriated by and with the consent or acquiescence of the owner, such owner shall not be entitled to recover any rents or profits which accrued prior to demand for compensation for such land or other real estate, and he shall be limited in such case to compensation for the land taken and damaged. And the court shall have power to make all the neces-

sary orders and render all the necessary judgments to carry out the provisions of this section.

"Sec. 242. City Council to adopt assessment roll.—Upon confirmation of any award or assessment by the city council or by the court upon appeal, as herein provided, the city council shall proceed at the same or any subsequent meeting to levy such assessments upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with such assessment list as finally confirmed, and cause to be made and adopted an assessment roll of the same.

"DIVISION II.

"Sec. 243. Establishment and change of grade.—The city council shall have power to establish the grade of any street within the city limits. It shall cause accurate profiles of the grade of all streets, when so established, to be made and kept in the office of the city engineer. It may, by ordinance passed by the vote of two-thirds (2/3) of its members, change the grade of any street after such grades have been established; and the publication of such ordinance shall be deemed notice to all parties interested in the change of such grade. Upon the passage of such ordinance the city council may at once, or at any time thereafter, cause such street to be graded in accordance with such new grade so established.

"Sec. 244. Objection to change of grade.—The owner of property abutting upon a street, the grade of which has been once established, shall, within thirty (30) days after the publication of the ordinance changing the grade of such street, file in the office of the city clerk his objection thereto, and make claim for damages to the property caused by such change of street, or be barred from making any claim for damages. Such objection shall contain a description of the property claimed to be damaged and owned by such person, and the amount of damage claimed to be caused to such property by such change of grade, and shall be verified by the owner or his agent.

"Sec. 245. Appointment of commissioners.—Upon the filing of any such objection and claim for damages, the city council shall at any time after the expiration of said period limited for the filing of objections, appoint five (5) commissioners of like qualifications as herein prescribed for commissioners in condemnation proceedings, to appraise the damages caused to the property or properties described in such objections, and to award the same to owner or owners of such property or properties and to assess the amount of damages so awarded upon the property benefited by such change of grade, in proportion to the benefits received by each tract or parcel without regard to the cash valuation thereof, but no property shall be assessed in excess of the benefits accruing to such property; and to report such award and assessment to the city council.

"Sec. 246. Hearing of commissioners.—The said commissioners shall be notified of their appointment, shall meet, give notice, perform their duties and act in like manner and shall be governed by the same rules as herein prescribed for commissioners in condemnation proceedings. Said commissioners shall, in making their award of damages, appraise and award damages caused to each parcel or tract of property described in such objections and claim for damages made as herein prescribed by reason of such change of grade, not including in such damages any damage to or interruption of the use of such property caused by the work done or to be done in making such street conform to the grade as so establishing, and in estimating such damages to be awarded as aforesaid, said commissioners shall consider and offset any benefit accruing to the said property by reason of such change of grade, and shall award only the excess of damages over such benefits, if any.

"Sec. 247. Report of commissioners.—Said commissioners shall make a report of their award of damages and assessments for benefits, and in case the benefits accruing to the property from such change of grade are not as great as the damages so awarded, they shall so indicate in their report, stating the amount of such excess of damages.

"Sec. 248. Action of council on report.—Said report shall be filed and presented to the city council upon like notice, and the city council shall act thereon in like manner as herein prescribed in condemnation proceedings.

"Sec. 249. Right of appeal.—Any person aggrieved by such report shall have the same right of appeal upon the filing of objections in the manner prescribed herein in condemnation proceedings, and the proceedings on said appeal shall be the same as are herein prescribed in condemnation proceedings.

"Sec. 250. Abandonment.—In case the city council shall not have commenced the work of grading the street to conform to the grade changed, it shall have the right at any time during the pendency of the above proceedings, and until said proceedings are confirmed by it, and in case of any appeal from such confirmation, then within sixty (60) days after the final order of the court upon such appeal, to abandon such proposed change of grade by a resolution passed to that effect, and thereupon all proceedings had shall be abandoned

and annulled, and the city council shall thereupon repeal the ordinance changing such grade.

"Sec. 251. Confirmation and assessment.—In case said proceedings are confirmed by the city council or by the order of the court, and not abandoned as herein provided, the same shall be final and conclusive upon all parties interested, and the city council shall proceed to levy any assessment upon the several parcels described in the assessment list reported by the commissioners in accordance with the assessment as finally confirmed, and shall cause to be made, and shall adopt an assessment roll of the same, and shall pay or cause to be paid within one year from the time of the final determination of such proceedings to the owner or owners of the property damaged by such change of grade the amount awarded therefor, upon such owner furnishing an abstract of title to such property, and with the same right to require a bond, or pay the amount of the award to the clerk of the district court, for the party entitled thereto, as herein prescribed in condemnation proceedings.

"DIVISION III.

"Cost of Improvements Assessed in Proportion to Benefits.

"Sec. 252. Authority to assess cost of grading, etc.—Any city existing under this act is hereby authorized to fill, grade, level, pave, repave, curb, rail, bridge, gravel, macadamize, sprinkle, plank, clean pavements upon any street, avenue, lane, alley or highway, and to keep the same in repair; also to fill, grade, improve, protect and ornament any public park, square or ground; also to plant and protect shade or ornamental trees in its public parks and along its streets and avenues; also to construct, lay, relay and repair sidewalks, retaining walls, gutters, sewers, water mains, drains and pipes for surface water, and private drains in, over or under any street, lane, alley or highway; also to drain marshes or swamps and low grounds within the city; and the whole or any part of the expense of any such improvement may be defrayed by an assessment upon the real estate benefited thereby in proportion to such benefits without regard to cash valuation, to be determined and levied in the manner hereinafter provided; provided, if the system of sewerage known as "Shone Hydro-Pneumatic System" be adopted and established in and for any city, the city council, when it proposes to cause sewers to be constructed or laid for the drainage of any given portion of the city shall first determine and accurately describe by ordinance or resolution in writing the area of territory to be made tributary to an ejector station to be constructed for such district, and in each instance such territory so defined shall be known as a sewer district and shall be properly designated by number. The expense of material for and of constructing or laying all sewers and sewer pipes in each such district, the expense of material for and constructing all flush tanks, of machinery, ejectors, discharge pipes, compressed air connections, the ejector chamber and adjoining man-hole, and all other man-holes therein, and all other costs, except such portion thereof as shall be ordered paid out of the permanent improvement fund, shall be chargeable to and assessed upon the lots and parcels of land in said district benefited thereby in proportion to such benefits without regard to cash valuation.

"Sec. 253. Two or more upon one order.—Two (2) or more of said improvements, or either any of them, upon one or more streets may be done at the same time under one order and may be included in one contract. And the city council may, when any contract is let for paving, grading, graveling or macadamizing any street, lane, alley or highway within said city, include in such contract the laying of sewer pipes or water pipes to the curb, and the cost of the same may be assessed against the lots or parcels for which said sewer pipes or water pipes are laid as a part of, or in connection with the assessment of for such improvement; provided, if two or more improvements are included in one contract, the expense of each improvement shall be separately apportioned and assessed upon the lots and parcels of land benefited by such improvement in proportion to such benefits, but two or more improvements may be included in one assessment proceeding.

"Sec. 254. Plans and specifications.—Prior to the passage of any resolution ordering any such improvement the city council shall call for plans and specifications of such proposed work, with an estimate of the probable expenses thereof, to be made by the city engineer of said city and presented to the city council for its approval, and the same shall immediately and upon approval thereof by the city council be filed with the city engineer of said city for the inspection of all parties interested.

"Sec. 255. Notice of proposed improvement and invitation for proposals.—The city council shall then designate a time not less than twelve days distant, and a place at which it will meet and act in relation to the doing of the proposed work, and direct that a notice be given to the city clerk of such meeting and the time and

place thereof, and that in the meantime sealed proposals for the doing of such work and the furnishing of all materials therefor will be received by the city clerk. In such notice shall be stated the location of the proposed work and reference shall be made to the plans and specifications and estimates so filed with the city engineer. Said notice shall be given by two publications thereof in the official paper of said city, the last of which publication shall be at least one week prior to the time designated as aforesaid by the city council.

"Sec. 256. Ordering improvement and award of contract.—At the time and place designated in such notice opportunity shall be given to any and all parties interested to be heard for or against such proposed work, and the clerk shall, in the presence of the city council, open and read all sealed proposals which may have been received for doing such work and furnishing the material therefor, and the city council may then or thereafter by a two-thirds (2/3) vote of all its members, accept the most favorable proposal (such proposal to be that of the lowest responsible bidder) and by resolution authorize the doing of said work or any part thereof, and may direct that a written contract be made therefor with the person whose proposal shall have been accepted; or they may reject all proposals offered and refuse to authorize the doing of such work or any particular part thereof, or may readvertise for bids therefor; or, if it is deemed by said council to be for the best interests of the city, and the city engineer's estimate is less than the lowest bid aforesaid for work and material, that they may reject all proposals offered, and by resolution, passed by a two-thirds (2/3) vote of the council, authorize the doing of said work under the direction of the city engineer, or said council, in its discretion, from lack of quorum, or for other reason, may postpone the consideration and decision of the whole matter, or any branch thereof, to a future time, of which postponement all parties interested shall be required and deemed to take notice.

"At the time of the award of any such contract the city council shall appropriate from the proper fund, to the credit of such contract, a sufficient amount to defray the cost of such work; provided, however, that if at the time of awarding such contract, there shall not be sufficient funds applicable by law thereto in the treasury of such city for the payment of all liabilities arising under such contract, and a majority of the owners of property liable to be specially assessed therefor shall not prior to the time designated in such notice have filed with the city clerk a written protest against such improvement, a fund, specially designated for such contract, shall be created and maintained in such city treasury, to which the city council shall appropriate, at the time of the award of any such contract, from the proper fund the amount of the proportion, if any, of the entire cost of such improvement which the city council may determine, as hereinafter provided, shall be paid from the proper funds of said city and into such specially designated fund shall also be paid all moneys derived from special assessments for the payment of the cost of such improvement and they shall be diverted to no other purpose, and the city council may then or thereafter, authorize the doing of said work or any part thereof, and may direct that written contract be made therefor with the person whose proposals shall have been accepted, but such contract must state that the amount to be paid thereon by the city is to be paid only from such specially designated fund, and that the consideration of such contract is payable only in warrants drawn on such fund, and that the city incurs and assumes no general liability under such contract and the city comptroller, or city clerk, is thereupon expressly authorized to countersign any such contract; but in lieu of an appropriation from the proper fund to the credit of such contract of the amount of the proportion of the entire cost of such improvement which the city council may determine shall be defrayed by an assessment upon the property benefited, as hereinafter provided, when there shall not be sufficient funds, applicable by law thereto in the treasury of such city for such appropriation and in anticipation of the levy, and collection of such special assessments the city may, at any time after the making of such contract, but upon the filing with the city clerk of the commissioner's report of assessments, as hereinafter provided, shall issue warrants on such specially designated fund, payable at specified times, and in such amounts as, in the judgment of the city council, the taxes and assessments will provide for, which warrants shall bear interest at the rate of not to exceed six per cent per annum, payable annually, and may have coupons attached representing each year's interest. Such warrants shall state upon their face for what purpose they are issued, and the fund from which they are payable, and shall be signed by the mayor and countersigned by the city comptroller, or the city clerk, under the seal of the city, and be in denominations of not more than one thousand dollars each, and shall not be issued for a longer period than fifteen years. Such warrants may be used in making payments on contracts for making such improvements or may be sold for cash, at not less than the par value

thereof, and the proceeds thereof credited to such fund, and used for paying for such improvements. It shall be the duty of the city treasurer to pay such warrants and interest coupons as they mature and are presented for payment, out of the specially designated fund on which they are drawn, and to cancel the same when paid. Any indebtedness created by the making of any such contract and any indebtedness created by the issuance of any such warrants, shall not be deemed a part of the total indebtedness of said city, which said city is hereinbefore forbidden to make to exceed five per cent of the total value of the taxable property in such city according to the last preceding assessment for the purpose of taxation.

"The city engineer shall allow to the contractor, on the first day of each month an estimate of the amount already earned, which amount shall be due and payable on the tenth day of the month succeeding the month for which the estimate is allowed. (Amended '09, c. 98, § 1; '11, c. 92, § 1; '17, c. 165, § 1.)

"Sec. 257. Apportionment of costs.—At the time of the passing of the resolution for the doing of such work the city council may determine by separate resolution, what proportion of the entire cost of such improvement shall be defrayed by an assessment upon the property benefited, and what proportion, if any, shall be paid from the proper funds of said city, the amount of the bid accepted by the council to be taken as the entire cost; and in case no bid is accepted, and in case the city council has authorized the doing of such work under the direction of the city engineer, without contract, then the city engineer's estimate shall be taken as the entire cost of such work for the purpose of assessment. (Amended '17, c. 165, § 2.)

"Sec. 258. Commissioners to assess benefits.—The city council shall then, or thereafter, appoint commissioners in like manner and with the same qualifications as prescribed in this act for commissioners in condemnation proceedings, to view the property benefited by such proposed improvement, and to assess the cost of such proposed improvement (unless said council shall have determined that a portion only of the expense of such improvement shall be defrayed by assessments for benefits, and in such case they shall assess such portion) upon the property benefited by such improvement in proportion to the benefits actually received and without regard to cash valuation; provided, that in no case shall said commissioners assess upon any lot or parcel of land any greater amount than the amount of the benefit to such lot or parcel; provided, that if the city council shall have determined that such assessment shall be made on the basis of the foot frontage of the property bounding or abutting upon the improvement, then such commissioners shall make such assessment on that basis, without regard to the benefits or value of the property to be assessed. (Amended '17, c. 165, § 3.)

"Sec. 259. Proceedings of commissioners.—Said commissioners shall meet, give like notice, hear interested parties and proceed in like manner and make like report of their assessments for benefits to the city council, and the city council shall act thereon in like manner, and the proceedings shall be subject, as far as may be, to the provisions herein made for proceedings in condemnation, including the right of appeal from the confirmation thereof by the city council.

"Sec. 260. Levy of assessment.—Whenever the city council shall confirm any such assessment, such confirmation shall make the same final and conclusive upon all parties interested, who have not appealed therefrom, and the city council shall proceed at the same or any subsequent meeting, to levy such assessment upon the several parcels of land described in the assessment last reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same.

"DIVISION IV.

"Sec. 261. Collection of assessments.—When any special assessment shall have been confirmed and adopted it shall be the duty of the clerk to issue a warrant for the collection thereof, which shall be under the seal of said city and signed by the mayor and such clerk of said city, and shall contain a printed or written copy of the assessment roll as confirmed and adopted as aforesaid, or so much thereof as describes the real estate and the amount of the assessment in each case.

"Sec. 262. Assessment warrants.—In all cities having a city controller the city clerk shall deliver all warrants for collection of special assessments when issued to the city controller, taking his receipt therefor.

"Sec. 263. Notice by controller or clerk.—Upon the receipt of any warrant for the collection of any special assessment the city controller shall, or in cities where there is no city controller, upon the issue of the warrant the city clerk shall forthwith give notice by one publication in the official paper of the city that such warrant has been duly issued for the collection of the taxes

shown therein, briefly describing its nature and requesting all persons interested to make immediate payment at the office of the city treasurer, and that in default of payment thereof within sixty days after publication of such notice, a five per cent penalty will be added thereto, and the same will be collected at the cost and expense of the person liable for the payment of such assessment. Upon application the city controller, or the city clerk where there is no controller, shall issue a statement of the amount of such special assessment against any lot or parcel of land, and the city treasurer shall, on or before the time above specified, or the adding of a penalty, receive payment of the amount shown in such statement, and after said time and until the first Monday of October of that year shall receive payment of the amount shown in such statement, with five per cent added thereto, and give a receipt therefor, and shall keep a correct account of the same, and at the end of each business day shall report to the controller, or if there is no controller, to the city clerk, all assessments paid during the day, and the controller or clerk shall thereupon mark said assessments 'paid.'

"Sec. 264. Lien of assessment.—All assessments levied under the provisions of this act shall be a paramount lien on the real estate on which the same are imposed from the date the warrant issued for the collection thereof is received by the city treasurer for collection.

"Sec. 265. If the assessment charged in any special assessment warrant made for any improvement whatsoever, under the provisions of this act, shall not be paid prior to the time when a penalty will be added as specified in the notice of the city controller or clerk, a penalty of five per cent shall be added to and collected with such assessment and each and every item thereof remaining unpaid at such date.

"Sec. 266. Return by controller.—Within five days after the first Monday of October of each year the city controller, or if there is no controller, the city clerk, shall transmit to the county auditor of the county in which the property so assessed is situated, a list, duly certified by him, of all unpaid assessments included in any special assessment warrants upon which the notice hereinbefore provided to be given by the city controller shall have been published prior to the first of August of that year, with the penalty hereinbefore provided added thereto. Upon receipt of such list the said county auditor shall enter the several amounts of the said unpaid assessment on the tax list of said city for the ensuing year, and levy the same upon the several lots and parcels, as to which the same are respectively chargeable, and the same shall thereupon be collected and payment thereof enforced as other taxes on real estate are collected and enforced.

"Sec. 267. Division of assessments.—Whenever the amount of any special assessment upon any lot or parcel of land so transmitted to the county auditor shall exceed the sum of twenty-five (25) dollars the county auditor shall divide each such assessment in five equal parts, as nearly as the same can be divided, and shall, in proper books to be kept by him, extend the same in proper columns in such manner that said assessment shall extend over five (5) successive years; the first of such installments shall be entered by such auditor on the tax list for said city for the next ensuing year, and each successive installment shall be entered upon such tax list each succeeding year thereafter, respectively; said auditor shall at the time of so extending each year's installment of said special assessment on the tax list add to the amount of each installment after the first installment, interest for one (1) year on the entire amount remaining unpaid at the rate of six per cent per annum, which said interest on the whole amounts unpaid shall be paid each year at the same time and in the same manner as the installment for that year.

"Sec. 268. Whenever the amount of any special assessment on any lot or parcel of land so transmitted to the county auditor shall exceed the sum of twenty-five dollars (\$25.00), the city clerk shall, when transmitting to the county auditor the list of unpaid assessments included in any special assessment, accompany said list with a certified copy of the resolution of the city council determining the number of payments into which such assessment shall be divided, and the county auditor shall then divide each such assessment in as many equal parts as the city council shall have fixed by said resolution, as nearly as the same can be divided, and shall, in proper books to be kept by him, extend the same in proper columns in such manner that said assessments shall extend over the number of successive years so fixed by said council; the first of such installments shall be entered by such auditor on the tax lists of said city for the next ensuing year and each of the said installments shall be entered on such tax list each succeeding year thereafter respectively; said auditor shall at the time of so extending each year's installment of said special assessment on the tax list, add to the amount of each installment after the first installment, interest for one year on the entire amount remaining unpaid, at the rate of six per

cent per annum, which said interest in the whole amounts unpaid shall be paid each year at the same time and in the same manner as the installment for that year. (Amended '17, c. 165, § 4.)

"Sec. 269. Assessments paid over to city treasurer.—Such assessments, when collected, shall be paid over by the county treasurer to the city treasurer of said city, together with all costs, penalties and interest collected thereon at the time of making payment of city taxes to the city treasurer. Said county treasurer shall submit with such payment a statement showing the accurate distribution of the amount so collected to the several funds on account of which the assessment was made. The statement shall apply to the accurate distribution of costs, penalties and interest, as well as to the amount collected, on the original assessment.

"Sec. 270. Numerals used in advertisements.—In all proceedings and advertisements for the levy and collection of such assessments, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

"DIVISION V.

"General Provisions.

"Sec. 271. Informalities not to vitiate proceedings.—No error or omission which may be made in the order or in the proceedings of the city council, or of any officers of said city in referring, reporting upon, ordering or otherwise acting concerning any local improvement provided for in this act, or in making any assessment therefor, or in levying or collecting such assessment, shall vitiate or in any way affect any such assessment, unless it shall appear that by reason of such error or omission substantial injury has been done to the party or parties claiming to be aggrieved.

"Sec. 272. Reassessment.—In all cases where any assessment or any part thereof as to any lot, lots or parcels of lands assessed under any of the provisions of this act, or of any law of any city prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside or declared void by any court; or in case the city council shall have failed to make any assessment before the doing or ordering of any work, the expense of which could, under the provisions hereof, have been assessed on property, the city council shall, without unnecessary delay, cause a reassessment or new assessment to defray the expense of such improvement to be made, whether such improvement was made under this act or any law of any city prior to this act, and such reassessment or new assessment shall be made as nearly as may be as herein provided for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the city council it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act. And in all cases where judgments shall hereafter be refused or denied by any court, for collection or enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lots or parcels of land may be reassessed or newly assessed from time to time until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of said improvement as near as may be.

"Sec. 272½. New assessment warrants.—In all cases where the collection of any special assessment cannot be enforced by reason of irregularity or omission in any proceeding subsequent to the confirmation of such assessment, the clerk and mayor of said city are hereby authorized and empowered to issue a new warrant to the treasurer for the collection of any assessment which by reason of such irregularity or omission remains unpaid or not collected. The treasurer shall proceed under such new warrants to enforce and collect the assessments specified in the same manner, as near as may be, as is prescribed by the provisions of this act for the enforcement and collection of special assessments after the same shall have been confirmed as in this act provided. And as often as any failure shall occur, by reason of such irregularities or omissions, a new warrant may issue and new proceedings be had in like manner, until such special assessments shall be fully collected as to each and every tract or parcel of land charged therewith. And in case any such assessment shall be adjudged and deemed irregular and the collection thereof cannot be enforced after the same shall have been delivered to the county auditor for collection under the provisions of this act, the city council, at the time or prior to the making of such reassessments or the issuance of such new warrants, may, by resolution, direct such county auditor to cancel such special assessment on any record where the same appears, and in any case of the cancellation of any such special assessment, the audi-

for shall make the necessary credit of the amounts of special assessments so canceled on the proper books and to the proper officers.

"Sec. 273. Reletting of unfinished contract.—In all cases where the work for any improvement contemplated by the provisions of this act shall be suspended before final completion, by failure of the contractor to perform the same, or for any other cause, the city council may relet the unfinished portion of such work in the same manner, as nearly as may be, as provided in this act for letting of contracts for public improvements, and in every case of such new contract the work shall be paid for in the same manner as contracts for other like improvements.

"Sec. 274. New assessments.—If for any cause the proceedings of the city council or any officer may be found irregular or defective, whether jurisdictional or otherwise, the city council may order a new assessment from time to time as often as need be, until a sufficient sum is realized from the real estate abutting on the street in which such improvement has been or is to be made, to pay the costs, damages and expenses incurred thereby, it being the true intent and meaning of this act to make the cost and expense of all local improvements provided for in this act in such city payable by such abutting real estate, except as in this act otherwise provided.

"Sec. 275. Form of assessment roll.—Any assessment roll adopted by the city council in accordance with any of the provisions of this act may be substantially in the following form:

The city council of the city of do hereby assess and levy upon and against the several lots and parcels of land hereinafter described, the respective sums of money set opposite each lot or parcel. The assessment is levied to defray the expense of in the city of along and said lots and parcels of land are assessed upon the basis

Name of Owner, if Known.	Description of Land.	Lot.	Bl'k.	Amount.	
				Dolls.	Cts.

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

.....
 President of the Council.
 Attest:

 City Clerk.

"Sec. 276. Letting of contracts.—The city council may order any improvement and make and levy an assessment therefor and collect the same under and in accordance with the provisions of this act, prior to and without letting a contract for the doing of such work, and the contract for the doing of such work shall be let, or the city council shall direct the doing of such work under the direction of the city engineer without contract within six (6) months after such assessment, in accordance with the provisions of this act.

"Sec. 277. Abandonment of improvements.—The city council may, by a two-thirds (2/3) vote of its members, at any time prior to the execution of a contract therefor, or the beginning of the work under the direction of the city engineer without contract, abandon any improvement ordered by the city council under the provisions of this act, and shall thereupon annul and cancel the special assessment made hereunder to defray the expenses of such improvement, and if any portion of such assessment has been paid it shall be refunded to the person or persons paying the same.

"Sec. 278. Moneys derived from assessments.—How held and applied.—In case any assessment for improvement is collected before the making of such improvement the money so collected shall be kept separate from the funds of the city, and not devoted to any other purpose than such improvement.

"Sec. 279. Variance in amount of assessment not to invalidate.—No special assessment shall be questioned or held to be invalid because the amount of such special assessment shall happen to be either more or less than the amount of money actually required for the improvement for which such assessment shall be made. If the amount derived by such special assessment shall happen to be less than the amount required for such improvement, the balance shall be paid from the permanent improvement fund; and if there shall be any surplus from any such special assessment the same shall be carried to the credit of the same fund from which a deficiency would have been supplied, or be otherwise disposed of, as to the city council shall seem most just towards the persons upon whom such special assessment has been levied; provided, that when the total cost of any improvement for which special assessments have been made and levied shall be less than ninety (90) per centum of the total special assessments assessed, levied and collected for the same, said city council shall refund, out of the permanent improvement fund, to the person or persons who have paid the same their proportionate share of the excess of such total special assessments so collected over the total cost of such improvements.

"Sec. 280. Property owners to construct and repair sidewalk.—It is hereby made the duty of all owner of land adjoining any street, lane or alley in the 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 as shall hereafter be constructed, or directed by the city council to be built, and the same shall be constructed of such material and width, and upon such plan and grade as the city council may by ordinance or otherwise prescribe.

"Sec. 281. Sidewalk—How ordered.—Whenever the city council shall deem it necessary that any sidewalk in the city 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. Personal notice or the publication of such resolution once in the official paper of the city shall be sufficient notice to the owners 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 weeks after the 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, in accordance with the provisions herein made. 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. 282. Repair of sidewalks and assessments of costs.—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 proper officer to immediately repair the same in a good, substantial and thorough manner and report to the city council the costs of such repairs in each case, and a description of the lot or parcel of land abutting upon the sidewalk on which such 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 such officers, the cost of making such repairs. In each case such assessments for all such repairs within the year may be combined in one assessment roll, and certified to the county auditor and be collected as provided for in this act in case of assessments transmitted to the county auditor. 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 proper officer 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 of such reconstruction.

"Sec. 283. Credit on former assessment paid.—In case any assessment levied to defray the expense of any improvement herein provided for shall be annulled after any portion of such assessment has been paid, if reassessment is made under the provisions hereof to defray the expense of such improvement, the city clerk shall not on the warrant drawn by him for the collection of such reassessment or new assessment against any piece of land upon which such former assessment for the same improvement has been paid, the words 'Paid on former assessment \$.....' which shall cancel such assessment on that parcel to the amount as paid.

"Sec. 284. Refunding of assessment on abandonment of improvement.—When any improvement for which a

special assessment has been levied is abandoned, if any portion of such assessment has been paid, upon the annulling of such special assessment it shall be the duty of the city controller to notify the persons having paid such assessment that the same has been annulled and that the amount paid by them will be refunded; and the city treasurer shall, upon said parties identifying themselves as being the persons entitled to have such assessment refunded, pay to such persons the amount of such assessments so paid by them. Said city controller shall also notify the county treasurer of the annullment of such assessment; and upon receipt of such notice the county treasurer shall forthwith credit the amount of such special assessment so annulled to the lots and parcels of land against which said assessment was made, provided the same has not already been paid.

"Sec. 285. Certificate of city comptroller on deeds.—No register of deeds shall record any deeds conveying any lands within the limits of any city unless there is endorsed on such deed a certificate of the city controller of such city that all assessments in his office for collection for local improvements on said land have been paid, and any violation of this provision by any register of deeds shall be a misdemeanor, and be punished by a fine of not exceeding double the amount of the unpaid assessment. It shall be the duty of the city controller, upon the application of any person interested in such deeds where the assessment has been paid, and not otherwise, to make such certificate free of charge.

"Sec. 286. Omission of assessment on corner lots.—The city council shall in case of any corner lot, when one frontage of such lot has been fully assessed for laying any water main or sewer, in case a like improvement is to be made along the street on the other frontage of such lot, omit the assessment on such lot to an extent not exceeding a frontage of sixty (60) feet of any such lot.

"Sec. 287. Prior assessments not affected by this act.—Nothing in this act contained shall affect any assessment made by any city prior to this act becoming operative in such city, and all such special assessments and the deferred installment thereof, if any, shall be collected under and in accordance with the provisions of law in force at the time of the levying of such assessment.

"Sec. 288. Completion pending assessment proceedings.—Any proceedings instituted for the condemnation of land or other property, or for the assessing of benefits by commissioners for any improvement begun in any city prior to the time of this act becoming operative in such city shall be carried on and fully completed under and in accordance with the provisions of the law then in force in such city at the time such proceedings were instituted, except that upon the adoption of any assessment roll for special assessments in any such proceedings after this act shall have gone into force in such city, proceedings for the collection of the assessments therein levied shall be as herein provided for the collection of such assessments.

"CHAPTER XVI.

"Waterworks.

"Sec. 289. Superintendent.—The city council of any city maintaining waterworks shall, at the time of its organization as herein provided, appoint a superintendent of waterworks. The superintendent of waterworks shall have charge of the operation and repair of all pumps, pumping station and appurtenances, intakes, water mains, pipes and hydrants, and of the putting in and maintaining of all constructions connected with the waterworks of such city, subject to such rules and regulations as the city council may ordain. He shall appoint, by and with the consent of the city council, all engineers and assistants required in the operation of the waterworks of the city, and shall hire and discharge from time to time such subordinate employes as may be provided for by the city council; provided, however, that the city engineer shall perform all the civil, mechanical and hydraulic engineering work of said department. The superintendent shall inspect all water connections, hydrants and faucets through which water is consumed, and examine all water meters and gauges; and shall shut off water from any premises whenever the rent or other dues therefor are delinquent.

"Sec. 290. Accounts.—He shall also keep all records and accounts pertaining to the waterworks, and shall receive and receipt for all water rents and moneys accruing to the department, and shall appoint by and with the consent of the city council such collectors and clerical employes of the department as may be necessary, and shall deposit all funds as collected, weekly, with the city treasurer, and report the same to the city council, monthly, provided, that the city council of any city may in its discretion, confer the offices of the city engineer, and superintendent of waterworks upon one and the same person.

"Sec. 291. The owner of private property, which property has upon its pipes connected with the city waterworks to convey water thereto, shall, as well as the lessee of the premises, be liable to the city for the rents or rates of all water from said waterworks used upon said premises, which may be recovered in an action against such owner, lessee or occupant, or against any or all of them. The city council may provide for the punishment of all injuries to and interference with said waterworks or anything connected with them, and it shall be a misdemeanor, punishable as such, for any person without authority from the city to willfully break, remove or in any way injure or damage any main, branch, water-pipe, intake pipes, aqueduct, dam, bulkhead, gate, gate-house, conduit or vent, box or box cover, main pipe or cover of hydrant, or any part of the machinery or property of the waterworks of said city; or to open without authority from the city any water gate or to perforate or bore or cause to be perforated or bored, any main or pipe, or to make connection with any such main or pipe without proper permit therefor. And the city council may provide by ordinance for the conviction of and punishment for any such offense.

"Sec. 292. City council to prescribe rules.—The city council shall, by ordinance, establish such rules and regulations as it may deem necessary for the management of the waterworks of the city and the supplying of water for the use of the inhabitants thereof. And may make all necessary rules and regulations concerning the tapping of any mains or branches, or making connections therewith by any private parties or licensed plumbers, and such council may also provide for the shutting off of water from any premises where rates are payable and remain unpaid.

"Sec. 293. In any city in this state having and operating its own light works the provisions of this chapter shall apply thereto, in so far as the same can be made applicable, and said light works can, if the city council shall so determine, be managed and operated under the same officers and as a part of the same department as the waterworks.

"CHAPTER XVII.

"Corrections, Hospitals and Charities.

"Sec. 294. Superintendent of workhouse.—The mayor shall, in any city maintaining a workhouse, appoint a superintendent of the workhouse, who shall have the management and control of the workhouse, subject to such rules and regulations for the management thereof as the city council may ordain. He shall have the custody of all persons confined therein, and shall receive and confine all persons sentenced thereto, and shall appoint all officers, subordinates and employes required in the management of such workhouse, and may discharge the same.

"Sec. 295. Place of detention for women or children.—The city council may provide for the management and control of any place of detention for women or children maintained by the city, and prescribe all necessary rules and regulations therefor, and the mayor shall appoint such officers to manage the same as may seem necessary.

"Sec. 296. Superintendent of poor.—The city council may appoint at the time of its organization a superintendent of the poor. The superintendent of the poor shall, subject to the approval of the city council, appoint such subordinate employes as the city council may deem necessary. The superintendent of the poor shall investigate all applications for assistance and relief of every nature, and attend to the distribution of all fuel, food and other supplies to the poor, under such rules and regulations as the city council may ordain. He shall have the management and control of all poor-houses and charitable institutions established or maintained by the city, under the direction of the city council. And he may, by direction of the city council, establish and maintain an employment bureau for the use and benefit of the inhabitants of said city seeking employment; provided, that this section shall not apply to cities where hospitals, almshouses and other public charities are supported by the city and county in common, and where the care and control of such institutions and charities are under a board of control.

"Sec. 297. City physician.—The city council shall, at the time of its organization, appoint a city physician, who shall be a regularly licensed physician and surgeon of good standing in his profession. The city physician shall appoint such assistant physicians as the city council may determine, and he shall appoint and may discharge such matrons, nurses and other subordinate employes as may be provided for by the city council. He shall have the management and control, subject to such rules and regulations as the city council may ordain, of all hospitals maintained by the city except the quarantine or pest hospital, and shall act as physician and surgeon of all departments of the city, and attend upon and care for all sick and afflicted among the poor of the city, as directed by the superintendent of the poor; provided, that this section shall not apply to

cities where the office of city and county physicians are united in one person.

"CHAPTER XVIII.

"Department of Health.

"Sec. 298. How constituted.—The department of health shall consist of a commissioner of health, who shall be a physician regularly licensed to practice as such, and shall be the executive officer of the department, and of such number of assistants, inspectors, quarantine officers and subordinate employes as may be determined by the city council; and of a board of health, which shall be composed of the commissioner of health and three (3) members of the city council to be appointed by the city council.

"Sec. 299. Health commissioner.—Appointment and salary.—The commissioner of health shall be appointed by the mayor and he shall hold his office during the pleasure of the mayor. The salaries of the commissioner of health and his assistants shall be fixed by the city council.

"Sec. 300. Bonds.—The health commissioner before entering upon the duties of his office, shall execute a bond to the city in such sum, and with such sureties and upon such conditions as the city council may determine; such bond to be approved by the council.

"Sec. 301. Duties of health commissioner.—The commissioner of health shall enforce the laws of the state and ordinance and regulations of the city relative to the public health, and shall abate all nuisances injurious thereto, and prevent or exterminate contagious or infectious diseases among animals; control all quarantines, hospitals and morgues maintained by or located in the city; and all cemeteries, crematories, vaults and burial places maintained or regulated by the city, and inspect all such food products exposed for sale in the city as may be required by law or ordinance, and shall grant all burial permits, and regulate the disposition of all dead bodies.

"Sec. 302. Subordinates.—The health commissioner shall appoint all assistants, quarantine officers and subordinate employes of the health department; and the health commissioner and all members, inspectors and officers shall have power of police in and about the performance of their official duties relative to the public health, and the health commissioner shall have power to remove any and all assistants, inspectors or subordinate employes, appointed by him, at any time.

"Sec. 303. Powers of the board of health.—The board of health shall have such powers and perform such functions and duties as are prescribed by law for local boards of health, and such further duties as may be prescribed by law or ordinance.

"Sec. 304. Reports.—Reports of all births, deaths and of all cases of contagious and infectious diseases in the city shall be reported by the physician or other person in attendance thereon to the commissioner of health, and he shall keep a record of such reports, and no human body shall be buried or deposited in any cemetery or vault in said city, or be removed therefrom or from said city, or otherwise disposed of, without the permit of the commissioner of health.

"Sec. 305. The commissioner of health shall give to the mayor, or other city authorities, all such professional advice and information as they may require, with a view to the preservation of the public health, and whenever he shall hear of the existence of any malignant, contagious or pestilential disease, he shall investigate the same and adopt measures to arrest its progress.

"Sec. 306. It shall be the duty of the commissioner of health to enforce all laws of the state and ordinances of the city relating to the sanitary regulations of the city, and cause all nuisances to be abated with all reasonable promptness. And for the purpose of carrying out the foregoing requirements, he shall be permitted at all times, from the rising to the setting of the sun, to enter into any house, store, stable or other building, and to cause the floors to be raised, if he shall deem it necessary, in order to a thorough examination of cellars, vaults, sinks or drains; and to cause all privies to be cleaned and kept in good condition, and to cause all dead animals or other nauseous or unwholesome things or substances to be burned or removed or disposed of, as the commissioner of health may direct.

"Sec. 307. In order to the carrying out of the provisions of the foregoing section, it shall be the duty of the commissioner of health to serve a notice in writing upon the owner, occupant or agent of any lot, building or premises in or upon which any nuisance may be found, or who may be the owner or cause of any such nuisance, requiring them to abate the same in such manner as he may prescribe within reasonable time; provided, that it shall not be necessary in any case for the commissioner to specify in his notice the manner in which any nuisance shall be abated, unless he shall deem it advisable to do so; and such notice may be given or served by any officer who may be directed or deputed to give or make

the same; and if such owner, occupant or agent shall neglect or refuse to comply with the requirements of such order within the time specified, they shall be subject to a penalty hereinafter provided, and it shall be the duty of the said officer to proceed at once, upon the expiration of the time specified in said notice, to cause such nuisance to be abated; and provided further, that whenever the owner, occupant or agent of the premises in or upon which any nuisance may be found is unknown or cannot be found, the said commissioner shall proceed to abate the same without notice, and in either case the expense of such abatement shall be collected from the person or persons who may have created, continued and suffered such nuisance to exist.

"Sec. 308. Any expense incurred by the health department in enforcing the provisions of the above sections shall be recovered in an action of debt, to be brought in the name of the city against the party offending.

"Sec. 309. It shall be the further duty of the commissioner of health to visit and examine or cause to have visited and examined all sick persons who shall be reported to him as laboring or supposed to be laboring under any yellow or ship fever, smallpox, cholera, or any infectious or pestilential disease, and cause all such infected persons to be removed to the cholera, smallpox or other hospitals, or to such other safe and proper place as he may think proper, not exceeding three miles from said city, and cause them to be provided with suitable nurses and medical attendance, at their own expense, if they are able to pay for the same, but if not, then at the expense of the city.

"Sec. 310. It shall be the further duty of the commissioner of health to cause a notice, printed or written in large letters, to be placed upon or near any house in which any person may be affected or sick with small pox, scarlet fever, or any infectious, pestilential or epidemic disease, upon which shall be written or printed the name of such disease, and if any person or persons shall deface, alter, mutilate, destroy or tear down such notice, without the permission of the commissioner of health, or of the health officer, such person or persons shall be subject to the penalty hereinafter provided, the occupant of any house upon which such notice shall be placed or posted as aforesaid shall be held responsible for the removal of the same, and if the same shall be removed without the permission of the health commissioner, such occupant shall be subject to the penalty hereinafter provided.

"Sec. 311. The commissioner of health shall have charge of the small pox hospital, and shall have power to employ such assistants and nurses as he may deem necessary; and it shall be his duty to see that said hospital is supplied with suitable furniture, nourishment, fuel and medicines, and that persons dying therein or in any other places under the charge of the city are decently and promptly buried at the expense of the city, provided such deceased persons have not the means to defray their own expenses of sickness or burial.

"Sec. 312. In case of pestilence or epidemic disease, or of danger from anticipated or impending pestilence or epidemic disease, or in case the sanitary condition of the city should be of such character as to warrant it, it shall be the duty of the said commissioner of health to take such measures and to do and order, and cause to be done, for the preservation of the public health (though not herein, or elsewhere, or otherwise authorized), as he may in good faith declare the public safety and health to demand.

"Sec. 313. The commissioner of health may take such measures as he may from time to time deem necessary to prevent the spread of the smallpox, by issuing an order requiring all persons in the city or any part thereof requiring vaccination to be vaccinated within such time as he shall prescribe; and all persons refusing or neglecting to obey such order shall be liable to the penalty hereinafter provided; provided, that it shall be the duty of the commissioner to provide for the vaccination of such persons, as are unable to pay for the same, at the expense of the city.

"Sec. 314. He shall have the power to cause any house or premises to be cleansed, disinfected or closed to visitors and prevent persons from resorting thereto while any person is laboring under any pestilential or infectious disease; he may by an order in writing direct any nuisance to be abated, or unwholesome matter or substance, dirt or filth to be removed from any house or premises, and may prescribe the time and mode of doing so, and take any other measures he may deem necessary and proper to prevent the spread of any infectious, pestilential or epidemic diseases; and any person who shall neglect or refuse to obey the orders, directions and instructions of said commissioner of health shall be subject to a penalty hereinafter provided.

"Sec. 315. Said commissioner, whenever and at such times as by him it shall be deemed necessary, may, by proclamation (the approval of the city council being first had and obtained), require all boats, vessels, railroad cars or other public conveyances bound for the city, before the same shall land or stop at any wharf,

depot or landing or stopping place therein, to touch or stop at any or either of the sites, places or boundaries so selected and established for quarantine purposes, and leave all such emigrants, travelers or persons, with their stores and baggage as in the opinion of the officers stationed at such quarantine sites, places or boundaries shall be deemed proper on account of the existence or general report of cholera, ship fever or any contagious disease, or disease apprehended to endanger the health of the city.

"Sec. 316. Whenever it shall be deemed necessary to issue such proclamation, it shall be the duty of the said commissioner to send the same, together with the substance of the regulations for quarantine and the period for which the same shall be in force, unless sooner revoked, to Chicago, Milwaukee, Dubuque, Sioux City and Fargo, the cities of the state, and such other cities and places as by him may be deemed proper.

"Sec. 317. He shall also cause to be stationed at such quarantine sites, places and boundaries as he may deem advisable, one (1) or more physicians or health officers, whose duty it shall be to go on board and examine all boats, vessels, cars or other public conveyances so as aforesaid required to touch or stop at said quarantine, respectively, and then and there determine what emigrants, passengers or persons (if any) shall stop at such quarantine; and it shall be the duty of all persons conducting or in charge of any such vessel, boat, car or public conveyance to aid and assist any such physician or health officer in the exercise of his duties.

"Sec. 318. Said commissioner or health officer shall attend to all sick persons who may be landed or placed in quarantine, and provide medicines and necessaries for their use, and shall have general supervision of such quarantines and compel persons therein to purify their bodies, clothes and baggage, and do all such acts and things as shall be proper in the premises, keeping correct accounts of all expenditures and wages which shall be allowed and paid by order of the said commissioner.

"Sec. 319. Whenever the physician or officer in charge of any quarantine, station or place as aforesaid shall, upon examination, be satisfied that there is no longer occasion for the detention of any boat, vessel, car or conveyance at such quarantine or place, and such boat, vessel, car or conveyance shall have been thoroughly cleansed, and such persons as aforesaid landed and placed in the care of such physician or officer, such physician or officer shall give such vessel, boat, car or conveyance a permit signed by him to enter the city, which shall be ample authority for the entry of said boat, vessel, car or conveyance, and the said officers, respectively, shall discharge all persons in quarantine by their certificate for that purpose whenever they are satisfied that such persons are free of disease and baggage and effects properly purified; provided, however, that the commissioner, in his discretion, by proclamation for that purpose, may, during the prevalence of cholera, ship fever or other contagious or fatal diseases, forbid the emission of emigrants or others peculiarly liable thereto, in any or all of said quarantines or stations, until, in his opinion, the health of the city will justify the same.

"Sec. 320. It shall be the duty of the said commissioner, whenever by him it shall be deemed necessary, to keep at the quarantine station or stations a sufficient police force, whose duty it shall be to enforce all regulations by this chapter required, or by said commissioner to be established, and to arrest all persons violating said regulations or committing any breaches of the peace, and bring such person before any court having jurisdiction, for trial, and to arrest and hold for trial all persons disobeying or interfering with or resisting any physician, health officer or other persons in authority at such quarantine site, place or station.

"Sec. 321. In case any boat, vessel, car or public conveyance shall leave any quarantine station, place or boundary without a permit, as aforesaid, or shall fail to stop at the same, when so, as aforesaid, required by the issuing of such proclamation, or whenever the person in charge thereof, or any person under his command, shall fail or refuse to obey any regulation or command of the said commissioner of health, physician or person in charge of any quarantine station or place, or of any provision or requirement of this chapter, the said commissioner shall have the power, and it is hereby made his duty, if in his opinion the health of the city requires it, to send sufficient police force to such boat, vessel, car or public conveyance, and cause the same, with the crew and passengers on board, to be landed or stopped or conveyed to the quarantine station or place, and there to remain until properly discharged by the permit aforesaid; and the owner, master or person in charge of any such boat, vessel, car or public conveyance shall be liable to the city for all expenses and costs incurred by reason thereof. If any emigrant, traveler or person so placed in quarantine, as aforesaid, shall leave the same without permission, as aforesaid, he may be arrested and taken back to said quarantine, and there retained until such permission shall be given.

"Sec. 322. The said commissioner shall make such rules and regulations for the government of the quarantine or health of the city as, from time to time, he shall deem necessary; and the physicians or health officers in charge of any quarantine station or place shall have power to make and enforce such regulations as may be necessary for the proper conducting and management thereof; and it shall be the duty of all persons in quarantine, and all agents, officers, policemen or others employed by the city in and about said quarantine stations or places to carry out and obey the same.

"Sec. 323. The said commissioner may appoint one or more competent physicians as quarantine physicians, who shall be present at such quarantine stations as the said commissioner of health shall designate, and attend to all the duties imposed by this chapter or by the regulations of said commissioner; and who shall receive, each, for actual services rendered, and for such time as such services shall be actually required, not more than five (5) dollars per day, to be allowed by said commissioner; also the said commissioner may employ such agents, servants, nurses or temporary medical assistants for the purpose of carrying into effect the objects and intent of this chapter or of any regulations as in his judgment shall, from time to time, be necessary, or authorize the employment thereof by the physicians or health officers in charge of any quarantine or station.

"Sec. 324. All the salaries, wages and expenses in this chapter contemplated are to be audited and allowed by the said commissioner; provided, that when practicable the persons taken in such quarantine or stations and receiving the aid and care afforded thereby, shall each pay a sum of money sufficient to meet all expenses, labor and care incurred in his behalf, which said money shall be faithfully, kept, reported and accounted for by the physician, health officer or other person in charge of said quarantine or station, to the said commissioner.

"Sec. 325. No person, master, captain or conductor in charge of any boat, vessel, railroad car, public or private conveyance shall knowingly bring into the city any person or persons diseased of cholera, smallpox, ship fever, contagious or infectious diseases whatsoever; and no vessel, boat, railroad car, public or private conveyance, at any time covered by the said proclamation, shall pass by any quarantine station or place without stopping, nor shall leave the same without the permit aforesaid; and no person stopping in said quarantine, or so as aforesaid received therein, shall leave the same without first obtaining permission as aforesaid; nor shall any person aid or abet any master, conductor or person in charge of any boat, vessel, railroad car or public conveyance in violating, neglecting or evading any provisions or requirements of this chapter; nor shall any person interfere with, resist, neglect or refuse to obey the orders of any physician, health officer, policeman or other person in authority at any quarantine station or place of quarantine so as aforesaid established; nor to do any act or thing in violation of or in disobedience to any of the provisions, clauses or sections of this chapter; nor shall commit any breach of the peace, nor do any act calculated in any way to defeat or interfere with the provisions or requirements of this chapter or of any regulation of the said commissioner, physician or officer in charge of any quarantine.

"Sec. 326. It shall be the duty of the commissioner of health to make a circuit of observation once in every month to every part of the city and its environs, which, from the location, or from any collateral circumstances, may be deemed the cause of disease, and in all cases where he may discover the existence of any agent, the presence of which will prove dangerous to the health of the city, and there is no ordinance competent to the correction of the evil, he shall immediately report the same to the city council, accompanied with his opinion of the necessity of extraordinary or particular action.

"Sec. 327. The commissioner of health, by and with the approval of the city council, may select, purchase, lease and establish such sites, places and boundaries for quarantine stations and purposes, and, with the approval of said council, may erect, from time to time, such buildings and hospitals upon such sites and places, and so keep the same in repair as in his judgment may be deemed necessary.

"Sec. 328. It shall be the duty of the commissioner of health to provide the necessary books for keeping a record of all transactions of said department, including the proper registration of births and deaths and such other statistical information necessary for efficient working of said department; and shall also keep on hand all necessary blanks, to be used by physicians and midwives, and furnish them with the same on application.

"Sec. 329. Said commissioner of health shall always have on hand, as far as practicable, a sufficient quantity of vaccine virus, and he shall vaccinate and revaccinate, without charge, all persons who may apply to him for that purpose; and shall give certificates of vaccination to children who have been vaccinated, and require such certificates to admission to the public schools.

"Sec. 330. Any master of a vessel, conductor, captain or any person whatsoever who shall violate any clause, provision, requirement, duty or regulation of this act, or any rule or regulation of the said commissioner of health, or physician, or health officer in the discharge of his duty, or in charge of any quarantine, or any person whatsoever who shall fail or neglect to comply with any such clause, provision, requirement, duty or orders, or who shall interfere with or in any manner resist any officer or agent of the department of health of the city in the discharge of his duty as herein contemplated, or who shall commit any such breach of peace, or be guilty of any act or thing calculated to defeat or interfere with the carrying into effect any part of this act, or any regulation or order of the said commissioner of health, shall, upon conviction, be subject to a fine not to exceed one hundred (100) dollars nor less than ten (10) dollars for each offense, together with the costs of prosecution.

"Sec. 331. Said commissioner of health may order or cause any excavation, erection, vehicle, vessel, water craft, room, building place, sewer pipe, passage, premises, ground matter or thing in the city, or adjacent water, regarded by said commissioner as in a condition dangerous or detrimental to life or health, to be purified, cleansed, disinfected, altered or improved, and may also order any substance, matter or thing being or left in any street, alley, water excavation, building erection, place or grounds (whether such place where the same may be, be public or private), and which said commissioner may regard dangerous or detrimental to life or health, to be speedily removed to some other place; and may designate or provide a place to which the same shall be removed when no such adequate or proper place, in the judgment of said commissioner, is already provided. The said commissioner may require the police force of the city to execute any of the orders referred to in this act, and it shall be the duty of such police force to execute the order of the said commissioner of health.

"Sec. 332. It shall be the duty of the said commissioner of health to aid in the enforcement of, and, as far as practicable, to enforce all the laws of this state applicable to the preservation of human life, or to the care, promotion or protection of health; and said commissioner may exercise the authority given by the laws aforesaid to enable him to discharge the duties hereby imposed; and this section is intended to include all laws relative to cleanliness and to the use or sale of poisonous, unwholesome, deleterious or adulterated drugs, medicines or food. And said commissioner is authorized to require reports and information at such times and of such facts and generally of such nature and extent relating to the safety of life and the promotion of health as its by-laws and rules may provide, from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools, and from the managers and principals and officers thereof; and from all other public institutions, their officers and managers, and from the proprietors, managers, lessees and occupants of all theaters and other places of public resort or amusement in said district; and it is hereby made the duty of the officers, institutions and persons so called on, or referred to, to promptly give such reports, verbally or in writing, as may be required by said commissioner.

"Sec. 333. Every physician, midwife and other person who may professionally assist or advise at any birth shall make and keep a registry of every such birth, and therein enter the time and place, ward and street of such birth, and the sex and color of the child born and the name and residence of each of the parents, so far as the foregoing facts can be ascertained; and every physician or professional adviser, who has attended any person at a late illness, or has been present by request at the death of any person, shall make and preserve a registry of such death, stating the cause thereof and specifying the date, hour, place and street of such death. Proper blanks of the above shall be furnished by the department of health.

"Sec. 334. That it shall be the duty of every person mentioned in the last section, or required to make and keep any such registry, to present to the said commissioner of health a copy of such registry, signed by such persons, or a written statement by him or her signed, or all the facts in said register required to be entered within five days after the birth, and within thirty-six hours after the death, of any person to whom such registry may or should relate.

"Sec. 335. That it shall be the duty of all coroners within three days after the taking of any inquest to file a written statement with the commissioner of health, signed by the coroner making the same, stating, so far as he is able, where and upon the body of whom such inquest was held, and the cause and date and place of the death of such person.

"Sec. 336. That the department of health is authorized, and it shall be its duty, to make such rules and ordinances as to them may seem proper and necessary for the purpose of compelling all physicians practicing within the limits of the city to make report of all cases of contagious and infectious diseases upon which they

may be in attendance, and in all keepers of boarding or lodging houses, all inn keepers or hotel keepers, to make report of all cases of contagious and infectious diseases occurring within their respective houses, and generally to make such regulations and rules as to them may be deemed necessary for the purpose of carrying into effect the objects of this section, and of obliging reports of contagious and infectious diseases to be made to said commissioner of health by persons becoming cognizant of the same.

"Sec. 337. And the said department of health is hereby authorized, and it shall be its duty, to make rules and ordinances regulating the interment and removal of dead bodies and their entry into, removal from the passage through the said city; and no body shall be buried within the limits of the city, removed therefrom or received therein, or passed through the city without a written permit first obtained from the said department of health, and to be issued in the manner and under the conditions by them prescribed; and the said department of health shall make all rules and regulations necessary for carrying out the objects of this act.

"Sec. 338. That the jurisdiction of the city shall extend to and prevail over, all public cemeteries under the control of organizations established in said city; and it shall be the duty of the department of health to make such rules and regulations as it may deem necessary regarding the interment of dead bodies within the same and prescribe the duties of all sextons and keepers of such cemeteries relative to the reception of and burial of dead bodies.

"Sec. 339. Copies of the proceedings of said department, of its rules, regulations, by-laws and books and papers, constituting part of its archives, when authenticated by the commissioner of health, shall be presumptive evidence, and the authentication to be taken as presumptively correct in any court of justice, or judicial proceedings when they may be relevant to the point or matter in controversy of the facts, statements and recitals therein contained, and the action, proceedings, authority and orders of the said department of health shall at all times be regarded as in their nature judicial and be treated as prima facie just and legal.

"CHAPTER XIX.

"Miscellaneous.

"Sec. 340. Bonds of contractors.—Before any contract whatsoever for the doing of any work or labor or furnishing any skill or material to or for any city shall be valid and binding against such city, the contractors shall enter into a bond with such city for the use of such city and also for the use of all persons who may perform any work or labor or furnish any skill or material in the execution of such contract, conditioned to pay, as they become due, all just claims for all work and labor performed and all skill and material furnished in the execution of such contract, and also to save such city harmless from any cost, charge and expense that may accrue on account of the doing of the work specified in such contract, and also to complete such contract, according to the terms thereof and the contract price, and to comply with all the requirements of this law; which bond shall be in such an amount as the city council shall determine, not less than the contract price agreed to be paid for the performance of such contract, and shall be duly signed and acknowledged by such contractor and two (2) or more sufficient sureties, and after being approved shall be filed, with the contract, in the office of the city controller, which said bonds shall be prepared by the city attorney and approved by the mayor.

"Sec. 341. Sureties.—The sureties of such bond shall each take and subscribe an oath that he is a resident of the State of Minnesota, and that he is seized in fee of real estate situated in said state, and not exempt by law from sale or execution, of the value and worth over and above all incumbrances thereof on the same, for which he is to justify in said bond. More than two (2) sureties may be accepted on such bond, and they may justify in separate and different sums less than the sum specified in such bond; provided, that the aggregate of their justifications shall be equal to two (2) sureties, each justifying in a sum equal to the amount of said bond.

"Sec. 342. Right of action on bonds.—Whoever shall perform, or cause to be performed, any work or labor, or furnish, or cause to be furnished, any skill or material, including any work, labor, skill or material necessary in the repair of any tool or machine and including the use of any tool or machine or material furnished particularly for such contract and used therefor, in the execution of such contract, at the request of the contractor, his agents, heirs, administrators, executors or assigns, or at the request of any sub-contractor, his agents, heirs, administrators, executors or assigns, or at the request of such city, in case such city shall have determined such contract and shall have completed the same

at the cost of the contractors, shall be considered a party in interest in said bond, and may bring an action thereon for the reasonable value or agreed price, as the case may be, of the work or labor performed or skill or material or tool or machine furnished in the performance of such contract.

"Sec. 343. Trust companies may be sureties.—Any company organized under chapter three (3) of the general laws of Minnesota for eighteen hundred and eighty-five, entitled 'An act to amend an act entitled an act to authorize the organization and incorporation of annuity, safe deposit and trust companies, approved March fifth, eighteen hundred and eighty-three, approved March fifth, eighteen hundred and eighty-five, and any company referred to in and complying with the provisions of chapter forty-two of the general laws of eighteen hundred and ninety-three, entitled 'An act relative to recognizances, stipulations, bonds, obligations and undertakings, and to allow corporations to be accepted as surety thereon,' approved April eighteenth, eighteen hundred and ninety-three, may, if satisfactory to the city, become sole surety under any bond required by this act, and in such case so much of the provisions of this act as requires two (2) or more good and sufficient sureties shall be considered to be fully satisfied by the execution of any such bond by such corporation, and none of the provisions hereof relating to sureties or approvals shall be required.

"Sec. 344. No action shall be maintained on any such bond unless the same shall be commenced within one year after the cause of action accrues.

"Sec. 345. Monthly estimates.—Estimates shall be allowed monthly on all city contracts and the amount thereof shall be due and payable on the tenth day of the month succeeding the month in which the labor was performed or materials were furnished, on account of which the estimate is allowed.

"Sec. 346. Board of tax levy.—In any county in this state having a board of tax levy, operating under any special law or amendment thereto, whose election, designation or appointment, and whose powers and duties are prescribed by or in any such law, and who are authorized, empowered and directed thereby to fix the maximum rate or rates of taxation to be levied for certain city purposes, said board of tax levy shall continue to exist and to perform all the duties, and to exercise all the powers now prescribed by law for such board of tax levy, so far as the same affect any city accepting this act; and nothing in this act shall be held or construed to repeal any such law or to authorize or permit any officer or officers, or any person or persons, to exercise or perform any of such powers or duties.

"Sec. 347. Limitations of actions.—No action shall be maintained against any city on account of any injuries received in any manner whatsoever, nor on account of any injuries to persons or property by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, unless such action shall be commenced within one (1) year from the receiving of the personal injuries or the happening of the injury, nor unless notice shall first have been given in writing to the mayor of the city or the city clerk thereof, within thirty (30) days of the receiving of such personal injury, or of the occurrence of such injury to persons or property, stating the place where and the time when the same was received, and that the person injured will claim damages of the city for such injury; but the notice shall not be required when the person injured shall, in consequence thereof, be bereft of reason. Nor shall any such action be maintained for any defect in any street until the same shall have been opened and graded, nor for any insufficiency of the ground where sidewalks are usually constructed when no sidewalk is built. All actions arising ex delicto, including the action provided for by section two of chapter seventy-seven of the general statutes of eighteen hundred and seventy-eight, and including those hereinbefore stated in this section, shall be commenced within one (1) year after the cause of action accrues and not thereafter, and all actions arising ex contractu shall be commenced within two (2) years after the cause of action accrues.

"Sec. 348. Statute of limitations.—No right, title, estate or easement of any city in or to any property shall be prejudiced or lost by any adverse possession or occupancy, and no statute of limitation shall run or operate as against any city in favor of any person or persons occupying any of the public or platted streets or public or platted grounds, parks, parkways or boulevards of the city, whether such street or grounds or any such property be improved or not.

"Sec. 349. Unauthorized obstructions in streets, etc.—If any person or company shall place or leave any obstruction, or make any excavation or opening, or cause any defect in any street, road, alley, public grounds or sidewalk in said city, or leave any obstructions or excavations or openings unguarded or without proper protection, such person or company shall be liable to any person who may be personally injured, or whose property may be injured or destroyed without his fault by means of such obstruction, excavation or opening;

and in case any damage shall be recovered in any action against said city for injuries caused by such obstruction, excavation or opening, the city shall have the right to recover the amount of such damages in turn from the person or company placing such obstruction or making such excavation or opening; provided, that, upon the commencement of any such action against the city, notice thereof shall be immediately given in writing to such person or company so liable, with the statement that the city will look to such person or company to pay the amount of any judgment against the city which may be recovered in such action, and an opportunity given such person or company to defend such action; and such person or company may, upon his or its own application or the application of the city, be made a party defendant to such action; in which case, if judgment be recovered against the defendants, execution thereon shall be first issued against such person or company only, and the city shall not be required to pay such judgment until such execution shall be returned unsatisfied.

"Sec. 350. In regard to issue of warrants.—In all prosecutions for any violation of this act or of any ordinance of any city, the first process shall be a warrant; provided, that no warrant shall be necessary in case of the arrest of any person or persons while in the act of violating any law of the State of Minnesota or ordinance of any city; but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, processes, or writs by any court for violation of any ordinance of any city shall run in the name of the city and shall be directed to the superintendent of police or any police officer of said city.

"Sec. 351. Affidavit of city printer.—The proprietor of the official paper shall immediately after the publication of any notice, ordinance or resolution or proceedings of the city council or any other matter which is required to be published by any of the provisions of this act, or any ordinance passed in pursuance thereof, file with the city clerk of the city a copy of such publication, with his affidavit, or the affidavit of his foreman, of the time the same has been published, and such affidavit shall be prima facie evidence of the publication of any such notice, ordinance, resolution or council proceeding, or any such other matter required to be published as herein provided; and no account or claim for any publication whatever shall be allowed and adjusted by the city controller until such affidavit shall have been filed with the city clerk and the city clerk shall have certified that fact to the city controller.

"Sec. 352. Judgments.—How paid.—Whenever any final judgment shall be recovered in any competent court against the city no execution shall issue thereon against such city, but such city shall cause the same to be paid.

"Sec. 353. Cities not required to give bonds.—The city shall not be required in taking any appeal, or in serving out any writ or process, or in or about the prosecution of any act or proceeding, to enter into any bond, or to give any security whatever, and all proceedings in such action shall be stayed the same as though such bond had been given.

"Sec. 354. Who may administer oaths.—The mayor, acting mayor, president of the city council or presiding officer thereof, the president, chairman or head of any board authorized by this act, shall, by virtue of their office, in all matters and proceedings before them relating to or appertaining to the city, be and are hereby authorized to administer oaths and receive testimony under oath or affirmation.

"Sec. 355. Authority to repair roads and bridges.—The city council of any city, by a two-thirds vote of all the members elect, shall have the power to build, repair and maintain roads and bridges beyond the city limits into other towns and counties, whenever they deem it proper, and fix the amount and manner in which the appropriations for such purposes shall be expended.

"Sec. 356. The city council shall have the power to, and shall require, before any street is paved, that the gas, water and sewer pipes be laid therein and connections made with the front line of each lot. In the business portion of the city the word 'lot' shall be construed to mean a subdivision twenty-two (22) feet front. This provision shall not apply as to gas pipes in cities where there is no system of gas lighting with mains laid in the public streets, nor water pipes in cities where there is no system of public water works with pipes laid in the streets, nor to sewer pipes in cities where there is no system of carrying off sewerage by pipes laid in the streets.

"Sec. 357. Library board.—Board of education.—Nothing in this act contained shall be construed to affect the powers and duties of any board of education or library board in any city.

"Sec. 358. No right to be affected.—That no rights already accrued to any city, or any penalty or forfeiture incurred in favor of any city under the provisions of any act of this state shall be affected by this act, nor shall this act affect any action or other legal proceeding

pending at the date of the approval of this act; and all proceedings for the acquirement of parks and parkways and the making of local improvements and the making and collecting of assessments therefor, which improvements have been finally ordered under the provisions of any law of this state, before the date of the approval of this act, shall be proceeded in as though this act has not been passed.

"Sec. 359. All general laws and parts thereof inconsistent with the provisions of this act are hereby repealed; provided, nothing in this section shall be taken or construed as in any manner changing the provisions of section twenty-one (21) of this act.
"Sec. 360. This act shall take effect and be in force from and after its passage."

CHAPTER 10

PUBLIC INDEBTEDNESS

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1934. Scope of chapter—The provisions of this chapter shall not be construed as relating to the debt of the state, or to current and ordinary public expenses, but only to the authorized indebtedness, payable with interest at future and stated times, of cities, villages, boroughs, counties, towns, and school districts; and the terms "municipal corporation," "corporation," and "municipality," as herein used shall embrace any or all of said bodies. (776) [1847]

189-95, 165+880; 146-415, 178+1006; 189+932, 166-202, 207+309.

1935. Net indebtedness defined—The words "net indebtedness," as used herein, shall mean the sum of all outstanding money obligations of the corporation referred to, after deducting:

1. Orders or warrants drawn upon the treasurer, and payable forthwith.

2. Certificates of indebtedness and bonds issued for the creation or maintenance of a permanent improvement revolving fund.

3. Obligations incurred in respect to the construction of public drainage ditches and in acquiring lands for streets, parks, or other public improvements, and payable from the proceeds of assessments levied upon property especially benefited by such ditches or other improvements.

4. Bonds issued for the purchase or construction of public waterworks, or for the enlargement, protection or distribution of the water supply, for the establishment of public lighting, heating, or power plants, and for the acquisition and equipment by purchase or otherwise, of street railways, telegraph or telephone lines, or any other public convenience from which a revenue is or may be derived.

5. The amount of all money, and the face value of all securities, held as a sinking fund for the extinguishment of corporate debts other than those enumerated in this section. (R. L. § 777; amended '13 c. 145 § 1) [1848]

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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CHAPTER 9

Villages and Cities

1109. Villages and boroughs. [Repealed.]

Repealed by Act Apr. 21, 1939, c. 345, Pt. 12, §1, ante §601-12, effective Aug. 1, 1939.
Reenacted as §601-11(2).

Laws 1935, c. 360. Expenditures of towns and villages on cash basis legalized.

New York Life Ins. Co. v. V., 187M119, 244NW553; note under §1111.

Though Laws 1885, c. 145, has been repealed, it remains in full force and effect as to villages organized and continuing to operate thereunder. Vesely v. V., 190 M318, 251NW680. See Dun. Dig. 6526.

Villages may be held to be governed by certain applicable provisions of general statutes relating to townships, when not otherwise provided in general laws relating to villages or in statute constituting charters of such villages. *Id.* See Dun. Dig. 6526.

This section serves to keep alive Laws 1885, §145 [Mason's Minn. Stat., 1927, pp. 218-226], as to villages organized and operating thereunder, and all subsequent acts of the legislature, whether directly amendatory of the 1885 act or not, are still operative in such villages, if they constitute a part of the 1885 village code. Applying this rule Laws 1895, c. 270 [set forth herein in notes under §1111], not expressly amending the 1885 code, is still operative in such villages. Op. Atty. Gen., Jan. 16, 1930.

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

1110. Surrender of charter—Reincorporation.

Where a village voted on question of reincorporating village under this section, and vote was in favor of reincorporation, but village council did not pass resolution declaring result, nor file certified copies with county auditor and secretary of state, a later council should call a new election rather than adopt the resolution and file copies. Op. Atty. Gen. (484e-5), July 10, 1935.

VILLAGES

1111. What territory may be incorporated.

Laws 1895, c. 270, is still operative in villages organized and operating under the village code of 1885. (Op. Atty. Gen., Jan. 16, 1930.) The text of the act is as follows.

"Sec. 1. The clerk or recorder of any incorporated village in this state may appoint under his hand and seal by and with the consent of the village council, a deputy for whose acts he shall be responsible, and whom he may remove at pleasure."

"Sec. 2. Such deputy shall before entering upon his official duties, take the oath required by law which oath and appointment shall be filed in the office of the clerk of the district court of the proper county."

"Sec. 3. Such deputy shall possess all the powers and may perform all the duties of the village clerk or recorder except he shall not be a member of the village council."

"Sec. 4. This act shall take effect and be in force from and after its passage."

Decisions relating to villages in general.

A village may grant a permit or franchise to a gas company for a period in excess of twenty years. Op. Atty. Gen., Feb. 3, 1932.

An attorney who is a partner in law firm of one of members of village council of Hibbing may be appointed city attorney, if member of council will have no interest, directly or indirectly, in fees received. Op. Atty. Gen., Aug. 20, 1932.

Construction and application of Laws 1885, c. 145.

Officers elected Mar. 12, 1929, in a village operating under the 1885 act, took office on the first Tuesday in April, in view of Mason's Stat., 1927, §1134. Op. Atty. Gen.

Under 1885 law, the village of Kenyon has authority to contribute to the support of a skating rink on school-house grounds. Op. Atty. Gen., Feb. 27, 1929.

Under the 1895 law bonds cannot be issued without vote of the electors, even for refunding warrants. Op. Atty. Gen., Mar. 25, 1929.

Village council under Laws 1885, c. 145, may sell or lease telephone exchange without consent of electors. Op. Atty. Gen., Apr. 16, 1929.

A village operating under Laws 1885, c. 145, on sale of its gas plant, after providing for payment of obligations of the gas plant, may transfer the surplus to the general fund. Op. Atty. Gen., Aug. 14, 1929.

Villages organized under Laws 1885, c. 145, having population of 10,000 may divide into six election districts, etc. Laws 1933, c. 343.

An existing village cannot legally be separated into separate villages. Op. Atty. Gen., Jan. 23, 1933.

Village of Dalton is incorporated under this act. Op. Atty. Gen., Feb. 3, 1933.

Mayor of village has no right to discharge a councilman. Op. Atty. Gen., Feb. 10, 1933.

Expenses incident to incorporation of village, such as attorney's fees incurred in preparation of petition, and other election expenses, are legitimate charges against village and may be paid out of village treasury after incorporation. Op. Atty. Gen. (484e-4), March 31, 1939.

Districts which have been platted into lots and blocks contiguous to state line and having population of not less than 50 inhabitants may be incorporated as a village. Op. Atty. Gen. (484e-4), April 13, 1939.

Village of Wykoff incorporated by special laws 1876, c. 5, under the provisions of Laws 1875, c. 139, is now governed by this act. Op. Atty. Gen. (477a), Mar. 2, 1933.

This section repeals provision in Laws 1875, c. 139, §20, requiring a vote of people before expending in excess of \$500. Op. Atty. Gen. (396a-2), July 12, 1939.

7(21).

Village may employ an attorney who is not a resident on either a per diem, monthly or yearly basis, or to handle specific assignments of work for village. Op. Atty. Gen. (469b-1), Sept. 27, 1935.

9.

Village may issue bonds to pay for power house and distributing system, and enter into valid conditional sales contract for purchase of generating equipment to be paid for solely from remains of net profits after paying interest and bond installments. Williams v. V., 187M161, 244NW553. See Dun. Dig. 6723.

Village operating its only own utility may only sell surplus electricity to consumers outside corporate limits or inside corporate limits. Op. Atty. Gen. (624c-12), May 24, 1935.

A city may supply electricity to a nearby village with the consent of latter. Op. Atty. Gen. (59a-36), May 25, 1935.

A village cannot avoid electric franchise for irregularities in the granting thereof where it has accepted the benefits thereof for a number of years, but the granting of one franchise does not prevent the granting of another franchise to other parties or the purchase of electricity from another city, unless the first utility has been expressly given exclusive right. *Id.*

12.

Agricultural land may be detached from village either under general law or under special acts under which village was organized. New York Life Ins. Co v. V., 187 M119, 244NW553. See Dun. Dig. 85a, 87.

16.

Offices of village attorney and president of village council are incompatible. Op. Atty. Gen., Nov. 29, 1933.

Offices of village marshal and village constable are not incompatible. *Id.*

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

17.

Notice of special election called to authorize building of new village hall and issuance of bonds held to comply with statutory provisions. Op. Atty. Gen. (476b-8), Apr. 24, 1934.

Vacancies in village councils are to be filled by appointment and not by special election. Op. Atty. Gen. (471m), Apr. 12, 1935.

18.

The president of a village operating under Laws 1885, c. 145, §18, has no power alone to appoint or remove a marshal. Op. Atty. Gen., Feb. 9, 1929.

Offices of police officer and manager of waterworks of village of Swanville are compatible with elective office of village assessor. Op. Atty. Gen., Apr. 7, 1932.

19.

Office of defeated justice of the peace is vacant where newly elected justice is not qualified and old justice does not hold over. Op. Atty. Gen., Feb. 3, 1933.

Vacancy in office of village justice of peace may be filled by village council. Op. Atty. Gen., Feb. 3, 1933.

Person wishing to get his name on village election ballot need not file 10 days before election, and any voter has right to write in name of any person he wishes on ballot. Op. Atty. Gen., Feb. 10, 1933.

Governor cannot remove village constable. Op. Atty. Gen., Aug. 31, 1933.

Village assessor, clerk and president are not entitled to extra compensation for serving on board of review pursuant to Mason's Stats. §2034. Op. Atty. Gen. (470b), July 5, 1935.

Mason's Stats., §§1222, 1223, do not apply to claims against villages operating under this act, and there is no ten-day waiting period before village orders may be paid. Op. Atty. Gen. (476a-5), Apr. 17, 1936.

Village cannot purchase building without filling office of president. Op. Atty. Gen. (471m), June 5, 1936.

Village is not required to keep a street and pavement fund and a sewer fund separate and apart from general fund, though money may not be diverted from specific purpose for which it was levied and collected. Op. Atty. Gen. (476a-15), May 16, 1939.

20. Laws of 1911, requiring village clerks to publish a detailed financial statement, applies to villages, such as Hopkins, which are still operating under Laws 1885, c. 145, since repeal of Laws 1905, c. 74, by the 1911 act did not revive Laws 1885, c. 145, §20. State v. Elmquist, 276NW735. See Dun. Dig. 6569.

Water and light commission has no power to enter into lease providing for option to buy stokers without advertising for bids. Op. Atty. Gen., Aug. 12, 1933.

There is no law requiring or permitting publication of official proceedings of village council. Op. Atty. Gen. (469a-5), Jan. 27, 1936.

20(4). Village incorporated under Laws of 1885 may not fix compensation of village justice of the peace. Op. Atty. Gen. (266a-13), Sept. 7, 1934.

21. Laws 1885, c. 145, §§21, 50 [Mason's Minn. Stat., 1927, pp. 218-226], 180M407, 231NW14.

Village councils have power and authority to fix compensation of village assessors. Vesely v. V., 190M318, 251NW680. See Dun. Dig. 6575.

Allowance of \$255 as compensation for assessor, held not inadequate. Id.

Village assessor is officer of village. Id.

Salaries of village president, trustees and recorder, discussed. Op. Atty. Gen., Jan. 9, 1933.

Village clerk has right to vote as member of council. Op. Atty. Gen., Feb. 3, 1933.

Soldiers' preference law applies to the office of village marshal. Op. Atty. Gen., Apr. 5, 1933.

President and clerk have right to vote as members of village council. Op. Atty. Gen., Apr. 11, 1933.

President and clerk or recorder are members of village council and have a right to vote same as other members thereof. Op. Atty. Gen., Oct. 31, 1933.

Councilman making application for liquor license cannot vote on the matter. Op. Atty. Gen., Jan. 23, 1934.

Members of council constituting a quorum may appoint president pro tem to act in place of president and minutes of meeting may be signed by such president pro tem. Op. Atty. Gen., Feb. 9, 1934.

A village may lease part of town hall to exclusive use of American Legion Post, if it does not interfere with use of building to the legitimate public needs of village. Op. Atty. Gen., Mar. 17, 1934.

A village may have street work done by day labor and buy materials itself, though cost is in excess of \$500. Op. Atty. Gen. (396c-7), May 31, 1934.

Village cannot require a license by salesman or solicitor taking orders for future delivery, nor can a village limit licenses for hawkers and peddlers to residents of village. Op. Atty. Gen. (290e), Aug. 23, 1934.

Adoption of primary election system pursuant to §§317-1 to 317-6 may not be rescinded by village council. Op. Atty. Gen. (472t), Sept. 28, 1934.

Village may rent village hall or portion thereof when not needed for public purposes, for entertainments, public dances, meetings and the like. Op. Atty. Gen. (469c-6), Mar. 8, 1935.

Village funds may be appropriated for purchase of land for park purposes. Op. Atty. Gen. (476b-10), Mar. 20, 1935.

Village may use funds for leasing land for park and playgrounds purposes. Op. Atty. Gen. (476b-10), Mar. 21, 1935.

Mason's Stat., §1174, applies to villages operating under this act, and such villages have authority only to publish ordinances, by-laws, rules and financial statements, and has no authority to publish minutes of its proceedings in full. Op. Atty. Gen. (469a-5), Mar. 27, 1935.

Village may purchase building for municipal liquor store without vote of people if funds are on hand. Op. Atty. Gen. (476b-1), Mar. 28, 1935.

A city may supply electricity to a nearby village with the consent of latter. Op. Atty. Gen. (59a-36), May 25, 1935.

A village cannot avoid electric franchise for irregularities in the granting thereof where it has accepted the benefits thereof for a number of years, but the granting of one franchise does not prevent the granting of another franchise to other parties or the purchase of electricity from another city, unless the first utility has been expressly given exclusive right. Id.

Council does not have authority to retain services of detectives to secure evidence of violations of state or federal intoxicating liquor laws. Op. Atty. Gen. (477b-15), Sept. 26, 1935.

Village may lease land outside its limits for bathing beach but cannot extend money for making permanent improvements thereon, and may employ beach guards. Op. Atty. Gen. (476b-10), Dec. 26, 1935.

There is no law requiring or permitting publication of official proceedings of village council. Op. Atty. Gen. (469a-5), Jan. 27, 1936.

Village council has no power to remove one of its members, such as the recorder, proper procedure being appropriate action in district court. Op. Atty. Gen. (475), Mar. 26, 1936.

Village council has authority to purchase a building in which to house its municipal liquor store without submitting matter to electors. Op. Atty. Gen. (471m), June 5, 1936.

Village may submit to vote of electors proposition of granting 20-year power franchise. Op. Atty. Gen. (624a-5), Aug. 24, 1937.

Where voters of village approved bonds for construction of building, village council could later accept federal grant without further vote of electors. Op. Atty. Gen. (469c-4), Oct. 5, 1937.

Village may purchase 172 acre farm for park and sewer purposes where owner claims overflow from sewage disposal plant creates a private nuisance, and may do so without vote of electors where cost price is less than \$2,000. Op. Atty. Gen. (476b-10), Feb. 10, 1938.

Officers and employees appointed by council for an indefinite time continue to hold office until removed. Op. Atty. Gen. (469b), Mar. 3, 1938.

Village may not certify delinquent water and light accounts to county auditor for collection through county treasurer. Op. Atty. Gen. (624c-4), April 1, 1939.

Village or water, light and power commission may install a filtration system for use in connection with water system without a vote of electors where there is sufficient money on hand obtained from operation of municipal liquor store and lighting plant. Op. Atty. Gen. (707a-15), April 24, 1939.

21(3). Advertisement for bids for purchase of lands for park is not required. Op. Atty. Gen., May 19, 1930.

Villages may construct village hall and proceed to construct sewerage system and pay costs obtained by levying assessment against property benefited, where funds are available or taxes have been levied and are in process of collection, without vote of electors. Op. Atty. Gen. (387g-1), Sept. 15, 1936.

Real estate to be used for a particular purpose, such as city dump, may be purchased without advertising for bids. Op. Atty. Gen. (469a-12), Nov. 12, 1936.

Village may take over a memorial hall constructed by American Legion Post, and use such building as a combined memorial hall, city hall, councilroom, and rest room, and may rent the premises for public purposes, for entertainment, public dances or other gatherings, providing such renting does not interfere with public use of property, and does not tie the hands of succeeding governing bodies of the village, but cannot assume a mortgage thereon, payment of purchase price in cash or bonds being necessary. Op. Atty. Gen. (476b-8), Mar. 2, 1937.

Village may purchase property outside corporate limits for use as dumping grounds. Op. Atty. Gen. (469a-12), Apr. 6, 1937.

Village operating under Laws 1885 is bound by 25 year franchise granted to a power company in 1916, and cannot lower rates by ordinance. Op. Atty. Gen. (624c-6), Sept. 16, 1937.

County or village may purchase land at sales held pursuant to Laws 1935, c. 386 (§2139-15). Op. Atty. Gen. (425c-10), May 4, 1938.

Village may purchase land for street widening purposes direct from owners. Op. Atty. Gen. (396c-6), June 29, 1939.

Village council may change the salary of the deputy recorder at any time. Op. Atty. Gen., Jan. 16, 1930.

21(4). Village council has no authority to fix compensation of treasurer serving under prior council, though such council fixed no compensation for such past service. Op. Atty. Gen., Jan. 25, 1933.

Village council has authority to fix compensation of village treasurer, and law governing township treasurers with reference to salary has no application to villages under this act. Op. Atty. Gen., Dec. 22, 1933.

Compensation of village assessor may be fixed by village council. Op. Atty. Gen. (12b-1), Jan. 25, 1935.

Council may fix compensation of assessor. Op. Atty. Gen. (12b-1), Jan. 17, 1936.

Where salaries of president and trustees were fixed pursuant to Mason's Stats., §1163-1(6), that subdivision still governed after amendments. Op. Atty. Gen. (469a-13), Feb. 24, 1936.

Council has power to fix salaries of both clerk and treasurer. Op. Atty. Gen. (469b-5), Dec. 1, 1936.

This section in so far as it relates to holding an election, terms of offices, and filling of vacancy in village has been superseded by Laws 1929, c. 413, in so far as latter is in conflict. Op. Atty. Gen. (470), Nov. 9, 1937.

Laws 1929, c. 413 (§1152-9 to 1152-15), relating to appointment to fill vacancies, applies to villages operating under this act. Op. Atty. Gen. (471m), May 17, 1938.

Although village council, unaware of its authority to fix salary of treasurer, cannot be deprived of that right, long course of conduct and acquiescence in salary of certain monthly sum on part of both treasurer and council would create a tacit fixing of salary at that amount for remainder of term. Op. Atty. Gen., (456f-2), August 4, 1939.

21(10). Village operating under this act has authority to construct and install a new well and pumping equipment without submitting authorization to vote of electors. Op. Atty. Gen., Dec. 5, 1933.

Village may purchase a fire truck without submitting question to vote of people. Op. Atty. Gen. (688c-1), Mar. 28, 1936.

Where village establishes a limited water system extending its watermain along main street, and permits owners on side streets to install a two-inch private water line connecting with main street, village has no author-

ity to permit another private owner on the same side street to connect with private pipe, in absence of a provision in ordinance granting owners right to construct private main. Op. Atty. Gen. (624d-11), Mar. 30, 1936.

Zoning ordinance for gasoline filling stations held unreasonable and invalid. Op. Atty. Gen. (477b-10), May 25, 1936.

Village operating under Laws 1885 may extend water main pursuant to Laws 1885, Chap. 145, §21(10) or §1918-17, or §1918-1 et seq. Op. Atty. Gen. (624d-11), Aug. 28, 1936.

Council in a village operating under Laws 1885, ch. 145, may purchase a fire truck and a lot and a building to house it without vote of electors, but cannot issue certificates of indebtedness without a vote of people, unless it brings itself within Laws 1895, ch. 257. Op. Atty. Gen. (476a-4), Mar. 10, 1937.

Power of village of Jeffers to issue certificates of indebtedness for purchase of fire apparatus and equipment is derived from laws 1885, c. 145, and power of erecting a building to house the equipment is derived from §1942, but procedure for issuing certificates of indebtedness and bonds is restricted by general bonding statute, §§1938-3 to 1938-12. Op. Atty. Gen., (688c), June 27, 1938.

Village may not enter into conditional sales contract for purchase of a fire truck, but may issue certificates of indebtedness under Laws 1895, c. 257. Op. Atty. Gen., (476b-7), Nov. 22, 1938.

Where voters authorized construction of pump house, council could determine to enlarge pump house so as to provide storage space for a fire truck without further vote of electors if there was money on hand that could be used for that purpose. Op. Atty. Gen., (471G), August 19, 1939.

21(11).

Under Laws 1885, c. 145, §21(11), the village of Hibbing may condemn land within the village for park purposes. Op. Atty. Gen., Dec. 26, 1929.

Improvement in drainage system may be made by day labor. Op. Atty. Gen., Oct. 16, 1933.

Sewer and water system could be voted upon as a single question. Op. Atty. Gen., Nov. 27, 1933.

Village may purchase out of available funds vacant lot to be used for park purposes without vote of electors. Op. Atty. Gen. (469a-12), Apr. 6, 1937.

Cost of surfacing of street with oil or tarvia may be paid for out of road and bridge fund or general fund. Op. Atty. Gen. (396c-6), June 14, 1937.

Village may issue general obligation bonds for purpose of making street wide improvements, including curbs, gutters, sidewalks, street lighting, grading, widening, and surfacing. Op. Atty. Gen. (396c-6), June 9, 1939.

Village of Heron Lake may treat streets with tarvia upon action of council alone and with use of general funds, and without a vote of the people even though cost is over \$500. Op. Atty. Gen. (396a-2), July 12, 1939.

Village may construct storm sewer or drain without petition of property owners affected. Op. Atty. Gen. (387B-10), July 27, 1939.

Tar surfacing of a number of unconnected streets may be had in one proceeding on initiation by village council without petitions of property owners. Op. Atty. Gen., (396g-10), August 14, 1939.

21(13).

A municipality may prescribe reasonable conditions as to time when, places where, and manner in which right of farmer to sell produce may be exercised, so long as no license is required, and conditions are reasonable. Op. Atty. Gen. (477b-21), Oct. 16, 1935.

21(14).

A village organized under Laws 1885, c. 145, with a board of park commissioners organized under Mason's Stat. 1927, §1255, et seq., may pay out of its general fund for improvements on park property. Op. Atty. Gen., (330a-5), Oct. 11, 1938.

Village may acquire a lesser interest than fee simple, such as a leasehold in a cemetery in village owned by a private corporation. Op. Atty. Gen. (870J), May 3, 1939.

21(15).

A village has no authority to pass ordinance requiring payment of license fee for boxing exhibition. Op. Atty. Gen., Apr. 17, 1933.

Village may regulate transient merchants, paupers and peddlers, but cannot, under guise of licensing, adopt an ordinance which is prohibitive and unreasonable. Op. Atty. Gen., May 18, 1933.

An ordinance imposing a license fee of \$5 a day upon transient dry cleaners for soliciting business is of doubtful validity. Op. Atty. Gen. (477a-8), May 16, 1939.

21(20).

Soldiers' Preference Law is applicable to chief of police of Nashwauk. Op. Atty. Gen., Aug. 3, 1933.

21(23).

Keeping of cows within village limits is not a nuisance per se. Op. Atty. Gen. (477b-20), July 31, 1936.

City council rather than local board of health is vested with authority to declare what shall constitute a nuisance, and it is questionable whether village council may by ordinance delegate any of police powers to board of health. Op. Atty. Gen. (477b-20), Apr. 14, 1938.

21(25).

Council may make annual tax levy without submission to voters. Op. Atty. Gen., Mar. 11, 1930.

Conditional sales contract of electric equipment to a village to be paid out of net earnings of sale of elec-

tricity after all other charges have been paid, is permissible. Op. Atty. Gen., Oct. 20, 1932.

One village council may bind subsequent councils to either grant extension of electric franchise or pay portion of cost of white way constructed by a private utility. Op. Atty. Gen. (707b-14), Oct. 31, 1936.

21(26).

A village has no authority to regulate the operation of boating, bathing, etc., in a public lake. Op. Atty. Gen. (273d-1), Aug. 25, 1934.

21(27).

Villages operating under Laws 1885, c. 145, and those operating under general statutes are authorized to issue refunding obligations without submitting proposition to a vote of electors to refund matured bond issued in connection with purchase of power plant, and payable out of earnings of such plant. Op. Atty. Gen. (476a-12), July 9, 1935.

22.

Mason's Stats., §1223, does not apply to villages organized under this act so that recorder must wait 10 days after allowance of claim before issuing warrant. Op. Atty. Gen., May 22, 1933.

In determining indebtedness of village obligation mentioned under §1935, subdivisions 1, 3, 4, 5, may be deducted. Op. Atty. Gen. (59a-51), Nov. 20, 1936.

Village has no authority to borrow money from a private institution. Op. Atty. Gen. (476a-4), Mar. 10, 1937.

Council may purchase a fire truck and a lot and a building to house it without a vote of electors, but cannot issue certificates of indebtedness without a vote of people, unless it brings itself within Laws 1895, ch. 257. Id.

Neither village council nor board of park commissioners may issue warrants where there is no money immediately available in treasury for their payment, unless in anticipation of current tax levy sufficient to cover, and anticipation warrants may not be discounted under any circumstances. Op. Atty. Gen. (476c-2), Apr. 19, 1937.

Justice of the peace may not deduct costs in dismissed cases from fines collected in other cases, but should remit full amount and make a separate claim for any sum due him. Op. Atty. Gen. (199b-5), Jan. 13, 1938.

Power of village of Jeffers to issue certificates of indebtedness for purchase of fire apparatus and equipment is derived from laws 1885, c. 145, and power of erecting a building to house the equipment is derived from §1942, but procedure for issuing certificates of indebtedness and bonds is restricted by general bonding statute, §§1938-3 to 1938-12. Op. Atty. Gen. (688c), June 27, 1938.

24.

Village of North St. Paul is authorized to install a new well and pumping equipment. Op. Atty. Gen., Sept. 13, 1933.

27.

Balance of fund remaining after payment of bonds for which it was created may be transferred to general fund. Op. Atty. Gen. (476a-15), Apr. 3, 1935.

On change from township to county system of poor relief, money in poor fund of village may be transferred to general revenue fund of village by resolution. Op. Atty. Gen. (476b-11), Aug. 12, 1937.

29.

Villages organized under this act are governed by this section and not Mason's Stats., §1201, as respects vacation of streets. Op. Atty. Gen. (817a), Aug. 21, 1935.

Village council may vacate street or alley under Mason's Stat. 1927, §1201. Op. Atty. Gen., (396g-16), Nov. 17, 1938.

30.

Power to construct and maintain village sewerage system is vested in council and not in Water, Light, Power and Building Commission. Op. Atty. Gen. (387g-5), July 20, 1936.

Filing of petition is not necessary before village council may construct, maintain or repair sewers. Op. Atty. Gen. (387g-5), July 30, 1936.

District sewers are to be assessed against property benefited and cannot be paid for out of general fund. Id.

As to villages organized and operating under Laws 1885, ch. 145, provisions of Laws 1901, ch. 167 (§1918-35 et seq.) and Laws 1903, ch. 382, are still in full force and effect. Op. Atty. Gen. (396g-7), May 21, 1937.

A village operating under Laws 1885, ch. 145, has option of proceeding under that act or under Laws 1919, ch. 65, (§1815 et seq.) or under Laws 1925, ch. 382 (§1918-15 et seq.), in making improvements referred to in each of such acts. Id.

Village council may pay up to one-half of cost of lateral sewer out of general fund. Op. Atty. Gen. (387b-1), Aug. 27, 1937.

Village organized under this act may construct a lateral sewer under either §1880, et seq., §1918-15, et seq., or §1918-35, et seq., but cost of improvement must be paid or assessed in accordance with particular statute under which improvement is being made. Id.

Village may construct storm sewer or drain without petition of property owners affected. Op. Atty. Gen., (387B-10), July 27, 1939.

34.

If levy of taxes exceeds 2% of assessed valuation of property in a village, county auditor must reduce the levy, unless more than 2% is necessary to meet maturing bond obligations and absolutely necessary governmental function. Op. Atty. Gen. (481a-4), Dec. 5, 1935.

On dissolution of village, council may levy only tax for one year, as limited by this section, and any further necessary amounts to pay obligation may be added by county auditor. Op. Atty. Gen. (469a-4), Aug. 20, 1936.

Village may levy an amount for corporate taxes which shall not exceed 2% of assessed valuation of property taxable in village, but not to exceed per capita limit prescribed by §2061. Op. Atty. Gen. (519q), Oct. 10, 1936.

Per capita village operating under Laws 1885, ch. 145, on cash basis may not levy taxes in excess of mill limitations contained in Laws 1933, ch. 72. Op. Atty. Gen. (519q), May 11, 1937.

35. One charged with violation of city ordinance is not entitled to a jury trial. Op. Atty. Gen. (477a), Mar. 2, 1938.

37. Two dollars appeal fee applies only to civil actions and not to criminal appeals from justice court to district court. Op. Atty. Gen. (266b-1), May 29, 1934.

It is duty of one appealing from conviction of violation of village ordinance to proceed in same manner as from judgment from justices of the peace in civil actions and not in manner provided in §9129 and it is his duty to serve notice of appeal upon village or its attorney and not upon county attorney. Op. Atty. Gen. (779a-5), Nov. 20, 1935.

38. Justice of the peace may not deduct costs in dismissed cases from fines collected in other cases, but should remit full amount and make a separate claim for any sum due him. Op. Atty. Gen. (199b-5), Jan. 13, 1938.

41. Laws 1885, c. 145, §41, governed a village operating under such act with respect to justice of the peace rather than Mason's Stat., 1927, §1181, if the village was not organized pursuant to Rev. Laws 1905. Op. Atty. Gen.

Offices of village marshal and village constable are not incompatible. Op. Atty. Gen., Nov. 29, 1933.

Village incorporated under Laws of 1885 may not fix compensation of village justice of the peace. Op. Atty. Gen. (266a-13), Sept. 7, 1934.

Constables are required to give bonds. Op. Atty. Gen. (472q), Jan. 17, 1935.

There should have been elected in December, 1929, in St. Louis Park two justices and two constables, the justices to hold only for two years under the constitution and the constables to hold office for two years and until election and qualification of successors, and any vacancy in office must be filled by council and there can be no election in even-numbered years to fill vacancy. Id.

Compensation of village constable is payable on a fee basis rather than on an hourly or salary basis. Op. Atty. Gen. (471l), Jan. 21, 1935.

No one but the state may question the jurisdiction of a village justice of the peace because he has filed his bond with the village clerk instead of the clerk of court, and his acts are valid as those of a de facto officer and convictions before him are valid. Op. Atty. Gen. (266a-2), June 3, 1935.

42. Village council may appoint constable to fill vacancy. Op. Atty. Gen., Feb. 10, 1933.

Provisions with reference to filling of vacancies in village offices have been superseded by Laws 1929, c. 413, §2 [§1152-10]. Op. Atty. Gen., Apr. 11, 1933.

Vacancies in village councils are to be filled by appointment and not by special election. Op. Atty. Gen. (471m), Apr. 12, 1935.

45. Per capita village operating under Laws 1885, ch. 145, on cash basis may not levy taxes in excess of mill limitations contained in Laws 1933, ch. 72. Op. Atty. Gen. (519q), May 11, 1937.

46. The compensation of the recorder of a village incorporated under Laws 1885, c. 145, as amended by Laws 1899, c. 115, is limited to the salary he receives and he is not entitled to collect fees from the village for filing papers. Op. Atty. Gen., Apr. 3, 1933.

Council may increase salary of clerk at beginning of second year of his term. Op. Atty. Gen. (470b), Jan. 28, 1938.

46(S). The compensation of the recorder is regulated by this section as amended in 1899, unaffected by Mason's Minn. Stat., §1178, which applies to villages operating under the 1905 act, and the salary fixed is for one year, and may be changed each year, notwithstanding Laws 1929, c. 413, extending the term of the recorder to two years. Op. Atty. Gen., Jan. 16, 1930.

Office of members of village council and village assessor are incompatible if the village is organized and operating under the 1885 Law, since the council is authorized to fix the compensation of officers and agents of the village. Op. Atty. Gen., Mar. 12, 1931.

A village organized under Laws 1885, c. 145, in making certain improvements may proceed either under the 1885 Laws or under Laws 1925, c. 382 [§§1918-15 to 1918-32], or Laws 1919, c. 65, [§§1815 to 1823]. Op. Atty. Gen., May 26, 1931.

Council has power to fix salaries of both clerk and treasurer. Op. Atty. Gen. (469b-5), Dec. 1, 1936.

40. Ordinance or resolution respecting intoxicating liquors must be published. Op. Atty. Gen., Mar. 14, 1934.

A single ordinance may be enacted for purpose of numbering old village ordinances which may be obsolete or superseded by other later ordinances, and it is not necessary to republish old ordinances. Op. Atty. Gen., Mar. 21, 1934.

An ordinance could not be repealed by adoption of a motion and its publication in minutes of meeting signed by president and recorder. Op. Atty. Gen. (477a), Mar. 14, 1935.

Word "rule" is synonymous with "ordinances, regulations and by-laws," and rules and regulations or by-laws must be passed with same formalities required for an ordinance proper. Op. Atty. Gen. (469a-5), Mar. 27, 1935.

Resolution establishing water, light, power and building commission need not be published. Op. Atty. Gen. (469b-6), Mar. 1, 1937.

Ordinances may be repealed by another ordinance or resolution or by some legislative act of similar formality. Op. Atty. Gen. (477a-1), Feb. 23, 1939.

51. A village organized under his act, but having a Water, Light, Power and Building Commission under §§1852 to 1860, may purchase a Diesel engine from another village without advertising for bids. Op. Atty. Gen. (624a-3), May 26, 1936.

Fire hose does not come within "village improvements." Op. Atty. Gen. (707a-15), Jan. 30, 1937.

Village may purchase fire truck without a call for bids. Op. Atty. Gen., (476b-7), Nov. 22, 1938.

Village council may not reimburse member of council for extra amount of work done in connection with street improvements and other public work. Op. Atty. Gen. (90a-1), Jan. 19, 1939.

This section has no application to contracts of a water, power, light and building commission. Op. Atty. Gen. (707a-15), April 24, 1939.

Water, light, and power commissions in villages operating under Laws 1885, should advertise for bids when constructing a filtration system at a cost of \$4,000. Id.

55. Statute prohibiting letting of contract where amount involved is more than a certain sum have no application to day labor work. Op. Atty. Gen. (707d), Oct. 16, 1933.

56. Dissolution of villages under this act is governed by §§56 and 57 of this act and not by Mason's Code 1927, §1227. Op. Atty. Gen. (469a-4), Aug. 20, 1936.

Contract right under franchise to annual installments for lighting streets terminates on dissolution of village. Id.

57. If there are not sufficient village funds from which to pay outstanding indebtedness, council may levy a tax to cover such deficiency, but such levy may not exceed maximum levy permitted by law for one year, and any further necessary amount may be added by county auditor. Op. Atty. Gen. (469a-4), Aug. 20, 1936.

1112. Petition for election.

County board has no discretion and should grant petition if it is in due form. Op. Atty. Gen. (484e-4), April 21, 1939.

1113. Notice of election.

Laws 1935, c. 162. Villages having population of more than 10,000 and valuation in excess of \$50,000,000 may hold elections at time of state elections, etc.

1114. Inspectors—Return.

Time for closing polls is a matter for determination of voters present at meeting and proclamation thereof made. Op. Atty. Gen. (484e-4), June 13, 1938.

In conducting an election on question of incorporating as a village, there is no authority for appointment of voters representing different political parties or groups as challengers, out all qualified voters have a right to be present throughout election and interpose challenges. Op. Atty. Gen. (182), May 23, 1939.

1115. Incorporation, when effected.

Second petition may be presented within year if there is a substantial change in the territory covered. Op. Atty. Gen., July 18, 1931.

Tie vote is not an adverse vote so as to preclude filing of new petition within one year. Op. Atty. Gen. (472i), Oct. 26, 1937.

1117. General powers and duties.

Counties and other municipalities can legally sell bonds to federal government under National Industrial Recovery Act. Op. Atty. Gen., Aug. 15, 1933.

Village is without authority to pay claim for damages to automobile rented to council committee and injured through negligence of member of council driving it. Op. Atty. Gen., Mar. 17, 1934.

Village council may sell real estate when no longer needed for village purposes without a vote of the people. Op. Atty. Gen. (469a-15), Apr. 26, 1934.

A village does not have power to levy a special act for maintenance of its streets. Op. Atty. Gen. (481b-7), Jan. 5, 1935.

Village has no power to levy a special tax for fire equipment except as authorized by §4031-11. *Id.*
 Village which has no water, light and building commission may not levy a special tax for water and light purposes. *Id.*

Where village voted bonds to erect village auditorium and fire hall, to be used partly as village hall, and discovered that \$5,000 was insufficient, village council could issue warrants of indebtedness for the completion of the building without a vote of electors, provided village has funds on hand sufficient for that purpose or will have such funds when taxes levied have been collected. *Op. Atty. Gen. (476b-8), Jan. 26, 1935.*

A village council has power to construct a village hall without vote of electors, unless bond issue is necessary, or to erect a building as a memorial to war veterans with vote of electors, but has no authority direct to erect a community building with or without vote of electors. *Op. Atty. Gen. (476b-8), Feb. 11, 1935.*

Village council may sell land no longer needed without vote of people. *Op. Atty. Gen. (469a-15), Sept. 23, 1935.*

Real estate to be used for a particular purpose, such as city dump, may be purchased without advertising for bids. *Op. Atty. Gen. (469a-12), Nov. 12, 1936.*

Village may purchase property outside corporate limits for use as dumping grounds. *Op. Atty. Gen. (469a-12), Apr. 6, 1937.*

County or village may purchase land at sales held pursuant to Laws, 1935, c. 386 (§2139-15). *Op. Atty. Gen. (425c-10), May 4, 1938.*

Village may acquire land outside corporate limits to be used as dumping ground and may prescribe kind of refuse to be dumped there. *Op. Atty. Gen., (469c-2), Oct. 20, 1938.*

Village may purchase land for street widening purposes direct from owners. *Op. Atty. Gen., (396c-6), June 29, 1939.*

1117-1. Villages may be incorporated within other villages.—Whenever any village now or hereafter existing shall include 9,000 acres or more of land according to the United States government survey, and a portion of the land within such village has been or shall be improved by the construction of sidewalks, pavements, street curbs, street gutters and sewers, such portion so improved and land in such village adjacent or contiguous thereto, in all not exceeding 700 acres, and so conditioned as properly to be subjected to village government, if such area has a population of 500 or more, may become incorporated as a village separate and distinct from the existing village, provided the population of the remaining area shall not thereby be reduced below the limit fixed by law for the incorporation of a village. (Act Apr. 15, 1929, c. 184, §1.)

Annexation of platted lands from adjacent village. *Op. Atty. Gen. (469a-3), Jan. 21, 1936.*

1117-2. Petition to County Board.—100 or more of the voters, residing within the territory authorized to become incorporated as a village under this act, may petition the county board of the county in which the whole or larger part of said lands are situated to call an election for the determination of such proposed incorporation. They shall first cause to be taken a census of the resident population, and if such resident population be found to be 500 or more the petition aforesaid shall be presented within eight weeks thereafter. It shall set forth the boundaries of the territory proposed to be incorporated under this act, the quantity of land embraced therein, the number of actual residents thereon, and the name of the proposed village. It shall be verified by the oaths of at least three of the petitioners declaring that such census was accurately taken within the dates specified and that the statements made in the petition are true. (Act Apr. 15, 1929, c. 184, §2.)

1117-3. Notice of hearing—Posting—Publication—Election.—Upon the filing of a petition complying with the provisions of Section 2 hereof [§1117-2], the county board shall cause a copy thereof, with a notice attached fixing a time and place for holding such election, to be posted in three public places within the boundaries described and also three public places within the existing village outside of the territory proposed to be incorporated under this act. The time shall be not less than 20 nor more than 30 days after such posting, and the place shall be the usual and customary place for holding elections within the already existing

village. If there be a qualified newspaper published within said limits, there shall also be two weeks' published notice of such election. (Act Apr. 15, 1929, c. 184, §2A.)

1117-4. Judges of election—Ballots.—The board shall also appoint three inspectors, residents of said existing village, who shall act as judges of said election, and conduct the same, so far as practicable, in accordance with the laws regulating the election of town officers. Only voters residing within said existing village shall be entitled to vote. The ballot shall bear the words, "For incorporation—Yes—No," with a square after each of the last two words, in one of which the voter shall make a cross to express his choice. The inspectors shall at once make and file with the county auditor a certificate declaring the time and place of holding said election, that they have canvassed the ballots cast thereat, and the number cast both for and against said proposition. The certificate shall be signed and verified by at least two of said inspectors to the effect that the statements thereof are true. (Act Apr. 15, 1929, c. 184, §2B.)

1117-5. County Auditor to certify to Secretary of State.—The auditor shall attach said certificate to the original petition, with a copy of the resolution appointing said inspectors, and the original proof of the posting and also publication, if any, of the election notice, and file the whole, as one document, in his office. If the certificate show that the majority of the votes cast were in the affirmative, he shall forthwith make the transmit to the secretary of state a certified copy of said document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If territory in more than one county is embraced within such corporate limits, he shall also forthwith make and transmit to the auditor of each county in which such incorporated territory will be situated a certified copy of such document to be there filed as a public record, and thereupon the incorporation shall be deemed complete. If the vote be adverse, no subsequent petition shall be entertained within one year next after said election. (Act Apr. 15, 1929, c. 184, §2C.)

1117-6. Election of officers.—Upon the filing of said copy with the secretary of state the county board shall appoint three inspectors residing within the newly incorporated village and said inspectors of election shall give notice of a meeting of the resident voters for the organization of such village and the election of its officers, fixing therein the date and hour of the meeting, which shall be at least ten days, and not more than 20 days, thereafter. Such notice shall be posted and published as in case of the original election. The voters present at the appointed hour and place, by a majority vote taken viva voce, shall appoint two judges and one clerk of the election, who shall take the oath, and be governed in the conduct of the election, so far as practicable, by the laws regulating the choice of town officers. They shall open the polls by proclamation, and receive all lawful votes offered by resident voters during a period of at least six hours, and until 7 o'clock P. M. They shall give to each officer chosen a certificate of his election, and such officers having qualified according to law, shall forthwith assume their official duties. All proper expenses of the incorporation, organization, and election shall be a charge upon said village. (Act Apr. 15, 1929, c. 184, §2D.)

1117-7. Villages to have all rights under general law.—Villages incorporated under this act shall be vested with the rights, privileges and powers and subjected to the duties as set forth under the general village law of this state found in Sections 1117 to 1263, each inclusive, General Statutes 1923, as amended. The administration of the affairs of villages incorporated under this act shall be governed and controlled by said Sections 1117 to 1263, each inclusive, General Statutes 1923, as amended, so far as applicable. When

the context so requires the word "town" wherever used in said Sections 1117 to 1263, each inclusive, shall mean previously existing village. (Act Apr. 15, 1929, c. 184, § 3.)

1117-8. Not to affect existing village.—The territory of an existing village remaining after the incorporation of a village under this act shall continue to be and remain a village municipal corporation with its rights, privileges, powers and duties unchanged by the incorporation of a village under this act. (Act Apr. 15, 1929, c. 184, § 4.)

1117-9. Vacancies in certain cases.—In the event that an officer of an existing village resides within the territory incorporated under this act, the completion of the incorporation of a village under this act shall forthwith create a vacancy in the office held by the person who is a resident of the territory incorporated under this act. (Act Apr. 15, 1929, c. 184, § 5.)

1117-10. Drawing of warrants unlawful in certain cases.—That from and after January 1, 1930, no village now or hereafter having a population of more than 5,000 and less than 10,000, and an assessed valuation (exclusive of moneys and credits) of more than \$10,000,000 and less than \$20,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 23, 1929, c. 303, § 1.)

Act is constitutional. 178M342, 227NW202.

1117-11. Officers may not incur indebtedness.—Whenever from and after January 1, 1930, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist, to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 23, 1929, c. 303, § 2.)

1117-12. May sell certificate of indebtedness.—At any time after the annual tax levy has been certified to the County Auditor, and not earlier than October 10th in any year, the governing body of such village may for the purpose of the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund, but no certificates shall be issued for any of said separate funds exceeding 50 per cent of the amount named in said tax levy, as spread by the County Auditor, to be collected for the use and benefit of said fund, and no certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax levy, certified to the County Auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than 6 per cent per annum; each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total

amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00 or a multiple thereof and may have interest coupons attached and shall be otherwise of such form and terms and be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected as aforesaid on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy, and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 23, 1929, c. 303, § 3.)

Certificates of indebtedness issued during the year 1934 cannot be indirectly extended by renewal and combining two tax levies for years 1934 and 1935. Op. Atty. Gen. (59a-61), Feb. 26, 1935.

1117-13. Village to be on cash basis.—From and after January 1, 1930, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1929 shall be considered as the tax revenues for the year 1930, and thereafter in any such village taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 23, 1929, c. 303, § 4.)

1117-14. May issue bonds in certain cases.—If any such village prior to January 1st, 1929, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the Council thereof, without a vote of the electors. (Act Apr. 23, 1929, c. 303, § 5.)

1117-15. Tax levy.—The Village Council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution provide for a levy, for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 30 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, water, light and building commission purposes, and library purposes for each year; and (2) 70 per cent of the amount necessary to pay said bonds and interest, shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light and building commission purposes, and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 70 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light and building commission purposes, and library purposes for said year. (Act Apr. 23, 1929, c. 303, § 6.)

1117-16. Limitation of tax levy.—The amount which may be included by any such village in its annual tax levy in each year hereafter made for the following purposes shall not exceed these limitations:

(1) for general corporation purposes, 20 mills on the dollar of the taxable valuation of the village, less the amount hereinafter required to be set aside for the same year to pay principal and interest on bonds herein authorized; (2) for water and light and building commission purposes, 5 mills on the dollar of the taxable valuation of the village, less the amount hereinbefore required to be set aside for the same year to pay principal and interest on bonds herein authorized; (3) for library purposes, 3 mills on the dollar of the taxable valuation of the village, less the amount hereinbefore required to be set aside for the same year to pay principal and interest on bonds herein authorized. (Act Apr. 23, 1929, c. 303, §7.)

1117-17. May not contract indebtedness.—Whenever any department, board or commission of such village having the power to expend money which shall not have been provided by law with a special tax levy, such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the Village Council. The Village Council shall by resolution prior to February 1, each year, set aside for each such department, board or commission such sum as it deems necessary and adequate for the proper operation thereof. The amount to be so set aside by the Village Council for the Park Department from the general corporation tax of the village, within the limits now provided by law, shall in no case exceed the amount that 8/10th of one mill will yield on the dollar of the taxable valuation of said village. (Act Apr. 23, 1929, c. 303, §8.)

1117-18. Village recorder to keep record.—The Village Recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the Village Council and each department of such village. A record of expenditures for the Village Council and all its departments shall be presented to and examined at a regular meeting once each month by the Village Council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 23, 1929, c. 303, §9.)

1117-19. Violation a misdemeanor.—Any member of the village council or other governing board or body, or other village officer or employee, knowingly participating in, and authorizing any violation of this act shall be guilty of a misdemeanor punishable by a fine not exceeding \$100.00 or by imprisonment in the county jail not exceeding three months for each offense; and every contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred, in violation of the provisions of this act shall be null and void in regard to any obligation thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the village council nor any governing board; nor shall the village recorder or any other village or department officer or employee issue or execute, nor shall the village treasurer pay any warrant or certificate of indebtedness issued on account thereof. Each member of the village council or of any village board or other village officer or employee so participating in, or authorizing, any violation of this act shall be individually liable to the village or to any other person for any damages caused thereby and for the purpose of enforcing such liability without impairing any other remedy one-fourth of the salary of each such officer and employee shall be withheld from him and applied towards reimbursing the village or any such other person for such damages until all claims by reason thereof have been fully paid. Each member of the village council or village board present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated

and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 23, 1929, c. 303, §10.)

1117-20. Members violating provisions may be suspended.—Any member of the village council or governing board knowingly participating in or authorizing the violation of this act shall be liable to suspension from office. Any vacancy created thereby shall be filled according to law. (Act Apr. 23, 1929, c. 303, §11.)

1117-21. Last federal census to govern.—For the purpose of this act, the last Federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 23, 1929, c. 303, §12.)

1117-22. Provision severable.—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 23, 1929, c. 303, §13.)

1117-23. Inconsistent acts repealed.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 23, 1929, c. 303, §14.)

1117-24. This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect in so far as they may be inconsistent with this act. (Act Apr. 23, 1929, c. 303, §15.)

1120. Extending boundaries.

Upon annexation of territory from a township by a village, apportionment of indebtedness is wholly statutory, and legislature may provide for a division, or it may provide for no division at all, and remedy in any particular case is with legislature. Op. Atty. Gen. (440a), Mar. 25, 1937.

A village operating under Laws 1885, ch. 145, may annex land pursuant to procedure provided in this section. Op. Atty. Gen. (484e-1), June 26, 1937.

Provision that ordinance be filed with secretary of state is mandatory. Id.

1120½. Territory may be detached from villages in certain cases.—The owner or owners of any unplatted tract or tracts of land constituting a compact and contiguous tract of not less than 30 acres, situated within the corporate limits of any village in this state, occupied and used solely for agricultural purposes or the owner of any platted lands occupied and used solely for agricultural purposes constituting a compact and contiguous tract of not less than 10 acres not within 20 rods of the platted portion of such village and situated within its limits, may petition singly, or if there be more than one such owner, jointly, the board of county commissioners of the county in which said tract or tracts of land is situated, for an order detaching said tract or tracts from said village. Upon filing of the said petition in the office of the county auditor of said county the board of county commissioners thereof shall, at their next meeting thereafter, fix a time and place for the hearing of such petition, which time shall be not less than 30 days thereafter, and shall direct a notice of such hearing to be issued and signed by the county auditor of said county on behalf of such board, which said notice shall state the name of such petitioner, or petitioners, describe the tract or tracts of land sought to be detached and the time and place of such hearing, which said notice said petitioner, or petitioners, shall cause to be served upon the president of the village council of such village, or the recorder thereof, at least 20 days before the day of hearing, and by posting three copies of such notice in three of the most public places in said village, or in lieu of such posting said notice shall be published in the official paper of such village for two successive weeks, once in each week, in case there shall be a legal newspaper printed and published in said village. Upon the hearing of

said petition at the time and place so fixed, if the board of county commissioners shall find that said land is owned by the petitioner, or petitioners, and is used solely for agricultural purposes and that the same may be so detached from said village without unreasonably affecting the symmetry of the settled portion thereof, and that the same is so conditioned as not properly to be subjected to village government or is not necessary for the reasonable exercise of the police powers or other powers or functions of such villages, such board of county commissioners shall make an order detaching such land from said village, and thereupon said tract or tracts of land shall become detached therefrom, and shall thereafter form a part of the township in which they were originally situated, or, if such township has ceased entirely to exist or has ceased to function as a town or township for a period of 15 years next preceding the passage of this Act, the land so detached shall become a part of the township adjoining thereto, and if such land join two or more townships, the county board shall decide to which of such adjoining townships such detached tract or tracts shall be attached, or the land so detached therefrom may be by such board of county commissioners formed into and established as a new town, the name of which new town shall be determined and designated by such board of county commissioners, provided, however, that such new town shall have not less than 36 square miles of territory. If such village were organized prior to the time when the territory of Minnesota became a state and before the organization of the township in which such land was originally situated, the land so detached shall become a part of the township adjoining thereto, and if such land adjoin two or more townships the county board shall decide to which of such adjoining town or townships such detached tract or tracts shall be attached, and shall in all things be subject to the town government of such township, and not in any manner under the jurisdiction of such village, and such order shall be filed in the office of the county auditor of such county and a duplicate thereof shall be filed in the office of the village recorder of such village within five days after the same shall have been made.

This Act shall apply only to the following villages, namely:

1. Villages having a population of 350 or less persons and containing more than 160 acres of land.
2. Villages having a population of more than 350 and less than 700 persons and containing more than 320 acres of land.
3. Villages having a population of more than 700 persons and containing more than 640 acres of land.

Any person or party aggrieved may appeal from such order to the district court of the county upon the following grounds:

1. That the county board has no jurisdiction to act.
2. That it has exceeded its jurisdiction.
3. That its action is against the best interests of the territory affected.

Such appeal shall be taken by serving upon the county auditor within thirty days from the making of the order a notice of appeal, specifying the grounds thereof. The appellant shall also execute and deliver to the auditor a bond to the county in the sum of one hundred dollars, to be approved by the county auditor, conditioned for the payments of all costs taxed against the appellant on such appeal. Such further proceedings shall be had upon such appeal as upon other appeals from the county board.

The provisions of this Act relating to appeals shall not apply to any action or proceeding now pending involving the separation of land from any village. ('09, c. 138, §1; '17, c. 477; '19, c. 421; '21, c. 451; '23, c. 177; Apr. 21, 1933, c. 433; Apr. 1, 1935, c. 90; Apr. 12, 1937, c. 195, §1; Apr. 14, 1939, c. 250.)

Certain lands may be separated from certain villages in certain counties in certain cases. Laws 1939, c. 326.

Detachment of island in county of over 450,000 population, from certain villages and towns and attaching it to other villages and towns. Laws 1939, c. 414.

Sec. 2 of Laws 1909, c. 138, omitted from 1927 compilation, is amended by Laws 1931, c. 95. See post, §1120 ½ a.

Statute makes severance from a municipality of agricultural lands mandatory if stated conditions precedent are found to exist. *Vaubel v. V.*, 194M621, 261NW869. See *Dun. Dig.*, 6521.

On appeal from order of county board denying a petition to sever agricultural land from a village, trial in district court is de novo within field of inquiry limited by statute. *Id.*

Landowner may proceed under this section for detachment of land from village incorporated under special law. *Op. Atty. Gen.*, Feb. 14, 1933.

Twenty rod requirement has no application to unplatted tracts of land of not less than forty acres but only to platted lands of not less than 10 acres. *Op. Atty. Gen.* (469a-3), Dec. 18, 1936.

Subsection 3 refers to acreage of village at time petition for detachment is presented to county board. *Id.*

Petition to detach land from village should not be denied because village will thereafter consist of less than 160 acres. *Op. Atty. Gen.* (469a-3), March 2, 1939.

1120 ½ a. Tax levy on detached land.—Such separation from said village shall not release any such tract of land from liability on account of any outstanding indebtedness of such village existing at the time of its separation therefrom. The county auditor of the county in which such detached lands are situated shall spread against the territory so detached such levies of taxes as are necessary to enforce the liability for indebtedness herein provided. Such levies shall be made each year at a rate equal to the rate which is levied by the village upon the property remaining within the village for the purpose of paying off such indebtedness. The county auditor may require the village clerk to certify to him statements of the amount of indebtedness outstanding at the time of such separation and such other information as may be necessary to spread such levy and may also require that the village separate in its tax levies the moneys levied for the purpose of paying off such indebtedness. The moneys raised from such levies, both upon territory within such village and upon the territory detached therefrom, shall be paid to the village to be held in a special fund available only for the purpose of paying off such indebtedness. (Laws 1909, c. 138, §2; Mar. 27, 1931, c. 95, §1.)

Agricultural land may be detached from village either under general law or under special acts under which village was organized. *New York Life Ins. Co. v. V.*, 187 M119, 244NW553. See *Dun. Dig.*, 85a, 87.

This section is not repealed. The word "Indebtedness" refers to outstanding orders as well as bonds, without distinction as to whether it is funded or floating. The apportionment is to be made by the county auditor. *Op. Atty. Gen.*, Mar. 20, 1930.

1120 ½ b. Same—application.—This act shall apply where the detachment of such territory has taken place prior to the enactment hereof but where any portion of such indebtedness remains unpaid, as well as where proceedings for such separation are taken hereafter. (Laws 1909, c. 138, §3; added Mar. 27, 1931, c. 95.)

1120 ½ c. Apportionment of taxes.—Whenever, pursuant to Laws 1935, Chapter 90 [§1120 ½], land shall have been heretofore or within six months after the passage of this act detached from any village by order of the board of county commissioners of the county in which such land is situated and such land shall have become a part of the township in which it was originally situated or has become a part of a township adjoining thereto, such board of county commissioners is hereby authorized to apportion between the village from which such land has been detached and the town of which it has become a part, the taxes levied and assessed against such land prior to, and collected subsequent to the effective date of such detachment. (Jan. 18, 1936, Ex. Ses., c. 49.)

1120 ½ d. Rehearing in detachment proceedings.—Whenever, pursuant to proceedings had under Chapter 90, Laws of 1935 [1120 ½], and Section 789, Mason's Minnesota Statutes of 1927, the county board of any county shall have undertaken within one year

prior to the passage of this Act to detach territory from a village and attach the same to an adjoining town and thereafter to set the same up as a separate town, a majority of the owners of land in such town so attempted to be established may petition the county board to reconsider the entire proceedings leading up to the order establishing the town, and if the establishment of the town be approved as hereinafter provided to determine and fix the boundaries thereof to be as set forth in the petition and to apportion as between the village from which such land was detached and the new town any taxes levied and assessed against such land prior to and collected subsequent to the date of the first order of the board establishing such town. Upon the filing of such petition in the office of the county auditor of said county, the county board thereof at their next meeting thereafter shall fix a time and place for the hearing of such petition, which time shall not be less than 30 days thereafter and shall direct the notice of such hearing to be issued and signed by the county auditor of said county on behalf of such board, which said notice shall state the names of such petitioners, describe the boundaries of the territory to be included in the new town, and state the time and place of such hearing, which notice the county auditor shall cause to be served upon the president of the council of such village or the recorder thereof, and the clerk of such town, at least 20 days before the day of hearing, and by posting three copies of such notice in three of the most public places of said village and town. Upon the hearing of said petition at the time and place so fixed, the county board shall review all prior proceedings theretofore had in the premises, and if it finds that it is for the best interests of the territory affected that the establishment of the new town be confirmed, it shall so order and fix the boundaries thereof, or it may vacate the entire proceedings and order the territory to be reattached to the village.

If the organization of the town be confirmed, the county board shall have power to apportion as between the village and the town all taxes levied and assessed prior to and collected subsequent to the effective date of the original order establishing the town. (Apr. 5, 1937, c. 152, §1.)

Sec. 2 of Act Apr. 5, 1937, cited, provides that the Act shall take effect from its passage.

1122-1. Detachment of unplatted lands from certain villages and attachment thereof to contiguous villages.

Annexation of platted lands from adjacent village. Op. Atty. Gen. (469a-3), Jan. 21, 1936.

1124. Agreement—Petition—Submission to voters.

Annexation of platted lands from adjacent village. Op. Atty. Gen. (469a-3), Jan. 21, 1936.

1126. Separate election and assessment district.

If village has not been separated from town, then the valuation of all property in the township, including the property in the village, is to be taken into consideration for determining the taxable value of the property of the township. Op. Atty. Gen., Mar. 10, 1931.

Unless village has been separated from the town, a resident of village is entitled to participate in the affairs of the town and to hold office. Op. Atty. Gen., Mar. 27, 1931.

The mere organization of the village does not of itself operate to separate the village from the town for election and assessment purposes and does not require an apportionment of the debts or funds. Op. Atty. Gen., May 19, 1931.

On separation of village from town, all village officers who do not reside in the village are disqualified and successors must be appointed by the village council. Op. Atty. Gen., Feb. 15, 1932.

Question of separation of village from town is not determined at a town meeting by the electors of the town, but by the electors of the village at a special or regular village election. Op. Atty. Gen., Feb. 15, 1932.

When town wishes to separate from village there must be a petition by voters living within or without village and residents of both town and village vote on the question, but if village wishes to separate from town residents of village may vote on the question without notice to the town, and without vote of persons outside village. Op. Atty. Gen. (440e), March 30, 1933.

1127. Joint property, etc.

When village is organized personal property such as fire equipment and road equipment remains the property of the town. Op. Atty. Gen., May 19, 1931.

1128. Apportionment of money and debt.

On separation village is not charged with any part of floating indebtedness of town, but is chargeable with support of paupers and tubercular persons resident in village. Op. Atty. Gen., Nov. 23, 1929.

Where bonds for roads and bridges were issued by a town before organization of a village, the bonds should be apportioned. Op. Atty. Gen., May 19, 1931.

Personal property taxes levied in 1930 and paid to a town in March, 1931, could not be recovered back by the village after the town voted to separate from the village at an election held in March, 1931. Op. Atty. Gen., May 20, 1931.

Where village was originally carved out of township, and a bonded indebtedness of township was apportioned there could be no further apportionment of indebtedness where village subsequently annexed additional territory from the town. Op. Atty. Gen. (484e-1), Apr. 17, 1934.

A village incorporated but not yet having voted to become a separate election and assessment district is not entitled to any money collected for real estate taxes. Op. Atty. Gen. (440h), June 22, 1936.

Word "collected" is used in broad sense of not yet distributed by county offices. Id.

There should be no division made of personal property tax money. Id.

Separation of village from township as affecting liability for hospitalization of injured persons. Op. Atty. Gen. (339o-5), Mar. 4, 1937.

If floating indebtedness of town was not an obligation of territory embraced within village at time of its incorporation, and separation as a taxing district, it is not liable therefor, but in other cases village remains liable for its share of outstanding orders. Op. Atty. Gen. (440-a), April 13, 1939.

1134. Elections—Officers—Terms—Vacancies.

See §§1152-23 to 1152-30.

Repealed by Act Apr. 27, 1929, c. 413, §6, so far as inconsistent with repealing act, set forth, post, as §§1152-9 to 1152-15.

Vacancies created in office of justice of the peace by Laws 1929, c. 413. Op. Atty. Gen., Dec. 20, 1929.

Officers elected Mar. 12, 1929, took office the first Tuesday in April in a village operating under Laws 1885, c. 145, §41. Op. Atty. Gen.

There is no provision for compensation of treasurers in villages operating under the 1905 law, §1073, applicable to towns probably not applying. Op. Atty. Gen., Apr. 15, 1930.

Where village treasurer resigns, vacancy must be filled by appointment by the village council for the remainder of the term, and not by a special election. Op. Atty. Gen., Dec. 18, 1931.

Where clerk permitted village constable to sign oath 8 days after election, mayor was without authority to stop bondsmen from signing two months after election, no steps being taken to fill vacancy. Op. Atty. Gen., Feb. 10, 1933.

In case of vacancy in village office, incumbent holds over until appointment by village council. Op. Atty. Gen., Dec. 1, 1933.

Person receiving next highest number of votes for justice of the peace is not elected to the office because person who did receive highest number failed to qualify. Op. Atty. Gen. (266a-5), Dec. 10, 1935.

Village council should fix salary of treasurer at any sum up to \$100 if amount of money paid in exceeds \$5,000. Op. Atty. Gen. (456f-3), Dec. 31, 1935.

There is no specific time limit within which village officers must qualify, but a vacancy occurs if they do not qualify within a reasonable time. Op. Atty. Gen. (471h), Jan. 7, 1936.

Term of justice of peace is constitutionally limited to two years and he may not hold office until successor is chosen. Op. Atty. Gen. (266a-11), Jan. 31, 1936.

Residence was in village where house builder thought he was constructing his dwelling, and where he intended to vote, though boundary line between two villages passed through his dwelling. Op. Atty. Gen. (490j-1), Feb. 14, 1936.

Council of village of Graceville consists of president, recorder and three trustees, and vote of any three is sufficient, president and recorder having right to vote. Op. Atty. Gen. (471o), Feb. 18, 1936.

Where one justice resigned and no successor was ever appointed or elected to fill vacancy for a number of years, and village clerk prepared ballot intended for election of one justice only, and electors cast ballot for only one justice, there was election of only one justice and a vacancy existed as to the other justice, though several persons received votes. Op. Atty. Gen. (266b-6), Apr. 28, 1938.

Office of village justice becomes vacant on his removal from village, unless his new residence is in town in which village is located and town and village are not separated for election purposes. Op. Atty. Gen., (266a-9), Oct. 1, 1938.

Term of office of justice of the peace is for two years and does not extend until successor is elected and qualified. Op. Atty. Gen. (266a-11), April 12, 1939.

Provision that vacancies in office may be filled for remainder of the year by the village council has been superseded by Laws 1939, c. 346, part 11, c. 2, §7, providing that vacancy shall be filled for remainder of term. Op. Atty. Gen., (471i), August 8, 1939.

1135. Hours for opening and closing polls in villages.

See §401-1.

1136 to 1152-15. [Repealed Apr. 21, 1939, c. 345, Pt. 12, §1, ante §601-12, effective Aug. 1, 1939.]

ANNOTATIONS UNDER REPEALED SECTIONS

1136 TO 1152-15

1136. Hours for opening and closing polls in villages. Reenacted as §601-11(2)b. Corrupt Practices Act [§§538 to 579] does not apply to elections in townships of less than 5,000 population. 174 M333, 219NW284.

1137. Affidavit of candidate, etc. Reenacted as §601-11(2)c. This section is mandatory upon all towns of over 5000 and controls as to time of filing for town offices. Op. Atty. Gen., Feb. 26, 1934.

Time of filing for office in town of Stuntz, having population of over 5,000 persons, is governed by §1137 and not §1140. Op. Atty. Gen. (266a-12), Oct. 23, 1936.

1138. Offenses and penalties. Reenacted as §601-11(2)d.

1139. Village or township officers may be elected under Australian ballot system.

In villages operating under caucus system more than one ballot may be used. Op. Atty. Gen., Dec. 22, 1933.

Section 1806 applies to time for filing of affidavits of candidacy in city of Chatfield. Op. Atty. Gen. (359a-21), Apr. 19, 1938.

1140. Filing by candidates for village or town offices, etc.

Reenacted as §601-11(2)c. If no one files for village mayor at annual election, voters may write in names of candidates for such office. Op. Atty. Gen., Dec. 1, 1933.

Section 1137 controls in all towns of over 5000 population as to time for filing for town office. Op. Atty. Gen., Feb. 26, 1934.

Filing fee which is paid to town clerk by candidate for office at time he files his application, or affidavit of candidacy, should be turned into town treasury and placed in general town fund. Op. Atty. Gen. (442a-12), Feb. 5, 1935.

Election will not be set aside because of irregularity on part of town clerk in permitting names to be placed on ballot. Op. Atty. Gen. (434b-4), Mar. 20, 1935.

In village election, ballots should be initialed and the judge, rather than the voter, should deposit ballots in ballot box. Op. Atty. Gen. (28a-6), Dec. 11, 1935.

Section 1146 applies only to villages having a population of 8,000 or more and in other villages candidates for office may file affidavits of candidacy 10 days before election pursuant to §1140. Op. Atty. Gen. (184i), Dec. 12, 1935.

Time of filing for office in town of Stuntz, having population of over 5,000 persons, is governed by §1137 and not §1140. Op. Atty. Gen. (266a-12), Oct. 23, 1936.

Section 1806 applies to time for filing of affidavits of candidacy in city of Chatfield. Op. Atty. Gen. (359a-21), Apr. 19, 1938.

1146. Affidavit of candidate. Amended Apr. 16, 1931, c. 177.

A village or city clerk is not required to accept filings for office after the usual hour of closing, but may legally accept any filing any time up to midnight. Op. Atty. Gen., Dec. 10, 1931.

Section 1146 applies only to villages having a population of 8,000 or more and in other villages, candidates for office may file affidavits of candidacy 10 days before election pursuant to §1140. Op. Atty. Gen. (184i), Dec. 12, 1935.

1149. Polls open from 8 A. M. to 8 P. M. See Laws 1929, c. 198, ante, §401-1, fixing time of opening and closing polls and repealing inconsistent acts.

1152-1. Sections 1152-1 to 1152-8 were repealed by Act Apr. 27, 1929, c. 413, §6, so far as inconsistent with repealing act, set forth, post, as §§1152-9 to 1152-15.

1152-2. Election of officers in certain villages—Terms—Vacancies.

Where village councilman resigns it is mandatory that the council appoint to fill the vacancy, and they have no power to call an election for that purpose. Op. Atty. Gen., June 15, 1931.

Office of village treasurer and that of street commissioner are not incompatible. Op. Atty. Gen., Apr. 5, 1932.

Treasurer is not member of village council. Op. Atty. Gen., Apr. 5, 1932.

1152-4. Same—Date—Terms—Judges of Municipal courts.

Op. Atty. Gen., Feb. 19, 1934; note under §1089. Term of one elected to office of judge begins Jan. 1, following election. Op. Atty. Gen. (307a), Dec. 24, 1935.

1152-9. Application of act.

Reenacted as §601-11(2)e. Consisted of Act Apr. 27, 1929, c. 413. Does not affect township elections. Op. Atty. Gen., June 20, 1929.

This act applies to Janesville, created by Sp. Laws 1877, c. 18. Op. Atty. Gen., Nov. 14, 1929.

Applies to New Trier incorporated under Sp. Laws 1874, c. 10, as amended by Sp. Laws 1875, c. 38. Op. Atty. Gen., Nov. 15, 1929.

Does not apply to Litchfield. Op. Atty. Gen., Nov. 13, 1929.

Does not apply to St. Vincent. Op. Atty. Gen., Nov. 26, 1929.

Officers elected for terms involving fractional parts of years, in the readjustment, are entitled to only fractional parts of their yearly salaries. Op. Atty. Gen., Dec. 12, 1929.

Offices of village justices whose terms expire Apr. 1, 1930, then become vacant and vacancy exists until the December, 1930, election. Offices expiring April 1, 1931, become vacant on that date until the December, 1931, election. The vacancies are to be filled by appointment by the village council and not by the Governor. Op. Atty. Gen., Dec. 20, 1929.

This act repeals Laws 1875, c. 139, §15, and vacancy in office of justice of peace in village of Appleton may be filled by village council. Op. Atty. Gen., Mar. 24, 1933.

This act applies to villages operating under Laws 1885, ch. 145. Op. Atty. Gen. (184i), Dec. 12, 1935.

1152-10. Officers to be elected. Consisted of Act Apr. 20, 1929, c. 413, §2; Apr. 2, 1937, c. 137, §1.

Reenacted as §601-11(2)f. Laws 1875, c. 139, referred to in this section was repealed by R. L. '05. See Mason's Minn. St. 1927, §10962.

Granting petition for leave to file quo warranto to test appointment is discretionary. State v. Johnson, 201M219, 275NW684.

Council of village may fill vacancy in office of village assessor. Op. Atty. Gen., June 5, 1931.

Where village councilman resigns, it is mandatory that the council appoint to fill the vacancy, and they have no power to call an election for that purpose. Op. Atty. Gen., June 15, 1931.

Vacancy in common council must be filled as provided by this act, as Mason's Stats., §1172, is not applicable to the filing of vacancies. Op. Atty. Gen., June 20, 1931.

Where village treasurer resigns, vacancy must be filled by appointment by the village council for the remainder of the term, and not by a special election. Op. Atty. Gen., Dec. 18, 1931.

Where office of village trustee becomes vacant, the vacancy is to be filled by appointment by the village council, term of appointee to expire at the end of the term at which the elected officer would have been retired. Op. Atty. Gen., Dec. 19, 1931.

When person elected as justice refuses to qualify, there is created a vacancy to be filled by appointment. Op. Atty. Gen., Feb. 23, 1932.

Question whether resignation of president of council of the village of Buhl would become effective immediately without any action on the part of the board discussed. Op. Atty. Gen., Mar. 3, 1932.

Vacancy in office of assessor in village of Litchfield must be filled by special election. Op. Atty. Gen., Apr. 14, 1932.

Clerk of village incorporated under Laws 1885, c. 145, has right to vote as member of council. Op. Atty. Gen., Feb. 3, 1933.

Vacancy in office of village justice of peace may be filled by village council. Op. Atty. Gen., Feb. 3, 1933.

Village recorder has a vote in council meetings. Op. Atty. Gen., Apr. 11, 1933.

This section supersedes provisions in Laws 1885, c. 145, with reference to filling vacancies in village offices. Op. Atty. Gen., Apr. 11, 1933.

Word "may" should be construed as if "shall." Op. Atty. Gen., Apr. 11, 1933.

Village clerk and president are entitled to vote as members of council. Op. Atty. Gen., May 6, 1933.

This act applies to villages organized under Laws 1895, c. 145, and "recorder" has been changed to "clerk." Op. Atty. Gen., May 22, 1933.

Governor cannot remove village constable. Op. Atty. Gen., Aug. 31, 1933.

Offices of village attorney and village treasurer are incompatible. Op. Atty. Gen., Jan. 18, 1934.

One appointed to fill vacancy holds office for remainder of term of former officer and not merely until next annual village election. Op. Atty. Gen. (307L), Sept. 27, 1934.

There should have been elected in December, 1929, in St. Louis Park two justices and two constables, the justices to hold only for two years under the constitution and the constables to hold office for two years and until election and qualification of successors, and any vacancy in office must be filled by council and there can be no election in even-numbered years to fill vacancy. Op. Atty. Gen. (472q), Jan. 17, 1935.

Vacancies in village councils are to be filled by appointment and not by special election. Op. Atty. Gen. (471m), Apr. 12, 1935.

There is no specific time limit within which village officers must qualify, but a vacancy occurs if they do not

qualify within a reasonable time. Op. Atty. Gen. (471h), Jan. 7, 1936.

It is mandatory on village council to appoint a new president to fill vacancy. Op. Atty. Gen. (471m), June 5, 1936.

Village trustee can run for office of village president without resigning as member of council, but if he is elected to that office a vacancy is automatically created when he qualifies, which vacancy should be filled by village council for remainder of term. Op. Atty. Gen. (471h), Nov. 23, 1936.

Where one elected to office of president of a village refuses to qualify within a reasonable time, a vacancy exists, and former officer does not hold over. Op. Atty. Gen. (471m), Jan. 13, 1937.

All villages operating under the general law as well as those operating under Laws 1885, ch. 145, are to be governed by this act, insofar as it relates to elections, terms of office, and filling of vacancy. Id.

Failure of village treasurer to qualify by filing bonds does not ipso facto create vacancy. Op. Atty. Gen. (456g), Feb. 18, 1937.

This section so far as inconsistent supersedes Laws 1885, c. 145, §21. Op. Atty. Gen. (470l), Nov. 9, 1937.

"May" is construed as "shall" and vacancies are to be filled for remainder of term rather than until next election. Id.

This act applies to villages operating under Laws 1885, c. 145. Op. Atty. Gen. (471m), May 17, 1938.

Vacancy in office of president of council is to be filled by council, and any qualified voter is eligible for appointment. Id.

Village justice of the peace must be a resident of the village. Op. Atty. Gen. (266a-8), Aug. 10, 1938.

One appointed to replace a disqualified village trustee is entitled to serve entire unexpired term. Op. Atty. Gen., (471m), Nov. 18, 1938.

Vacancy in office of village assessor is to be filled by appointment by council for remainder of term, and not until next village election. Op. Atty. Gen., (12b-5), Nov. 22, 1938.

On election of village justice to office of president of village council, and his qualification therefor, his office as justice is automatically vacated, and vacancy may be filled by village council. Op. Atty. Gen. (358d-5), Dec. 13, 1938.

1152-11. Date of election.

Consisted of Act Apr. 27, 1929, c. 413, §3.

1152-12. Terms of office.

Consisted of Act Apr. 27, 1929, c. 413, §4; Apr. 10, 1939, c. 185.

Reenacted as §601-11(2)g.

There is no specific time limit within which village officers must qualify, and they may qualify at any time before Jan. 1, and within any reasonable time subsequent thereto. Op. Atty. Gen. (471h), Dec. 26, 1935.

Extension of term of recorder, held not to affect prior law as to annual fixing of compensation. Op. Atty. Gen., Jan. 16, 1930.

A person appointed to fill a vacancy in a village office holds until the expiration of the term. Op. Atty. Gen., Nov. 13, 1931.

Notwithstanding Mason's Stat. 1927, §1075, village assessors should be elected in even numbered years. Op. Atty. Gen., Nov. 13, 1931.

A village assessor elected in December, 1930, should hold office until Dec. 31, 1932, but his successor should have been elected at the December, 1931, election. Op. Atty. Gen., Nov. 30, 1931.

Where through oversight no village assessor was elected in Dec., 1930, the old assessor should hold over for the entire term until Dec. 30, 1932, and his successor should be elected at the Dec., 1932, election. Op. Atty. Gen., Nov. 30, 1931.

Members of newly elected village council who had qualified for office before January 1, took office immediately after midnight on New Years Eve. Op. Atty. Gen. (471l), Jan. 21, 1935.

1152-13. Fiscal year to be calendar year.

Consisted of Act Apr. 27, 1929, c. 413, §5.

1152-14. Laws repealed.

Consisted of Act Apr. 27, 1929, c. 413, §6.

1152-15. Provisions severable.

Consisted of Act Apr. 27, 1929, c. 413, §7.

1152-16. Villages may provide for election districts.—That any Village organized and existing under Chapter 145 of the General Laws of Minnesota for 1885, and the amendments thereto [Mason's Minn. St. 1927, pp. 218 to 226], having a population of 10,000 or more, may, by adopting the provisions of this Act, at a special election called therefor, as hereinafter provided, divide such Village into six election districts, provide for the election of two Trustees in and for each election district, the election of the President for two year terms, and the appointment of the Village Recorder by the Council. (Act Apr. 20, 1933, c. 343, §1.)

1152-17. Terms of officers.—That at the first annual Village election held after the adoption of the

provisions of this Act in the manner hereinafter set forth the Village President shall be elected for a term of two years; one Trustee shall be elected in each district for a term of one year and one Trustee shall be elected in each district for a term of two years, and at each second annual election thereafter the President shall be elected for a term of two years and at each annual election thereafter one Trustee shall be elected in each district for a term of two years and a majority of the members of the Council shall constitute a quorum. (Act Apr. 20, 1933, c. 343, §2.)

1152-18. Salaries of officers.—The salaries of the President and Trustees shall be fixed by the Council and the President's salary shall not exceed Two Hundred (\$200.00) Dollars per month and each Trustee's salary shall not exceed Fifty (\$50.00) Dollars per month, and the Recorder shall be appointed by the Council and may be removed at any time by a majority vote of all members of the Council. The salary of the Recorder shall be determined and allowed by the Council. (Act Apr. 20, 1933, c. 343, §3.)

1152-19. Submission to vote of people.—Upon the filing of a petition for an election for the adoption of the provisions of this Act, signed by five per cent of the voters duly registered at the time of the preceding annual Village election, the Village Council shall provide for the submission of the provisions of this Act to the voters at the next annual Village election, and if a majority of those voting on the question shall vote in favor of the adoption of the provisions of this Act, the Council shall declare the same duly adopted, provided, however, that if the provisions of this Act are not adopted at such election, the question may be submitted at a subsequent annual Village election in the manner provided herein for such elections. (Act Apr. 20, 1933, c. 343, §4.)

1152-20. Judges to appoint commission.—On the adoption of the provisions of this Act, the Judges of the District Court of the district in which such Village is located, shall, upon receiving due notice thereof, appoint a commission of fifteen free holders of such Village which shall, within thirty days after their appointment, divide such Village into six election districts, each to contain not less than five hundred legal voters, all such districts to have approximately the same number of legal voters, as near as may be, and the certificate describing the election districts established by said commissioners, or a majority of them, shall be forthwith filed with the Village Recorder. The Council shall provide sufficient voting precincts in each election district. (Act Apr. 20, 1933, c. 343, §5.)

1152-21. Officers to serve unexpired term.—On the adoption of the provisions of this Act the Village President and the Village Recorder may each serve the unexpired term to which he was elected, and each Trustee, now serving on said Village Council may serve as a Trustee at large during his respective unexpired term at the rate of compensation as then received as by law provided. (Act Apr. 20, 1933, c. 343, §6.)

1152-22. Application of act.—This Act shall not be construed as abridging, restricting or in any other manner changing the powers of any such Village which is now organized and operating under Chapter 145 of the General Laws of 1885 or any other Acts supplementary thereto or amendatory thereof. (Act Apr. 20, 1933, c. 343, §7.)

1152-23. Village elections in certain villages.—Every village in the State of Minnesota having a population of more than 10,000 and an assessed valuation in excess of \$50,000,000.00 may adopt the provisions of this Act as hereinafter set forth. Any village which may wish to avail itself of the provisions of the Act may do so by a resolution of its Village Council, expressly accepting the provisions hereof, which resolution shall be adopted by a majority vote of its Council. The adoption of such resolution shall be a con-

dition precedent to the exercise of any of the powers herein granted. After the adoption of such resolution, such village, its officers and electors shall be subject to the powers, duties and limitations as provided in this Act; provided, however, if within twenty days thereafter a petition be filed with the Village Recorder, signed by more than twenty-five per cent of the number of legally qualified or registered voters in said village voting at the last regular village election, demanding that a special election be called of the electors thereof to review the action of the Village Council and to determine whether such resolution shall be rescinded, a special election shall be called, pursuant to the laws of this State, to be held within thirty days after the filing thereof, at which election the following proposition shall be submitted to the electors by a ballot:

"Shall the resolution of the Village Council of the Village of, adopting the provisions of Chapter, Laws of Minnesota for 1935, be rescinded?

Yes
No

"Unless a majority of the electors voting on the proposition vote in favor of rescinding, the changes, powers and limitations of this Act shall thenceforth control the village, its officers and electors." (Act Apr. 11, 1935, c. 162, §1.)

1152-24. To be first Tuesday after the first Monday in November.—The elections in all such villages shall hereafter be held with the general election on the first Tuesday after the first Monday in November in each even numbered year. (Act Apr. 11, 1935, c. 162, §2.)

1152-25. Elections to be held in November, 1936.—The successor in office of all such village officers with term of office expiring on or before January 1, 1937, shall be elected at the election to be held on the first Tuesday after the first Monday in November, 1936, and the successor in office of all such village officers with term of office expiring subsequent to January 1, 1937, and on or before January 1, 1939, shall be elected at the election to be held on the first Tuesday after the first Monday in November, 1938. (Act Apr. 11, 1935, c. 162, §3.)

1152-26. Officials to take office on January 1, following election.—All officers elected after the passage of this act shall take office on the first day of January following their election and the officers of such villages and their terms of office shall be as follows: one president or mayor for a two year term, one clerk or recorder for a two year term, three trustees for a four year term each, one municipal judge for a four year term, one treasurer for a two year term, and two constables for a two year term each. (Act Apr. 11, 1935, c. 162, §4.)

1152-27. Terms of certain officers extended.—All elective officers in such villages in office when this act takes effect shall hold their offices for the terms for which they were elected, and any elective officers whose terms would otherwise expire prior to January 1, 1937, shall continue to hold office until the end of December 31, 1936, and any elective officers whose terms would otherwise expire prior to January 1, 1938, shall continue to hold office until the end of December 31, 1938. (Act Apr. 11, 1935, c. 162, §5.)

1152-28. Polling places.—When such village and general elections are held at the same time the polling places in such village precincts shall be the same as those fixed for the general election and the same election judges and clerks of said general election shall serve as judges and clerks of said village election. In any such village, which has not been separated from the town for election purposes, the village shall pay one-third of the expenses of said election. (Act Apr. 11, 1935, c. 162, §6.)

1152-29. General election laws to apply.—The election laws now in force in such villages pertaining to

the conduct of village elections shall apply unless otherwise provided for in this act. (Act Apr. 11, 1935, c. 162, §7.)

1152-30. Inconsistent acts repealed.—All acts or parts of acts inconsistent herewith are hereby superseded, modified, or amended so far as necessary to give effect to the provisions of this act. (Act Apr. 11, 1935, c. 162, §8.)

Sec. 9 of Act Apr. 11, 1935, cited, provides that the act shall take effect from its passage.

1163. President and trustees to receive annual salary.

Whether absence of village trustee from village for six months for purpose of obtaining employment constitutes abandonment of office and right to compensation is a question of fact. Op. Atty. Gen. (359a-21), Dec. 19, 1935.

1163-1. Salaries of village officers in certain villages.—In all villages of this state, except those governed under a charter adopted pursuant to section 36, article 4, state constitution, the salaries of the president and trustees shall be in amounts according to the following classifications of villages, provided that the village council of any village shall have the authority to fix the salaries of its president and its trustees in a lesser amount for the term of office during which the members of such council are elected. The classification and salaries are as follows:

(1) In villages having both a population of not less than 5,000 inhabitants and an assessed valuation of not less than \$10,000,000, the salary of the president is fixed at \$200.00 per month and the salary of each trustee at \$150.00 per month. (As amended Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

(2) In villages not included in any of the foregoing classifications, having both a population of not less than 1,500 inhabitants and an assessed valuation of not less than \$3,000,000, or having a population of not less than 1,200 inhabitants and an assessed valuation of not less than \$6,000,000, the salary of the president is fixed at \$80.00 per month and the salary of each trustee at \$60.00 per month. (As amended, Mar. 9, 1931, c. 47, §1; Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

(3) In villages, not included in any of the foregoing classifications, having both a population of not less than 2,000 inhabitants and an assessed valuation of not less than \$1,500,000, the salary of the president is fixed at \$50.00 per month and the salary of each trustee at \$35.00 per month. (As amended Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

(4) In villages, not included in any of the foregoing classifications, having both a population of not less than 300 inhabitants, and an assessed valuation of not less than \$925,000, the salary of the president is fixed at \$35.00 per month, and the salary of each trustee at \$25.00 per month. (As amended Apr. 25, 1931, c. 362, §1; Mar. 1, 1935, c. 36, §1; Apr. 11, 1935, c. 158; Feb. 14, 1939, c. 13, §1; Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

(5) In villages, not included in any of the foregoing classifications, either having both a population of not less than 5,000 inhabitants and an assessed valuation of less than \$1,000,000, or having both a population of less than 600 inhabitants and an assessed valuation of not less than \$1,000,000, the salary of the president and each trustee is fixed at \$100.00 per year; provided, further, in villages having an assessed valuation exceeding \$1,500,000, and not over \$3,000,000, the salary of the president and each trustee shall remain \$100.00 per year, and in villages having an assessed valuation exceeding \$1,000,000 and not over \$1,500,000 such salary shall remain ten dollars per year, unless the voters in any such village at a regular or special election therein held shall fix such salaries at a larger amount, within the limitations of this act; provided, further, this act shall in no way apply to villages having an assessed valuation of less than \$1,500,000 and an area of less than 1,300 acres. (As

amended Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

(6) In villages not included in any of the foregoing classifications, having both a population of less than 5,000 inhabitants and an assessed valuation of less than \$1,500,000 the president shall be entitled to receive as compensation for each day's service necessarily rendered or council meeting attended, the sum of \$2.00 per day or meeting, but no more than \$30.00 shall be paid in any one year to the president; and the trustees shall be entitled to receive as compensation for each day's service necessarily rendered or council meeting attended, the sum of \$1.50 per day or meeting but no more than \$20.00 shall be paid to each trustee in any one year in any such village. (As amended Jan. 24, 1936, Ex. Ses., c. 89; Apr. 15, 1939, c. 272, §1; Apr. 17, 1939, c. 300.)

"Assessed valuation" means assessed valuation as finally fixed by the Minnesota Tax Commission. Op. Atty. Gen. Apr. 26, 1929.

Offices of members of village council and village assessor are incompatible in view of this section, which bases salaries upon assessed valuations of the village. Op. Atty. Gen., Mar. 12, 1931.

Salaries of village president, trustees and recorder, discussed. Op. Atty. Gen., Jan. 9, 1933.

Compensation of members of council of village of Deephaven is governed by this subdivision. Op. Atty. Gen. (471k), July 20, 1934.

This section applies to the village of Grand Rapids which does not operate under a charter adopted pursuant to constitution, art. 4, §36. Op. Atty. Gen. (469b), Oct. 11, 1934.

Salaries of village officers should be fixed at beginning of term and are not subject to modification by council during term. Id.

Salaries of village president and trustees should be fixed as soon as practicable after each member's election for such member's full term, and such salaries are not subject to modification during such member's term after same have been fixed. Op. Atty. Gen. (471k), Jan. 15, 1935.

This subdivision governs compensation of president and trustee but not the recorder. Op. Atty. Gen. (471k), Feb. 20, 1936.

Where salaries of village operating under Laws 1885, ch. 145, were fixed pursuant to this subdivision, such salaries are still governed by this subdivision after amendment thereof. Op. Atty. Gen. (469a-13), Feb. 24, 1936.

Salaries of president and trustees are determined by assessed valuation and population. Op. Atty. Gen. (471k), June 6, 1936.

Increase of salaries of village officers took effect upon date of approval of amendment. Op. Atty. Gen. (469a-13), Dec. 18, 1936.

Section 193(3b), last paragraph, should be considered in determining salaries of officers of village of Ironton. Op. Atty. Gen. (471k), Dec. 21, 1936.

Money and credits are included in term "assessed valuation". Op. Atty. Gen. (471h), Dec. 13, 1937.

(7).

Unless village council fixes salary in a lesser amount, salary of president is \$20. per month, and salary of each trustee \$15 per month in the village of Morningside. Op. Atty. Gen., (471k), July 10, 1939.

1163-2. Same—Population and valuation, how determined.

Salaries of village officers for the entire year 1932 is determined by the population as shown by the last federal census and the valuation as equalized for 1931. Op. Atty. Gen., Dec. 28, 1931.

1164. Assessors in villages separated from towns.

Vacancy in office of assessor in village of Litchfield must be filled by special election. Op. Atty. Gen., Apr. 14, 1932.

Village assessor should be paid same compensation as town assessor. Op. Atty. Gen., Dec. 22, 1933.

1167 to 1172 [Repealed Apr. 21, 1939, c. 345, Pt. 12, §1, Ante §601-12, effective Aug. 1, 1939.]

ANNOTATIONS UNDER REPEALED SECTIONS

1167. Two justices.

Reenacted as §601-11(2)a.

1169. Hours for polls to be open.

Reenacted as §§601-6(3)b, 601-6(8).

Where village officers failed to give proper notice that assessor would be voted for at election, and several votes were cast for a sticker candidate, there was no election in fact. Op. Atty. Gen. (12b-5), Dec. 16, 1938.

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

1170. Returns—Canvassing.

Reenacted as §601-11(2)h.

1171. Town meeting laws applied—Illegal voting.

Reenacted as §601-11(2)j.

1172. Special elections.

Reenacted as §601-11(2)i.

This section is not applicable to the filling of vacancies in the common council. Op. Atty. Gen., June 20, 1931.

Village councils may not hold special elections to submit to the voters, question of whether or not public dances shall be held on Sunday nights. Op. Atty. Gen., June 22, 1931.

Special election may be called for purpose of voting upon who shall be members of village police force. Op. Atty. Gen., Mar. 14, 1933.

Procedure and forms for special election for erection of waterworks system and issuing bonds, discussed. Op. Atty. Gen., Aug. 17, 1935.

Word "may" has a mandatory meaning and special election must be ordered upon petition of voters. Op. Atty. Gen. (476b-15), May 10, 1938.

Application of a village for a loan of state funds was returned without approval where there was only 10 days' published notice of election. Op. Atty. Gen. (295a), March 7, 1939.

Sections 3200-35 and 3200-36 are only means of voting on liquor licenses for villages, and question cannot be brought up at a special election under §1172. Op. Atty. Gen. (218g-11), March 15, 1939.

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

1173. Assessor—Town taxes, etc.

Where village lies in two towns and one town separates from village, a separate election board and assessor is required for that part of village in separating town. Op. Atty. Gen. (440d), Apr. 13, 1938.

1174. Treasurer—Duties, bond, accounts, etc.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and assistant cashier, and a surety on his bond is liable for money lost through failure of the bank, notwithstanding stipulation in bond relieving surety from liability for loss caused by failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though bank does not fail until afterwards. City of Marshall v. G., 193M188, 259NW377. See Dun. Dig. 6712.

Village is entitled to dividends on bank liquidation until its claim for deposit is paid in full, and until that time surety on treasurer's bond is not entitled to subrogation. Op. Atty. Gen. June 16, 1930.

Bond of village treasurer containing exceptions to liability of surety, held objectionable. Op. Atty. Gen., Aug. 15, 1930.

A village treasurer and his surety are absolutely liable for funds which come into his possession until such time as he deposits them in a depository duly designated by the council. Op. Atty. Gen., July 31, 1931.

Treasurer of village organized under Laws 1885, c. 145, and his bondsmen, are absolutely liable for funds which come into his possession until he deposits them in a depository duly designated by the council. Op. Atty. Gen., July 31, 1931.

Village treasurer's bond need not be filed or recorded with register of deeds, and county is under no obligation to pay expense of recording. Op. Atty. Gen., May 1, 1933.

Village treasurer has right to pay bonds and interest when due out of funds collected for that purpose, though ordered not to do so by village council. Op. Atty. Gen., July 14, 1933.

Receipts from village liquor store should be turned over to village treasurer and all disbursements made by treasurer and it is improper to permit president and clerk alone to handle funds of liquor store and merely turn surplus over to treasurer. Op. Atty. Gen. (218j-10), Apr. 19, 1934.

All revenue from a municipal exclusive liquor store should be turned over to village treasurer by the manager of the store and should be disbursed in the same manner as other village money. Op. Atty. Gen. (218e), July 25, 1934.

This section applies to villages operating under Laws 1885, c. 145, and a village has authority only to publish ordinances, rules and by-laws and financial statements, and has no authority to publish minutes of its proceedings at meetings. Op. Atty. Gen. (469a-5), Mar. 27, 1935.

All expenditures of exclusive liquor store operated by village should be approved by village council and paid in same manner as other village expenditures. Op. Atty. Gen. (218g-13), Apr. 4, 1935.

Village councilman cannot receive compensation for services in connection with a municipal liquor store, and all employees must be hired by council and all obligations handled as other obligations of village. Op. Atty. Gen. (218g-13), Apr. 16, 1935.

Surety on official bond may not cancel bond during term of office without consent of all parties concerned, and consent may not lawfully be given by governing body until a satisfactory new bond is furnished. Op. Atty. Gen. (469b-5), Feb. 21, 1936.

If amount of treasurer's bond has not been fixed pursuant to an ordinance, it should be fixed by new council at its first meeting in January following preceding December election. Op. Atty. Gen. (456g), Feb. 18, 1937.

Failure of village treasurer to qualify by filing bonds does not ipso facto create vacancy. Id.

Village treasurer unable to write may sign village bonds by making his mark, or his name may be written by some person at his request and in his presence. Op. Atty. Gen. (456a), Nov. 24, 1937.

1175. Financial statement by clerk.

Laws of 1911, requiring village clerks to publish a detailed financial statement applies to villages, such as Hopkins, which are still operating under Laws 1885, Chap. 145, since repeal of Laws 1905, Chap. 74, by the 1911 act did not revive Laws 1885, Chap. 145, §20. State v. Elmquist, 201M403, 276NW735. See Dun. Dig. 6569.

It is necessary to set forth in the financial statement a complete list of outstanding unpaid warrants, and it is not enough to set forth the aggregate amount thereof. Op. Atty. Gen., Jan. 26, 1931.

Village officers failing to publish annual financial statement would be guilty of a gross misdemeanor under §970. Op. Atty. Gen., Sept. 30, 1931.

The villages of Long Lake, Maple Plain and Deephaven are required by law to publish complete detailed annual financial statements. Op. Atty. Gen., Sept. 30, 1931.

Where number of payments have been made to same person for same purpose, it is not necessary to list each separate payment but a grouping is permitted. Op. Atty. Gen., Oct. 30, 1933.

Ordinances, rules and by-laws passed by council and the annual financial statement of the clerk must be published in a newspaper selected by the council, but clerk is not required to publish the minutes of the council proceedings in detail into financial records. Op. Atty. Gen., Feb. 10, 1934.

Financial statement of village must be filed and published prior to annual village election. Op. Atty. Gen. (469a-5), Nov. 14, 1934.

Village is required to publish financial statement at least one week prior to annual election in a newspaper published in the village, but if no newspaper is published therein, statement must be posted in three public places. Op. Atty. Gen. (469a-5), Feb. 3, 1936.

If cost is more than \$100, village must call for bids for publication of financial statement and award printing to lowest responsible bidder, and term "responsible" is not limited to financial responsibility. Op. Atty. Gen. (707a-15), Nov. 13, 1936.

Outstanding warrants may not be grouped together in one amount in financial statement, though payments made to same person for same purpose may be grouped. Op. Atty. Gen. (469a-5), Dec. 20, 1937.

1177. Clerk—Bond—Deputy.

Deputy recorder may hold other compatible salaried position, such as clerk of municipal court. Op. Atty. Gen., Feb. 26, 1929.

Under Mason's Stat., 1927, §1186, subd. 1, village council organized under 1905 law may fix salary of deputy clerk. Op. Atty. Gen., Feb. 26, 1929.

This section does not apply to villages operating under the 1885 act [Mason's Minn. Stat., 1927, pp. 218-226], but Laws 1925, c. 270 [§1111, notes], from which this section was derived in constructing the 1905 village code, is still operative as to villages existing under the 1885 act, and the office of deputy recorder has no fixed term, and the incumbent need not be appointed each year, and his salary is subject to change by the council at any time. Op. Atty. Gen., Jan. 16, 1930.

1178. Same—Duties—Compensation.

Op. Atty. Gen., Feb. 10, 1934; note under §1196.

Power of council of village operating under 1885 act to fix salary of recorder yearly where his term has been extended to two years by Laws 1929, c. 413. Op. Atty. Gen., Jan. 16, 1930.

Clerk of village organized under the 1885 Laws receives no fixed compensation, but his salary is determined each year in advance by the council, and such council may require the clerk to perform duties in connection with the reading of electric light meters, collecting money for lights, etc., and allow compensation therefor. Op. Atty. Gen., Feb. 7, 1931.

It would not be proper and lawful to refuse to pay salary of village recorder because he fails to perform the duties of his office. Op. Atty. Gen., Oct. 20, 1931.

A village has no authority to withhold payment of salary of village clerk or an employee to partially reimburse it for failure of such persons to account for village funds in their possession. Op. Atty. Gen., Aug. 22, 1932.

Village clerk has power to vote on resolution increasing his compensation at beginning of his term. Op. Atty. Gen. (470i), June 3, 1936.

1179. Constables—Duties—Compensation.

A village may pay a salary to a constable for police work. Op. Atty. Gen., July 15, 1933.

Office of village constable becomes vacant when he is convicted of any offense involving a violation of his official oath. Op. Atty. Gen., Nov. 15, 1933.

Clerk may perform additional services incidental to collection of electric light and power bills and be compensated therefor. Op. Atty. Gen. (470b), Dec. 14, 1933.

Clerk is not entitled to additional compensation for extra services which council requires him to perform. Op. Atty. Gen. (470b), Dec. 19, 1933.

A village constable is an elective officer and is not removable at pleasure of village council, and as local peace officer stands on same footing as sheriff except that jurisdiction is ordinarily limited to boundaries of village. Op. Atty. Gen. (847a-6), March 28, 1939.

Village clerk may not be paid additional compensation for extra work performed in connection with preparing a special assessment roll. Op. Atty. Gen., (470b), August 3, 1939.

1181. Justices—powers—duties—fees.

Correction—The following words were omitted after line 15 of this section: "where a village is situated in more than one county, the justices of the peace and constables of such vil—"

Laws 1885, c. 145, §41 [§1111, notes, Mason's Minn. Stat., 1927], as amended, and not this section, governed a village operating under the former act, as regarded justices of the peace. Op. Atty. Gen.

Village incorporated under Laws of 1885 may not fix compensation of village justice of the peace. Op. Atty. Gen. (266a-13), Sept. 7, 1934.

Municipality cannot be compelled to furnish criminal forms to justice of the peace. Op. Atty. Gen. (266a-3), Oct. 4, 1934.

No one but the state may question the jurisdiction of a village justice of the peace because he has filed his bond with the village clerk instead of the clerk of court, and his acts are valid as those of a de facto officer and convictions before him are valid. Op. Atty. Gen. (266a-2), June 3, 1935.

City of International Falls by adoption of home rule charter without providing for election of justice of the peace abolished that office. Op. Atty. Gen. (306a), Apr. 9, 1936.

County attorney is under no obligation to prosecute misdemeanor cases before justice of the peace except where duty is specifically imposed by law. Op. Atty. Gen. (121b), Aug. 23, 1937.

Village attorney is required to prosecute all violations of village ordinances before a justice of the peace, but is not obligated to prosecute violations of state laws or give aid, counsel and advice to justice of the peace. Id.

Village justice is entitled to his fees in prosecutions for violation of city ordinances, though prosecution is dismissed or sentence suspended. Op. Atty. Gen. (266b-8), July 1, 1938.

While jurisdiction of justice over violation of ordinances is probably exclusive, where violation of ordinance of one village is tried by justice in another village, fine should revert to former village. Op. Atty. Gen. (199b-4), June 23, 1938.

On election of village justice to office of president of village council, and his qualification therefor, his office as justice is automatically vacated, and vacancy may be filled by village council. Op. Atty. Gen. (358d-5), Dec. 13, 1938.

Bond and oath of a village justice should be approved by village council and filed with clerk of district court. Op. Atty. Gen. (266a-2), Dec. 19, 1938.

1182. Prosecutions by village.

Village justice may not on application for change of venue transfer trial of offense under village ordinance to a town justice. Op. Atty. Gen., Feb. 21, 1933.

1182-1. Contingent fund for suppression of crime, relief in case of calamity, and welfare.—The village council of any village now or hereafter having a population of more than 10,000 inhabitants may appropriate from the general fund of the village from time to time, an amount not exceeding \$2,500 in the aggregate in any one year to be known as the Village President's Contingent Fund, from which fund the Village President may pay such sums as he may deem necessary in case of necessity, to secure information and evidence of crime, and to arrest convicts and to relieve distress in the event of public calamity in this state, and for such other purpose for the welfare of the village as he may deem advisable. (Act Apr. 20, 1939, c. 329, §1.)

1182-2. Same—limit of expenditures.—All expenditures for the purposes herein set forth shall be within the statutory limits of tax levies in such villages. (Act Apr. 20, 1939, c. 329, §2.)

1182-3. Same—payments.—Payments from this fund shall be made in the same manner as in the case of other claims against such villages. (Act Apr. 20, 1939, c. 329, §3.)

1184. Appeals.

Two dollar appeal fee applies only to civil actions and not to criminal appeals from justice court to district court. Op. Atty. Gen. (266b-1), May 29, 1934.

It is duty of one appealing from conviction of violation of village ordinance to proceed in same manner as from judgment from justices of the peace in civil actions and

not in manner provided in §9129 and it is his duty to serve notice of appeal upon village or its attorney and not upon county attorney. Op. Atty. Gen. (779a-5), Nov. 20, 1935.

1186. Council—Powers—Ordinances.

Act Apr. 20, 1939, c. 326, limited by its descriptive terms to village of Ashby in Grant County, provides for detachment of land from such village. Probably unconstitutional as local and special.

Op. Atty. Gen., Mar. 2, 1934: note under §1938-3.

General authority of an officer to act for a village may be inferred from previous acts of similar character and so continued as to justify inference that village had knowledge of them and would not have permitted same if unauthorized. *Theisen v. M.*, 200M515, 274NW617. See *Dun*, Dig. 7998.

Recorder and a president of village council may vote at council meetings. Op. Atty. Gen., Apr. 11, 1933.

Recorder and president of village have right to vote on questions to be decided by council. Op. Atty. Gen., Apr. 11, 1933.

Village council may modify contract where right to do so is reserved therein. Op. Atty. Gen., Dec. 16, 1933.

No liability attaches on part of members of council in executing contract where they acted in good faith in performing a governmental function. *Id.*

Village incorporated under Laws of 1885 may not fix compensation of village justice of the peace. Op. Atty. Gen. (266a-13), Sept. 7, 1934.

Village which has no water, light and building commission may not levy a special tax for water and light purposes. Op. Atty. Gen. (481b-7), Jan. 5, 1935.

Sections 1003 and 1004 apply only to a town which has within its territorial limits a platted portion upon which there resides 1200 or more people when such platted portion is not incorporated in a city or a village. Op. Atty. Gen. (440c), May 10, 1935.

Village was not authorized to contract for purchase of pump without calling for bids, and could not purchase one under a conditional sales contract with instalments to be paid out of general village fund derived from taxation. Op. Atty. Gen. (707a-15), Dec. 27, 1935.

Village clerk has power to vote on resolution increasing his compensation at beginning of his term. Op. Atty. Gen. (470i), June 3, 1936.

Surplus fund in general fund may be transferred or loaned to road and bridge fund, and although money in a special fund cannot be diverted from specific purpose for which it was levied and collected, council may borrow from one fund for use in another where there is no immediate need for using money in fund borrowed from. Op. Atty. Gen. (476a-15), July 10, 1936.

If village has funds on hand sufficient for purpose, or will have such funds when taxes already levied have been collected, village warrants or orders may be issued in anticipation of collection of taxes for construction of a village community hall without an election, but if such funds are not available, it is necessary to submit to voters proposition of issuing bonds or certificates of indebtedness. Op. Atty. Gen. (476b-8), Aug. 13, 1937.

Village may purchase a building to be used as a village hall. Op. Atty. Gen. (476b-8), Mar. 4, 1938.

Council has right to adopt its own rules and regulations as to procedure and president has right to make or second a motion while occupying chair. Op. Atty. Gen. (124), Mar. 25, 1938.

Village under general law is not authorized to enact ordinance providing for licensing of electricians. Op. Atty. Gen. (477b-37), Mar. 24, 1938.

(1).

Op. Atty. Gen., Feb. 19, 1934; note under §1039.

Village council of village organized under 1905 law may fix compensation of deputy clerk appointed under §1177. Op. Atty. Gen., Feb. 26, 1929.

Council of village incorporated under Laws 1885, c. 145, and electing not to come under the 1905 Revised Laws, has power to fix the compensation of the village assessor on any reasonable basis that it deems proper. Op. Atty. Gen., June 20, 1931.

Where village clerk neglects to make small purchases of stationery, etc., president of council should receive authority from the council before making such purchases. Op. Atty. Gen., Oct. 2, 1931.

The cost of instituting or defending an election contest cannot be paid by a village. Op. Atty. Gen., Dec. 23, 1931.

Exact wording of statute need not be followed verbatim in passing an ordinance. Op. Atty. Gen., Mar. 19, 1932.

Village council may deduct from salary of assessor previous over-payments of compensation. Op. Atty. Gen., Apr. 8, 1932.

A village may pay a salary to a constable for police work. Op. Atty. Gen., July 15, 1933.

A township cannot expend town money in opposing annexation of territory to village unless it will result in added assessments. Op. Atty. Gen., Aug. 7, 1933.

Salary of a policeman may be increased or decreased any time during the year. Op. Atty. Gen. (624c-11), June 19, 1935.

Compensation of village treasurer, under the general law, is governed by laws relating to compensation of town treasurers. Op. Atty. Gen. (456f-2), Oct. 18, 1935.

(2).

Municipality cannot be compelled to furnish criminal forms to justice of the peace. Op. Atty. Gen. (266a-3), Oct. 4, 1934.

(3).

A mining engineer may be employed if absolutely necessary to assist attorney in preparation for tax litigation involving mining properties, but a mining engineer may not be employed on a permanent salary. Op. Atty. Gen. (59a-4), August 30, 1939.

(4).

Under subd. 4, it is discretionary with the village council to demand bond of officers appointed. Op. Atty. Gen., May 1, 1929.

Offices of village marshal and street commissioner are not incompatible. Op. Atty. Gen., Feb. 25, 1931.

It would not be legal for the village council of Sturgeon Lake to employ an attorney to represent the people at a hearing of the railroad and warehouse commission on a petition of a railroad to take away agency service at that point. Op. Atty. Gen., Aug. 17, 1931.

Office of village treasurer and that of street commissioner are not incompatible. Op. Atty. Gen., Apr. 5, 1932.

Non-resident cannot be employed as village marshal. Op. Atty. Gen., June 6, 1932.

Neither village nor city attorneys are under any obligation to prosecute violators of state laws in justice court. Op. Atty. Gen., Sept. 26, 1932.

Council having power of appointing policeman in village has right to remove him by will without cause. Op. Atty. Gen., Jan. 27, 1933.

Offices of village attorney and village treasurer are incompatible. Op. Atty. Gen., Jan. 18, 1934.

Village may employ an attorney on a contingent fee basis. Op. Atty. Gen., Jan. 22, 1934.

Village council is not required to accept the lowest bidder in employing a village marshal. Op. Atty. Gen. (471k), July 20, 1934.

Village may retain an attorney who is not a resident and pay him on a monthly basis. Op. Atty. Gen. (469b-1), Aug. 21, 1935.

Village may employ nonresident attorney. Op. Atty. Gen. (870j), Jan. 3, 1936.

Police officers must furnish bonds before they are qualified as such. Op. Atty. Gen. (785c), July 27, 1936.

Village may pay expenses of policeman incurred in defense of prosecution for assault for acts of policeman performed in good faith in exercise of his official duty. Op. Atty. Gen. (463a-8), Mar. 18, 1937.

Municipality may reimburse police officer for expenses and attorney's fee necessarily incurred in action for false arrest and imprisonment, but may not pay for services of an attorney in defense of bondsman of police officer. Op. Atty. Gen. (476a-5), May 20, 1937.

County attorney is under no obligation to prosecute misdemeanor cases before justice of the peace except where duty is specifically imposed by law. Op. Atty. Gen. (121b), Aug. 23, 1937.

Village attorney is required to prosecute all violations of village ordinances before a justice of the peace, but is not obligated to prosecute violations of state laws or give aid, counsel and advice to justice of the peace. *Id.*

Taxpayers employing an attorney to appeal from allowance of a claim by council were not entitled as a matter of right to reimbursement of attorney fees incurred by them, though they were partially successful. Op. Atty. Gen. (476B-3), August 3, 1939.

There can be only one marshal. Op. Atty. Gen., (785p), August 7, 1939.

(5).

Village has inherent power to hire a person to take charge of public playgrounds. Op. Atty. Gen., June 10, 1930.

Op. Atty. Gen. (469a-15), Apr. 26, 1934; note under §1117.

Council may construct village hall without vote of the people if village has funds on hand sufficient for purpose, and issue warrants therefor if there be taxes in process of collection which will be available for their payment. Op. Atty. Gen. (476b-8), Apr. 24, 1934.

Where village voted bonds to erect village auditorium and fire hall, to be used partly as village hall, and discovered that \$5,000 was insufficient, village council could issue warrants of indebtedness for the completion of the building without a vote of electors, provided village has funds on hand sufficient for that purpose or will have such funds when taxes levied have been collected. Op. Atty. Gen. (476b-8), Jan. 26, 1935.

(6).

Does not authorize council to employ surveyor to replat village. Op. Atty. Gen., May 14, 1930.

(7).

In villages having more than 3,200 population and valuation of less than \$1,000,100, who afford fire protection to other towns or villages, proceeding for purchase of fire equipment is legalized. Laws 1939, c. 179.

A village may extend its water mains to some fifteen families living about fifteen hundred feet from the platted portion of the village, if the principal purpose is to furnish fire protection, and cost may be paid by a general tax levy, but the town cannot join with the village in making the extension. Op. Atty. Gen., May 13, 1931.

A village cannot enter into a lease of fire apparatus which is in reality a contract of purchase. Op. Atty. Gen., Oct. 6, 1931.

Villages cannot purchase fire apparatus on a conditional sales contract providing for payments extending beyond the period of one year, or beyond the term of office of the village council. Op. Atty. Gen., Oct. 6, 1931.

Village cannot enter into conditional sales contract for purchase of fire apparatus. Op. Atty. Gen., Aug. 23, 1933.

Village has no power to levy a special tax for fire equipment except as authorized by §4031-11. Op. Atty. Gen. (481b-7), Jan. 5, 1935.

Whether an oil station is fireproof within meaning of ordinance is a question of fact. Op. Atty. Gen. (477b-34), Oct. 22, 1935.

It is governmental duty to furnish fire protection to property regardless of whether property or insurer thereof contributes towards cost of such protection. Op. Atty. Gen. (688k), Dec. 4, 1935.

Village may pass ordinance governing kind of material to be used in construction of building, requiring plumbers, plasterers and electricians to have license from village, regulate height of ceilings, so long as regulation tends to protect health, safety and comfort. Op. Atty. Gen. (477b-11), Jan. 22, 1937.

An ordinance regulating gasoline filling station must be reasonable and not discriminatory. Op. Atty. Gen. (477b-10), Apr. 29, 1937.

Village council is authorized to construct village hall without election when village has funds on hand sufficient for purpose. Op. Atty. Gen. (469c-6), June 28, 1937.

Village may pay salary to chief of volunteer fire department rather than payment for meetings and calls made. Op. Atty. Gen. (469a-5), Dec. 20, 1937.

In absence of an ordinance regulating construction of buildings, it is not necessary that one obtain a permit before erecting a building. Op. Atty. Gen. (471e), Apr. 25, 1938.

Village council may adopt ordinance regulating location, size and use of buildings to be erected, and in order to ascertain whether any proposed building complies with ordinance, may require building permits to be obtained from council. Id.

Includes authority to dig well, and council may award a contract for a new well and issue warrants after a tax levy without any affirmative vote of electors. Op. Atty. Gen. (469c-11), March 13, 1939.

Borough of Belle Plaine may by ordinance reasonably regulate establishment and construction of filling station, but this would not include power to suppress or prohibit. Op. Atty. Gen. (477b-10), April 10, 1939.

Village may pay fees for attendance at fires and for regular attendance at meetings of fire department, amount of fees to be fixed by village council. Op. Atty. Gen. (688), June 12, 1939.

Village council may adopt an ordinance prohibiting construction of buildings without securing a permit, but ordinance must prescribe conditions upon which property owner is entitled to a permit. Op. Atty. Gen. (477b-3), August 11, 1939.

(8).

General power granted to a municipality to lay out, open, and extend streets authorizes by implication an extension of a street across a railroad right of way when such extension does not essentially impair it for railroad purposes; and necessity for taking of easement is a legislative question not subject to judicial review. *Village of Lamberton v. C.*, 196M597, 265NW801. See Dun. Dig. 6621.

An ordinance prohibiting the use of village street for distribution of gasoline or other automobile service by hose or other appliances extending over curb is valid, even as to pumps already constructed on the sidewalk. Op. Atty. Gen., May 25, 1931.

A village may remove gasoline pumps and other obstructions from its street. Op. Atty. Gen., May 25, 1931.

A village organized under Laws 1885, c. 145, §21(11) [Mason's Minn. Stat., 1927, pp. 218-226], may improve streets by applying tarvia or oil without a petition of the property owners and without assessing the cost against abutting property. Op. Atty. Gen., May 27, 1931.

This section is not applicable to a village operating under Laws 1885, c. 145, [Mason's Minn. Stat., pp. 218-226]. Op. Atty. Gen., May 27, 1931.

Village council had jurisdiction to vacate a road within its limits though it had been constructed by the town and was being maintained by the town. Op. Atty. Gen., Mar. 22, 1932.

A village does not have power to levy a special act for maintenance of its streets. Op. Atty. Gen. (481b-7), Jan. 5, 1935.

Village council has no legal authority or power to grant privilege to individuals of installing gasoline curb pump on state trunk highway, and a village would be liable for any injuries caused by such an obstruction to one who was in exercise of due care. Op. Atty. Gen. (396g-9), Jan. 8, 1935.

Villages may issue bonds to pay cost of land for park purposes upon approval by electors. Op. Atty. Gen. (44b-10), June 6, 1935.

Village may construct curbing and gutters for trunk highway and pay for the same with certificates of indebtedness, but if it issues bonds there must be vote of electors, and improvement may be paid out of general fund without assessment against abutting owners. Op. Atty. Gen. (476a-4), Aug. 29, 1935.

Whether gasoline curb pump constitutes an unlawful obstruction or nuisance is a matter for governing

body of municipality to determine. Op. Atty. Gen. (396a-1), Mar. 4, 1938.

Villages are not required to levy special assessments to pay cost of constructing sidewalks, and bonds may be issued under §1942 to pay cost by submitting question of issuance to a vote of electors. Op. Atty. Gen. (480b), May 11, 1938.

A village ordinance that no building should be re-rented to nonresidents without having running water, bath room, and sewage or disposal system, violates equal protection clause of constitution. Op. Atty. Gen., (477b-3), Oct. 13, 1938.

(9).

Village ordinance prohibiting the keeping of dog kennels without reference to whether such kennels created a nuisance held invalid. 173M61, 216NW535.

License ordinance for dogs is not invalid because they are also assessed as personal property. Op. Atty. Gen. (146d-4), July 19, 1939.

Ordinance requiring licensing of dogs is valid as against owners of dogs confined to their own premises. Op. Atty. Gen. (146d-4), August 8, 1939.

(11).

A village may prescribe by ordinance reasonable rules and regulations for the management of its cemetery located outside its boundaries. Op. Atty. Gen., Aug. 3, 1931.

Improvement of parks may be paid for out of general funds of village. Op. Atty. Gen. (476b-10), Dec. 31, 1937.

(12).

This paragraph is superseded by Laws 1933, c. 7, as to boxing exhibitions. Op. Atty. Gen., Apr. 17, 1933.

A village has no authority to pass ordinance requiring payment of license fee for boxing exhibition. Op. Atty. Gen., Apr. 17, 1933.

Ordinance declaring the practice of going in and upon private residences by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, when uninvited, to be a nuisance, is valid. Op. Atty. Gen. (477b-21), July 2, 1934.

Ordinances regulating hawkers and peddlers and solicitors must be reasonable and not prohibitory. Op. Atty. Gen. (477b-21), Sept. 30, 1935.

A municipality may ordain that practice of peddlers and solicitors in going upon private premises and homes and soliciting orders without an invitation by occupants thereof is a nuisance. Op. Atty. Gen. (477b-21), Oct. 16, 1935.

A municipality may prescribe reasonable conditions as to time when, places where, and manner in which right of farmer to sell produce may be exercised, so long as no license is required, and conditions are reasonable. Id.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

Selling bread from truck at houses is "peddling" and may be licensed or regulated. Id.

Soliciting for dry cleaning is not "peddling." Id. Reason for ordinances licensing transient dealers is based on nuisance feature, and not because transient merchant is underselling local merchants, and restrictions must be reasonable and not prohibitive. Op. Atty. Gen. (290p), April 21, 1939.

Section 1186(12) gives village authority to license and regulate transient dealers in accordance with §7340. Id.

(13).

Council may by ordinance prohibit playing of cards in places where 3.2 beer is sold. Op. Atty. Gen. (733e), March 21, 1939.

Village may not license places for card playing, winner to be paid in chips which will be taken in trade by the house. Op. Atty. Gen. (733e), March 28, 1939.

(15).

Village council cannot by resolution recite facts showing that recorder is failing to perform the duties of his office and declare the office vacant. Op. Atty. Gen., Oct. 20, 1931.

It is ground for removal of member of water, light, power and building commission that he sells supplies to the commission or purchases supplies from other members, but village council has no power to remove the officer, and officer may recover value of supplies to the village. Op. Atty. Gen. (707b-6), Feb. 11, 1936.

(17).

A non-resident veterinarian may be appointed as an inspector under a village local health board. Op. Atty. Gen., Dec. 29, 1931.

Village may regulate buying and selling of junk and storing of hides and wool under this subdivision. Op. Atty. Gen. (477b-20), Sept. 7, 1934.

Prohibiting the keeping of turkey ranches within a small village, but permitting families to have a few chickens or turkeys for their own use, would be valid if turkey ranches were in fact a nuisance. Op. Atty. Gen. (477b-20), Nov. 5, 1936.

Village may enact ordinance prohibiting undertaking establishment in purely residential district. Op. Atty. Gen. (477b-20), June 21, 1937.

A fence erected by an abutting landowner across a platted but ungraded and seldom used street may be declared a nuisance by ordinance and may be abated by

action or removed by council. Op. Atty. Gen. (396g-9), August 18, 1933.

(18).

Village council may extend its water mains and pay for the same by general taxation and the expense could be paid out of the general fund of the village or out of the waterworks fund. Op. Atty. Gen., Apr. 4, 1931.

Subdivisions 18 and 19 are sources of authority of city council in matters of providing for electric lighting of streets and for pumping water. §§1252, 1253 seem to be applicable only to proposed contracts that would include distribution and supplying electric energy to inhabitants. Op. Atty. Gen., Mar. 20, 1933.

(19).

Op. Atty. Gen., Mar. 20, 1933; note under (18).

Conditional sales contract of electric equipment to a village to be paid for out of net earnings of sale of electricity after all other charges have been paid, is permissible. Op. Atty. Gen., Oct. 20, 1932.

Village may not purchase engine under conditional sales contract to be paid for out of general fund, but having purchased an engine under conditional sales contract, it may pay out of general fund reasonable value of lighting street and have such money used to retire payments under the contract. Op. Atty. Gen. (476a-6), Feb. 11, 1936.

One village council may bind subsequent councils to either grant extension of electric franchise or pay portion of cost of white way constructed by a private utility. Op. Atty. Gen. (707b-14), Oct. 31, 1936.

Franchise granted should be such as to protect village and consumers therein. Op. Atty. Gen. (624a-5), Aug. 20, 1938.

Contract of village for purchase of electricity over a period of ten years may not be entered into without first advertising for bids. Op. Atty. Gen. (624c-2), Sept. 10, 1938.

(21).

A village may transfer money from the general fund to the road and bridge fund if outstanding warrants against the general fund have been taken care of and if there is a surplus in that fund over the necessary requirements for the balance of the year, but there can be no transfer from the road and bridge fund to the general fund. Op. Atty. Gen., Sept. 26, 1931.

A village, in making up its budget, may request a certain gross amount for its general fund and take care of road and bridge expenses out of the general fund, providing the total amount raised for all purposes does not exceed twenty mills. Op. Atty. Gen., Sept. 26, 1931.

A village has no power to issue warrants falling due at a particular date in the future. Op. Atty. Gen., Oct. 6, 1931.

Cost of destroying weeds of a character permitting the charging thereof against the land must be paid by the town forthwith. Op. Atty. Gen., Nov. 24, 1931.

Expense incurred by a mayor or president of a village, or borough council, a county commissioner, or a county agent, in inspecting a field for the purpose of determining whether it is necessary to cut down and destroy a crop to eradicate noxious weeds is properly chargeable as an expense to be assessed against the land. Op. Atty. Gen., Nov. 24, 1931.

Village may transfer balance in general fund to poor relief fund. Op. Atty. Gen., Aug. 2, 1932.

Village council was without authority to lend money to a farmers' elevator and take note endorsed by directors, and claim may not be compromised on account of insolvency of directors. Op. Atty. Gen., May 3, 1933.

Village treasurer has right to pay bonds and interest when due out of funds collected for that purpose, though ordered not to do so by village council. Op. Atty. Gen., July 14, 1933.

Counties and other municipalities can legally sell bonds to federal government under National Industrial Recovery Act. Op. Atty. Gen., Aug. 15, 1933.

Village operating under per capita tax law may levy tax for tourist camping grounds, providing entire levy does not exceed the per capita limit. Op. Atty. Gen. (5191), Dec. 15, 1934.

Village may not use public money for erection and operation of a cold storage locker plant. Op. Atty. Gen. (469a-12), March 9, 1939.

Warrants can only be issued in anticipation of collection of a tax levy already made. Op. Atty. Gen. (469c-11), March 13, 1939.

1186-4. Statements of improvements on lots or parcels of land filed with recorder.

Op. Atty. Gen. (476b-14), June 12, 1934; note under §1229.

1186-5. Certain villages to employ public accountants.—The village council of any village having a population of more than 1,000 and having an assessed valuation of taxable property, exclusive of moneys and credits, of more than \$2,000,000.00, may employ public accountants on a monthly basis or on a yearly basis for the purpose of auditing, examining and reporting upon the books and records of account of such village. (Apr. 14, 1937, c. 215, §1.)

1186-6. Same—Who are public accountants.—For the purpose of this act public accountants are herein defined as any individual or individuals, who for a period of five years prior to the date of such employment, have been actively engaged exclusively in the practice of public accounting. (Apr. 14, 1937, c. 215, §2.)

1186-7. Same—Limit of expenditures.—All expenditures for the purposes herein set forth shall be within the statutory limits upon tax levies in such villages. (Apr. 14, 1937, c. 215, §3.)

1186-8. Village councils to regulate and control cemetery grounds.—The village council of any village of this state shall have power to regulate and control the laying out and establishment of cemetery grounds by any person, association or corporation within the corporate limits of such village. (Apr. 22, 1937, c. 348, §1.)

Sec. 2 of Act Apr. 22, 1937, cited, provides that the Act shall take effect from its passage.

Village is without power to contribute towards maintenance of a private cemetery located within village. Op. Atty. Gen. (870j), April 1, 1939.

1187. Licensing amusements, peddlers, etc.

Ordinances regulating hawkers and peddlers and solicitors must be reasonable and not prohibitory. Op. Atty. Gen. (477b-21), Sept. 30, 1935.

A municipality may ordain that practice of peddlers and solicitors in going upon private premises and homes and soliciting orders without any invitation by occupants thereof is a nuisance. Op. Atty. Gen. (477b-21), Oct. 16, 1935.

A municipality may prescribe reasonable conditions as to time when, places where, and manner in which right of farmer to sell produce may be exercised, so long as no license is required, and conditions are reasonable. Id.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

1188. Council to license public dance halls.

Village councils may not hold special elections to submit to the voters, question of whether or not public dances shall be held on Sunday nights. Op. Atty. Gen., June 22, 1931.

1189. Sewers and drains—Bonds.

Village council had power to construct sewers or to permit construction by private party without vote of people. Op. Atty. Gen., Apr. 12, 1932.

This section is controlled by §1933-4 with respect to limit of indebtedness. Op. Atty. Gen. (44a-4), Feb. 23, 1938.

Section has no application to construction of sewers by a village unless cost is to be paid from proceeds of a bond issue. Op. Atty. Gen., (387g-2), June 15, 1938.

1192. Tax for entertainment.

Repealed by Laws 1927, c. 79 [§§1933-17 to 1933-22]. Op. Atty. Gen., Oct. 28, 1929.

Villages should furnish musical entertainment in form of band concerts pursuant to §1192 and §1933-17 rather than under Laws 1937, c. 233. Op. Atty. Gen. (469c-1), June 5, 1937.

Section 1192 was not impliedly repealed by §1933-18, and village may levy one mill tax without vote of electors. Op. Atty. Gen. (519h), July 29, 1937.

Appropriation for bands for musical entertainment purposes cannot be made where no tax has been levied for such purpose. Op. Atty. Gen. (469c-1), May 9, 1938.

Village council may levy tax without submitting question to voters. Op. Atty. Gen. (519h), June 27, 1938.

Village may levy a tax to assist in maintenance of American Legion post drum and bugle corps providing public musical entertainment. Id.

1192-1. Village may establish charity bureau.—

The village council of any village now or hereafter having a population of more than 8,000 inhabitants may establish and maintain a public charity bureau for the purpose of providing public charitable relief to the poor therein, and to assist ex-service men in securing hospitalization, sick relief, Federal Aid or benefits, and for the relief generally of such persons, and to defray the expense thereof. (Act Mar. 7, 1933, c. 60, §1; Apr. 15, 1935, c. 187.)

1192-2. May establish recreational department.—

Such village council may establish and maintain a recreational department for the purpose of establish-

ing and maintaining recreational facilities for the general welfare of the inhabitants of such village. (Act Mar. 7, 1933, c. 60, §2.)

1192-3. May establish bureau of information and publicity.—Such village council may establish and maintain a bureau of information and publicity for the purpose of furnishing tourists information and for outdoor advertising and for preparing, publishing and circulating information and facts concerning the recreational facilities and business and industrial conditions of the community. (Act Mar. 7, 1933, c. 60, §3.)

Village of Hibbing may establish and maintain a bureau of information in the offices and in conjunction with the local chamber of commerce using the same secretary and stenographer, providing it does not pay such employees for their services performed for the chamber of commerce. Op. Atty. Gen. (476b-2), July 28, 1934.

A village information bureau has no authority to give the money to Minnesota Arrowhead Association, a semi-public association disseminating news and information pertaining to the Arrowhead country of which the village is a part. Id.

1192-4. May pay expenses from general fund of village.—The village council of such villages coming within the classifications of Section 1 of this act are further authorized and empowered to pay from the general fund of such municipalities, the expenses incurred by the governing officers in the performance of their official duties, provided, that this shall not be construed as authorizing trips for lobbying purposes or trips to meetings or conventions not in connection with specific municipal projects pending before the officer making the trip. (Act Mar. 7, 1933, c. 60, §4.)

1192-5. Limitations on expenditures.—All expenditures for the purposes herein set forth shall be within the statutory limits upon tax levies in said village. (Act Mar. 7, 1933, c. 60, §5.)

1195. Meetings of council—Compensation, etc.

Members of city council forming part of taxpayers' committee to investigate rates of other villages were not entitled to expenses on trip. Op. Atty. Gen., May 4, 1933.

Where all members of village council are present at a special meeting and take part therein, failure to give notice of meeting is immaterial. Op. Atty. Gen. (471e), Apr. 25, 1938.

As a general proposition time for holding regular meetings may be changed by action of council alone, but a meeting held at any other time than that fixed for a regular meeting is legal if all members actually attend and participate. Op. Atty. Gen. (471e), April 11, 1939.

1196. Ordinances, how enacted.

Absent charter or statutory requirement, a resolution of a village council for construction of power plant need not be signed, attested and published. *Davies v. V.*, 287NW1. See Dun. Dig. 6669b.

Ordinances, rules and by-laws passed by council and the annual financial statement of the clerk must be published in a newspaper selected by the council, but clerk is not required to publish the minutes of the council proceedings in detail into financial records. Op. Atty. Gen., Feb. 10, 1934.

Village council may publish minutes of all of its regular meetings and pay therefor out of general funds of village. Op. Atty. Gen. (218j-8), Jan. 14, 1936.

1197. Publication—Effect.

Davies v. V., 287NW1; note under §1196.

Publication of ordinances only in minutes of council proceedings is sufficient. Op. Atty. Gen., June 6, 1933.

If there is newspaper anywhere in county ordinance posted in three places in village is not valid. Op. Atty. Gen., Oct. 11, 1933.

A single ordinance may be enacted for purpose of numbering old village ordinances which may be obsolete or superseded by other later ordinances, and it is not necessary to republish old ordinances. Op. Atty. Gen., Mar. 21, 1934.

1197-1. Publication of village proceedings.—The councils of all villages may cause to be published once, in some newspaper published in such village the official proceedings of such village, and such publication shall be made as soon as may be, and not later than thirty (30) days after the meeting at which such proceedings were had (Apr. 26, 1937, c. 472, §1.)

Davies v. V., 287NW1; note under §1196.

Publication in newspaper is not mandatory. Op. Atty. Gen. (59a-17), Jan. 8, 1938.

1197-2. Same—What are included in village proceedings.—The term "proceedings" as used in this act shall include a statement of all motions and/or resolutions passed by such council, and a brief itemized statement of claims allowed or disallowed giving the name of the claimant and amount and general purpose of the claim.

Nothing in this act shall abrogate the publication of ordinances, rules and by-laws as now required by statute. (Apr. 26, 1937, c. 472, §2.)

1198. Execution of instruments.

Op. Atty. Gen. (469a-15), Apr. 26, 1934; note under §1117.

Mayor of village must sign intoxicating liquor licenses. Op. Atty. Gen. (218g-11), Feb. 25, 1935.

1199. Contracts—Members of council excluded, when—Bids.—No member of a village council shall be directly or indirectly interested in any contract made by such council, and every violation hereof shall be a misdemeanor: Provided, however, that any village council, otherwise having authority, may purchase merchandise or materials in which a member of such village council is interested by four-fifths vote of such council, when the consideration for such purchase of such merchandise or materials does not exceed \$50.00 in any year. All contracts for the purchase of merchandise, materials or equipment or for any kind of construction work undertaken by the village which requires an expenditure of \$100.00 or more, if not to be paid from road or poll tax, shall be let to the lowest responsible bidder, after public notice of the time and place of receiving bids. (R. L. '05, §731; G. S. '13, §1279; Apr. 29, 1935, c. 344, §1; Apr. 4, 1939, c. 139.)

Sec. 2 of Act Apr. 29, 1935, cited, repeals inconsistent acts.

Interest of officials in general in public contracts, see c. 5B-end.

Bid for equipment for municipal power plant was not vitiated by a condition therein that ouster proceedings would be instituted by village to remove competition within the immediate future, franchise of private utility being due to expire within a short time and bidders in any event having right to have competition removed. *Interstate Power Co. v. F.*, 194M110, 259NW691. See Dun. Dig. 6707(96).

That matter of granting a certain franchise for electricity was under public discussion for some time before council acted did not excuse failure to call for bids. *Casey v. C.*, 202M510, 279NW263. See Dun. Dig. 6707.

Village should have called for bids before granting a proposed franchise for distribution and sale of electric current. Id. See Dun. Dig. 6707.

A city accepting water from well for six years was liable for contract price, though contract was let without a proper call for bids and contained terms not included in call and purported to bind city to abandonment of a certain mine. *Chisholm Water Supply Co. v. C.*, 285NW895. See Dun. Dig. 6707.

Village is not required to advertise for bids in purchasing automobile to be used on road work and to be paid for out of road or poll tax. Op. Atty. Gen., Apr. 5, 1929.

A village cannot lease personal property under a contract permitting it to pay \$1 at the expiration of the lease and retain the property. Op. Atty. Gen., May 5, 1931.

It is illegal for members of village council, members of water and light commission, and street commissioners to purchase their coal through the village, even though the village is reimbursed in full for the cost. Op. Atty. Gen., Oct. 7, 1931.

A city council purchasing electrical energy may comply with this section and receive bids, but this is not a necessary prerequisite. Op. Atty. Gen., Feb. 3, 1932.

Village treasurer is not member of village council so as to preclude him from being interested in contract with village. Op. Atty. Gen., Apr. 5, 1932.

This section does not apply to village, such as Litchfield, that existed at time of enactment. Op. Atty. Gen., July 28, 1932.

Village council may pay for repair of sidewalk out of road fund. Op. Atty. Gen., June 9, 1933.

Water and light commission has no power to enter into lease providing for option to buy stokers without advertising for bids. Op. Atty. Gen., Aug. 12, 1933.

Position of contractor and engineer's supervisor are incompatible but contractor who has prepared plans may bid on contract. Op. Atty. Gen., Oct. 4, 1933.

This section does not apply to city operating under Sp. Laws 1891, c. 46, respecting right of water, light, power and building commission to purchase machines without bids. Op. Atty. Gen., Mar. 1, 1934.

Member of village council may enter into contract with water, light, power and building commission, hav-

ing full charge of construction work. Op. Atty. Gen., Mar. 19, 1934.

Village officer is not entitled to contract with village so as to be paid for trucking flour for the Red Cross. Op. Atty. Gen. (90a), Apr. 27, 1934.

Village officer is not entitled to receive mileage for use of automobile on trips made in interest of village. Op. Atty. Gen. (90a), Apr. 27, 1934.

Licenses may be granted to councilman or clerk of a village. Op. Atty. Gen. (217b-6), Aug. 3, 1934.

It is not necessary to advertise for bids in connection with premiums for compensation insurance. Op. Atty. Gen. (517j), Aug. 20, 1934.

Village may insure property in company in which member of village council is an employee on a straight salary and has no pecuniary interest in the contract of insurance. Op. Atty. Gen. (471k), July 20, 1934.

Village council is not required to accept the lowest bidder in employing a village marshal. Id.

Statute prohibiting letting of contract where amount involved is more than a certain sum have no application to day labor work. Op. Atty. Gen. (707d), Oct. 16, 1934.

Authority of villages to purchase personal property under conditional sales contract and necessity for bids, discussed. Op. Atty. Gen. (707a-15), Dec. 4, 1934.

Where village of North St. Paul desires to enter into contract with Ramsey County for purchase of water, temporarily pending the digging of a new well, the contract is to be entered into by the water, light, power and building commission and not the village council, and such commission may require bids or not as it shall determine. Op. Atty. Gen. (469b-6), Dec. 11, 1934.

Where president of village council is a mere employee of an elevator company, working on a salary basis and not a stockholder or an officer and has no direct or indirect financial interest in elevator company's business, except as a salaried manager, and receives no commission or bonus or other remuneration except such monthly salary, elevator may sell coal to village. Op. Atty. Gen. (707b-6), Feb. 13, 1935.

A license is not a contract and an alderman of a city may receive a license to sell intoxicating liquors, except that he cannot vote on his own application. Op. Atty. Gen. (218g), Feb. 16, 1935.

Village councilman cannot be employed in exclusive liquor store operated by village. Op. Atty. Gen. (218g-13), Apr. 4, 1935.

Village councilman cannot receive compensation for services in connection with a municipal liquor store, and all employees must be hired by council and all obligations handled as other obligations of village. Op. Atty. Gen. (218g-13), Apr. 16, 1935.

Village was not authorized to contract for purchase of pump without calling for bids, and could not purchase one under a conditional sales contract with installments to be paid out of general village fund derived from taxation. Op. Atty. Gen. (707a-15), Dec. 27, 1935.

Village operating municipal liquor store cannot lease a building owned by a member of the council. Op. Atty. Gen. (217b-8), Jan. 21, 1936.

Village council may not award printing contract to newspaper of which member of council is part owner and publisher, even though such member takes no part in the vote, except where law requires printing to be done in village and such member owns the only qualified newspaper therein. Op. Atty. Gen. (707b-6), Jan. 18, 1936.

It is ground for removal of member of water, light, power and building commission that he sells supplies to the commission or purchases supplies from other members, but village council has no power to remove the officer, and officer may recover value of supplies to the village. Op. Atty. Gen. (707b-6), Feb. 11, 1936.

There is no charter or statutory provision requiring that Lake City advertise for bids before purchasing personal property, such as a truck. Op. Atty. Gen. (59a-38), May 7, 1936.

This section originated as a part of General Village Act of 1885 and applies only to villages organized thereunder. Id.

Real estate to be used for a particular purpose, such as city dump, may be purchased without advertising for bids. Op. Atty. Gen. (469a-12), Nov. 12, 1936.

If cost is more than \$100, village must call for bids for publication of financial statement and award printing to lowest responsible bidder, and term "responsible" is not limited to financial responsibility. Op. Atty. Gen. (707a-15), Nov. 13, 1936.

Village of Litchfield operating under special charter may purchase Diesel engines without advertising for bids. Op. Atty. Gen. (707a-15), Nov. 17, 1936.

This section does not apply to villages organized under Laws 1885, c. 145. Op. Atty. Gen. (707a-15), Jan. 30, 1937.

An officer of a village or city may not insure property of municipality in company he represents as an agent. Op. Atty. Gen. (476b-9), May 24, 1937.

If labor in connection with improvement of parks is furnished by WPA authority and village is to furnish materials used, village must advertise for bids for such materials if amount of purchase exceeds \$100. Op. Atty. Gen. (476b-10), Dec. 31, 1937.

Employee of lumber company working on a salary basis and having no direct or indirect financial interest in company's business does not have the "interest" re-

ferred to in this section. Op. Atty. Gen. (707a-15), Jan. 21, 1938.

Village must advertise for bids for materials to be used in rebuilding village hall, though it involves a WPA project and a federal grant. Op. Atty. Gen. (707a-15), Jan. 21, 1938.

Village treasurer, not being a member of the village council, is not precluded from being interested in a contract with village. Op. Atty. Gen. (707a-15), Jan. 21, 1938.

Any official publication which must be published by a village pursuant to a statute requiring publication to be made in newspaper published in village may be given to a member of village council, if his newspaper is the only one in the village which meets statutory requirements, but where statutes do not require publications in village, publication may not be made in newspaper owned by member of council, unless contract comes within provisions of this section. Op. Atty. Gen. (90a-1), Apr. 25, 1938.

County or village may purchase land at sales held pursuant to Laws 1935, c. 386 (§2139-15). Op. Atty. Gen. (425c-10), May 4, 1938.

Contract of village for purchase of electricity over a period of ten years may not be entered into without first advertising for bids. Op. Atty. Gen. (624c-2), Sept. 10, 1938.

Members of water, light, power and building commission of a village may enter into contract with village to furnish material for construction of a new sewer system if commission has no voice in making of contract. Op. Atty. Gen., (469a-2), Oct. 22, 1938.

This section does not apply to a village operating under Laws 1885, c. 145. Op. Atty. Gen., (476b-7), Nov. 22, 1938.

City clerk cannot accept employment for compensation to make investigations of poor relief cases. Op. Atty. Gen. (470b), Dec. 19, 1938.

Section does not apply to such villages as Heron Lake. Op. Atty. Gen. (12b-1), Jan. 25, 1939.

"Public notice" means whatever is reasonable under circumstances, and though in a normal situation both posted and public notice should be given, a contract for a new well may be let without advertising for bids where water supply has become dangerously inadequate. Op. Atty. Gen. (469c-11), March 13, 1939.

Fact that engineers recommend site for disposal plant which is owned by mayor does not alter rule that a village officer may not contract with village, but this would not prevent condemnation of property. Op. Atty. Gen. (90e-6), March 27, 1939.

Renewal of insurance after a councilman has qualified and assumed office would violate statute. Op. Atty. Gen. (90B-4), April 1, 1939.

Section does not apply to villages operating under Laws of 1885. Op. Atty. Gen. (707a-15), April 24, 1939.

Section does not apply to villages other than those organized under village act of 1905, and it does not apply to St. Peter which is organized under special Laws 1891, c. 5. Op. Atty. Gen. (707a-4), May 3, 1939.

Statutory directions as to time and manner of opening bids are intended for protection of public and are mandatory, but after bids have been opened officers are entitled to a reasonable time for comparison and calculation necessary to enable them to ascertain who is lowest or most favorable bidder. Op. Atty. Gen. (707a), June 7, 1939.

1200. Control of streets.

Town board is without jurisdiction to vacate part of a town road which runs through the unplatted portion of a village organized under Revised Laws 1905, c. 9, and such highway may be vacated only by action of the village council. Op. Atty. Gen., Apr. 6, 1931.

World War veterans are not exempt from poll tax. Op. Atty. Gen. (422b), May 22, 1934.

Village may not lease an unused street for private purposes, proper procedure being to vacate street and sell it. Op. Atty. Gen. (396g-16), Apr. 29, 1936.

Where town and village are not separated for purposes of election and assessments, town tax for road and bridge purposes may not be levied against property in village. Op. Atty. Gen. (519o), Dec. 20, 1938.

1201. Vacating streets.

Vacated portion of village street reverts to the owner of abutting property. Op. Atty. Gen., Mar. 13, 1931.

Village council may not vacate a street with a condition that if it should be needed at any time in the future, it may be opened again for public use. Op. Atty. Gen., Oct. 6, 1931.

A city with a one hundred foot street could vacate fifty feet thereof which would revert to the abutting owners unless the village owned the street in fee. Op. Atty. Gen., Feb. 23, 1932.

Vacation of streets and villages organized under Laws 1885, c. 145, is governed by §29 of that act, and not by this section. Op. Atty. Gen. (817o), Aug. 21, 1935.

Village must follow procedure set forth in this section for vacation of streets, and whether village may sell vacated street to adjoining property owners after vacation depends upon nature of title held by village, since land would revert to owner of fee if village only had an easement in trust for public. Op. Atty. Gen. (396g-16), Jan. 13, 1938.

Village operating under Laws 1885, c. 145, may vacate streets and alleys under this section. Op. Atty. Gen., (396g-16), Nov. 17, 1938.

1203. Benefit assessments—Cost of land, etc.

Lands forfeited to state are not subject to special assessments for local improvements. Op. Atty. Gen. (700a-8), Apr. 5, 1938.

1205. Street improvements—Assessments.

Act July 14, 1937, Sp. Sess., c. 36, validates assessments by villages for sewers and water mains.

Village is under no obligation to place culverts and fill in between village street and adjoining lot so as to afford access to it. Op. Atty. Gen., Apr. 30, 1931.

If entire width of street is taken over as a state trunk highway, village is under no obligation to fill in cut in front of property and install a culvert so that property owner can get access to highway, especially where such property is a filling station which will necessitate extensive filling. Op. Atty. Gen., Apr. 27, 1931.

Village council may pay for repair of sidewalk out of road fund. Op. Atty. Gen., June 9, 1933.

Village council may not make improvements and then start proceedings to levy special assessment. Op. Atty. Gen. (59a-4), March 14, 1939.

Liability of county for sidewalk and curb work done on property owned by county in connection with village WPA project. Op. Atty. Gen. (480a), March 31, 1939.

1207. Mode of assessment of benefit and cost of street improvements—Collection.

City council should not proceed with repair and oiling of streets until this section is complied with. Op. Atty. Gen., (396g-7), Sept. 12, 1939.

1214. Same—Assessments, how made.

Act Apr. 13, 1939, c. 234, authorizes villages in Pope County to levy assessments for sanitary sewers previously constructed. Probably unconstitutional as local and special.

1215-1. Road taxes in villages—Assessment.—All

road taxes, except poll taxes, may be required to be paid in cash in any village in this state whenever a majority of the voters of such village voting by ballot upon the question shall so determine. Such question shall not be voted upon unless a petition signed by at least ten voting taxpayers of such village, praying for the payment in cash of all road taxes, is filed with the clerk or recorder of such village ten days before the annual election in such village, in which case the clerk or recorder shall specify in the notice of such annual election that such question will be voted upon. If such question is decided in the affirmative, all taxes thereafter assessed for the maintenance and repair of roads and bridges in such village shall be paid in money and disbursed by the village council or governing board of such village as other village taxes. The village council or governing board of such village may assess all the property of such village not to exceed six mills on the dollar on the last assessed valuation thereof, and if they so assess, they shall certify the same to the county auditor for extension and collection, the same as other village taxes, and before such taxes are collected, such village council or governing board of such village may pledge the credit of the village by issuing village orders not to exceed the taxes so assessed, to the expense of road and bridge work. Provided, however, that for the year 1909, upon a petition as above provided for, being filed with the village clerk or recorder on or before the last Tuesday in March of said year, the village council may cause a special election to be held for the purpose of voting upon said question, by giving the notice required in the case of special elections in villages. ('09, c. 435, §1.)

The publisher has inserted the above act as having been inadvertently omitted from the statutes, but the attorney general rules that this section is no longer in force. Op. Atty. Gen., Nov. 5, 1930.

1222. Claims, how audited and paid.

Does not apply to the compensation of officials fixed by law or order of city council. Naeseth v. V., 185M526, 242NW6. See Dun. Dig. 6741.

Village cannot take care of payment of wages of laborers by a pay roll system. Op. Atty. Gen., May 5, 1930.

Village warrants may not be reissued with interest coupons attached. Op. Atty. Gen., July 26, 1932.

Village warrants may not be split up by reissuing smaller warrants. Op. Atty. Gen., July 26, 1932.

It is not necessary to give notice to holders of village warrants that funds are available for their payment in order to stop running of interest. Op. Atty. Gen., Sept. 8, 1932.

City warrants or orders should be paid in order of their presentation and not in order of issuance. Op. Atty. Gen., May 27, 1933.

Op. Atty. Gen. (218j-10), Apr. 19, 1934; note under §1174.

All revenue from a municipal exclusive liquor store should be turned over to village treasurer by the manager of the store and should be disbursed in the same manner as other village money. Op. Atty. Gen. (218e), July 25, 1934.

Regularly and continuously employed village employees or officers whose compensation has already been fixed by law or order of common council need not file verified itemized claim. Op. Atty. Gen. (59a-12), Dec. 31, 1934.

Village labor payroll sheet may not be in form of a multisignature claim, but each claim must be separately itemized, verified and filed. Op. Atty. Gen. (469a-8), Jan. 10, 1935.

All expenditures of exclusive liquor store operated by village should be approved by village council and paid in same manner as other village expenditures. Op. Atty. Gen. (218g-13), Apr. 4, 1935.

Village councilman cannot receive compensation for services in connection with a municipal liquor store, and all employees must be hired by council and all obligations handled as other obligations of village. Op. Atty. Gen. (218g-13), Apr. 16, 1935.

Payment of judgment need not be authorized by mayor or council to authorize payment under §1834. Op. Atty. Gen. (63b-10), Nov. 29, 1935.

This section does not relate to villages operating under Laws 1885, c. 145. Op. Atty. Gen. (476a-5), Apr. 17, 1936.

Member of council cannot work in municipal liquor store, and expenses of store and purchase price of liquor must be paid in same manner as other village expenses. Op. Atty. Gen. (218l-2), Mar. 1, 1937.

Money expended in financing or conducting municipal liquor store must be spent in same manner as other village funds, upon audit and allowance by council and by order on treasurer. Op. Atty. Gen. (218g-13), Jan. 27, 1938.

1223. Taxpayer's appeal.

Where by one resolution a village council allows three claims of same claimant which might have been combined in one claim or joined in one action, a single notice of appeal by requisite number of taxpayers is sufficient. Maki v. L., 188M78, 246NW531. See Dun. Dig. 6745.

This section does not apply to a village organized under Laws 1885, c. 145. Op. Atty. Gen., May 22, 1933.

Waiting period of 10 days applies to claim for merchandise sold to municipal liquor stores. Op. Atty. Gen. (476a-5), Jan. 10, 1936.

This section does not relate to villages operating under Laws 1885, c. 145. Op. Atty. Gen. (476a-5), Apr. 17, 1936.

1224. Financial report.

Annual report need not be published in newspaper, posting being sufficient. Op. Atty. Gen. (469a-5), Feb. 3, 1936.

1225. Tax levy.

Villages having population of over 10,000 may appropriate a President's Contingent Fund of \$2,500. Laws 1939, c. 329.

Section 1933-9 places a limitation on expenditure of taxes for tourist camp purposes and is not a grant of power to levy a special tax in addition to general taxes. International Harvester Co. v. S., 200M242, 274NW217. See Dun. Dig. 6689.

Tax for band purposes authorized by Mason's Stat. 1927, §1933-17, may be levied in excess of 2% limit fixed by this section. Op. Atty. Gen., July 5, 1929.

Existing shortage on account of failure of county auditor to extend amount certified in previous years for village corporation taxes cannot be replaced by levying of an amount in excess of legal maximum by village council. Op. Atty. Gen. (481a-2), Oct. 23, 1935.

Time within which levy may be made by village for band or other purposes is directory and not mandatory. Op. Atty. Gen. (519h), Dec. 23, 1935.

Under §1933-9 a village has authority to levy taxes for public tourist camping grounds in addition to 2% limitation contained in this section. Id.

Village may levy an amount for corporate taxes which shall not exceed 2% of assessed valuation of property taxable in village, but not to exceed per capita limit prescribed by §2061. Op. Atty. Gen. (519q), Oct. 10, 1936.

A tax for payment of that which is chargeable to village of Grand Rapids in making street improvement is to be deemed part of general corporation tax, and is subject to statutory limitation of 2% of assessed valuation of taxable property. Op. Atty. Gen. (396g-7), May 21, 1937.

1225-1. Villages not to draw orders.—That from and after January 1, 1932, no village now or hereafter having a population of more than 250 inhabitants, and less than 500 inhabitants, and an assessed valuation of more than \$300,000, and less than \$600,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 397, §1.)

1225-2. Not to create indebtedness.—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officers, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness, which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 25, 1931, c. 397, §2.)

1225-3. May issue certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising the money for any such fund, but the certificates outstanding for any such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, and the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denomination of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, and proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificate for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1931, c. 397, §3.)

1225-4. Tax revenues for 1932.—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 397, §4.)

1225-5. May issue bonds.—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 25, 1931, c. 397, §5.)

1225-6. Tax levy to retire bonds.—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due, and sufficient to pay the cost of operating said village subject to the limitations herein fixed. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 50 per cent of the amount necessary to pay said bonds and interest, and no more shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, park and park board, library and water, light, power and building commission purposes, and other special taxes which may be levied annually as provided by law; and (2) 50 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, park and board and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 50 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, park and board and library purposes for said year. Funds designed to pay and retire any bonds of such village outstanding and unpaid at the time this act takes effect shall likewise be added to the annual levy and shall be held not to be subject to any limitations of law now imposed upon tax levies of villages. (Act Apr. 25, 1931, c. 397, §6.)

1225-7. Boards of departments not to incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council or to pay maturing bonds outstanding at the time this Act takes effect. The village council shall by resolution, prior to February 1, each year, set aside for each such department, board or commission, such sums as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 25, 1931, c. 397, §7.)

1225-8. Village recorders to keep record of allotment.—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A

record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 397, §8.)

1225-9. Federal census shall govern.—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 25, 1931, c. 397, §9.)

1225-10. Change in valuation or population not to change status.—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 397, §10.)

1225-11. Provisions separable.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 397, §11.)

1225-12. Inconsistent acts repealed.—This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act. (Act Apr. 25, 1931, c. 397, §12.)

1225-12 1/2. Application.—This act shall apply to all villages in the state which have a population of more than 500 and less than 1,000, and an assessed valuation of taxable property (exclusive of moneys and credit) of more than \$4,000,000.00, more than 70% of which assessed valuation consists of iron ore. For the purposes of this Act, the population shall be determined by the last Federal census taken prior to the passage hereof, and the valuation shall be that used as a basis for spreading the 1932 taxes. (Act Apr. 10, 1933, c. 211, §1.)

1225-12 1/2 a. Not to draw orders until there is money available.—From and after January 1, 1934, no such village shall draw or issue any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all warrants and orders previously issued against such fund. (Act Apr. 10, 1933, c. 211, §2.)

1225-12 1/2 b. Not to create additional indebtedness.—Whenever from and after January 1, 1934, the expenses and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 90% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, neither the village council nor any officer, board or employee of such village shall have power and no power shall exist to create any additional indebtedness (save as the remaining 10% of such tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such village; but such additional indebtedness, if attempted to be created, shall be a personal claim against the officer or members of the municipal board voting for or attempting to create the same; and in no event shall the village council or any officer, board or employee of the village have the power and no power shall exist to create any indebtedness which shall be a charge against the village in excess of the local income and the tax levy payable in that year for the use of a particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. At any time after the annual tax levy has been certified to the county auditor and not earlier than October 10 in any year, the governing body of

such village may, for the purpose of meeting the obligations of the ensuing year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of the taxes so levied for any fund named in said tax levy, for the purpose of raising money for such fund. No certificate shall be issued and outstanding for any separate fund exceeding 50% of the amount named in the tax levy for that fund as spread by the county auditor, and in no event exceeding the uncollected portion of said levy. No certificate shall be issued or become due and payable later than December 31 of the year succeeding the year in which such tax levy, certified to the county auditor as aforesaid, was made. Such certificate shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificates issued and outstanding against such fund, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$25 or multiples thereof and may have interest coupons attached, and shall be otherwise of such terms and form and be made payable at such place as will best aid in their negotiation. The certificates of indebtedness issued hereunder shall be negotiable instruments. The proceeds of the tax assessed and collected as aforesaid on account of such fund, and the full faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy against which such certificates were issued, or if they be not sufficient for such purpose, from other funds of the village. The money derived from the sale of such certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 10, 1933, c. 211, §3.)

1225-12 1/2 c. May issue and sell tax levy certificates.—In the event the village is unable to sell such certificates of indebtedness in the manner prescribed, it may issue said certificates of indebtedness to the village treasurer or his order and deposit the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear interest at six per cent per annum. The village may thereupon, as long as such certificates are on deposit with the treasurer, issue warrants upon the funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at six per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the village council and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this section in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Act Apr. 10, 1933, c. 211, §4.)

1225-12 ½ d. To be on cash basis after January 1, 1934.—From and after January 1, 1934, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenue for the year 1934, and thereafter in any such village taxes shall be levied as now provided by law, but for the succeeding year. (Act Apr. 10, 1933, c. 5, §5.)

1225-12 ½ e. May issue bonds to pay floating indebtedness.—If any such village prior to January 1, 1933, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand not specifically set aside for the retirement of bonds and interest thereon, such village may for the purpose only of paying and discharging such valid indebtedness and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the village council without a vote of the electors; provided that the purchaser of such bonds shall not be charged with notice of the invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by the resolution of the village council, in the hands of any purchaser, shall be valid obligations of the village, notwithstanding any claim of invalidity of any such indebtedness funded thereby. If any moneys received from taxes levied in 1932 and payable in 1933, or income from local sources received since January 1, 1933, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1933, or interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 10, 1933, c. 211, §6.)

1225-12 ½ f. Tax levy.—The village council of any village issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Such annual tax for the payment of such bonds shall be derived from two sources: (a) 40% of the amount necessary to pay said bonds and interest and no more shall be levied as a special tax in excess of the per capita limitations of Laws 1929, Chapter 206, but within the limitations of Laws 1921, Chapter 417; and (b) at least 60% of the amount necessary to pay said bonds and interest shall be raised and obtained from the annual tax levy made by said village within the per capita limitations of Laws 1929, Chapter 206, for general corporation, library, water, light, power and building commission purposes, in such proportion as may be determined by the village council. (Act Apr. 10, 1933, c. 211, §7.)

1225-12 ½ g. Disposition of bonds.—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof (except as herein modified), or to private purchasers, or to both, or exchange for outstanding orders at par with accrued interest. (Act Apr. 10, 1933, c. 211, §8.)

1225-12 ½ h. Limitation of expenditures.—No department, board or commission of such village shall during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be levied and collected for said department, board or commission or allotted to it for said year by the village council, plus local income accruing to such department, board or commission. A record of expenditures of the village shall be presented to and examined at a regular meeting of the village council once each month and shall show the true

condition of the affairs of the village at the date of such meeting. (Act Apr. 10, 1933, c. 211, §9.)

1225-12 ½ i. District Court may limit expenditures.—If at any time during any year a village operating hereunder is incurring obligations at a rate or upon a scale which would make it probable, if such rate or scale be continued, after allowing for variations in seasonal requirements, that the total expenditures for said year would exceed the moneys to be received therein, after allowance for probable tax delinquencies, the District Court, in an action brought by any taxpayer, may require such village to limit its expenditures to a rate and scale which will assure that the total obligations incurred in such year will not exceed the moneys available therein. (Act Apr. 10, 1933, c. 211, §10.)

1225-12 ½ j. Contracts in violation of Act to be null and void.—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act, shall be null and void in regard to any obligations thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the council of the village nor any board thereof; nor shall the clerk or recorder of such village or any other officer or employee issue or execute, nor shall the village treasurer pay any check, warrant or certificate of indebtedness issued on account thereof. Each member of the village council and each other village officer or employee participating in or authorizing any violation of this Act shall be individually liable to the village or to any other person for any damages caused thereby. Each member of the village council or any board of such village present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this Act, shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 10, 1933, c. 211, §11.)

1225-12 ½ k. Change in population not to affect status.—When a village has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 10, 1933, c. 211, §12.)

1225-12 ½ l. May be continued for one year in certain cases.—The funding of the indebtedness of the village is necessary to the functioning of this law and if any such village shall find it impossible to sell bonds herein provided for prior to January 1, 1934, but can sell such bonds during the year 1934, the operation of this Act shall be postponed for one year. In that event the indebtedness authorized to be funded hereunder shall be the valid indebtedness, excluding bonds, in excess of cash on hand not specifically set aside for the retirement of bonds and interest thereon, incurred prior to January 1, 1934, and the provisions of Sections 2, 3, 4, 5, 7, 8, 9, 10 and 11 shall not take effect until and after January 1, 1935. (Act Apr. 10, 1933, c. 211, §13.)

1225-12 ½ m. Provisions separable.—If any provision hereof is found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 10, 1933, c. 211, §14.)

1225-13. Villages may not issue orders without funds.—That from and after January 1, 1932, no village now or hereafter having a population of more than 600 inhabitants, and less than 900 inhabitants, and an assessed valuation of more than \$1,000,000 and less than \$1,500,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 20, 1931, c. 277, §1.)

1225-14. Shall not incur indebtedness.—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 20, 1931, c. 277, §2.)

1225-15. May issue certificates.—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10th of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax levy certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificates shall be used, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiations, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, except as herein provided. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 20, 1931, c. 277, §3.)

Certificates of indebtedness of certain villages such as the village of Kinney issued in anticipation of unpaid taxes cannot exceed 50% of uncollected taxes levied in previous year. Op. Atty. Gen. (476a-4), June 15, 1934.

Certificates must be paid from the taxes in anticipation of the collection of which they are issued. Op. Atty. Gen. (469b-6), July 3, 1934.

Warrants issued under §1946-51 are not included as part of net debt of municipality within meaning of §1938-3. Op. Atty. Gen. (476a-4), Apr. 5, 1938.

1225-16. Revenues for 1931.—All taxes levied in 1930 shall be considered as the tax revenues for the year 1931, provided the outstanding indebtedness is funded and paid by the issuance of bonds as herein authorized, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 20, 1931, c. 277, §4.)

1225-17. May issue bonds.—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid; and provided further, that such bond issue may also include the amount of attorneys' fees and incidental expenses reasonably incurred in connection with placing such village on a cash basis and the issuance of such refunding bonds. (Act Apr. 20, 1931, c. 277, §5.)

1225-18. Tax levy to pay bonds.—The village council of any village issuing bonds pursuant to the authority of this Act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, or a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 57 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year, and other special taxes which may be levied annually as provided by law; and (2) 43 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year until all of said bonds are paid, in the same ratio as the tax levy for paying 43 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, and library purposes for said year. (Act Apr. 20, 1931, c. 277, §6.)

1225-19. Boards or commissions may not incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council. The village council shall by resolution, prior to February 1st, each year, set aside for each such department, board or commission, such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 20, 1931, c. 277, §7.)

1225-20. Recorder to keep record.—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 20, 1931, c. 277, §8.)

1225-21. Federal census to govern.—For the purpose of this Act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 20, 1931, c. 277, §9.)

1225-22. Application of act.—When a village has once come under the provisions of this Act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 20, 1931, c. 277, §10.)

1225-23. Provisions separable.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 20, 1931, c. 277, §11.)

1225-24. Inconsistent acts repealed.—This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this Act. (Act Apr. 20, 1931, c. 277, §12.)

1225-24 ½. Application.—This Act shall apply to all villages in the state which have a population of more than 1300 and less than 1500, and an assessed valuation of taxable property (exclusive of moneys and credits) of more than \$3,000,000 and less than \$4,000,000, more than 70% of which assessed valuation consists of iron ore. For the purposes of this Act the population shall be determined by the last federal census taken prior to the passage hereof, and the valuation shall be that used as a basis for spreading the 1932 taxes. (Act Apr. 15, 1933, c. 275, §1.)

1225-24 ½ a. Villages to be on cash basis.—From and after January 1, 1934, no such village shall draw or issue any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all warrants and orders previously issued against such fund. (Act Apr. 15, 1933, c. 275, §2.)

1225-24 ½ b. May not create indebtedness—sale of certificates.—Whenever from and after January 1, 1934, the expenses and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 90% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, neither the village council nor any officer, board or employee of such village shall have power and no power shall exist to create any additional indebtedness (save as the remaining 10% of such tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such village; but such additional indebtedness, if attempted to be created, shall be a personal claim against the officer or members of the municipal board voting for or attempting to create the same; and in no event shall the village council or any officer, board or employee of the village have the power and no power shall exist to create any indebtedness which shall be a charge against the village in excess of the local income and the tax levy payable in that year for the use of a particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. At any

time after the annual tax levy has been certified to the county auditor and not earlier than October 10 in any year, the governing body of such village may, for the purpose of meeting the obligations of the ensuing year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of the taxes so levied for any fund named in said tax levy, for the purpose of raising money for such fund. No certificates shall be issued and outstanding for any separate fund exceeding 50% of the amount named in the tax levy for that fund as spread by the county auditor, and in no event exceeding the uncollected portion of said levy. No certificates shall be issued or become due and payable later than December 31 of the year succeeding the year in which such tax levy, certified to the county auditor as aforesaid, was made. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than 6 per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificates issued and outstanding against such fund, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$25 or multiples thereof and may have interest coupons attached, and shall be otherwise of such terms and form and be made payable at such place as will best aid in their negotiation. The certificates of indebtedness issued hereunder shall be negotiable instruments. The proceeds of the tax assessed and collected as aforesaid on account of such fund, and the full faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy against which such certificates were issued, or if they be not sufficient for such purpose, from other funds of the village. The money derived from the sale of such certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 15, 1933, c. 275, §3.)

1225-24 ½ bb. Certificates of indebtedness.—When any certificates of indebtedness, issued hereunder, have been or shall be unpaid when due by reason of the non-payment, when due and payable, of the taxes against which they were issued, and money to pay the same has heretofore been obtained or is hereafter obtained by the issuance and sale of new certificates of indebtedness or warrants for the payment thereof shall be issued against new certificates, such new certificates, to the extent that the proceeds thereof are so used, shall not be considered in determining the amount of certificates which may be issued against the levy for the calendar year in which they are issued. (Act Apr. 13, 1935, c. 171, §3 ½.)

1225-24 ½ c. Certificates may be deposited with city treasurer.—In the event the village is unable to sell such certificates of indebtedness in the manner prescribed, it may issue said certificates of indebtedness to the village treasurer or his order and deposit the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear interest at 6 per cent per annum. The village may thereupon, as long as such certificates are on deposit with the treasurer, issue warrants upon the funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at 6 per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid

for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the village council and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this section in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Act Apr. 15, 1933, c. 275, §4.)

1225-24 1/2 d. Shall remain on cash basis.—From and after January 1, 1934, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and thereafter in any such village taxes shall be levied as now provided by law, but for the succeeding year. (Act Apr. 15, 1933, c. 275, §5.)

1225-24 1/2 e. May issue bonds to fund indebtedness.—If any such village prior to January 1, 1933, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand not specifically set aside for the retirement of bonds and interest thereon, such village may for the purpose only of paying and discharging such valid indebtedness and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the village council without a vote of the electors; provided that the purchaser of such bonds shall not be charged with notice of the invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by the resolution of the village council, in the hands of any purchaser, shall be valid obligations of the village, notwithstanding any claim of invalidity of any such indebtedness funded thereby. If any moneys received from taxes levied in 1932 and payable in 1933, or income from local sources received since January 1, 1933, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1933, or interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 15, 1933, c. 275, §6.)

1225-24 1/2 f. Tax levy to pay bonds and interest.—The village council of any such village issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution provide for a levy for each year until the principal and interest of said bonds are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Such annual tax levy for the payment of such bonds shall be within the existing per capita and millage limitations upon tax levies applicable to such village. The county auditor, at the time of spreading the annual tax levy of said village, shall adjust the same so that the total tax levy of such village, including levies for bonds issued hereunder, whether to the state or to private purchasers, shall not exceed existing per capita and millage limitations, plus any levies which may be authorized in excess of such limitations for bonded indebtedness and interest thereon existing at the time of the passage of this Act. The levies for the payment of such bonds shall be charged against the permissible levies for general corporation purposes, library purposes and water, light, power and building purposes in such proportions as the council may determine, but the amount levied, whether by the state auditor or the village council of such village, for the

payment of interest on such bonds shall not be charged against any fund levied by the village council for such village, and shall be in excess of all existing millage limitations. (Act Apr. 15, 1933, c. 275, §7; Apr. 17, 1939, c. 298.)

1225-24 1/2 g. May be sold or exchanged.—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof (except as herein modified), or to private purchasers, or to both, or exchanged for outstanding orders at par with accrued interest. (Act Apr. 15, 1933, c. 275, §8.)

1225-24 1/2 h. Tax levy—limit.—The amount which may be included by any such village in its annual tax levy for each year hereafter made for general corporation and library purposes shall be 22 mills on the dollar of the taxable valuation of the village, and it may levy for such additional purpose as may be authorized by law; provided that the total amount of such levy shall not exceed the amounts authorized by Laws 1921, Chapter 417 [§§2061 to 2066], as amended by Laws 1929, Chapter 206, and with the levies for the payments of bonds issued hereunder, shall not exceed the total number of mills authorized in such village. (Act Apr. 15, 1933, c. 275, §9.)

1225-24 1/2 i. Not to incur indebtedness.—No department, board or commission of such village shall during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be levied and collected for said department, board or commission or allotted to it for said year by the village council, plus local income accruing to such department, board or commerce. A record of expenditures of the village shall be presented to and examined at a regular meeting of the village council once each month and shall show the true condition of the affairs at the date of such meeting. (Act Apr. 15, 1933, c. 275, §10.)

1225-24 1/2 j. District Court may require village to limit expenditure.—If at any time during any year a village operating hereunder is incurring obligations at a rate or upon a scale which would make it probable, if such rate or scale be continued, after allowing for variations in seasonal requirements, that the total expenditures for said year would exceed the moneys to be received therein, after allowance for probable tax delinquencies, the District Court, in an action brought by any taxpayer, may require such village to limit its expenditures to a rate and scale which will assure that the total obligations incurred in such year will not exceed the moneys available therein. (Act Apr. 15, 1933, c. 275, §11.)

1225-24 1/2 k. Contracts to be null and void in certain cases.—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act, shall be null and void in regard to any obligations thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the council of the village nor any board thereof; nor shall the clerk or recorder of such village or any other officer or employee issue or execute, nor shall the village treasurer pay any check, warrant or certificate of indebtedness issued on account thereof. Each member of the village council and each other village officer or employee participating in or authorizing any violation of this Act shall be individually liable to the village or to any other person for any damages caused thereby. Each member of the village council or any board of such village present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this act, shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Act Apr. 15, 1933, c. 275, §12.)

1225-24 1/2 l. Village to continue under provision of this act.—When a village has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 15, 1933, c. 275, §13.)

1225-24 1/2 m. Operation of act to be postponed one year in certain cases.—The funding of the indebtedness of the village is necessary to the functioning of this law and if any such village shall find it impossible to sell bonds herein provided for prior to January 1, 1934, but can sell such bonds during the year 1934, the operation of this Act shall be postponed for one year. In that event the indebtedness authorized to be funded hereunder shall be the valid indebtedness, excluding bonds, in excess of cash on hand not specifically set aside for the retirement of bonds and interest thereon, incurred prior to January 1, 1934, and the provisions of Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, shall not take effect until and after January 1, 1935. (Act Apr. 15, 1933, c. 275, §14.)

1225-24 1/2 n. Provisions separable.—If any provision hereof is found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 15, 1933, c. 275, §15.)

1225-25. Villages not to draw orders.—That from and after January 1, 1932, no village now or hereafter having a population of more than 1,400 inhabitants, and less than 1,600 inhabitants, and an assessed valuation of more than \$700,000, and less than \$2,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 388, §1.)

1225-26. Not to create indebtedness.—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Apr. 25, 1931, c. 388, §2.)

1225-27. May issue certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor, but not earlier than October 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificate shall not be sold for less

than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificate so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 25, 1931, c. 388, §3.)

1225-28. Tax revenues for 1932.—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 388, §4.)

1225-29. May issue bonds.—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law except that such bonds may be issued on a vote of the council thereof, without a vote of the electors and such bonds shall mature in equal annual installments extending over a period of not more than twenty years; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid. (Act Apr. 25, 1931, c. 388, §5.)

1225-30. Tax levy to retire bonds.—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrepealable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources: (1) 52 per cent of the amount necessary to pay said bonds and interest, and no more shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, park and park board, library, and water, light, power and building commission purposes, and other special taxes which may be levied annually as provided by law; and (2) 48 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes, for each year until all of said bonds are paid, in the same ratio

as the tax levy for paying 48 per cent of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation purposes, water, light, power and building commission purposes, park and park board and library purposes for said year. Provided, however, that if any bonds of said village are outstanding and held by the State of Minnesota that such state bonds shall be retired upon maturity through the levy of a tax sufficient to pay the same when due, and said levy shall be in addition to all others herein provided for, and shall not be subject to any of the limitations provided for herein. (Act Apr. 25, 1931, c. 388, §6.)

1225-31. Boards or departments not to incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council or to pay maturing bonds outstanding at the time this Act takes effect. The village council shall by resolution, prior to February 1, each year, set aside for each such department, board or commission, such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 25, 1931, c. 388, §7.)

1225-32. Village recorders to keep record of allotment.—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year, and the amounts incurred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 388, §8.)

1225-33. Federal census shall govern.—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 25, 1931, c. 388, §9.)

1225-34. Change in valuation or population not to change status.—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 388, §10.)

1225-35. Provisions separable.—If any section, part or provision hereof be found unconstitutional such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 388, §11.)

1225-36. Inconsistent acts repealed.—This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act. (Act Apr. 25, 1931, c. 388, §12.)

1225-37. Villages to be on cash basis.—That from and after January 1, 1932, no village now or hereafter having a population of more than 2,000 inhabitants, and less than 3,000 inhabitants, and an assessed valuation of more than \$3,000,000, and less than \$4,000,000, shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against said fund. (Act Apr. 25, 1931, c. 342, §1.)

1225-38. Officers may not incur indebtedness.—Whenever from and after January 1, 1932, the expense and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 85 per cent of the entire amount of the tax levy, payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power and no power shall exist to create any additional indebtedness (save as the remaining 15 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 25, 1931, 342, §2.)

Mill limitations provided for by laws under which a village is operating must cover expenditures for all corporate purposes, and in making public improvements a village operating under cash basis law is not authorized to make a special levy therefor above general village levy authorized by law, except in cases where specific power is given to levy a special tax, and village is not authorized to make a special levy to raise funds for payment of bonds to be issued for purpose of improving heat distribution system as a WPA project. Op. Atty. Gen. (44a-8), Apr. 7, 1937.

1225-39. Governing board may sell certificates.—At any time after the annual tax levy has been certified to the county auditor, but no earlier than October 10 of the year preceding the year for which the tax levy is made, the governing body of such village may, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes levied for any fund named in the tax levy for the purpose of raising money for any such fund, but the certificates outstanding for any of such separate funds shall not at any time exceed 50 per cent of the amount of taxes previously levied for such fund remaining uncollected, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificate so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100.00, or a multiple thereof, and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certifi-

icates issued in a prior year. (Act Apr. 25, 1931, c. 342, §3.)

1225-40. Tax levies for 1932.—All taxes levied in 1931 shall be considered as the tax revenues for the year 1932, and thereafter in any such village, taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 25, 1931, c. 342, §4.)

1225-41. Village may issue bonds.—If any such village prior to January 1, 1931, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof, without a vote of the electors; provided that if any moneys received from taxes levied in 1930 and payable in 1931, or income from local sources received since January 1, 1931, have been used prior to the issuance of bonds authorized by this act for the retirement of indebtedness existing January 1, 1931, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid. (Act Apr. 25, 1931, c. 342, §5.)

1225-42. To provide for tax levy.—The village council of any village issuing bonds pursuant to the authority of this act shall, before the issuance thereof, by a resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Said annual tax for the payment of said bonds and interest shall be derived from two sources:

(1) 52 per cent of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year, and other special taxes which may be levied annually as provided by law; and (2) 48 per cent of the amount necessary to pay said bonds and interest shall be raised and obtained from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, and library purposes for said year. (Act Apr. 25, 1931, c. 342, §6.)

Laws 1927, c. 131, does not apply to bonds issued pursuant to this act, but a village has the right to anticipate delinquencies and provide for them by an excess levy each year. Op. Atty. Gen., Aug. 5, 1931.

1225-43. Departments of board shall not incur indebtedness.—Whenever any department, board or commission of such village has the power to expend money, such department, board or commission shall not during any year contract any indebtedness, or incur any pecuniary liability, which shall be in excess of the sum that may be allotted to its department for said year by the village council. The village council shall by resolution, prior to February 1, each year, set aside for each such department, board or commission, such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 25, 1931, c. 342, §7.)

1225-44. Recorder to keep record of allotments.—The village recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year and the amounts in-

currred and expended from time to time by the village council and each department of such village. A record of expenditures for the village council and all its departments shall be presented to and examined at a regular meeting once each month by the village council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 25, 1931, c. 342, §8.)

1225-45. Federal census shall govern.—For the purpose of this act, the last federal census of population taken prior to the calendar year in which any levy may be made shall govern and shall be conclusive in determining hereunder the population of any such village. (Act Apr. 25, 1931, c. 342, §9.)

1225-46. Change in population not to affect law.—When a village has once come under the provisions of this act, it shall continue under its provisions, notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 25, 1931, c. 342, §10.)

1225-47. Provisions separable.—If any section, part or provision hereof be found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 25, 1931, c. 342, §11.)

1225-48. This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared of no effect insofar as they may be inconsistent with this act. (Act Apr. 25, 1931, c. 342, §12.)

1225-49. Application of act.—This Act shall apply to all villages in the State which adopt the provisions of this Act by a unanimous vote of the council prior to December 31, 1933, and which have a population of more than 2500 and less than 3000 and an assessed valuation of taxable property (exclusive of moneys and credits) of more than \$4,000,000 more than 70% of which assessed valuation consists of iron ore. For the purposes of this Act the population shall be determined by the last federal census taken prior to the passage hereof and the valuation shall be that used as a basis for spreading the 1932 taxes. (Act Apr. 22, 1933, c. 415, §1.)

1225-50. To be on cash basis after January 1, 1934.—That from and after January 1, 1934, no such village shall draw or issue any order or warrant against any of its funds until there is sufficient money in such fund to pay the same together with the warrants and orders previously issued against said fund. (Act Apr. 22, 1933, c. 415, §2.)

1225-51. May not incur indebtedness in excess of income.—Whenever from and after January 1, 1934, the expenses and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 90% of the entire amount of the tax levy payable in that year, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of such village shall have the power, and no power shall exist, to create any additional indebtedness (save as the remaining ten per cent of said tax levy is collected) which shall be a charge against such village, but such additional indebtedness attempted to be created shall be a personal claim against the officer or members of the municipal board or body voting for or attempting to create the same; and in no event shall any officer, board or official body of such village have the power, and no power shall exist, to create any indebtedness which shall be a charge against the village, in excess of the tax levy payable in that year for the use of the particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. (Act Apr. 22, 1933, c. 415, §3.)

1225-52. May issue certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor, and not earlier than Octo-

ber 10th in any year, the governing body of such village may for the purpose of the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund, but no certificate shall be issued for any of said separate funds exceeding 50 per cent of the amount named in said tax levy, as spread by the county auditor, to be collected for the use and benefit of said fund, and no certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax levy, certified to the county auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than 6% per annum; each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100 or a multiple thereof and may have interest coupons attached and shall be otherwise of such form and terms and be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected as aforesaid on account of such fund, and the faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the money derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy, and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Act Apr. 22, 1933, c. 415, §4.)

1225-53. Shall remain on cash basis.—From and after January 1, 1934, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and thereafter in any such village taxes shall be levied as now provided by law not later than October of each year, but for the succeeding year. (Act Apr. 22, 1933, c. 415, §5.)

1225-54. May issue bonds to fund indebtedness.—If any such village prior to January 1, 1933, has incurred by proper authority a valid indebtedness, excluding bonds in excess of its cash on hand, such village may, for the purpose only of paying and discharging such valid indebtedness and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the Council thereof without a vote of the electors; provided that if any moneys received from taxes levied in 1932 and payable in 1933, or income from local sources received since January 1, 1933, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing on January 1, 1933, and interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Act Apr. 22, 1933, c. 415, §6.)

1225-55. Tax levy to retire bonds.—The village council of any village issuing bonds pursuant to the authority of this Act shall, before the issuance thereof, by resolution provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be ir-

repealable until all of such bonds are paid. Such annual tax for the payment of such bonds shall be within existing per capita limitations upon tax levies applicable to such village and shall be derived from two sources: (a) 27% of the amount necessary to pay said bonds and interest, and no more, shall be levied as a special tax in addition to the annual tax levy for general corporation and library purposes, water, light, heat and building commission purposes, and any other special taxes which may be levied annually as provided by law; and (b) 73% of the amount necessary to pay said bonds and interest shall be raised and obtained from the annual tax levies made by said Village for general corporation and library purposes, water, light, power and building commission purposes for each year, until all of said bonds are paid, in the same ratio as the tax levy for paying 73% of the bonds and interest payable in any one year bears to the total annual maximum tax levy that could be made for general corporation and library purposes, water, light, power and building commission purposes for said year. (Act Apr. 22, 1933, c. 415, §7.)

1225-56. Department or boards shall not exceed limit.—Whenever any department, board or commission of such village having the power to expend money which shall not have been provided by law with a special tax levy, such department, board or commission shall not during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be allotted to its department for said year by the Village Council. The Village Council shall by resolution prior to February 1 each year, set aside for each such department, board or commission such sum as it deems necessary and adequate for the proper operation thereof, subject, however, to amendments of such resolution thereafter as necessity may require. (Act Apr. 22, 1933, c. 415, §8.)

1225-57. Village recorder to keep record.—The Village Recorder shall keep a record showing accurately the amount allotted to each board or governing body for the calendar year and the amounts incurred and expended from time to time by the Village Council and each department of such village. A record of expenditures for the Village Council and all its departments shall be presented to and examined at a regular meeting once each month by the Village Council and shall show the true condition of affairs at the date of such meeting. (Act Apr. 22, 1933, c. 415, §9.)

1225-58. Warrants and order legalized.—In the event that any such village, prior to the passage of this Act, issued its warrants or orders against any of its funds, which warrants or orders were outstanding and unpaid at the time of the passage of this Act, the said warrants and orders are hereby in all respects legalized. (Act Apr. 22, 1933, c. 415, §10.)

1225-59. Violations—penalties.—Any member of the Village Council or other governing body or board, or other village officer or employe, knowingly participating in and authorizing any violation of this Act shall be guilty of a misdemeanor punishable by a fine not exceeding \$100.00 or by imprisonment in the County Jail not exceeding three months for each offense. Every contract attempted to be entered into or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this Act shall be null and void in regard to any obligation thereby sought to be imposed upon the village. No claim therefor shall be allowed by the Village Council nor any governing board; nor shall the Village Recorder or any other village or department officer or employe issue or execute, nor shall the Village Treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the Village Council or any village board or other village officer or employe participating in or authorizing any violation of this Act shall be individually liable to the village or to any

other person for any damages caused thereby. Each member of the Village Council or Village Board present at a meeting of the board of council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. Any member of the village council or governing board knowingly participating in or authorizing any violation of this Act shall be liable to suspension from office. Any vacancy created thereby shall be filled according to law. (Act. Apr. 22, 1933, c. 415, §11.)

1225-60. To continue under provisions of act.—When a village has once come under the provisions of this Act it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Act Apr. 22, 1933, c. 415, §12.)

1225-61. Provisions separable.—If any section, part or provision hereof be found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 22, 1933, c. 415, §13.)

1225-62. Effective date.—This Act shall take effect and be in force from and after its passage, and all Acts and parts of Acts inconsistent herewith; provided that the funding of the indebtedness existing on January 1, 1933, in any such village is a necessary step in the working out of this law and if any village hereunder shall be unable to sell its bonds prior to January 1, 1934, this Act shall not take effect therein. (Act Apr. 22, 1933, c. 415, §14.)

1225-71. Application of act.—This act shall apply to any village having an assessed valuation in excess of \$500,000 and less than \$1,000,000, exclusive of moneys and credits, more than 70 per cent of which valuation consists of iron ore, a population of more than 1,000 and less than 2,000, and an outstanding unfunded indebtedness in excess of 20 per cent of its assessed valuation. It shall apply, to the extent of the tax levies and payments provided for herein, to any town which embraces within its limits all the territory of any such village, and from which such village has not been separated for election or assessment purposes, and to any school district which embraces within its limits all the territory of any such village; provided that more than 50 per cent of the total population of such town and school district is contained in such village. Where the words "village," "town" or "school district" are hereinafter used, they shall be understood as applying only to villages, towns or school districts to which this act applies, as hereinbefore provided. (Jan. 3, 1936, Ex. Ses., c. 2, §1.)

1225-72. Outstanding warrants segregated for payment under this act.—All outstanding warrants or other indebtedness of any such village as of December 31, 1935, shall be and are hereby segregated to be paid only by levies and contributions from the village, town and school district as hereinafter provided. There shall be a special fund created by the village treasurer, called the "village indebtedness fund," from which such warrants and indebtedness shall be paid. (Jan. 3, 1936, Ex. Ses., c. 2, §2.)

1225-73. Part of taxes segregated for payment into fund—tax levy—limitations—Other payments into fund.—Of the annual levy of such village for general purposes 9 mills (or so much thereof as, after allowance for probable tax delinquencies, will produce \$6,000) shall be segregated and levied for and paid into such village indebtedness fund; of the annual tax levy of any such town 2 mills (or so much thereof as, after allowance for probable tax delinquencies, will produce \$15,000) shall be levied for and paid into such village indebtedness fund; of the annual tax levy of any such school district 2 mills (or so much thereof as, after allowance for probable tax

delinquencies, will produce \$10,000) shall be levied for and paid into such village indebtedness fund. All such levies shall be within the existing per capita or mill limitations upon levies of such village, school district or town. In addition to the levies above provided, any such village may levy in excess of existing mill limitations 14 mills (or so much thereof as, after allowance for probable tax delinquencies, will produce \$9,000) upon all the taxable property of the village, which amount shall be paid into such village indebtedness fund. In addition thereto, there shall be set aside and paid into such village indebtedness fund all moneys hereafter collected by such village on the tax levies of 1934 and prior years, which shall have not been used prior to December 31, 1935, for the reduction of such indebtedness, and all moneys, not exceeding however, the sum of \$15,000, hereafter collected on the delinquent taxes of 1933 and prior years by any such town; provided that no part of the delinquent village taxes for library fund shall be paid into such village indebtedness fund except insofar as necessary to pay warrants or indebtedness against such library fund. (Jan. 3, 1936, Ex. Ses., c. 2, §3.)

1225-74. Payments to village treasurer—separate fund—apportionment—payment of warrants.—All moneys provided to be paid into such village indebtedness fund by any such town or school district shall, as collected, be paid to the treasurer of the village by the county auditor and county treasurer. Such funds shall be kept separate from all other moneys of the village, and shall be used solely for the payment of such indebtedness or any bonds issued to fund the same. The village treasurer shall apportion the moneys in such village indebtedness fund between the various funds of the village against which warrants or indebtedness are outstanding, in proportion to the respective amounts of warrants and indebtedness against each such fund, and shall pay warrants against such funds out of the moneys apportioned thereto, in the order that such warrants were presented to the treasurer and stamped "Not paid for want of funds." In any year in which the levies and contributions to such fund, as hereinbefore provided, shall not equal an amount which could be levied for payment upon such warrants by the village under existing laws, the warrant-holders, or any of them, may require payment by the village from other funds of the amount by which such permissible levy of the village shall exceed the levies and contributions to such fund. (Jan. 3, 1936, Ex. Ses., c. 2, §4.)

1225-75. Attainment of cash basis—tax levies.—From and after January 1, 1936, any such village shall be deemed for all purposes to be on a cash basis, and shall thereafter remain on a cash basis. All taxes levied in 1935 (except such portions thereof as are provided to be levied for such village indebtedness fund) shall be considered as tax revenues for the year 1936 and thereafter in any such village taxes shall be levied as now provided by law but for the succeeding year, with the exception of levies hereinbefore provided for such village indebtedness fund. (Jan. 3, 1936, Ex. Ses., c. 2, §5.)

1225-76. Warrants not to be issued where fund for payment insufficient.—From and after January 1, 1936, no such village shall draw any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued against such fund, and not segregated as provided for hereunder. (Jan. 3, 1936, Ex. Ses., c. 2, §6.)

1225-77. Limitation on creation of indebtedness—personal liability of officers.—Whenever, from and after January 1, 1936, the expenses and obligations incurred, chargeable to any particular fund of such village in any calendar year, are sufficient to absorb 90 per cent of the entire amount of the tax levy for such fund payable in that year, including such amount

as may remain in the fund from the levy of prior year or years, no officer or board of such village shall have power, and no power shall exist, to create any additional indebtedness (save as the remaining 10 per cent of said tax levy is collected) which shall be a charge against that particular fund, or shall be in any manner a valid claim against such village, but such indebtedness attempted to be created shall be a personal claim against the officer or member of the board voting for or attempting to create the same. (Jan. 3, 1936, Ex. Ses., c. 2, §7.)

1225-78. Certificates of indebtedness.—At any time after January first following the making of an annual tax levy the council of any such village may, for the purpose of meeting the obligations of the current year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund. All certificates of indebtedness issued under the provisions of this act shall be negotiable and shall be payable to the order of the payee and shall have a definite due date. No certificate shall be issued to become due and payable later than December 31st of the year of issuance. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificate shall be used, the total amount of the certificates so issued against such fund and the whole amount embraced in said tax levy for that fund. They shall be numbered consecutively and be in denominations of \$25, or any multiple thereof, and may have interest coupons attached, and shall be otherwise in such terms and form and be made payable at such place as will best aid in their negotiation. (Jan. 3, 1936, Ex. Ses., c. 2, §8.)

1225-79. Same—limitations—renewal of certificates.—No such village shall be permitted during any year to anticipate by issuance of certificates of indebtedness more than 50 per cent of its tax levy payable in said year for any of its funds during the period prior to July 1st, and not more than 40 per cent of said levy (plus any amount authorized but not issued during the period prior to July 1st) during the period subsequent to July 1st and prior to December 31st; provided that the total amount of certificates of indebtedness issued against and fund, with interest thereon to maturity, shall not exceed 90 per cent of the tax levy for such fund payable in such year, and the aggregate of outstanding certificates shall in no event exceed the uncollected portion of said tax levy for such fund. Any such villages may renew any outstanding certificate of indebtedness of any prior year or any prior six-months period, or issue new certificates, notwithstanding the fact that prior certificates were unpaid, whenever inability to pay such outstanding certificates is due to failure to collect sufficient moneys from the tax levy payable in said year to discharge such certificates; in the event such certificates are renewed, such village may pay accrued interest thereon at the time of renewal. (Jan. 3, 1936, Ex. Ses., c. 2, §9.)

1225-80. Same—inability to sell—warrants—interest—limitation of amount.—If any such village is unable to sell such certificates of indebtedness in the manner prescribed hereby it may proceed by one of the following methods: (a) issuing its certificates of indebtedness in any denomination but within the limitations as to total amounts herein contained, payable to the order of the creditor of such village, in payment of the debt, claim or account of such creditor after the same has been allowed by the council; or (b) issuing such certificates of indebtedness to the village treasurer, or his order, and depositing the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear

interest at not to exceed six per cent per annum. The village may thereupon, as long as such certificates are on deposit with the treasurer, issue warrants upon funds against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at not to exceed six per cent per annum from and after the day they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the council and the proceeds of such sale shall be used to take up such warrants in the order in which they were presented to the treasurer, registered by him and stamped as aforesaid. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this subsection in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Jan. 3, 1936, Ex. Ses., c. 2, §10.)

Where village was unable to sell certificates of indebtedness and deposited them with village treasurer and issued warrants upon funds against which such certificates were issued, in accordance with §1225-80, and as a result of litigation assessed valuation of mineral properties was decreased 35%, and delinquent taxes on forfeited lands were cancelled, a sale of the certificates of indebtedness by the village at their face value and accrued interest would have no effect on their status as deductible items in net indebtedness calculations. Op. Atty. Gen. (476a-4), April 25, 1939.

1225-81. Same—taxes levied pledged—limitation on amount of certificates for given year.—The proceeds of the taxes assessed and collected as aforesaid on account of said fund and the faith and credit of the village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued, or if there be not sufficient for that purpose, from other funds of the village. The money derived from the sale of such certificates (except those issued to take up old certificates as hereinbefore authorized) shall be credited to such fund or funds for the calendar year in which issued, and shall not be used or spent except during such year. Except as hereinbefore authorized, no certificate for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Jan. 3, 1936, Ex. Ses., c. 2, §11.)

1225-82. Funding bonds—obligation, lien—Sale—interest—maturity—investment in—tax levy—payment.—Any such village may, without a vote of the electors, fund all or any portion of such indebtedness existing on December 31, 1935. Bonds issued for such purpose shall be the obligation of the village alone and, except as contributions from the annual levies of the town or school district are provided for herein, shall not be a lien upon any property in said town or school district outside the limits of the village. Such bonds may be issued and sold to the state or to private purchasers, or both, or exchanged for warrants or other evidence of indebtedness funded thereby, with the holders thereof. Such bonds shall bear interest at not to exceed six per cent per annum, and if sold to the state, at not to exceed the rate provided by statute on loans from the state. They shall be sold or exchanged for not less than par. They shall mature in annual installments as nearly equal as practicable, the amount of such installments not to exceed the probable receipts of such village indebtedness fund, as provided for herein. The first of such

installments shall fall due in not less than one year from the issuance of such bonds, and the last of such installments shall fall due in not more than ten years thereafter. Within the limits of the constitution, such bonds shall be legal investments of the State Board of Investment. At the time of issuing any such bonds, the village shall make an annual and irrepealable tax levy in an amount sufficient, with the contributions and levies for such fund by the town and school district, to retire such bonds at maturity. If purchased by the state, the state auditor, at the time of certifying to the county auditor the levy to be spread for the payment thereof shall take into consideration, in fixing the amount of such levy, the probable receipts from the contributions and levies to be made by the town and school district towards the payment of such bonds. If such bonds be sold to the state, the village treasurer shall pay into the county auditor's fund for the payment of such bonds any moneys in the village indebtedness fund provided for herein, and the county auditor shall withhold any pay into the fund maintained by him for the payment of such bonds the moneys levied and to be paid by the town and school district thereon. Levies made for the payment of such bonds shall be within the limitations herein set forth, except as such limitations may be insufficient to meet such bonds at maturity. (Jan. 3, 1936, Ex. Ses., c. 2, §12.)

1225-83. Contracts violative of this act void—personal liability of officers participating.—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred, in violation of the provisions of this act, shall be null and void in regard to any obligation thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the council of said village; nor shall the clerk of such village or any other officer or employe issue or execute, nor shall the village treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the council and each other village officer or employe participating in or authorizing any violation of this act shall be individually liable to the village or to any other person for any damage that is caused thereby. Each member of the council present at a meeting thereof when any action is taken with reference to paying money or incurring indebtedness or entering into any contract, shall be deemed to have participated in and authorized the same, unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Jan. 3, 1936, Ex. Ses., c. 2, §13.)

1225-84. Liability of towns and school districts.—This act shall not be construed as providing for the payment of any moneys by the town or school district to the village after the indebtedness herein referred to shall have been paid and retired in full, or as thereafter limiting in any way the levies of such town, village or school district. (Jan. 3, 1936, Ex. Ses., c. 2, §14.)

1225-85. Purpose and construction—change in population, etc.—This act is remedial in its nature and intended to remedy the financial condition of villages within the class stated, where, by reason of a substantial portion of the valuation consisting of iron ore, there is likelihood of diminishing valuations in the future, and for such purpose to set aside contributions from the levies of the town and school district in which any such village is located, where by reason of the majority of the population of such town and school district being within the limits of the village, and by reason of the property in the village against which such indebtedness is a charge being subject to taxation by such town and school district, there is a community of interest in the discharge of such indebtedness. It is also intended to secure a sound fiscal policy in such villages after the payment of such indebtedness. If any such village shall come within the provisions of this act, the act shall continue to govern

the operations thereof, notwithstanding any subsequent change in population, valuation or indebtedness. (Jan. 3, 1936, Ex. Ses., c. 2, §15.)

1225-85a. Certain warrants and orders legalized.—All orders, warrants or obligations incurred or contracted by such village upon any fund or by any department prior to December 31, 1935, and which orders or warrants have been segregated and are to be paid from the "Village Indebtedness Fund", be and the same are hereby in all respects legalized and declared valid obligations of the said village. (Jan. 3, 1936, Ex. Ses., c. 2, §15½; added Apr. 8, 1937, c. 181, §1.)

1225-86. Separability of provisions.—The provisions of this act, insofar as they provide for contributions from the town, school district, village and excess levies over the mill limitations upon property in the village, are not severable, and if any of said levies be held to be unconstitutional the entire act shall be unconstitutional. (Jan. 3, 1936, Ex. Ses., c. 2, §16.)

1225-87. Effective date—revision of tax levies already made—limitation of levies.—Except as herein otherwise provided, this act shall take effect from and after its passage, approval and adoption. If any such town or school district shall have heretofore made its 1935 tax levy, the county auditor, at the time of spreading the same, or at the time of making apportionments of taxes collected thereunder, shall revise such levy so as to incorporate therein the levy for the village indebtedness fund as herein provided, reducing the levy for road and bridge purposes of said town and the levy for general purposes of the school district by the amount of the levy for such indebtedness fund. The total amount of such taxes as so levied shall not exceed the existing limitations upon the levies of such town or school district. If any such village shall have heretofore made its 1935 levy and such levy shall not have been spread by the county auditor, the county auditor shall revise the same by transferring \$6,000 (but not exceeding 9 mills on the assessed valuation) from the levy for general purposes to a levy for the village indebtedness provided for herein. In addition thereto, he shall add to such village levy an additional \$9,000 (but not exceeding 14 mills) for such village indebtedness fund. If such village levy has heretofore been spread by the county auditor, the village treasurer, at the time of receiving the proceeds thereof, shall transfer \$6,000 (but not exceeding 9 mills) from the general fund to the village indebtedness fund provided for herein, advising the council of such action. (Jan. 3, 1936, Ex. Ses., c. 2, §17.)

1225-91. Cash basis and limitation of expenditures in villages having 800 to 1200 population, etc.—Application of act.—This act shall apply to all villages in the state which have a population of more than 800 and less than 1200, and an assessed valuation of taxable property (exclusive of moneys and credits) of more than \$775,000.00 and less than \$1,000,000.00, more than 70% of which assessed valuation consists of iron ore. (Apr. 22, 1937, c. 356, §1.)

1225-92. Same—Shall not draw warrants without funds after January 1, 1938.—From and after January 1, 1938, no such village shall draw or issue any order or warrant on any fund until there is sufficient money in such fund to pay the same, together with all warrants and orders previously issued against such fund. (Apr. 22, 1937, c. 356, §2.)

1225-93. Same—Shall not create additional indebtedness; sale of certificates of indebtedness.—Whenever from and after January 1, 1938, the expenses and obligations incurred chargeable to any particular fund of such village in any calendar year are sufficient to absorb 90% of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from

the levy of the prior year or years, neither the village council nor any officer, board or employee of such village shall have power and no power shall exist to create any additional indebtedness (save as the remaining 10% of such tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against such village; but such additional indebtedness, if attempted to be created, shall be a personal claim against the officer or members of the municipal board voting for or attempting to create the same; and in no event shall the village council or any officer, board or employee of the village have the power and no power shall exist to create any indebtedness which shall be a charge against the village in excess of the local income and the tax levy payable in that year for the use of a particular department, board or official body, less the amount required to be paid each year therefrom on bonds herein authorized and interest accruing thereon. At any time after the annual tax levy has been certified to the county auditor and not earlier than October 10 in any year, the governing body of such village may, for the purpose of meeting the obligations of the ensuing year, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of the taxes so levied for any fund named in said tax levy, for the purpose of raising money for such fund. No certificate shall be issued and outstanding for any separate fund exceeding 50% of the amount named in the tax levy for that fund as spread by the county auditor, and in no event exceeding the uncollected portion of said levy. No certificate shall be issued or become due and payable later than December 31 of the year succeeding the year in which such tax levy, certified to the county auditor as aforesaid, was made. Such certificate shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which funds proceeds of the certificates shall be used, the total amount of the certificates issued and outstanding against such fund, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$25 or multiples thereof and may have interest coupons attached, and shall be otherwise of such terms and form and be made payable at such place as will best aid in their negotiation. The certificates of indebtedness issued hereunder shall be negotiable instruments. The proceeds of the tax assessed and collected as aforesaid on account of such fund, and the full faith and credit of such village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy against which such certificates were issued, or if they be not sufficient for such purpose, from other funds of the village. The money derived from the sale of such certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided that money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year. (Apr. 22, 1937, c. 356, §3.)

1225-94. Same—Sale; may be held by village treasurer.—In the event the village is unable to sell such certificates of indebtedness in the manner prescribed, it may issue said certificates of indebtedness to the village treasurer or his order and deposit the same with him. Certificates so issued shall be held by the treasurer until they may be sold and shall bear interest at six per cent per annum. The village may thereupon, as long as such certificates are on deposit with the treasurer, issue warrants upon the funds

against which such certificates were issued, the total principal amount of such warrants not to exceed the total principal amount of the certificates so held by the treasurer. Such warrants shall bear interest at six per cent per annum from and after the date they are presented to the treasurer and stamped "Not paid for want of funds, but protected by certificates of indebtedness now held by me." Such certificates may be sold by the village council and the proceeds of such sale shall be used to take up such warrants in the order presented for payment. Interest upon such warrants shall stop upon the date they are called by the treasurer for payment. Such certificates of indebtedness so held by the treasurer shall be paid at the same time and in the same manner as if they had been issued to a purchaser thereof. All warrants attempted to be issued and all obligations or indebtedness attempted to be incurred under authority of this section in excess of the principal amount of the certificates of indebtedness so held by such treasurer shall be void. (Apr. 22, 1937, c. 356, §4.)

1225-95. Same—Shall be deemed on cash basis after January 1, 1938.—From and after January 1, 1938, such village shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1937 shall be considered as the tax revenue for the year 1938, and thereafter in any such village taxes shall be levied as now provided by law, but for the succeeding year. (Apr. 22, 1937, c. 356, §5.)

1225-96. Same—May issue bonds to pay floating indebtedness.—If any such village prior to January 1, 1937, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand not specifically set aside for the retirement of bonds and interest thereon, such village may for the purpose only of paying and discharging such valid indebtedness and interest thereon, issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the village council without a vote of the electors; provided that the purchaser of such bonds shall not be charged with notice of the invalidity of any indebtedness funded by such bonds, and bonds issued hereunder in the total amount of such indebtedness as determined by the resolution of the village council, in the hands of any purchaser, shall be valid obligations of the village, notwithstanding any claim of invalidity of any such indebtedness funded thereby. If any moneys received from taxes levied in 1936 and payable in 1937, or income from local sources received since January 1, 1937, have been used prior to the issuance of bonds authorized by this Act for the retirement of indebtedness existing January 1, 1937, or interest thereon, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were paid. (Apr. 22, 1937, c. 356, §6.)

1225-97. Same—Tax levy to retire bonds.—The Village Council of any village issuing bonds pursuant to the authority of this Act shall, at the time of the issuance thereof, by resolution, provide for a levy for each year until the principal and interest are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be irrevocable until all of such bonds are paid. Such annual tax for the payment of such bonds shall be derived from two sources: (a) 30% of the amount necessary to pay said funding bonds and interest and no more shall be levied as a special tax in addition to the annual tax levied for general corporation purposes, water, light, power and building commission purposes, and library purposes for each year, and in addition to such other special taxes as may now be levied annually as provided by law and; (b) 70% of the amount necessary to pay said funding bonds and interests shall be raised and obtained

from each of the annual tax levies made by said village for general corporation purposes, water, light, power and building commission purposes, and library purposes and such other special tax levies as may be levied annually as provided by law in such proportion as may be determined by the village council. Nothing herein shall be construed as a limitation on any taxes that may now be legally levied by such villages, and the annual tax levies in such villages, in addition to the taxes which now may be levied for general corporation purposes, water, light, power and building commission purposes, and library purposes, may include all other levies for special tax purposes, including levies for payment of judgment and bonds, as are now permitted by law. (Apr. 22, 1937, c. 356, §7.)

1225-98. Same—Not to limit issuance of bonds.—Nothing in this act shall be construed to limit or restrict the issuance of bonds for any purpose authorized by law, nor the expenditures of funds therefrom. (Apr. 22, 1937, c. 356, §8.)

1225-99. Same—May be sold to state of Minnesota or private purchasers.—Such bonds may be issued and sold to the State of Minnesota pursuant to existing laws at the time of the issuance thereof (except as herein modified), or to private purchasers, or to both, or exchanged for outstanding orders at par with accrued interest. (Apr. 22, 1937, c. 356, §9.)

1225-100. Sale—Warrants legalized.—In the event that any such village prior to the passage of this act, issued its warrants or orders against any of its funds, which warrants or orders were outstanding and unpaid at the time of the passage of this act, the said warrants and orders are hereby in all respects legalized. (Apr. 22, 1937, c. 356, §10.)

1225-101. Sale—Shall not contract indebtedness.—No department, board or commission of such village shall during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be levied and collected for said department, board or commission or allotted to such department, board or commission. A record of expenditures of the village shall be presented to and examined at a regular meeting of the village council once each month and shall show the true condition of the affairs of the village at the date of such meeting. (Apr. 22, 1937, c. 356, §11.)

1225-102. Sale—District court may restrict expenditures.—If any time during any year a village operating hereunder is incurring obligations at a rate or upon a scale which would make it probable, if such rate of scale be continued, after allowing for variations in seasonal requirements, that the total expenditures for said year would exceed the moneys to be received therein, after allowances for probable tax delinquencies, the District Court, in an action brought by any taxpayer, may require such village to limit its expenditures to a rate and scale which will assure that the total obligations incurred in such year will not exceed the moneys available therein. (Apr. 22, 1937, c. 356, §12.)

1225-103. Sale—Contracts to be null and void under certain conditions.—Each contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this act shall be null and void in regard to any obligations thereby sought to be imposed upon the village, and no claim therefor shall be allowed by the council of the village nor any board thereof; nor shall the clerk or recorder of such village or any other officer or employee issue or execute, nor shall the village treasurer pay any check, warrant or certificate of indebtedness issued on account thereof. Each member of the village council and each other village officer or employee participating in or authorizing any violation of this act shall be individually

liable to the village or to any other person for any damages caused thereby. Each member of the village council or any board of such village present at a meeting of the board or council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this act, shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting. (Apr. 22, 1937, c. 356, §13.)

1225-104. Sale—Salary of president and trustees.—In all such villages the President and Trustees shall receive an annual salary of \$100.00 for their services as such officers. (Apr. 22, 1937, c. 356, §14.)

1225-105. Same—Change in assessment and population not to affect status.—When a village has once come under the provisions of this Act, it shall continue under its provisions notwithstanding any subsequent change in assessed valuation or population. (Apr. 22, 1937, c. 356, §15.)

1225-106. Same—Provisions severable.—If any provision hereof is found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Apr. 22, 1937, c. 356, §16.)

1227. Settlement of affairs.

Op. Atty. Gen. (469a-15), Apr. 26, 1934; note under §1117.

This section applies to villages operating under Village Code of 1905 and not to villages incorporated under Laws 1885, c. 145. Op. Atty. Gen. (469a-4), Aug. 20, 1936.

Dissolution terminated liability for future contract installments for lighting streets. Op. Atty. Gen. (469a-4), Aug. 20, 1936.

1229. Water and light plants.

Village may issue bonds to pay for power house and distributing system and enter into valid conditional sales contract for purchase of generating equipment to be paid for solely from remains of net profits after paying interest and bond installments. *Williams v. V.*, 187M161, 244 NW558. See Dun. Dig. 6669b.

Evidence that superintendent of a village electric system had general authority with respect to management thereof is sufficient prima facie to establish his authority to act with respect to a particular matter concerning same. *Theisen v. M.*, 200M515, 274NW617. See Dun. Dig. 6812.

A city accepting water from well for six years was liable for contract price, though contract was let without a proper call for bids and contained terms not included in call and purported to bind city to abandonment of a certain mine. *Chisholm Water Supply Co. v. C.*, 285 NW895. See Dun. Dig. 6707.

It is lawful for contract for power plant to provide that excess earnings can only be employed to make extensions and additions and that earnings therefrom shall go into fund to pay cost of original municipal plant. There is a reasonably sufficient relation to additions and extensions made from excess net earnings and original plant to justify requirement. *Davies v. V.*, 287 NW1. See Dun. Dig. 6683.

Village council had the power to determine that bidders should submit bids for entire power plant, generating equipment, and distributing system rather than for separate units thereof, and likewise it could provide that payment for entire undertaking was to be from net earnings only. *Id.* See Dun. Dig. 6697.

So long as village council acted freely and independently and for best interests of village, mere fact that it incorporated into plans and specifications suggestions advanced by representatives of possible bidders on village power plant appearing at open, public meetings, is not ground to set contract aside when it also appears that competition was not unreasonably limited. *Id.* See Dun. Dig. 6697.

Plans and specifications for municipal power plant were sufficiently definite to present an adequate standard to bidders since legend on map clearly specified that bids were to be on lines within corporate limits. *Id.* See Dun. Dig. 6707.

In a taxpayers' suit to restrain performance of and to set aside a contract for the construction of a municipal light, heat and power plant, held that contract could not be impeached on ground that there was collusion between successful bidder and village council. *Id.* See Dun. Dig. 6707.

Specifications for power plant were not fatally defective because they failed to state time for payment, number of payments, and interest to be charged but left his to individual bidder. *Id.* See Dun. Dig. 6707.

Absent charter or statutory requirement, a resolution of a village council for construction of power plant need not be signed, attested and published. *Id.* See Dun. Dig. 6748.

Village is without power to operate waterworks at a profit, its duty being to reduce rates if existing rates are too high. *Op. Atty. Gen.*, June 3, 1930.

Approval by voters unnecessary for changes, alterations or extensions where no bonds are required to issue. *Op. Atty. Gen.*, Aug. 16, 1930.

Village of Kenyon incorporated under the 1885 Village Law cannot purchase equipment for a power plant through a contract stipulating that it is to be paid for out of earnings of the plant. *Op. Atty. Gen.*, July 10, 1931.

Where at time tract of land was separated from a village there were water bonds outstanding, and owner later obtained loan from Rural Credits Bureau, and state obtained title through foreclosure and later sold the land on contract to a private purchaser, after such sale to the private purchaser the land became subject to a special levy for the purpose of paying off the water bonds. *Op. Atty. Gen.*, Sept. 24, 1931.

Under a village resolution authorizing a refund of part of tapping fee for connection of private property with water mains, the refund should be made to the person paying the tapping charge and not to a purchaser of the property. *Op. Atty. Gen.*, Sept. 26, 1931.

The Village of Kenyon cannot enter into a contract for the purchase of electric generating equipment for a proposed municipal light plant to be paid for out of future earnings, nor can it issue warrants payable in the future out of such earnings. *Op. Atty. Gen.*, Oct. 10, 1931.

If village council, on its own initiative, passed resolution calling for special election to vote upon construction of waterworks system and issuing bonds, it had right to consider matter and rescind action taken. *Op. Atty. Gen.*, June 15, 1932.

Village does not have power to furnish water and light free to churches and parsonages. *Op. Atty. Gen.*, Jan. 17, 1933.

A five-eighths vote is necessary to authorize village to erect and operate power plant, but only a majority vote is necessary to authorize sale of bonds to state for erection of a power plant. *Op. Atty. Gen.*, May 11, 1933.

Five-eighths vote is needed to erect lighting and heating plant for village of Mora, notwithstanding bonds are to be sold to state. *Op. Atty. Gen.*, May 24, 1933.

Procedure and forms for special election for erection of waterworks system and issuing bonds, discussed. *Op. Atty. Gen.*, Aug. 17, 1933.

Sewer and water system could be voted upon as a single question. *Op. Atty. Gen.*, Nov. 27, 1933.

Village proceeding under this section for construction of well must obtain five-eighths vote of electors, but after such authorization a majority vote is sufficient to authorize issuance of bonds to state. *Op. Atty. Gen.*, Dec. 5, 1933.

Council cannot rescind action of electors authorizing construction of sewage and water system and issuance of bonds to pay for cost of same. *Op. Atty. Gen.* (476b-14), June 12, 1934.

Village operating its only owned utility may only sell surplus electricity to consumers outside corporate limits or inside corporate limits. *Op. Atty. Gen.* (624c-12), May 24, 1935.

Attorney's fees incurred in election and in issuance and sale of bonds may be paid out of bond proceeds. *Op. Atty. Gen.* (59a-7), May 28, 1935.

Lot owner with house four-fifths in village limits was entitled to water connection upon payment of usual charges and assessments, and could not be compelled to have his entire lot attached to village. *Op. Atty. Gen.* (624d-3), Aug. 10, 1936.

Reasonableness of Ordinance requiring connections with water mains to be of copper is for determination of village officials. *Op. Atty. Gen.* (624d-3), Sept. 3, 1936.

Village of Litchfield owning and operating electric light power plant may purchase appliances, such as electric stoves, and sell same to village consumers of light and power. *Op. Atty. Gen.* (624c-5), Apr. 27, 1937.

An order granting a franchise to electric light and power company not exclusive in terms does not interfere with or restrict right of city or village to establish, construct, and operate an electric light and power system, nor from purchasing electric energy and distributing same through its own system. *Op. Atty. Gen.* (624c-6), Nov. 18, 1937.

Though in maintaining water plant for use by fire department in extinguishing fires municipality is performing a public or governmental function and is not liable for negligence of its officers and employees, such is not true when a municipality undertakes to furnish water or light to individuals and makes a charge therefor. *Op. Atty. Gen.* (469a-8), Mar. 1, 1938.

School district may contract with village for water supply, contract to be made by each board, but to run no longer than one year. *Op. Atty. Gen.* (707b-10), Mar. 29, 1938.

Village may issue bonds for construction of municipal light plant payable solely from net earnings. *Op. Atty. Gen.* (624c-16), Apr. 13, 1938.

Petition of voters for special election on proposition of construction of a municipal light plant requires coun-

cil to submit proposition to voters. *Op. Atty. Gen.* (476b-15), May 10, 1938.

Procedure for issuing bonds or warrants for water works and sewer system payable from earnings or special assessments. *Op. Atty. Gen.*, (476b-15), Sept. 21, 1938.

A blank ballot may be disregarded in computing vote actually required to carry proposition. *Op. Atty. Gen.* (44B-8), May 22, 1939.

1235. Operation of plants.

Whether rate to be charged by city for water must be based on the quantity of water used by any consumer regardless of the use to which the water is put, query. *Op. Atty. Gen.*, June 27, 1931.

A village may not invest money of water fund in bonds or other forms of obligations of village. *Op. Atty. Gen.*, Jan. 31, 1933.

Persons desiring to connect with a private main must obtain permission of owners, and city or village is not liable for inadequate water supply for fire department. *Op. Atty. Gen.*, (624d-9), July 12, 1938.

1235-1. Proceedings and bonds validated.—All proceedings heretofore taken for the authorization and issuance of bonds by any village of this State for the purpose of financing in whole or in part the construction of a waterworks plant or waterworks system are hereby validated, ratified, approved and confirmed and declared to be valid and of full force and effect, notwithstanding any defects or irregularities in such proceedings, and notwithstanding the fact that the maturities of the bonds proposed to be issued as stated in any proposition submitted to and approved by the voters of such village for the issuance of such bonds did not comply with the requirements as to maturities in the statutes applicable thereto; and the village council of any such village is hereby authorized to complete such proceedings and to issue bonds of any such village in an amount not exceeding the amount authorized at such election, such bonds to mature in accordance with the statutes applicable thereto, and all such bonds when delivered and paid for shall be binding, legal, valid and enforceable obligations of such village. (Act Feb. 8, 1935, c. 8, §1.)

1235-2. Not to affect pending litigation.—This act shall not affect any bonds, the validity of which is questioned in any litigation pending when this act shall take effect. (Act Feb. 8, 1935, c. 8, §2.)

Sec. 3 of Act Feb. 8, 1935, cited, provides that the act shall take effect from its passage.

1236. Water-works—Special tax for mains.

Village may not make water rent a lien against real property of user in absence of statute or charter authorization. *Op. Atty. Gen.* (477h-36), Aug. 7, 1936.

1245. Tax levy for water and light plants.—That the village council or governing body of any incorporated village in this state whose water and light plant is operated and controlled by a water, light and building commission is hereby authorized, annually, at the time of levying the general corporation taxes, to levy a special tax not exceeding five mills on each dollar of the taxable property in such village, for the purpose of paying the cost of operating the village water and light plant and other municipal plants and utilities under the supervision of said commission in supplying such village with the necessary water for fire protection and street sprinkling and the necessary electric current or other means of light, for lighting the streets and public parks and public buildings in such village, and for the purpose of paying the cost of operating such municipal plants and utilities in supplying such village with any other services given or rendered to such village by said commission. (G. S. '13, §1322; '13, c. 214, §1; Apr. 15, 1933, c. 280, §1.)

Village cannot pay for electricity used for lighting streets and public buildings out of the water and light fund, it appearing that city furnished only water to its inhabitants. *Op. Atty. Gen.*, June 1, 1929.

Power and building commission may not furnish hydrant rental and light to village free of charge with the purpose of permitting the village to recoup its finances so that it may be able to purchase a fire truck, if the village does not levy a tax of five mills for such purpose. *Op. Atty. Gen.*, Apr. 27, 1931.

Village which has no water, light and building commission may not levy a special tax for water and light purposes. *Op. Atty. Gen.* (481b-7), Jan. 5, 1935.

Where a tax has been levied for water and light purposes pursuant to this section, water, light, power

and building commission may fix rates and collect for water furnished to residents of village under §1858, and may refuse to furnish water to persons owing delinquent accounts. Op. Atty. Gen. (469b-6), Mar. 2, 1935.

It is not permissible to give water and light to a village free without imposition of tax levy. Op. Atty. Gen. (476a-6), Feb. 11, 1936.

1247. Clerk and recorder to make and file estimate.—Before making such special tax levy, the water, light and building commission of such village each year, shall at the request of the village council on or before the following first day of August, make and file with the village recorder (clerk) a statement containing an estimate of the probable cost of supplying such village with the necessary water and light and other services given and rendered to the village for the ensuing year. (G. S. '13, §1324; '13, c. 214, §3; Apr. 15, 1933, c. 280, §2.)

1247-1. Villages may pay salaries in certain cases.—That in all villages having a population of more than 12,000 and an assessed valuation of more than \$60,000,000.00, the village council of such village be authorized to provide for the payment of salaries to the members of the water, light, power and building commission of such village, such salaries to be set by such village council and paid from the water and light fund of said village, provided, however, that the salary to be paid the chairman of such commission shall not exceed the sum of \$150.00 per month and the salary of the other members of such commission shall not exceed the sum of \$100.00 per month. (Act Apr. 20, 1929, c. 281, §1.)

Act Feb. 20, 1935, c. 18, authorizes villages with 3200 to 3500 inhabitants and assessed valuation of \$1,000,000 to \$1,200,000, to award specified compensation to members of village water, light, power, and building commission. It is omitted as local.

1248. [Repealed].

Explanatory Note—Repealed and re-enacted by Laws 1919, c. 172, §4. The provision as re-enacted is set forth as §§1865, 1866, 1867, Mason's Minn. St. 1927.

Approval by voters unnecessary for changes; alterations or extensions where issue of bonds is not required. Op. Atty. Gen., Aug. 16, 1930.

A village which disposed of its light and heat distributing system to a private utility and granted a franchise to such company, which refused to install an extension to citizens of the village residing out of the settled portion thereof, could not appropriate money to pay for such extension upon the agreement of such citizens not to withdraw their property from the village limits for a period of three years. Op. Atty. Gen., July 1, 1931.

Except in cases of water and light plants village council may sell real estate when no longer needed for village purposes and without a vote of the people. Op. Atty. Gen. (469a-15), Apr. 26, 1934.

1249. [Repealed].

Explanatory Note—Repealed and re-enacted by Laws 1919, chap. 172, §4. See §§1865 to 1867, Mason's Minn. St. 1927, for re-enactment.

1250. Property owners required to connect with water and sewer systems in villages.

Village may not make water rent a lien against real property of user in absence of statute or charter authorization. Op. Atty. Gen. (477h-36), Aug. 7, 1936.

Lot owner with house four-fifths in village limits was entitled to water connection upon payment of usual charges and assessments, and could not be compelled to have his entire lot attached to village. Op. Atty. Gen. (624d-3), Aug. 10, 1936.

Reasonableness of Ordinance requiring connections with water mains to be of copper is for determination of village officials. Op. Atty. Gen. (624d-3), Sept. 3, 1936.

Legislature did not intend to exclude a village owning its water and sewer distribution system installed in its streets or alleys within its corporate limits even though sources of such water supply and septic tank of sewer system might be located outside of corporate limits. Op. Atty. Gen. (624c-16), Apr. 22, 1937.

A village ordinance that no building should be rented to nonresidents without having running water, bath room, and sewage or disposal system, violates equal protection clause of constitution. Op. Atty. Gen., (477b-3), Oct. 13, 1938.

1252. Purchase of electrical energy.

Section 1186(18, 19) is source of authority by city council to provide electric lighting of streets and for pumping water while §§1252 and 1253 appear to be applicable only to proposed contracts that would include distribution and supplying of electrical energy to inhabitants. Op. Atty. Gen., Mar. 20, 1933.

A village entering into an absolute contract to pay certain amount for electricity for 10 years has no power to revise or lower such rate during such period. Op. Atty. Gen. (624c-11), Aug. 8, 1934.

An order granting a franchise to electric light and power company not exclusive in terms does not interfere with or restrict right of city or village to establish, construct, and operate an electric energy and distributing same through its own system. Op. Atty. Gen., (624c-6), Nov. 18, 1937.

1253. Contract, how made—Term.

Contract for purchase of electrical energy purporting to extend over a term longer than that limited by statute is void after the expiration of the limited period. Op. Atty. Gen. (469a-2), June 12, 1935.

One village council may bind subsequent councils to either grant extension of electric franchise or pay portion of cost of white way constructed by a private utility. Op. Atty. Gen. (707b-14), Oct. 31, 1936.

Village operating under Laws 1885 is bound by 25 year franchise granted to a power company in 1916, and cannot lower rates by ordinance. Op. Atty. Gen. (624c-6), Sept. 16, 1937.

Contract of village for purchase of electricity over a period of ten years may not be entered into without first advertising for bids. Op. Atty. Gen. (624c-2), Sept. 10, 1938.

1253-1. Sale of surplus electricity.

Village operating its only owned utility may only sell surplus electricity to consumers outside corporate limits or inside corporate limits. Op. Atty. Gen. (624c-12), May 24, 1935.

There is no tax upon sale of surplus electric energy outside of corporate limits of a city, even though in another county. Op. Atty. Gen. (624c-13), Aug. 12, 1937.

Village of Mazeppa may dispose of its surplus electric energy at corporate limits. Op. Atty. Gen., (624c-12), Aug. 24, 1938.

Section is not applicable to those villages which own their distributing plants but do not produce electricity. Op. Atty. Gen. (624d-17), June 14, 1939.

Village owning distribution system but purchasing energy from a power company may own lights outside corporate limits and sell and dispose of electric energy there, but only upon vote of electors under §1867-1. Id.

1255. Parks and parkways in certain villages.

Until a levy has been made under section 1258, the village council may appropriate money for park purposes under section 1264-4. Op. Atty. Gen., Apr. 10, 1931.

1256. Officers—Vacancies.

It would be permissible to adopt a rule that in the absence of the president of the board, the vice-president may act and sign warrants. Op. Atty. Gen., Apr. 10, 1931.

1258. Tax levy—Park fund—What land may be taken—Regulating traffic.—The village council, upon request in writing signed by all the members of the board of park commissioners, presented to the council at any regular meeting thereof, and without any election by the voters of the village, may at any time issue warrants of the village in such amount and denomination as it may deem proper and expedient, and may sell or enter into any contract for the sale of such warrants without giving published notice thereof, not exceeding in total amount at any one time outstanding the sum of \$2,000, but no such warrants shall be issued or sold by said village, which, with the indebtedness of the village then existing, shall exceed 15 per cent of the assessed valuation of the taxable property of said village. Such warrants shall bear interest at a rate not to exceed six per cent per annum, payable annually, or semi-annually, as may be determined by such village council, and may run for a period not exceeding ten years, and shall mature serially. Such warrants shall be designated and inscribed as Village Park Fund Warrants and they shall not be sold for less than their par value, and the proceeds thereof shall be used exclusively for the purposes of the village park fund as hereinafter referred to. Every village which shall issue any warrants under the authority of this act is hereby required annually to levy taxes upon all the taxable property in such village sufficient to pay the interest on such warrants, and to provide a fund for the payment of the principal of such warrants at their respective maturities. In addition to the village taxes necessary for the said fund, the village council shall annually at the time of levying other village taxes, levy such sum as it shall deem necessary, not to exceed two mills upon the dollar of taxable property

of the village, for park purposes, and such taxes shall be collected with and as a part of other village taxes, and paid into the village treasury and set apart as a village park fund. The board of park commissioners shall have power to expend such park fund, including the proceeds of any such warrants, in the acquisition, maintenance and improvement of parks and parkways. All warrants drawn upon such fund shall be accompanied by receipted vouchers, showing the purpose for which the warrant is drawn, and shall be signed by the president of the board and by the village recorder, and countersigned by the president of the village council. The board of park commissioners may, with the consent of the village council take any land within the village, which has been acquired or dedicated as a public park or common, and thereafter administer and govern the same as if acquired by purchase under the provisions of this act. The board of park commissioners may also, with the consent of the village council, take as a parkway, any street or highway, or portion thereof, and thereafter administer and govern the same in all respects and with like powers as if it had been originally acquired as a parkway under the provisions of this act. The board of park commissioners shall have power to regulate, control and govern the traffic upon and over any parkway, and may exclude therefrom all vehicles excepting those in use for carrying passengers, or impose lesser restrictions thereon as it may deem best. All orders, warrants or obligations incurred or contracted by any such village, which has heretofore created and maintained a board of park commissioners pursuant to Chapter 167, Laws 1905 [§§1255 to 1262] for park purposes, are hereby in all respects legalized and declared valid obligations of such village. (As amended Feb. 18, 1939, c. 25.)

Op. Atty. Gen., Apr. 10, 1931; note under §1256.

Park board must turn gift money into the village treasury and expend it pursuant to warrants drawn upon it, and cannot expend such money without restrictions and without the consent of the village council. Op. Atty. Gen., Apr. 10, 1931.

Neither village council nor board of park commissioners may issue warrants where there is no money immediately available in treasury for their payment, unless in anticipation of current tax levy sufficient to cover, and anticipation warrants may not be discounted under any circumstances. Op. Atty. Gen. (476c-2), Apr. 19, 1937.

A village organized under Laws 1885, c. 145, with a board of park commissioners organized under Mason's Stat. 1927, §1255, et seq., may pay out of its general fund for improvements on park property. Op. Atty. Gen., (330a-5), Oct. 11, 1938.

1261. Docks, boat houses, etc.

Park board of village of Excelsior may be licensed to sell non-intoxicating malt liquors. Op. Atty. Gen., Apr. 22, 1933.

1263-1. Flying fields—Acquisition of land—Erection.—Every village of this state, situated in counties having an assessed valuation of not more than \$2,000,000.00 and a population of not more than 5,000 inhabitants is hereby authorized by resolution of the council to establish and maintain a municipal flying field and airport, to acquire land by lease, gift, purchase, devise or condemnation from time to time necessary for that purpose, and to erect thereon terminal and other buildings and structures necessary and suitable for the operation thereof. (Act Jan. 9, 1934, Ex. Ses., c. 55, §1.)

Village in counties having 28 or 29 townships and valuation of \$7,000,000 to \$9,000,000, having acquired property for municipal airport may sell such property. Laws 1939, c. 299.

A city or village may erect poles and high lines outside of corporate limits for purpose of lighting airport without submitting proposition to electors. Op. Atty. Gen. (234b), Dec. 27, 1934.

Words "assessed valuation of not more than \$2,000,000 and a population of not more than 5,000 inhabitants" refer to valuation and population of county, rather than valuation and population of village. Id.

1263-2. Same—Taking possession of land, condemned.—Such village may at any time after the filing of the petition in the condemnation proceedings, take possession of said lands to be used and except as herein provided, such condemnation proceedings

shall be exercised only under and pursuant to the provisions of the statutes of the State of Minnesota relating to eminent domain. (Act Jan. 9, 1934, Ex. Ses., c. 55, §2.)

1263-3. Same—expense, how paid—levy of tax.

The cost of establishing and maintaining any airport established and maintained in pursuance with the provisions of this act shall be paid from the funds of the water and light department of any such village and if such funds are not sufficient therefor, the council of such village is hereby authorized to levy a tax, upon all taxable property of such village, in an amount sufficient to pay the balance of such costs. (Act Jan. 9, 1934, Ex. Ses., c. 55, §3.)

1263-4. Combined recreational council for village and school district.—Any village to which this act shall apply, which is now authorized by law to expend moneys for recreational purposes, which is located within the territorial limits of any independent school district, which district is also authorized by law to expend moneys for recreational purposes, may combine with such independent school district to form and create a combined recreational council, as hereinafter provided, and with the powers and authority as hereinafter provided. (Jan. 15, 1936, Ex. Ses., c. 29, §1.)

1263-5. Same—creation—membership—powers.

The governing boards of such village and of such independent school district may by resolution passed by a majority vote of each governing body, create a recreational council consisting of two members of such village council and two members of the governing board of such independent school district, to be known as a combined recreational council. Such recreational council so formed shall have authority to maintain recreational activities, but shall have no authority to incur any obligations in connection therewith except such as are expressly authorized by the governing bodies of both of such respective municipalities. (Jan. 15, 1936, Ex. Ses., c. 29, §2.)

1263-6. Same—expenditures—budget.

The said village shall not expend more money than it is authorized by law to expend for such purpose and such independent school district shall not expend more money for such purpose than it is authorized to expend, and such combined recreational council shall not be authorized to incur indebtedness in excess of such amounts nor in excess of the amounts as set aside for such purpose by the governing bodies of such village and such independent school district, which bodies are hereby authorized to create and set apart a budget for such combined expenditures and to designate the proportionate amount of such expenditures to be met by each respective municipality. (Jan. 15, 1936, Ex. Ses., c. 29, §3.)

1263-7. Same—compensation—tenure.

The members of such combined recreational council shall serve without pay, and their respective terms of office shall expire at the end of the time for which they are appointed, not to exceed their term of office for which they have been elected to the respective governing bodies. (Jan. 15, 1936, Ex. Ses., c. 29, §4.)

1264-1. Bonds for funding floating indebtedness.

Act providing for placing certain villages on cash basis through issuance of bonds to fund outstanding indebtedness. Laws 1931, c. 277, ante, §§1152-13 to 1152-24.

1264-3. Villages may acquire land for park purposes by condemnation.—The village council of any village in the state may by resolution or ordinance acquire, by gift, condemnation, or purchase for or in the name of the village, a tract of land, either with or without the corporate limits of the village, for park purposes and may appropriate money from the general revenue fund of the village for the purpose of purchasing such tract of land, not exceeding the sum of \$2,000; provided that no tract of land so acquired by purchase or condemnation shall exceed 80 acres in area. Provided, however, that no village can

acquire more than 40 acres unless the question of issuing bonds for acquiring a park shall have been submitted to voters of the village prior to January 1, 1936, and carried by more than a five-eighths majority. ('19, c. 197, §1; Apr. 17, 1933, c. 319; Jan. 18, 1936, Ex. Ses., c. 41.)

Village has no power to purchase land for park on installment plan, though current tax levy is sufficient to pay first installment, it being insufficient to pay entire price. Op. Atty. Gen. Dec. 13, 1923.

Advertisement for bids for purchase of park lands is not required. Op. Atty. Gen., May 19, 1930.

Village funds may be appropriated for purchase of land for park purposes. Op. Atty. Gen. (476b-10), Mar. 20, 1935.

Village may use funds for leasing land for park and playgrounds purposes. Op. Atty. Gen. (476b-10), Mar. 21, 1935.

This provision is controlling as to villages operating under revised laws of 1905, and not more than \$2,000 may be paid for a park and a park may not be purchased on installment plan. Op. Atty. Gen. (476b-10), Apr. 30, 1935.

Village may issue bonds to pay cost of land for park purposes upon approval by electors. Op. Atty. Gen. (44b-10), June 6, 1935.

Village may lease land outside its limits for bathing beach but cannot extend money for making permanent improvements thereon, and may employ beach guards. Op. Atty. Gen. (476b-10), Dec. 26, 1935.

Village and town may jointly own and maintain a public park. Op. Atty. Gen. (330c-5), Jan. 8, 1936.

Village may purchase out of available funds vacant lot to be used for park purposes without vote of electors. Op. Atty. Gen. (469a-12), Apr. 6, 1937.

Village of Wadena had no right to purchase 120 acres outside corporate limits at a price of \$7,200 for use as a public bathing beach and for park purposes. Op. Atty. Gen. (476b-10), June 9, 1937.

Village council may acquire land outside corporate limits of village for park and recreation purposes and appropriate money from general revenue fund not exceeding \$2,000 without submitting proposition to electors, if village has sufficient money on hand or available out of current tax levy in process of collection. Op. Atty. Gen. (476b-10), Jan. 17, 1938.

Village may purchase 172 acre farm for park and sewer purposes where owner claims overflow from sewage disposal plant creates a private nuisance, and may do so without vote of electors where cost price is less than \$2,000. Op. Atty. Gen. (476b-10), Feb. 10, 1938.

School board may lease land to village to be used as a playground if it reserves for itself right to use land at any time for school purposes, without vote of electors, and village may enter into such agreement. Op. Atty. Gen. (622a-7), Feb. 18, 1938.

County or village may purchase land at sales held pursuant to Laws 1935, c. 386 (§2139-15). Op. Atty. Gen. (425c-10), May 4, 1938.

Village desiring to widen street may purchase an entire lot and use excess for a park. Op. Atty. Gen. (469a-12), March 2, 1939.

There is no statutory authority authorizing a village to purchase lots for resale on a commercial basis, but a village has right to acquire a tract of lake shore property for purpose of creating and maintaining a public park. Op. Atty. Gen. (469a-12), March 6, 1939.

1264-4. Same—Appropriation from revenue fund for improvement.

Improvement of parks may be paid for out of general funds of village. Op. Atty. Gen. (476b-10), Dec. 31, 1937.

1264-6. Police pension fund created in certain villages.—In every village in this state now having or hereafter having a population of over 5,000 inhabitants and as assessed valuation of more than \$8,000,000, there may be created a police pension fund which shall be managed, controlled and distributed in accordance with the provisions of this Act; however, if any such paid police department of any village within the classifications of this act shall become duly incorporated as a Policemen's Relief Association under and pursuant to this act, and thereafter such village shall adopt a home rule charter or shall become incorporated as a city of the second, third, or fourth class the provisions of this act shall remain in full force and effect as to such relief associations incorporated therein. (Act Mar. 9, 1931, c. 48, §1; Mar. 28, 1933, c. 122, §1.)

There is no provision of law for creation of a police relief association similar to the firemen's relief association in cities of the fourth class. Op. Atty. Gen., May 27, 1931.

1264-7. May incorporate—amount of pension.—That every paid municipal police department now existing or which may hereafter be organized is here-

by authorized to become incorporated pursuant to the provisions of Chapter 58, General Statutes 1923, and the laws amendatory thereto, and adopt a constitution and by-laws as a relief association, and is authorized to provide for and permit and allow such police relief association, so incorporated and organized, to pay out of and from any funds it may have received from any source a service, disability or dependency pension in such amounts and in such manner as its articles of incorporation and constitution and by-laws shall designate, not exceeding, however, the following sum per month to each of its pensioned members who shall have reached the age of fifty-five years or more, and shall have served 20 years or more in such department, or their widows and children under 16 years of age, viz:

Seventy-five Dollars (\$75.00) per month when such members shall have reached the age of fifty-five years or more and shall have served as a member of such paid Municipal Police Department for a period of twenty years or more in the Police Department of such village in which such relief association shall have been organized, or who has been disabled physically or mentally because of any injury received or suffered after at least one year of service as such member, while a member of such organizations and Police Department, so as to render necessary his retirement, from active police service and cause a total and permanent disability; provided, further, that no pension authorized by this Act shall be paid to any person while receiving compensation in any form, or sick benefit, from any county, city, village, township or other political subdivision of the state, or to any person after he removes his residence from the United States, or to any person who shall have been convicted of a felony for which he shall have been adjudged to be imprisoned, or who is an habitual drunkard, or to any person receiving a pension or sick relief from any other public relief association.

Provided, however, that said maximum monthly payments of Seventy-five Dollars (\$75.00) per month may be increased by adding thereto an amount not exceeding Three Dollars (\$3.00) per month for each year of active duty over twenty years of service before retirement; provided, further, that with such increases no pension or payment hereunder shall exceed the sum of One Hundred Dollars (\$100.00) per month; and provided, further, that no such pension shall be paid to any person while he remains a member of the Police Department and no person receiving such pension shall be entitled to any other relief from the association. (Act Mar. 9, 1931, c. 48, §2.)

Compensation is payable whether injury or sickness occurred in or out of service. Op. Atty. Gen. (785j), Feb. 14, 1936.

Police civil service commission may not require retirement at certain age, but may provide that amount of pension shall depend upon number of years of service. Op. Atty. Gen. (785i), Nov. 10, 1936.

1264-8. Widows and children may receive pension.—Pensions may be paid to any widow or child under 16 years of age of such pensioned and retired members of the police department, or to any widow or child under 16 years of age of any member who dies while in the service of the police department of any such village. (Act Mar. 9, 1931, c. 48, §3.)

Compensation is payable whether injury or sickness occurred in or out of service. Op. Atty. Gen. (785j), Feb. 14, 1936.

1264-9. Amount of pension.—Pensions may be paid by such police relief association to any widow or child under 16 years of age of any such pensioned and retired member of the police department, and to any widow or child under 16 years of age of any member who dies while in the service of the police department of such village, and such widow or child shall receive not to exceed the sums hereinafter provided for, viz.:

\$40.00 per month to such widow, and \$10.00 per month to each of such children under 16 years of age; provided that where such widow and such children

reside together the money herein required to be paid to such children shall be paid to such widow for the support of such children, but that the money paid to such widow for herself and such children shall not exceed \$75.00 per month in all. Provided, further, that in the event of the death of both parents leaving a minor child or children under the age of 16 years of age, entitled to such pension, such sums as may be necessary for the care, maintenance and education of such child or children may be paid to the legal guardian thereof, but not to exceed the sum of \$75.00 per month to the children of any one policeman. Provided, further, that in the event that any such widow remarries, she shall receive no further benefits under this law; and provided, further, that said fund shall not be used for any other purpose than the payment of service, disability or dependency pensions, as herein provided, and for the relief of a sick, injured and disabled policeman. The word "member," as used in this Act, shall include policewomen, police matrons and assistant police matrons. (Act Mar. 9, 1931, c. 48, §4.)

1264-10. Not to be subject to process.—No pension allowed or to be allowed by said police relief association under this act shall be subject to judgment, garnishments or executions or other legal process, and no person entitled to such pension shall have any right to assign the same nor shall said association have the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Mar. 9, 1931, c. 48, §5.)

1264-11. Association to have control of pension fund.—Subdivision 1. Said association through its officers shall have full charge, management and control of the pension fund herein provided for, which said fund shall be derived from the sources herein stated: From gifts of real estate or personal property, and from the rents and sales thereof or the income therefrom. It shall also be the duty of the village recorder, treasurer or other disbursing officer of such village where a police relief association has been duly incorporated and organized under the provisions of this Act, to deduct each month from the monthly pay of each member of such police department who is a member of the association and entitled to the benefits therefrom a sum equal to two per cent of such monthly pay and to place the same to the credit of said police pension fund; it shall also be the duty of every police officer receiving any reward for services, in making arrests or otherwise, to pay unto said police pension fund all such rewards, and it shall be the duty of the chief of police of any such village to place to the credit of and pay into such police pension fund all moneys coming into the hands of the police when the same shall have been unclaimed for a period of six months, and to sell all unclaimed property coming into the hands of the police when the same shall have been unclaimed for a period of six months, and place the proceeds thereof to the credit of said police pension fund.

Subd. 2. The village council or other governing body of such city shall each year, at the time the tax levies are made for the general revenues of the village, levy within the limits now permitted by law, a tax of one-fifth of a mill on all the taxable property of such village, the amount of which tax shall not in the aggregate exceed the sum of \$6,000 per annum, and which levy shall be transmitted to the county auditor of the county in which the village is situated at the time the other tax levies are transmitted and shall be collected and the payment thereof shall be enforced in the same manner as the other taxes of such village. The village treasurer, when the moneys derived from such tax are received by him, shall credit the same to the Police Pension Fund, together with all penalties and interest collected thereon, in the following manner: of the first levy made after the passage of this act, in all villages within this act and having a pop-

ulation of less than 10,000 inhabitants, a sum not to exceed \$700.00, may, at the discretion of the Board of Trustees of said relief association, be placed to the credit of the general fund of said association, and the balance of said levy, as well as all subsequent levies, shall be credited to the special fund of said association, and said moneys shall not be withdrawn from said fund or transferred to any other fund, except for the purposes of this act.

Subd. 3. If at any time the balance on hand of the fund so raised by taxation as in this section provided, together with other resources, exceeds the sum of \$50,000, then as often as this shall occur the levy of said sums shall be omitted for any year in which said condition shall exist, and if at any time the whole amount of the sums that may be raised by taxation in any year is not needed for the purposes of this Act and the maintenance of the said fund at \$50,000 then said sum so to be raised by taxation in any such year shall be proportionately reduced to such amount as will be sufficient to carry out the provisions thereof.

Subd. 4. The village treasurer shall, upon written direction of the governing board or Board of Directors of said Association, invest said funds in such interest bearing securities as are specified from time to time by the said Board of Directors, provided that the same shall be such securities as are prescribed from time to time by the statutes of Minnesota as securities for investments of the State Board of Investment. (Act Mar. 9, 1931, c. 48, §6; Mar. 28, 1933, c. 122, §2; Apr. 20, 1939, c. 304.)

1264-12. Board of directors.—The governing board or Board of Directors of said association then incorporated shall consist of five members, to be elected annually, who shall first hold their offices for one, two, three, four and five years, respectively, and thereafter each for a five-year term, or until the successor of each is duly elected and qualified, who shall serve without compensation and shall be active members of said Paid Police Department, and the Mayor or President and Village Treasurer shall be ex-officio members of said Board, and the Village Treasurer shall be the custodian of all funds of said association and shall disburse the same directed by said Board. The said Village Treasurer shall give bond to the Board of Trustees in an amount not less than the total balance of funds owned and belonging to such relief association as shown by its last annual statement, conditioned for the faithful discharge of his duties during his continuance in office and for the payment without delay to the officer or persons entitled by law, thereto, of all moneys belonging to said relief association, which shall come into his hands by virtue thereof, provided that the premium for said bond may be paid by the said Board of Trustees out of the special fund of said association. All vacancies occurring in the elective membership of said Board shall be filled by a special election called for that purpose. None of said members shall be eligible to vote upon any question relating to his benefits hereunder. (Act Mar. 9, 1931, c. 48, §7; Mar. 28, 1933, c. 122, §3.)

1264-13. Board to file report.—The said Governing Board of said Association shall file annually on or before the 1st day of September of each year with the Recorder of said Village a detailed report of the amount of money or property so received, expended and still remaining on hand to the credit of said fund. The books and records of said Board shall be open to inspection and audit by any taxpayer of said Village or his duly authorized representative. (Act Mar. 9, 1931, c. 48, §8.)

1264-13½. Firemen's pension in certain villages—In any village having a population in excess of 5,000 and a valuation in excess of \$8,000,000, exclusive of moneys and credits, and having a Fire Department Relief Association organized under the laws of this state and authorized to pay pensions under Ma-

son's Minnesota Statutes of 1927, Sections 1919 and 1920 and Sections 3723-3728, inclusive, or any amendments thereof, such Fire Department Relief Association may pay retirement pensions in excess of the amounts authorized by said Statutes, but not in excess of the following total amounts:

\$75.00 per month to each member of the Association who shall have reached the age of 55 years and shall have served 20 years or more as a member of the paid municipal fire department in such village. The monthly payments of \$75.00 may be increased by adding thereto an amount not exceeding three dollars per month for each year of active duty over 20 years of service before retiring; provided, that no such pension or payment hereunder shall exceed the sum of \$96.00 per month. No such pension shall be paid to any person while he remains a member of the Fire Department. (Act Apr. 15, 1935, c. 192, §1.)

1264-13 ½ a. Limitation.—No pension authorized by this act shall be paid to any person while receiving a pension in any form, or sick benefits, from any state, county, city, village, township or other political subdivision of the state, or to any person after he removes his residence from the United States, or to any person who shall have been convicted of a felony for which he shall have been adjudged to be imprisoned, or who is a habitual drunkard, or to any person receiving a pension or sick relief from any other public relief association, and no person receiving such pension shall be entitled to any other relief from the association. (Act Apr. 15, 1935, c. 192, §2.)

1264-13 ½ b. May pay benefits.—Nothing herein shall be construed as preventing any such association from paying any benefits other than service pensions which they may be authorized to pay to members of the association under the General Laws of this state or of the Statutes hereinbefore referred to, except that such benefits shall not be paid to any member while he is receiving a pension hereunder. (Act Apr. 15, 1935, c. 192, §3.)

1264-13 ½ c. Not to be subject to process.—No pension allowed or to be allowed by any Firemen's Relief Association under this act, and no accumulated contributions of members to the fund hereinafter referred to, shall be subject to judgment, garnishments, or executions or other legal process, and no person entitled thereto shall have any right to assign the same, nor shall the association have the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Apr. 15, 1935, c. 192, §4.)

1264-13 ½ d. Deductions from pay—Tax levy—Premium on bonds of treasurer and secretary—Investment of surplus.—In addition to the moneys in the special fund of said association or provided to be raised therefor under existing laws for the payment of pensions and other benefits, revenues from the following sources shall be paid to said special fund, to-wit: It shall be the duty of the village recorder, treasurer or other disbursing officer of such village to deduct each month from the monthly pay of each member of the Fire Department who is a member of the association a sum equal to three and one-half per cent of such monthly pay, and to place the same to the credit of said special fund. The village council or other governing body of such village shall each year, at the time the tax levies are made for the general revenues of the village, levy, within the per capita or mill limitations now permitted by law, a tax one-tenth of a mill on all of the taxable property of such village, which levy shall be transmitted to the county auditor of the county in which the village is situated at the time the other levies are transmitted and shall be collected, and the penalties therefor shall be enforced, in the same manner as the other taxes of such village. The village treasurer, when the moneys derived from such tax are received by him, shall pay the same to the treasurer of the Firemen's Relief Association, together

with all penalties and interest collected thereon, in the following manner: Of the first levy made after the passage of this act an amount not to exceed one-half of such levy may, at the discretion of the board of trustees of said relief association, be placed to the credit of the general fund of said association. The balance of said levy, as well as all subsequent levies, shall be credited to the special fund of said association, and shall not be withdrawn from said fund or transferred, to any other fund except for the purposes of this act; provided, however, that said board of trustees may, in its discretion, pay premiums upon the bond of the treasurer and secretary from said special fund, and may also invest the balance of its funds in certificates of indebtedness of such municipality, and the governing body of such municipality shall sell its certificates of indebtedness to such relief association at the prevailing rate that it sells such certificates to the general public, or others. (Act Apr. 15, 1935, c. 192, §5; Apr. 13, 1939, c. 212.)

1264-13 ½ e. Levy to be discontinued when.—If at any time the balance on hand of the fund so raised by taxation as in this section provided, together with other resources in said special fund, shall exceed the sum of \$100,000 or more, then as often as this shall occur, the levy of said sum shall be omitted for any year in which said condition shall exist; if at any time the whole amount of the sums that may be raised by taxation in any year is not needed for the purposes of this act and the maintenance of said fund at the amount prescribed herein, then such sum so to be raised by taxation in any such year shall be proportionately reduced to such amount as will be sufficient to carry out the provisions hereof. (Act Apr. 15, 1935, c. 192, §6.)

1264-13 ½ f. Treasurer to invest funds.—The treasurer of said association shall, upon written direction of the governing body or board of directors thereof, invest said funds in such interest-bearing securities as are specified, from time to time, by said board of directors; provided same shall be such securities as are prescribed by laws of Minnesota, from time to time, as securities for investments of the State Board of Investment. (Act Apr. 15, 1935, c. 192, §7.)

1264-13 ½ g. Officers.—The governing board or board of directors of said association whether heretofore or hereafter incorporated shall consist of five members, to be elected annually, who shall first hold their offices for one, two, three, four and five years, respectively, and thereafter each for a five-year term, or until the successor of each is duly elected and qualified, who shall serve without compensation and shall be active members of said paid fire department, the Mayor, Recorder or Clerk, and Chief of said Department shall be ex officio members of said board. The treasurer of said association shall give bond to the Board of Trustees in an amount not less than the total balance of funds owned and belonging to such relief association as shown by its last annual statement, conditioned for the faithful discharge of his duties during his continuance in office and for the payment without delay to the officer or persons entitled by law thereto, of all moneys belonging to said relief association which shall come into his hands by virtue thereof. All vacancies occurring in the elective membership of said board shall be filled by a special election called for that purpose. None of said members shall be eligible to vote upon any question relating to his benefits hereunder. (Act Apr. 15, 1935, c. 192, §8.)

1264-13 ½ h. To make annual reports.—The said governing board of said association shall file annually on or before the first day of September of each year with the Recorder of said village a detailed report of the amount of money or property so received, expended, and still remaining on hand to the credit of said fund. The books and records of said board shall be open to inspection and audit by any taxpayer of said

village or his duly authorized representative. (Act Apr. 15, 1935, c. 192, §9.)

1264-13½ i. Act to remain in force.—If after the adoption and approval of this act any village subject to the terms hereof shall adopt a home rule charter, or shall become incorporated as a city, the provisions of this act shall remain in full force and effect as to said city and the Firemen's Relief Association incorporated therein. (Act Apr. 15, 1935, c. 192, §10.)

1264-13½ j. Accumulated deductions to be repaid in certain cases.—Whenever a member of said association shall cease to be a member of said department, for any reason other than death or retirement, he shall be paid, on demand, the full amount of the accumulated deductions from pay standing to his credit. Whenever any member shall die without having received a pension, or without having received in pension payments an amount equal to the total amount of the accumulated deductions from his salary heretofore provided for, the full amount of such accumulated deductions, less such pension payments, if any, as have been made to said member shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or if none, to the legal representatives of such member; provided, however, if no valid claim is established therefor, such accumulated deductions shall remain with and become the property of said association. Provided, further, that if any member shall pay any regular payment for sick relief or hospitalization while a member of said Department under any plan approved by the association, such amount may be deducted from the 3½ per cent of the member's salary hereinbefore mentioned. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 15, 1935, c. 192, §11.)

1264-14. Certain villages may transfer monies from one fund to another.—When in the opinion of the Village Council in any village of this state, having a population of not less than 700 nor more than 800 according to the U. S. Government census of 1930, and a total tax valuation not more than \$325,000, nor less than \$290,000, for the year 1932, there is more money in any village fund than is necessary for the purposes for which such fund was created, such Village Council may transfer such excess funds to any other village fund. (Act Apr. 13, 1933, c. 220.)

Act Jan. 18, 1936, Sp. Ses. 1935-36, c. 46, authorizes certain villages to transfer money from one fund to another.

1264-15. Certain warrants and certificates of indebtedness validated.—That all warrants, orders, or certificates of indebtedness drawn and issued or obligations incurred or contracted by any village in this state having more than 8,000 and less than 9,000 inhabitants upon any fund or by any department between the first day of January, 1925, and the first day of January, 1933, be and the same are hereby legalized and declared valid obligations of said village. (Act Apr. 13, 1933, c. 222, §1.)

Sec. 2 of Act Apr. 13, 1933, cited, provides that the act shall take effect from its passage.

Act Apr. 24, 1937, c. 405, legalizes payments incident to construction of sewers.

STATUTES RELATING TO VILLAGES IN GENERAL

Act Mar. 9, 1933, c. 72, relates to the financial affairs of villages between 2,500 and 3,000 population, with assessed valuation, exclusive of moneys and credits, of \$1,500,000 to \$2,000,000, 70% of which is iron ore. It is omitted as of local application only.

Per capita village operating under Laws 1885, c. 145, on cash basis may not levy taxes in excess of mill limitations contained in Laws 1933, c. 72. Op. Atty. Gen. (519q), May 11, 1937.

Levy by village operating under cash basis law for bond and interest payment must be included within limitations provided by Laws 1933, c. 72. Op. Atty. Gen. (519q), July 8, 1938.

CITIES

1266. Census governs.

This section sets forth method of computing population of city for purpose of issuing licenses for sale of intoxicating liquors. Op. Atty. Gen., Jan. 30, 1934.

1268. Home rule charters—Patrol limits—Sale of intoxicating liquors in first class cities—Prescribing areas.—Any city or village in the state of Minnesota, whenever incorporated, may frame a city charter for its own government in the manner hereinafter prescribed provided, that in such cities having patrol limits or districts or areas established by charter, outside of which intoxicating liquors may not be sold, such patrol limits or districts or areas may be altered by an amendment to the Home Rule Charter adopted by a three-fifths vote of the qualified voters of such city.

In any city of the first class, notwithstanding the provisions of its Home Rule Charter prescribing or fixing an area or areas in such city where intoxicating liquors may or may not be sold, it shall be lawful to sell intoxicating liquors as hereinafter provided when such sale of intoxicating liquors is duly licensed and regulated as provided by law, and the common council or other governing body of such city shall have power subject to the provisions of general laws regulating the sale of intoxicating liquors applicable to such cities, by a vote of three-fourths of the members thereof to prescribe and fix from time to time but not oftener than once in five years the areas or districts within such city where intoxicating liquors may be sold, provided, however, that the areas or districts so prescribed and fixed shall be confined to the industrial and commercial sections of such city as now existing, and provided that no such area or district having less than a width of two thousand feet (2000) shall be established. (R. L. '05, §748; '07, c. 375, §1; G. S. '13, §1342; Jan. 9, 1934, Ex. Ses., c. 82, §1.)

Sp. Sess., Laws 1933, c. 82, applies to Minneapolis only. Op. Atty. Gen., Feb. 17, 1934.

A constable is not a constitutional officer, and city charter may abolish the office. Op. Atty. Gen., Oct. 3, 1931.

1268-1. Same—powers additional.—The powers herein granted are in addition to powers now possessed by such cities under the provisions of Home Rule Charters and shall not limit or restrict such powers. (Act Jan. 9, 1934, Ex. Ses., c. 82, §2.)

1268-2. Same—repeal—territory added by special act.—All Acts or parts of Acts inconsistent herewith are hereby repealed and provided that the provisions of this Act shall not apply to territory added to any such city by special act which provided that intoxicating liquors should not be sold in such territory. (Act Jan. 9, 1934, Ex. Ses., c. 82, §3.)

1268-3. Same—effective date—duration.—This Act shall take effect and be in force from and after its passage and until ninety (90) days after the next general state election. (Act Jan. 9, 1934, Ex. Ses., c. 82, §4.)

1269. Board of freeholders.

Existence of freehold population is not a condition precedent to incorporation or reincorporation of a municipality. State v. City of Fraser, 191M427, 254NW776. See Dun. Dig. 6517, 6526a.

Motives of electors at a city charter election are not to be considered so long as their actions are within the law. Id. See Dun. Dig. 6532, 6543.

Even if member of board of freeholders is not a freeholder, his acts are valid as those of a de facto officer. Id. See Dun. Dig. 6556a.

A freeholder is one having title to real estate, however small its value. Id. See Dun. Dig. 6560.

Members of board of freeholders were qualified though they were conveyed land as a gift for sole purpose of qualifying them. Id. See Dun. Dig. 6560.

1270. Compensation—Expenses.

Expenses of preparation and submission of a charter, including legal services in connection therewith, must be kept within \$500 limit. Op. Atty. Gen., July 1, 1933.

the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if his certificate shall show the petition still to be insufficient, he shall file it in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subdivision 4. Publication of proposed amendments—Ballots—Three-fifths vote.— Amendments shall be submitted as in the case of the original charter, and the proposal shall be published for at least 30 days in not exceeding three newspapers of general circulation in such city. The form of ballot and mode of voting shall be similar to those used upon the adoption of such charter, the general nature of each amendment being briefly indicated. If three-fifths of those lawfully voting at such election shall declare in favor of any amendment so proposed, the same shall be certified, deposited and recorded, and shall take effect, as in the case of the original charter, provided that, if it be proposed that any amendment shall take effect at a specified time, it shall take effect as proposed. (As amended Apr. 17, 1939, c. 292.)

Laws 1935, c. 91. Validation of charter amendment. Submission of Charter Amendment No. 8 to voters of Minneapolis on Nov. 8, 1932, was a special election notwithstanding it was not so designated by city council. *Godward v. C.*, 190M51, 250NW719. See Dun. Dig. 6543.

Blank ballots at special election were properly rejected by trial court in computing total number of voters at special election on charter amendment. *Id.* See Dun. Dig. 2973a, n. 29.

A village which has once adopted a home rule charter may amend its charter but can never do away with it so as to again become a village, but would still remain a city of the fourth class. *Op. Atty. Gen.*, Oct. 21, 1931.

Neither charter commission nor city council have authority to revise or supervise charter amendments presented to commission by petition, and courts have no jurisdiction to determine constitutionality until electors have acted. *Op. Atty. Gen.*, Aug. 25, 1933.

Charter amendments authorizing issuance of bonds for certain purposes upon vote of people must be adopted before calling an election to vote on proposition of issuance of bonds. *Op. Atty. Gen.* (63b-4), June 5, 1935.

Amendment to home rule charter may be submitted at special election called for that purpose. *Op. Atty. Gen.* (64t), Nov. 6, 1935.

Amendments to a home rule charter may be submitted pursuant to constitution, article 4, §36, and Mason's Stats., §§1284 and 1286, and not pursuant to terms of home rule charter, and may be submitted at special election, and it is not required that all newspapers be published in city if they have general circulation there. *Op. Atty. Gen.* (58c), Oct. 18, 1937.

Proposed amendment may specify time it shall take effect, but it must be fixed at some date following election. *Id.*

It is necessary to publish amendments in three newspapers although only two newspapers are published in city. *Id.*

Publication of proposed charter amendments once each week for a period of 30 days in a weekly newspaper is sufficient, but if a daily newspaper is used it must be published in each issue of such paper for requisite 30 day period. *Id.*

If only one newspaper is published in city, in addition to publishing proposed amendment in such paper, publication must also be made in two other newspapers having general circulation in the city. *Op. Atty. Gen.* (59a-11), Feb. 21, 1938.

Proper method of submitting alternative proposals is to submit them in such a manner that voters may vote for only one. *Op. Atty. Gen.* (59a-11), Feb. 21, 1938.

Voters should vote on each amendment separately. *Op. Atty. Gen.*, (59a-11), Oct. 4, 1938.

1287. Amendments in cities of fourth class—Postponing election.

If proposed amendment to charter provides for holding of city election at a later date than is provided in charter, and special election will be called to vote on proposed amendment and same if adopted will not take effect prior to date fixed for city election in charter, city primary

and election may be postponed within limitation of this section. *Op. Atty. Gen.* (58c), Oct. 18, 1937.

1293. Powers of mayor and council.

The city of Hastings may lawfully enter into a contract for the rental of property for public purposes which it might lawfully acquire by purchase, but it cannot purchase such equipment under a conditional sale contract or on the installment plan under the guise of hiring the use thereof. *Op. Atty. Gen.*, Jan. 26, 1931.

Where a city, such as Duluth, is operating under a home rule charter, it has authority to regulate the rate of a public service corporation and to require such reasonable extension as fact warrants. *Op. Atty. Gen.* (524c-11), Aug. 20, 1934.

1294. Recall and removal of officers—Ordinances.

A charter provision requiring a verification of signatures on each separate "paper" or petition for a recall election is not satisfied where several such papers or petitions are bound together and then one verification attached purporting to cover signatures on all of such separate papers or petitions. *State v. Bickford*, 193M 135, 258NW11.

1297. New charter authorized.

The provision herein permitting the submission of a new or revised charter in the manner of an original charter, without publication, does not violate Const. art. 4, §36. *Op. Atty. Gen.*, July 31, 1931.

City may adopt a proposed new or revised charter in same manner that original home rule charter is adopted, and it is not necessary to publish new or revised charter in any newspaper. *Op. Atty. Gen.* (59a-11), July 30, 1937.

1298. Amendments authorized.

The provision herein permitting the submission of a new or revised charter in the manner of an original charter, without publication, does not violate Const. art. 4, §36. *Op. Atty. Gen.*, July 31, 1931.

Proposed revision to Home Rule Charter must be published for at least 30 days in three newspapers of general circulation in city or village affected. *Op. Atty. Gen.*, Jan. 12, 1933.

Thirty days' publication of proposed revision of home rule charter must be published once each week in weekly papers and daily in daily papers. *Op. Atty. Gen.*, Jan. 12, 1933.

1300. [Repealed].

Repealed by Laws 1929, c. 185.

1310 1/2.

DECISIONS RELATING TO CITIES IN GENERAL

City flushing street was engaged in corporate function and was liable for negligence. 174M184, 218NW892.

The rule that, where a city receives supplies or property and uses or consumes them it may be held liable for the reasonable value thereof, does not apply where there has been no material use and no one having authority has taken any part in the matter and prompt objection has been taken by taxpayers. 177M44, 224NW 261.

The passage of a resolution, instead of the adoption of an ordinance, if either were necessary, was permissible. *State ex rel. Madsen et al. v. Houghton*, 182M77, 233NW831. See Dun. Dig. 6749(22).

City Clerk furnishing a certificate showing no special assessments on property was liable to a buyer relying thereon to his damage. *Mulroy v. W.*, 185M84, 240NW 116. See Dun. Dig. 8001.

The existence and amount of benefits resulting from a local improvement in a city are legislative questions on which the judgment of the local legislative body must prevail, unless demonstrably wrong. *Third Street Widening*, 185M170, 240NW355. See Dun. Dig. 6521(67).

Rule of assessment properly ignoring both use and value was condemned because it adopted a combination of factors of frontage and depth in such fashion as to cause discrimination in favor of undivided lots. *Third Street Widening*, 185M170, 240NW355. See Dun. Dig. 6860.

Evidence held to sustain finding of negligence of city and contractor leaving ridge across street, resulting in injury to automobile passenger. *Hoffman v. C.*, 187M 320, 245NW373. See Dun. Dig. 6831, 6844.

There was no issue for jury upon contributory negligence of plaintiff, who was riding as a guest in an auto and was injured when auto struck ridge in city street. *Hoffman v. C.*, 187M320, 245NW373. See Dun. Dig. 6842, 7037, 7038.

Where excavation and ridge in street were made by contractor under direct supervision of city inspector, both were negligent if either was. *Hoffman v. C.*, 187M 320, 245NW373. See Dun. Dig. 6818, 6836.

Where members of city council act in good faith in ordering work done by day labor which cannot be legally done in that manner they incur no personal liability. *Op. Atty. Gen.*, Jan. 9, 1933.

Evidence held to show that city was not negligent and that damage to property was caused by unusual and extraordinary storm. *Hanson v. C.*, 189M268, 249NW46. See Dun. Dig. 6808.

City operating hospital and receiving compensation from practically all patients was exercising its corporate

or proprietary powers and not its governmental or public powers as affecting liability for negligence of nurse. *Borwege v. C.*, 190M394, 251NW915. See Dun. Dig. 6808, 6809, 6810.

Evidence justified finding village liable for injuries inflicted when balcony railing insecurely and negligently maintained in its community building, gave way and fell, with some of the spectators, upon plaintiff engaged below in a hockey game; village not wishing to assert defense that it functioned governmentally in maintaining such building for health and recreation of inhabitants. *Howard v. V.*, 191M245, 253NW766. See Dun. Dig. 6809.

Where snow accumulated on cornice of building during night and melted next day and formed strip of ice upon abutting sidewalk, at which time pedestrian was injured, city cannot be held to have had constructive notice of the presence of ice upon walk. *Mesberg v. C.*, 191M393, 254NW597. See Dun. Dig. 6823.

In action for injuries to pedestrian from ice on sidewalk formed during day of accident, evidence to show that ice patches such as existed were formed every winter regularly for a number of years was properly excluded as immaterial, as affecting constructive notice to city. *Id.*

In considering liability for ice and snow on public sidewalk, city must not be held to a degree of diligence beyond what is reasonable, in view of prevailing climatic conditions in this state. *Id.* See Dun. Dig. 6823.

Rights and liabilities of a municipality in respect to surface water are the same as those of a private landowner. *Bush v. C.*, 191M591, 255NW256. See Dun. Dig. 10172.

Evidence held to support jury's verdict that defendant city was legally responsible for constructing its street without making reasonable provision for the disposal of surface water to plaintiff's damage. *Bush v. C.*, 191M591, 255NW256. See Dun. Dig. 6822, 10172.

Where sidewalk in front of one lot is kept free from snow and ice and in front of adjoining lot snow and ice are allowed to accumulate to a depth of two inches, slant or slope, arising from two levels joining, does not constitute such an obstruction or menace to safe travel, in this climate, that a city may be held liable to a pedestrian who slips and falls thereon. *Kelleher v. C.*, 193M487, 258NW834. See Dun. Dig. 6829.

Presumption is in favor of constitutionality of city ordinances. *City of St. Paul v. C.*, 194M183, 259NW824. See Dun. Dig. 8929.

Burden of proof of conditions which justify a finding that an ordinance fixing minimum taxi fares is beyond police power is upon person attacking ordinance. *Id.* See Dun. Dig. 1205a.

Where a charter or statute provides that vote of a majority of members elected to council shall be necessary to pass a measure, fact that there are vacancies in office due to death, resignation, or other cause, does not diminish number of votes necessary to pass such measure. *State v. Hoppe*, 194M186, 260NW215. See Dun. Dig. 6786.

Where charter or statutory provision requires an affirmative vote of a majority of entire council to give effect to a measure, requirement is satisfied by an affirmative majority vote of all members of council in existence when measure is passed, and not all of those originally elected. *Id.* See Dun. Dig. 6786.

Where by charter or statute vote of a majority of members of city council is required to give effect to a measure, such measure cannot be enacted by a mere majority of a quorum, unless those voting for measure also constitute a majority of all members of council, both present and absent. *Id.* See Dun. Dig. 6786.

A prosecution for a violation of a municipal ordinance is not a criminal proceeding. *City of St. Paul v. K.*, 194M386, 260NW357. See Dun. Dig. 6801.

Proof beyond a reasonable doubt is not required for conviction for violation of a city ordinance. *Id.* See Dun. Dig. 6806.

It is incumbent upon a municipality to exercise reasonable care and diligence to keep and maintain its streets and sidewalks in a safe and passable condition for public use and travel, including protection from falling objects, but city is not an insurer of safety, and jury was justified in finding no liability for injuries sustained by a pedestrian by falling of a defective cornice. *Heidemann v. C.*, 195M611, 264NW212. See Dun. Dig. 6818.

Doctrine of *res ipsa loquitur* did not apply against a city in favor of a pedestrian injured by falling of cornice extending over sidewalk. *Id.* See Dun. Dig. 6830.

In action by landowner against village, evidence held to sustain finding that tile put in creek by defendant was not cause of overflow of plaintiff's land. *Nichols v. V.*, 195M621, 263NW900. See Dun. Dig. 6642.

Where a municipal officer sells to his municipality property within its corporate powers to acquire and use, and same is so acquired and used by it, liability may be enforced quasi *ex contractu*, but not beyond value of such property to municipality. *Mares v. J.*, 196M87, 264NW222. See Dun. Dig. 6703.

Providing electricity for its inhabitants is a proprietary function of a municipality, and its contracts relating thereto are governed by same rules of contract law, regarding laches and estoppel, as those of private corporations or individuals. *City of Staples v. M.*, 196M303, 265NW58. See Dun. Dig. 6669b.

A municipality may, unless forbidden by statute or charter, compromise claims against it without specific

express authority, such power being implied from its capacity to sue and to be sued, and ordinarily power to compromise claims is inherent in the common council as a representative of the municipality. If it makes such a compromise in good faith, and not as a gift in the guise of a compromise, the settlement is valid and does not depend upon the ultimate decision that might have been made by a court for or against the validity of the claim. *Snyder v. C.*, 197M308, 267NW249. See Dun. Dig. 6746.

As city council had power to determine compensation of officers and employees, a fire department captain who accepted payment of 75% of his regular salary after passage of resolution placing fire department on three-quarter time service could not under any theory of contract or quantum meruit recover the other quarter of the salary because fire chief compelled him to work full time under threat of discharge. *Nelson v. C.*, 197M394, 267NW261. See Dun. Dig. 6600.

Where a municipality is by its charter authorized to contract for commodities and services in its proprietary capacity, rules and principles of law applicable to contracts and transactions between individuals apply. *McNaught v. C.*, 198M379, 269NW897. See Dun. Dig. 6696.

When a municipal corporation by authority of law creates a particular fund with reference to which it contracts, any indebtedness arising on such contract is payable therefrom only. *Judd v. C.*, 198M590, 272NW577. See Dun. Dig. 6579a.

City may not be held liable generally as for money had and received in absence of unjust enrichment. *Id.* See Dun. Dig. 6703.

Treating city as trustee of its permanent improvement revolving fund, where it affirmatively appears that fund created for meeting payments of a particular improvement, to which alone warrants held by plaintiffs relate, has been exhausted without city's fault, plaintiffs may not resort to general improvement revolving fund for contribution. *Id.* See Dun. Dig. 6869.

Court rightly determined that city council in reducing "time" of city officers and employees used that word as equivalent of "pay." *Burns*, 200M191, 273NW691. See Dun. Dig. 8939, 8940.

Members of a municipal council may exercise functions of their office throughout their term, including last day thereof. *Ambrozich v. C.*, 200M473, 274NW635. See Dun. Dig. 6575.

Power of city to acquire property by purchase, condemnation, or otherwise includes power to acquire it by lease, and a lease made pursuant to such power may be subsequently canceled, rescinded, modified, or amended. *Id.* See Dun. Dig. 6693.

While personnel and membership of city council or governing board changes, municipal corporation continues unchanged and a contract entered into by council is contract of corporation. *Id.* See Dun. Dig. 6700.

A lease of real property by a city is not comprehended within a provision of city charter requiring advertisement for bids for all contracts involving expenditure of more than \$250 for commodities or services including all labor, materials, property lighting, services and local and public improvements. *Id.* See Dun. Dig. 6707.

Whether chief engineer of city fire department waived right to compensation for unlawful suspension for two weeks by signing payrolls for his subsequent pay without asserting his rights for two years held for jury. *Ringer v. C.*, 203M249, 281NW47. See Dun. Dig. 6558a.

Whether city exercised such control over WPA employees engaged in blasting operations in improvement of its streets as to justify application of doctrine of respondeat superior held for jury. *Hughes v. C.*, 204M1, 281NW871. See Dun. Dig. 6815.

Municipal corporations have no inherent power to legislate and are invested by law with legislative powers for protection and promotion of the public health, morals, comfort and convenience. *Larson v. L.*, 204M80, 282NW669. See Dun. Dig. 6548, 6684.

City ordinance prohibiting placing, leaving, throwing, dropping or scattering any material on sidewalks created no obligation upon fruit company abutting on sidewalk upon which a customer accidentally dropped a visor cap which tripped and injured a pedestrian, though officials and employees noticed cap but did not remove it. *O'Hara v. M.*, 203M541, 282NW274. See Dun. Dig. 6845.

Merely fact that a less burdensome course might have been adopted to accomplish end does not invalidate an ordinance. *Sverkerson v. C.*, 204M388, 283NW555. See Dun. Dig. 6755.

Minneapolis city ordinance requiring fuel dealers to obtain liability insurance as a condition precedent to obtaining a license to make deliveries is valid. *Id.* See Dun. Dig. 6794.

Ordinance requiring persons engaged in the business of plastering to be licensed does not exceed limitations upon governmental power imposed by state and federal constitutions. *State v. Clousing*, 285NW711. See Dun. Dig. 6794.

License fees must be reasonable, but a court will not declare them unreasonable unless they are palpably so, general rule being that a license fee should be intended to cover cost of issuing it, services of officers, and other expenses directly or indirectly imposed. *Id.* See Dun. Dig. 6800.

Ordinance requiring a firm or corporation engaged in plastering an area in excess of 100 square yards to be licensed but permitting persons working under the direct

supervision of a licensee or engaged in applying plaster on a job covering less than 100 square yards to do so without a license held not to be so discriminatory as to violate constitutional rights. *Id.* See Dun. Dig. 6799.

In absence of fraud or illegality, a municipality is estopped to deny validity of a contract to be performed over a period of 20 years when it had power to make contract in a proper manner, has accepted performance for about six years, one of which was after it had been notified that it would be held strictly to terms of contract, and has permitted other party to put itself to expense in performance which will result in substantial loss if contract is set aside. *Chisholm Water Supply Co. v. C.*, 285NW895. See Dun. Dig. 6719.

Ordinances passed years ago but never published in full need not be re-passed, but may be published and made valid. *Op. Atty. Gen.*, June 24, 1931.

Resolution "city attorney—\$70 per month; and in addition thereto a reasonable fee for investigation, preparation for trial, briefing and argument in district and supreme court," held not to sufficiently fix the salary under the charter of New Ulm. *Op. Atty. Gen.*, July 11, 1931.

A city council contemplating the establishing of a municipally owned electric light plant may not use city funds to insert advertisements to combat propaganda of a power company. *Op. Atty. Gen.*, July 27, 1931.

A city contemplating the establishing of a municipal electric light plant may expend money for the purpose of making a survey of the feasibility of such construction or purchase. *Op. Atty. Gen.*, July 27, 1931.

Power of city to enact ordinances for the regulation and licensing of solicitors who take orders for future delivery, discussed. *Op. Atty. Gen.*, Aug. 20, 1931.

An ordinance was not invalid because the enacting clause read, "the city council of the city of Columbia Heights," instead of the words, "the city of Columbia Heights does ordain." *Op. Atty. Gen.*, Aug. 20, 1931.

Council of Mankato cannot pass an ordinance by adopting a printed building code by reference without setting forth the contents thereof in full and publishing the same, in view of Mankato Charter §60. *Op. Atty. Gen.*, Sept. 12, 1931.

City on sale of electric light plant entirely paid for by earnings may use the proceeds to retire the general indebtedness of the city. *Op. Atty. Gen.*, Oct. 28, 1931.

A city has no authority to issue scrip money. *Op. Atty. Gen.*, Apr. 19, 1933.

City receiving bids for well need not advertise for new bids after changing location of well, there being no change in plans and specifications nor in topography of land. *Op. Atty. Gen.*, June 3, 1933.

City could not contract for heating buildings at monthly rate amounting to conditional contract for purchase of heating apparatus. *Op. Atty. Gen.*, June 23, 1933.

There is no statute authorizing a city to tax by way of licensing business and occupation of selling fresh fruits and vegetables at wholesale or otherwise. *Op. Atty. Gen.*, July 12, 1933.

Village council has no legal authority or power to grant privilege to individuals of installing gasoline curb pump on state trunk highway, and a village would be liable for any injuries caused by such an obstruction to one who was in exercise of due care. *Op. Atty. Gen.* (396g-9), Jan. 8, 1935.

Reimbursement to a village officer or servant for damages paid can only be made when act which caused damage was one directly related to matter in which village was interested or was one in actual discharge of his duty. *Op. Atty. Gen.* (59a-12), Jan. 15, 1935.

City may operate a skating rink and is not liable for injuries received thereon where no charge is made, being a governmental function. *Op. Atty. Gen.* (844b-1), Feb. 11, 1935.

City cannot lease auditorium added to high school building for a long term, or issue bonds therefor, though the auditorium is built for purpose of obtaining federal money and to take care of unemployed. *Op. Atty. Gen.* (63b-2), May 17, 1935.

A city may carry workmen's compensation insurance in a mutual company under a policy limiting liability within maximum indebtedness of such municipality as prescribed by law. *Op. Atty. Gen.* (489c-5), May 23, 1935.

City is not liable for negligence in maintaining public bathing beach. *Op. Atty. Gen.* (283d-1), June 27, 1935.

City erecting municipal building larger than necessary for purpose of obtaining extra space to rent to industry coming to city, had no power to leave such extra space. *Op. Atty. Gen.* (63b-11), July 31, 1935.

Municipality in maintaining parks and bathing beaches acts in a governmental capacity and is not liable to a person becoming infected as a result of bathing in polluted water, if the city is in no way responsible for such pollution. *Op. Atty. Gen.* (283d-1), Apr. 17, 1936.

A village is not liable for accident occurring while its fire department is responding to calls, though firemen may be personally liable. *Op. Atty. Gen.* (688h), May 19, 1936.

City is not liable for injuries sustained by people using swimming pool maintained by city. *Op. Atty. Gen.* (59b-11), Aug. 10, 1936.

Municipality is not liable for negligence in operation of fire apparatus in absence of statute. *Op. Atty. Gen.* (688h), Aug. 27, 1936.

City is liable for negligent operation of truck used in maintaining and repairing city streets. *Op. Atty. Gen.* (844b-8), Sept. 3, 1936.

A city or town may insure property in a mutual company so long as policy will not create a contingent liability which might exceed statutory limit of indebtedness of municipality. *Op. Atty. Gen.* (476b-9), May 24, 1937.

Decoration of city streets is legal if primary object is to serve a public purpose. *Op. Atty. Gen.* (59a-32), July 23, 1937.

A city or village maintaining a public park is discharging a governmental function and is not responsible for negligence in maintenance of a slide, unless so maintained as to constitute a nuisance. *Op. Atty. Gen.* (844b-1), Aug. 9, 1937.

Board cannot pay expenses of person injured at school play. *Op. Atty. Gen.* (844f-3), Aug. 11, 1937.

City of Luverne could enter into contract for purchase of diesel generating unit, to be paid for out of earnings of power plant only, without calling for bids. *Op. Atty. Gen.* (707a-4), Aug. 12, 1937.

Board of public works of city of Alexandria may enter into a contract for group life insurance on employees of municipal water and light plant, and pay half of the premium. *Op. Atty. Gen.* (253b-4), Aug. 13, 1937.

Village operating a water plant is acting in a proprietary and not governmental capacity, and is liable for negligence in shutting off water without notifying merchants operating electrical refrigeration machine cooled by water. *Op. Atty. Gen.* (476b-15), Sept. 18, 1937.

Municipality may not enter into conditional sales contracts or other installment contracts for purchase of personal property to be used in carrying on its governmental functions. *Op. Atty. Gen.* (59a-7), Dec. 20, 1937.

City may lease city real estate to private individuals if not needed for public purposes, provided a reasonable rental is charged and lease reserves city right to terminate at any time building is needed for public use. *Op. Atty. Gen.* (59a-40), Jan. 26, 1938.

Though in maintaining water plant for use by fire department in extinguishing fires municipality is performing a public or governmental function and is not liable for negligence of its officers and employees, such is not true when a municipality undertakes to furnish water or light to individuals and makes a charge therefor. *Op. Atty. Gen.* (469a-8), Mar. 1, 1938.

City leasing park facilities to private persons, income to be used solely for upkeep and incidental expense, is not liable for negligence in maintaining facilities. *Op. Atty. Gen.* (330c), Apr. 28, 1938.

Village is not liable for damages or injuries to persons using playground or its facilities, operation of a playground constituting exercise of a governmental function. *Op. Atty. Gen.* (844b-1), June 13, 1938.

A city or village in operating a motor vehicle for purpose of keeping streets and highways in a safe and proper condition for public travel is performing a corporate rather than a governmental function, and is liable for negligent acts of its officers and agents, but a different rule seems to apply where primary purpose is in interest of promotion of public health, such as sprinkling streets to prevent accumulation of dust. *Op. Atty. Gen.* (844b-5), July 5, 1938.

Village is not liable by reason of inadequate water supply for fire department. *Op. Atty. Gen.*, (624d-9), July 12, 1938.

District court may appoint a new trustee in place of a municipality which has no authority to administer testamentary trust. *Op. Atty. Gen.*, (59a-40), Aug. 3, 1938.

There is no way city may acquire title to tax forfeited lands except at a sale held under Laws 1935, c. 386. *Op. Atty. Gen.*, (4251), Oct. 4, 1938.

City furnishing services of fire department outside limits is acting in governmental capacity as affecting liability for injuries. *Op. Atty. Gen.*, (688a), Oct. 4, 1938.

City may make a donation to a poultry association to defray expenses incident to holding exhibits and for prize money, if for a public purpose. *Op. Atty. Gen.*, (59a-22), Oct. 28, 1938.

A city may regulate but cannot prohibit billboards on private property, regulation includes power to prohibit billboards in residential sections. *Op. Atty. Gen.* (59a-32), Dec. 23, 1938.

City may not provide for licensing of used car dealers in absence of statutory or charter authority, and could under no circumstances discriminate in favor of established dealers or extract an unreasonable license fee. *Op. Atty. Gen.* (59a-32), Dec. 28, 1938.

Village is not liable for negligence of fire department for failure to respond to calls outside limits in accordance with contract. *Op. Atty. Gen.* (688a), March 28, 1939.

Where an organization or public spirited citizen of a city bought land and constructed bath house and donated it to city, and city loaned its credit to the project and issued notes, and income from beach was insufficient to pay notes, city council has no authority to release individuals guarantying payment of the notes, notwithstanding that city holds title to the property and is willing to pay the notes if it can do so legally. *Op. Atty. Gen.* (59a-22), April 26, 1939.

Village in maintaining a fire department acts in a purely governmental capacity and is not liable for negligence. *Op. Atty. Gen.* (688a), May 1, 1939.

A city is not liable for negligent acts of its fire department members, and there is no necessity for a contract of indemnity as between municipalities involved in fire protection agreement. Op. Atty. Gen. (688a), May 4, 1939.

Municipalities may purchase insurance from mutual companies provided there is a limitation upon liability of members and contingent liability is within maximum indebtedness of municipality. Op. Atty. Gen., (487c-1), August 23, 1939.

Liability for failure to prevent explosion of fireworks in city streets. 15MinnLawRev248.

Validity of ordinance requiring junk dealers to consent to inspection and search of premises. 15MinnLawRev481.

Total liability of administrative officers. 21 MinnLawRev 263.

PROVISIONS RELATING TO ALL CITIES

1311. Public utilities—Definition.

This act has no application to river terminal property of Stillwater. Op. Atty. Gen. (63b-11), Feb. 2, 1939.

1312. Cities may own and operate or lease.

Proposals and bids for construction of city power plant held too indefinite to permit a competitive bid, and bid received not responsive to advertisement for bid. City of Bemidji v. E., 204M90, 282NW683. See Dun. Dig. 6707.

Letting of contract for construction of power plant for a city was void where advertisement was in such form that there could only be one possible bidder that could complete its negotiations for materials and service. Id. See Dun. Dig. 6707.

Letting of contract for construction of power plant was invalid where made in connection with an ordinance which attempted to delegate to trustee or to a receiver appointed by court powers to take over and manage plant in certain contingencies, thereby removing management and control thereof from city. Id. See Dun. Dig. 6764.

This section applies to cities only. Op. Atty. Gen., March 30, 1933.

Municipally owned electric light plant cannot refuse to render service to all persons and corporations within its corporate limits. Op. Atty. Gen., June 5, 1933.

Question whether city council may permit operation of gasoline curb pumps is a matter to be determined by it. Op. Atty. Gen., Nov. 1, 1933.

Board of public works of city of Alexandria may enter into a contract for group life insurance on employees of municipal water and light plant, and pay half of the premium. Op. Atty. Gen. (253b-4), Aug. 13, 1937.

Municipal ownership of public utilities in Minnesota. 16MinnLawRev457.

1313. Certificates in lieu of bonds.

A home rule city or any city electing to come under this act may issue or sell its bonds, or in lieu thereof interest bearing certificates, to raise funds for municipal electric light plant. Op. Atty. Gen., Aug. 24, 1933.

1314. Accounts, how kept.

Williams v. V., 187M161, 244NW558; note under §1229.

1315. Adoption of act.

Action of adoption of act should be submitted for approval of electors separately from question of issuing bonds to pay for cost of utility. Op. Atty. Gen., Oct. 23, 1933.

1317. Time limit of grant or lease.

Franchise for electric lighting cannot be made for a period exceeding 20 years. Op. Atty. Gen., Nov. 28, 1933.

1321-1. Building lines—establishment.

175M379, 221NW535.

PROVISIONS RELATING TO CERTAIN CITIES

1322. Gas, electric and water plants.

Liability for injuries from electric shock. 180M125, 230NW469.

In action to set aside contract for construction of electric plant, evidence sustains finding that allegations of unfair specifications designed to prevent other bidders from bidding on Diesel engines for generating electrical current were unproven and untrue. Ahlquist v. C., 261 NW452. See Dun. Dig. 6707 (96).

City of fourth class organized under general statutes need not advertise for bids to erect municipal water, light and heating plant but may build it by day labor. Op. Atty. Gen., June 30, 1932.

City operating an electric light plant and furnishing city with electricity, heat and water free of charge, has no power to tax an individual manufacturing his own electricity. Op. Atty. Gen. (624c-13), July 11, 1935.

Municipal water plant may furnish water to city department and city board without making a charge therefor, but cannot furnish water to a semi-public golf club managing land to which city has title. Op. Atty. Gen. (59B-13), May 29, 1939.

1325. Service rates.

Where profits from electricity have resulted in large fund, there should be reduction of rates to consumers in city. Op. Atty. Gen., Mar. 23, 1932.

Profits derived by city from sale of electricity may be used for such legitimate municipal expense as the governing body may determine. Op. Atty. Gen., Mar. 23, 1932.

1325-1. May construct or purchase electric light plant.—That each city in the State of Minnesota having not less than ten thousand and not more than fifty thousand inhabitants, is hereby authorized and empowered by an affirmative vote of two-thirds of all the members of its city council, to construct, erect or purchase an electric light plant to be operated by such city for the lighting of its public streets, alleys, lanes, parks and public grounds, and for such other municipal purposes and uses requiring light or power, as the city council of such city may direct; and for such use and benefit of the inhabitants of such city, and upon such conditions as the city council of such city may from time to time by ordinance prescribe. ('01, c. 199, §1.)

1325-2. Bonds.—That each such city is hereby authorized and empowered by an affirmative vote of two-thirds of all the members of its city council, to issue, in addition to all bonds heretofore authorized to be issued by such city, its bonds in an amount to be determined by said council, not exceeding in the aggregate forty thousand dollars, for the aforesaid purpose of constructing, erecting or purchasing an electric light plant in such city. ('01, c. 199, §2.)

1325-3. Conditions for bonds.—Said bonds shall be for the principal sum of one thousand (\$1,000) dollars each, and shall be payable at such times and at such place as the city council may designate, any provision of any law of this state, whether general or special, governing such city, to the contrary notwithstanding; and the faith and credit of such city issuing the same is hereby irrevocably pledged to the payment of the same. Said bonds shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as the city council of such city may deem best, shall draw interest payable semi-annually at such place as the city council may determine, at a rate not exceeding four per cent per annum, to be represented by coupons attached to said bonds. Said bonds shall be signed by the mayor and attested by the recorder or clerk of such city, and the corporate seal of the city shall be imprinted upon said bonds, and said coupons shall be signed by said recorder or clerk. ('01, c. 199, §3.)

1325-4. Negotiation of bonds.—The city council of such city shall have authority, by an affirmative vote of two-thirds of all its members, to negotiate the sale of such bonds in such manner as in its judgment shall best subserve the interests of said city, but it shall not negotiate a sale, nor sell said bonds, or any of them, at less than their par value and accrued interest; and neither the said bonds, nor the proceeds from the sale thereof, shall be used for any other purpose than that heretofore specified, and such purpose shall be distinctly stated in the resolution or ordinance authorizing their issue. ('01, c. 199, §4.)

Sec. 5 of Laws 1901, c. 199, cited, provides that the act shall take effect from its passage. Approved Apr. 10, 1901.

1326-1. Certain cities may contract use of sewers.—Any city of the second, third or fourth class may contract for the use of its sewers by the owner or occupant of land outside and within one mile of the limits of such city. Any such contract heretofore made is hereby validated and confirmed. Provided nothing herein shall be construed as limiting any power now possessed by any such city under its home rule charter. (Act Feb. 28, 1929, c. 44; Mar. 31, 1937, c. 128, §1.)

Sec. 2 of Act Mar. 31, 1937, cited, provides that the Act shall take effect from its passage.

1327. Designation of depositories of city funds.—The city council or common council of any city in this state, but not including cities when governed under a charter adopted under and pursuant to sec-

tion 36, article 4 of the constitution of this state, and Mason's Minnesota Statutes of 1927, sections 1267 to 1310 inclusive, and all acts amendatory thereof or supplementary thereto, in which charter the matter of designating depositories for city funds and the protection thereof is provided for, or in which charter it shall hereafter be provided for, shall have the power and authority to designate or redesignate at the beginning of each calendar year, and/or from time to time, the banks or other legal depositories of any such city in which the city treasurer of such city shall deposit and keep the moneys of such city, designating in each instance the maximum amount which may at any time be kept in any one of such depositories, which maximum amount shall in no case exceed 25 per centum of the paid-up capital and surplus of such depository, unless said depository shall deposit with the city treasurer of said city United States Government bonds to secure the deposit of the funds of said city and in that event the amount so deposited shall not exceed the amount of the United States government bonds so deposited. The city council or common council of each of such cities shall at all times designate depositories in their respective cities or elsewhere in the United States sufficient for the depository of all funds which are likely to be in the hands of the city treasurer of such city at any one time, and shall, so far as consistent with the best interest of such city, designate such depositories in their respective cities and shall require from such depositories good and sufficient bonds payable to such city in a penal sum not to exceed the amount designated as the limit of deposit therein, and conditioned for the safe keeping and payment of funds so deposited, or, in lieu thereof, good and sufficient collateral as provided for by Laws 1925, Chapter 173, as amended by Laws 1929, Chapter 370. ('07, c. 17, §1; G. S. '13, §1391; Apr. 8, 1933, c. 179; Apr. 5, 1935, c. 124, §1.)

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and assistant cashier, and a surety on his bond is liable for money lost through failure of the bank, notwithstanding stipulation in bond relieving surety from liability for loss caused by failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though bank does not fail until afterwards. *City of Marshall v. G.*, 193M188, 259NW377. See Dun. Dig. 8000, 8004, 8022.

1328. Duty of treasurer—Exemption from liability.

Where city treasurer has made deposits in excess of collateral securities given by a bank in lieu of a depository bond under §1973-1, city did not have a preferred claim on the theory that the over-deposit was a criminal offense. 172M324, 315NW174.

1329. Failure to designate.

Act authorizing towns and villages and cities of the fourth class to reimburse their treasurers for money paid because of loss of funds in insolvent banks. Laws 1931, c. 279, amending Laws 1931, c. 35. See, post, §1973-9.

1349. State's ownership of bed of navigable river.

State of Minnesota holds title to navigable streams, not in any private or proprietary right, but in its sovereign capacity, as trustee for the people, for public use. *Pike Rapids Power Co. v. M.*, (CCA8), 99F(2d)902.

Title or riparian owner extends to low-water mark, but as to the space between that and high-water mark his title is qualified by the right of the public to use the same for the purpose of navigation or other public purpose. *Id.*

A meander line is not a boundary, but water is true boundary, whether meander line in fact coincides with shore or not. *Schaller v. T.*, 193M604, 259NW529. See Dun. Dig. 1069.

Title to the bed of a stream, navigable but not meandered, is not conveyed to a private grantee by a government patent which describes the subdivisions through which such stream flows. *County of Becker v. S.*, 186M 401, 243NW433. See Dun. Dig. 6964.

Evidence supported finding that Otter Tail river is navigable. *County of Becker v. S.*, 186M401, 243NW433. See Dun. Dig. 6925.

What can a riparian proprietor do? 21 MinnLawRev 512.

1358. Teachers' retirement fund associations in cities.

Electors of city of Minneapolis may not amend its charter so that it would conflict with any general legislation concerning pension systems for employees. *Op. Atty. Gen.* (335d), Aug. 22, 1934.

Laws 1909, c. 343.

Teachers Retirement Fund Association funds to be exempt from garnishment, attachment and execution. Laws 1939, c. 72.

1360. Plan of association—Fund—Approval of council.

Duluth teachers' retirement fund association may extend or renew an existing mortgage, though by reason of depreciation of land values mortgage is in excess of appraised value. *Op. Atty. Gen.*, Jan. 12, 1934.

1363. Tax levies.—When said plan is adopted, as hereinbefore set forth, and said association is formed and incorporated, the proper officers of said association shall certify annually to the proper authorities, who have charge of the levying of taxes for school purposes in said city and in the county in which said city is located, the amount which it will be necessary to raise by taxation in order to carry out the plan so adopted, as hereinbefore set forth, for the coming year, and it shall be the duty of the said authorities so having charge of the levying of taxes to include in the tax levy for the ensuing year a tax in addition to all other taxes, sufficient to produce so much of the sum so certified as the said authorities having charge of the levying of taxes for school purposes in said city shall approve, provided, however, that in cities of the first class which are or are not operating under a home rule charter. Said tax shall in no event exceed one and one-half mills upon each dollar of the assessed value of all taxable property of said city, and in all other cities to which this law is applicable, said tax shall in no event exceed one-tenth of a mill upon each dollar of the assessed value of all taxable property of said city unless the authorities having charge of the levying of taxes for school purposes in such last mentioned cities shall determine that a larger tax than one-tenth of a mill upon all taxable property of said city should be levied, in which event the amount so determined shall be levied, which shall, however, in no event exceed three-tenths of a mill upon each dollar of the assessed value of all taxable property of said city; said tax shall be collected as other taxes are collected in said city and when so collected shall be paid over to the treasurer of said association to be held and disbursed in accordance with the provisions of said plan so to be adopted.

Provided that any such association formed by the teachers employed by any independent school district in any city of the first class the territorial limits of which school district coincide with the territorial limits of such city, and the government of said independent school district, not provided for in the charter of said city, shall not pay to any beneficiary more than \$1800.00 as an annuity in any one year, except that in cases where the amount paid in by any member, with interest to the time of retirement, would provide an annuity in excess of \$900.00, then such association may pay an annuity of \$900.00 from public funds in addition to the annuity which said member's contributions with interest to the time of retirement, would provide, or the equivalent thereof;

Provided, further, that this enactment shall not affect the annuities or rights to annuities of any members of such association who, at the time of this enactment are being paid annuities, or any members who now are, or, prior to July 31, 1940, will be, eligible to retirement, and shall have retired prior to said date; and, at the time said association shall certify to the Board of Education in any year the amount necessary to be raised by taxation, it shall file with the Clerk of said Board an itemized statement of its assets and liabilities at the close of the last fiscal year, an itemized statement of receipts and disbursements for said year, and a list of the annuities paid during said year; and all the records of such association shall be open to reasonable public inspection. ('09, c. 343, §6; '11,

, c. 383; G. S. '13, §1427; '17, c. 300; '19, c. 144; '21, c. 303; '23, c. 310; Apr. 5, 1935, c. 111, §2.)

1366. "Teachers" defined.

Act providing for membership by county superintendents of schools in teachers' insurance and retirement fund. Laws 1931, c. 146, post, §§2953-1 to 2953-4.
Refusal to sign written contract by teacher terminates membership in Duluth teachers' retirement association. Op. Atty. Gen., Nov. 24, 1933.

1366-1. Certain proceedings legalized.—That in any independent school district, however organized, in any city of the first class in the State of Minnesota, the territorial limits of which independent school district coincide with the territorial limits of such city, and the government of which independent school district is not provided for in the charter of such city, wherein a teachers' retirement fund association has been legally organized, incorporated and established pursuant to the provisions of Mason's Minnesota Statutes of 1927, Sections 1358-1366 inclusive, as amended, and has been in operation and engaged in the business of collecting and disbursing funds, receiving, holding and disposing of real estate and personal property more than 20 years, but where after its organization, amendments to its original plan of organization and articles of association were in good faith duly adopted, recorded and filed, and put into effect, but not submitted for approval to or approved by the common council or city council of said city; its organization and said amendments to its articles of incorporation, and conduct of business in accordance therewith shall be deemed to be legal, valid and effective as against any claim of invalidity, irregularity or defect in that any such amendments were not submitted for approval to or approved by the common council or city council of said city. (Act Apr. 5, 1935, c. 111, §1.)

1366-2. Certain moneys and credits of teachers exempt from execution, etc.—All moneys deposited by a teacher or member or deposited by any other person or corporation, municipal or private, to the credit of such teacher or member in a corporation organized as a "Teachers Retirement Fund Association" under Chapter 343 of the Session Laws of 1909 or acts amendatory thereof, and all moneys, rights and interests or annuities due or to become due to such teacher, member or annuitant or their beneficiaries, from any such association shall be exempt from garnishment, attachment and execution or sale on any final process issued from any court. (Act Mar. 22, 1939, c. 72.)

1367. Appropriations for entertainment.

Repealed by Laws 1927, c. 79 [§§1933-17 to 1933-22]. Op. Atty. Gen., Oct. 28, 1929.
Illegal taxes collected under this section after it is repealed should be transferred to general fund. Op. Atty. Gen., May 26, 1933.

1372-½. Certain cities may buy toll bridges.—That whenever any bridge has been by any person or corporation constructed to extend over or partly over an interstate or international river or water into another state or country, and such bridge has for at least three years been privately owned and operated as a toll bridge by any person or corporation, any city of any class organized either under a home rule charter or under the general law and situated within three miles of the beginning of the nearest approach to such bridge, or within whose corporate limits is located any portion of such bridge, shall have power and authority to purchase and acquire such bridge and approaches thereto whenever at any general or special election, held in such city, the electors by an affirmative vote of three-fifths majority of all the votes cast upon said proposition, declare in favor thereof at the fair value thereof, determined as hereinafter provided, and thereafter to own, operate, repair, improve, extend and maintain the same as a toll bridge, whether all or any portion of such bridge and approaches be within or without the corporate limits of the city. Any such bridge over navigable waters of the United States shall be owned, operated

and maintained by any city acquiring the same subject to and in accordance with the Act of Congress authorizing the construction thereof and the lawful rules and regulations of the Secretary of War relative thereto. (Act Apr. 20, 1939, c. 316, §1.)

1372-½a. May operate toll bridges and collect tolls.

—That any such city, in addition and as a supplement to all other powers herein or by other law granted to it, when so authorized by the voters as set forth in Section 1 shall have power and authority to purchase, acquire, take and hold in fee simple, wherever located within or without the state, all land, structures, franchises, easements, approaches, buildings, equipment, appurtenances, machinery, and other real, personal or mixed property appurtenant to, or necessary and convenient for the owning, operation, repair, improvement, extension and maintenance of, any such bridge so purchased by it; and such city shall have power and authority to charge and receive reasonable and uniform prices and tolls for transit over such bridge from all persons or corporations using the same, which charges and tolls shall be fixed and determined by the common council or chief governing body of such city and may be by such body changed and adjusted from time to time, provided that such charges and rates of toll shall be so fixed and adjusted as to provide a fund sufficient to pay for the reasonable expense of maintaining and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor as soon as possible under reasonable charges, or within any period fixed by law, and further provided that if any revenue bonds are issued in payment of said bridge as in this act provided the aggregate of such charges and rates shall also be sufficient to enable such sinking fund to meet the interest and principal requirements of any such outstanding revenue bonds as they mature. No person, firm or corporation shall be permitted to use such bridge except he or it pay the full and established rates of toll therefor. After a sinking fund sufficient to pay the cost of acquiring such bridge has been provided from bridge revenues only, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair and operation of the bridge. (Act Apr. 20, 1939, c. 316, §2.)

1372-½b. Council to adopt resolution.—Before any such city shall purchase any such toll bridge the common council or chief governing body shall, by resolution adopted by a five-sevenths majority vote of all the members of the council or governing body, find and determine that the purchase of the bridge will be of public benefit and in the interest of the city and the welfare of its inhabitants, and shall find and determine the fair value of the said bridge taking into consideration, so far as can be ascertained, the cost of construction and of maintenance thereof, the rate of depreciation thereon, the reasonably estimated amount of income to be derived therefrom as shown by the revenues received from such bridge during the three years immediately preceding such determination and any incidental expenses connected with the purchase thereof, which findings and which determination of fair value shall for all the purposes of this act be conclusive as to the matters therein found and determined. (Act Apr. 20, 1939, c. 316, §3.)

1372-½c. (a) May issue and sell bonds.—For the purpose of acquiring and purchasing any such toll bridge and paying expenses incidental to such acquisition, any such city may when so authorized by the voters as set forth in Section 1, and by a five-sevenths majority of the city council or other governing body, issue and negotiate, sell or dispose of interest bearing bonds to be known as Toll Bridge Bonds and payable out of the revenue and income to be derived from the

toll bridge for the acquisition of which said bonds are issued. Such bonds shall not be issued or secured on any such toll bridge in an amount in excess of the fair value thereof, determined as in this Act provided. All or part of such bonds may be by the city disposed of by delivering the same to the person or corporation from whom the bridge is acquired, as payment of or upon the purchase price thereof to the extent of the par value of such bonds so delivered and the accrued interest thereon at the time of delivery.

(b) Said bonds shall bear interest at not to exceed six (6) per cent per annum, payable semi-annually, shall mature either as a whole or serially on or before twenty years from their date and shall be subject to redemption in such manner and at such times as the city council or governing body may by resolution or ordinance determine at the time of issue.

(c) At the time of, or before the issuance and sale or disposal of any such bonds, the council or governing body shall by a five-sevenths majority vote, by resolution or ordinance, create and set aside a sinking fund for the payment of the bonds and the interest thereon, and shall pledge to such sinking fund and to the payment therefrom of the bonds and all interest thereon, the total net income and revenues of the toll bridge for the acquisition of which such bonds were issued. Such total net income and revenues shall for all the purposes of this Act be deemed to mean all the gross income from said bridge less only actual operating expenses and actual cost of maintenance, and while any of said bonds are outstanding such total net income and revenues shall be used only for the payment of the principal and interest of such bonds. The said bonds and the interest thereon shall constitute a first and prior lien on and against the total net income and revenue derived from said bridge and on and against all funds from whatever source paid into or set apart for said sinking fund. After all said bonds and the interest thereon shall have been fully paid, such sinking fund shall be maintained and continued for the purpose of repaying therefrom any payments previously made thereto from the general funds of the city. (Act Apr. 20, 1939, c. 316, §4.)

1372-½d. May mortgage toll bridge—In order to secure the payment of such Toll Bridge bonds and the interest thereon the city may by a five-sevenths majority vote of the city council or other governing body convey by mortgage or deed of trust the bridge and any or all of the property acquired or to be acquired through the issuance of such bonds; which mortgage or deed of trust shall be executed in a manner directed by the council or other governing body of such city and acknowledged and recorded and filed in the manner provided by law for the acknowledgment and recording and filing of mortgages of real estate and of personal property, and may contain such conditions and provisions not in conflict with the provisions of this Act as may be deemed necessary to fully secure the payment of the bonds described therein. In the event that any portion of the bridge or property is within the corporate limits of said city, any such mortgage or deed or trust may carry the grant of a privilege or right to maintain and operate as a toll bridge the bridge and property covered thereby, for a period not exceeding twenty-five years from and after the date such bridge and property may come into the possession of any person or corporation as a result of foreclosure proceedings, which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of said property, for a period of not exceeding twenty-five years. Whenever, and as often as default shall be made in the payment of such bonds issued and secured by mortgage or deed of trust as aforesaid, or in the payment of the interest thereon when due, and when any such default shall have continued for the space of twelve months after notice thereof has been given to the mayor and treasurer or other financial

officer of the city issuing such bonds, it shall be lawful for any such mortgagee or trustee under such indenture, upon the request of the holder or holders of a majority in amount of the bonds issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of such bonds as may be outstanding to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale the mortgagee or trustee or the holder or holders of such bonds may become the purchaser or purchasers of such bridge and other property and the rights and privileges sold, if he or they be the highest bidders. (Act Apr. 20, 1939, c. 316, §5.)

1372-½e.—Not to become obligation of city.—In the event that any such bonds are secured by mortgage or deed of trust as in this Act provided, then such bonds shall under no circumstances be and become an obligation or liability of the city issuing the same or payable out of the general funds of said city, but shall be payable solely out of the revenues or income to be derived from the toll bridge for the acquisition of which said bonds were issued. (Act Apr. 20, 1939, c. 316, §6.)

1372-½f. Deficiency and interest may be paid out of city funds.—In the event that any such bonds are not secured by mortgage or deed of trust as in this Act provided, in such case, and in the further event that in any year the total net income and revenues from said bridge, as in this Act defined, are insufficient to pay the interest on said bonds and the principle of any such bonds maturing in such year, or if no such bonds mature in such year then to pay into the sinking fund such amount as may have been by resolution or ordinance theretofore determined as the minimum payment necessary to be made in such year to the sinking fund in order to amortize the cost of the bridge within the time required by this Act, then the deficiency in such interest and principal or sinking fund payments shall be paid out of the general funds of said city, and the council or chief governing body of such city shall levy a general tax therefor and shall include in the next tax levy a sufficient amount to provide for the payment in full of said interest and principal or sinking fund payments. (Act Apr. 20, 1939, c. 316, §7.)

1372-½g. Not to be affected by former limitations.—The bonds authorized by this Act to be issued, whether or not secured by mortgage or deed of trust, may be issued and sold or disposed of by any such city notwithstanding any limitation contained in the charter of such city or in any law of the state prescribing or fixing any limit upon the bonded indebtedness of such city, and shall not create or constitute an indebtedness of the city within the meaning of any charter, statutory or constitutional limitation upon the incurring of indebtedness. (Act Apr. 20, 1939, c. 316, §8.)

1372-½h. Powers of city in issuance of bonds.—To any extent not in conflict with the provisions of this Act, any city issuing bonds under this Act shall have the right to covenant with the holders of the bonds, either by resolution or ordinance, adopted or passed by a five-sevenths majority vote of the council or other governing body or by the terms of said mortgage or trust indenture, or by separate written instrument if such bonds be not secured by mortgage or indenture, as to all matters concerning (a) the use and disposition of all income and revenues derived from the operation of any such toll bridge; (b) the manner and expense of operating and maintaining the bridge; (c) the insurance to be carried thereon and the disposition of the insurance moneys; (d) its books of account and the inspection and audit thereof and its accounting methods; (e) the rates of tolls and charges for the use of said bridge and other matters pertaining to the care and operation thereof by the city; (f) the man-

ner of conserving and applying the revenues therefrom to the payment of such bonds and the interest thereon; and (g) the depository of the sinking fund, the method of handling such fund, and the minimum annual requirements thereof. (Act Apr. 20, 1939, c. 316, §9.)

1372-½i. Revenues to be kept separate.—Every such city owning and operating a toll bridge under this Act must keep all income and revenues derived from the operation of such bridge separate and distinct from all other revenues, and shall keep the books of account for such bridge distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership and operation. Such accounts shall be so kept as to show in detail the actual cost to such city of such bridge; the daily tolls collected therefrom; all cost of maintenance, repair and improvement; all operating expenses of every description; and the amounts set aside for sinking fund purposes. The council or chief governing body shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership and operation. (Act Apr. 20, 1939, c. 316, §10.)

1372-½j. Not to be included within limit of indebtedness.—Any bonds issued under this Act, whether secured or unsecured as herein provided, shall be excepted from and shall not constitute an obligation or indebtedness of such city within the meaning of any provisions contained in the charter of such city or in any law of the state prescribing, limiting or fixing the time and manner of payment of municipal bonds, and any such bonds may be issued and sold or disposed of by any such city as in this Act provided, notwithstanding any such charter or statutory provisions. (Act Apr. 20, 1939, c. 316, §11.)

1372-½k. Bonds may be registered.—Any bonds issued under this Act may be payable to bearer or to the order of the person or corporation to whom they may be delivered either for cash or property, and may be registered with the City Treasurer, or with the trustee under any indenture of trust. (Act Apr. 20, 1939, c. 316, §12.)

1372-½l. May sell bridge to the State of Minnesota.—(a) Any city purchasing and acquiring any such bridge, as in this Act provided, shall thereafter have power and authority to sell, assign and transfer the same and its approaches, or any interest therein, to the State of Minnesota or to any public agency or political subdivision thereof, or to any other state or public agency or political subdivision thereof within or adjoining which any part of the bridge is located, or to any two or more of them jointly, provided that any such sale or transfer shall not alter, change, modify or affect the rights, powers, securities and privileges of the holders of any outstanding bonds issued by said city in payment of said bridge as in this Act provided, or the payment of the principal and interest of such bonds when and as due; and any such sale or transfer made while any of such bonds are outstanding shall be subject to the payment thereof and to the assumption and performance by the vendee or transferee of all obligations, liabilities and covenants imposed upon said city by this Act or incurred and assumed by it in connection with the issuance of such bonds.

(b) Any city purchasing any such bridge, as in this Act provided, may thereafter acquire, condemn, occupy, possess and use real estate and other property needed for the operation, maintenance, improvement and extension of such bridge and its approaches by purchase or by condemnation or expropriation in accordance with the laws of the state of Minnesota governing the acquisition of private property for public purposes by condemnation or expropriation. (Act Apr. 20, 1939, c. 316, §13.)

1372-½m. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 20, 1939, c. 316, §14.)

1372-½n. Provisions severable.—If any provision of this Act shall be held invalid the remainder of this Act and the application thereof shall not be affected thereby. (Act Apr. 20, 1939, c. 316, §15.)

Sec. 16 of Act Apr. 20, 1939, provides that the act shall take effect from its passage.

1372-7¼. Port authority commission established.—A Commission to be known as "Port Authority of" is hereby established in and for every city of this State which has, or shall have over 50,000 inhabitants and which is or shall be situated upon, or adjacent to, or which embraces or shall embrace within its boundaries, in whole or in part, a port or harbor located on a navigable lake or stream. This act is expressly declared to be applicable to all such cities, whether now or hereafter existing under a charter framed and adopted under Section 36 of Article 4 of the State Constitution or not. Where two or more port districts in cities of the first class are adjacent, they shall constitute a metropolitan port district, and there is hereby established therein a joint commission to be known as " Port Commission," the further designation in the name to be supplied and adopted by the commission. Such joint commission shall consist, ex officio, of all the commissioners of port authority in each district embraced in said metropolitan port district, and shall perform such functions and have such powers as may be delegated or extended to it by concurrent resolutions adopted from time to time by the port authorities in the constituent port districts. When so authorized such joint commission may exercise any or all the powers conferred by this act upon said port authorities. Any such port authority may subsequently withdraw or rescind its action or concurrence in any such resolution, and, upon proper notice thereof, the powers or functions of the joint commission shall to that extent be withdrawn. (Laws 1929, c. 61, §1; Apr. 9, 1931, c. 132.)

1372-7¼a. Members—Terms—Vacancies.—Such Port Authority for any city shall consist of three commissioners who shall serve without compensation for their services, or any remuneration, save for expenses incurred in the performance of their duty. They shall be appointed by the city council of each city in and for which such Port Authority is hereby created. The first commissioners of any such Port Authority shall be appointed for terms as follows: one for two years; one for four years; and one for six years. Thereafter as the term of any Commissioner expires a successor shall be appointed to serve for a term of six years. Vacancies in the office of any commissioner shall be filled by the said council for the balance of the term in which such vacancy occurs. (Act Mar. 11, 1929, c. 61, §2.)

It is mandatory upon city council of St. Paul to appoint three commissioners. Op. Atty. Gen., July 6, 1932.

1372-7¼b. By-laws and rules—Duties.—The commissioners constituting such Port Authority may adopt by-laws and rules of procedure governing their action, not inconsistent with this or other laws, and shall adopt an official seal. They shall elect from among their number a president, a vice-president and a treasurer, and shall also elect a secretary who may or may not be a member of such commission; any of said officers except those of president and vice-president may be held by one commissioner. The said officers shall have the duties and powers usually attendant upon such offices, and such other duties and powers not inconsistent herewith, as may be provided by the Port Authority. The treasurer shall receive and be responsible for all moneys of the Port Authority from whatever source derived, and the same shall be deemed public funds. He shall disburse the same

only on order signed by the secretary and countersigned by the president or vice-president, or other vouchers authorized by law, and each order shall state the name of the payee, and the nature of the claim for which the same is issued. He shall keep an account of all moneys coming into his hands, showing the source of all receipts, and the nature, purpose and authority of all disbursements, and at least once each year, at times to be determined by the Port Authority, shall file with the secretary a detailed financial statement of the Port Authority showing all receipts and disbursements, the nature of the same, the moneys on hand, and the purposes for which the same are applicable, the credits and assets of the Port Authority and its outstanding liabilities, which report together with the treasurer's vouchers, shall be examined by the Port Authority, and if found correct approved by resolution entered on the records. The treasurer of every Port Authority shall give bond to the state in a sum equal to twice the amount of money which will probably be in his hands at any time during any one year of his term, said amount to be determined at least annually by the Port Authority, such bond to be conditioned for the faithful discharge of his official duties, and to be approved as to both form and sureties by the Port Authority and filed with its secretary. (Act Mar. 11, 1929, c. 61, §3.)

1372-7 1/2 c. Depositories to be designated.—The Port Authority shall biennially designate a National or State Bank or banks as depositories of its money. Such depositories shall be designated only within the State of Minnesota and upon condition that bonds approved as to form and surety by the Port Authority and at least equal in amount to the maximum sum expected to be on deposit at any one time, shall be first given by such depositories to the Port Authority, such bonds to be conditioned for the safe keeping and prompt repayment of such deposits. Whenever any of the funds of the Port Authority shall be deposited by the treasurer in any such depository, the treasurer and the sureties on his official bond shall, to such extent, be exempt from liability for the loss of any such deposited funds by reason of the failure, bankruptcy, or any other act or default of such depository; provided, however, that any such Port Authority may accept assignments of collateral by any depository of its funds to secure such deposits to the same extent and conditioned in the same manner as assignments of collateral are permitted by law to secure deposits of the funds of any such city. (Act Mar. 11, 1929, c. 61, §4. July 14, 1937 Sp. Ses., c. 28, §1.)

Sec. 2 of Act July 14, 1937, cited, provides that the act shall take effect from its passage.

1372-7 1/2 d. Territorial jurisdiction.—The territorial jurisdiction and authority of the Port Authority shall cover and include all portions of any city in and for which the same is created and established as aforesaid, and, all portions of such port or harbor within said city. Said city and said portions of such port or harbor, are hereinafter referred to as the Port District. (Act Mar. 11, 1929, c. 61, §5.)

1372-7 1/2 e. Not to levy taxes—City to provide funds.—The Port Authority shall have no right or authority to levy any tax or special assessment, nor to pledge the credit of the state, or any other subdivision or municipal corporation thereof; nor to incur any obligation enforceable upon any property, either within or without the Port District, other than property owned by said Port Authority. Annually, at such time as may be fixed by charter, resolution or ordinance of the city in and for which any such Port Authority is created, the Port Authority shall transmit to the council of such city a detailed estimate, in writing, of the amount of money which in its opinion will be required for the business and proper conduct

of its affairs during the next ensuing fiscal year, in excess of any expected receipts from the conduct of its business, or other sources, and any such city, in addition to all other powers now possessed thereby, and in addition to, and in excess of any limitation upon the amount it is otherwise permitted by law to levy as taxes, is hereby granted the power and authority, in its discretion, to levy taxes for the benefit of, and for expenditure by, such Port Authority, not exceeding, however, in any one year an amount equal to a tax of fifteen one-hundredths of one mill upon the dollar of the assessed valuation thereof, upon all the taxable property in such city, excluding moneys and credits, and any amount so levied for such purposes shall be paid over by the City Treasurer to the treasurer of said Port Authority, for expenditure by it as above provided. The fiscal year of such Port Authority shall be identical with the fiscal year of such city. The board of county commissioners of any county in which any such city is located, is also hereby authorized to appropriate for the use of such Port Authority, and to include therefor in its levy for general revenue purposes, such amount as it may deem proper; provided that the total amount permitted by law to be levied by any county for general revenue purposes shall not be deemed increased by this provision. Any amounts so appropriated by the county shall be paid over by the County Treasurer to the Port Authority for expenditure by it as herein provided, at such times and in such manner as the county board may provide. (Act Mar. 11, 1929, c. 61, §6.)

1372-7 1/2 f. City to transfer property.—The city council of any such city may in its discretion, by majority vote, and with or without consideration, transfer or cause to be transferred to such Port Authority or may place in its possession and control, by lease, or other contract or agreement, either for a limited period or in fee, any dock, waterfront, or riparian property now or hereafter owned or controlled by such city, within the Port District, but nothing in this act contained shall be construed to impair or in any manner restrict any power of such city or any municipality to itself own, develop, use and improve port or terminal facilities. Any such city may issue its bonds for, and appropriate the proceeds thereof, to the purchase, construction, extension, improvement and maintenance of docks, warehouses or other port or terminal facilities owned or to be owned or operated by such Port Authority under the same conditions, to the same extent and in the same manner as if such properties were public utility plants, needful public buildings and public conveniences from which revenue may be derived, and were owned or to be owned or operated solely by said city. Such city may also in its discretion and with or without compensation therefor furnish to such Port Authority offices, warehouses, or other structures and space with or without heat, light and other service, and such stenographic, clerical, engineering or other assistance as its council may determine. The city attorney or similar law officer of any such city shall be the attorney and legal advisor of said Port Authority, but this provision shall not impair the power of the Port Authority to employ additional counsel when in the judgment of its members such action is for any reason advisable. (Act Mar. 11, 1929, c. 61, §7.)

1372-7 1/2 g. Powers and duties.—It shall be the general duty of any such Port Authority to promote the general welfare of the Port District, and of the port as a whole; to endeavor to increase the volume of the commerce thereof; to promote the efficient, safe and economical handling of such commerce, and to provide or promote adequate docks, railroad and terminal facilities open to all upon reasonable and equal terms for the handling, storage, care and shipment of freight and passengers to, from and through

the port. It shall further be the special duty of such Port Authority;

(a) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the Port District forms a part, and insofar as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port.

(b) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the Port District, which plans shall, so far as may be, be consistent with the general plan above referred to.

(c) To confer from time to time with any such similar body and, so far as may be, to agree therewith upon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies.

(d) To determine upon legislation and regulations needed for the regulation and improvement of the conduct of navigation and commerce within the Port District and to similarly recommend the same.

(e) Either jointly with said similar body, or separately, to recommend to the proper departments of the government of the United States, or any state or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or Port District.

(f) To investigate the practices, rates and conduct of privately owned or operated dock, terminal and port facilities within the Port District, and to institute such proceedings and take such steps to remedy any abuses as may seem in the public interest. In connection with any such investigation, the Port Authority shall have power, by subpoena issued out of the district court of the county where the Port Authority is situated, to require the attendance of witnesses and the production of books and documents, and to examine witnesses under oath.

(g) Annually in January of each year to make written report to the city council of such city, giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with such further matters and recommendations as it shall deem advisable for the advancement of the commerce and welfare of the Port District. (Act Mar. 11, 1929, c. 61, §8.)

1372-7½h. May hold property.—The Port Authority, in its own name, shall have full power and authority to acquire, purchase, construct, lease or operate any terminal or transportation facility within said district; to make rules, regulations and charges for the use thereof, and for any service rendered; for such purposes to own, hold, lease or operate real and personal property, to borrow money, and to secure the same by bonds or mortgages upon any property held or to be held by it; to sell and exchange any real or personal property owned or held by it in such manner and on such terms as it may see fit, save that no real property owned by said Authority shall be so sold, exchanged or the title thereto transferred without the unanimous vote of all the members of the Port Authority. The Port Authority is hereby empowered to acquire by condemnation any property, corporeal or incorporeal, within said Port District which may be needed by it for public use; and the fact that the property so needed has been acquired by the owner under power of eminent domain, or is already devoted to a public use shall not prevent its acquisition by such Port Authority by the exercise of the right of eminent domain hereby conferred; provided, however, that no property now or hereafter vested in or held by the State of Minnesota, or any

city, county, village, school district, township or other municipality shall be so taken or acquired by such Port Authority without the consent of such state, municipality, or public body. The necessity of the taking of any property by the Port Authority shall be determined by resolution duly adopted by the commissioners, which shall describe the property as nearly as may be, and state the use and purpose to which it is to be devoted. The acquisition of such property shall be thereafter accomplished by proceedings at law, as in taking land for public use by right of eminent domain under the laws of the State of Minnesota. (Act Mar. 11, 1929, c. 61, §9.)

1372-7½i. May employ engineers, etc.—The Port Authority shall have power and authority, in its own behalf, to employ such engineering, legal technical, clerical, stenographic, accounting and other assistance as it may deem advisable; to enter into contracts for the erection, repair, maintenance or operation of docks, warehouses, terminals, elevators or other structures upon or in connection with property owned or controlled by it; to contract for the purchase and sale of real and personal property; provided, however, that no such obligation or expense shall be incurred save upon such terms and at times when existing appropriations, together with the reasonable expected revenue of said Port Authority from other sources, shall be sufficient to enable the same to be discharged when due; and neither the state nor any municipal subdivision thereof shall be liable on any such obligation. (Act Mar. 11, 1929, c. 61, §10.)

1372-7½j. Application.—Until and unless otherwise provided by law, all laws now or hereafter vesting jurisdiction or control in the Railroad and Warehouse Commission of the State of Minnesota, the Interstate Commerce Commission or War Department of the United States or similar regulatory bodies, shall apply to any transportation, terminal or other facility owned, operated, leased or controlled by the Port Authority, with the same force and effect as if said transportation, terminal or other facility was so owned, operated, leased or controlled by a private corporation. The Port Authority shall have authority either alone or jointly with any similar body having jurisdiction of any part of such Port to petition any Interstate Commerce Commission, Railroad and Warehouse Commission, Public Service Commission, Public Utilities Commission or any like body, or any other federal, municipal, state or local authority, administrative, executive, judicial or legislative, having jurisdiction in the premises, for any relief, rates, change, regulation or action which in the opinion of the Port Authority may be designed to improve or better the handling of commerce in and through the said Port, or improve terminal and transportation facilities therein, and may intervene, before any such body in any proceeding affecting the commerce of the port, and in any such matters shall be considered along with other interested persons, one of the official representatives of the Port District. (Act Mar. 11, 1929, c. 61, §11.)

1372-8. Hospitals in cities with more than four thousand and not more than twenty thousand inhabitants, etc.

Cities organized under Constitution Art IV, §36 with population of 2700 to 2800, may build hospitals. Laws 1939, c. 254.

City of St. Peter has power to acquire and maintain a municipal hospital. Op. Atty. Gen. (59b-5), Aug. 6, 1938.

City of St. Peter has authority to use surplus electric light fund for paying cost of constructing a hospital without submitting proposition to voters. Op. Atty. Gen. (624a-6), Sept. 2, 1938.

1372-9. Same—Acquisition of sites, etc.

In cities of fourth class hospital boards may execute mortgages. Laws 1939, c. 196.

1373. Licensing soft-drink vendors.

Village may, within reasonable limitations, regulate closing and opening hours of restaurants, chicken shacks

and nite clubs, and provide reasonable limitations upon which vendors may sell non-intoxicating beverages. Op. Atty. Gen., July 28, 1932.

This section has not been repealed or changed. Op. Atty. Gen., Apr. 7, 1933.

An ordinance must be adopted before licenses can be issued under non-intoxicating malt liquor law. Op. Atty. Gen., Mar. 10, 1933.

An ordinance must be adopted before licenses under non-intoxicating malt liquor law can be issued. Op. Atty. Gen., Apr. 15, 1933.

Village of Gibbon may enact an ordinance providing for licensing of vendors of nonintoxicating beverages. Op. Atty. Gen. (135B-6(a)), July 10, 1939.

Village may pass an ordinance requiring license from every merchandise and grocery store to sell soda pops, coca cola and various drinks made from extracts, notwithstanding that purpose is to confine sales of these prepared drinks to restaurants and soft drink parlors, same license fee being required of all. Op. Atty. Gen. (477B-24), July 11, 1939.

1377. Conciliation and small debtors court.

See Laws 1927, c. 17, creating court of conciliation and small debtors court in Duluth.

Laws 1927, c. 17, §4. Amended July 15, 1937, Sp. Sess., c. 67, §1.

Laws 1927, c. 17, §6. Amended July 15, 1937, Sp. Sess., c. 67, §2.

Laws 1927, c. 17, §7. Amended July 15, 1937, Sp. Sess., c. 67, §3.

Laws 1927, c. 17, §14 (a, b, f). Amended July 15, 1937, Sp. Sess., c. 67, §4.

Laws 1927, c. 17, §15. Amended July 15, 1937, Sp. Sess., c. 67, §5.

Laws 1927, c. 17, §18. Amended July 15, 1937, Sp. Sess., c. 67, §6.

Laws 1927, c. 17, §19(b). Amended July 15, 1937, Sp. Sess., c. 67, §7.

Laws 1917, c. 263, §§3, 7, relating to conciliation court of Minneapolis, are amended by Laws 1929, c. 242.

Conciliation court of St. Paul. Laws 1929, c. 346, amends Laws 1921, c. 525, §3.

Laws 1917, c. 263, §3, as am. Laws 1929, c. 242, §1. Amended. Laws 1935, c. 145, §1.

Laws 1917, c. 263, §4, as am. Laws 1921, c. 281, §1, as am. Laws 1923, c. 262, §1. Amended. Laws 1935, c. 145, §2.

Act Mar. 18, 1939, c. 70, creates for village of Hibbing and city of Chisholm conciliation courts to be conducted by the judges and clerks of the municipal courts in such municipalities.

Virginia City Charter §83, relating to votes on Resolution creating obligation and vetoed by mayor, does not apply to a Resolution of council increasing salary of municipal judge for services rendered in conciliation court. Op. Atty. Gen. (742), July 13, 1936.

1378. Duties—Powers.

Conciliation court has power to exclude attorneys for practicing in court. Op. Atty. Gen., Feb. 7, 1934.

1382. Appeal.

Certiorari is a proper remedy to review the judgment of the municipal court of Minneapolis rendered on removal from conciliation court though statute says that there shall be no appeal and that judgment shall be final; there being under constitution a right of review of a judicial determination by trial court. Ridgway v. V., 187M552, 246NW115. See Dun. Dig. 1394, 6906.

1391. Cities may impose wheelage tax.

SPECIAL ACTS RELATING TO CITIES GENERALLY

Under Laws 1919, c. 203, city of Eveleth held authorized without vote of electors to issue bonds to refinance certificates of indebtedness issued in 1933, 1934 and 1935. Op. Atty. Gen. (361), Aug. 6, 1937.

PROVISIONS RELATING TO CITIES OF FIRST CLASS

1410. Attaching new territory.

On annexation of city of Columbia Heights to Minneapolis, all of school district No. 65, lying within corporate limits of Columbia Heights would be annexed to school district which comprises city of Minneapolis. Op. Atty. Gen., Mar. 17, 1933.

1413. Annexation of territory.—All or any portion of the territory of any incorporated village or city of the fourth class may be annexed to an adjoining city of the first class as follows: The council of any village or city of the fourth class and situated within the same county shall, on the petition of one hundred freeholders, submit the proposition of annexing all or any portion of the territory of such village or city of the fourth class to an adjoining city of the first class to the voters of such village or city of the fourth class for their approval or rejection at the next regular village or city election, or at a special election

called for the purpose. Ten days' notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three of the most public places within said village or city, and shall state the time and place, when and where within said village or city of the fourth class such election will be held, and shall also state the proposition on which the said electors will vote. Notice of such election shall also be published for one full week prior to the date of said election in a newspaper printed or published in said village or city of the fourth class, and, if there be no newspaper printed or published in said village or city of the fourth class, then in a newspaper printed and published at the county seat of the county in which such village or city is located. The ballots shall have upon them the proposition to be voted upon, together with the words "for detaching" and "against detaching," and the said special election shall be held, conducted and the results thereof counted and canvassed in the same manner as in special elections held for other purposes in villages and cities of the fourth class. If the proposition to be voted upon is for the annexation of the entire territory of said village or city to such city of the first class, the ballots shall have upon them the proposition to be voted upon, together with the words "for annexation to the city of" and "against annexation to the city of" ('23, c. 352, §1; Apr. 24, 1929, c. 352, §1; Apr. 25, 1931, c. 403, §1.)

1414. To be voted on.—If it appears that ($\frac{5}{8}$) five-eighths of the electors of such village or city of the fourth class casting their ballots upon the question of such election are in favor of the proposition, then and in such case the council of such village or city of the fourth class shall adopt a resolution reciting the results of such election and stating that such village or city of the fourth class consents to the detachment from it of the territory described and to the annexation of such territory to an adjoining city of the first class, or consents to the annexation of all the territory of such city or village of the fourth class to such adjoining city of the first class as the case may be and a certified copy of such resolution shall thereafter be filed with the clerk of such city of the first class, who shall present the same to the council of such city of the first class at its next regular meeting. ('23, c. 352, §2; Apr. 24, 1929, c. 352, §2; Apr. 25, 1931, c. 403, §2.)

1415-6. Annexation of cities of fourth class in certain cases.—The governing body of any city of the fourth class now or hereafter organized, where the territory embraced in said city of the fourth class shall join and be contiguous to a part of the territory of any city of the first class, when such city of the fourth class, or part thereof, by proceedings duly had, has voted to become annexed to said city of the first class, shall, on the petition of one hundred freeholders of said city of the fourth class, or any part thereof, submit the proposition of making all or any such part of the city of the fourth class annexed, or proposed to be annexed, to the city of the first class a part of the county wherein said city of the first class is located, to the voters of such city of the fourth class, or such part thereof, for their approval or rejection at an election to be held for that purpose not more than sixty days after the filing of such petition. (Act Apr. 24, 1929, c. 343, §1.)

1415-7. People to vote on annexation.—Notice of any election to vote on such proposition shall be given by posting three written or printed notices thereof in three public places within said city of the fourth class or such part thereof, at least ten days prior to such election, which said notice shall state the time and place such election will be held, and shall also state the proposition on which the said electors will vote.

Notice of such election will also be published for at least one week prior to such election in a newspaper published in said city of the fourth class, or, if there be no newspaper published in said city of the fourth class, then in a newspaper published at the county seat of the county in which said city is located.

The ballots shall briefly and concisely state the proposition to be voted upon, together with the words, "For annexation" and "Against annexation" and such election shall be held, conducted and the results thereof counted and canvassed in the same manner as any other special or general election held for other purposes in cities of the fourth class. (Act Apr. 24, 1929, c. 343, §2.)

1415-8. Five-eighths vote required to annex.—If it appears by such canvass that five-eighths of the electors of such city of the fourth class, casting their ballots upon the question of such election, are in favor of the annexation, then and in such case the governing body of such city of the fourth class shall adopt a resolution reciting the result of such election and stating that such city of the fourth class consents to the annexation of the territory embraced in said resolution to the county in which such city of the first class is located, and a certified copy of such resolution shall forthwith be filed with the county auditor of the county, in which said city of the fourth class is located and also with the county auditor of the county in which said city of the first class is located.

The county auditor of the county in which said city of the fourth class is located hereby is required to present the same to the board of county commissioners of the county in which said city of the fourth class is located at its next regular or adjourned regular meeting, and if no such meeting has been set, then at a special meeting to be called by said county auditor at a time not more than 20 days after the filing of such resolution in his office. (Act Apr. 24, 1929, c. 343, §3.)

1415-9. Duties of county board.—If the board of county commissioners of the county in which such city of the fourth class is located finds that the territory described in such resolution is so conditioned as to properly be made a part of the county in which said city of the first class is located; it shall have the power, by resolution duly adopted, to consent to the annexation of such territory and to consent that it be made a part of the county in which said city of the first class is located.

Upon the adoption of such resolution it is hereby made the duty of the county auditor of such county to forthwith file a certified copy thereof with the county auditor of the county in which such city of the first class is located. (Act Apr. 24, 1929, c. 343, §4.)

Consent of both counties and both cities is necessary to annexation of cities. Op. Atty. Gen., July 26, 1929.

1415-10. County auditor to file certificates.—Upon the filing of such certified copy of such resolution with such county auditor, such county auditor of the county in which the city of the first class is located is hereby required to present the certified copy of the resolution filed in his office by such city of the fourth class and the certified copy of the resolution so filed in his office from the board of county commissioners of the county in which such city of the fourth class is located at its next regular or adjourned regular meeting. (Act Apr. 24, 1929, c. 343, §5.)

1415-11. Territory to become part of city.—Whenever the certified copy of resolution duly filed by such city of the fourth class with the clerk of such city of the first class, pursuant to Section 1413, General Statutes 1923 and the certified copy of resolution duly filed by the county auditor of the county in which the city of the fourth class is located with the county auditor of the county in which the city of the

first class is located would allow the annexation of the same territory to the city of the first class and the county in which such city of the first class is situated and the council of such city of the first class shall have determined by resolution duly adopted and filed with the register of deeds of the county in which such city of the first class is situated to annex such territory, the board of county commissioners of such county in which such city of the first class is located shall have the power, by resolution duly adopted, to annex such territory and make it a part of the county in which said city of the first class is located; provided that, notwithstanding any existing law to the contrary, such city of the fourth class or any part thereof shall not become a part of such city of the first class until the filing of the certified copy of such resolution by the county auditor of the county from which the territory is to be detached with the county auditor of the county to which such territory is to be attached; and such territory shall not become detached from one county and attached to the other until the due adoption and filing of certified copies of resolutions providing for such city annexation by both the city of the fourth class and the city of the first class, and provided that such annexation shall not release the property annexed from liability on account of any outstanding indebtedness of such city of the fourth class or of the county in which it is situated existing at the time of the annexation and taxes therefor shall be levied on said property annually until paid at the same rate as on other property in the county of which said city of the fourth class was a part, which levy shall be made by the county auditor of the county of said city of the first class on a certificate therefor from the county auditor of the county of which said city of the fourth class was a part and the proceeds of such levy shall be remitted by the county auditor as collected at the times provided by law for tax settlements, and provided further that the property so annexed shall thereafter be additionally subject, in the county to which it is annexed, to the same tax levy as the property in the county to which it is annexed whether for outstanding bonded indebtedness at the time of annexation of the county to which it is annexed or otherwise.

The county auditor of such county in which the city of the first class is located, after the adoption of any such resolution, shall file for record with the register of deeds of such county and in the office of the secretary of the state and in the office of the register of deeds of the county where such city of the fourth class is located, a certified copy of such resolution so adopted. (Act Apr. 24, 1929, c. 343, §6.)

1415-12. Not to affect collection of taxes.—No transfer of territory under the provisions of this act shall affect the collection of taxes levied at the date of the filing and recording of the resolution provided for in Section 6 of this act, but all such taxes shall be collected by the officers of the original county and all monies then remaining in or afterwards coming into the treasury of such original county, or into the possession of any officer of such county and belonging to such city of the fourth class or any school district or any part thereof in the territory transferred. All special assessments belonging to such city of the fourth class in the territory transferred, shall be apportioned and paid over to the city of which said city of the fourth class has become a part and to such school district in the same manner as it would have been paid to such city of the fourth class if such city of the fourth class or such school district had remained a part of such original county. (Act Apr. 24, 1929, c. 343, §7.)

1415-13. To become part of school districts.—The territory embraced in the resolutions referred to in Section 6 of this act [§1415-11], shall, after the

adoption of the final resolution as provided for in this act and its recording as herein provided, become and be thereafter a part of the school district of said city of the first class. (Act Apr. 24, 1929, c. 343, §8.)

1415-14. Annexation of lands.—Lands outside any incorporated municipality and adjoining and contiguous to any city of the first class, now or hereafter having 350,000 inhabitants, within the same county in which said city of the first class is situated and which have been platted into subdivisions approved by the city council or chief governing body of such city and by the county board of such county and in which streets and alleys have been dedicated for public use, may be annexed to such city of the first class upon petition of the owner or owners thereof, which petition shall be in writing and shall be presented to and filed with the governing body of such city of the first class. The word "owner," as herein used, shall mean any and all persons or parties having any right, title, estate, lien or interest in the lands proposed to be so attached, other than the tax or assessment liens held by the state or any of its subdivisions. (Act Apr. 27, 1929, c. 414, §1.)

1415-15. Proceedings in annexation.—Upon the presentation of such petition to the governing body of such city, the same shall be referred to the planning commission of such city, if one exists therein. If such planning commission by a four-fifths vote shall recommend the annexation of such land and if such governing body finds that the territory described in such petition is so conditioned and so located as properly to be made a part of such city of the first class, it shall have power by resolution duly adopted by a four-fifths vote of such governing body to annex such territory, and immediately upon the adoption of such resolution, the territory annexed shall become a part of such city for all purposes. Thereafter the City Clerk of such city of the first class shall file with the Register of Deeds of the county wherein such city of the first class is situated, and in the office of the Secretary of State, a certified copy of the resolution adopted by such governing body, so annexing said territory to such city of the first class. (Act Apr. 27, 1929, c. 414, §2.)

1415-16. To be part of adjacent wards.—Such annexed territory shall become parts of adjacent wards of such city of the first class, and the portions of such territory to be added to wards adjacent thereto shall be determined by the extension in straight lines of the ward lines of such adjacent wards. (Act Apr. 27, 1929, c. 414, §3.)

1415-17. Tax levies.—Taxes levied and due and payable at the time of the passage of such resolution shall be collected and received by the proper officers of the county in which such city of the first class is located, and when so collected shall be transmitted by such officers to the state or governmental subdivision to which said taxes were originally due and payable. Taxes levied, but not due and payable at the time of the passage of such resolution, shall be collected and received by the proper officers of the county in which such city of the first class is located, and shall be distributed as if at the date of the levy thereof the said lands were a part of such city of the first class. All special assessments levied at the time of the passage of such resolution, for the making of any public improvement, and all assessments made to meet any bonded indebtedness in and of the governmental subdivision in which said lands were prior to the passage of said resolution located, and for the payment of which said lands have become obligated, shall, when collected by the proper officers of the county in which such city of the first class is located, be transmitted to the governmental subdivision making such public improvement and the levy

of assessment therefor. (Act. Apr. 27, 1929, c. 414, §4.)

1415-18. Limitation on public improvements.—For the period of 10 years after the annexation of any lands under this act, no works of improvement shall be done within such annexed territory under any law of this state or any provisions of charter of such city of the first class under which any portion of the cost thereof shall be paid for out of the general funds except the cost of such improvements at and in street intersections where no private property abuts against which said cost can be assessed or shall be assessed against any property outside the boundaries of said lands so annexed but during such term such land shall be subject to assessments for any improvements either inside or outside the boundaries thereof permitted by such law or charter. (Act Apr. 27, 1929, c. 414, §5.)

1415-19. Applications.—This act shall apply to all cities now or hereafter having over 350,000 inhabitants, including all such cities organized and operating under a home rule charter adopted under the provisions of Section 36, Article IV, of the state constitution, and the laws of the state relating thereto. (Act Apr. 27, 1929, c. 414, §6.)

Sec. 7 provides that act shall take effect from and after its passage.

1417-1. Salary of alderman in certain cities.—That in cities now or hereafter having over 50,000 inhabitants and not having a commission or council manager form of government the salary of each alderman shall be \$2400 per annum, payable pro rata monthly out of the city treasury. (Act Apr. 19, 1937, c. 294, §1; Apr. 1, 1939, c. 132.)

1417-2. All acts and parts of acts inconsistent with this act are hereby repealed. (Apr. 19, 1937, c. 294, §2.)

1421. Salary of chief of police.

Compulsory retirement age of fire and police officers in cities of the first class set at 65 years. Laws 1939, c. 136.

1422-1. City Council may reduce salaries.—That the City Council of any city of the First Class now or hereafter having a population of 50,000 inhabitants or more, including any such city operating under a Charter adopted pursuant to the provisions of Section 36, Article 4, of the Constitution of the State of Minnesota, is hereby authorized and empowered to reduce the salaries or compensations now prescribed under the provisions of any such Charter and ordinances enacted in pursuance thereof for all officers and employees, whether elective or appointive, in an amount not less than 10% thereof. (Act Feb. 28, 1933, c. 42, §1.)

1422-2. Effective for two years.—This act shall take effect and be in force for a period of two years from and after its passage. (Act Feb. 28, 1933, c. 42, §2.)

1426, 1427. [Repealed.]

Repealed by act Apr. 8, 1933, c. 177, §29, post, §3750-29.

1436. Police pensions.

Op. Atty. Gen. (335d), Aug. 22, 1934; note under §1358. Statute includes not only those cities within designated class at time law was enacted but also those subsequently coming within same. State v. City Council of Minneapolis, 188M447, 247NW514.

1437. Incorporation of police department as relief association—Pensions.—That every paid municipal police department now existing or which may hereafter be organized, is hereby authorized to become incorporated pursuant to the laws of this state, or adopt a constitution and by-laws as a relief association, to provide for and permit and allow such police relief association, so incorporated or so organized, or any police pension relief association now in existence and incorporated according to law, to pay

out of, and form any funds it may have received from any source, a service, disability, or dependency pension in such amounts and in such manner as its articles of incorporation, or the constitution and by-laws shall designate, not exceeding however, the following sum per month to each of its pensioned members who shall have reached the age of fifty years or more, and shall have served twenty years or more in such department, or their widows and children under sixteen years of age, viz.:

A sum equal to one-half of the monthly compensation allowed such member as salary at the date of his retirement, when such member shall have arrived at the age of fifty (50) years or more and shall have served as a member of such paid municipal police department for a period of twenty (20) years or more in the police department of such city in which such relief association shall be so organized, or is so in existence, or who has been permanently disabled physically or mentally because of any injury received or suffered while a duly authorized member of such paid municipal police department, so as to render necessary his retirement from active police service. Provided, however, that any such member who has been a member of such paid municipal police department for twenty (20) years or more and who shall sever his connection with said paid municipal police department before he shall have attained the age of fifty (50) years, shall be eligible to the benefits of such police relief association of such city when he arrives at the age of fifty (50) years. Provided, further, that if any member retires under the provisions of the act before he has served one year in the grade in which he is serving when he retires, he shall receive the same compensation as though he had retired in the next lower grade. Provided, further, that no retired member shall receive less than seventy (\$70.00) dollars nor more than seventy-five (\$75.00) dollars per month, but commencing April 1, 1932, all retired members shall receive seventy-five (\$75.00) Dollars per month. Said pension shall be paid to any widow or child under sixteen years of age of any such pensioned and retired member of the police department or to any widow or child under sixteen years of age of any member who dies while in the service of the police department of any such city, or to any widow or child under sixteen years of age of any member, who after having been a member of such paid municipal police department for twenty (20) years or more, shall sever his connection with such paid municipal police department and who shall die before he arrives at the age of fifty (50) years, and such widow or child shall receive the sums hereinafter provided.

Forty (\$40.00) dollars per month to such widow and Ten (\$10.00) dollars per month to each of such children under sixteen years of age; provided, there where such widow and such children reside together the money herein required to be paid to such children shall be paid to such widow for the support of such children but the money paid to such widow for herself and such children shall not exceed seventy-five (\$75.00) dollars per month in all; provided, however, that in the event that any such widow remarries, she shall receive no further benefits under this law; provided, further, that said fund shall not be used for any other purpose than for the payment of service, disability or dependency pensions as herein provided.

The word "member" as used in this act shall include police women, police matrons and assistant police matrons. ('15, c. 68, §2; '21, c. 118, §1; '23, c. 54; Apr. 8, 1931, c. 118, §1.)

A city of the third class, such as South St. Paul, operating under home rule charter need not establish police pensions under §§1436 to 1442 but may establish pensions for all city employees under §254-23, et seq. Op. Atty. Gen. (785j), Aug. 19, 1936.

1438. Payments — limitations.—The pensions authorized by this act shall not be paid to any person while drawing salary in any amount from such city as an employe in any police department or from any department of the state or any county or municipality therein as an employe, provided, however, that this provision shall not affect the status as a pensioner of any person whose status as a pensioner has been fixed by retirement while another provision of law was in effect; and no member shall be entitled to said pension after he removes his residence from the United States or who shall have been convicted of a felony, provided, that no widow or child under sixteen years of age of any member who shall have been convicted of a felony, shall be deprived of their pension rights under this act by reason thereof unless such widow or child under sixteen years of age shall have been a party to the commission of such felony, and provided further that where such member so convicted of a felony is then receiving a pension, his wife or child under sixteen years of age who has not been a party to the commission of such felony shall receive the pension provided for herein in the event of the death of such member; and any person receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. ('15, c. 68, §3; Apr. 8, 1931, c. 118, §2.)

1440. Association to have charge of funds.—Said association, through its officers, shall have full charge, management and control of the pension fund herein provided for, which said funds shall be derived from the following sources: From gifts of real estate or personal property, rents, money or from other sources. It shall also be the duty of the city treasurer of any city affected by this act to deduct each month from the monthly pay of each member of such police department, a sum equal to two per cent of such monthly pay, and place the same to the credit of the said police pension fund; it shall also be the duty of every police officer receiving any reward for services in making arrests, or otherwise, to place to the credit of the police pension fund all such rewards, and it shall be the duty of the chief of police of any such city to place to the credit of the police pension fund all moneys falling into the hands of the police that shall remain unclaimed for a period of six months, and to sell all unclaimed property falling into the hands of the police when the same shall have been unclaimed for a period of six months and place the proceeds thereof to the credit of the said police pension fund.

An amount or sum sufficient to pay pensions due and payable in the following fiscal year, provided said sum shall not be less than three-fifths (3/5) mill, nor in excess of one (1) mill, in addition to the rate allowed to be levied by the charter of any city affected by this act, shall be annually assessed and levied at the time and in the manner that taxes for the other funds of such city are levied by the proper officers of each city where a police relief association now exists, upon each dollar of all the taxable property in such city as the same appears on the tax records of such city and such levy of said sum for the benefit of such police relief association shall be collected and apportioned by the proper officers of any county in which such city is located, in the same manner as are all taxes of such city, and all annual surpluses shall remain in said police pension fund. ('15, c. 68, §5; '21, c. 118, §2; '25, c. 197; Laws 1929, c. 311, §1; Apr. 8, 1931, c. 118, §3; Mar. 29, 1935, c. 76.)

1442. Not to repeal existing acts.

Requirement of amended law for local consent is functus officio and without effect on amendment, city having given consent before amendment. State v. City Council of Minneapolis, 188M447, 247NW514.

1442-2. Pension system for disabled or retired employees in certain cities created.—That every such municipal department or bureau of health now existing, or which may hereafter be organized, may and hereby is authorized to become incorporated pursuant to the provisions of the General Statutes of Minnesota, and to adopt articles of incorporation and by-laws as a relief association to provide and permit said department or bureau of health, relief association so incorporated or so organized, to pay out of and from any fund that it may have received from the State of Minnesota or from any other source, a service or disability pension in such sum and under such limitations and conditions as its articles of incorporation and by-laws shall provide and permit, to each of its pensioned members, who shall have reached the age of fifty years or more, and who shall have done active duty as a member of such health department or bureau for a period of twenty years or more in the city in which such relief association shall be so organized, or who having been disabled physically or mentally because of any injury or disability received or suffered while so employed as such member of such health department or bureau so as to render necessary his retirement from active service, and in addition thereto to pay out of and from any such fund funeral benefits for deceased members not exceeding the sum of \$100.00 and general administration expenses, in such sum and under such limitations and conditions as the articles of incorporation and by-laws shall provide and permit. Such member entitled to pension under the provisions hereof may be placed upon the pension list, and shall receive such pension, in such sum and under such limitations and conditions as the articles of incorporation and by-laws shall provide and permit, provided, however, that said funds shall not be used for any other purpose than for the payment of service and disability pensions as herein provided, funeral benefits for deceased members and general administration expenses. Such service or disability pension shall be a sum equal to one-half of the monthly compensation allowed to such member as salary at the date of his retirement when such member shall have arrived at the age of fifty years or more, and shall have served a period of twenty years or more in such health department or bureau in the city in which such relief association shall be so organized, or shall have been disabled, physically or mentally, because of any injury or disability received or suffered while in the employ of such health department or bureau, so as to render necessary his retirement from active service. Provided that no retired member shall receive a service or disability pension in an amount less than \$70.00 nor more than \$75.00 per month. Provided, further, that whenever it shall appear that any applicant for a service pension was a member of such relief association for a period of less than twenty years at the time of retirement, the amounts herein provided shall be reduced in such sum and under such limitations and conditions as its articles of incorporation and by-laws shall provide and permit. ('19, c. 430, §3; Apr. 18, 1929, c. 224, §1; Apr. 24, 1937, c. 414, §1.)

Explanatory note.—The title and enacting clause of Act Apr. 24, 1937, cited, purports to amend §2, 4 of c. 229, Laws 1929. Section 1 of the last named act amended sections 2 and 4 of Laws 1919, c. 430. The defect is perhaps technical and not fatal.

1442-3. Right in increase or reduce amounts not to exceed fifty dollars.—Every such association shall at all times have and retain the right to increase or reduce the amount of such pension whenever, because of the amount of funds on hand or for other good reasons, such increase or reduction may seem advisable or proper to the board of management of said relief association, provided the pension herein authorized shall never exceed \$75.00 per month for each person pensioned. ('19, c. 430, §3; Apr. 18, 1929, c. 224, §1.)

1442-4. Not to be paid while drawing salary.—The pension authorized by this act shall not be paid to any person who is only part time employed or while drawing salary in any amount from said municipality or who shall have been convicted of a felony for which he shall be adjudged to be imprisoned, or who is an habitual drunkard; and any person receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. ('19, c. 430, §4; Apr. 18, 1929, c. 224, §1; Apr. 24, 1937, c. 414, §2.)

Explanatory note.—The title and enacting clause of Act Apr. 24, 1937, cited, purports to amend §2, 4 of c. 229, Laws 1929. Section 1 of the last named act amended sections 2 and 4 of Laws 1919, c. 430. The defect is perhaps technical and not fatal.

1442-6. Association to have charge of funds—Tax levy.—Said association through its officers shall have full charge, management and control of the health department or bureau pension fund herein provided for, which said fund shall be derived from the following sources; first dues of its members and from the gifts of real estate or personal property, rents or money or other sources; second, the Commissioner of Finance or Department of Finance of any city affected by this act shall deduct each month from the monthly pay of each member of such department or bureau of health a sum equal to one per cent of such monthly pay and place the same to the credit of the said health department or bureau pension fund; third, an amount or sum equal to one-twentieth of one mill shall be annually assessed, levied and collected by the proper officers of such city where a health relief association exists, upon each dollar of taxable property in such city as the same appears on the tax records of such city, which said sum shall by the proper officers of said city be placed to the credit of the health department or bureau pension funds, and shall not be used or devoted to any other purpose than for the purpose of the health department or bureau pension fund. ('19, c. 430, §6; Apr. 18, 1929, c. 224, §1.)

Health relief association may use funds for administrative purposes but cannot pay death benefits. Op. Atty. Gen. (59a-33), Nov. 12, 1935.

1442-11. Retirement allowances to employees.

Retirement allowances may be paid in certain cases. Laws 1939, c. 65.

Op. Atty. Gen. (335d), Aug. 22, 1934; note under §1358. This act has applied to the city of Minneapolis from the beginning and adopting of home rule charter did not affect it, and all amendments to the act apply to such city. Op. Atty. Gen. (335d), June 19, 1935.

1442-13. Definitions.—The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

(a) "Service allowance" shall mean the allowance to which an employe may be entitled who retires from the city service after having attained the minimum established age for retirement.

(b) "Disability allowance" shall mean the allowance to which an employe may be entitled who retires from the city service as a result of disability before having attained the minimum established age for retirement.

(c) "Retirement allowance" shall mean either a service allowance or a disability allowance.

(d) "Annuity" shall mean payments for life derived from contributions made by an employe, as provided in this Act.

(e) "Pension" shall mean payments for life derived from credits allowed and appropriations made by the city, as provided in this Act.

(f) "Supplementary allowance" shall mean the allowance which may be granted to a present incumbent, division "B" in addition to a pension and an annuity.

(g) "Present incumbent" shall mean an employe who is in the service of the city at the date the pro-

visions of this Act become effective therein, who elects to become a beneficiary of the fund created by this Act and to comply with the provisions of the Act relative thereto, and who is not in the non-contributing class.

(h) "Future entrant" shall mean an employe who enters the service of a city at a date subsequent to the date when the provisions of this Act become effective therein, who becomes a contributor to the retirement fund.

(i) "Actuarial equivalent" shall mean the annual amount, determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

(j) "Accumulated amount" shall mean the amount which any given installments or periodic installments of money would accumulate when increased by interest additions compounded at regular intervals.

(k) "Net accumulated credits" shall mean the amount standing to the credit of any employe in the contributing class after deducting all amounts debited the account of such employe from the gross credits to such account.

(l) "Established age" shall mean the minimum age for retirement on a service allowance as specified by the rules of the retirement board.

(m) "Separation refund" shall mean the amount returned to an employe who is separated from the service of the city prior to having become entitled to a retirement allowance, or to his or her heirs, executors or assigns.

(n) "Present worth" of an annuity, pension or retirement allowance shall mean the value or cost price thereof to the date of retirement or other date, when specified.

(o) "Actuarial deficit or surplus" of an allowance or of allowances shall mean the difference between the estimated cost of said allowance or allowances and the actual cost thereof.

(p) "Employe" as herein used shall mean each and every person not an elective officer of said city, paid by the city or any of its various boards, departments or commissions, and any person employed by any of the various boards, departments or commissions operating as a department of the city government or independently in care of any of its governmental activities the funds of which board, department, or commission are wholly or in part raised by taxation in such city, and each and all of the employes of such boards, departments, or commissions, the funds of which boards, departments, or commissions are raised wholly or in part by taxation upon the property in such city, shall be entitled to all of the privileges conferred by this Act to the same extent as persons employed directly by the municipality.

(q) The word "dependent" as herein used shall mean a spouse, child, or any person actually dependent upon and receiving his principal support from such employe.

(r) "Elective officer" as herein used shall mean and include only an officer elected by direct vote of the people, and "elective position" shall mean a position filled by direct vote of the people.

(s) "Conditional present incumbent" shall mean any employe of the city at the time this Act is adopted therein who continues in such employment without having submitted to the retirement board a written notice of a desire to accept the provisions of this Act except employes in the non-contributing class and officers and employes who are included in the exempt class for reasons other than a failure to submit such notice.

(t) The word "heir or heirs" wherever used in this Act, shall mean surviving spouse, child, and any person actually dependent upon and receiving his principal support from the employe concerned, provided that this definition shall not apply to any case in which an employe is a member of the pension

fund at the time this definition becomes effective. ('19, c. 522, §3; Apr. 20, 1933, c. 328, §1.)

(i).

See Act Mar. 2, 1937, c. 52.

1442-14. When effective.—Any person who shall have been employed by the city to which this Act applies, and who shall have fulfilled the conditions herein specified, shall be entitled to receive a retirement allowance therefrom, as set forth in the provisions of this Act; provided, that no retirement allowance shall be paid any retired employe of such city prior to the expiration of the calendar year next succeeding the date this Act becomes effective therein.

Any conditional present incumbent shall be entitled to participate in the benefits provided by this Act upon submitting to the retirement board a written notice of desire to accept the provisions of the Act and of such evidence of the right to so participate as the board may require; provided that any such employe who is less than 30 years of age at the date this provision becomes effective therein shall submit such notice before reaching that age, and any such employe who shall have passed the age of 30 at that date shall make written application for participation in the benefits of the retirement fund within 90 days after such date. All such applications not filed within the time specified herein shall be denied by the retirement board.

The minimum age for retirement on a service allowance except as otherwise provided, shall be established by the retirement board, may be greater for men than for women, may differ for different classes or grades of employment, but shall not be less than 60 years for men and 58 years for women, nor greater than 65 years for men and 63 years for women. The ages so established by the board shall not be subject to revision prior to the expiration of a five-year period from the establishment thereof, and shall apply to all persons who retire during the continuance thereof.

Subject to the limitations stated in this Act, any employe in the contributing class who shall have attained the established age for retirement shall be entitled to retire, and any such employe who shall remain in the service of the city for five years thereafter, shall be retired, and receive a service allowance as specified in this Act; provided, that if in not less than 90 days before the arrival of an employe at the age of compulsory retirement, the head of the department, branch or independent board of the municipality in which he or she is employed, certifies to the retirement board that by reason of his or her efficiency and his or her willingness to remain in the service of the municipality the continuance of such an employe therein would be advantageous to the public service, such employe may be retained for a term not exceeding three years upon certification by the retirement board, and at the end of the three years he or she may, by similar certification, be continued for one additional term not to exceed two years.

Any employe who retired prior to the passage of this amendment, and the designated beneficiaries of any such employe shall be entitled to a retirement allowance to be calculated, determined and payable in accordance with the provisions of Mason's Minnesota Statutes of 1927, Sections 1442-11 to 1442-34, inclusive, as amended. Any payments heretofore made and retirements heretofore approved, which would have been valid had this act been in force at the time of making the same, are validated to the same extent as if the same had been made subsequent to the passage of this amendment. ('19, c. 522, §4; '25, c. 335, §1; Apr. 20, 1933, c. 328, §1; Apr. 1, 1935, c. 93.)

A present conditional incumbent is entitled to make application and become an employe entitled to a service allowance without having paid into retirement fund full amount required by act. Op. Atty. Gen. (335d), June 19, 1935.

Conditional present incumbents who comply with 1935 amendment are entitled upon retirement to a pension

throughout period of their service, not to exceed 25 years, figured to time of retirement and not merely to age 72. Id.

1442-15. Classification of employees.—Employees of the city shall be divided into a contributing class, a non-contributing class and an exempt class.

The contributing class shall consist of all employees not included in either of the other two classes, and shall be subdivided into present incumbents, employees in the service of the city at the date this act becomes effective therein, who elect to become contributors to and prospective beneficiaries of the fund created by this act, and future entrants, employees who enter the service of the city subsequent to the date this act becomes effective therein.

The non-contributing class shall consist of all employees, including common laborers, whose individual pay or compensations do not exceed \$750.00 per annum, provided, however, that when the compensation of an employee who is paid on a monthly basis equals or exceeds \$62.50 per month on a 12-month basis, such employee shall be classified as a contributor and shall from and after such time contribute to the fund and assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as herein and in this act specifically set forth.

Provided, further, that from and after the end of the calendar year in which the average annual compensation of an employee who is paid on a day basis equals or exceeds \$750.00 per calendar year during his period of service with the city, such employee from and after such date shall be classified as a contributor and shall assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as herein and in this act specifically set forth.

Any employee in the non-contributing class may, upon written application filed with the retirement board prior to attaining the age of 50 years, elect to become a member of the contributing class, and shall then assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as herein and in this act specifically set forth. Provided, however, that any employee in the non-contributing class who has attained the age of 50 years at the time of the passage of this act shall have one year from and after its passage to make said election. Such election, when made, shall be final and irrevocable.

The exempt class shall consist of:

(a) Employees who are members of, or who are eligible to become members of, an organization or association on behalf of which a tax is levied against the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(b) Persons filling elective positions. Provided, that any elective officer holding an elective position, as those terms are defined herein, who shall have filled such elective position for twenty years or more and who shall not have received as compensation for his services as such elective officer any sum or sums in excess of \$3000.00 per annum, shall be entitled to retire upon the completion of twenty years of service on a service allowance. Such service allowance shall be computed and determined as provided for herein. Before receiving said service allowance such officer shall contribute to the fund herein provided for an amount which shall be equal to the amount of contributions to said fund which said elective officer would have made had he been a contributor to said fund since January 1, 1922, in accordance with the method of contribution herein provided for, plus four per cent compound interest.

(c) Persons serving without pay.

(d) Persons serving on executive boards.

(e) Pupil nurses, internes and staff physicians employed at the city hospitals.

(f) Employees in the service of the city at the time this Act is adopted who, after its adoption, have

not given written notice of a desire to accept the provisions of this act.

(g) Persons not citizens of the United States.

('19, c. 522, §5; '25, c. 335, §1; Apr. 20, 1933, c. 328, §1; Jan. 13, 1936, Ex. Ses., c. 20; Apr. 17, 1937, c. 171, §1; Apr. 17, 1939, c. 288.)

Sec. 2 of Act Apr. 7, 1937, cited, provides that the Act shall take effect from its passage.

1442-16. Retirement allowance for employees in the non-contributing class including common laborers.—A retirement allowance, payable in equal monthly installments shall be granted to any laborer or other employe in the non-contributing class who satisfies the conditions hereafter specified.

Such retirement allowance shall be the actuarial equivalent of the accumulated amount of monthly installments of \$12.50 throughout the period of service of the retiring employe, accumulated to the date of retirement at four per cent compound interest; provided, that no such allowance shall exceed \$500.00 per annum, nor be less than \$360.00 per annum.

Upon receipt of proof of death of any common laborer or other employe in the non-contributing class who has fulfilled the minimum age and service requirements for retirement on an allowance, (a) who is employed by the city, or (b) who is temporarily separated from the service of the city, or (c) who has been retired on an allowance, [there] shall be paid to the heir or heirs of such employe or to such trustee or trustees as the retirement board may select, the sum of \$150.00.

In order to be entitled to a retirement allowance, a common laborer or other employe in the non-contributing class shall be a resident of the city, shall have been employed thereby for a period of time which in the aggregate shall equal 20 or more periods of five months each, the last season of which shall have immediately preceded the date of retirement, and in addition thereto shall either (1) have attained the age of 55 years and have been declared by the medical board to be incapacitated for further service to the city or (2) shall have attained the age of 70 years.

(a) The retirement board may require any such beneficiary while still under the age of 70 years, to undergo a medical examination by the medical board once each year. Should the medical board report and certify to the retirement board that such beneficiary is no longer physically or mentally incapacitated for the performance of duty, such retirement allowance shall cease and the head of the department in which such beneficiary was employed at the time of this retirement shall, upon notification by the retirement board, re-employ said beneficiary.

(b) Should any such retired beneficiary, while under the age of 70 refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his pension shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his rights, in and to the retirement allowance shall be forfeited.

(c) Upon application of any such beneficiary under the age of 70, drawing a pension or a retirement allowance under the provisions of this Act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which said beneficiary was employed at the time of his retirement. Upon the restoration of a beneficiary to active service, his retirement allowance shall cease. ('19, c. 522, §6; Apr. 20, 1933, c. 328, §1; Mar. 2, 1937, c. 53, §1.)

The word "there" in brackets was omitted from the amending act of Mar. 2, 1937, cited.

Sec. 2 of Act Mar. 2, 1937, cited, provides that the Act shall take effect from its passage.

Employe remaining disabled from May, 1918, to May, 1921, ceased to be an employe for that period though he was receiving workmen's compensation during that

time, and he cannot claim a retirement allowance, having finally retired in December, 1921. 174M594, 219NW 924.

Employee of city of Minneapolis who applied for pension at age of 74 but who had contributed nothing to retirement fund, held not entitled to pension. Op. Atty. Gen., Nov. 28, 1933.

1442-17. Service allowances to persons in contributing class—Annuity, pension and supplementary allowance—(a) The service allowance for a present incumbent in the contributing class shall consist of an "annuity", a "pension" and a "supplementary allowance" as herein defined.

(b) The service allowance for a future entrant in the contributing class shall consist of an "annuity" and a "pension" as herein defined.

(c) The annuity shall be the actuarial equivalent of the net accumulated contributions of the retiring employes, calculated at his or her age at the date of retirement.

(d) The pension shall be the actuarial equivalent of the accumulated amount of such annual installments as may be now or hereafter fixed and designated by law throughout the period of service of the retiring employe, not to exceed 25 years, accumulated to the date of retirement at 4 per cent compound interest.

(e) The supplementary allowance shall be the actuarial equivalent of the difference between:

(1) The net accumulated amount at the time of retirement of the contributions which such employe would have been required to make during the period for which credit is claimed, had the provisions of this act been in force throughout such period, and

(2) The net accumulated amount of the contributions made and to be made by the retiring employe for all periods of service for the city subsequent to the adoption of this act therein, not exceeding 30 years.

(f) All members in the contributing class who, at the time of retirement, have been in the service of the city for fifteen years or over shall be entitled to a minimum retirement allowance of \$30.00 per month.

(g) In the event of the death of an employe in the contributing class while still in the service of the city, there shall be paid to the heirs thereof the net amount to the credit of said employe at the time of his or her death, provided that said employe shall have fulfilled all conditions as to age, service and participation requisite for retirement on a service pension. In the absence of heirs of such employe that portion of the amount to the credit of said employe on which the pension is to be based as defined in paragraph (d) hereof and that portion on which the supplementary allowance, if any, is to be based as defined in paragraph (e) hereof shall be cancelled and the city shall be liable for only the balance of such credits.

(h) Except as otherwise provided in this act, the service of each "present incumbent" shall be calculated from the date in service from which said employe elects to claim credit and the amount of service of each future entrant shall be calculated from the date of original appointment. Said service shall include periods of service at different times and service for one or more departments, branches or independent boards of the municipality. It is further provided that in computing length of service of contributing employes for the purpose of this act, periods of separations from the service shall not be included.

(i) Retirement allowances as herein provided shall be paid in monthly installments and checks shall be issued and mailed to the last known address of each beneficiary on the first business day of the month succeeding the month in which his or her allowance is authorized; provided, however, that where a beneficiary is laboring under legal disabilities said monthly installments in such cases may be paid to the duly appointed guardian. ('19, c. 522, §7; '25, c. 335, §1; Mar. 2, 1937, c. 51, §1.)

Sec. 2 of Act Mar. 2, 1937, cited, provides that the Act shall take effect from its passage.

1442-18. Disability allowances.—Upon the application of the head of the department in which a contributing employe is employed, or upon the application of said contributing employe or of one acting in his behalf, the retirement board shall retire said contributor for disability; provided the medical board, after a medical examination of said contributor made at the place of residence of said contributor or at a place mutually agreed upon, shall certify to the retirement board that said contributor is physically or mentally incapacitated for the performance of further service to the city and that said contributor ought to be retired.

(a) Disability of an employe resulting from injury received in the performance of the duties of the city service shall be defined as accident disability. Disability incurred as a result of injury not connected with the performance of such service shall be defined as ordinary disability. In order to be entitled to a retirement allowance for ordinary disability an employe shall have rendered ten or more years of service to the city.

The ordinary disability allowance shall be the actuarial equivalent at the age when an employe retires on such disability allowance of the net amount to which the contributions already made by the employe and the credits allowed or contributions already made by the city on his or her behalf would accumulate if allowed to remain at 4 per cent compound interest until the earliest permissible date for retirement on a service allowance.

The accident disability allowance shall equal the actuarial equivalent at the age when an employe retires on such disability allowance of the net amount which would be accumulated to the credit of the employe if his or her annual contributions at the time of disability and the annual credits or contributions of the city were continued to the earliest permissible date for retirement on a service allowance, interest for such period being calculated at 4 per cent compound interest.

Payment of any disability allowance shall continue throughout the full period of the disability subject to the same optional selections as are provided for service allowances, provided that whenever a disability beneficiary shall have attained the minimum age for retirement on a service allowance said disability allowance shall be discontinued only as provided by the terms of the option selected.

Any employe eligible to an accident disability allowance who is also entitled to an allowance under a workman's compensation act shall be entitled to receive during the period of such compensation only that portion of the retirement allowance provided by this Act by which such retirement allowance exceeds said workmen's compensation.

(b) Once each year the retirement board may require any disability beneficiary while still under the established age for retirement to undergo medical examination by a physician or physicians designated by the retirement board, said examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should the medical board report and certify to the retirement board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, his or her allowance shall be discontinued and the head of the department in which said beneficiary was employed at the time of his retirement shall, upon notification by the retirement board of such report of the medical board, re-employ said beneficiary at a rate of salary not less than the amount of his or her retirement allowance, but after the expiration of five years subsequent to the retirement of such beneficiary his restoration to duty, notwithstanding the recommendation of the medical board, shall be optional with the head of the department.

(c) Should any disability beneficiary while under the established age for retirement refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his or her allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his or her rights in and to any retirement or disability allowance constituted by this Act shall be forfeited.

(d) Upon application of any beneficiary under the established age for retirement drawing a pension or a retirement allowance under the provisions of this Act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which said beneficiary was employed at the time of his retirement. Upon the restoration of a beneficiary to active service his or her retirement allowance shall cease.

(e) The medical board shall consist of the city physician, a physician to be selected by the retirement board, and a physician to be selected by the employe. ('19, c. 522, §8; '25, c. 335, §1; Apr. 20, 1933, c. 328, §1.)

1442-19. Same—service allowances—options.

City employe entitled to retirement allowance, who instead of electing to receive a retirement allowance payable only throughout his life, elects "to receive the actuarial equivalent at that time" of his retirement allowance "in a lesser retirement allowance" payable throughout life must on his retirement select one of the three first options specified in this section, and cannot thereafter change without consent of retirement board. 173M589, 218NW119.

1442-20. Refunds.—(a) In case of an employe to whom this Act applies who shall become absolutely separated from the service without being entitled to a retirement allowance the total net accumulated amount of deductions from his or her salary, pay or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employe with accrued interest.

(b) Upon the death of a contributor before retirement there shall be paid to his or her estate or to such person as he or she shall have nominated, the net accumulated salary deductions standing to his or her credit, provided that in case of the death of a contributor after ten years of service, there shall be paid to the dependents or heirs of such contributor, the present worth of the city's accumulated annual installments of \$60.00 then standing to the credit of such contributor, in addition to the net accumulated salary deductions as specified above. If there be no dependents or heirs of such contributing surviving him, then only the net accumulated salary deductions shall be paid to the estate of such contributor.

(c) Upon reinstatement of a former employe to the service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with interest, from the time of separation; provided this provision shall not apply to service rendered prior to the date that this Act becomes effective. ('19, c. 522, §10; '25, c. 335, §1; Apr. 20, 1933, c. 328, §1.)

1442-21. Same—deductions from pay—amounts—retirement before full amounts have been deducted—increase, decrease or withdrawal of deductions.—(a) Beginning on the first day of the year next succeeding that in which this Act becomes effective in any city, and thereafter throughout the period of employment, there shall be deducted and withheld from the basic salary, pay or compensation of each employe in the contributing class except as hereinafter provided the following percentage of such salary, pay or compensation.

Employes who enter the service at 20 years of age or younger, 3 per cent of salary, pay or compensation; employes who enter the service at 45 years of age or older, 8 per cent of salary, pay or compensation; employes who enter the service after the age of 20 and

prior to age 45, a percentage of salary, pay or compensation, which shall be equal to 3 per cent, plus as many times 2/10 of 1 per cent as the age of the employe exceeds 20 at the time service begins.

Every employe to whom this Act applies who shall continue in the service after the passage of this Act, as well as every person to whom this Act applied who may hereafter be appointed to a position or place, shall be deemed to consent and agree to the deductions made and provided for herein, and payment with such deductions, for service, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such person during the period covered by such payment; except his or her claim to the benefits to which he or she may be entitled under the provisions of this Act.

(b) Any employe who becomes entitled to a retirement allowance, and who retires without having paid into the retirement fund the full amount required by this Act, shall have the option of electing to receive such allowance (a) on the basis of the actuarial equivalent of the net balance of debits and credits to his or her account at that time, or (b) on the basis of the actuarial equivalent of the total credits at date of retirement, initial and successive installments of the allowance to be applied on any indebtedness of such employe to the retirement fund until such indebtedness is paid, any installments so credited to be treated as if actually paid to the annuitant entitled to such allowance. Any payments heretofore made which would have been valid had this amendment been in force at the time of making the same are hereby validated in the same manner as if the same had been made subsequent to the passage of this amendment.

(c) No employe shall be required to contribute to the retirement fund for a period in excess of 30 years; all contributions made thereafter to said fund shall be voluntary.

(d) Subject to such terms and conditions and to such rules and regulations as the retirement board may adopt, any contributor, from time to time may:

(1) Increase or decrease his or her rate of contribution to the retirement fund, but in no event shall the contribution be less than the minimum contribution specified in the provisions of this Act.

(2) Withdraw from his or her individual account in the retirement fund the amount in excess of the minimum accumulation resulting from the deductions specified in the provisions of this Act.

(3) Withdraw, after having become eligible for service retirement, such part of his or her net accumulated contributions as shall be in excess of the amount necessary to procure the minimum annuity to which he or she would be entitled at the expiration of 30 years of service. ('19, c. 522, §11; '25, c. 335, §1; Apr. 20, 1933, c. 328, §1; Jan. 9, 1934, Ex. Sess., c. 73, §1; Jan. 13, 1936, Ex. Sess., c. 21.)

Sec. 2 of Act Jan. 9, 1934, cited, provides that the act shall take effect from its passage.

Act Jan. 9, 1934, cited, purports to amend subd. (b) only, but sets forth the other parts of the section as it was amended Apr. 20, 1933.

1442-22. Individual record of credits required.—The city comptroller or other person having supervision of the payment of salaries to employes shall cause the deductions to be withheld from all specific appropriations for the particular salaries or compensation from which the deductions are made and from all allotments out of lump sum appropriations for payments of such salaries or compensation for each fiscal year; and a record of said sums shall be entered to the credit of the various employes from whose salaries deductions have been made. The amount of said deductions shall be deposited with the city treasury and credited to the retirement fund.

At the close of each fiscal year there shall be distributed to each contributing employe in proportion to the accumulated amount then to the credit of said

employe as accumulated salary deductions the amount of the income from interest earned on the accumulated funds in possession of the board, after having deducted from the total of such income (1) the amounts otherwise required as interest for various allowances and/or purposes specified in the Act, (2) an amount to be set aside to apply on the cost of disability allowances and (3) an amount to be set aside to liquidate actual or to amortize prospective losses on investments. The net balance of said interest earnings to be so distributed shall be distributed at the greatest multiple of one-tenth (1/10) of one per cent of the total of all such accumulated amounts from salary deductions. Any excess then remaining from such interest earnings shall be credited to a reserve fund and be added to and distributed with the interest earnings of the next succeeding year. The amount that shall be deducted from the gross interest earnings to apply on the cost of disability allowances shall be not more than one-half (½) the cost of disability allowances for contributing employes. The amount that shall be set aside to liquidate past losses on investments or to create a reserve from which to liquidate future losses shall be such amount as the board may deem necessary for such purpose but not in excess of one mill on the dollar of the gross amount received as interest on the cash and investments in the fund.

At the end of each calendar year and throughout the first 300 months of actual employment there shall be entered to the credit of each employe from whose salary or compensation deductions are made, a credit of \$60.00 per employe, the accumulated amount of which shall be charged to the municipality and payable by the municipality. It shall be the duty of the proper authorities to levy from time to time a sufficient sum in addition to all other sums to be levied by taxation to meet the liabilities against the municipality created thereby. ('19, c. 522, §12; Apr. 20, 1933, c. 328, §1.)

See Act Mar. 2, 1937, c. 52.
Sec. 2 of Act Apr. 20, 1933, cited, provides that the act shall take effect from its passage.

1442-26. Same—Board as trustee of funds—Investment—Payments from—Special funds.—(a) The members of the retirement board shall be the trustees of the several funds created by the act, and shall have exclusive control and management of said funds, and shall have power to invest the same, subject, however, to all the terms, conditions, limitations and restrictions, imposed by law upon savings banks in the making and disposing of their investments; and subject to like terms, conditions, limitations and restrictions, said trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created by the act shall have been invested as well as the proceeds of said investments, and of the money belonging to said funds, except that any reserve built up from the city's contributions shall be invested in bonds of that city in preference to other bonds paying an equal or a less rate of interest.

(b) Said board shall have authority: (1) To make such loans and advances of credit and purchases of obligations, representing loans and advances of credit, as are insured by the Federal Housing Administration, and to obtain such insurance; (2) To make such loans secured by mortgages on real property, which the Federal Housing Administrator has insured or made a commitment to insure, and to obtain such insurance; (3) To enter into any and all agency agreements necessary to enable it to invest its funds in loans, advances of credit and obligations insured by the Federal Housing Administrator, or which he has made a commitment to insure, and to enter into any agreement or arrangement with any other of the pension and retirement systems of the city of Minneapolis for the joint handling of said securities; (4) to provide for the prorating of part or all the cost of making, handling or

foreclosing of such mortgages against the earnings of such mortgages and to establish reserve accounts from such earnings to liquidate losses or future losses on such mortgages; (5) To employ and dismiss agents, attorneys, appraisers and others necessary for the proper handling and/or servicing of such mortgages and to fix their compensation or fee on such basis as it may see fit for such services rendered in connection with such mortgages; (6) To do any and all things necessary to carry out the provisions of this act in the best interest of the funds.

The board shall, upon the request of any contributing employee who has borrowed from the retirement fund under the Federal Housing Administration insured mortgage system, provide for the repayment of such loan by deductions from such employee's monthly compensation.

(c) All payments from the funds created by this act shall be made by the treasurer of the city only upon warrant signed by the president of the retirement board and countersigned by the executive secretary, and no warrant shall be drawn except by order of the retirement board duly entered in the record of its proceedings.

(d) The retirement board is hereby authorized and empowered in carrying out the provisions of this act, to establish special funds supplementing individual contributions by the employees and to receive, invest and disburse for such purpose all moneys in the form of donations, gifts, legacies, bequests, or otherwise, which may be contributed by private individuals or corporations or organizations for the benefit of the city employees generally, or any special employee or class of employees of the city. (As amended, Mar. 17, 1939, c. 66.)

1442-30. Same—Application—Approval.—No disability or service allowance shall be granted to any employee who may become eligible for retirement as provided in this act until the said employee, or one authorized to act in his behalf, shall have filed with the retirement board, in such form as may be prescribed by said board, an application for such allowance; no installment or installments of any such allowance shall be paid for any period prior to the effective date of retirement.

The pension board shall be allowed a period of 60 days from and after the filing of the application within which to approve the same and compute the amount of service or disability allowance to which the applicant is entitled. In the event a service or disability allowance is granted the same shall commence with the effective date of the retirement of the person entitled thereto.

All installments of service or disability allowance heretofore paid for any period commencing prior to 60 days subsequent to the filing of the application therefor are hereby fully legalized and validated.

The pension board is hereby authorized and directed to pay any employee who has prior to the passage of this act retired on the service or disability allowance and who has not been paid said allowance for a period of 60 days from and after the filing of his application therefor, a sum or sums equal to an installment of disability or service allowance for said period of 60 days. ('19, c. 522, §20; Apr. 11, 1935, c. 146, §1.)

1442-37. Same—Payments to widows of deceased employees—Amount.

Laws 1925, c. 200, is still in force and effect. Op. Atty. Gen. (335d), June 19, 1935.

1442-40a. Retirement allowance in certain cases.—In all cases where the retirement board of any city which has adopted a plan of, and is paying, retirement allowances to employees pursuant to Mason's Minnesota Statutes of 1927, Sections 1442-11 to 1442-34, inclusive, and acts amendatory thereto, is required to refund the net accumulated credits of any contributing employee standing to his or her credit on date of death, or to refund the balance remaining to the

credit of a retired employee at the date of his or her death, who has retired under the Option 1 plan of retirement, the retirement board shall, at the written request of such employee filed with the retirement board prior to his or her death, or at the written request of a beneficiary filed with the retirement board after the employee's death, provide for the payment of such credits or balances or any portion thereof in monthly installments until such credits or balances are exhausted; provided, however, that such beneficiary shall be of the class of persons now permitted to receive a sum or sums standing to the credit of the employee at the time of his or her death. (Act Mar. 17, 1939, c. 65, §1.)

1442-40b. May pay interest on balances.—The retirement board shall provide for the payment of annual interest on the credits or balances remaining on deposit at the same rate that is paid to contributing employees on accumulated salary deductions. (Act Mar. 17, 1939, c. 65, §2.)

1442-40c. Application of act.—Nothing in this act shall be construed to alter the method of determining the person or persons entitled to receive such refunds or the amount to be paid. (Act Mar. 17, 1939, c. 65, §3.)

1442-40d. Compulsory retirement of certain employees of police and fire departments.—Every employee, officer or person on the payroll of any fire or police department in any city of the first class shall retire upon reaching the age of 65 years; provided, that any such employee, officer or person on the payroll of any such fire or police department, serving as such on or before January 1, 1939, who has attained the age of 65 years and who has not served a sufficient length of time to entitle him to benefits under the terms and provisions of any pension act now in effect providing for benefits for such firemen and policemen, employees, officers or persons on the payroll of the fire or police department in such city, may, subject to the provisions of any charter of any such city providing for a civil service commission and the rules and regulations of said civil service commission enacted pursuant thereto, remain in the service of any such city as an employee, officer or person on the payroll of such fire or police department until he has served a sufficient length of time to entitle him to such benefits. This proviso shall not apply to substitutes and persons employed irregularly from time to time, in either the fire or police departments of such city. (Act Apr. 1, 1939, c. 136, §1.)

1442-40e. Same—Effective September 1, 1940.—This act shall take effect and be in force from and after September 1, 1940. (Act Apr. 1, 1939, c. 136, §2.)

1442-41. Retirement of employees—credit on time. This section held not to apply to cases where an employee retired from service for the city more than five years before its passage, and at the time of his retirement was not entitled to any pension or retirement allowance. 174M594, 219NW924.

1442-42. Disability allowances in certain cities.—That every city of the state now or hereafter having over 50,000 inhabitants, including each such city now or hereafter operating under a home rule charter adopted pursuant to the provisions of Section 36, Article IV, of the Constitution of the State, which adopts or has adopted a system of paying pensions or retirement allowances to retired municipal employees pursuant to Chapter 522, General Laws 1919 [§§1442-11 to 1442-34], and the retirement board in control of such system are hereby authorized to pay pensions or retirement allowances to each and every employee who at the time of ratification of the system provided by said Chapter 522, General Laws 1919, was, is or shall be then receiving compensation from the city under the provisions of Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof

[Workmen's Compensation Act], and (a) who, at the time of the injury for which such compensation is paid, was, is or shall be receiving salary or pay as an employe in excess of \$750.00 per annum, or (b) who, at the time of retirement from the city service, had been or shall have been employed by the city for periods which in the aggregate equal 20 or more seasons of five or more months each in not to exceed an equal number of years, at rates of pay which did not provide an average amount in excess of \$750.00 per annum, and has attained the age of 55 years. (Act Mar. 28, 1929, c. 106, §1.)

1442-43. Amount of allowance.—The pension or retirement allowance to which any such employe shall be entitled who at the time of the adoption of such plan had been receiving in excess of \$750.00 per annum shall be of the same amount and shall be calculated in the same manner as would have been pursued if the plan as provided by Chapter 522, General Laws 1919 [§§1442-11 to 1442-34], and acts amendatory thereof, had been in effect at the time when the injury was received for which such compensation is paid as provided by Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof.

The pension or retirement allowance to which any such employe at rates of pay less than an average of \$750.00 per annum shall be entitled shall be of the same amount and shall be calculated in the same manner as provided in Section 6, Chapter 522, General Laws 1919 [§1442-16]. (Act Mar. 28, 1929, c. 106, §2.)

1442-44. Retirement board to determine amounts.—It shall be the duty of the said retirement board to determine the annual amount of any such allowance and to provide for payment thereof; provided, that payment thereof shall not begin until the compensation as provided by Chapter 467, General Laws 1913 [§4330], and acts amendatory thereof, has ceased. (Act Mar. 28, 1929, c. 106, §3.)

1442-45. Tax levy.—The retirement board in any such city shall include in the financial statement required by Section 14 of said Chapter 522, General Laws 1919 [§1442-24], the amount, in addition to all other amounts, of the portion of any such disability or retirement allowance chargeable against the city, and it shall be the duty of the proper city officials in such city to levy a tax sufficient to provide such amount in addition to the amount to be levied pursuant to said Chapter 522, General Laws 1919, and amendments thereof. (Act Mar. 28, 1929, c. 106, §4.)

1442-46. Payment of disability allowance.—The retirement board provided by said Mason's Minnesota Statutes of 1927, Sections 1442-11 to 1442-34, inclusive, is hereby invested with all the rights, privileges and obligations relative to any such disability or retirement allowance, and is authorized to continue payment to the surviving spouse of any employee during the lifetime only of such surviving spouse, and to the funds from which installments thereof are to be paid that pertain to the allowances and funds authorized by Mason's Minnesota Statutes of 1927, Sections 1442-34, inclusive, including the right, privilege, or obligation to cancel any such allowance under conditions specified therein. (Mar. 28, 1929, c. 106, §5; Apr. 24, 1935, c. 250.)

1442-47. Members of park board may resign.—In each city of the first class of this state now or hereafter having a population of 50,000 inhabitants or more including each such city now or hereafter operating under a home rule charter adopted under and pursuant to Section 36, Article 4, of the State Constitution, the Board of Park Commissioners of said city, if any such there be, shall have full power and authority to accept the resignation of any member of said Board, anything in the charter of said city to

the contrary notwithstanding. (Act Apr. 11, 1929, c. 153, §1.)

1442-47a. May fill vacancies in board of park commissioners in certain cities.—In each city of the first class of this state now or hereafter having a population of 50,000 inhabitants or more, including each such city now or hereafter operating under a home rule charter adopted under and pursuant to Section 36, Article 4, of the State Constitution, if the Board of Park Commissioners of said city (if any such there be) shall fail to fill any elective vacancy on said Board ten days prior to the last day for filing for nomination to an elective city office, in advance of a general primary election held in said city, for the unexpired term of the person causing such vacancy, then the voters of said district wherein said vacancy exists in any such city shall fill such elective vacancy by nomination at such primary election and election at the general city election thereafter in the manner prescribed by law for nomination and election of elective members of said Board, anything in the charter of said city to the contrary notwithstanding. The President or Vice-President and the Secretary of said Board shall certify to the City Clerk ten days before said last day to file as a candidate for an elective city office the fact of an elective vacancy on said Board, and thereupon said Clerk shall list and receive filings of candidates to fill said elective vacancy, for such unexpired term. (Apr. 21, 1937, c. 323, §1.)

Sec. 2 of Act Apr. 21, 1937, cited, provides that the Act shall take effect from its passage.

1442-48. Pension and retirement allowances to surviving spouse, etc.—Every city of this state now or hereafter having over 50,000 inhabitants, which has heretofore adopted or shall hereafter adopt a system of paying pensions and retirement allowances to retired municipal employes pursuant to Laws 1919, Chapter 522 [§§1442-11 to 1442-34], or said Act as amended, acting by and through its city council or chief governing body of the city, and the pension and retirement board in charge of such system are hereby authorized and empowered to pay pensions and retirement allowances to the surviving spouse, dependents, heirs or nominees of any employe of the city in the contributing class who has heretofore died or who may hereafter die, before attaining the minimum age for retirement on a service pension under the provision of said Act or said Act as amended, and who has rendered or shall have rendered services to and been in the employ of the city, for 20 years or more prior to the date of his or her decease, and whose death was not or shall not be caused by an accident which occurred or shall occur while such employe was or shall be engaged in the performance of his or her duties as such employe.

The amount of such pensions and retirement allowances hereby authorized shall be the net amount of personal contributions made by such employe under the provisions of said Act or said Act as amended, prior to his or her decease, and interest thereon, and the net amount of the contributions made by the city in respect to such employe, with interest thereon. Such pensions and retirement allowances shall be calculated and determined in the same manner as provided in said Laws 1919, Chapter 522, as amended, for the calculation and determination of pensions and retirement allowances becoming payable under the provisions of said Act and said Act as amended.

It shall be the duty of the governing body of the city to levy annually a tax on the taxable property in the city sufficient to pay all pensions and retirement allowances hereby authorized, in addition to all other taxes authorized to be levied by said Chapter 522 and said Act as amended; and it shall be the duty of the retirement board of the city to administer the proceeds of such additional taxes and cause the same to be paid to the person or persons entitled thereto under the provisions of this Act and said

Chapter 522 and said Act as amended. (Act Apr. 20, 1931, c. 244; Apr. 1, 1933, c. 146.)

1442-49. Retirement boards may make loans to contributing members in certain cases.—In every city of this state now or hereafter having over 50,000 inhabitants, which has heretofore adopted or shall hereafter adopt a system of paying pensions and retirement allowances to retired municipal employes pursuant to Laws of 1919, Chapter 522, or said Act as amended, the retirement board is hereby authorized to make loans to the contributing members of such retirement fund in amounts not to exceed fifty per cent of the amount of the salary deductions standing to the credit of any contributor. No loan shall be made except in case of necessity which in the opinion of the board is deemed sufficient to warrant the granting of such loan, nor without the approval of at least three members of the board. Loans may be granted in case of lay-off of employes where such lay-off is of indefinite duration and does not amount to a complete separation from the service.

Repayment of loans in all cases where the employe is still in service shall begin with the month following the making of said loan, and there shall be repaid on such loan each month an amount equal to the regular monthly deduction from the salary of such employe, which deduction for repayment of the loan shall be in addition to the deduction for credit to the retirement fund. In cases where loans are made to employes that have been laid off, the repayment shall begin with the first month in which the employe is reinstated in his regular employment.

All loans made under this Act shall bear a rate of interest which shall be one-half of one per cent higher than the rate of interest which may be credited by the retirement board to the credit of contributors on their credits from salary deductions. (Act Apr. 17, 1933, c. 304; Apr. 17, 1937, c. 246, §1.)

Sec. 2 of Act Apr. 17, 1937, cited, provides that the Act shall take effect from its passage.

1442-50. Applications and payments for retirement allowances validated.—In all cases where the surviving spouse of any deceased employe of any city which has adopted the plan and is paying retirement allowances to employes, pursuant to Mason's Minnesota Statutes of 1927, Sections 1442-11 to 1442-34, inclusive, and acts amendatory thereof, has filed an application within 30 days after death of such employe with the retirement board of such city, said board is authorized to pay a retirement allowance to the person entitled thereto in the same manner and with the same force and effect as though the deceased employe had made and filed his application with such retirement board during his life time. Any payments heretofore made which would have been valid had this act been in force at the time of making such payments are hereby validated and legalized, and said board is hereby authorized to continue such payments until the full amount of benefits have been received as now provided for by law. (Act Apr. 11, 1935, c. 149.)

1442-51. Retirement allowance may be left on deposit in fund.—Any member of the contributing class who becomes permanently separated from the service of any city to which this act applies, after twenty or more years of service for such city, may, by an instrument in writing filed with the Municipal Pension and Retirement Board within thirty days after such separation becomes permanent, elect to allow his or her contributions to such fund to the date of separation to remain on deposit in such fund. (Mar. 2, 1937, c. 52, §1.)

1442-52. Same—Retirement allowance to separated person leaving contributions on deposit.—If a member of the contributing class makes the election herein and in the preceding section provided for, he, upon attaining the age of fifty-five years, or someone acting in his behalf, shall make application for such retire-

ment allowance in the manner provided for by Section 1442-19, Mason's Minnesota Statutes of 1927. In the event such contributing member, after twenty years of service, becomes separated from the city after having attained the age of fifty-five years, he or someone acting in his behalf shall make the application within the time and in the manner provided for herein. Such retirement allowance shall be the actuarial equivalent of the city's contribution and the member's deposit, as they were on the date the separation becomes permanent, plus interest, as provided for in Section 1442-22, 1934 Supplement to Mason's Minnesota Statutes 1927. (Mar. 2, 1937, c. 52, §2.)

1442-53. Same—Payment to heirs.—If such contributing member dies before reaching the age of fifty-five years, or having attained the age of fifty-five years without having made the election provided for herein, there shall be paid to his or her heirs, as defined in Section 1442-13, subdivision (t), 1934 Supplement to Mason's Minnesota Statutes 1927, the total amount to his or her credit on the date of his or her death. In the absence of heirs, that portion of the credit contributed by the city shall be cancelled, and the balance as it was on the date of separation shall be paid to the contributor's estate. The interest credit accrued from the date of separation to the date of death on such member's deposit shall be withheld and credited to the reserve for loss on investment account. (Mar. 2, 1937, c. 52, §3.)

1442-54. Same—Withdrawal of deposits.—Such contributing member may, after electing to receive a retirement allowance as provided herein, make application to withdraw his or her deposit before reaching the age of fifty-five years, at which time that portion contributed by the city shall be cancelled and one-half the interest credited on his or her deposit on date of separation to date application is made to withdraw such credit shall be withheld and shall be credited to the reserve for loss on investment account of such fund. (Mar. 2, 1937, c. 52, §4.)

1442-55. Same—Rights forfeited on withdrawal.—If such deposit is withdrawn before retirement, the retirement rights shall be forfeited unless such employee returns to the service of the city and again becomes a contributing member to the fund and re-deposits the amount withdrawn, plus four per cent compound interest from date of withdrawal to date of reinstatement to the service of the city. (Mar. 2, 1937, c. 52, §5.)

1442-56. Same—Retirement allowance for disabled persons.—If such contributing member, after becoming permanently separated from the service of the city and after electing to receive a retirement allowance as provided herein, becomes totally and permanently disabled for any cause before reaching the age of fifty-five years, he or she shall be entitled to receive such retirement allowance before reaching the age of fifty-five years, upon application to the Municipal Pension and Retirement Board and certified by the medical board provided in such act. Such retirement allowance shall be the actuarial equivalent of the total credit to his or her account on the date application for such retirement allowance is made. (Mar. 2, 1937, c. 52, §6.)

1455. Civil service commission.
Removal from public office in Minnesota. 20 MinnLaw Rev 721.

1455-1. Employees to be classified.—The employees of the board of education of any independent school district in any city of the first class in the state of Minnesota, the territorial limits of which school district coincide with the territorial limits of such city, and the government of such independent school district is not provided for in the charter of said city, shall be eligible to be classified and shall be classified as employees under the provisions of the charter of

any such city, whereby a civil service board has been or may be established.

Immediately after this act takes effect, and thereafter in each calendar year, the governing body of any such school district shall pay into the treasury of any such city a proportionate share of the annual expense of the civil service board of any such city, such share to be determined by the ratio in which the number of classified employees of any such board of education bears to the number of classified employees of any such city, as appears from year to year from the annual report of such civil service board. Within 30 days after the presentation by the secretary of the civil service board of such city of a written request for payment to the clerk or other recording officer of such board of education, it shall become the duty of the treasurer or other fiscal officer of such board of education to draw an order, draft or warrant upon the funds of such board of education in payment to such city of the amount specified in such written request. (Act Feb. 21, 1933, c. 35, §1; Mar. 4, 1939, c. 43.)

1455-2. Who are employes.—That the term "employes," as used in this act, shall not include members of the board of education, superintendent of schools, assistant superintendent of schools, clerk of the board, teachers, including principals and supervisors, chief engineer, recreational director, physicians, dentists and temporary employes. (Act Feb. 21, 1933, c. 35, §2.)

1455-3. Clerk to certify list.—That it shall be the duty of the clerk of the Board of Education of such independent school district to promptly furnish the secretary of any such civil service board a list of the employes of the Board of Education of said independent school district, together with a statement of the duties performed by them, and the salaries paid to them, and it shall thereupon become the duty of the civil service board to classify such employes under the rules of said civil service board, said classification to be subject to final approval of the Board of Education. (Act Feb. 21, 1933, c. 35, §3.)

Act contemplates that civil service board shall perform same duties with reference to employes of board of education which it performs with reference to employes of city and such board has obligation of paying all expenses incurred in classifying employes and performing other duties. Op. Atty. Gen., June 26, 1933.

1455-4. Present employes to retain positions.—That employes of any such Board of Education, who are regularly employed by such Board at the time of the classification of the employes by the civil service board as herein provided, shall retain their positions, unless removed for cause. (Act Feb. 21, 1933, c. 35, §4.)

Sec. 5 provides that the act shall be in force from its passage.

1450-1. Civil service rules for unskilled labor.—That no city of the first class located in any county having a population of not less than 275,000 inhabitants and not more than 350,000 inhabitants including any such city operating under a charter adopted pursuant to the provisions of Section 36, Article 4, of the Constitution of the State of Minnesota, shall require any person seeking employment or appointment as a common, unskilled or semi-skilled laborer to be placed in any classified service subject to civil service rules and regulations in relation thereto as a condition to any such employment or appointment. (Act Apr. 21, 1933, c. 372, §1.)

This act is constitutional. Op. Atty. Gen., May 3, 1933.

1450-2. Inconsistent acts repealed.—All laws and parts of laws, ordinances and charter provisions inconsistent herewith are hereby repealed. (Act Apr. 21, 1933, c. 372, §2.)

Sec. 3 of Act Apr. 21, 1933, cited, provides that the act shall take effect from its passage.

1465. Removal of officers or employees.

Reinstatement of illegally discharged civil service employees. 18MinnLawRev337.

1465-1. Notice of discharge of employes.—No regularly employed person having a classification under civil service regulation in cities of the first class operating under Article 4, Section 36 of the Constitution of the State of Minnesota, shall be discharged, suspended or demoted, because of inefficiency, breach of duty or misconduct, unless written notice specifically and fully stating the reasons for such discharge, suspension or demotion is served upon such employe by the officer, board or person whose duty it is or may be to appoint or employ such employe. (Act Apr. 22, 1933, c. 405, §1.)

Commissioner of public safety of city had no authority to indefinitely suspend from his position superintendent of bureau of police and fire alarm telegraph, on sole ground of a temporary deficiency in fund provided in city budget for all salaries and expenses of said bureau for that year, there being more than twenty employes in said bureau, and no other employes being suspended. *State v. Warren*, 195M180, 261NW857. See Dun. Dig. 6558a.

Inefficiency does not consist of a separate act, but embraces a course of conduct, a lack of integrity, or limitation of capacity. *Hughes v. D.*, 273NW618. See Dun. Dig. 6591, 8010.

Inefficiency denotes incapability for office, while misconduct denotes an improper discharge of duties of office, and while an officer may not twice be punished for same misconduct, act of misconduct may later be used against him to prove that he is unfit for office because of inefficiency. *Id.*

1465-2. Hearing.—Within ten days after the service of such notice such employes may demand a hearing before a board to be known as a Board of Appeals or Referees, said Board to consist of three members, one member to be appointed by the mayor from outside the City Service; one member to be appointed by the City Council from the administrative officials of the Municipality; and one member to be the chief civil service examiner, administrative head, or secretary of the Civil Service Department. (Act Apr. 22, 1933, c. 409, §2.)

1465-3. Board to fix date of hearing.—The Board of Appeal or Referees shall within ten days after their appointment serve a written notice upon such employe, setting forth the time of the hearing before them of said charges. The hearing of said charges shall be open to the public, and said employe may appear with an attorney.

(1) The Board of Appeal or Referees or a member thereof shall administer oaths to all witnesses, and, upon its or his own motion or the written request of any interested party, may issue subpoenas for the attendance of witnesses and the production of such books, papers, records and documents material in the cause as shall be designated in such request or required by the Board or member thereof. Provided, that the applicants for subpoenas shall advance necessary service and witness fees, which shall be the same as the service and witness fees provided by law for civil causes in the District Court. The Board shall pay for the attendance of all witnesses subpoenaed by it or its own motion. If any person refuses to comply with any order or subpoena issued by the Board, or any member thereof, or if any person refuses to permit an inspection of any place or premises or to produce any books, papers, records or documents material in the cause, or if any witness refuses to appear or testify regarding that which he may be lawfully interrogated, any Judge of the District Court in the County in which the cause is pending on application of the Board or member thereof, shall compel obedience by attachment proceedings as for contempt as in the case of disobedience of a similar order or subpoena issued by such Court. (Act Apr. 22, 1933, c. 409, §3.)

1465-4. Board to make investigations.—The Board, or member, thereof in making an investigation, or conducting a hearing under this Act shall make such

investigation, or inquiry, or conduct such hearings, in such manner as to ascertain the substantial rights of the parties, and all findings of fact shall be based upon reviewable evidence. (Act Apr. 22, 1933, c. 409, §4.)

Evidence before administrative tribunals. 23MinnLaw Rev68.

1465-5. Employes shall be removed, when.—If, after the investigation and hearing by the Board of Appeal or Referees as hereinbefore provided, such employe is found guilty of inefficiency, breach of duty or misconduct, he shall be removed, reduced or suspended, and his name may be stricken from the service register. If the Board of Appeal or Referees shall determine that the charges are not sustained, such employe, if he has been suspended pending the investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

(A) Findings and determination hereunder and orders of suspension, reduction or removal shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the Board of Appeal or Referees, and it shall be the duty of the secretary to notify such employe of said decision in writing.

(B) Any person suspended, reduced or removed by the Board of Appeal or Referees after the investigation may appeal from the order to the District Court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employe of said order as above provided. Within five days thereafter the secretary shall certify to the clerk of District Court the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed upon the calendar of the clerk of District Court to be tried before the Court without jury at the next general term thereof to be held in the county where said city is located at the place nearest said city. The question to be determined by the Court shall be:

“Upon the evidence was the order of the Board of Appeal or Referees reasonable?” After trial in the District Court an appeal may be taken from the decision thereof to the Supreme Court by such employe or the Board of Appeal or Referees in the same manner as provided for in other Court cases. (Act Apr. 22, 1933, c. 409, §5.)

Only questions for determination by trial court upon an appeal from findings of board of appeal or referees are: (1) Was the decision of said board based upon legal evidence, and (2) if so, are findings of the board of appeal or referees reasonable? *Hughes v. D.*, 273NW 618. See Dun. Dig. 6591, 8010a.

Upon a hearing of charges of inefficiency, breach of duty, and misconduct in performance of duty preferred against a police officer, it was proper for board of appeal or referees to receive in evidence service record of officer as bearing upon question of his inefficiency, although such record would not be competent as evidence to prove charges of misconduct alleged to have been committed subsequent to passage of act and not included in service record offered as evidence. *Id.*

1465-6. Board to serve without pay.—Each member of the Board of Appeal or Referees shall serve without pay, but the Council may allow such compensation as it shall deem commensurate with the services rendered by said Board of Appeal or Referees. The Council shall pay from the Municipality treasury all expenses incurred by said Board of Appeal or Referees in connection with the performance of its duties and shall furnish said Board of Appeal or Referees with all supplies, stationery or equipment it may require. (Act Apr. 22, 1933, c. 409, §6.)

1465-7. Limitation of act.—Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period for the purpose of discipline or pending investigation of the charges when he deems such suspension warranted. (Act Apr. 22, 1933, c. 409, §7.)

1465-8. Application of act.—This act shall not apply to such cities of the first class operating under Article 4, Section 36, of the Constitution of the State of Minnesota whose Home Rule Charter or Civil Service Ordinances provide for the hearing and determination of charges against employees before a Civil Service Commission or Board established by such Charter or Civil Service Ordinances. Upon repeal of such local Charter provision or Civil Service Ordinances creating such Commission or Board this Act shall become effective also as to such cities. (Apr. 26, 1937, c. 434, §1.)

Sec. 2 of Act Apr. 26, 1937, cited, provides that the Act shall take effect from its passage.

1478-1. Injured firemen or policemen may be reinstated.—That in any city of this State now or hereafter having a population of more than 50,000 inhabitants the city council or other governing body in such city is hereby authorized and empowered to reinstate any injured fireman or policeman at any time within a period of five years after the date of an injury received in the course of his duties as such or the date of any sickness or incapacity which sickness or incapacity is traceable solely to his services as such fireman or policeman. (Act Apr. 24, 1931, c. 320, §1.)

1478-2. Inconsistent acts repealed.—All laws or provisions or parts thereof inconsistent herewith are hereby repealed. (Act Apr. 24, 1931, c. 320, §2.)

1479. Contracts for lighting streets.

In action, brought in behalf of all taxpayers of city of St. Paul, to recover damages from a public service corporation, for alleged unjust discrimination, in that it charged and received for electric current furnished city a rate higher than that charged and received for such current furnished other named patrons, complaint failed to state a cause for it shows that rate paid by city was within lawful rate fixed by city council and alleged that no one of those named as having paid a lower rate was a competitor of city. *Gallender v. N.*, 192M591, 257NW 512. See Dun. Dig. 2996c.

1484. "Public utilities" defined.

Williams v. V., 187M161, 244NW558; note under §1229. This act has no application to river terminal property of Stillwater. Op. Atty. Gen. (63b-11), Feb. 2, 1939. Municipal ownership of public utilities in Minnesota. 16MinnLawRev503.

1485. Acquisition and operation.

When city is authorized to cut off premises from city water supply for default in payment of charges therefor, it may lawfully enforce payment by use of such means. *Prudential Co. v. C.*, 202M70, 277NW351. See Dun. Dig. 6680.

City was not estopped to recover from owner for water supplied to tenant because of delay in notifying owner of nonpayment or in shutting off water. *Id.* See Dun. Dig. 6682.

City owned electric light utility may purchase appliances, such as electric stoves, and sell them on installments to customers. Op. Atty. Gen., Mar. 26, 1934.

1486. Limit of bonds and certificates.

Majority vote of electors is sufficient to authorize issuance of certificates of indebtedness under this section for construction of a municipal light plant. Op. Atty. Gen. (59b-7), May 4, 1938.

1491-2. Extension of water mains into and furnishing of water to contiguous cities, towns or villages.

City has authority to extend its water mains beyond its limit, but must obtain consent if other communities are incorporated, and cannot assess benefits against abutting owners outside its own limits unless it is a city of the first class. Op. Atty. Gen. (624d-11), Aug. 2, 1934.

1491-5. Cities may grant permits.—Whenever in any city of the first class now or hereafter existing in this state, the franchise of any public service corporation supplying gas, or electric energy, or steam, for lighting, heating, or power purposes has expired, and the home-rule charter of any such city authorizes a limited number of temporary licenses of not more than one year each to use the streets and other public places for the purpose of supplying such service and all of such licenses have been given and have expired, and any such corporation thereafter continues to furnish such service and in doing so uses the streets

and other public property of any such city, the governing body of any such city is hereby authorized and empowered, notwithstanding anything to the contrary in the home-rule charter of such city, by ordinance, to permit such public service corporation to use the streets and other public property located in such city, and to prescribe from time to time, but not more often than once in each calendar year, reasonable rates which any such public service corporation may charge for such service within such city, and to determine the amount which any such public service corporation shall pay the said city for the use and occupancy of its streets or other public property which are located in and under the control of any such city and used by such corporation. Provided, however, that if the home-rule charter of any such city contains provisions fixing a minimum amount that any such public service corporation shall pay the city for the exercise of any franchise or privilege in, over, under, or upon any of the streets or public places in such city, whenever such public service corporation is not specifically relieved of such payment, the sum fixed by the governing body, pursuant to this act, for the use of such property and privilege, shall not be less than the minimum fixed by such charter to be paid in those cases wherein the grantee is not specifically relieved from such payment. (Act Apr. 24, 1935, c. 286, §1.)

1491-6. Acts validated.—That in all cases in which, during the 12 months immediately preceding the adoption of this act the governing body of any such city has, subsequent to the expiration of such franchises and licenses aforesaid, by ordinance, fixed rates for such services or any part thereof, and fixed the payment to be made to such city for the use of the streets and other public places in such city, and such ordinance has been accepted by any public service corporation operating in such city, the ordinance so fixing, all proceedings of the governing body relating thereto and the acceptance of said ordinance by any such public service corporation are hereby legalized and made valid and effectual for all purposes. (Act Apr. 24, 1935, c. 286, §2.)

1491-7. Limitation of act.—This act shall not be construed as authorizing any such governing body to change any rates for such service, or the amount of payment for the use of the streets and other public property aforesaid, whenever any such rates or payments have been embodied in an agreement now or hereafter existing between any such city and any such public service corporation, which agreement determines the amount of such rates and/or payment for a definite period of time. (Act Apr. 24, 1935, c. 286, §3.)

1499-1. Directors of trusts to be created.—That all rights, powers and duties of any city of this state of the first class having over 50,000 inhabitants, concerning all property and estate whatsoever, donated to any such city for the establishment or maintenance of a hospital or hospitals, the administration and management of which is now or shall hereafter become vested in or confided to such city, shall be exercised and discharged by such city through the instrumentality of a Board consisting of seven persons, to be called Directors of Trusts, who shall exercise and discharge all such rights, powers and duties and have control and management of any such hospital resulting from such charity or charities to the extent that the same have been or hereafter may be by grant, statute or otherwise vested in or delegated to such city. (Act Mar. 14, 1931, c. 56, §1.)

1499-2. Trustees—terms.—The Mayor of such city shall be ex officio a member of the Board of Directors of Trusts and the other six members shall be residents of such city and appointed by the Judges of the District Court of the State of the District in which such city is located, by concurrent action of a majority of such Judges, for the following terms be-

ginning with date of appointment; two for a term of two years; two for a term of four years and two for a term of six years, and thereafter as such terms expire the vacancies caused thereby shall be filled by appointment for six year terms. Said Judges by like concurrent action shall appoint members to fill out the unexpired term of any member who for any reason ceases to be a member before the expiration of his term.

The Judges of said District Court shall meet and take action upon any of the matters in this Section specified, upon call of the senior Judge of such District or upon the petition of the Mayor or any resident taxpayer of such city. (Act Mar. 14, 1931, c. 56, §2.)

1499-3. Powers and duties.—The Directors of Trusts shall have power: to make rules and by-laws for the proper conduct of their business; to appoint and remove from time to time such agents and employes as in their judgment may be required for the proper discharge of their duties, and to determine the duties and compensation of all such agents and employes; to make such contracts and agreements in accordance with the conditions of any such donation as in their judgment may from time to time be required in the administration and management of such property, and in conformity with the provisions of the city charter of such city and existing or future ordinances enacted by the common council relating to the award and conditions of contracts and generally, it shall be the duty of the Directors of Trusts, for and in the name of such city, to do, perform and discharge all and singular whatever acts and duties are or from time to time may become proper or necessary to be done by such city in discharge of its duties in connection with such use or trust, and to file with the City Clerk on or before February 15th of each year a report for the preceding calendar year showing all receipts and disbursements with sources and purposes thereof, together with a statement of assets under their control and property acquired or disposed of during such year, and such other general information as to the management and control of the trust property as in their judgment is proper. (Act Mar. 14, 1931, c. 56, §3.)

1499-4. City Treasurer to be custodian.—The Treasurer of such city shall have custody of and be responsible for the safe keeping of all cash, securities, title papers, records and documents appertaining to the property, the administration and management of which devolves upon the Directors of Trusts, and shall furnish such information as to such cash and other property held by him as may be requested by said Directors of Trusts. He shall keep the cash and other property of each trust separate and pay out and deliver the same from time to time upon order of such Board of Directors of Trusts made in accordance with their rules and regulations in carrying out their duties as such Board of Directors of Trusts. (Act Mar. 14, 1931, c. 56, §4.)

1499-5. Directors to receive no compensation.—The Directors of Trusts in the discharge of their duties and within the scope of their powers aforesaid shall be considered agents of the city, but no compensation or emolument whatever shall be received by such Director for such service, nor shall any such Director have or ever acquire any personal interest in any contract whatever made by such Directors of Trusts in carrying out their duties or powers as such; nor shall any such Director receive directly or indirectly any compensation for services rendered or material or supplies furnished to any person while an inmate of any institution conducted by such Directors of Trusts. Any such Director violating any of the provisions of this section shall thereby be disqualified from further acting as such Director and the vacancy so caused shall be filled under the provisions of Sec-

tion 2 hereof [§1499-2]. (Act Mar. 14, 1931, c. 56, §5.)

1499-6. Application.—This act shall apply to all cities of this state of the first class having over 50,000 inhabitants, including any such city operating under a charter adopted pursuant to Section 36, Article 4 of the State Constitution, except that it shall not apply to any city operating under a charter adopted pursuant to Section 36, Article 4 of the State Constitution providing for a department or Board with authority to exercise and discharge the rights, powers and duties herein provided to be exercised and discharged by the Board of Directors of Trusts, nor to any city which now has erected and/or now maintains any such hospital jointly with any county. (Act Mar. 14, 1931, c. 56, §6.)

1504. Condemnation of land for harbors, etc.
Boundary dispute between claimants of land condemned. 176M512, 223NW767.

1504-1. Public landings, wharves, docks, etc.
For creation of a commission known as "Port Authority" for certain cities over 50,000 population, see Laws 1929, c. 61, ante, §§1372-7½ to 1372-7½j.

1531-1. Conveyance to university of discontinued water power sites.—Any city of the first class operating under a home rule charter, and having and owning the fee title to any tract or piece of land with water power rights and facilities running with such land, the public use of which shall have been discontinued, shall in addition to all other powers granted such city, have the power and authority to sell, transfer, quit claim and convey such land and water power rights to the University of Minnesota for a nominal consideration in any case where the city council of such city shall deem such land and power rights of no further public use and such transfer and conveyance to the best interest of the city. Provided, however, that such transfer and conveyance shall require two-thirds vote of all members of the city council. (Jan. 13, 1936, Ex. Ses., c. 6, §1.)

1537. Condemnation, how conducted, etc.
One obtaining market value of property was not entitled to an additional award for expense of removal from the premises. 176M389, 223NW458.

1538-1. Streets and highways.
This section does not repeal or modify the provisions of the charter of the city of St. Paul, providing for condemnation of land for street and highway purposes. 177M146, 225NW86.

1541-1. Cities may acquire exempt property.—Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to the provisions of Section 36, Article 4, of the Constitution of the State of Minnesota, is hereby authorized and empowered to acquire by purchase, condemnation, or otherwise any right or interest in land either platted or unplatted within the limits of said city, which interest in land consists of a right or privilege in the owner of said land to offset certain amounts against special assessments levied by the governing body, the city council or the board of park commissioners of such city for park or parkway purposes, or both. (Act Apr. 25, 1931, c. 385, §1.)

1541-2. Right of eminent domain.—In the event that the chief governing body, city council or board of park commissioners of such city shall exercise such right by condemnation such body may do so under any laws provided for the condemnation of real property or eminent domain or under any provision of the charter of such city granting to such body the right of condemnation or eminent domain; or, it being for the best interests of such city, such chief governing board, city council, or board of park commissioners shall have the power and authority to acquire said rights by purchase, taking into consideration the present worth of such right to exemption

and the probability or improbability that such exemptions would ever be used as an offset to future assessments for benefits. (Act Apr. 25, 1931, c. 385, §2.)

1541-3. May issue bonds.—In order to carry out the purpose of this Act each such city is hereby authorized to issue bonds, or certificates of indebtedness to secure funds for the amount necessary to acquire said right, and the city council or other chief governing body shall levy annually a tax on all the taxable property of the city sufficient to meet the interest and the principal about to mature on said bond. (Act Apr. 25, 1931, c. 385, §3.)

1552. Designation of land for streets, etc.

This act became a part of the Minneapolis Home Rule Charter, merely by reference to it. 177M122, 224NW 845.

Section 6552, Mason's Minn. Stat. 1927, which creates a cause of action in favor of a landowner for his expenses incurred in a condemnation proceeding under Chapter 41 of those statutes, does not apply to expenses incurred under the provisions of §1552 et seq. *Barmel v. M.*, 201M 622, 277NW208. See *Dun. Dig.* 3121, 3122.

1553. Proceedings for acquisition of lands.—After the adoption of the resolution it shall be the duty of the city engineer to make and present to the council a plat and survey of such proposed improvement, showing the character, course and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer be proper to explain such plat and survey and the character and extent of the proposed improvement.

When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk, and it shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

Said plat shall also show the amount of land taken from each owner, so far as the owners may be known, and the lands contiguous to such improvements.

The city council shall then or afterwards appoint five freeholders of said city, no two of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expenses of the improvement upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to a cash valuation.

Three or more commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners; and they shall be notified of their appointment, and vacancies in their number shall be filled by the city council, and they shall be sworn to the faithful discharge of their duties. They shall give notice by two publications in the official paper of said city that such survey and plat is on file in the office of the city clerk, for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten days after the first publication of such notice, meet at a place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purposes of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement, and assess thereon in proportion to benefits, amount necessary to pay such compensation and damage and the cost of making the improvement, and that they will then and there hear such allegations and proofs as interested persons may offer. Any such commissioners shall meet and view the premises pursuant

to such notice, and may adjourn from time to time, and, after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in said city, and may have the aid and advice of the city engineer and of any other officer of the city, and adjourn from time to time. After viewing the premises and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner, in respect to the remainder of the same property, and award him only the excess of the compensation or damages over and above such benefits.

The said commissioners shall then assess the amount of such compensation and damages so awarded upon the land and property benefited by such proposed improvements, together with the expense and cost of making the improvements as fixed by the city council, and in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parcels which are less than such benefits, and assessing only the excess, and prepare and report to the city council their appraisal and award, and if in the judgment of said commissioners the whole amount of such compensation and damages, together with the cost of making such improvement, shall exceed the actual benefits to the specific property subject to assessment, they shall so indicate in their report and shall state the amount of such excess. Said commissioners shall also report to the city council an assessment list containing their assessment of such compensation, damages, and costs, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed against each parcel of property and the amount of the excess of such compensation, damages and costs as aforesaid, which they shall return unassessed.

The commissioners may employ clerical assistance, and the cost thereof, as well as the commissioners' compensation, and the expenses of printing the notices required, including, among others, the notice of consideration by the city council, hereinafter referred to, estimated at the same rate per line as the cost of printing the prior notices, shall be added to the other amounts to be assessed and shall be assessed therewith. The city attorney shall represent the city before the commissioners and produce such evidence as the case may require.

The city council, may, however, provide by the resolution appointing such commissioners that a certain specified percentage, not exceeding thirty-three and one-third (33 1/3%) per cent, of the total damages and cost of improvements, shall in any case be payable out of the city's general funds, and in that case the city's share shall be added to the amount of the certificates to be issued and sold under Section 10, and the city council shall from year to year levy a sufficient tax upon the taxable property of the city to pay the same, with interest. In such case the amount provided to be paid out of the general funds shall not be assessed.

Said commissioners shall, upon the completion of their said report, file the same with the city clerk and thereupon it shall be the duty of said city clerk

to give notice to all interested parties by publishing, as soon as possible, in the official paper of said city a notice containing descriptions of the several lots and parcels of land taken for such proposed improvements, the amount awarded for the taking of each such lot or parcel, the names of the owner or owners of the same, descriptions of the several lots or parcels of land upon which benefits have been assessed, the amount assessed against each such lot or parcel and the names of the owner or owners of the same; the names of all owners referred to herein to be obtained from said commissioners, and, so far as may be necessary, from the records in the office of the county treasurer. Said published notice shall also designate and fix a place and time, not earlier than three weeks from date of publication of the same, at which a committee therein designated by the board of park commissioners or of said council will meet to hear and consider, from or on the part of the owner or owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, any and all objections to the making of such improvement, to the amount of damages awarded for the taking of or interference with the property involved, to the amount of the assessment for benefits to any property affected by such proceedings, and any and all claims of irregularities in the proceedings of the city council, board of park commissioners, or the commissioners so appointed by either thereof.

Immediately after the publication of such notice and at least two weeks prior to the time designated for the meeting of the committee specifically designated in said notice, the city clerk shall serve upon each of the owners of the several lots or parcels of land taken for such proposed improvement and of the several lots or parcels of land upon which benefits have been assessed, a copy of said published notice, by depositing the same in the postoffice of said city, postage prepaid in an envelope plainly bearing on its front in type no smaller than ten point the words "Notice of Tax Assessments for improvements affecting your property" directed to each of said persons at his last known place of residence, if known, to said city clerk, otherwise as obtained from the records in the office of the county treasurer; provided that the failure of any such owner or owners to receive such notice shall not in any wise operate to invalidate any of the proceedings covered by this act.

Any person whose property is proposed to be taken, interfered with, or assessed for benefits, under any of the provisions of this chapter, and who objects to the making of such improvement, or who deems that there is any irregularity in the proceedings of the city council, or on the part of the commissioners so appointed by it, by reason of which the award of said commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, or with the amount of the assessment for benefits to any property affected by such proceedings, shall appear at the hearing or file with said city clerk, designated in such published notice, at any time before said hearing or before the report and recommendation of said committee is filed, as hereinbefore provided, his written objection to the making of such improvement, or his objection to the damages awarded or benefits assessed, or his claim of said irregularities, specifically designating the same, and a description of the property affected by such proceedings.

At the time and place designated by such published notice for said hearing the city clerk shall present to said committee the report of the commissioner so appointed together with all written objections so filed with said city clerk and such committee shall then consider the same and hear said objectors, or their

representatives, in person, and shall adjourn said hearing from time to time as may be necessary.

Within ten days from the conclusion of said hearing or hearings said committee shall file with said city clerk its report and recommendation on the matter so submitted, and upon such filing the city clerk shall give notice that such report and recommendation has been filed and that the same, together with said report of said commissioners, will be considered by said city council at a meeting thereof to be designated in said notice, which notice shall be published in the official newspapers of said city once a week for two consecutive weeks, the last publication thereof being at least two weeks before said meeting of said city council.

Said city council, upon the day fixed for the consideration of said reports and recommendation or at any subsequent meeting to which the same may stand over or be referred, may by resolution annul and abandon said proceedings, or may confirm such awards and assessments or any or either thereof, or annul the same, or send the same back to said commissioners for further consideration; and said commissioners may in such case again meet at a time and place to be designated in a notice which shall be published by said city clerk once in the official newspaper of said city and copies of which shall be similarly mailed by said city clerk to all interested persons, at least two weeks prior to said meeting, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistakes in such award and assessment and alter and revise the same as they may deem just, and again report the same to said city council, who may thereupon confirm or annul the same.

Whenever the city council shall confirm any such award and assessment such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the city council shall proceed, at the same or at any subsequent meeting, to levy such assessment or such fractional part thereof as the city council may deem necessary to pay the costs of the proceedings and making the improvements therein upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessments so confirmed or in proportion to such assessments as herein provided. The city council may in its discretion delay the levying of such assessments in any proceeding under this act until the completion or substantial completion of the improvements proposed to be made therein, and the actual costs of such improvements and proceeding have been determined, which cost may include interest at 5% per annum on moneys actually advanced by the city, and thereupon the city council shall proceed to levy assessments in such proceeding, aggregating the amount of such costs or such portion of such costs as the city council shall have determined in conformity with the provisions of this act, upon the several parcels of land described in the assessment list reported to the city council by the commissioners in such proceeding, and such assessments so levied shall be in amounts proportionate to and not greater than the several amounts theretofore confirmed upon such parcels of land respectively by the council or by the court upon appeal in such proceeding. The city council shall cause to be made and shall adopt an assessment roll of such assessments, which may be substantially in the following form, or any other form the council may adopt:

The city council 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 compensation and damages awarded for the taking of an injury to private property, and

estimated cost of improvement, and in and about the..... as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment and in proportion to benefits from such improvements to accrue to the parcels and not exceeding the benefits to the parcels so assessed.

Name of Owner,	Description	Amount
if known	of land Lot Block	Dollars Cents
"Done at a meeting of the council this.....		
day of		
A. D. 19		
Attest		
City Clerk		Pres't of the Council."

('11, c. 185, §2; G. S. '13, §1567; '13, c. 345, §1; '25, c. 417, §1; Apr. 27, 1929, c. 419, §1.)
171M297, 214NW30; note under §1554.

The amount of net award for compensation and damages incident to an improvement are to be added to the actual costs of doing the construction work, including incidental expense, in order to determine whether the total advancement exceeds the costs of the improvements. 172M454, 216NW222.

Refusal of temporary injunction held proper in view of right of appeal from order of confirmation. Peterson v. C., 172M604, 216NW228.

Although property devoted to railroad use may not be benefited for that purpose. It may be enhanced in market value by a public improvement for which it is assessed notwithstanding it is more valuable for railroad uses than for other purposes. Board of Park Com'rs v. E., 190M534, 253NW761. See Dun. Dig. 6860.

Supreme court will not review correctness of instructions or failure to give them to commissioners appointed by district court to reassess benefits in proceeding by city of Minneapolis for acquisition and improvement of property. Board of Park Com'rs v. E., 190M534, 252NW 451. See Dun. Dig. 3131.

Application of "unit rule" did not interfere with exercise of independent judgment by commissioners. Id. See Dun. Dig. 3097.

Fact that commissioners appointed to reassess benefits on land to be acquired and improved for park purposes arrive at identical figures assessed by a board of commissioners formerly appointed for that purpose is not fatal. Id. See Dun. Dig. 3097.

That phase of proceeding where court appoints commissioners for reappraisal and reassessment is not strictly judicial in character but court is acting for convenience of legislature, but time when appropriate action should be taken to determine whether commissioners have made erroneous awards or assessments is when it makes its report to the court. Board of Park Com'rs v. E., 190M534, 253NW761. See Dun. Dig. 6873.

Determination of commissioners as to property benefited and extent of benefits is final and not reversible by a court unless it appears that it was fraudulent, arbitrary or made upon a demonstrable mistake of fact. Id. See Dun. Dig. 6878.

Action of city in erecting a bridge with approach over a street amounted in fact to a change of grade pro tanto, and city was liable in damages to abutting owner for ensuing injury to his property. Bruer v. C., 201M40, 275 NW368. See Dun. Dig. 6639, 6647.

Where a city erected a bridge which had the effect of changing grade of central part of a street which abutted plaintiff's property and devoted bridge exclusively to street car traffic, street railway company was not liable to plaintiff merely because it contributed to cost of bridge or because city excluded other traffic. Id. See Dun. Dig. 6650.

Just compensation is market value at time of taking contemporaneously paid in money, to be arrived at upon just consideration of all uses for which land is suitable; and highest and most profitable use for which property is adaptable and needed, or likely to be needed, in reasonably near future, is to be considered to extent that prospects of demand for such use affect market value while property is privately held, but that value does not include any element resulting subsequently to or because of taking. Minneapolis-St. Paul Sanitary Dist. v. F., 201 M442, 277NW394. See Dun. Dig. 3054.

The fact that property being acquired by the Government cannot be assessed does not affect the validity of assessments of benefits against other property owners. Op. Atty. Gen., Mar. 17, 1931.

The State has no power to assess land belonging to the United States for benefits arising from local improvements, but land that is in process of being acquired by the Federal Government may be assessed subject to the condition of the title at the time the council is called upon to confirm the assessment. Op. Atty. Gen., Mar. 17, 1931.

1554. Same—Objections to confirmation—Appeal—Reappraisal—Appeal to Supreme Court.

Property owner has no right of appeal to district court unless he files objections as required by statute. 171M297, 214NW30.

District court not having acquired jurisdiction of appeal by reason of failure of property owner to file objections as required by statute, it had no authority to consider question whether city acquired jurisdiction in condemnation proceeding. 171M300, 214NW32.

The commissioners need not make a specific award to each person interested in the property, since the court, retaining jurisdiction, may by proper notice and procedure have a determination made of the portion of the whole amount of damages so awarded to which each of the owners of individual interests is entitled. 175M300, 221NW14.

1555. Same—Awards—How paid—Assessments.

171M297, 214NW30; note under §1554.

A city may, under certain circumstances, be called upon to pay more than one-third of the cost of a park. Op. Atty. Gen., Mar. 17, 1931.

1556. Right to abandon—Effect of award—Payment.

175M300, 221NW14.

1557. Spreading of assessment installments.—The city clerk shall transmit a certified copy of such assessment roll to the county auditor of the county in which the land lies and the county auditor shall include 5 per cent of the principal amount of such assessment with and as part of the taxes upon each parcel for each year for twenty years, together with annual interest at the rate ascertained, as hereinafter provided. The city council and board of park commissioners may, however, by such concurrent resolution, determine that the amount of such assessment shall be collected in five or ten equal annual installments instead of twenty, and in such case the county auditor shall include a corresponding per cent of the principal amount of such assessment with and as part of the taxes of each year, together with such annual interest until the whole is collected. The county auditor shall include in the taxes for each year one of such installments, together with one year's interest upon such installment and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest, penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs. Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called special street and parkway assessments of the

city of and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments shall be sufficiently identified by the name and number as aforesaid. ('11, c. 185, §5; G. S. '13, §1570; '13, c. 345, §4; '17, c. 103, §3; Apr. 27, 1929, c. 419, §2.)

1558. Same—Method of Improvements—Assessments.

171M297, 214NW30; note under §1554.

172M454, 216NW222; note under §1553.

The six-year statute of limitations applies to an action to recover damages for an injury to real property caused by a municipality in grading a street. 172M565, 225NW816.

Where the injury is continuing, the owner may recover such damages as were caused within six years prior to suit. 177M565, 225NW816.

1563. Same—Bonds for improvements.

171M297, 214NW30; note under §1554.

1566-9. Same—Regulatory ordinances.

Act Apr. 10, 1933, c. 208, provides that the city council or park commissioners of any city of the first class may appoint five commissioners to determine the damage to property specially assessed for a parkway or boulevard resulting from abandonment of the improvement. On confirmation of the report of the commissioners the city treasurer is required to refund to the owners assessed the amount of the award. The limit of expenditure under the act is fixed at \$12,000. This limitation shows that the act is a piece of legislative jobbery, and is special legislation of the most vicious kind. The act is not entitled to a place in any statute compilation.

1569. Residence districts—Council may designate.

Aesthetics in zoning. 14MinnLawRev109.

1580-1. Compromise and settlement of delinquent special assessments.—That the governing body of any city of the first class that has special assessments for local improvements which are delinquent for the year 1934 and prior years and aggregate a total sum of not more than \$1,500,000, is hereby authorized and empowered to direct the city treasurer of such city to accept a reduction, settlement and payment of such delinquent special assessments upon the terms provided for in this act. (July 15, 1937, Sp. Ses., c. 53, §1.)

1580-2. Same; resolution; amount of discount.—That immediately after this act takes effect, said governing body may adopt a resolution authorizing and directing the city treasurer of such city to accept payment in full of such delinquent assessments upon the following basis:

(a) 60% of the amount of each of such assessments for the year 1930, and prior years.

(b) 80% of the amount of each of such assessments for the years 1931 to 1934, inclusive. (July 15, 1937, Sp. Ses., c. 53, §2.)

1580-3. Same; time of payment; interest thereafter.—That payment of any delinquent special assessment as provided for in this act be made on or before December 31, 1937, without penalty or interest, but that thereafter and beginning with December 31, 1937, there shall be added to any such payment, interest at the rate of 20% per annum from December 31, 1937, to the date of payment; provided that no payment of any delinquent special assessment shall be accepted by such city treasurer on and after December 31, 1938, and provided further that payment of any delinquent special assessment shall be accompanied with payment of all current special assessments due and payable to such city. (July 15, 1937, Sp. Ses., c. 53, §3.)

1580-4. Same; computation of discount.—That in computing the amount of an assessment reduced, settled and paid under the terms of this act, such amount shall be determined as of the date when the assessment was certified to and received by the county auditor of the county wherein such city of the first class is located; and there shall be excluded from the computation of any such assessment all penalties and interest that may accrue against any such assessment

after the date of its certification to and reception by said county auditor, except as provided in Section 3 of this act. (July 15, 1937, Sp. Ses., c. 53, §4.)

1580-5. Same; receipt; certification to county auditor.—That whenever any person shall make payment to said city treasurer of any delinquent special assessment, in accordance with the terms of this act, such treasurer shall accept such payment and issue his receipt or certificate to the person making such payment, and shall certify that such assessment has been reduced, settled and paid of record in the office of said treasurer; and in addition thereto, such treasurer shall forthwith certify to the county auditor of the county wherein such city is located the fact of such payment, together with a description of the real estate against which such assessment was levied. Immediately upon receipt of such certification, the county auditor shall make all necessary and proper entries upon his official records, evidencing the payment of such assessment, in accordance with the certification made by said city treasurer, and under the terms of this act. (July 15, 1937, Sp. Ses., c. 53, §5.)

1580-6. Same; separability.—That the terms and provisions of this act are hereby declared to be separable, and that if any part or provision of this act shall be declared unconstitutional by any court of competent jurisdiction, such judicial declaration shall not affect or invalidate any other part or provision of this act. (July 15, 1937, Sp. Ses., c. 53, §6.)

1580-7. Same; power additional to charter powers.—That the powers granted in and by this act are in addition to all existing powers of any such city, and may be exercised by such city, anything in any charter thereof to the contrary notwithstanding (July 15, 1937, Sp. Ses., c. 53, §7.)

1580-8. Same; distribution of money collected.—That payments of delinquent special assessments when and as made under this act, shall be for the benefit of the several funds of any such city in the following proportion:

(a) Payments on assessments covering water mains, gas mains or similar improvements made in connection with any utility operated or owned by any such city shall be immediately credited and paid over to the public utility fund in the whole amount received in settlement and payment of assessments described in subdivision (a) of this section.

(b) Except as provided in subdivision (a) of this section, all other payments of delinquent special assessments, as provided in this act, shall be immediately credited and paid over to the sinking fund, or other fund of any such city heretofore or hereafter established by such city for the purchase, or payment when due, of any bonds or any other funded debt of such city. (July 15, 1937, Sp. Ses., c. 53, §8.)

1590-1. Expenditures for exhibition, etc.

Correction.—The second paragraph of the note under this section in Mason's Minn. St. 1927 should appear under §1570.

1593. Auditoriums—definitions.

Laws 1927, c. 131 [§§1938-3 to 1938-13], does not repeal Laws 1923, c. 21 [§§1593 to 1600], as amended, and Minneapolis does not come within the operation of Laws 1927, c. 131. 174M509, 219NW872.

1596. Same—Councils to have charge and control.

City council of St. Paul may let a contract for the construction or alteration of an auditorium, notwithstanding adverse report of persons mentioned in St. Paul City Charter, section 312(a). Op. Atty. Gen., May 6, 1931.

1598. Same—Bonds in excess of limitations.

This section and not §§1938-3 to 1938-13 governs bonded indebtedness in Minneapolis. 174M509, 219NW872.

1600-½. Certain cities of the first class may appropriate money to pay for pipe organ.—Any city of the first class that has heretofore installed a pipe organ in its municipal auditorium, and has failed or refused to pay the full amount of the claim for

said organ is hereby authorized to appropriate not to exceed \$40,000 as a final payment therefor. This appropriation to be made from any moneys that may be available. (Act. Apr. 21, 1933, c. 384.)

1600-1. Stone quarries and docks—Bond issue for Referendum.

This act pledges the credit of the city to the payment of the bonds. 172M374, 215NW511.

The statute is not invalid because the project authorized involves the opening of a street. Id.

1600-4. Same—Use of proceeds of sale of bonds—Quarry and dock fund.

The statute does not require the city to remove and distribute rock by its own equipment and by labor directly hired, but it may do such acts under contract. 172M374, 215NW511.

1607-1 to 1607-7. [Repealed.]

Repealed by Act Apr. 19, 1933, c. 341, §19, post, §1607-27.

1607-8. Sanitary district authorized.—Whenever two or more contiguous cities of the first class shall directly or indirectly discharge sewage and/or industrial wastes into a common natural water course, and do, or may, so discharge sewage and/or industrial wastes into such water course as to endanger public health and/or to create a nuisance, such cities shall be organized and incorporated into a Sanitary District. (Act Apr. 19, 1933, c. 341, §1.)

Officers and servants of Minneapolis-St. Paul Sanitary District are not state officers or employees within act creating State Employees' Retirement Association. State v. King, 193M405, 258NW583.

1607-9. Sanitary district to be organized.—Immediately upon the passage of this Act and whenever any area in the future comes within the meaning of this Act, the State Board of Health shall proceed to investigate each and every area comprised of two or more contiguous cities of the first class coming within the meaning of Section 1 hereof, for the purpose of determining whether the discharge of sewage and industrial wastes into a common natural water course from said cities is likely to endanger or does endanger the public health and is likely to cause or does cause a public nuisance and that the removal and/or abatement thereof will be a benefit to such area. Should it be determined by the State Board of Health that the discharge of sewage or industrial wastes from that particular area does or is likely to endanger the public health and/or does or is likely to cause a public nuisance, and that its removal and/or abatement will be a benefit to such area, the State Board of Health shall so find and shall by written order declare said cities to be a single Sanitary District. The State Board of Health shall forthwith serve a copy of said findings and order in the manner provided by statute for the service of summons in civil action upon the Mayor of each of said cities. Such notice shall set forth all the facts and conditions causing the creation of such Sanitary District and the reasons why each particular municipality is included within the proposed district. The original findings and order of said State Board of Health shall be filed with the Secretary of State. A copy of said findings and order together with a notice specifying the time and place of a public hearing by the State Board of Health on its action shall be published by the State Board of Health in a legal newspaper in each of the cities of the first class once each week for two successive weeks. Such public hearing shall be held not earlier than 30 days after final publication of said notice and at a point convenient to the persons within the proposed District. Such hearing may be adjourned from time to time. At such hearing each city of the first class may appear and offer testimony and arguments either for or against the creation of the District. Likewise any citizen or taxpayer of any such city may appear and be heard in the matter. To carry out the purpose of this Act the State Board of Health shall have the

power to subpoena witnesses, to administer oaths, and to compel the production of books, papers, records, and other evidence. Witnesses shall receive the same fees and mileage as in civil actions. Disobedience of any subpoena in such proceedings, or contumacy of a witness, upon application of said Board, may be punished by the District Court in the same manner as if the proceedings were pending in such court. A complete record of each hearing shall be made. The Board may appoint any one or more of its officers, members or employes to hold any hearing herein provided for, with like power and authority as is herein vested in the Board with respect to the holding and conduct of such hearing and to the summoning of witnesses and production of evidence thereat, in which case the record of the hearing shall be reported to the Board, and the Board may take action thereon with like effect as if the hearing had been held before the Board. The Board may employ legal counsel and such other assistance as may be necessary for the purpose of making the investigations herein provided for and otherwise discharging the duties herein imposed upon the Board.

If after hearing and consideration the State Board of Health shall determine that the public health so requires, and the property in such area will be benefited by the elimination of such conditions, it shall so find and shall confirm its order creating said district. The State Board of Health shall file forthwith a copy of such confirming order with the governing body of each city of the first class and serve a copy of said order upon every person who appeared at said hearing, and shall file a copy of said order with the clerk of the district court of the county in which each city of the first class is located.

A copy of such order together with a notice addressed to all citizens, taxpayers, and each city and all other interested parties, stating that each city or person aggrieved by said order may appeal from such order in the manner provided in Section 3 hereof, shall be published in the same manner as is provided for the publication of the order creating such Sanitary District.

If after hearing and consideration the State Board of Health shall determine that the removal or abatement of the condition created by such two or more contiguous cities of the first class discharging sewage and industrial wastes into a common natural water course will not benefit such area it shall so find and shall by order annul and cancel its former order creating said district. (Act Apr. 19, 1933, c. 341, §2.)

1607-10. Appeals to District Court.—Within 30 days after the final publication of said order and notice as hereinbefore provided, each city or any citizen or taxpayer may appeal to the district court wherein the city or property of such citizen or taxpayer is located for exclusion of such city from such Sanitary District. The district court thus appealed to shall secure a judge from a judicial district not within or contiguous to such established Sanitary District to hear and determine said appeal. Said cause may be brought on for hearing by the city, citizen or taxpayer so appealing or the State Board of Health and said appeal shall be tried as other civil causes by the court without a jury. If the court finds that all the requirements of law in establishing said district have been complied with, and that the city or the property of such citizen or taxpayer appealing to said court be benefited by the elimination and/or abatement of said health menace and nuisance, it shall make its findings according to the evidence introduced before it, authorizing and directing the inclusion or exclusion of such city within the established Sanitary District, and the clerk of the district court where said cause is tried is directed to enter judgment in accordance with said findings. Said judgment shall be final and conclusive upon all the parties to such proceedings,

except an appeal may be taken to the Supreme Court, as in other civil actions, but any appeal therefrom shall be taken within 30 days from entry of said judgment. In any court action the State Board of Health shall be represented by the counsel employed by the Board, as hereinbefore provided, and the Supreme Court shall, upon application of such counsel, advance the order on the calendar. (Act Apr. 19, 1933, c. 341, §3.)

1607-11. Board of trustees to govern district.—The District shall be governed by a Board of Trustees who shall be appointed or selected as follows: Within 60 days after the filing of the order of the State Board of Health confirming the order creating said sanitary district, with the clerk of the District Court of the county in which each city of the first class is located, should there be no appeal by any municipality, citizen or taxpayer, or if there shall be such appeal, within 40 days after the order shall have been handed down by the District Court or by the Supreme Court affirming the establishment of a Sanitary District by the State Board of Health, the city councils, or other governing bodies of the cities within said sanitary district shall each elect one of its own members as trustees to said board, and also one trustee from the citizenry of each city or county wherein such cities of the first class are located; provided that no such appointee from said citizenry shall hold office under the state or any of its political subdivisions except that of notary public. The Mayor of each city or such other member of the governing body as he may name shall also be a trustee during his term of office as Mayor. The Governor shall also appoint one member to such board from the state at large. No person residing in any county partly or wholly within said sanitary district or in any county adjacent to such county shall be eligible to appointment by the Governor.

The city clerk of each such city shall immediately, upon the election of the two trustees by the city council of his city, file with the Secretary of State a certified copy or copies of the resolution or resolutions of the city council of his city electing the said trustees. At the same time, he shall also file with the Secretary of State the full name and address of the mayor of such city, or, in the event the mayor of such city has appointed some member of the governing body in his place, the city clerk shall immediately file with the said Secretary of State a certified copy of the order of said mayor appointing said trustee. Thereafter, the city clerk shall immediately transmit to the State Board of Health the names and addresses of the trustees elected by his city. Immediately upon receiving notification from the cities of the first class comprising the said District of the names and addresses of the persons selected by such cities as trustees, the Secretary of the State Board of Health shall call a meeting of the Trustees so selected, and shall give written notice by mail to each trustee so selected, at least 5 days before said meeting.

If the city council, or mayor, of any of said cities of the first class shall within the time specified herein fail to select, and cause to be certified, any of the trustees to be chosen as above provided, the Governor shall thereupon select and appoint such trustees as have not been so designated. Any trustee so appointed by the Governor shall be a citizen of the city whose mayor or council has so failed to act or the county wherein such city is located. (Act Apr. 19, 1933, c. 341, §4.)

Election of two trustees, to serve on board of trustees of sanitary district, by city council of city of St. Paul, is governed by this act. State v. May, 190M336, 251NW529. See Dun. Dig. 4149.

1607-12. Election of first board.—The first board of trustees so selected shall serve as follows: The member elected by each city council who shall not

hold public office other than that of notary public, for a term of four years, the member elected by each city council from its members, for a term of two years, and the member appointed by the Governor, for a term of four years. The mayor or the person appointed by the mayor shall serve for the term of office of the mayor, except that the mayor may, in the event said mayor shall appoint some member of the governing body to serve upon the board, terminate that person's membership as trustee at his will. Each of said periods of time is to be computed from the first Tuesday in July of the year in which the appointments are made, and each of said terms is to end on the first Monday in July. Thereafter the terms of all trustees shall begin on a first Monday of July and shall be for four years except as herein otherwise provided. Each trustee shall serve until his successor is duly appointed and qualified. The term of a trustee shall terminate when for any reason he ceases to hold the city office to which he was elected. A vacancy in the office of trustee occurring from any cause shall be filled for the unexpired term as herein provided; a successor to a trustee, whether to fill a vacancy or in succession to a trustee whose term has expired, shall be appointed in the same manner as is provided for an original appointment.

Each appointee before entering upon the duties of his office shall take and subscribe the oath of office prescribed by Section 8, Article 5 of the Constitution. Such oath duly certified by the official administering the same shall, in the case of first Board of Trustees appointed, be filed with the Secretary of State. After the Sanitary District has been organized the oaths of office of trustees shall be filed with the Secretary of said Sanitary District.

The removal of any trustee from the county in which he resided at the time of his selection shall operate as a resignation of his office. Any trustee may be removed from office by the Governor for misfeasance, malfeasance or nonfeasance in the manner provided for by the laws of the state for removal of state officers. No trustee or person holding appointment under such board shall be interested directly or indirectly in any contract entered into under the provisions of this act. Each trustee shall be reimbursed the actual and necessary expense incurred by him in the performance of his duty. No trustee shall receive compensation for his services, except that the trustee selected by the Governor shall receive the sum of \$1,000.00 per year and each trustee selected by the councils or other governing bodies of said cities of the first class and not holding public office other than that of notary public shall receive the sum of \$10.00 per diem or part thereof spent in attending meetings of the board, but such trustee shall not receive more than the sum of \$600.00 in any one year. (Act Apr. 19, 1933, c. 341, §5.)

1607-13. Shall adopt official name.—Immediately after the trustees shall organize, they shall adopt an official name for said Sanitary District. The names of the cities of the first class comprising said district shall be a part of the name of said district. Such sanitary district from the time said official name is adopted shall constitute a body corporate, and may sue and be sued, enter into contracts, adopt a common seal, and acquire and hold real and personal property for its corporate purposes. Said sanitary district shall not be subject to the provisions of Laws of 1925, Chapter 426, or Acts amendatory thereof or supplemental thereto. (Act Apr. 19, 1933, c. 341, §6.)

1607-14. Quorums—meetings—officers and employees.—Four-sevenths of the members of the board of trustees shall constitute a quorum for the transaction of business and an affirmative vote of four-sevenths of the entire membership of the board shall be required for the passage of any measure, except

as otherwise provided herein. As soon as the trustees first appointed enter upon the duties of their office, they shall organize by electing one of their members chairman, who shall hold office at the pleasure of the trustees. The trustees shall have power to appoint a secretary, a chief engineer, consulting engineers and other consultants, attorneys, and such other officers, agents and employes as they may see fit; provided, however, that whenever the board of trustees performs any work within the limits of a city of the first class or establishes a minimum wage for skilled and/or unskilled labor in the specifications of any contract for work within a city of the first class, the rate of pay to such skilled and unskilled labor shall be the prevailing rate of wage for such labor in such city. The State Treasurer shall be Treasurer of such District. The officers, agents and employes shall perform such duties and receive such compensation as the Board of Trustees may determine, and shall be removable at the pleasure of the Board. (Act Apr. 19, 1933, c. 341, §7.)

Employees of Minneapolis-St. Paul Sanitary District are state employes. Op. Atty. Gen., Feb. 5, 1934.

1607-15. Board of trustees to adopt rules.—The Board of Trustees may from time to time make, adopt, and enforce such rules, regulations and ordinances as it may find expedient or necessary for carrying into effect the purposes of this Act, and fix penalties for violation thereof, not exceeding for each offense 90 days imprisonment in jail or workhouse, or a fine not exceeding one hundred dollars, with imprisonment not exceeding 90 days if the fine be not paid. Prosecution may be in any municipal court sitting within the District. Every sheriff, constable, policeman and other peace officer shall see that all such rules, regulations and ordinances are obeyed, and shall arrest and prosecute offenders. All fines collected shall be paid into the treasury of the city or county from which the arresting officer draws his salary; and all persons committed shall be received into any penal institution within the District at the expense of the District Courts and all persons shall take notice of such rules, regulations and ordinances without pleading or proof of the same. The Board of Trustees shall also have power to adopt orders, resolutions, rules and regulations for the proper management and conduct of the business of said sanitary district for carrying into effect the objects for which such sanitary district is formed. All sessions or meetings of the trustees shall be public and all records shall be public records. The Board of Trustees shall prepare annually a comprehensive report of its official and financial transactions and shall mail a copy of such statement to the Governor of the State, the State Board of Health, and the governing body of each city of the first class included within such sanitary district. (Act Apr. 19, 1933, c. 341, §8.)

1607-16. Powers of sanitary district.—The sanitary district, in addition to the other powers vested in it, is empowered:

(a) To regulate and control the discharge of so-called factory or industrial wastes into the jointly used sewers or works of said sanitary district.

(b) To enter into contracts with the industry or industries producing wastes for the purpose of determining the amount of treatment that such industry or industries shall give the wastes at the point of origin, and to enter into contracts with such industry or industries providing for charge to be made annually or otherwise for the treatment which may be given such wastes at the works of the sanitary district.

(c) To require any occupant of any industrial premises inside or outside of the boundaries of any established municipality within the area of said sanitary district engaged in discharging factory or industrial wastes directly or indirectly into any river, canal, ditch or other waterway within the boundaries

of said sanitary district to discontinue such discharge or construct new sewage disposal plants or to so change or rebuild any outlet, drain or sewer as to discharge said factory or industrial waste into sewers of such municipality or into such intercepting sewers as may be established by said sanitary district under such regulations as said sanitary district may determine.

(d) To make, promulgate and enforce such reasonable rules and regulations for the supervision, protection, management and use of any system of jointly used intercepting sewers and treatment and disposal works as it may deem expedient, and such regulations shall prescribe the manner in which connections to the jointly used intercepting sewers shall be made, and may prohibit discharge into said sewers of any liquid, or solid waste deemed detrimental to the sewerage system or treatment and disposal works of said sanitary district.

(e) The Board of Trustees and the governing body of any municipality or territory adjacent to the sanitary district may by agreement provide for the treatment and disposal of the sewage of such municipality or territory at the sewage treatment and disposal works of said district; provided, however, that in the event said Board of Trustees has undertaken or shall undertake, by contract or otherwise, to convey, treat and dispose of the sewage of territory or municipality not included within the boundaries of such district, such territory or municipality shall pay the entire cost of any sewage collection, treatment and disposal works used exclusively by it and of such additional capacity of joint intercepting sewers and treatment and disposal works as may be necessary for, and the cost of operation, maintenance and repair incurred in the conveying, pumping, treatment and disposal of sewage from, such territory not included within the boundaries of such district, such additional cost to be determined by the Board of Trustees. Like agreements may be made by the Board of Trustees with the United States Government, the State of Minnesota and with person, firms, institutions, or corporations having plants or industries located adjacent to said sanitary district. The reasonableness of any rule and the factual determinations of the Board of Trustees may be reviewed by the district court on application of any municipality or person or corporation aggrieved in the district. (Act Apr. 19, 1933, c. 341, §9.)

Metropolitan drainage commission may not buy public liability insurance but may buy workmen's compensation insurance. Op. Atty. Gen., May 24, 1933.

1607-17. Objects and purposes.—The general purpose and object of any sanitary district organized under this Act shall be to promote the public health and welfare by providing an adequate and efficient system and means of collecting, conveying, pumping, treatment and disposal of all domestic sewage, commercial and industrial wastes and their products within its own territory, so that the pollution resulting from the discharge thereof into any water course within the sanitary district shall be so reduced that such river, stream or water course shall cease to be, and shall not become a nuisance, or offensive, or injurious to the health and well-being of the people of the State. To accomplish such purpose and end, the Board of Trustees of any sanitary district organized under this Act shall have power within or without the territorial boundaries of the district to construct, operate, maintain and reconstruct a sewage disposal system or systems and to obtain sites for, to lay out, establish, construct, operate and maintain, and may provide for the laying out, establishing, constructing, operating and maintaining of channels, drains, ditches, intercepting sewers, sewage treatment and disposal plants and works, pumping stations and other works necessary thereto and outlets for carrying off, treating and disposing of the drainage and

sewage of such district; provided, that no site within or without the territorial limits of any municipality included in such sanitary district shall be acquired or used for any sewage treatment or sludge handling or disposal works or that any such treatment or sludge handling or disposal works be located, maintained or operated upon such site except with the approval and consent of five-sevenths of the entire Board of Trustees expressed by resolutions to such effect.

For the purpose of this Act, an intercepting sewer and appurtenances thereto shall be considered as only such sewer, and appurtenances thereto that are not now or will not be required by any municipality within the sanitary district, if said municipalities continued to dispose of their sewage and industrial waste by discharging said sewage and industrial waste without treatment into a common natural water course. (Act Apr. 19, 1933, c. 341, §10.)

Sewage disposal plant is to be approved by state board of health. Op. Atty. Gen. (225m), June 1, 1936.

1607-18. Board of trustees to adopt comprehensive plan.—Before undertaking the construction or operation of any system of sewage disposal for the district including intercepting sewers, pumping stations, treatment works, and appurtenances, it shall be the duty of the Board of Trustees of such sanitary district to adopt a comprehensive plan and program of procedure and work, for the collection, treatment, and disposal of sewage and waste materials of said sanitary district, and the same may be modified from time to time, with necessary maps, plats, surveys, and estimates of probable cost of such system for the entire district based upon the probable needs and requirements of the district and of any adjacent territory likely to be annexed to such district, down to such time in the future as to the trustees shall seem most efficient and economical as well as proper and reasonable.

Notwithstanding any other provisions of this Act to the contrary or otherwise, any city included within any such sanitary district shall, after the Board of Trustees has adopted a comprehensive plan and program of procedure and work for the collection, treatment, and disposal of sewage and waste materials for the said Sanitary District, at its own cost and expense, and in accordance with such the comprehensive plan and program of procedure and work originally adopted or subsequently modified by the Board of Trustees, make provision for and construct and erect and maintain any and all drains, sewers, intercepting sewers and other structures necessary for and constituting, or to constitute, any portion or portions of such sewage disposal system situated within or without the corporate limits of such city and used solely by such city for the conveying of its sewage and other industrial waste and the sewage and industrial waste of territory served by such city; provided, that if any such city shall fail within six months after demand therefor by the Board to begin construction by said city of such portions of the sewage disposal system situated within the corporate limits of the city and to be used solely for the conveying of such sewage and industrial waste, or shall fail to complete such construction within a reasonable time thereafter, then the Board shall have full power and authority to undertake and complete such part of the sewage disposal system as provided by Sections 10 to 13 herein and, to provide the funds for such construction shall, subject to the provisions of Section 17 hereof, have authority to levy upon the taxable property within said city such annual taxes as may be required, said levy to be certified to the county auditor, as provided in Section 17 hereof.

No taxes shall be levied upon the taxable property in such city, and no bonds or indebtedness of such city shall be sold or incurred in any manner whatever by or on behalf of any such sanitary district to defray

the cost of like drains, sewers, intercepting sewers or structures constructed within or without the limits of, and used or to be used, solely by any other city or municipality or district within such sanitary district, and nothing contained in the provisions of any local charter or general or special law shall limit or curtail the power of any city to issue bonds to meet the cost of the construction authorized by this section, and the amount of bonds issued and sold for such purposes shall not be included in computing the net indebtedness of such city under the provisions of any local charter or general law (Act Apr. 19, 1933, c. 341, §11.)

1607-19. Cities may construct own sewers, etc.—When any city located within said sanitary district as established shall determine to erect and construct at its own cost and expense those drains, sewers, intercepting sewers, pumping stations, and other structures to be used exclusively by such city and territory served by such city, as set out in Section 11, said intention shall be expressed by a resolution adopted by a majority vote of the members elect of its governing body, and thereafter such municipality may, notwithstanding any provision to the contrary included within the charter of such city, or any general law of the State of Minnesota, issue and sell its bonds for the cost thereof, subject to the limitations of Section 17, without a vote upon said question by the electors of such city. All bonds issued under the provisions of this section shall be payable serially in annual installments as determined by the governing body of the city, the first thereof to become due and payable in not more than three years from the date of such obligations, and the last installment thereof to become due and payable not more than thirty years from their date. No annual maturing installment of principal of any issue of such obligations shall be more than two and one-half times the amount of the smallest installment thereof maturing in any one year. (Act Apr. 19, 1933, c. 341, §12.)

1607-20. May enter land for purposes of surveys and construction.—Such sanitary district may, through its officers, agents and employes, enter upon land within or without the territorial limits of such district for the purpose of making surveys and examinations whenever the Board of Trustees shall deem it necessary or expedient in connection with the performance of its duties or functions. Such sanitary district may likewise enter upon any state, county, town or municipal park, street, road, alley or any public highway within or without its territorial limits, whenever it shall be reasonably necessary or expedient for the purpose of constructing, maintaining or operating its sewage disposal system; and it may lay out and construct in any such park, street, road, alley or public highway, main and intercepting sewers and necessary appurtenances and connections thereto and connect thereto any sewer, drain, or outlet now in place or thereafter constructed by any municipality within the territorial limits of such sanitary district. Before proceeding with any such work, it shall notify in writing the public body or authority having charge or control of such park, street, road, alley, public highway, sewer, drain or outlet, and no permit or payment of fee or charge shall be required. Such sanitary district shall proceed with all due diligence with its work, and after completing the same it shall restore at its own expense such park, street, road, alley or public highway, and the public structures which may occupy such park, street, road, alley, or public highway, such as water mains, water connections and appurtenances, sewers, manholes, catchbasins and sewer connections, ornamental light poles and cables, and the property of municipal or public utility companies as gas mains and appurtenances, electric light and power cables or ducts, telephone cables or ducts, to as good condition

as is reasonably possible as it or they existed before the commencement of said work.

Such sanitary district shall have power to lay out, construct, operate and maintain, without compensation to the State or to any of its subdivisions, any part of said system of channels, drains, ditches, sewers and outlets, or any other of its works over, upon or under any part of any river or stream flowing through or adjacent to any part of its territorial limits over, upon or under any land covered by any navigable waters of the State, which is owned or held by the State or any of its subdivisions, and over, upon and under canals and waterways, and under right-of-ways of railroads, interurban and street railways and other public utility companies. All persons, firms, trustees, and corporations having buildings, structures, works, conduits, mains, pipes, tracks, poles, wires, cables or other physical obstructions in, over or under the public lands, streets, roads, alleys or highways of said cities, towns or municipalities either within or without the territorial limits of such sanitary districts which interfere with the construction of such system of sewers, channels, drains, ditches, outlets and sewage treatment and disposal works, pumping stations and other works, when in process of construction or repair, shall upon reasonable notice given to them by the sanitary district, promptly shift, adjust, accommodate or remove the same at the cost and expense of said sanitary district, so as to comply reasonably with the needs and requirements of such sanitary district.

All contractor's bonds covering work to be done within the limits of any municipality within the district shall contain provisions indemnifying such city for loss, damage or injury to streets and public works or property resulting from such construction work, and saving the city or municipality harmless therefrom, and the Board of Trustees shall defend and save harmless such city in any action brought against said municipality for loss, injury or damage arising out of such construction. (Act Apr. 19, 1933, c. 341, §13.)

1607-21. May acquire lands, etc.—The trustees may from time to time acquire in the name of the district by purchase, deed, grant, lease, devise or condemnation every such right, title and easement in land within and/or without its corporate limits as it may deem expedient, at a cost per acre not to exceed twice the average yearly true and full value of such land as designated upon the tax rolls for a five year period preceding the year 1935 except by condemnation in a court of competent jurisdiction, including among others the right and easement to construct and maintain underground conduits with or without disturbance of the surface. It may sell and convey land found unnecessary for its purpose, provided, however, that no sale of land be made by said board of trustees without first obtaining an order from the District Court of the district in which such land is situated authorizing said sale, which order shall be filed with the secretary of said district, and the Clerk of said District Court.

Land, or any right, interest, estate or easement therein, may be acquired by the exercise of the right of eminent domain in the manner prescribed by Mason's Minnesota Statutes of 1927 as amended, Sections 1552 to 1556 inclusive, but without any assessment of benefits. All awards not set aside as therein provided shall be a charge upon the district for which its credit shall be pledged. The duties specified to be performed in said sections by the city council, the city clerk and the city engineer, respectively, shall be performed by the trustees, the secretary and the chief engineer of the district. Appeals to the district court shall be taken to the district court of the county in which the land lies. The notices required to be published shall be published in every case in a newspaper of general circula-

tion published in the county or counties wherein the land lies. All reports and papers required by said sections to be filed with the city clerk shall be filed with the secretary of the district. Unless a lesser estate be designated, an absolute estate in fee simple, unqualified in any way whatsoever, shall vest in the district in every case of taking by the exercise of the power of eminent domain, and such estate shall not be limited or qualified in any way by construction. (Act Apr. 19, 1933, c. 341, §14; Feb. 5, 1935, c. 3; Feb. 8, 1935, c. 7.)

Section 6552, Mason's Minn. Stat. 1927, which creates a cause of action in favor of a landowner for his expenses incurred in a condemnation proceeding under Chapter 41 of those statutes, does not apply to expenses incurred under the provisions of §1552 et seq. *Barmel v. M., 201M 622, 277NW298.* See Dun. Dig. 3121.

Sanitary district in conducting a condemnation proceeding does so as an arm of state in discharge of a sovereign legislative function, and is not liable in tort for alleged malicious prosecution of such proceeding. *Id.* See Dun. Dig. 3122.

Just compensation is market value at time of taking contemporaneously paid in money, to be arrived at upon just consideration of all uses for which land is suitable; and highest and most profitable use for which property is adaptable and needed, or likely to be needed, in reasonably near future, is to be considered to extent that prospects of demand for such use affect market value while property is privately held, but that value does not include any element resulting subsequently to or because of taking. *Minneapolis-St. Paul Sanitary Dist. v. P., 201M442, 277NW394.* See Dun. Dig. 3054.

1607-22. Construction work to be done by contract.—All construction work and every purchase of equipment, supplies or materials necessary in carrying out the purposes of this Act, that shall involve the expenditure of \$1,000.00, or more, shall be awarded by contract as hereinafter provided. Before receiving bids under the provisions of this Act the Board of Trustees shall publish, once a week for two consecutive weeks in the official newspaper of each city in said sanitary district a notice that bids will be received for such construction work, and/or such purchase of equipment, supplies or materials, stating the nature of the work, and the terms and conditions upon which the contract is to be let, naming therein a time and place where such bids will be received, opened and read publicly, which time shall be not less than seven days after the date of the last publication. After such bids have been duly received, opened and read publicly and recorded, the Board of Trustees, shall award such contract to the lowest responsible bidder, the Board of Trustees reserving the right, however, to reject any or all bids, each such contract to be duly executed in writing and the person to whom said contract is awarded shall give sufficient bond to the Board for its faithful performance. If no satisfactory bid is received the Board may re-advertise or, by an affirmative vote of five-sevenths of its members, may authorize such sanitary district to perform any part or parts of any construction work by day labor under such conditions as it may prescribe. The Board of Trustees shall have the right to set up reasonable qualifications to determine the fitness and responsibility of bidders, and to require bidders to meet such qualifications before bids are accepted by the trustees. If the Board of Trustees by an affirmative vote of five-sevenths of its members shall declare that an emergency exists requiring the immediate purchase of any equipment or material or supplies at a cost in excess of \$1,000.00, but not exceeding \$5,000.00 in amount, or making of emergency repairs, it shall not be necessary to advertise for bids, but such material, equipment or supplies may be purchased in the open market at the lowest price obtainable, or such emergency repairs may be contracted for or performed without securing formal competitive bids. An emergency, as considered in this Act, shall be understood to be unforeseen circumstances or conditions which result in the placing in jeopardy or human life or property.

In all contracts involving the employment of labor, the Board of Trustees shall stipulate and embody in

the terms thereof such conditions as it deems reasonable, as to the hours of labor, wages and may stipulate as to the residence of workmen to be employed by the contractors.

Bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of Mason's Minnesota Statutes of 1927, Section 9700 to 9705 inclusive. (Act Apr. 19, 1933, c. 341, §15.)

1607-23. May contract with adjacent municipalities.

—Any city of the first class comprising said Sanitary District, may contract with any of its adjacent municipalities, villages, governmental functions, institutions, persons, or firms, for the conveying, treatment and disposal of their sewage and industrial waste. (Act Apr. 19, 1933, c. 341, §16.)

Village of Edina may pay for cost of general sewage out of general fund, and may enter into contract with City of Minneapolis providing for disposal of sewage of village. Op. Atty. Gen., (387g), Oct. 14, 1938.

Section permits villages to contract with cities as well as cities with villages. Op. Atty. Gen. (387g-9), August 8, 1938.

Contracting parties may by mutual consent modify terms of contract, making provision for any vested rights which may have accrued. Id.

Village of Edina creating a joint sewer district and constructing a sewer main to connect its system with a Minneapolis trunk sewer, outlet for which is the Metropolitan Sewage Disposal Plant, may levy an assessment against benefited property under §1885. Op. Atty. Gen., (387g-1), August 21, 1939.

1607-24. Financing of project. (a) Preliminary

annual tax based on assessed valuation—Service to outlying territory—Allocation to cities after preliminary period—Untreated sewage—Unmeasured sewage.—Except as herein otherwise provided, all costs of operation, maintenance and repair of joint or common sewers, and of all treatment and disposal works and appurtenances thereto for a period of ten years from and after commencement of construction of said disposal system, and all costs of land and right-of-way, construction or joint or common sewers, and of all treatment and disposal works and appurtenances thereto shall be a uniform charge upon the entire district, on the basis of assessed valuation exclusive of money and credits to be paid by a uniform annual tax upon the property of such district; provided, however, that in the event any such city of the first class has undertaken or shall undertake, by contract or otherwise, to convey, treat and dispose of the sewage of territory not included within the boundaries of such district, such city shall pay the entire cost of such additional capacity of joint intercepting sewers and treatment and disposal works as may be necessary for, and the cost of operation, maintenance and repair incurred in the conveying, pumping, treatment and disposal of sewage from such territory not included within the boundaries of such city, such additional cost to be determined by the Board of Trustees, and included in such city's proportion of the budget, as provided herein. From and after the ten year period from the commencement of construction, the costs of operation, maintenance and repair of joint and common sewers, and of all treatment and disposal works and appurtenances thereto shall be allocated in proper proportion to each city within the sanitary district, upon the basis of the total annual volume of sewage contributed by each city as the same shall be measured or estimated and each such city shall pay such share of the total cost thereof as the volume of sewage contributed by said city and the territory served by such city under contract or otherwise bears to the total volume of sewage. In such estimate of the costs to be borne by each city, there shall be taken into account not only the sewage and wastes of each such city that are intercepted and treated, but an estimate shall be made of the sewage wastes of each city which enter or are discharged directly or indirectly into any stream or water course flowing through or adjacent to such district or any

part thereof, and such untreated sewage and wastes shall be considered as contributed by such city. Provided that the board of trustees shall make such allowance for infiltration, conveyance, losses, leakage, etc., into or out of the joint or common intercepting sewers after the point of measurement by any city of the first class, as it may deem just and equitable.

(b) Budget for preliminary construction cost—Bonds—Objections to budget—Tax levy—Bond sales—System of rental charges.—The board of trustees

when and as soon as the same shall be organized, in order to provide funds to carry out the purpose of this act and for the expense and disbursement of such Sanitary District for the period before any tax moneys shall become available, shall prepare a detailed budget of its needs and certify the same to the governing bodies of the respective cities which governing bodies shall review said budget, and the board of trustees, upon notice from any such city of the first class, shall hear objections to said budget and may after such hearing modify or amend the budget, and shall give due notice to the cities of the first class of such modification or amendment, and thereupon said governing bodies shall issue and sell bonds in the amount of said budget, as herein provided, and pay the proceeds of such bond sale into the treasury of said district. Thereafter the board of trustees shall, on or before the first day of July of each year, prepare a detailed budget of its needs for the next calendar year, specifying separately in said budget the amounts to be expended for construction, operation and maintenance respectively, and shall certify the same on said date to the governing body of each city of the first class within said sanitary district, together with a statement of the proportion of said budget to be provided by each such city as herein provided. The governing body of each such city of the first class shall review said budget, and the board of trustees, upon notice from any such city of the first class, shall hear objections to said budget and may after such hearing modify or amend the budget, and shall give due notice to the cities of the first class of such modification or amendment. It shall be the duty of the governing body of each city of the first class within the district to provide the funds necessary to meet its proportion of the total cost for construction, operation and maintenance as finally certified by the board of trustees, such funds to be raised by the tax levies, bond sales or by any other means within the authority of said cities of the first class, and to pay the same into the treasury of said district in such amounts and at such times as the treasurer of said district may require, and said city is hereby authorized to issue and sell such bonds as may be necessary to meet its obligations under this section, irrespective of any limitation in any home-rule charter or special or general law, without a vote upon said question by the electors of said city, and bonds so determined to be issued and sold shall be issued and sold in the manner provided by Section 12; but for the purpose of providing all or a part of the funds necessary for the current operating and maintenance charges of said sewage disposal system and to pay the interest and principal of any bonds issued or indebtedness incurred for the construction of said system, the board of trustees, as soon as the sewage disposal system shall come into operation, shall adopt a resolution, uniform in its application to all cities of the first class within the sanitary district, establishing reasonable rental charges and providing for the collection of the same by the respective cities from the owners or occupants of the property, which is served directly or indirectly by the system. For the purpose of making such rental charges equitable the board of trustees may classify the property benefited thereby, taking into consideration the volume and character of the sewage and wastes, and the nature of the use made of such facilities. Such rental may be based upon either the

metered consumption of water on the premises connected with the sewer system, making due allowance for the commercial use of water and for the use of water from private sources of supply; or the number and kind of plumbing fixtures connected with the sewer system; or said rental charges may be determined by the board of trustees upon a combination of such methods, or upon any other equitable basis.

(c) **Resolution by trustees for collection of rentals—Lien—Priority.**—The board of trustees of said sanitary district shall, in its resolution, provide for the billing and collecting of sewer rentals from all persons and corporations whose premises are served directly or indirectly by its sewage disposal system, including premises which derive their water supply in whole or in part from sources independent of the city or public water department. Upon the adoption of the terms of this resolution by [sic] governing body of such city of the first class all such sewer rentals shall constitute a lien upon the real property served by the sewage disposal system, and such lien shall be prior and superior to every other lien or claim, except the lien of an existing tax or local assessment.

(d) **Same—Objections—Adoption by cities.**—A copy of this resolution shall be transmitted to the governing body of each city of the first class within the sanitary district. Upon notice from any such city of the first class the board of trustees shall hear objections to said resolution and may after such hearing amend or modify such resolution. The governing body of any such city of the first class may then by ordinance adopt such resolution providing for the establishing and collection of such rentals from the respective owners or occupants of property, provided that any such city may raise such portion of its required funds from such rental charges as its governing body may determine.

(e) **Cities to determine basis of rentals—Collection by water department—Fund—Disbursement.**—In the event the governing body of any city of the first class shall by ordinance adopt the method prescribed [sic] by this resolution of the board of trustees the governing body of such city shall on or prior to August first of each year, by resolution determine the basis of rental to be charged property within said city served either directly or indirectly by the sewage disposal system and shall transmit forthwith a copy of said resolution to the water department of said city, and it shall be the duty of such water department to add such charges to the next water bills rendered to the owners, lessees, or occupants of property for water service and to render bills to owners or occupants of property for water service and to render bills to owners or occupants of property using private sources of supply. The sewer rentals may be charged and collected in two equal semi-annual installments. Said amounts so charged except against owners or occupants of property using private sources of supply, shall be collected in connection and in addition to the water charge for water service; and no part of the charge for water service shall be accepted without including therewith the sewer rental charge. The funds received from the collection of sewer rentals shall be kept by the comptroller or proper official of such city of the first class, as a separate and distinct fund, and shall be known as the sewer rental fund. This fund shall be used by any such city of the first class for the payment of its portion of the cost of operation and maintenance of the sanitary district system, as hereinbefore described, and for the payment of the interest on any debt incurred for the construction of such sewage disposal system and for retiring such debt, and shall not be used for the extension of a sewage system to serve unsewered areas or for any purpose other than one or more of those specified above.

(f) **Failure of cities to provide funds—County auditor to spread tax—Collection.**—If any such city of the first class shall fail to take the necessary action

to provide the funds required by the board of trustees as hereinabove provided, the board of trustees shall, subject to the limitations herein on or before October 10th of each calendar year, certify to the county auditor of the county in which such city so failing to comply shall be located the amount determined by the board of trustees to be raised by said city for operation and maintenance, and the county auditor shall extend, spread and include the same with and as a part of the general taxes for state, county and municipal purposes, to be collected and enforced therewith, together with penalties and interest and costs, and the county treasurer, upon the collection of the same, shall transfer the same to the treasurer of the sanitary district.

(g) **Same—Trustees may issue bonds—Liability of defaulting city.**—Whenever any such city shall fail to provide the funds required by the board of trustees as hereinbefore provided, for construction purposes, the board of trustees shall adopt a resolution setting forth the particular construction purposes for which it deems it necessary for said city to provide funds, the amount of money required for such purposes and that said city is [sic] default for failure to provide said funds. A copy of said resolution shall be served upon said defaulting city by delivering a copy to the mayor or to the governing body. If after 30 days after the service of said resolution, said defaulting city fails to provide such funds in such amount equal to said default as set forth in said resolution, such sanitary district through its board of trustees by a five-sevenths vote of the board, shall have power to incur indebtedness in the amount set forth in the resolution and may issue bonds therefor. The bonds issued by said sanitary district pursuant hereto shall bear interest at a rate not exceeding five per cent per annum, payable semi-annually, shall be of such date, denominations, form and place of payment, and shall be executed as determined by the board of trustees issuing them, shall be secured by pledge of the full faith, credit and resources of the defaulting municipality, shall comply with the provisions of Mason's Minnesota Statutes 1927, Section 1938-5, as to the maturity thereof, and such bonds shall be paid from tax levies made in conformity with Mason's Minnesota Statutes 1927, Sections 1938-7 and 1938-10, and such bonds shall be sold in the manner prescribed by Mason's Minnesota Statutes 1927, Section 1943. Said sanitary district each year in addition to any other taxes authorized to be levied for it under this Act shall have power to cause to be levied a sufficient tax on the taxable property of such defaulting city to pay the interest and several installments of the principal of said bonds as they shall become due.

(h) **Payment by city—Effect—Erroneous estimates—Bonds—Tax levy.**—Whenever any such city of the first class within the said district shall have made the payments provided herein, such payment shall fully acquit and discharge such city and all the taxable property therein from all further liability or duty to pay for the work or improvements or portion thereof contemplated to be made or the indebtedness incurred, and for which such charge has been so allocated to such city; provided, however that if such allocation be based upon a preliminary estimate and the actual cost of such work or improvement, or portion thereof, shall thereafter be found to exceed the amount so allocated and charged to such city, such excess shall be charged to and paid by such city or by the taxable property therein as hereinbefore provided, and if upon completion of the work or improvement, or portion thereof, the cost of which has been so allocated and charged, it be found that the sum so paid by such city from the proceeds of a bond issue is excessive, such excess shall be returned to such city and shall be placed in the sinking fund of such bond issue, and shall be used solely for the purpose of paying the principal and interest of such bonds issued hereunder by such city. The bonds issued by

any municipality pursuant hereto shall bear interest at a rate not exceeding five per cent per annum, payable semi-annually, shall be of such date, denominations, form and place of payment, and shall be executed as determined by the governing body of the corporation issuing them, shall be secured by pledge of the full faith, credit and resources of the municipality, shall comply with the provisions of Mason's Minnesota Statutes 1927, Section 1938-5, as to the maturity thereof, and such bonds shall be paid from tax levies made in conformity with Mason's Minnesota Statutes 1927, Sections 1938-7 and 1938-10, and such bonds shall be sold in the manner prescribed by Mason's Minnesota Statutes 1927, Section 1943.

(i) **Limitation of indebtedness and tax levies.**—The total aggregate indebtedness for all purposes under this act shall not exceed three and one-half per cent of the assessed valuation of the taxable real and personal property within said district, excluding money and credits, and the taxes levied against the property of any municipality in any one year shall not exceed two mills upon the assessed valuation thereof, exclusive of the taxes it may be necessary to levy to pay the principal or interest on any bonds or indebtedness of said municipality issued or incurred under the provisions of this Act.

(j) **Same—Inconsistent laws inapplicable.**—No provisions of any existing law or special or home-rule charter under which any such municipality may be acting shall be deemed or construed to impair, curtail or limit in amount, form or manner the power to issue such bonds pursuant to this act, and the bonds issued by any municipality pursuant to this act shall not be included in computing the net indebtedness of such municipality under any applicable law or charter. (Act Apr. 19, 1933, c. 341, §17; July 14, 1937, Sp. Ses., c. 29, §1; Apr. 12, 1939, c. 202.)

Act July 14, 1937, Sp. Ses., cited, amends only the fourth paragraph of this section.

1607-25. Municipality may levy special assessment.—Any municipality within or without the district whose sewage or industrial waste is discharged by contract or otherwise into the sewage disposal system of said sanitary district, shall have authority to levy special assessments upon any property within said municipality, not subject to real estate taxes, which is benefited by the sewage disposal system located therein. Said special assessments may be levied and collected in the same manner as other special assessments for local improvements authorized by local charters, or general laws. (Act Apr. 19, 1933, c. 341, §18.)

1607-26. Contiguous municipalities shall treat sewage.—Within one year after any such sanitary district shall begin treating sewage and industrial waste, any municipality contiguous thereto that is grossly polluting a watercourse common to such district and such municipality, shall treat its sewage to the same degree and extent as does such sanitary district, and the State Board of Health is hereby authorized, empowered and directed to establish such rules and regulations as will make this requirement effective. Whenever any such municipality shall determine or be directed to erect and construct at its own cost and expense the drains, sewers, intercepting sewers, pumping stations, treatment plant, and other structures to be used by it, said intention shall be expressed by a resolution adopted by a majority vote of the members elect of its governing body, and thereafter such municipality may, notwithstanding any provision to the contrary included within the charter of such municipality or any general law of the State of Minnesota, issue and sell its bonds for the cost thereof without a vote upon said question by the electors of said municipality and outside of any limitation established upon the amount of bonds that may be issued by such municipality. Such bonds shall be issued and sold in the same manner and

under the same conditions as any other bonds that may be issued and sold by such municipality. It is further provided that the cost of such construction may be paid in whole or in part out of tax levies and the cost of operation and maintenance shall be met out of annual tax levies and such levies for such purposes may be over and above any limitation now established in any general law of the State of Minnesota or by the charter of such municipality. (Act Apr. 19, 1933, c. 341, §18a.)

Sewage into river by contiguous municipality must be treated so that effluent will be equivalent to that of sanitary district. Op. Atty. Gen. (387a-3), Aug. 23, 1937.

City may issue bonds without vote of electors notwithstanding provisions of city charter. Op. Atty. Gen. (387b-2), Sept. 6, 1938.

Bonds or certificates of indebtedness may be issued payable out of earnings of sewage plant less cost of operation, replacements, and reserve for depreciation. Id.

Soldiers' Home is a state agency which is subject to rules and regulations of state board of health in so far as its disposal of sewage is concerned. Op. Atty. Gen. (387G-9), May 9, 1939.

Minnesota River into which cities of Chaska and Shakopee discharge their sewage is a water course common to said sanitary district. Id.

Village of Newport is contiguous to sanitary district, but cities of Anoka, Chaska and Shakopee are not contiguous. Id.

1607-27. Law repealed.—Laws 1927, Chapter 181, is hereby repealed. The proceeds of any taxes heretofore levied by any city of the first class for any metropolitan drainage commission created under said Act whose territorial limits are included within any regular sanitary district that may be organized under this Act, whether the funds are in the hands of the State Treasurer or in the process of collection, shall, as soon as the funds are available therefrom, be duly transmitted and paid over by the State Treasurer or by the several city treasurers as the case may be, to the treasurer of such Sanitary District, for credit to the respective cities, when and as soon as the same shall be organized. Such transfer shall be made upon the written request of such sanitary district by a resolution adopted by its trustees, certified copies of which shall be presented, one to the State Treasurer and one to each of the city comptrollers of said cities. Such sanitary district as may be created under this Act shall likewise succeed to and become vested with title and all right, estate, and interest in and to any property, real or personal, belonging to any metropolitan drainage commission organized under said Chapter 181, whose territorial limits are included within such sanitary district that may hereafter be organized; and the proper officers of such metropolitan drainage commission are hereby authorized and directed forthwith to transfer and deliver to such sanitary district whenever the same shall be organized, any or all property of every nature and description in the possession or control of such metropolitan drainage commission, including all maps, plats, records and reports, and all furniture, laboratory material, fixtures and equipment. Such sanitary district shall likewise assume and be obligated to pay all legal outstanding obligations of such metropolitan drainage commission at the time such transfer of property is made. Any metropolitan drainage commission created and existing under said Chapter 181 shall, however, continue to exist and operate until a sanitary district, that may be organized under this Act shall succeed to all the property rights of such drainage commission as set forth in this section. Said drainage commission shall thereupon cease to exist, and no further taxes for its support shall be levied. (Act Apr. 19, 1933, c. 341, §19.)

1607-28. Appropriation to State Board of Health for expenses.—The sum of \$15,000.00 or so much thereof as may be necessary, is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, to the State Board of Health to defray necessary expenses in the execution of the duties enjoined upon said Board under this Act, provided

however, that upon the establishment of a regular sanitary district under the provisions of this Act, all moneys so paid out of the State Treasury shall be refunded to the State with interest at 4% by such sanitary district and the amount thereof shall be included in the budget costs and collected in the manner provided in Section 17 of this Act. (Act Apr. 19, 1933, c. 341, §20.)

1607-29. Inconsistent acts repealed.—All Acts or parts of Acts inconsistent herewith are hereby repealed; provided, that nothing in this Act contained shall be held or construed to repeal, supersede, or abrogate any of the laws of the State or any present or future regulations or requirements of the State Board of Health, adopted according to law, forbidding any pollution of any waters of the State. (Act Apr. 19, 1933, c. 341, §21.)

Sewage disposal plant is to be approved by state board of health. Op. Atty. Gen. (225m), June 1, 1936.

1607-30. Provisions separable.—If any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate any other part or provision in the remainder of the Act. (Act Apr. 19, 1933, c. 341, §21a.)

Sec. 22 of Act Apr. 19, 1933, cited, provides that the act shall take effect from its passage.

1607-31. Equitable charges for sewage facilities.—Any city of the first class operating under home rule charters, and not embraced within the limits of any sanitary district which is authorized to provide a method or system for establishing and collecting equitable sewage service charges, which has installed and is operating, or which is proceeding to establish and install, a system of sewers, sewage pumping station, or a sewage treatment or disposal plant or plants for public use, in addition to all other powers granted to it shall have authority, by an ordinance duly adopted by the governing body thereof, to charge just and equitable rates, charges or rentals for the use of such facilities and for connections therewith by every person, firm or corporation whose premises are served by such facilities either directly or indirectly. Such charges, shall be, as nearly as reasonably possible equitable and in proportion to the service rendered, and may take into consideration the quantity of sewage produced and its concentration, strength or river, lake, bay or other body of water, pollution qualities in general and the cost of its disposal. The charges may be fixed on the basis of water consumed or on some other basis of measuring the use made of the aforesaid facilities. In case of arrangements with other municipalities, districts or private parties for the supplying of sewers aforesaid, such rates, charges or rentals may also be levied the same as in independent operations. (Dec. 28, 1933, Ex. Sess., c. 30, §1.)

Whether an owner of premises has the same directly connected with sewer main or connects them to sewer main by indirect means such as by easement in other premises that are directly connected, he may be required to pay rental charge. Op. Atty. Gen. (387b-9), Nov. 20, 1934.

This act is constitutional. Id.
City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue bonds to pay cost of completing same payable out of rentals or charges for use of such plants, without an election, and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

1607-32. Same—general sewer fund—disposition.—The moneys received from the rates, charges or rentals as herein authorized shall be kept separate from the general or other revenues of the political subdivision, and when so collected shall be placed in a separate general sewer fund. Also, any moneys received from the sale of any by-products arising out of sewage treatment or disposal shall be credited to this fund. The moneys so received shall be recorded, deposited, secured and paid out as other funds of the political subdivision are; provided, that upon

establishing and fixing the charges aforesaid the receipts therefrom shall be used first to meet the costs of operating and maintaining the said facilities, and any additional sums collected shall be applied to capital charges represented by bonds, certificates of indebtedness, or otherwise, and to the reasonable requirements for replacements and obsolescence. In determining the amount of capital costs to be met, the amount charged to special assessments, and also any amount of such cost properly chargeable to other than sanitary sewers, shall be deducted therefrom; and no such rate, charge or rental shall include any amount therefor or be applied thereto upon their collection. (Dec. 28, 1933, Ex. Sess., c. 30, §2.)

1607-33. Same—Charges as the tax lien on land—delinquent rentals.—The rates, charges or rentals for the aforesaid sewer service shall be a charge against the owner, lessee or occupant of the premises, or against any or all of them; and any such claim for unpaid rates, charges or rentals which have been properly billed to the occupant of the premises may be collected in a civil action in any court of competent jurisdiction, or, in the discretion of the governing body of the municipality, may be certified to the county auditor (or auditors of the counties) with the taxes against such property served and shall be collected as other taxes are collected. Payments of delinquent rentals shall be credited to the same fund as current funds for that purpose are, deducting therefrom any cost of collection accruing to the political subdivision. (Dec. 28, 1933, Ex. Sess., c. 30, §3.)

1607-34. Same—fixing rates—hearing.—Before any rate for the service aforesaid is fixed under authority of this chapter, a public hearing with due posted or published notice thereof shall be held by the governing body at which hearing interested persons shall be given an opportunity to be heard on the question. A similar hearing shall be held before the establishment of any change in such rates, charges or rentals. (Dec. 28, 1933, Ex. Sess., c. 30, §4.)

1614. Height of buildings in cities regulated.—That for the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, any city in the state of Minnesota now or hereafter having 50,000 inhabitants or over, acting by and through the governing body of such city, may by ordinance regulate the location, size and use of buildings, the height of buildings, the arrangement of buildings on lots, and the density of population therein, may make different regulations for different districts thereof, and may acquire or prepare and adopt a comprehensive city plan for such city or any portion thereof for the future physical development and improvement of the city, in accordance with the regulations made as aforesaid, and may thereafter alter said regulations or plan, such alterations, however, to be made only after there shall be filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the real estate affected, and after the affirmative vote in favor thereof by a majority of the members of the governing body of such city; provided, however, that notwithstanding any resolution, ordinance or law conflicting herewith, the governing body of any such city, by an affirmative two-thirds vote in favor thereof, may by resolution grant a permit for the construction of additions, extensions or improvements to any hospital which is being actually operated and maintained on the premises which it occupies on the date of the passage of this act; provided, further, that whenever the city planning commission or board shall make recommendation in writing to the governing body of any such city for altering said regulation or plan, with respect to a more restricted use of any real estate within 1000 feet of a public park, which part contains

not less than 50 acres, located near or adjacent to the waters of a navigable lake, covering an area of not less than 1000 square miles, said governing body, by a two-thirds vote of all its members, may alter said regulation or plan in accordance with said recommendation of the city planning commission or board. (As amended Apr. 17, 1937, c. 239, §1.)

This section is valid. *American Wood Products Co. v. Minneapolis* (DC-Minn), 21F(2d)440, aff'd 35F(2d)657.

Legislative powers with respect to zoning in cities stated. *American Wood Products Co. v. Minneapolis* (DC-Minn), 21F(2d)440, aff'd 35F(2d)657.

The mere fact that a zoning ordinance is harsh and seriously depreciates the value of property is not enough to establish invalidity. *American Wood Products Co. v. Minneapolis* (DC-Minn), 21F(2d)440, aff'd 35F(2d)657.

Ordinance passed under this section creating multiple dwelling district and prohibiting enlargement of factories erected therein, held valid. *American Wood Products Co. v. Minneapolis* (CCA8), 35F(2d)657, aff'g 21F(2d)440.

This act, including the consent clause, does not permit the taking of property without due process of law, and is not an unlawful delegation of legislative power. *Leighton v. C.* (USDC-Minn), 16FSupp101.

Contention that the consent clause deprives city council of power to act except with consent of required number of property owners, held without merit. *Id.*

Owner seeking reclassification of property, and who had been unable to obtain requisite consent of adjoining owners, held entitled to challenge validity of this act. *Id.*

City of Minneapolis had power to fix setback lines in a zoning ordinance. 171M231, 213NW907.

Setback lines in zoning ordinances may cast an uncompensated burden on property, under the police power. 171M231, 213NW907.

Action of city council in vacating a granted permit to erect a building in disregard of a setback line was not arbitrary or unlawful. 171M231, 213NW907.

The building restrictions imposed under the 1916 [§§1618 to 1624] law were not affected by the "zoning laws" of 1921 and 1923 and the ordinances adopted thereunder; such restrictions are in full force and effect. 182M77, 233NW831. See *Dun. Dig.* 6525.

Refusal of building inspector to permit repair of a building, damaged by fire and deterioration to extent of more than 50% of a similar new building, rested upon a sufficient fact basis, as shown by undisputed facts. *Zalk & Josephs Realty Co. v. S.*, 191M60, 253NW8. See *Dun. Dig.* 6525.

Building inspector, an administrative officer, was not required to make findings of fact, where no statute or ordinance so required. If he erred in his opinion or conclusion as to the facts, there was adequate remedy by appeal or other proceeding. *Id.*

Ordinance was not invalid because it authorized building inspector to refuse a permit when, in his "opinion," the building was damaged to the extent stated, instead of using the word "judgment," or the word "conclusion." *Id.*

"Several descriptions of real estate" means several lots as platted. *Op. Atty. Gen.* (59a-32), July 10, 1937.

"Owners" whose consent must be obtained includes federal government, state, city, or other governmental bodies owning property. *Op. Atty. Gen.*, (59a-32), Aug. 25, 1938.

1615. May pass ordinances for enforcement.

171M231, 213NW907, note under §1614, ante.

1617-1. Grant of Power.—In order to provide for the proper and reasonable enforcement of regulations adopted pursuant to Chapter 217, Laws of Minnesota, for 1921 [§§1614-1617] governing the location, size and use of buildings, and to provide for such reasonable determinations of such regulations as will eliminate practical difficulties in the enforcement of such regulations and to provide for such reasonable variations in the terms of such regulations as will eliminate unnecessary hardship in the way of carrying out the strict letter of such regulations, the local governing body is hereby empowered to appoint a board of adjustment. (Act Apr. 24, 1929, c. 340, §1.)

1617-2. Board of adjustment.—Such a local governing body may provide for the appointment of a board of adjustment, and in conformity with the provisions of this act may provide that the said board of adjustment may determine and vary the application of regulations adopted pursuant to the provisions of Chapter 217, Laws of Minnesota for 1921 [§§1614-1617], as amended, in harmony with their general purpose and intent, and the local governing body may provide by ordinance for the enactment of general or

specific rules governing the determination and variation of such regulations.

Where an officially established city planning commission already exists under the city charter it shall be the board of adjustment, otherwise the powers of the board of adjustment shall vest in the governing body who may delegate all or part of such powers to a committee of the governing body. The terms of the members of the board of adjustment shall be concurrent with their terms as members of the governing body or city planning commission. The board shall adopt rules in accordance with the provisions of any ordinances adopted pursuant to this act.

Appeals to the board of adjustment may be taken by any person aggrieved.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, or by agent, or by attorney.

The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this act or of any ordinance adopted pursuant thereto.

2. To hear and decide all matters referred to it or upon which it is required to pass under such ordinance.

3. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

In exercising the above mentioned powers such board may, in conformity with the provisions of this act, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The majority vote of the members of the board shall be sufficient to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. (Act Apr. 24, 1929, c. 340, §2.)

1617-3. Application.—The provisions of this act shall not apply to any city now or hereafter having provided for the establishment of a board of adjustment in conformity with the provisions of the city charter of such city. (Act Apr. 24, 1929, c. 340, §3.)

1618. Restricted residence districts.—Any city of the first class may, through its council, upon petition of fifty (50) per cent of the owners of the real estate in the district sought to be affected, by resolution, designate and establish by proceedings hereunder restricted residence districts and in and by such resolution and proceedings prohibit the erection, alteration, or repair of any building or structure for any one or more of the purposes hereinafter named, and thereafter no building or other structure shall be erected, altered or repaired for any of the purposes, prohibited by such resolution and proceedings, which may prohibit the following, to-wit: hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and launder-

ing establishments, billboards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called, schools, churches, or signs advertising for rent or sale the property only on which they are placed.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder.

The term "Council" in this act shall mean the chief governing body of the city by whatever name called.

Any district or any portion thereof created under the provisions of this act may be vacated and the restrictions thereon removed by the council upon petition of 50 per cent of the owners of the real estate in the original district. A portion of a restricted residence district may be vacated and relieved of the restrictions imposed thereon pursuant to this act by the council upon petition of the owners of the portion of the district sought to be relieved if such portion or lot sought to be relieved does not in any part lie between other portions of such restricted district, or if the portion sought to be relieved abuts upon a public street or alley along one border of such district and extends along said public street or alley the entire distance between cross streets, or if the portion or lot sought to be relieved is contiguous to, along one or both sides, or across a public street along its entire front from a parcel of land which shall be duly zoned under a valid municipal zoning ordinance for commercial, multiple dwelling or industrial purposes. The vacation of such district or portion thereof and the removal of the restrictions therefrom shall be accomplished in the same manner herein provided for the creation of any such district, and in the vacation of any such district or any portion thereof and the removal of such restrictions each and all of the provisions of this act as to allowance of damages and benefits to property affected and as to the appointment of commissioners to appraise such damages and benefits and the duties of such commissioners of the city clerk and of each and all of the other officers upon whom duties are herein imposed shall be complied with, and when such proceedings for the vacation of any such district or portion thereof shall have been completed the property included within such district or portion thereof so vacated shall be deemed relieved of each and all of the restrictions imposed in the proceeding creating such district. In the allowance of damages and benefits to property affected by any proposed vacation, no evidence shall be received, or consideration given to the existence of any other restriction or any restrictive or zoning ordinance, law, or regulation. ('15, c. 128, §1; '23, c. 133, §1; '25, c. 122, §1; Apr. 20, 1931, c. 290, §1.)

21F(2d)440; notes under §614.

The building restrictions imposed under the 1915 law were not affected by the "zoning laws" of 1921 [§§1614 to 1617] and 1923 and the ordinances adopted thereunder; such restrictions are in full force and effect. 182 M77, 233NW831. See Dun. Dig. 6525.

The decision in State ex rel. Twin City Building & Investment Co. v. Houghton, 144M1. 174NW885, 176NW159, 3ALR585, holding Laws of 1915, c. 128, constitutional, is adhered to. State ex rel. Madsen et al. v. Houghton, 182M77, 233NW831. See Dun. Dig. 6525(91).

1619. Council given right of eminent domain.—The council shall first, after causing the probable costs of the proceedings, if abandoned, to be deposited or secured by the petitioners, designate the restricted residence district and shall have power to acquire by eminent domain the right to exercise the powers granted by this act by proceedings hereinafter defined, and when such proceedings shall have

been completed, the right to exercise such powers shall be vested in the city. ('15, c. 128, §2; Apr. 20, 1931, c. 290, §2.)

1620. Appraisal of damage * * *.

Fourth. The city clerk shall, after the first publication of such notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person having an interest as owner or mortgagee in each parcel of land in said district as shown by the records in the office of the register of deeds a copy of said notice by depositing the same in the postoffice of said city, with first class postage prepaid, in an envelope bearing on its front in type no smaller than ten point the words "Notice of Restricted Residence District Proceedings Affecting Your Property" or "notice of Proceedings to Vacate Restricted Residence Districts Affecting Your Property," as the case may be, directed to such person at his last known place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein, or obtained from the records of such owner's address last given on tax receipts in the office of the county treasurer or auditor, or, in the case of mortgagees, to the address, if any, appearing in the mortgage.

After the first publication of said notice, and at least six days (Sunday excluded) prior to the meeting specified in said notice, a copy of the same shall also be served upon the person in possession of each of said tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to owners and mortgagees in the manner and to the address above provided and to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them. (As amended Apr. 20, 1931, c. 290, §3.) * * *

Laws 1931, c. 290, §3, amends the fourth subdivision of this section.

1626-4. Bond issue.

The limitation as to amount of bonds is repealed by §1626-12.

1626-5. Park commissioners authorized to establish but one flying field.

The limitation as to number of flying fields is repealed by §1626-12.

1626-8. Cities may establish municipal airports.—

Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to Section 36, Article 4, of the Constitution of the State of Minnesota, is hereby authorized and empowered to establish and maintain a municipal flying field and airport, to acquire land from time to time necessary for that purpose, and to erect thereon terminal and other buildings and structures necessary and suitable for the operation thereof. When deemed necessary land may be leased by any such city for the purposes hereof. (Act Apr. 25, 1929, c. 379, §1, superseding Act Apr. 3, 1929, c. 125, §1.)

1626-9. Cities may establish airport.—

The land so to be used, or acquired and used, by each such city may be used, or so acquired and used, whether the land be located within or without the limits of such city. Such land may be acquired from time to time by purchase, gift, devise, condemnation or otherwise, and the title so acquired by condemnation or purchase shall be in fee simple absolute, unqualified in any way whatsoever. When the right of condemnation is to be exercised, such condemnation proceedings shall be exercised only under and pursuant to

the provisions of the statutes of the state of Minnesota relating to eminent domain; provided that wherever such city has already established an airport, such additional land should be contiguous thereto. (Act Apr. 9, 1931, c. 123, §1, amending Laws 1929, c. 379, §2, and superseding Laws 1929, c. 125, §2.)

1626-10. To fix charges.—Each such city shall have the authority to determine the charges for the use of said municipal flying field and airport and the terms and conditions under which the municipal flying field and airport and its facilities may be used, provided that such charges shall be reasonable and uniform for the same class of service, to lease parts thereof to individuals, co-partnerships or corporations, to any municipal or state government or to the national government or to foreign governments or any department of either thereof for flying purposes or any purpose incidental thereto, and to determine the terms and conditions of said leasing by said lessees and any lands acquired, owned, controlled, or occupied by such cities as herein provided shall and hereby are declared to be acquired, owned, controlled and occupied for a public purpose and as a matter of public necessity. (Act Apr. 25, 1929, c. 379, §3, superseding Laws 1929, c. 125, §3.)

1626-11. Disposition of revenues.—The revenues obtained from the ownership and operation of any such municipal flying field and airport shall be used to finance the maintenance and the operating expenses thereof and to make payment of interest on and current principal requirements of any outstanding bonds or certificates issued for the acquisition or improvement thereof, and to make payment of interest on any mortgage heretofore made. That portion of revenue in excess of the foregoing requirements may be applied to finance the extension or improvement of said flying field and airport. (Act Apr. 25, 1929, c. 379, §4, superseding Laws 1929, c. 125, §4.)

1626-12. Bond issue.—The limitation of bonds to the amount of \$150,000 for airport purposes and the limitation of one airport only to each city of the first class found in Chapter 62 of the Laws of Minnesota for 1927 [§§1626-4, 1626-5] are hereby expressly repealed, and each such city shall be authorized to issue bonds for the purposes defined in this act to an amount not to exceed \$450,000 in addition to all bonds heretofore issued for such purposes; except that in cities where a bond issue has been authorized in an ordinance approved by popular vote of the voters, the amount of such bond shall be limited to the amount authorized in said ordinance. No indebtedness, mortgage, lien or security shall be made, created, suffered, or incurred in the acquisition of land for such airport except as expressly authorized in this act. No land shall be purchased at an average price of more than \$600.00 an acre unless by condemnation proceedings. (Act Apr. 25, 1929, c. 379, §5, superseding Laws 1929, c. 125, §5.)

1626-13. Issue of bonds—Rate of interest.—In order to carry out the purpose of this act each such city is hereby authorized to issue municipal flying field or airport bonds or certificates of indebtedness to secure funds for the purchase and improvement of the specified land or to meet the cost of purchase or erection of designated buildings and structures. Said bonds or certificates of indebtedness shall be issued by each such city in the manner prescribed by law or by the charter thereof for the issuance and authorization of issuance of bonds.

In any city having a board of estimate and taxation the bonds hereby authorized may be issued from time to time by vote of five-sevenths of all the members of the board after request thereto by vote of two-thirds of all the members of the city council and in no other manner and if so authorized shall be issued by said board of estimate and taxation. In cities

not having a board of estimate and taxation such bonds may be issued and sold from time to time by vote of two-thirds of all the members of the city council or other chief governing body subject to the right of referendum where provided in the charter of any such city. Such bonds shall bear interest at not exceeding 5% per annum payable semi-annually. The principal shall be payable serially in not more than 30 annual installments as nearly equal as may be. The city council or other chief governing body shall levy annually a tax on all the taxable property of the city sufficient to meet the interest and principal about to mature. The bonds or certificates hereby authorized, or any part thereof, may be issued and sold by each such city notwithstanding any limitation contained in the charter of said city or in the law of this state prescribing or fixing limitations upon the bonded indebtedness of the city, but the full faith and credit of such city shall at all times be pledged for the payment thereof at maturity and for the payment of current interest thereon.

In case the jurisdiction of said airport be under a board of park commissioners in the cases provided in Section 7 [§1626-14] thereof, such board shall first request the city council that it request the issuance of bonds for such purposes.

The amount of all bonds heretofore or hereafter issued by any such city for the acquisition or improvement of a flying field or airport shall not be counted or included in the net indebtedness of the city or in any computation of the city's outstanding indebtedness for the purpose of determining the limit of net indebtedness of the city. (Act Apr. 25, 1929, c. 379, §6, superseding Laws 1929, c. 125, §6.)

1626-14. Authority may be exercised by governing body or board of park commissioners.—The authority hereby granted may be exercised by the city council or chief governing body thereof, by whatever name designated, or may be exercised by the board of park commissioners or other body in charge of the park system of the city. When said authority shall have been so vested in said latter body either under the provisions of this act or under the provisions of Chapter 62 of the Laws of Minnesota for 1927 [§§1626-1 to 1626-7], said authority shall continue to be exercised by said body in control of the park system of such city, and whichever body shall be vested with such authority shall have full and complete authority to govern said field so acquired and to regulate by general ordinance the use of said land for flying and for other aviation purposes. (Act Apr. 25, 1929, c. 379, §7, superseding Laws 1929, c. 125, §7.)

1626-15. Proceedings legalized.—In all cases where a city of the first class mentioned in this act has heretofore issued any bonds for the purpose of acquiring land and improving the same for a municipal flying field pursuant to an ordinance approved by the voters of such city, the proceedings heretofore taken in that regard are hereby in all respects validated and confirmed; any bonds already issued thereunder are validated and made legal obligations of such city, and such city is hereby authorized and empowered, pursuant to such proceedings, to issue further bonds for said purposes up to the limit fixed in such approved ordinance, which bonds, when issued, shall be legal obligations of such city according to their terms. (Act Apr. 25, 1929, c. 379, §8, superseding Laws 1929, c. 125, §8.)

1626-16. Application.—This act shall not apply to any city which has issued or shall issue bonds for municipal flying field and airport purposes as authorized by an ordinance referred to and approved by the voters of such city by popular vote. (Act Apr. 25, 1929, c. 379, §9, superseding Laws 1929, c. 125, §9.)

1626-16a. Airports may be enlarged in certain cases.—The governing body of any city of the first class in this State, now or hereafter existing, which city owns, maintains and operates an airport within its corporate limits, is hereby authorized and empowered, from time to time, as funds are available, to extend, enlarge and improve the facilities of said airport. Land necessary therefor may be acquired in the manner provided by the charter of any such city. (Act Apr. 24, 1937, c. 388, §1.)

Sec. 2 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

1626-17. Tax levy for Municipal airport.—Each city of the first class of this State now or hereafter having a population of 50,000 inhabitants or more, including each city now or hereafter operating under a Home Rule Charter adopted under and pursuant to Section 36, Article 4 of the State Constitution, acting through its City Council or Chief Governing Body thereof by whatever name known or Board of Park Commissioners, is hereby authorized and empowered to levy annually on real and personal property of said City the tax not exceeding 1/20th of a mill on each dollar on the assessed valuation of said City for the purpose of operating and maintaining the municipal airport of said city. (Act Apr. 20, 1931, c. 273, §1.)

1626-18. To be additional powers.—The provision of this Act shall be in full force and effect notwithstanding any provision in the Charter of said City to the contrary hereof. But no such levy shall be made unless authorized by the Board of Estimate and Taxation of said city, according to the provisions of the Charter of said city establishing said Board of Estimate and Taxation. (Act Apr. 20, 1931, c. 273, §2.)

1626-19. Provisions separable.—If any provision of this Act shall be held to be unconstitutional, it shall not affect the balance of said Act. (Act Apr. 20, 1931, c. 273, §3.)

1630-2 ½. Limitation in use of proceeds of bonds.—That where bonds have been or may hereafter be issued, by a city of the first class having a population of 50,000 inhabitants or more, including all such cities operating under home-rule charters adopted under and pursuant to Section 36, Article 4 of the State Constitution, which bonds have been authorized by the voters of such city voting upon a proposition providing for the issuance of an aggregate amount of bonds for two or more distinct improvements, with a definite amount provided therein for each improvement, no part of the proceeds of such bonds shall be used until the governing body of the city has by resolution determined the projects and the amount of the proceeds of such bonds for such projects under each bond issue. (Act Apr. 3, 1929, c. 126, §1.)

1630-2 ½ a. City to give notice of intent.—Whenever any City Council, or other governing body, or official board of any city of the first class in the State of Minnesota, operating under a Home Rule Charter which has now or may hereafter have a population of 350,000 or more shall determine by the exercise of the right of eminent domain or pursuant to any general or special law or proceedings or pursuant to authority granted by Home Rule Charter to lay out, extend, widen, straighten or open any street, avenue, alley, roadway, parkway or boulevard which may now or hereafter exist or to acquire lands or easements in lands therefor or to improve the same by grading, laying of water mains, constructing sewers, sidewalks, curbs and gutters, or to establish or construct subways, overhead railways or crossings, building line easements or boulevards in, upon or along the same or to acquire easements or rights in lands for the purpose of constructing bridges or viaducts or drains or ditches or to change the course of or divert any stream of water (except the Mississippi River) or who shall determine to acquire lands or buildings for pub-

lic purposes for which there shall be levied a special assessment on any property for such purposes or who shall determine to regulate or restrict the use of buildings or lands by zoning pursuant to any law now or hereafter enacted authorizing the same shall give notice of such intent in accordance with Section 3 hereof. (Act Apr. 25, 1929, c. 383, §1.)

1630-2 ½ b. Who served.—Whenever any official of any such city shall, pursuant to any authority given him by law, ordinance or provision of the City Charter issue any order, decree, notice or warning in connection with any specific building or land not public property and including lands and buildings used or occupied by public service corporations shall serve a copy of such order, decree, notice or warning upon the owner of such lands or building, or both, affected by such notice in the manner provided in Section 3 [§1630-2 ½ c] hereof. The notice herein provided for shall include notices given by the Commissioner of Health affecting the sanitary condition of buildings or property, also those with respect to the existence of communicable diseases. (Act Apr. 25, 1929, c. 383, §2.)

1630-2 ½ c. Form of notice.—The notices required in Sections 1 and 2 hereof shall be served upon the owner of such lands or buildings in the manner prescribed by Statute for serving notices in civil actions, in case the owner is a resident of such city and is known to the officer charged with the duty of making such service. In case the owner is not a resident of said city or is not known or cannot be found by reasonable investigation a copy of such notice shall be mailed to said owner if known and not a resident of such city or if not known to the person whose name appears on the records of the County Auditor or the Register of Deeds in the county in which such city is located as the person who last paid the taxes on such property by depositing a copy of such notice in the postoffice postage prepaid, and addressed to the person above specified in an envelope plainly bearing on its front in type no smaller than ten point the words "Important notice affecting your property." Such notice shall be general in its character, but shall include a statement of the nature of the proceeding which affects the property of the person to whom such notice is sent; the officer or department of the city from whom further information may be secured and the address to which written communications or personal requests may be made. (Act Apr. 25, 1929, c. 383, §3.)

1630-2 ½ d. Application.—It is the intent of this act to provide only the manner in which notices shall be served upon owners of property in connection with official proceedings or actions above specified. It shall not affect provisions of any law only in so far as it relates to the giving of notice to owners. All other requirements, stipulations and provisions of each and all of said laws in so far as they are not inconsistent with this law shall be and remain in full force and effect. (Act Apr. 25, 1929, c. 383, §4.)

1630-2 ½ e. Act paramount.—This act shall be paramount to and supersede any provisions of any law or charter which are inconsistent herewith. (Act Apr. 25, 1929, c. 383, §5.)

Sec. 6 provides that the act shall take effect from and after its passage.

1630-2 ½ f. Cities may reimburse for certain expenses.—That any city of the first class is hereby authorized and empowered to reimburse any person, or the representative of the estate of any decedent, for actual expenses incurred for hospital, medical care, treatment, and for funeral services of any person who died as a result of personal injuries sustained through the act or acts of any agent, servant or official of such city in the performance of a governmental duty, and such city of the first class shall

have the right to reimburse and pay such person, or the representative of any such decedent, upon the passing of a resolution by the Council authorizing such payment, at any time within thirty days from and after the passage of this act. (Act Apr. 4, 1933, c. 158, §1.)

1630-2½g. Inconsistent acts repealed.—All laws and parts of laws, ordinances and charter provisions inconsistent herewith are hereby suspended and made inoperative for a period of thirty days from and after the passage of this act, after which time this act shall become and be suspended and inoperative and all laws and parts of laws, ordinances and charter provisions inconsistent herewith and hereby suspended shall again become operative and be in full force and effect. (Act Apr. 4, 1933, c. 158, §2.)

1630-2½h. Purchase of land from federal government for civic center or public park.—Any city of the first class in the State of Minnesota and/or any such city and the county in which it is located, acting jointly, are hereby authorized to buy from the federal government, upon such terms as may be agreed upon between the proper officials of any such city and/or county and said federal government, by written contract, any property owned by said federal government which is needed for a civic center and/or public park purposes, in such municipality. (Act Dec. 21, 1933, Ex. Sess., c. 6, §1.)

Sec. 2 of Act Dec. 31, 1933, cited, provides that the act shall take effect from its passage.

1630-2½i. Bonds for construction of waterworks and municipal market.—The governing body of any city in this state, now or hereafter having a population of more than 50,000 inhabitants, including any such city operating under a home-rule charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, and which city operates its waterworks system by means of a Board of Water Commissioners created by Act of the Legislature, and which city owns, maintains and operates its own Municipal Market, is hereby authorized and empowered, for the purposes herein designated, to issue from time to time as needed the negotiable bonds of their respective cities to an amount in the aggregate not exceeding \$550,000; said bonds to be in such denominations and payable at such places and at such times, not exceeding 30 years from the date thereof, as may be deemed best. Said bonds shall be in serial form and bear interest at a rate not to exceed six per cent per annum, payable semi-annually, at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor, and upon the best terms that can be obtained therefor; provided, however, that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon. (Act Jan. 9, 1934, Ex. Sess., c. 63, §1.)

1630-2½j. Same—Limitation of indebtedness—tax levy.—The bonds authorized by Section 1 of this Act, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city. The governing body of any such city issuing said bonds shall set aside annually from the revenues of the operation of projects for which the bond issue herein is authorized, a sufficient amount to pay the interest on said bonds and the principal of any such bonds maturing in any such year; and in the event such revenue is insufficient for this purpose, the governing body of any such city issuing said bonds shall include in the tax levy a sufficient amount for the payment of such interest as it accrues and for the accumulation of a sinking

fund for the redemption of such bonds at their maturity. (Act Jan. 9, 1934, Ex. Sess., c. 63, §2.)

1630-2½k. Same—proceeds, how used.—The proceeds of any and all bonds issued and sold under the authority of this Act shall be used for the following purposes and none other, viz.:

(a) For acquiring by gift, purchase, or condemnation a site or sites for municipal waterworks projects or extensions and improvements thereof; provided, however, that no bonds in excess of the sum of \$350,000.00 shall be issued for such projects under the provisions of this Act.

(b) For acquiring by gift, purchase, or condemnation a site or sites for city markets or the expansion and improvement of existing city markets and equipping the same; provided, however, that no bonds in excess of the sum of \$200,000.00 shall be issued for such projects under the provisions of this Act. (Act Jan. 9, 1934, Ex. Sess., c. 63, §3.)

1630-2½l. Same—authority additional.—The authority granted in this Act is in addition to all existing power and authority of any city operating under a home-rule charter adopted in pursuance of the State Constitution, Article 4, Section 36. (Act Jan. 9, 1934, Ex. Sess., c. 63, §4.)

1630-2½m. Same—separability clause.—If any provision of this Act shall be held invalid the remainder of this Act and the application thereof shall not be affected thereby. Act Jan. 9, 1934, Ex. Sess., c. 63, §5.)

Sec. 6 of Act Jan. 9, 1934, cited, provides that the act shall take effect from its passage.

1630-2½n. Proceedings legalized.—That in all cases where the governing body of a city of the first class by a majority vote has heretofore adopted any proceedings pursuant to authority contained in the charter of such city, for the issuance of certificates of indebtedness against the permanent improvement revolving fund of such city, such proceedings and all permanent improvement revolving fund certificates of indebtedness so issued under authority of such charter, are hereby legalized and declared to be valid and binding obligations, notwithstanding any defect or defects which may have occurred in such proceedings or certificates. (Act Feb. 8, 1935, c. 5, §1.)

1630-2½o. Bonds issued, legalized and validated.—That all proceedings heretofore taken by majority vote of the governing body of any such city, providing for the issuance of bonds to refund any or all of such permanent improvement revolving fund certificates of indebtedness are hereby validated and legalized, notwithstanding any defect in such proceedings, and such refunding bonds shall be the valid and legal obligations of such city when same shall have been sold and delivered pursuant to such proceedings; provided, however, that such refunding bonds shall not be sold or negotiated for less than par and accrued interest. (Act Feb. 8, 1935, c. 5, §2.)

1630-2½p. Tax levy.—That prior to the issuance of any of such refunding bonds, the governing body of any such city shall levy an ad valorem tax sufficient to pay the principal and interest on such bonds when same shall fall due, in the manner provided by Section 5, Chapter 131, of the 1927 Laws of Minnesota [§§1938-7], which tax shall be in addition to all other taxes levied by such city, and shall be without limitation. (Act Feb. 8, 1935, c. 5, §3.)

1630-2½q. Act remedial.—That it is hereby expressly found and determined that this act is remedial in nature, being necessary to protect the financial credit of such cities, and this act shall take effect and be in force from and after its passage. (Act Feb. 8, 1935, c. 5, §4.)

1630-2½r. Bonds for municipal market.—The governing body of any city of the first class in this state, now or hereafter existing, which city owns,

maintains and operates its own Municipal Market, is hereby authorized and empowered, for the purposes herein designated, to issue from time to time as needed the negotiable bonds of their respective cities to an amount in the aggregate not exceeding \$200,000; said bonds to be in such denominations and payable at such places and at such times, not exceeding 30 years from the date thereof, as may be deemed best. Said bonds shall be in serial form and bear interest at a rate not to exceed six per cent per annum, payable semi-annually, at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor; and upon the best terms that can be obtained therefor; provided, however, that no such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon. (Act Apr. 24, 1935, c. 284, §1.)

1630-2½s. Limitations not to apply.—The bonds authorized by Section 1, of this Act, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city. The governing body of any such city issuing said bonds shall set aside annually from the revenues of the operation of projects for which the bond issue herein is authorized, a sufficient amount to pay the interest on said bonds and the principal of any such bonds maturing in any such year; and in the event such revenue is insufficient for this purpose, the governing body of any such city issuing said bonds shall include in the tax levy a sufficient amount for the payment of such interest as it accrues and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. (Act Apr. 24, 1935, c. 284, §2.)

1630-2½t. Use of proceeds.—The proceeds of any and all bonds issued or sold under the authority of this act shall be used for the purchase or condemnation of a site or sites for the expansion, improvement and equipment of such municipal market, owned, maintained and operated by any such city; provided, however, that no bonds in excess of the sum of \$200,000.00 shall be issued for such purposes. (Act Apr. 24, 1935, c. 284, §3.)

1630-2½u. To be additional powers.—The authority granted in this Act is in addition to all existing power and authority of any city operating under a home-rule charter adopted in pursuance of the State Constitution, Article 4, Section 36. (Act Apr. 24, 1935, c. 284, §4.)

1630-2½v. Provisions severable.—If any provision of this Act shall be held invalid the remainder of this Act and the application thereof shall not be affected thereby. (Act Apr. 24, 1935, c. 284, §5.)

Sec. 6 of Act Apr. 24, 1935, cited, provides that the act shall take effect from its passage.

1630-2½x. Sinking fund committee to invest funds.—Whenever, in any city of the first class, now or hereafter existing, the right and duty of investing sinking fund moneys of such city is vested in a sinking fund committee or similar body, as distinguished from the governing body of any such city, such sinking fund committee or similar body, in addition to all other powers to make such investments in them vested, is hereby authorized to invest such sinking fund moneys in interest bearing promissory notes of any such city, heretofore issued, the payment of which is provided for by receipts of delinquent taxes accruing to such city, provided, however, that all receipts from delinquent taxes which are, at the time of the passage of this act, pledged to the payment of such notes shall be applied to the payment thereof until the same shall have been paid in full and to the extent that any such city shall have pledged its delinquent taxes to the payment of such notes said pledge is

hereby expressly authorized and validated. (Act Apr. 24, 1935, c. 285.)

1630-2¾. Cities may establish municipal forest.—Any city of the first class operating under Article IV, Section 36, of the constitution of the State of Minnesota by resolution of the governing body thereof may purchase or obtain by condemnation proceedings, any tract or tracts of land bordering any lake, for a municipal forest and manage the same on forestry principles and may reserve any part of such land for use as a public bathing beach. The selection of such lands and the plans of management thereof, shall have the approval of the state forester. (Act Apr. 17, 1935, c. 203, §1.)

Sec. 2 of Act Apr. 17, 1935, cited, provides that the act shall take effect from its passage.

HOUSING ACT FOR CITIES OF FIRST CLASS NOT UNDER HOME RULE CHARTERS

ARTICLE I GENERAL PROVISIONS

1630-3. Citation of law—Cities to which law applies.

Act is limited to dwelling erected after its enactment. *Miller v. P.*, 199M331, 271NW818. See Dun. Dig. 6525.

1630-4. Definitions * * *

(12).

See subd. (12½) modifying this subdivision as to definition of "basement."

(12½.) **Basement.**—In all cities of the first class which have heretofore or may hereafter adopt by charter or ordinance "The Housing Act" as provided in Chapter 137, Session Laws of 1917, as amended by Chapter 517, Session Laws of 1919, which regulates the space which must be left between a building and the adjoining building or between a building and the boundary line of the lot or lots on which it stands, by the number of stories in such building. A basement is a story partly underground but having at least one-half of its height above the curb level of the adjoining street and shall be counted as a story. (Act Apr. 22, 1929, c. 282, §1.)

See, also, §§3009, 4075.

ARTICLE II DWELLINGS HEREAFTER ERECTED

Title 1

Light and Ventilation

1630-16. Side yards, etc.

See §1630-4(12½).

1630-21. Buildings on same lot with a dwelling.

This section is invalid for uncertainty. *State v. Parker*, 183M588, 237NW409.

Title 3

Fire Protection

1630-44. Means of egress.

In action for rent wherein defendant defended on ground that she moved out because apartment had only one exit, burden was upon defendant to prove that building inspector made "requirements," building having been constructed prior to passage of this act. *Miller v. P.*, 199M331, 271NW818. See Dun. Dig. 5425.

1630-56. Outside stand pipes.

This section is superseded by §5909 insofar as the latter refers to outside standpipes in hotels and lodging houses. *Op. Atty. Gen.*, July 24, 1933.

ARTICLE V IMPROVEMENTS

1630-107. Egress.

In action for rent wherein defendant defended on ground that she moved out because apartment had only one exit, burden was upon defendant to prove that building inspector made "requirements," building having been constructed prior to passage of this act. *Miller v. P.*, 199M331, 271NW818. See Dun. Dig. 5425.

ARTICLE VI REQUIREMENTS AND REMEDIES

1630-110. Permit to commence building.

Where city ordinance required application to city council for permits for erection or maintenance of build-

ings to be used for sale or storage of lumber and no application was made, question whether ordinance which is otherwise constitutional, is constitutional in its particular application to respondent, cannot be determined by court as discretion of city council has not been invoked or exercised. *State v. Clousing*, 198M35, 268NW844. See *Dun. Dig.* 6525.

Ordinance requiring permission from city council as condition precedent to erection and maintenance of buildings to be used for sale or storage of lumber held applicable to repair of already existing structures and erection of new structures as replacements of similar ones destroyed by fire. *Id.*

Ordinance giving to city council power to issue or withhold permits for erection and maintenance of lumber yards and buildings held constitutional as against attack that it was unlawful delegation of power to city council without restriction or limitation. *Id.*

Court cannot inquire into motives of city council except as they may be disclosed on the face of particular act in question or by reference to general existing conditions or other legislative acts. *Id.*

Ordinance requiring building permits from city council held not to be retroactive or retrospective in effect as applied to facts and circumstances of case. *Id.*

One does not have vested right to continue to maintain lumber yard free from restrictions or regulations imposed by municipal legislative authority pursuant to the lawful exercise of its delegated police power. *Id.*

In mandamus to compel issuance of building permit court is bound to consider situation as it exists as of time of hearing on question whether peremptory writ should issue, and where a city ordinance has been passed since issuance of alternative writ, its effect and validity are necessary and proper issues for determination. *Id.* See *Dun. Dig.* 5752b.

One operating a small automobile repair shop at rear of his home in a residential district was not guilty of violating city zoning ordinance, as he had obtained a special permit from city council, which was authorized by a provision in said ordinance to issue such permits in cases "where practical difficulties or unnecessary hardships occur." *State v. Gunderson*, 198M51, 268NW850. See *Dun. Dig.* 6525.

1630-111. Certificate of compliance.

Illegal use and occupancy of a homestead does not render it subject to sale on execution. *Ryan v. C.*, 185 M347, 241NW388. See *Dun. Dig.* 4207.

1630-114. Procedure.

See *Laws* 1929, c. 282, ante, §1630-4(12½).

1630-117. Service of notice and orders.

See *Laws* 1929, c. 282, §2, post §1630-127.

1630-127. Definitions—service of order.—In all such cities of the first class the term "issue an order" where same appears in said Housing Act to be issued by the commissioner of health, shall be construed to mean "serve an order in the manner provided for the service of a summons in a civil action in this state." The person upon whom any such order affecting real property shall be served shall be the owner of the real estate if known, or the agent of such owner when registered under the provisions of said Housing Act, or if the owner is not known and his identity cannot be determined the person whose name and address last appears upon a receipt for taxes paid upon such real estate in the office of the county auditor or county treasurer. No such order affecting real property shall be deemed to have been issued or served under the provisions of said Housing Act unless appended to such order is a notice to the owner that if he feels aggrieved thereby he shall appeal to the district court of the county in which the real estate is situated, within five days after the service of such order. (Act Apr. 22, 1929, c. 282, §2.)

1630-128. Appeal to District Court.—Such owner may, within five days after the service of such order, appeal to the district court by the service of a notice so to do upon the commissioner of health or other chief health officer of said city and the filing of such notice with the clerk of the district court of the county where the real estate is situated. (Act Apr. 22, 1929, c. 282, §3.)

1630-129. Court to try issues.—Upon such appeal the district court shall try de novo the entire question of whether or not the facts claimed by the commissioner and on which he seeks to base his order are true and whether or not such order constitutes a taking of said real estate or any right therein or part thereof without compensation and whether or not the

changes or abatement ordered are reasonable in their nature and a reasonable time is allowed therefor and shall give judgment accordingly. (Act Apr. 22, 1929, c. 282, §4.)

1630-130. Tenants not to be served.—Prior to the hearing and final determination of such appeal or the expiration of the time allowed therefor no order or notice shall be posted or served upon or delivered to the tenants of said real estate in any way and no other interference with the rights of the owner or lessees shall be allowed. Any person violating any of the provisions of this act shall be personally liable to the person injured or damaged thereby. (Act Apr. 22, 1929, c. 282, §5.)

1630-131. Inconsistent acts repealed.—All laws or parts of laws and all charter provisions inconsistent herewith are hereby repealed. (Act Apr. 22, 1929, c. 282, §6.)

LAWS AFFECTING CITIES OF THE FIRST CLASS

Correction. "'07, c. 55" appearing in 1927 Statutes should be "'07, c. 57."

Act Feb. 26, 1929, c. 40, legalizes appropriations made within 12 months preceding passage of act.

Laws 1931, c. 255, authorizes reduction of special assessments under circumstances so limited as to require omission from the statutes.

Act Feb. 23, 1933, c. 37, legalizes bonds theretofore issued or ordered to issue under Laws 1919, c. 41.

Act Apr. 10, 1933, c. 201, authorizes cities of the first class to pay claim for personal injury, occurring within two months prior to Feb. 25, 1933, from stray bullet in gun battle between police and bandits.

Laws 1935, c. 251, authorizes first class cities to pay for municipal pipe organ.

Act Jan. 24, 1936, Sp. Sess., c. 74, authorizes cities of the first class to pay claims for burning any child, such payment to be made within 60 days after passage of the act.

Act Apr. 22, 1937, c. 357, authorizes cities of the first class to pay damage for personal injuries received on or about Jan. 27, 1937, incident to operation of motor vehicle by city officer or employee.

Act Apr. 24, 1937, c. 422, authorizes cities of the first class to pay claim for injuries to child suffered between Apr. 20 and May 10, 1936.

Act Apr. 24, 1937, c. 424, gives authority to pay claims arising within one year from date of act for injury from stray fired by police officer.

City of Minneapolis under home rule charter had power to reappropriation the city by changing the boundaries of its wards. *Granger v. City of Minneapolis*, 182M147, 233NW321. See *Dun. Dig.* 6893.

Laws 1921, c. 332, supersedes Mason's Stats., §3014, and applies to school district in city of Duluth created by special act. *Board of Education v. B.*, 192M367, 256NW 894. See *Dun. Dig.* 8669.

City of Duluth under §31 of its charter may purchase automobiles or trucks without advertising for bids where there is no old car to be turned in and advertising would be a mere waste of time. *Op. Atty. Gen.*, July 28, 1931. See *Dun. Dig.* 6707.

Under Laws 1921, c. 332, §1, par. 1, board of education of Duluth may make expenditures for library, including textbooks, magazines and instructional supplies, insofar as they comprise a part of school libraries, and equipment and furnishings of a more or less permanent character, but cannot under such paragraph levy taxes for fuel, water, light, power, janitor's supplies, telephone service and engineer's or janitor's salaries. *Op. Atty. Gen.* (519m), Oct. 10, 1934.

Board of education of Duluth may not contract any debts or incur any pecuniary liability for payment of either principal or interest of which during current or any subsequent years it shall be necessary to levy a rate of taxes higher than maximum prescribed by Laws 1921, c. 332 and Mason's Stats., §2062. *Op. Atty. Gen.* (161b-10), Dec. 3, 1934.

Under Laws 1921, cc. 332 and 357, Duluth School District having levied less than 30 mills for school operating purposes, was not entitled to participate in apportionment of proceeds of special school tax levied under Laws 1921, c. 357, §2, though such school district levied special taxes for such other purposes as building fund, fund for interest and retiring bonds, fund of teachers' retirement fund association, etc., amounting in all to 35 mills. *Op. Atty. Gen.* (519m), Jan. 8, 1935.

Under Laws 1919, c. 3, the city of Minneapolis may transfer, temporarily, money from the permanent improvement revolving fund to the board of public welfare for the care of the poor, duty of city to care for the poor being absolute, and any funds in the city may be used to care for the poor, where poor funds have been exhausted. *Op. Atty. Gen.* (339i), Nov. 25, 1935.

PROVISIONS RELATING TO CITIES OF
SECOND CLASS

By the amendment of §1671, the provision as to primary elections is made applicable to cities of the second class.

1639-1. Certain boards abolished.—That in any city of the second class located on any navigable river where a Federal wild life game refuge has been created by the Federal government for the protection and propagation of wild life therein, the local governing body may by a two-thirds vote thereof, abolish any board created for the administration of city property held by such city for, among other things, animal, bird, fish, game and hunting preserves, and place the control and administration thereof in the hands of such governing body. (Act Apr. 13, 1935, c. 172.)

1643-2. Association to fix pension.—That every paid municipal police department now existing or which may hereafter be organized may and is hereby authorized to become incorporated pursuant to the provisions of any applicable law of this state, or adopt a constitution and by-laws as a relief association to provide and permit and allow said police relief association so incorporated or so organized to pay out of and from any funds it may have received from the State of Minnesota, or from any other source, a service pension in such amounts and in such manner as its articles of incorporation or the constitution and by-laws shall so designate, not exceeding, however, the sum of \$60.00 per month to each of its pensioned members who shall have arrived at the age of 50 years or more, and shall have done active police duty as a member of such paid municipal police department for a period of 20 years or more in the police department of such city in which such relief association has been or shall be so organized, or who having been disabled physically or mentally because of any injury received or suffered while in the performance of his duty as such police officer, so as to render necessary his retirement from active police service may be placed upon the pension list, and shall receive such pension as provided for in said articles of incorporation or constitution and by-laws; provided, however, that if any such police officer shall die leaving a widow surviving him she may be paid as long as she remains unmarried such amounts not exceeding, however, the sum of \$60.00 per month and in such manner as the articles of incorporation or constitution and by-laws of said police relief association shall provide; provided, however, that said fund shall not be used for any other purpose than for the payment of service pensions and a disability pension as herein provided. ('19, c. 152, §2; Feb. 20, 1929, c. 31; Mar. 31, 1939, c. 122.)

1643-3. Same—Increase or decrease.—Every such association shall at all times have and retain the right to increase or reduce the amount of such pension not to exceed \$45 per month whenever, because of the amount of funds on hand, or for other good reasons such increase or reduction may seem advisable or proper to the board of management of said relief association. ('19, c. 152, §3; Feb. 20, 1929, c. 31, §3.)

1648-1. Fireman's relief associations in certain cities—Surcharge.—Whenever the balance in the special fund of any Firemen's Relief Association in any city of the second class is less than \$50,000.00, as determined by any such association's board of trustees, which fact shall be duly certified to by the State Comptroller, such board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the Commissioner of Insurance. The Commissioner of Insurance shall thereupon order and direct a surcharge to be collected of two per cent of the fire, lighting and sprinkler leakage gross premiums, less return premiums, on all direct business received by any foreign or domestic fire insurance com-

pany on property in such city of the second class, or by its agents for it, in cash or otherwise, until the balance in the special funds of such relief associations amounts to \$50,000.00 and for a period of 15 days thereafter. As soon as the balance in said special fund amounts to \$50,000.00 the board of trustees of such relief association shall certify that fact to the Commissioner of Insurance and the Commissioner of Insurance shall forthwith issue his order ordering and directing that the collection of such surcharge shall be discontinued after the expiration of said 15 day period and shall forthwith mail a copy of the order last mentioned to each insurance company affected thereby. Said surcharge shall be due and payable from such companies to the State Treasurer in semi-annual installments on June 30th and December 31st of each calendar year, to be kept by the State Treasurer in a separate fund and if not paid within 30 days after such dates a penalty of three per cent shall accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one per cent per month until paid. (Act Mar. 25, 1937, c. 109, §1.)

1648-2. Same—State auditor to issue warrant.—The State Auditor of this state on July 31, 1938, and semi-annually thereafter, shall issue and deliver to the treasurer of such relief association in such city his warrant upon the State Treasurer for an amount equal to the total amount of said surcharge on said premiums within such city theretofore so collected and transmitted to the State Treasurer by such insurance companies. Said warrants shall be paid out of said separate fund hereinbefore provided for, and the payment in each case shall be made to the treasurer of the relief association presenting the warrant. (Act Mar. 25, 1937, c. 109, §2.)

1648-3. Same—Funds to be kept in special fund.—The treasurer of such relief association shall place the money received by him in payment of any such warrant in the special fund of such relief association. (Act Mar. 25, 1937, c. 109, §3.)

1648-4. Same—Emergency declared to exist.—An emergency exists and this act shall be construed as a relief measure for firemen's relief associations in any city of the second class. (Act Mar. 25, 1937, c. 109, §4.)

1649. Sprinkling of streets.

St. Cloud, now a city of the second class under home rule charter, may sprinkle streets and assess the cost thereof against benefited property. Op. Atty. Gen., Feb. 7, 1931.

1650. Definition.

City in flushing a paved street to keep it in proper condition was engaged in a corporate, as distinguished from a public, function, and was liable for the negligence of its employees. 174M184, 218NW892.

1664-28. Same—Application of law.

St. Cloud, now a city of the second class under home rule charter, may sprinkle streets and assess the cost thereof against benefited property. Op. Atty. Gen., Feb. 7, 1931.

City of St. Cloud has power to lease or purchase land outside of its limits for the purpose of constructing a municipal golf course. Op. Atty. Gen., Oct. 2, 1931.

1664-42. Same—Use of proceeds of bonds.

Laws 1933, c. 284, §16, repeals Laws 1919, c. 224. See §5997-4a to 997-4h.
Laws 1933, c. 284. Amended. Apr. 12, 1937, c. 193; Apr. 26, 1937, c. 491.

1664-43. Cities of second class may establish residence requirements and wage scale.—That in all cities of the second class in the State of Minnesota the city council shall by ordinances duly enacted with appropriate penalty provisions for the enforcement thereof, have power and authority as follows:

(a) To establish residence requirements and require that in all construction or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, utilities, or any other public work involving the improvement of public property, includ-

ing schools, all labor, either skilled or unskilled shall meet those requirements.

(b) To adopt a scale of wages to be paid in all public works and to require that it be a part of the specifications in contracts or be effective in all construction or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, utilities, or any other public work involving the improvement of public property, including schools on which work public moneys are to be expended. (Act Apr. 9, 1931, c. 121, §1.)

1664-44. That these powers shall be in addition to all other powers now vested in such cities and in their city councils. (Act Apr. 9, 1931, c. 121, §2.)

1664-45. Waterworks, lighting plants and sewage pumping plants; Board of municipal works may be created.—That in each city in the State of Minnesota which now has, or hereafter may have, no more than 50,000, and not less than 20,000 inhabitants, there be and hereby is created and established a board of municipal works, which shall have the control and management of all such water-works systems, lighting plants, and sewage pumping plants of each such city as may be owned and operated by such city, with the powers and duties hereinafter designated, provided, however, that this act shall not apply insofar only as the pumping and disposal of sewage is concerned to any city situated upon a navigable river which now has or may hereafter have a municipal sewage disposal plant for the treatment and disposal of sewage in such city. ('03, c. 165, §1; '11, c. 236, §1; Mar. 29, 1935, c. 75, §1.)

1664-46. Same; authority to be exercised by board; appointment.—That all authority under this act, in each such city, shall be exercised by a board of six (6) commissioners to be known and designated as the "Board of Municipal Works," who shall be appointed by the mayor of such city, and whose terms of office shall be as hereinafter designated. ('03, c. 165, §2.)

1664-47. Same; appointment and tenure of board members; qualifications; vacancies; removal; president, vice president, and secretary; quorum; powers; contracts; employees; city electrician; by-laws and regulations; treasurer; legal adviser.—It is hereby made the duty of the mayor in each such city in this state, in which a water works plant, a lighting plant and a sewerage pumping plant, or any one or more of them, is being owned and operated by such city on the last Monday in April, A. D. 1903, to appoint on such last Monday in April, A. D. 1903, six (6) persons, residents of such city, commissioners, one of whom shall be appointed to serve for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, one for a term of five (5) years, and one for a term of six (6) years. These six persons, so appointed, shall constitute the first board of municipal works for the city in which so appointed. The said terms of office shall commence on the first Monday in May, A. D. 1903, and said commissioners shall on said day enter upon the performance of their duties and assume the control and management of the water works system, lighting plant and sewerage pumping plants of the city in which they have been so appointed, or such of said works as shall then be owned and operated by said city.

The mayor of each such city shall annually thereafter, on the last Monday in April, appoint one person, resident of such city, as a member of said board and as the successor of the commissioner whose term of office expires in that year, to serve for a term of six years from the first Monday in May of the year in which appointed and until his successor is appointed and qualifies. Provided, that all appointments made under the provisions of this act, including the filling of vacancies, shall be so made that no more than three (3) persons of those comprising said board, shall at any time belong to the same political party, and pro-

vided further, that a change in the political belief of any of the members after appointment, shall not disqualify any member for membership or for reappointment.

That in each city of this state which now has no more than 50,000 and not less than 20,000 inhabitants, and in which none of the municipal works designated shall be owned and operated by such city on the last Monday in April, 1903, but in which any one or more of the said municipal works shall thereafter be installed and established by such city, to be operated and controlled by such city, and in each city of this state which hereafter may have no more than 50,000 and not less than 20,000 inhabitants in which thereafter any one or more of the municipal works may be so installed and established by such city, and no such board having been theretofore appointed in or for any such city, it shall be the duty of the mayor of each such city, not more than thirty (30) days and not less than ten (10) days prior to the time that it is contemplated by such city to commence the operation of any such works to appoint the board hereinbefore designated, whose terms of office shall commence immediately upon such appointment, one of whom shall be appointed to serve until the first Monday in May following, one until one (1) year after the following first Monday in May, one until two (2) years after the following first Monday in May, one until three (3) years after the following first Monday in May, one until four (4) years after the following first Monday in May, and one until five (5) years after the following first Monday in May, and their successors shall thereafter be appointed at the times and in the manner hereinbefore designated for the appointment of successors.

Each such board shall assume the control and management of such works immediately after the same shall be installed or established by such city and be ready for operation.

That whenever it shall hereafter be shown by any official state census that any city in this state contains the number of inhabitants hereinbefore designated, and not theretofore shown, and there shall at that time be owned and operated by such city one or more of such municipal works, it shall be the duty of the mayor of such city, on the last Monday in April following the official notice of such census, to appoint the board hereinbefore designated, whose term of office shall commence on the first Monday of May following, and who shall be appointed to serve for the lengths of time first specified in this section, and their successors shall thereafter be appointed at the times and in the manner hereinbefore designated for the appointment of successors.

That whenever there shall hereafter be constructed, purchased or installed any one of the municipal works hereinbefore designated, by any such city in which such board of municipal works have been theretofore appointed and established, or extensions or additions made to any such works therein previously established, or machinery installed to be operated in conjunction therewith, such board shall thereupon assume the control, operation and management of such works, extensions or machinery, in addition to all works then under its control, immediately after the same shall be completed by such city and ready for operation.

All vacancies, by resignations or otherwise, shall be filled by the board, but every such appointment shall require an affirmative vote of a majority of all the members of the board.

The mayor may remove any of the commissioners for misconduct, incompetency or neglect of duty after opportunity shall be given him to be heard on written charges. Each member of said board shall before entering upon the discharge of his official duties take and subscribe the usual oath of office and deposit the same with the city recorder of such city, together with a written acceptance of his said appointment. All appointments herein provided for shall be made by the mayor in writing and filed by him with the city recorder of such city; and when made by the board, the

secretary of said board shall certify the necessary facts to such recorder, showing the cause of such vacancy and how filled.

The said board shall elect annually one of their number to be president and one to be vice president of the board, and may make by-laws and regulations for their government not inconsistent herewith. In the absence of the president from the city or when the president by reason of sickness or other cause is incapacitated from acting, the said vice president shall be the acting president of said board with all the powers and duties of said president. A majority of said board shall constitute a quorum, and all contracts and engagements, acts and doings of said board, within the scope of their duty and authority shall be obligatory and binding upon such city.

The members of said board shall receive no compensation for their services, but shall be allowed their reasonable official expenses, except that traveling expenses outside such city shall not be allowed any such members unless authority to make such trip be previously granted by such board and approved in writing by the mayor of such city.

The said board shall elect some suitable person as secretary, not a member of said board, who shall, as such secretary, be the general superintendent of the several municipal works under its control in such city.

The said board shall have power by an affirmative vote of a majority of all its members to remove him for cause, after opportunity shall be given him to be heard upon written charges.

Said board shall appoint some suitable person to have the care and superintendence of all poles and wires owned, by such city, and who shall be styled "city electrician," with such powers and duties as may be prescribed by said board. Such city electrician shall be ex-officio superintendent of the fire alarm system of such city.

Said board may appoint and employ all proper clerks, assistants and employes necessary or convenient for the operation and management of the several municipal works or departments in such city, and for accomplishing the purposes contemplated by this act.

The salary and compensation of all persons appointed and employed by said board in any of the departments under its control shall be such as may be fixed by such board, by an affirmative vote of a majority of all its members.

It shall be the duty of each such board within six months after its appointment and organization to make and establish general rules providing for the manner and method of appointing, employing and removing all persons in connection with the operation and management of the several municipal works under the care of such board and to define their duties and powers. Such rules shall, when practicable, provide that all appointments and employments, other than ordinary labor and transient assistants and employments, shall be made in accordance with the civil service or "merit system," and all such rules when so established shall be changed only by an affirmative vote of five-sixths of all the members of said board.

The treasurer of such city is hereby declared to be ex-officio treasurer of said board. The city engineer of such city, except when otherwise designated by said board for special purposes, shall be the engineer of said board.

The city attorney of such city, except when otherwise specially designated by said board, shall be the legal adviser of said board. ('03, c. 165, §3; '11, c. 236, §§2, 3.)

1664-48. Same; duties of secretary and treasurer; books open to public inspection.—It is made the duty of the secretary, under the direction of said board, to collect and receive and to pay into the city treasury all moneys due such board on account of the operation of said works, and to keep a set of books which shall at all times contain a full and complete statement of the condition and operation of each such municipal works or department, and of all matters in

connection therewith, and a detailed and exact account of all moneys received and paid out by order of said board, in each such department, and all debts due and owing said board for any cause whatever, together with an accurate account of all the expenses of and liabilities incurred by said board in each such department.

It is made the duty of the treasurer of said board to receive all moneys which may be paid into the city treasury on account of said board from any sources whatever, and place the same in a separate fund therefor to be designated "municipal works fund," which fund is hereby created for each city, and all moneys so received shall be retained by said treasurer and paid out only upon the order of said board, signed by the president and countersigned by the secretary thereof, and he shall keep a detailed and exact account thereof, in such manner as to show at all times the exact financial condition of said board.

The books of said board shall at all times be open to the examination of any taxpayer of such city, or to any member or committee of the city council; said board shall on the first Monday in April in each year make a full report in detail to the city council of the condition and operation of the works under their charge, and of each department, and of all receipts and expenditures, for the year then ending, on account of the same; and shall also, whenever desired by said council, transmit to said council a concise statement of the financial condition of any such department. ('03, c. 165, §5.)

1664-49. Same; actions by or against board.—Said board may sue and be sued, plead and be impleaded, answer and be answered unto, appear and prosecute unto final judgment in any court or elsewhere in the name of said board, have a common seal and alter the same at pleasure. They may prosecute any action in the name of said board against any person or persons for money due for the use of water or from any other cause; for the breach of any contract, express or implied, touching the execution or management of any of said works or departments, or of any promise or contract made to or for them; and also for the injury or trespass or nuisance done or caused or procured to be done to the water courses, pipes, machinery or any other apparatus belonging to or connected with any part of any of said works, or for any improper use or waste of the water. ('03, c. 165, §6.)

1664-50. Same; use of railroad right of way or highways.—The said board, in behalf of said city, and all persons acting under their authority, shall have the right to use the grounds or soil under any road, railroad, highway, street, lane, alley or public ground for the purpose of constructing, extending, enlarging, improving or repairing the works contemplated by this act, on condition that they shall, when not otherwise provided by any ordinance of said city, and when not the duty of some private person, company or corporation, causes the surface of such road, railroad, highway, street, lane, alley or public ground, to be restored to its original state, and all damages done thereto to be repaired. ('03, c. 165, §7.)

1664-51. Same; records; annual estimate; fiscal year; tax levy; assessment against departments.—Each such board shall keep and maintain an accurate and detailed record of the following annual accounts:

First—The current expense of operating and maintaining each of the water works, lighting and sewerage departments, or such of them as may be under their control.

Second—Interest on all outstanding water and light bonds.

Third—Extensions and improvements.

Fourth—Such other accounts, and such subdivisions of the foregoing named accounts as may be deemed desirable for the purpose of accurately showing the true financial conditions of each of said departments and all property belonging to the same.

On or before the second Monday in August of each year the secretary of said board shall present to the said board of municipal works of such city, in writing, an estimate of the probable receipts during the next ensuing fiscal year for each such department, from each and all sources other than municipal, such fiscal year to commence on the first day of April; together with an estimate of the several amounts required during the next ensuing fiscal year for the operation and proper maintenance of each of the departments under their control, and shall also make a special estimate of amounts required for the water works department of such city during the next ensuing fiscal year for each of the following purposes, to-wit:

First—For the current expenses of operating and maintaining said water works department.

Second—For interest on all outstanding water works bonds.

Third—For water works extensions and improvements.

Fourth—For the payment of outstanding water works bonds maturing during the next ensuing fiscal year, in the aggregate amount of not exceeding fifteen thousand (15,000) dollars.

The estimate for extensions and improvements in such water works department shall not, however, exceed ten (10) per cent of the said estimated probable receipts from all sources other than municipal, unless approved by an affirmative vote of a majority of all the members of the city council.

If said estimate of the probable receipts shall be less than the total of the amounts required for all of the purposes designated, said secretary shall thereupon prepare a detailed statement of all water which will probably be used and consumed for municipal purposes during the next ensuing fiscal year, excepting therefrom only public fountains, public drinking places, and public watering troughs, and shall equitably apportion the amount so required in addition to the estimated amount of receipts from other sources, to the said several municipal purposes for which said water is to be used, on the basis of the water rates prescribed and established by said board for like purposes, but shall not exceed such rates, and shall make as assessment of the several amounts so appropriated on the general fund of said city and on the funds of the several municipal departments so using said water.

Upon the completion of such estimate for all departments under the control of said board, said secretary shall present the same to said board, for the consideration and approval of said board.

Said board shall upon receipt thereof proceed to consider the same and shall make such corrections or changes as may be deemed necessary to perfect and equalize the same, and shall approve and establish the same on or before the last Monday in August following.

After such several estimates and the assessments for water works purposes upon the several municipal departments have been fully approved and established by said board, a duplicate of the same, duly certified to by the president and secretary of said board, under the seal of said board, shall be transmitted to and filed with the recorder of said city on or before the said last Monday in August, and at the same time a like copy shall be transmitted to and filed with each municipal department or board of said city against which an assessment for the use of water has been so made.

The city recorder shall thereupon include the amounts so established by said board and the amounts so assessed against the general fund of such city, in his estimate to the city council of the several sums which will be required to meet the expenses of such city during the next ensuing fiscal year; and said council shall establish the same in its tax levy for such year; and each board, or governing body, of the municipal department so assessed shall likewise include the amount so assessed against it in its estimate of the several sums required during the next ensuing

fiscal year, and such amounts shall in each instance be included in the respective tax levies for such year.

All amounts so assessed by said board and so included in the said tax levies, shall be paid to the treasurer of said board by each of said municipal departments respectively, in two equal installments, on the first day of July and on the first day of December of the year in which said taxes are collected.

If said estimate of the probable receipts shall be equal to or shall exceed the total of the amounts required for the next ensuing fiscal year, then no assessment shall be made for the use of water upon the several municipal departments as hereinbefore provided, and any and all surplus in the treasury of said department at the end of any fiscal year, and which said board shall by resolution determine not to be required for the next ensuing fiscal year, shall be ordered paid into the general fund of said city by said board. ('03, c. 165, §8.)

1664-52. Same; sinking fund; duties of city treasurer, investment; redemption of bonds.—The said board may at any time create and establish a sinking fund for the accumulation of a fund to be used for the redemption of outstanding water works bonds at their maturity. Such sinking fund shall be created by ordinance passed by an affirmative vote of two-thirds of all the members of said board. Moneys shall be paid into such sinking fund during such years only in which no water works bonds mature in an amount exceeding five thousand dollars. The moneys to be paid into such fund shall be obtained from the following sources, to wit: First. Such amount as may be designated each year by said board by resolution, shall be annually included by the secretary of said board in his estimate of the several amounts required during the next ensuing fiscal year, and shall be listed by him in his special estimate for the water works department as "for bonds sinking fund" under the "fourth" purpose designated and provided for in section 8 of this act, and shall be included in the amounts apportioned by said board to the several municipal purposes and included in assessment on the several municipal departments, if any be made, as provided for in said section 8 of this act; provided, that the amount included in such assessment and intended for such fund shall not in any one year exceed the sum of five thousand dollars. Second. Said board may annually transfer, by resolution in writing, to said sinking fund such portion of the surplus fund in the treasury of the water department at the end of any fiscal year, as said board may deem advisable, and as said ordinance may permit; provided, that such transfer of surplus shall not in any one year exceed the amount of ten thousand dollars, nor shall the total of all moneys paid into said fund in any one year exceed said sum of ten thousand dollars.

The city treasurer shall keep said fund separate and distinct from other funds, and shall keep, preserve and invest the same and pay orders drawn upon the same in the manner and as may be designated by the ordinance creating the same. The said board may at any time direct the city treasurer to invest a specified portion of said fund or the whole thereof in bonds of its said city or in certificates of indebtedness issued by said city, or in bonds or certificates of the State of Minnesota, or in certificates of deposit accompanied by bonds if indemnity of one or more banks located in said city, if in the opinion of said board the same can be done advantageously.

Said fund shall be used exclusively for the payment of maturing water works bonds, and only such amount shall be paid therefrom annually, for the redemption of such bonds, as the said board may annually, by resolution, authorize and designate. ('03, c. 165, §8a, added by '11, c. 236, §4.)

1664-53. Same; transfer of money to municipal works fund.—It shall be the duty of the city council of such city, immediately after the organization of such board, to direct the treasurer of such city to transfer from the general fund to the municipal works

fund, to be thereafter maintained by him and controlled by said board, all moneys theretofore levied for the departments under the control of said board, as the same may be received by such treasurer from the county auditor of such county, and all moneys in the city treasury of such city applicable to the needs of said departments, prior to the time that the first of the tax levies, hereinbefore designated to be made by and for said board, shall be collected, received and applied by said treasurer, for said board; and the city council of each such city shall also, hereafter, when not provided for in the board's estimate, cause to be transferred to the municipal works fund from the proper fund of such city the necessary means for maintaining and operating such works, or additions and extensions thereto as may have been installed by such city and which such board has assumed control, until the beginning of the fiscal year following the first tax levy which includes the board's estimate for the same. ('03, c. 165, §9.)

1664-54. Same; payments from fund; orders, issuance.—No moneys shall be paid out of the funds in the city treasury belonging to said board, except for principal or interest of water and light bonds, or either, unless such payment shall be specially authorized by an affirmative vote of a majority of all the members of such board, taken by a call of the ayes and noes, and then only upon order drawn by the secretary of such board, signed by the president and countersigned by the secretary, specifying the purpose and department for which, and the account upon which it is drawn, and made payable to the order of the person, firm or corporation in whose favor it is issued; provided, that orders in the form above prescribed may be issued at the proper time, without specific action by the board in each instance, for the payment of salaries or wages previously fixed and determined by the board, and made payable at certain definite times and in certain definite installments. ('03, c. 165, §10.)

1664-55. Same; expenditures to conform to estimate; borrowing power.—In all appropriations, and in all purchases made or liabilities incurred, said board shall not exceed in any fiscal year the amount of the estimate made therefor, as hereinbefore provided, and, except when otherwise authorized by law, no loans shall be made by said board at any time for any purpose, except when extraordinary expenditure shall be rendered unavoidable by fire or other unforeseen calamity, and such expenditure be approved by a majority vote of the city council of such city. ('03, c. 165, §11.)

1664-56. Same; redemption of bonds.—Whenever the city treasurer shall pay any principal or interest on any water or light bond he shall immediately transmit to the secretary of said board a statement of such payment, together with the bond or coupon so redeemed, and proper entry thereof shall be made by the secretary in the books kept for that purpose. ('03, c. 165, §12.)

1664-57. Same; regulating distribution of water; rates, lien; hydrants; preventing waste of water.—Each such board shall, if a water works system be under its control, regulate the distribution and use of the water in all places and for all purposes where the same may be required for either public or private use, and fix the price and rates therefor, and from time to time cause to be assessed the water rate to be paid by the owner or occupant of each house or other building having or using water, upon such basis as they shall deem equitable, and such water rate shall become a continuing paramount lien, until paid, upon each house or other building, and upon the lot or lots upon which such house or other building is situate, and they shall erect such new number of public hydrants and in such places as shall be ordered from time to time by the city council of such city. Said board is hereby authorized and required to restrain and prevent any and all wastage of water,

whether occurring under private or public use, and to that end may, when in its judgment necessary, turn off the water or take such other action as in its judgment may be proper. ('03, c. 165, §13.)

1664-58. Same; enforcing payment of water rates.—That each such board shall have the power and authority to require payment in advance for the use of water furnished by them in or upon any building, place or premises, and in case prompt payment for the same shall not be made, they may shut off the water from such building, place or premises, and shall not be compelled again to supply said building, place or premises with water until said arrears, with interest thereon, together with the cost and expense of turning said water off and on, as fixed by ordinance, shall be fully paid. ('03, c. 165, §14.)

1664-59. Same; extension of system; establishing rates.—That each such board may from time to time, for the purpose of furnishing a full supply of water to the inhabitants of such city for any and all purposes, extend the water works system under its control in such manner as said board may deem best, subject to all conditions herein contained.

That the said board of municipal works of each such city shall establish such reasonable water rates as will at all times insure to such city at least a sufficient income to pay all the expenses and costs of operation, maintenance and repair of said system and works, and the interest on outstanding bonds. ('03, c. 165, §15.)

1664-60. Same; offenses by board or officers.—It is hereby declared to be a misdemeanor, punishable by a fine not exceeding five hundred (500) dollars, or by imprisonment in the county jail not exceeding one year, or both, at the discretion of the court, for said board, or any of its officers, to knowingly omit the property of any person from assessment for water rates, or neglect or refuse to collect the same, or to give any person other or different credit for the use of water than that given the whole public, or those belonging to the same class. ('03, c. 165, §16.)

1664-61. Same; regulation of lighting plants; extension.—Each such board shall, if a municipal lighting plant be in operation in such city, regulate the distribution of lamps on the streets and public grounds of said city in such manner as to properly light such streets and public grounds, and shall determine the number and location of such lamps and provide for the proper operation, care and maintenance of the same, and of all poles, wires, fixtures and appliances pertaining to the same, and shall have the full control and management of such lighting plant, but no extensions for street lighting shall be made to the same nor additional lamps placed except upon an affirmative vote of a majority of all the members of such board. ('03, c. 165, §17.)

1664-62. Same; by-laws, regulations, and ordinances; penalty for violation; publication.—That each such board is hereby invested with full power to make and enforce such by-laws, regulations and ordinances applicable to any or all of the works under their control as may be deemed necessary to carry into effect the objects and intent of this act, and not inconsistent herewith, and to supply and define any power or mode not already specially designated herein, but contemplated by this act; said board may prescribe, as penalty for the violation of any ordinance or part thereof, the imposition upon the offender of a fine not exceeding one hundred (100) dollars, or imprisonment for a term not exceeding ninety (90) days; said board shall cause all such by-laws, regulations and ordinances to be entered in a book to be kept for that purpose, and signed by the president and secretary, which, when so entered and signed, shall be evidence in any court of this state. All such regulations and ordinances shall be published at least once in the official newspaper of such city. ('03, c. 165, §18.)

1664-63. Same; contracts, writing; lowest bidder, advertisement.—Every contract for material or for the construction of any part of any of said works under the control of said board, which shall involve the expenditure of a sum of two hundred (200) dollars or more, shall be in writing and shall remain on file with the secretary of said board. All work shall be let to the lowest responsible bidder therefor, except incidental repairs or minor improvements, after notice soliciting proposals for the doing of such work shall have been published in the official newspaper of such city, in at least two separate issues of the same; provided, said board shall have the right to reject any and all bids, and such rights shall be reserved in each advertisement soliciting bids; and provided further, that in the event on any extraordinary or sudden injury to any of (the) said works or any part of such system whereby damage or loss might ensue by reason of any delay, or in the event of the lowest bid submitted being no less than ten (10) per cent greater than the engineer's estimate therefor, the said board may cause the damage to be repaired or the proposed improvement to be made without contract and in such manner as the board may deem for the best interests of the city; and provided, further, that in all work of laying water pipe, said board may require all joints to be made by persons in the employ of said board. ('03, c. 165, §19.)

1664-64. Same; purity of water; filters; increasing supply.—That each such board shall have the power and authority to adopt any and all means, and to do any and all things by it deemed necessary to be done, to protect or to enhance the purity of the water supply of any such city and to supply the citizens of such with a pure and wholesome water for all purposes. Said board shall have the power and authority to decide upon, adopt, construct and install a system of filters or such other appliances, system or methods as it may determine for the purpose of filtering or purifying the water to be furnished by any such city to its citizens; or, if determined by it to be advisable, may provide or secure a new and additional supply of water from other sources than theretofore used; and may from time to time, as deemed necessary, increase the supply from the source theretofore employed. ('03, c. 165, §19a, added by '09, c. 121 §1; Am. '11, c. 236, §5.)

1664-65. Same; interference with works, penalties.—Any person who shall without authority from said board lay any main or service pipe or take water therefrom, or open or shut any service cock or fire hydrant, or remove or unscrew, wholly or partially, the cap from such fire hydrant, or enter or form any connection with or turn water into any tunnel excavated or used by said board for the purpose of laying its pipe, or who, being authorized by said board to take water from any main or service pipe into any specified building or upon any specified premises, or to be used for any specified purposes, shall, without authority from said board, use such water for any other than specified purpose or permit any other person to use the same for any other such specified purpose, or to take the same out of such building; and also such other person so using or taking such water, or who, without lawful authority, shall dig or excavate within six (6) feet of any main, pipe, gate, hydrant or blow-off of said works, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not more than one hundred (100) dollars, and not less than twenty-five (25) dollars, or by imprisonment in the county jail for a term of not more than three (3) months, nor less than twenty (20) days, or both such fine and imprisonment. ('03, c. 165, §20.)

1664-66. Same; diversion or corruption of water; injury to works, civil liability.—If any person or persons shall maliciously or wilfully divert the water or any portion thereof, from any such water works, or shall corrupt or render the same impure, or shall de-

stroy or injure any canal, aqueduct, pipe, conduit, machinery or other property used or required for procuring or distributing such water in any such city, or shall destroy or injure any of the machinery, fixtures or appliances used or required for operating the lighting plant or the sewerage pumping plant in such city, or do any act which shall cripple the operation of any such plant, or reduce its efficiency, such person or persons, and their aiders and abettors, shall forfeit to the said board of such city, to be recovered in a civil action, treble the amount of damages (besides cost of suit), which shall appear on the trial therefor to have been sustained; and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by a fine not exceeding one thousand (\$1,000) dollars, or by imprisonment not exceeding one (1) year, or both, at the discretion of the court. ('03, c. 165, §21.)

1664-67. Same; commencement and scope of powers of board.—The board of municipal works herein provided for, shall have no powers over, or duties of any kind in connection with, any of the municipal works herein designated until the same shall have been fully completed and installed and shall be in use and operation or ready to be put into use and operation, but such board shall be vested with and shall have the full power and authority after any such works shall have been constructed, installed and come under the control of such board to determine upon, make, construct and install any and all extensions thereto, except as in this act otherwise expressly provided; provided, that in case of lighting plants this act shall not repeal, amend or modify an act of the legislature of this state, entitled "An act to authorize and empower cities in this state having a population of not less than ten thousand (10,000) and not more than fifty thousand (50,000), to construct, erect or purchase electric light plants in such cities, and to authorize and empower such cities to issue their bonds for such purposes," approved April 10th, 1901, [§§ 1325-1 to 1325-4], except in so far as this act vests such board with power and authority to control, operate and manage such plants after the same shall have been constructed, erected or purchased by the city, as in said act provided, and to make additions and extensions thereto for the uses and purposes for which such plants shall have been so installed by such city, and for which such plants are intended and directed by the council of such city to be used, but the power and authority to determine upon and make, construct and install additions and extensions to any such lighting plant for new and additional uses, not theretofore directed, shall be and remain as in said act provided, but when such additions and extensions for such new and additional uses shall have been determined upon, constructed and installed ready for use and operation, the control, operation and management thereof shall be immediately assumed by such board, and,

Provided, further, that this act shall not vest said board with any power or control over the sewer pipes of any such city, nor to abridge in any manner the powers of the city council of such city with reference to the laying or extensions of sewer pipes or constructing a sewer system or part of same in any such city, or to deprive such council of the supervision or control of such sewer pipes after construction, but such board shall have the full control and management of the pumping plant only of such system or systems of sewerage and of all machinery, appliances and flush tanks employed in the operation of such system or systems after the same have been erected, constructed and installed by such city. ('03, c. 165, §22.)

1664-68. Same; repealer.—All acts or parts of acts, whether general or special, inconsistent with the provisions of this act, are hereby repealed. ('03, c. 165, §23.)

Sec. 24 provides that the act shall take effect from its passage. Approved Apr. 10, 1903.

1664-71. Improvement of lake and park—bonds or certificates of indebtedness.—That the city council or other governing body of any city of the second class in this state located upon navigable boundary waters which now has or may hereafter have a population of not less than 20,000 or more than 50,000 inhabitants is hereby authorized and empowered by a vote of two-thirds of its members, by ordinance or resolution duly passed, to issue and sell bonds or certificates of indebtedness of such city with interest coupons attached in the amount of \$75,000 or so much thereof as said city council or governing body of said city may deem necessary for the purpose of dredging and beautifying any lake lying wholly within the boundaries of such city, and for the further purpose of creating, establishing, improving and beautifying of any park located within the boundaries of such city. (Jan. 13, 1936, Ex. Ses., c. 7, §1.)

1664-72. Same—form, terms, and sale of bonds.—Such said bonds to be made and issued in such denominations and payable at such place and at such times, not exceeding 30 years from the date hereof as may be deemed best by said council or governing body, notwithstanding any provisions contained in the charter of such city or any law of this state prescribing or fixing any limit upon the total amount of indebtedness of such city falling due in any one fiscal year, and to bear interest at a rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein. Said council or governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor, and upon the best terms that can be obtained for said bonds; provided that no such bonds shall be sold for a less amount than par value thereof and accrued interest thereon, and provided further that all of said bonds shall be made for principal sum of not less than \$100.00 or more than \$1,000 each. (Jan. 13, 1936, Ex. Ses., c. 7, §2.)

1664-73. Same—submission to popular vote—debt limit—levy of tax—sinking fund.—The bonds hereby authorized, or any part thereof, may be so issued and sold, notwithstanding any provision contained in the charter of such city or any law of this state requiring approval of the voters of such city or any limitations contained in said charter or laws prescribing or fixing any limit upon the bonded indebtedness of such city.

The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under this act, and for the payment of the current interest thereon, and said council or governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. (Jan. 13, 1936, Ex. Ses., c. 7, §3.)

1664-74. Same—execution of bonds.—All bonds issued under authority of this act shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city recorder or clerk of such city, but the coupons attached thereto may be signed with the lithographed signature of the recorder or clerk. (Jan. 13, 1936, Ex. Ses., c. 7, §4.)

1664-75. Same—use of proceeds of bonds.—Said council or governing body hereby is and shall be authorized and fully empowered, in addition to all other powers possessed by it, to use the said bonds or the proceeds of the sale thereof for the purposes herein specified, but neither the same nor any part thereof shall be used for any other purpose. (Jan. 13, 1936, Ex. Ses., c. 7, §5.)

1664-81. Water terminals—acquisition of land.—That any city in this state located upon navigable boundary waters which now has or may hereafter have a population of not less than 20,000 and not more than 50,000 inhabitants shall have the power to acquire and hold in fee simply by purchase or con-

demnation land for the establishment of docks, quays, levees, wharves, landing places, railroad or other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances on any navigable stream within the limits of such city and may set aside such portion of said land when acquired as the public may require for use for public travel and shall devote the remainder thereof to uses herein provided or if required by the United States government. (Jan. 13, 1936, Ex. Ses., c. 8, §1.)

1664-82. Same—construction of works—tolls and charges.—That all such cities shall have the power to construct, erect and maintain on any such land so acquired, docks, quays, levees, wharves, landing places, railroad and other transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances; and such cities shall have the power and are hereby authorized to charge a reasonable price for the use of such docks, quays, levees, wharves and landing places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances, such reasonable price to be determined and fixed by the common council or governing body of such city, and the making of such charge shall in no way be held to impair, affect or invalidate any bonds issued by such city to cover the payment of the construction thereof. (Jan. 13, 1936, Ex. Ses., c. 8, §2.)

1664-83. Same—bonds or certificates—self liquidating—mortgage—foreclosure—regulation.—That any such city may by written resolution or ordinance adopted by a two-thirds vote of all members of its common council or other governing body issue and dispose of interest bearing bonds or certificates to be known as River Terminal bonds or certificates which shall under no circumstances be and become an obligation or liability of said city or payable out of the general funds of said city, but shall be payable solely out of the specified portion of the revenues or income to be derived from such river terminal docks, quays, levees, wharves, landing places, railroad and other transportation loading and unloading places, land and water freight and passenger stations for the acquisition of which said bonds or certificates were issued. Such certificates shall not be issued and secured on any such river terminal property in an amount in excess of the cost to the city of such river terminal as hereinbefore provided and ten per cent of said cost in addition thereto. In order to secure the payment of such public utility certificates and the interest thereon the city may convey by way of mortgage or deed of trust any or all of the property thus acquired or to be acquired through the issue thereof; which mortgage or deed of trust shall be executed in a manner directed by the common council or other governing body of such city and acknowledged and recorded in the manner provided by law for the acknowledgment and recording of mortgages of real estate and may contain such conditions and provisions not in conflict with the provisions of this act as may be deemed necessary to fully secure the payment of the certificates described therein. Any such mortgage or deed of trust may carry the grant of a privilege or right to maintain and operate the property covered thereby, for a period not exceeding 20 years from and after the date such property may come in the possession of any person or corporation as a result of foreclosure proceedings; which privilege or right may fix the rates which the person or corporation securing the same as a result of the foreclosure proceedings shall be entitled to charge in the operation of said property, for a period of not exceeding 20 years. Whenever, and as often as default shall be made in the payment of such certificate issued or se-

cured by mortgage or deed of trust, as aforesaid, or in the payment of the interest thereon when due, and any such default shall have continued for the space of 12 months after notice thereof has been given to the mayor and financial officer of the city issuing such certificates, it shall be lawful for any such mortgagee or trustee, upon the request of the holder or holders of a majority in amount of the certificates issued and outstanding under such mortgage or deed of trust, to declare the whole of the principal of all such certificates as may be outstanding, to be at once due and payable, and to proceed to foreclose such mortgage or deed of trust in any court of competent jurisdiction. At a foreclosure sale, the mortgagee or the holders of such certificates may become the purchaser or purchasers and the rights and privileges sold, if he or they be the highest bidders. Any public utility acquired under any such foreclosure shall be subject to regulation by the corporate authorities of the city to the same extent as if the right to construct, maintain and operate such property had been acquired through a direct grant without the intervention of foreclosure proceedings. (Jan. 13, 1936, Ex. Ses., c. 8, §3.)

1664-84. Same—accounts—publication of financial reports.—Every such city owning, or owning and operating any such public utility shall keep the books of account for such public utility distinct from other city accounts, and in such manner as to show the true and complete financial results of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to such city of such public utilities owned; all cost of maintenance, extension and improvement; all operating expenses of every description, in case of such city operation; the amount set aside for sinking fund purposes. The common council shall cause to be printed annually, for public distribution, a report showing the financial results of such city ownership, or ownership and operation. (Jan. 13, 1936, Ex. Ses., c. 8, §4.)

1664-91. Building and zoning regulations.—That for the purpose of promoting health, safety, order, convenience, prosperity and general welfare, any city of the second class, including those operating under a home rule charter, may by ordinance regulate the location, size, use and height of buildings, the arrangement of buildings on lots, and the density of population within such city; may make different regulations for different districts thereof; and may acquire or prepare and adopt a comprehensive plan for the future physical development and improvement of such city, in accordance with such regulations, and thereafter, by ordinance adopted by a two-thirds vote of all the members of its governing body, may alter said regulations or plan. (Jan. 18, 1936, Ex. Ses., c. 35, §1.)

Where Zoning Ordinance is passed, but before it goes into effect state officers granted permit under old Code, right to construct the building depends upon whether any substantial part of the building is constructed before the new Ordinance goes into effect. Op. Atty. Gen. (59a-32), July 24, 1936.

1664-92. May enforce regulations.—The governing body of any such city is hereby authorized to pass ordinances for the enforcement of the provisions of this act and of such regulations and to provide therein penalties for the violation thereof. Such city is also hereby authorized to enforce such regulations by mandamus, injunction, or any other appropriate remedy in any court having jurisdiction thereof. (Jan. 18, 1936, Ex. Ses., c. 35, §2.)

1664-93. To be construed as additional to existing laws.—In any such city having a planning commission, the provisions of this act shall be construed as an addition to existing powers and not as an amendment to or a repeal thereof, and the governing body thereof may adopt a plan or plans prepared by such

planning commission. (Jan. 18, 1936, Ex. Ses., c. 35, §3.)

Sec. 4 of act Jan. 18, 1936, cited, provides that the act shall take effect from its passage.

1664-94. Certain cities to maintain public playgrounds and skating rinks.—That all cities in the State of Minnesota located upon navigable boundary waters having more than 20,000 and less than 50,000 inhabitants are hereby authorized and empowered to establish and maintain public playgrounds and public skating rinks within the corporate limits of such city, and for that purpose to acquire by grant, gift, purchase, lease or otherwise lands within the corporate limits of such city and to appropriate money therefor and for the maintenance of such public playgrounds and public skating rinks whenever the City Council of such city shall by a majority vote thereof deem the same necessary or advisable. (Apr. 12, 1937, c. 198, §1.)

Sec. 2 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

1664-95. Unplatted land to be separated from cities in certain cases.—The owners of seventy-five per cent or more of any contiguous unplatted tract or tracts or parcels of land containing not less than forty acres included within the corporate limits of any city in this State located on navigable boundary waters having a population of not less than twenty thousand or more than fifty thousand inhabitants, and used and occupied exclusively for agricultural purposes may petition the District Court of the county in which such tracts and parcels of land are situated for a decree detaching such tracts and parcels of land from such city. Upon the filing of such petition the Court shall fix a time for the hearing thereon which shall not be less than thirty days from the date of the filing of such petition; and the petitioner or petitioners shall serve or cause to be served a notice of such hearing upon the Mayor or City Recorder of such city at least twenty days before the time fixed for such hearing. (Apr. 12, 1937, c. 199, §1.)

1664-96. Same—Court to make order.—If upon the hearing the Court shall find such tracts and parcels of land are of the nature and quantity as hereinbefore set forth and that they may be detached from such city without unreasonably affecting the symmetry of the unsettled portion of such city it may grant such decree and said tracts and parcels of land shall thereupon become detached from such city for all purposes as exclusively as if they had never been a part thereof. (Apr. 12, 1937, c. 199, §2.)

1664-97. Same—Land detached to become part of original townships.—Such tracts or parcels of land which have become detached from such city under the decree of the Court shall thereafter form a part of the township in which such land was originally situated and where there is no organized town or township government in the town from which said lands were detached exclusive of the city government of such city it shall be the duty of the Board of County Commissioners of the county in which said lands are situated to attach any part or all of said lands so detached from such city by the decree of the Court made under the provisions of this act to any towns or townships adjoining said land and within said county and thereafter said lands shall at all times be subject to the government of the township to which they are so attached. (Apr. 12, 1937, c. 199, §3.)

Sec. 4 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

1664-101. Annexation of territory to city; petition; ordinance.—That whenever the majority of the owners in number and area of any property which has been platted into lots and blocks or outlets, or the owner of any tract, piece or parcel of land, abutting upon any city of the second class, whether such city is incorporated under general or special laws, or is operating under the terms and provisions of a home rule charter, shall petition the city council, city com-

mission, or other governing body of said city, to have such property annexed to the city, the city council or other governing body may by ordinance, and the city commission, acting under a home rule charter, may by resolution, declare the same to be an addition to such city, and thereupon such territory shall become a part of such city, as effectually as if it had been originally a part thereof. (July 15, 1937, Sp. Ses., c. 57, §1.)

1664-102. Same; recording of ordinance; filing with county auditor.—It shall be the duty of the city council, city commission, or other governing body of any such city to which such territory shall be annexed and added under this act, to cause a certified copy of the ordinance or resolution aforesaid to be duly filed and recorded in the office of the register of deeds of the county in which said city is located, or, in the event that said city is located in more than one county, in the office of the register of deeds of the county in which said territory thus annexed to said city is situated, and to also in like manner cause a certified copy of said ordinance or resolution to be filed in the office of the county auditor of said county; provided, that this act shall be construed to be distinct from and independent of any other law providing for the annexation of territory to cities of the second class, and not as repealing such law. (July 15, 1937, Sp. Ses., c. 57, §2.)

Sec. 3 of Act July 15, 1937, cited, provides that the act shall take effect from its passage.

1664-103. Candidates to file affidavits.—In all cities of the second class not having a Home Rule Charter, each candidate for nomination at the city primary election shall file his affidavit of candidacy in the manner now provided by law, except that such affidavit may be filed up to and including the 20th day before such primary election. (Act Jan. 17, 1939, c. 2.)

See §601-3(1)b.

Sec. 2 of Act Jan. 17, 1939, cited, repeals inconsistent acts, and Sec. 3 provides that the act shall take effect from its passage.

This provision may be impliedly repealed by the new Minnesota Election Law, being Laws 1939, c. 345. See, particularly Pt. 3, c. 1, §3, ante §601-3(1)b.

LAWS APPLICABLE TO CITIES OF SECOND CLASS

Laws 1931, c. 156, has not been wholly or partially repealed by Laws 1933, c. 407, or Laws 1935, c. 386, and neither subsequent law is applicable to laws affected by former laws. Op. Atty. Gen. (412a-13), Oct. 26, 1936.

Laws 1931, c. 156, provides for redemption from all delinquent taxes on land in cities of the second class by payment of amount of special assessments with 6% interest.

Form of conveyance provided for sale to cities of the second class under Laws 1931, c. 156. Op. Atty. Gen. (412a-8), Mar. 26, 1938.

Laws 1931, c. 156, providing for cancellation of general taxes and deed of land by city of St. Cloud, is constitutional. Op. Atty. Gen. (820), June 22, 1938.

PROVISIONS RELATING TO CITIES OF THIRD CLASS

1665 to 1676. [Repealed Apr. 21, 1939, c. 345, Pt. 12, §1, ante §601-12, effective Aug. 1, 1939.]

ANNOTATIONS UNDER REPEALED SECTIONS

1665. Special elections.

Reenacted as §601-11(3)a.

1666. Candidates—Nomination.

Reenacted as §601-11(3)b.

1667. Fees—Ballots.

Reenacted as §601-11(3)c.

1668. Judges—Bonds of election.

Reenacted as §601-11(3)d.

1669. Compensation.

Reenacted as §601-11(3)e.

1670. General election law to apply.

Reenacted as §601-11(3)f.

1671. Cities of third class may hold primaries.

Reenacted as §601-11(3)g.

Amended Jan. 20, 1931, c. 2.

Brainerd is a city of the third class, and general laws relating to city elections in cities of the third class are now applicable to that city, except as its charter may contain provisions inconsistent therewith. Op. Atty. Gen., Feb. 28, 1931.

1672. Date—Notice.

Reenacted as §§601-6(3)c, 601-11(3)h.

South St. Paul City election being April 4, primary election should be March 21. Op. Atty. Gen., Feb. 23, 1933.

When day for holding primary election would fall on a legal holiday, election should be held preceding day. Op. Atty. Gen. (64), Jan. 11, 1938.

1673. Candidates shall file—Fee.

Reenacted as §601-11(3)i.

Last date for filing in South St. Paul for primary on Mar. 21, would be Mar. 11. Op. Atty. Gen., Feb. 23, 1933.

When last day of filing as a candidate at primary falls on a legal holiday, last day for filing affidavits of candidacy is preceding secular day. Op. Atty. Gen. (911a-1), Jan. 27, 1937.

1674. Manner of holding canvass.

Reenacted as §601-11(3)j.

1675. Vacancies.

Reenacted as §601-11(3)k.

1676. Registration.

This section has been superseded by permanent registration act. Op. Atty. Gen., Feb. 23, 1933.

1692. New charter.

Brainerd is a city of the third class, and general laws relating to city elections in cities of the third class are now applicable to that city, except as its charter may contain provisions inconsistent therewith. Op. Atty. Gen., Feb. 28, 1931.

1710-1. Soldiers' memorials.

A soldier's memorial building may be used for holding public meetings, gatherings, conventions and a meeting place for educational and other purposes. Op. Atty. Gen. (59b-9), May 13, 1935.

This act is superseded by Laws 1923, c. 325 (§1933-10, et seq.). Op. Atty. Gen. (69b-9), Mar. 5, 1937.

1713. Cities empowered to make local improvements, etc.

City may dispose of old paving materials without applying to abutting property owners who paid therefor. Op. Atty. Gen. (396c-10), May 12, 1934.

City of Mankato may proceed under this and subsequent sections in constructing a white way, and it is proper to take care of expense of all rewiring or maintenance out of general revenue fund, and in assessing benefits it is proper to disregard matter of lamp posts per block, and to assess whole project as one unit according to front footage, since lots will benefit equally even though they do not have a light in front of their property. Op. Atty. Gen. (624c-15), July 26, 1939.

1713-¼. Special assessments; intersections.—The expense of any improvement mentioned in the foregoing section, except as otherwise specially provided in this act, shall be defrayed by an assessment upon the real estate benefited thereby, to be levied, enforced and collected in the manner hereinafter prescribed, except that all or any part of the expense of paving, repaving, graveling, macadamizing, filling and grading of the space occupied by street intersections may, if the city council of such city deems it expedient, be paid out of the general fund of such city. ('01, c. 379, §2.)

1713-¼a. Several improvements in one contract.—Two or more improvements upon one or more streets, either of paving, curbing, graveling, macadamizing, planking, grading or filling, or constructing retaining walls, protection fences, area walls, sewers, gutters or drains, or either or any of them, may be done at the same time under one resolution and may be included in one contract if deemed advisable by the city council of such city so to do. ('01, c. 379, §3.)

1713-¼b. City engineer to make plans and specifications; estimate of cost.—Prior to the passage of any resolution for the doing of any work or the making of any improvement hereinbefore specified, the expense of which is to be assessed upon property benefited, except as otherwise specially provided in this act for certain designated kinds of improvements, the city council of such city shall cause plans and specifications of such proposed work, together with an estimate of the probable expense thereof, to be made by the city engineer of such city, or by such other person as may be employed by the said city council for that purpose, and presented to said city council for its consideration and approval, and the same shall immediately upon the approval thereof by said council be filed with the city clerk or recorder of such city for the inspection of all parties interested.

Time and manner of receiving proposals, notice by clerk. The city council shall then designate a time, not less than twenty (20) days distant, and a place at which it will meet and act in relation to the doing of the proposed work and the making of the proposed improvement, and direct that notice be given by the clerk or recorder of such meeting, and the time, place and purpose thereof, and that in the meantime sealed proposals for the doing of such work and the furnishing of all material therefor, if required, will be received by said clerk or recorder, and opened in the presence of such council at such meeting.

Notice to state location and nature of improvements. In such notice shall be concisely stated the location of the proposed work, the general nature of the proposed improvement; that the said plans, specifications and estimate therefor have been so filed with the clerk or recorder, and that all persons interested will be heard at such time and place; the said notice shall be given by publication thereof in the official paper of such city, at least once in each week for two successive weeks prior to the time designated as aforesaid by the said city council. ('01, c. 379, §4.)

1713-¼ c. Shone-Hydro-Pneumatic system; sewer district; change of boundary lines; general fund; assessed to real estate benefited; when only portion of sewage district shall be constructed, cost divided.—Whenever the system of sanitary sewerage known as the Shone-Hydro-Pneumatic system, or any system other than a natural gravitation system, shall be adopted and established in and for any such city or for any portion of same, the city council thereof in each instance, when it proposes to cause such sanitary sewers or system of sewers to be constructed or laid, for the drainage of any given portion of such city, shall first determine and accurately describe, by ordinance, the area of territory to be made tributary to an ejector or pumping station to be constructed for such district, and in each instance such territory, so defined, shall be known as a sewer district in such city and shall be properly designated by number.

After sewers or sewer pipes shall have been constructed or laid in any such district, or any portion thereof, in accordance with plans adopted for such district, the city council of such city shall have no power or authority to change the boundary lines of such district, nor to increase or diminish the extent of territory made tributary to the ejector or pumping station therein; provided, that whenever it shall be found advisable after any such district has been established to make a portion of such district tributary to the pumping station of an adjoining district, for the purpose of obtaining a better and more efficient drainage for such portion, then and in such event, the said council may, by an affirmative vote of two-thirds (2-3) of all its members, cause such change to be made, after the city engineer of such city shall have filed his opinion in writing, deeming such change proper and advisable.

Whenever any such sewerage system, other than a natural gravitation system, shall be adopted and established in any such city, the cost and expense of all machinery, ejectors, pumps, air compressors, compressed air storage tanks, and all compressed air pipes and connections, and of erecting and installing all such machinery and appliances and the cost of constructing and laying the final discharge and outlet pipes from the ejector or pumping chamber, in such district to its terminus, shall be paid by the city at large out of the general fund of such city; and no greater amount than the cost of material and labor for and of constructing and laying all sewers and sewer pipes, and the cost and expense of material and labor for, and of constructing and equipping all flush tanks, the ejector or pumping chamber or chambers and attendant manholes and all other manholes in each such district, shall be chargeable to and assessed upon the lots and parcels of land found benefited in any such district.

Whenever only a portion of a sewerage district, established as in this section provided, shall be constructed and only a part of the territory in such district shall be provided with sewers, then and in such event there shall be assessed upon the property benefited thereby, such portion only of the cost of the ejector or pumping chamber and adjoining manhole, if constructed for the ultimate use of the entire district, as said council may deem equitable and just, and the balance of such cost, not so assessed, shall in the first instance be paid out of the general fund of such city, and upon each and every subsequent extension of sewers in such district, such portion of the cost of such ejector or pumping chamber and adjoining manhole, as may be deemed just and equitable by said city council, shall be included in the assessment for the cost of such extension, until such district has been fully completed, and each assessment for such portion of such chamber and manhole shall be returned into said general fund as the same shall be collected from time to time. ('01, c. 379, §5.)

1713-¼ d. Contract for entire improvement or for work alone; contract for machinery.—Any contract for the making of any improvement designated in this act may be for the entire improvement complete and include all labor, material, machinery and whatever may be necessary for the full completion thereof, or may be for the doing of the work alone, such city furnishing the necessary material therefor, as the city council of such city may deem to be the best interest of such city; and such council may also, at its discretion, cause the making of any such improvement by separate contracts for different portions thereof or by separate contracts for the labor, material and machinery required for the making of such improvement; in each such instance the notice, prescribed by section 4 of this act, shall contain a distinct statement of the nature and extent of such separate contracts, and shall definitely describe such separate portions of such improvement.

Whenever any machinery or mechanical appliances shall form a part of any improvement authorized by this act, the city council of such city may award a contract for the same after taking into consideration the efficiency, duty, cost of operation and maintenance and the construction, workmanship and operation generally of the several machines or appliances designated in the several bids, without regard to the amount of such bids. ('01, c. 379, §6.)

1713-¼ e. Sprinkling district; publication; contract for sprinkling with water or other substance; contract may include any number of districts.—Before any proceedings are had by any such city council for the sprinkling of any of the streets, lanes, alleys or public grounds in any such city, such council shall each year, by resolution in writing, determine what territory in such city shall be sprinkled during such year, and may divide such territory into two or more sprinkling districts, describing the boundary lines of each such district; each district so determined shall be designated by number, and thereafter all reference to such district by number in any notice required by this act, or in any other proceeding having reference thereto, shall be deemed a sufficient designation; said resolutions shall designate what officer or officers of said city shall supervise and inspect said work in accordance with the plans and specifications therefor; such resolution shall be published once in the official paper of such city.

The contract price to be paid by said city for the doing of such work, when such sprinkling is done with water, shall be upon the basis of sprinkling one hundred (100) square feet per week, during the life of such contract; if in the opinion of said council it is deemed impracticable, at the time of letting any such contract, to designate the exact length of time during which sprinkling is necessary in any or all of the districts designated during any particular season, said council may let such contract without so designating

the beginning and the end of such sprinkling season; and upon the city so letting such contract, the city council of such city shall have power to order the beginning of said work upon three (3) days' notice to the contractors herefor, and shall likewise have power to order said work to cease for the season in any or all districts or in any portion of any one district, if in their opinion no necessity therefor exists, and such order and direction shall be final, conclusive and binding upon all parties concerned. When, for the prevention of dust, oil or any substance other than water is employed in such work, the specifications therefor shall designate the number of sprinklings, or applications of the substance, to be applied during the entire season to the surface of the streets in the district specified, and the contract price to be paid by said city shall be upon the basis of one lump sum for each separate sprinkling or application in the entire district; such sum to include both labor and material or to be for labor alone as the specifications therefor may prescribe.

Any number of districts may be included in one contract and any or all action by the city council with reference to sprinkling may be with reference to the entire territory to be sprinkled. ('01, c. 379, §7; '13, c. 7, §2.)

1713-¼ f. Council to give interested parties hearing as to proposed work; lowest responsible bid; work under direction of city engineer; mayor to approve or veto resolution; passage over veto.—At the time and place designated in the notice prescribed by section four (4) of this act, an opportunity shall be given by the city council of such city to any and all interested parties to be heard for or against the proposed work designated in such notice, and the clerk or recorder of such city shall, in the presence of the said council, open and read all sealed proposals which may have been received for the doing of such work or the furnishing of material, if any, therefor, or both, as the case may be, and the city council of such city may then, by an affirmative vote of majority of all its members, by resolution in writing, accept the most favorable proposal (such proposal to be that of the lowest responsible bidder) and by such resolution authorized the doing of the proposed work or any part thereof, by the person or persons whose proposal shall have been accepted, and direct that written contract be made with him or them therefor; or may reject any or all proposals offered and refuse to authorize to do such work or of any particular part thereof; or if it is deemed by said council to be to the best interest of the city, and the estimate of the city's engineer is less than the lowest bid for said work and material, may reject all proposals offered, and authorize the doing of such work under the direction of the city engineer without contract, or may in its discretion, from lack of quorum or any other reasons, postpone the consideration and decision of the whole matter, or any branch thereof to a future definite time, of which postponement all parties interested shall be required and deemed to take notice.

Such resolutions, after the same has been duly adopted by the said council, shall be signed by the president of such council and attested by the said recorder or clerk, and on the next day after the adoption thereof the same shall be transmitted by such clerk or recorder to the mayor of such city for his approval. If the mayor approves the same he shall append his signature, with the date of his approval thereto, and return the same to the clerk or recorder within five (5) days, Sunday excepted, from the date of its transmission to him; and if he declines to approve the same he shall, within said period of five (5) days (Sundays excepted), return the same to the clerk or recorder with a statement of his objections thereto, to be presented to the said council at its next meeting thereafter.

Upon the return of said resolution to the city council, without the mayor's approval, the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if upon such vote, which shall be taken by a call of the ayes and noes, two-thirds (213) of all the members of the said council shall vote in favor of the adoption of such resolution, the same shall be declared adopted and shall have the same force and effect as if approved by the mayor.

If such resolution, transmitted to the mayor, shall not be returned by him to the said recorder or clerk within said five days (Sundays excepted), after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk or recorder on demand. ('01, c. 379, §8.)

1713-¼ g. Contracts; how executed.—All contracts authorized by this act for any of the improvements therein designated, shall be executed on behalf of such city by the mayor and attested by the clerk or recorder thereof. ('01, c. 379, §9.)

1713-¼ h. Contract for paving may include sewer, etc.; assessments.—That each such city is hereby authorized, whenever a contract is let for the paving or macadamizing of any of its streets, to include in such contract, when deemed expedient or necessary, the construction and laying, as far as the property lines, of all lateral sewers and drain connections that may be deemed expedient or necessary, and that the cost of such work shall be assessed by said council upon the real estate benefited thereby, and enforced and collected in the manner and under the regulations provided by this act for other local improvements in such city. ('01, c. 379, §10.)

1713-¼ i. Patented appliance and material.—In making any improvements herein authorized, the said council may select patented appliances and material to enter into such construction, if the cost, maintenance and duty thereof is deemed relatively the lowest or most satisfactory, all things considered, and the decision of said council therein shall be final. ('01, c. 379, §11.)

1713-¼ j. Municipal quarries and works; street commissioner to certify cost.—Each such city is hereby authorized to provide, establish, equip and maintain and cause to be operated under the supervision of the street commissioner of such city, municipal quarries for the purpose of providing stone, rock and macadam for municipal improvements and uses; and suitable works, apparatus and other facilities for the manufacture, construction and laying of macadam, asphalt, or other kinds of street pavements and sidewalks, as the city council of such city may determine.

Whenever any material is furnished by or obtained from any such municipal quarries, works, apparatus or other facilities, and employed in the construction of making any public improvements provided for in this act, the cost of which is to be assessed upon property benefited thereby, the street commissioner of such city shall immediately upon the completion of said improvement certify the cost of such material so furnished and employed in the making of said improvement, and all work in connection therewith to the city council of such city, and such certificate shall be placed on the file with the city recorder for the inspection of all parties interested; the amount so certified shall be deemed a part of the cost of the improvement so to be assessed, and an assessment shall be made therefor, levied and collected in the same manner as though said work had been performed and said material delivered by contract, as hereinbefore provided. ('01, c. 379, §12.)

1713-¼ k. Board of health to report nuisance; report plan for abatement.—Whenever the board of health shall report to the city council of any such city that stagnant or impure water stands upon any lot, lots or parcels of land within such city, thereby creating a

nuisance injurious to public health, said council shall immediately proceed to investigate the same, and if they shall determine that a nuisance does exist by reason of any stagnant or impure water standing upon any lot, lots or parcel of land, and the same is injurious to public health, they shall instruct the city engineer to prepare and recommend a plan and specifications for the abatement of said nuisance, together with an estimate of the expense, which shall be submitted to said council and filed with the recorder, the same as for other public improvements designated in this act, and if said council deems that sufficient real estate can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby, such council shall order the doing of said work in the manner hereinbefore provided, and the same proceedings shall be had in relation thereto by said council and other city officers as in case of other local improvements provided for in this act, and the cost thereof shall be assessed upon the property benefited as hereinafter provided. ('01, c. 379, §13.)

1713-¼l. Unforeseen obstacles; Contract rescinded; Mayor's consent not required.—If the city council of any such city, in carrying out any of the provisions of this act, should find unforeseen obstacles in grading, excavating, filling, paving or abating nuisances, or in constructing sewers or drains, not provided for, such city council may by resolution order such change or modification in such improvement to meet such unforeseen obstacles, as the said council may deem equitable and just, upon the recommendation of the city's engineer in charge of such work, at any time before or after the letting or making of any contract to do the same, or at any time while the work is in progress, by an affirmative vote of two-thirds (2-3) of all the members of such council; and any additional expense occasioned by such change, addition or modification of the improvement may be included in the assessment therefor upon property benefited by such improvement, but no additional expense shall be incurred other than may be necessary to overcome such unforeseen obstacles; provided, that if the expense required to overcome such unforeseen obstacle will materially increase the cost which would be incurred in the work, if such unforeseen obstacle had not occurred, then the city council of such city shall have the power, by resolution in writing, adopted by an affirmative vote of two-thirds (2-3) of all the members of such council to rescind the contract therefor so far as the uncompleted part of the work is concerned, and may, in their discretion, after such rescission, order the work to be relet as other work is let under this act, and the original contractor in such case shall be entitled to be paid for the portion of the work done by him, ratably, according to contract price, as nearly as the same can be ascertained, and no more. No resolution adopted by virtue of the provisions contained in this section shall require the consent or action of the mayor of such city, but shall be in full force and effect when adopted by the city council, as herein designated. ('01, c. 379, §14.)

1713-¼m. City engineer may complete work, when.—If, in the opinion of the city council and its engineer in charge, any work under any contract in such city, authorized by this act, does not proceed each month so as to insure its completion within the time named in the contract, the city's engineer in charge of such work shall have power, when authorized by resolution of such city council, to furnish and use men and materials to complete the work, and charge the expense thereof to the contractor, and the same shall be deducted from any moneys due him or to become due such contractor, or may be collected from him in a suit by said city. ('01, c. 379, §15.)

1713-¼n. Violating contract; damages and increased cost.—In all cases where the work for any improvement contemplated by the provisions of this act, shall be suspended before final completion, or the contractor shall abandon his work under his said con-

tract or shall fail to perform the same for any cause, or if at any time the work or any part thereof is unnecessarily delayed, or the contractor is violating any of the conditions of his contract or executing any of the same in bad faith, then at the option of such city, and by an affirmative vote of a majority of all the members of such council, the contractor may be excluded from further control and superintendence of the work required by his said contract, and such city may then assume such control and superintendence and proceed to complete the work or improvement, either by authorizing the city engineer in charge to procure and furnish all necessary labor and material and complete the same by day work, or, as the city council may determine, relet the unfinished portion of such work or improvement in the same manner, as nearly as may be, as provided in this act for the letting of contracts in the first instant for such improvements, and in every case of such new contract the work shall be carried to completion and shall be paid for in the same manner as contracts for other like improvements, and any and all damages and increased costs of the work to the city, including both labor and material, will be a charge against the original contractor and shall be deducted from any moneys remaining unpaid him or to become due such contractor, and the balance, if any, may be collected by said city from him and his sureties as provided by law. ('01, c. 379, §16.)

1713-¼o. Contractor personally responsible.—Any contractor or person who accepts a contract authorized by this act, under any such city, shall take the same with the condition that he shall be personally and directly responsible for any and all loss, damage or injury which may arise or in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on, and before acceptance thereof by such city, caused by any negligence or misconduct on his part or on the part of his servants or employes in doing the same, and every such contractor shall guard all such work by suitable guards by day and with lights at night, so as to prevent any loss, damage or accident. ('01, c. 379, §17.)

1713-¼p. Contractor to execute bond.—Before any contract whatever for the doing of any work or furnishing any skill or material, contemplated in this act, to any such city for the making of any improvement herein authorized shall be valid for any purpose, the contractor therefor shall execute a bond to such city, with two or more sufficient sureties to be approved by the mayor of such city, in such amount as the council of such city may direct, not less than the contract price agreed to be paid for the performance of such contract, and in no event less than one thousand (\$1,000) dollars, conditioned as provided by the General Laws of this state requiring the giving of bonds by contractors for public works and improvements, and conditioned further, that such contractor will indemnify and hold harmless such city against any damage, loss or injury which may arise in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on and before acceptance thereof by such city, caused by any negligence or misconduct on the part of such contractor, his servants or employes in doing the same.

Such bond shall in all respects be executed as required by such General Laws, and all provisions in such laws contained, shall be applicable, as near as may be, to contracts herein authorized.

Every such bond shall be filed with the contract in the office of the clerk or recorder of such city, the custodian thereof. ('01, c. 379, §18.)

1713-¼q. Bids accompanied by bond, or certified check.—The council of every such city shall have power to require all bids for the doing of all work or the furnishing of all skill or material, authorized by this act to be accompanied by a bond, on the part

of the bidder in such sum and with such sureties as said council may prescribe, or in lieu of such bond a certified check payable to such city upon a bank located in such city, or cash of the same amount, conditioned that he will enter into a contract with such city for the doing of the work or the furnishing of the skill or material for the price mentioned in his bid, and according to the plans and specifications therefor in case the contract shall be awarded to him; and in case of default on his part to sign and enter into such contract or fail to furnish the required bond therefor, within the time prescribed by such council in and by the specifications therefor, the same shall be deemed forfeited, and if a check or cash be so deposited the same shall be the property of the city absolutely, and in case of a bond the same may be sued and judgment recovered thereon by such city, for the full amount in any court having jurisdiction of the amount. ('01, c. 379, §19.)

1713-¼ r. Assessments to be made.—It is hereby made the duty of the city council of such city to make without unnecessary delay, at the proper time or times, all assessments for local improvements authorized by this act. ('01, c. 379, §20.)

1713-¼ s. Same; objections; assessment statement.—Upon the completion of any improvement authorized under the provisions of this act, the city council of such city shall proceed without delay to apportion and assess the cost of such improvement, when not herein otherwise provided, upon the real estate by them deemed benefited, to the extent of benefits received, and in proportion, as near as may be, to the benefits resulting thereto from the improvement; and it shall constitute no objection to such assessment that the amount thereof either exceeds or falls short of the original estimate of the cost of the improvement submitted to the city council, or that the said city has not fully adjusted all matters with the contractors for said work, or approved his final estimate therefor, or that the said council has refused at that time to relieve the said contractor from further duties in connection therewith.

In all proceedings and advertisements for the making and collection of any assessment under this act, letters, figures and the usual and customary abbreviations may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts; such assessment shall be in writing, in which shall be given a description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereto. ('01, c. 379, §21.)

1713-¼ t. Publication of notice of meeting; objections in writing.—Upon the completion of any assessment authorized by this act, the said council shall direct that the same be placed on file with the clerk or recorder, and shall appoint a time, not less than ten (10) days distant, and a place when and where it will meet to consider and act upon such assessment, and the clerk or recorder shall thereupon cause notice of such meeting, and the time, place and purpose thereof, to be given by one publication of such notice in the official newspaper of such city, at least five (5) days prior to the time so appointed for said meeting; in such notice shall be given a brief description of the improvement for which the assessment has been made, and the territory embraced in such assessment, and shall be to the effect that such assessment is on file with the city recorder or clerk and open to the inspection of all interested parties, and that all objections to the same must be filed in writing with the clerk or recorder of such city at least one (1) day (Sunday and legal holidays excepted), prior to said meeting, and that unless sufficient cause is shown to the contrary the same will be confirmed; provided, that if such assessment be for sprinkling, such notice need not contain a description of the territory embraced in such assessment and a reference

therein to the number of the district, for the sprinkling of which the assessment is made, shall be deemed sufficiently definite. ('01, c. 379, §22.)

1713-¼ tt. Construction placed upon word "sprinkling."—That the word "sprinkling" wherever used in this act shall be deemed to include sprinkling, saturating or treating the surface of a highway, street, public way or public ground with water, oil, mineral or any other substance, for the purpose of preventing dust in the atmosphere or on the surface of such public way or ground. ('01, c. 379, §22a, added '13, c. 7, §3.)

1713-¼ u. Council to hear objections; filing; corrected assessment confirmed.—At the time and place so appointed, as provided in the last preceding section [§1713-¼ t], the said council shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and may adjourn as often as deemed expedient to a future definite time and place, and if none of the members are present the recorder may adjourn to some other convenient time and place, of which postponement all parties interested shall be required and deemed to take notice. All objections to said assessment shall be in writing and filed with said recorder at least one (1) day (Sunday and legal holidays excepted), prior to the said meeting of said council; provided, however, that said council may, in its discretion, allow any party interested, who has accidentally or inadvertently omitted to file his objection aforesaid, to do so at the time of meeting of said council. Said council may give a new notice of such hearing if the previous notice shall be found imperfect or for any other reason.

Said council shall, after due consideration, make such correction or changes in said assessment, and may revise the same as they may deem necessary to perfect and equalize the same on the basis prescribed in this act, and shall confirm and establish the assessment when so corrected and equalized. Said assessment, when so confirmed and established, shall be final, conclusive and binding upon all parties interested therein, and the several amounts charged in such assessment, as so confirmed and established against the several lots and parcels of land therein mentioned, shall be enforced and collected as hereinafter provided. If any assessment be annulled or set aside, the said city council shall proceed de novo to make another new assessment in like manner, and like notice shall be given as herein required in relation to the first, and all parties interested shall have the like rights. ('01, c. 379, §23.)

1713-¼ v. Portion of cost chargeable to railway company; distress.—When in any case, any portion of the cost and expense of making any improvement mentioned in this act in any such city shall by virtue of any valid law or ordinance, or by virtue of any contract be chargeable upon any railway company in any such city, the amount or amounts so chargeable may be assessed upon such railway company, and the balance only upon the real estate benefited thereby, and such city may collect the amount so assessed upon said railway company, by distress and sale of personal property in the manner provided for in the General Laws of this state in the case of taxes levied upon personal property, or by suit brought for that purpose; provided, however, that any real estate belonging to such railway company subject to assessment under the General Laws of this state or any valid ordinance or contract, and deemed benefited by said improvement, shall be assessed as in other cases. ('01, c. 379, §24.)

1713-¼ w. Assessment a lien.—All assessments levied under the provisions of this act shall be a paramount lien on the real estate upon which the same may be imposed, from the date of the confirmation of such assessment. ('01, c. 379, §25.)

1713-¼x. Record of assessment.—The clerk or recorder of each such city shall keep in his office, in books to be provided for that purpose, a correct record of all assessment confirmed by the city council and authorized by this act; the said books to be properly ruled and headed so as to show at all times a substantial description and history of each assessment on each lot and parcel of ground, whether payable in installments as hereinafter provided, and whether paid to the city or county treasurer or whether remaining unpaid. ('01, c. 379, §26.)

1713-¼y. Warrant for collection.—When any special assessment, authorized by this act shall be confirmed and established by the city council of any such city, as herein provided for, it shall be the duty of the clerk or recorder of such city to issue a warrant for the collection thereof, which shall be under the seal of said city and signed by the mayor and clerk or recorder thereof, and shall contain a printed or written copy of the assessment roll as confirmed as aforesaid, or so much thereof as describe the real estate and the amount of the assessment in each case. ('01, c. 379, §27.)

1713-¼z. Same; to whom delivered.—All warrants issued for the collection of any special assessment in any such city, and herein authorized, shall be delivered by the clerk or recorder to the city treasurer of such city as soon as practicable after the said assessment has been confirmed and established, excepting for assessment for the cost of repairing sidewalk, which shall be delivered to the county auditor of such county as hereinafter designated; the recorder shall in each instance take a receipt for such warrants and place the same on file. ('01, c. 379, §28.)

1713-½. Same; notice by publication.—Upon the receipt of any warrant for the collection of any special assessment authorized by this act, the city treasurer of such city shall forthwith give notice by one publication in the official newspaper of such city, that such warrant is in his hands for collection, briefly describing its nature and the improvements for which such assessment has been made, and the territory embraced in such assessments; provided, when such assessment is for sprinkling, a reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the territory embraced in such assessment. Such notice shall require all persons interested to make payments within thirty (30) days from the date of such notice, at his office, or at the option of said treasurer, at some bank in said city acting for such treasurer. ('01, c. 379, §29.)

1713-½a. Assessments not paid, certified lists returned to clerk; penalty; transmitted to county auditor; collected as other taxes.—If the assessments charged in any special assessment warrant, made for any improvement whatsoever under the provisions of this act, shall not be paid within thirty (30) days after the publication of the notice by the said city treasurer that he has received such warrant for collection, said treasurer shall return to the recorder or clerk of such city a list, duly certified by him, said treasurer, of the assessments so made which still remains unpaid, giving in such lists the description of the several lots and parcels on which the assessments have not been paid, with the names of the respective owners thereof, if known, and the several amounts assessed thereto.

Such city recorder or clerk shall thereupon add to each delinquent and unpaid assessment a penalty of ten (10) per cent, and before the first day of November following, transmit a duly certified list of such unpaid assessments, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the auditor of the county in which such city is located, who shall enter the several amounts of said unpaid assessments on the tax list for such

city for the next ensuing year, and levy the same upon the several lots and parcels of land to which the same are respectively chargeable, and the same shall thereupon be enforced and collected as other taxes on real estate are enforced and collected under the general laws of this state. ('01, c. 379, §30.)

1713-½b. Assessment not set aside or held invalid.—No assessment in this act provided for shall be set aside or held invalid by reason of any informality in the proceedings prior to the entry thereof on the tax list by the auditor of said county, as hereinafter required, unless it shall appear that by reason of such informality or irregularity substantial injury has been done to the party or parties claiming to be aggrieved. ('01, c. 379, §31.)

1713-½c. New assessment.—If for any cause the proceedings of the city council of any such city, or any of its officers, may be found irregular or defective, whether jurisdictional or otherwise, the said council may make a new assessment from time to time, and as often as needs be, upon all real estate benefited and on which no payment has been made for said improvements, until the full amount of all benefits assessed have been realized from the real estate benefited by such improvement. ('01, c. 379, §32.)

1713-½d. Extension of payment on assessment; annual installments.—The city council of any city shall have power and authority and may by resolution in writing, adopted by an affirmative vote of a majority of all its members, extend the time for the payment of any assessment made and confirmed by it for the purposes and as in this act designated, against any lot or parcel of land, and may provide that such assessment may be paid in annual installments of any number, not exceeding ten. When such assessment is fully completed and has been confirmed and established, the said city council shall, by resolution, determine the number of annual installments, if any, in which such assessment may be paid, which resolution shall be attached to and form a part of such assessment roll. ('01, c. 379, §33.)

1713-½e. City treasurer to give notice.—If such council shall adopt the resolution, specified in the foregoing section, the city treasurer shall in his notice that the warrants are in his hands for collection, required by section 29 of this act, include a notice that the owner, or any person interested in any lot, or parcel so assessed and described in such assessment, may at his election and written request pay the sum assessed in installments, as designated in said resolution. ('01, c. 379, §34.)

1713-½f. Notice of election to pay in installments; dividing assessments.—Any person desiring to so pay such assessment in installments, as a condition precedent to the exercising of such right, shall file, in duplicate, a written notice of such his election and request for permission to so pay in annual installments, within thirty (30) days after such publication, and before such assessment becomes delinquent, with the city treasurer of such city, and at the same time pay the first installment then due and payable. Upon failure to so file such notice and request and pay said first installment, the whole amount of such assessment shall be due and payable the same as though no extension of time for payment had been provided for.

Upon the filing of such notice and request by any person interested, the said treasurer shall divide the said assessment into the proper installments, and make proper record of the same, and transmit one of such duplicate notices to the city recorder, who shall note such fact in his record book of assessments. ('01, c. 379, §35.)

1713-½g. Council may waive neglect to elect.—The city council of such city may at any time after an assessment becomes delinquent, upon a written

application to it waive the neglect to so elect within the proper time, and permit any assessment which has become delinquent to be paid in installments as herein provided. ('01, c. 379, §36.)

1713-½ h. Installments to bear interest.—Each of said installments so extended shall bear interest, payable annually at a rate to be determined in and by such resolution, not exceeding five (5) per cent per annum from the expiration of such thirty (30) days after the publication of the notice provided in section 29 of this act. ('01, c. 379, §37.)

1713-½ i. Installments may be of different amounts; when due.—No assessment of less than ten (10) dollars against any one lot or parcel of land shall be divided into installments, and no assessment shall be divided so that the amount of any of the installments into which it is divided shall be less than five (5) dollars, and the several installments may be of different amounts as the said council may determine.

The time for the payment of the installments, and for the enforcement of the same against the property affected by the assessment, shall be extended so that the several amounts shall become due and payable as follows: The first installment at the time the assessment would have been payable if the time of payment had not been extended, as provided in section 29 of this act; the second installment on October 1st of the succeeding year, the third installment on October 1st of the second succeeding year, and so on; each installment, excepting the first shall be made due and payable on the first day of October in the year when payable. ('01, c. 379, §38.)

1713-½ j. Extended installments not paid; certified as special tax to county auditor; collected as other taxes.—After the time of payment of any assessment has been so extended and divided into installments as aforesaid, if any installment so extended shall not be paid when it becomes due and payable, together with the interest to that time on all future installments, the city treasurer of such city shall on the fifth day of October, in each year, certify to the city recorder or clerk of such city, such extended installment which has become due and payable on the first day of October in that year, and which has not been paid, together with all interest then due and unpaid on the whole assessment, as a special tax on said property, in the same manner as other delinquent assessments in his hands for collection; and said city recorder shall thereupon certify the same to the county auditor in the same manner, at the same time and with the same penalty added thereto as in cases of other delinquent assessments, and in all respects as provided in and by section 30 of this act; the said county auditor, on receipt thereof, shall enter and carry out the same upon the proper tax list for that year, in the same manner as in other cases of unpaid assessments certified to him under the provisions of this act, and the same shall thereupon be collected and payment thereof enforced the same as other taxes on real estate are collected and enforced, and when collected paid over to the treasurer of said city. ('01, c. 379, §39.)

1713-½ k. Council may extend time for payment; collection.—Upon application in writing of any owner or party interested in any lot or parcel of land against which any assessment has been heretofore made, and has heretofore been confirmed by the city council of such city, such council shall have power and authority and may by resolution in writing, adopted by an affirmative vote of a majority of all its members, extend the time for the payment of such assessment as to said lot or parcel, and may provide that such assessment may be paid thereafter in annual installments of any number not exceeding ten (10), providing such assessment, so made prior to the date hereof, exceeds the sum of twenty (20) dollars, against such lot or parcel of land.

Whenever any assessment, heretofore made, be so divided into installments, and the time of payment thereof extended, all provisions of this act applicable to extending the time of payment of assessments, shall apply thereto, and control in the collection and enforcement of the same. ('01, c. 379, §40.)

1713-½ l. Party interested may pay all installments before maturity.—Any owner or party interested in any piece or parcel of land against which an assessment is levied, may, after such assessment has been divided into installments, pay all of the installments at any time before maturity, but in such event shall pay interest thereon to the first day of October immediately following such payment. ('01, c. 379, §41.)

1713-½ m. A paramount lien.—Every installment, the time of payment of which has been extended under this act, shall continue to be and shall be and constitute a paramount lien in favor of such city and against each of the lots or parcels of land as to which said extension is granted, for the amount so extended for each lot or parcel, and until the same is fully paid. ('01, c. 379, §42.)

1713-½ n. Application for extension-recognition of validity.—When such application, election or request for an extension of the time of payment in installments if an assessment shall have been made and filed as herein provided, the owner or person interested and so filing the same, and his or their heirs, personal representatives or assigns, or any lot or parcel of land as to which an extension has been granted, shall be held to have recognized and assented to the validity and regularity of said assessment and of all proceedings had thereon prior to the granting of said application, and shall be thereby forever estopped from denying the validity of said assessment or the amount thereof. ('01, c. 379, §43.)

1713-½ o. Council may issue certificates of indebtedness; amount.—Whenever the time of payment of an assessment is extended, and such assessment is divided into annual installments, in any such city as herein provided the city council of such city shall have power and is hereby authorized, in anticipation of the collection and payment of such assessment, and the several installments provided for, to issue and sell from time to time the certificates of indebtedness of such city, in accordance with the provisions of an act of the Legislature of the State of Minnesota entitled "An act to create in cities in the State of Minnesota, having no more than fifty thousand, and not less than fifteen thousand inhabitants, a local improvement fund, and to empower such cities to issue their bonds and certificates of indebtedness for certain purposes therein mentioned," approved March 8, 1897.

Such certificates shall be issued from time to time in such amounts as the city council of such city may determine as necessary for that purpose, not exceeding in the aggregate at any time the aggregate amount of unpaid installments and shall be issued for such length of time as the said council may determine and as the extended time of times for paying such installments may require. ('01, c. 379, §44.)

1713-½ p. Proposals for sidewalks to be published; plans and specifications.—The city council of each such city shall annually cause proposals to be published, in the same manner and for the same length of time as in the case of other public improvements provided for in this act for the construction and laying of such sidewalks as may be ordered built and laid by said city council prior to the first day of November in each year. General plans and specifications applicable to all sidewalks that may be ordered built and laid during such year by said council shall be made, approved and filed before such publication of proposals, as in the case of other public improvements; such plans and specifications shall classify the different kinds of walks required by the conditions existing in the different portions of such city, ac-

curately specifying the material, dimensions and method of construction for each such class, and require separate proposals for each such class, the proposals shall be received and the work shall be let and placed under contract in the same manner and under the same regulations as in the case of other improvements provided for in this act, so far as the provisions referring thereto may be made applicable hereto. ('01, c. 379, §45.)

1713-½q. Order to build sidewalks by resolution; copy to contractor; construction other than by contract.—Whenever the city council shall order the construction and laying of any sidewalk or sidewalks such order shall be by resolution in writing, accurately describing the location of each such walk included in such order, and such resolution shall require the same formality, vote and approval for its adoption as resolutions of like nature designated in section 8 of this act; any number of walks, in different portions of the city, and belonging to different classes under the general specifications therefor, may be included in one order.

After the publication of such resolution the city recorder or clerk shall without delay transmit a copy of such order to the person or persons having the contract for the construction and laying for the time being, who shall within the time designated in the specifications therefor, if no time be designated in such order, cause the sidewalk or sidewalks so ordered constructed and laid by the said council, to be constructed and laid.

When for any reason no contract is awarded by the city council for the construction of sidewalks, as authorized by section forty-five (45) of this act, then such council may from time to time authorize the construction of sidewalks in such city in the same manner as the making of other improvements are authorized by such council under the provisions of this act, and any number of walks on one or more streets may be included in one contract. ('01, c. 379, §46.)

1713-½r. City engineer to issue permit to owner; bond; ordinance to regulate; supervision of city engineer; when owners may not construct.—Any person desiring to construct, lay or relay his or her own sidewalk shall first obtain a permit therefor from the city engineer of such city, such permit shall state the location of such walk, the material out of which the same is to be constructed, laid or relaid, and the time when the same shall be completed, and there shall also be attached to such permit a general plan and specification for the doing of the work.

No work shall be begun thereon until the contractor therefor, or the owner thereof, if he shall do the work himself, shall first execute a bond to such city, with two or more sufficient sureties, to be approved by the mayor in the penal sum of not less than one thousand (1,000) dollars, conditioned that he will do said work, subject to the supervision and approval of the city engineer of said city, and as required by the ordinances of such city, and will indemnify and hold harmless said city against any damage or loss which may arise, or in any way, directly or indirectly, be suffered by said city by reason of any occurrence while the work is going on and before acceptance thereof by the city engineer, caused by any negligence or misconduct on the part of such contractor or owner, as the case may be, his or their servants or employes, in doing the same; such bond shall be filed with the city recorder or clerk, and may be enforced by said city the same as other bonds of a like nature, as required by law.

The city council of each such city may by ordinance regulate the manner of constructing, laying, relaying and repairing sidewalks by the owners of property in such city, not inconsistent with the provisions of this act, and may authorize the filing of a like bond as hereinbefore in this section provided, in such penal sum as the council may direct, by persons engaged

in and carrying on the business of constructing or relaying sidewalks, to include and cover the construction and laying of all walks for property owners in such city, for a period of one year, and such bond shall have the same force and effect as though given for each walk separately, as above provided.

When an owner constructs, lays or relays his or her own walk, the same shall be constructed, laid or relaid under the supervision and direction of the city engineer, and such engineer shall upon the full and satisfactory completion of such walk, deliver to the contractor certificate of his acceptance, if demanded.

No property owner shall have any authority whatsoever to construct or lay his or her own walk after the city council shall have ordered its construction by resolution, as hereinbefore provided, and the said city council shall not so order the building of any walk after a permit has been issued therefor by the city engineer, and before the expiration of the time designated therein within which the same is to be built. ('01, c. 379, §47.)

1713-½s. Cost of sidewalks assessed upon real estate benefited.—The city council of such city shall, as soon as practicable after the construction, laying or relaying of any sidewalk, assess the cost of such improvement or improvements upon the real estate benefited thereby, in the same manner and under the same regulations hereinbefore provided for the making of other assessments and the same shall be collected and enforced and all steps taken in connection therewith as otherwise provided in this act for collecting and enforcing other assessments authorized by this act; the assessments for the cost of any number of walks adjacent to any number of lots or parcels of land may be combined in one assessment roll. ('01, c. 379, §48.)

1713-½t. Failure to build sidewalks.—Whenever the said contractor shall fail to build or relay any sidewalk, as provided in his contract the same shall be built or relaid as provided in sections 15 and 16 of this act. ('01, c. 379, §49.)

1713-½u. Same; street commissioner to build; repair; record; assessment.—Whenever the street commissioners of any such city shall report to the city council the necessity of repairing certain walks in such city, not deemed dangerous to pedestrians by him, and shall estimate the cost of such repairs to be less than ten (10) dollars adjacent to any one lot or parcel of land, the said council may authorize such street commissioner to make such repairs, if the owner or agent thereof fails to make such repairs within forty-eight (48) hours after notice to that effect from said street commissioner, if such owner or agent be known and can be found in such city by him.

In case any sidewalk shall become so out of repair or broken as to become dangerous, it shall be the duty of the street commissioner to immediately repair the same in a good and substantial manner.

The said street commissioner shall keep a written record of all such repairs, and shall at least once in each month report and certify to the city council the cost in each case of all repairs made to sidewalks in such city, as specified in this section, with a description of each lot or parcel of land abutting each case of repairs.

Each such report shall be filed and preserved by the city recorder for the inspection of all parties interested; the city council shall once in each year, as near as conveniently may be to the time of the annual tax levy for said city, assess and levy the cost of making such repairs upon the lots or parcels of land found benefited by such repairs in the same manner provided for in this act for assessing the cost of other improvements herein designated. In each case such assessment, for all such repairs within the year, and since the making of the last assessment for

such repairs, may be combined in one assessment roll; such assessment shall be collected and enforced in the same manner as other assessments provided for in this act, except that the same shall not first be transmitted to the city treasurer for collection, but shall be directly certified to the county auditor of such county by said recorder to be placed upon the tax list for that year by said auditor. ('01, c. 379, §50.)

1713-½v. Owner or interested party may pay assessment; city treasurer to certify to city recorder.—Any owner of, or party interested in, any piece or parcel of land against which an assessment is levied, as herein provided, may pay such assessment to the treasurer of such city at any time before the first Monday in January following the date on which the same has been certified to the city recorder or county auditor, as hereinbefore provided, and said treasurer shall thereupon give his receipt in duplicate for the same, which shall be sufficient authority for the cancellation of such assessment by the county auditor or county treasurer on his books, or by the city recorder, as the case may be. After the first Monday in January following the date on which any delinquent assessment shall have been certified to the county auditor, the same must be paid to the county treasurer the same as other state or county taxes.

Upon the presentation of one of said duplicate receipts by such owner or person interested, to the county auditor or county treasurer of such county, as the case may be, he shall cancel such assessment on his books, or if the same has not yet been transmitted to the county auditor by the city recorder of such city, said recorder shall thereupon cancel such assessment on the delinquent list containing the same, and after that time the lien on such land shall cease to the amount of such payment, and the said county auditor, if such receipt be filed with him, shall report the same in the next settlement thereafter with the said city treasurer, for taxes collected and payable to such city treasurer.

On the first Monday of each year the city treasurer shall certify to the city recorder of such city all payments made to him, such treasurer, of assessments certified to the county auditor for collection, and such recorder shall enter all such payments in the proper records therefor. ('01, c. 379, §51.)

1713-½w. Affidavit proof of publication evidence.—When any notice is required to be published in any newspaper, under the provisions contained in this act, an affidavit of the publisher or printer of such newspaper, or of the foreman or clerk of such publisher or printer, annexed to a printed copy of such notice taken from the paper in which it was published and specifying the time when, and the paper in which such notice was published, shall be evidence in all cases and in every court of judicial proceeding of the facts contained in such affidavit. ('01, c. 379, §52.)

1713-½x. Auditor not to certify if delinquent.—The county auditor shall not issue his certificate that taxes are paid on any piece or parcel of land upon which any delinquent assessment authorized by this act, or any portion thereof, has been certified to him until such assessment, or portion, or extended installment thereof, with penalties and interest thereon, has been paid and cancelled, as provided in this act, and the general laws of the state governing the collection of taxes. ('01, c. 379, §53.)

1713-½y. Applicable prior to passage and approval.—Every such city may assess in accordance with the provisions of this act, the cost of any improvement either fully or partially completed at the date hereof, and before such city was brought within the operation of this act, and for which no assessment has been made at such time.

This act shall not be deemed to repeal any provision of any special charter in force at the date thereof. ('01, c. 379, §54.)

1713-½z. Effective date.—This act shall take effect and be in force from and after its passage. ('01, c. 379, §55.)

1713-¾. Cities of third class may improve roads.—Any city of the third class of the State of Minnesota is hereby authorized to widen, maintain and repair any road, street, avenue, boulevard, parkway or other public highway, which lies within the corporate limits of any such city and adjacent to a corporate boundary line of such city which may be authorized by ordinance of any such city passed by a majority vote of all members of the city council, or other governing body of said city, even though such road, street, avenue, boulevard, parkway or other public highway, so widened, be partly within and partly without and beyond the corporate limits of said city. (Act Mar. 24, 1939, c. 75, §1.)

1713-¾a. May acquire property.—Any city mentioned in Section 1 may acquire by gift, devise, purchase, condemnation or other means any property necessary or convenient or desirable for the purpose of widening, building, maintaining and repairing any road, street, avenue, boulevard, parkway or other public highway authorized to be widened in Section 1. (Act Mar. 24, 1939, c. 75, §2.)

1713-¾b. May condemn property.—Whenever the common council or other governing body of any such city shall by ordinance as aforesaid, declare that it is necessary or convenient or desirable to acquire any real property for any such public use, it shall describe such property as nearly as may be convenient in such ordinance, and state the use to which it is proposed to devote such property, and direct the city attorney to take the appropriate proceedings in the proper course for the condemnation of the same, and direct the city engineer to make and present to the common council, or other governing body, such plat and survey of said real estate as will show the property to be taken, and the owner of each parcel thereof according to the records in the office of the register of deeds of such county, and to accompany such plat and survey with such report as will fully explain the situation of such property, and such report may contain any other pertinent statement which the engineer deems best.

The common council, or other governing body of such city may cause such plat and survey to be modified or amended as it may deem proper, and when satisfied with said plat and survey may adopt the same and direct a copy of such plat and such ordinance to be filed in the office of the register of deeds of the county in which such land is situate.

Such copy of the plat and ordinance when so filed shall operate as notice of the pendency of an action by said city against each piece or parcel of land therein described for the condemnation thereof.

The city attorney shall thereupon apply to the district court in and for such county for the appointment of three commissioners to appraise the property so to be taken and the damage for such taking.

He shall give a notice of such application in which shall specify the time and place of application, and in a general way describe the property proposed to be taken, and shall name the owners of such property so far as known to him, but failure to name all or any of the owners correctly shall in no wise affect the proceedings.

Such notice shall be served by one publication of the same in the official paper of the city at least 20 days before the date fixed for such application, and a copy of such notice shall be served upon any person or corporation in possession of any parcel therein described, and upon each person or corporation who appears by the records in the office of the register of deeds of the county in which such city is situated, to be interested in any of said parcels, and who can be found in such county, in the same manner as a summons is served in a civil action. (Act Mar. 24, 1939, c. 75, §3.)

1713-¾ c. Court to appoint commissioners.—At the time and place named in said notice, or at a duly adjourned time and place, upon proof of the publication of said notice as aforesaid, the court shall appoint three commissioners, all of whom shall be freeholders and electors of the county in which said city is situated, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all property therein described, and the damages for the taking of the same.

The city attorney shall forthwith by written notice, notify said commissioners personally of their appointment, and request them to attend at his office on or before a day fixed by him not less than two days after the service of such notice, to qualify and enter upon their duties, and if any commissioner shall refuse or neglect to attend as aforesaid, the mayor of the city shall in writing appoint one or more commissioners in the stead of the said absentees, and shall file such appointment with the clerk of the court which appointed such original commissioners.

Said commissioners shall thereupon, and before entering upon the duties of their office, severally take and subscribe an oath to the effect that they are freeholders and electors of the county in question and in no wise interested in any property to be affected by said proceedings, and that they will faithfully perform their duty as such commissioners without partiality and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of said court.

The commissioners shall thereupon give at least 20 days' notice, by one publication in the official paper of the city, of the time and place where they will attend to make an assessment of damages in said proceedings.

Such meeting may be adjourned from time to time without further publication of notice.

It shall be the duty of the city attorney to serve a copy of such notice at least four days before the date named in such notice upon all persons or corporation over whom the court shall acquire jurisdiction, and who shall serve notice upon the city attorney of their appearance in such proceedings.

Such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney.

At the time and place named in said notice, or at an adjourned time and place, the said commissioners, or a majority of them, after viewing the property involved and hearing the evidence offered, shall make through an impartial appraisal and award of compensation and damage to be paid for each tract or parcel of land to be taken or damaged, but if the remainder of any parcel or piece of property of which a part only is to be taken or damaged shall be benefited by such proposed improvement, then the commissioner in considering and awarding such compensation and damages, shall consider, determine and offset the proportionate benefits which will accrue to the remainder of such parcel not so taken and belonging to the same owner as does the part taken, and shall award only the excess, if any, of the compensation or damages over or above the benefits.

Such report shall be in writing, signed by the commissioners, or a majority of them, and filed with the clerk of the court as soon as completed.

Upon the filing of such report, the commissioners shall give notice thereof by one publication in the official paper of the city.

Such published report shall contain a description of the several parcels of land taken or damaged for such public use and the respective awards therefor. (Act Mar. 24, 1939, c. 75, §4.)

1713-¾ d. Service of notices.—A copy of such notice shall within ten days thereafter be served upon the city attorney and upon all parties who have appeared in said proceedings, and such notice shall be

served in the manner provided by statute for the service of notices and other papers in civil actions, and may be made upon the party or his attorney.

Any person or corporation interested in any property described in said report or the city in question may appeal from any award therein at any time within 30 days after the publication of said notice by filing with the clerk of the district court, which appointed said commissioners, notice of appeal signed by the party or his attorney taking the same, and describing the party, the property in which he is interested, and the award to which he objects.

An appeal made from any award shall in no wise effect an award not appealed from.

The clerk shall enter the appeal as an action in said court; there shall be no pleadings therein and such appeal shall be tried as other causes originally commenced in said court are tried and judgment rendered therein.

From such determination an appeal may be taken to the supreme court of the state. (Act Mar. 24, 1939, c. 75, §5.)

1713-¾ e. Compensation for commissioners.—After said commissioners shall file said report and publish said notice thereof as aforesaid the court shall allow the commissioners such reasonable compensation for their services as it shall deem best, which shall be paid by the city seeking to condemn said property as aforesaid. (Act Mar. 24, 1939, c. 75, §6.)

1713-¾ f. Award to be final.—When.—Whenever an award of damages shall be made and filed as aforesaid, and not appealed from, in any proceedings for the taking of property, under this act, or whenever the court shall render final judgment in any appeal from any such award, the rights of all parties shall be finally fixed and determined thereby and the same shall constitute a lawful and sufficient condemnation and appropriation to the public use of the land for which damages are so awarded and every right, title and interest therein and thereto, and every other lien thereon shall be thereby directed and such city shall become vested with the title to, and become the owner of, the property taken or condemned absolutely for all the purposes for which said city may ever use the same; and such city shall be bound to, and shall within one year of the time of such final determination pay the amount of such award with interest thereon at the rate of five per cent per annum from the date of the final award or judgment of the court, as the case may be, and if not so paid judgment therefor may be had against the city.

In case there shall be any doubt as to who is entitled to such compensation or damages, or any part thereof as may be awarded, the amount so awarded, and in doubt or dispute shall be by the common council or other governing body of such city appropriated and set apart in the city treasury for whoever shall establish his right thereto by some judicial proceedings.

Before payment of any such award the owner of such property, or the claimant of the award, shall furnish satisfactory evidence of his right of such award. (Act Mar. 24, 1939, c. 75, §7.)

1713-¾ g. City may abandon proceedings.—Any such city may by ordinance passed by a three-fourths vote of all the members of its common council or other governing body, at any time within 20 days after any commissioners appointed by the court hereunder shall file their report with the clerk of said court, or in case of an appeal within 20 days after final determination thereof, abandon such proceedings and shall thereupon pay the costs thereof. (Act Mar. 24, 1939, c. 75, §8.)

1713-¾ h. To prepare statement of damages.—Upon the completion of any proceedings under this act for the acquisition of any property by any such city, the mayor or other executive head of such city shall cause

an accurate description of the property so taken to be prepared, together with a statement of the amount of damages, if any, awarded or paid, or to be paid to each owner thereof and shall sign and acknowledge the same as such mayor or executive head, and cause the same to be recorded in the office of the register of deeds of the county in which such property is situated, and it is hereby made the duty of such register of deeds, upon being paid his statutory fees, to record such statement in some appropriate book in his office.

Such record or duly certified copy thereof shall be prima facie evidence that the city in question is the owner of the property described therein by good and perfect title. (Act Mar. 24, 1939, c. 75, § 9.)

1713-3/4. Application of act.—This act shall be applicable to any city of the third class existing under a charter framed under and pursuant to the Constitution of the state of Minnesota, Article 4, Section 36.

Any city acquiring any property under this act is empowered to afford police protection to any and every such property (Act Mar. 24, 1939, c. 75, § 10.)

1713-1. Division of assessments.

This act held complied with as affecting liability of city under warrant issued against special improvement fund. *Judd v. C.*, 193M590, 272NW577. See *Dun. Dig.* 6579a.

1714. Rates for gas or electric current to be prescribed.

Home Rule Charter city may compel inspection of records of public utilities for rate making purposes. *Op. Atty. Gen.*, Apr. 21, 1933.

Section is constitutional and city in determining rate is not limited to basing rate only "on the capital investment." *Op. Atty. Gen.*, July 17, 1933.

Sections 1714 to 1716 were not intended to apply where city itself is actual distributor of electric current purchased from a power company at city limits. *Op. Atty. Gen.* (624c-11), Aug. 19, 1935.

Village operating under Laws 1885 is bound by 25 year franchise granted to a power company in 1916, and cannot lower rates by ordinance. *Op. Atty. Gen.* (624c-6), Sept. 16, 1937.

1716-1. Certain cities may establish information bureau.—The city council, city commission, or other governing body of any city of the third class having an assessed valuation of not less than \$14,000,000, exclusive of moneys and credits, may establish and maintain a bureau of information and publicity for the purpose of furnishing tourist information and for the purpose of preparing, publishing and circulating information and facts concerning the recreational facilities and business and industrial opportunities of the community. For this purpose it may, within the limits herein prescribed, employ a manager for such bureau and such clerical and stenographic assistance as shall be deemed necessary, and may incur expense for rentals, publication, postage, and other necessary charges incidental to such purpose. (Act. Apr. 22, 1933, c. 423, § 1.)

1716-2. Tax levy for expenses.—The city council, city commission, or other governing body of such city may each year at the time tax levies are made for the general revenues of the city, for the purpose of defraying the expense incurred in the establishment and maintenance of such information and publicity bureau, levy within the limits now prescribed by law a tax on all the taxable property of such city, the amount of such tax not to exceed in the aggregate the sum of \$5,000.00 per annum, which levy shall be transmitted to the County Auditor of the County in which the city is situated, at the time the other tax levies are transmitted, and when received the monies derived from such tax shall be credited to a special fund for the purposes of this Act. Such governing body may during the year 1933 appropriate from the general funds of the city not to exceed \$5,000.00 for such purposes. (Act Apr. 22, 1933, c. 423, § 2.)

1716-3. May designate agency.—The city council, city commission, or other governing body of such city may designate the chamber of commerce, commercial club, or any other civic body organized within

such city to promote the public welfare, as its agency for the expenditure of such special fund for the purposes herein designated. (Act Apr. 22, 1933, c. 423, § 3.)

1716-4. Application of act.—This act shall apply to every city of the third class, whether governed by home rule charter or otherwise, having an assessed valuation of more than \$15,000,000. In the event any city shall at any time come under the terms of this act it shall continue thereunder notwithstanding any subsequent change in classification or valuation. (Act Apr. 1, 1935, c. 92, § 1.)

Policemen in cities of third class covered by this act are exempt from provisions of §254-24. *Op. Atty. Gen.* (331b-1), Apr. 15, 1935.

South St. Paul does not come within cities covered by act. *Op. Atty. Gen.* (785j), Aug. 8, 1936.

1716-5. Police department may be incorporated.—The police department in any such city is hereby authorized to become incorporated pursuant to the provisions of any laws of the State of Minnesota and to adopt articles of incorporation and by-laws as a relief association. All members of such department at the time of the taking effect of this act and all persons subsequently becoming members of such department shall be members of such association, except municipal court officers and persons appointed for temporary service or for probationary periods; provided that for purposes of this act no employment after six months shall be considered to be temporary or probationary. All such members of the department shall be assessed for entrance fee and dues of the association as fixed by the by-law, which entrance fee and dues together with the assessment authorized by Section 13 hereof shall, when certified by the secretary of the association to the city clerk, be deducted from the pay of such member and paid into the proper fund of the association. (Act Apr. 1, 1935, c. 92, § 2; Apr. 12, 1937, c. 197, § 1.)

1716-6. Termination of membership.—Every person shall cease to be a member of said association upon the termination, from any cause, of his employment in said police department, except as he may be entitled to receive benefits hereunder or under the by-laws of said association subsequent to such termination. (Act Apr. 1, 1935, c. 92, § 3.)

1716-7. Pensions.—When any member of said association shall have reached the age of 55 years he may retire and shall thereupon be entitled to a pension as long as he shall live, at the following rates:

(a) \$75.00 per month when such member shall have served as a member of said police department for a period of 20 years or more, excluding temporary employment or probationary periods, as hereinbefore defined.

(b) An additional five dollars per month for each year of service over 20 that said person may have served as a member of such police department after the age of 55 years. The total amount of pension hereunder shall in no event exceed \$100.00 per month.

(c) In the event such members shall retire after reaching the age of 55 or more and after having been a member of said department for at least ten years, but before having served 20 years in said department, the amount of pension which he shall receive shall be that proportion of \$75.00 per month which the years of service in said department prior to retirement bear to 20 years, major fractions of years of service to be treated as one year and minor fractions to be disregarded.

(d) In no event shall temporary employment or employment for probationary period, as hereinbefore defined, be considered in computing pension allowances hereunder.

(e) In the event any member shall be discharged from the service of said police department after having served 20 years or more and before such member has reached the age of 55, he may, upon a vote of a majority of the members of the relief association, be permitted to continue as a member of such associa-

tion, notwithstanding that he is no longer a member of said police department, and upon reaching the age of 55 years, shall be entitled to a pension at the rate of \$75.00 per month; provided that in such event such member shall make application to said association for such privilege within six months from the time he is discharged and shall contribute each month after said discharge, and until reaching the age of 55 years, to the pension fund of said relief association a sum of money equal to 3 1/2 % of the then average monthly pay of members of said department holding the rank held by said member at the time of discharge. In the event such association approves such application, such member shall within 60 days thereafter pay into said association for the pension fund the monthly installments herein provided for the period between his discharge and the time of said first payment. Thereafter, in the event said member shall default in the payment of such monthly assessment and such default shall continue for a period of sixty days, all rights hereunder shall cease. That in the event that any member of said police department and of said relief association, regardless of his age, shall become totally disabled from performing any kind of work, labor or services whatsoever, after he has served as a member of said police department for at least ten years and shall have been discharged or shall have resigned from said police department by reason of said disability, he shall be entitled to and paid a pension from the pension fund of said association, the amount of which pension shall be that proportion of \$100.00 per month, which the years of service in said department prior to retirement bear to 25 years, major fractions of years of service to be treated as one year and minor fractions to be disregarded.

No such pension for disability shall commence until the association shall have been furnished with satisfactory proof as to the applicant's age, his years of service in the department and of his disability and the causes thereof, and to that end the applicant must submit himself to examination by the official physician of the association and to such other doctor or doctors as the association may direct and submit to such examinations as often as requested by the association, the cost of which examinations shall be paid by the association out of the pension fund; provided further that the applicant may submit reports as to his disability from other doctors at his own expense to the association for its consideration but the report of the official physician of the association shall be the basis upon which the association shall decide upon the allowance of said disability pension and compute the amounts due thereunder. No such pension shall be paid to any person who is receiving compensation under the Workmen's Compensation Act for the injury causing such disability. (Act Apr. 1, 1935, c. 92, §4; Apr. 12, 1937, c. 197, §2.)

Sec. 3 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

1716-8. Retirement not to be compulsory.—Retirement at the age of 55 years shall not be compulsory, but when such members shall have reached the age of 60 years the board or commission charged with the administration of the department of police in said city shall have the right to insist upon the retirement of such member at the age of 60 years, regardless of the provisions of any civil service laws. (Act Apr. 1, 1935, c. 92, §5.)

1716-9. Tax levy.—For the support of the fund from which such pensions are paid the city council or other governing body of such city shall each year, at the time the tax levies are made for the general revenues of the city, levy within the limits then permitted by law, a tax on all taxable property of such city in the sum of \$10,000.00 per annum, which levy shall be transmitted to the county auditor of the county in which the city is located at the time the other tax levies are transmitted and shall be collected and the payment enforced in the same manner as other taxes of such city. In addition thereto, each

member of said association shall be required to contribute to such fund each month one per cent of his monthly pay, such sum to be deducted at the time of the payment of his salary or wages by the city and transferred to such fund. In addition thereto, such relief association may transfer to such fund moneys raised from other sources and under the control of such association. (Act Apr. 1, 1935, c. 92, §6.)

1716-10. Tax levy may be omitted—when.—If at any time the balance on hand in such fund, together with interest or other earnings accrued therein, exceeds the sum of \$50,000.00 then as often as this shall occur the levy of taxes for said fund shall be omitted for said year, and if at any time the whole amount of \$10,000.00 from taxation is not needed for the maintenance of said fund at \$50,000.00 then the sum to be raised by taxation shall be proportionately reduced to such amount as will be sufficient to keep said fund at \$50,000.00 or more. (Act Apr. 1, 1935, c. 92, §7.)

1716-11. Articles of incorporation and by-laws.—The articles of incorporation or by-laws of such relief association shall provide for a board of directors to consist of five members, from whom there shall be elected by the board officers to consist of president, vice-president, secretary and treasurer. The mayor or principal executive officer of said city and the city treasurer shall ex officio be members of the said board, in addition to the five members also provided for. Members of such board and the officers thereof shall hold their terms of office for such times as may be provided in the articles of incorporation or by-laws of such association. (Act Apr. 1, 1935, c. 92, §8.)

1716-12. Custodian of funds.—The city treasurer shall be the custodian of all funds of such relief association. All moneys raised by taxation as provided hereunder shall be paid and all other funds of such association shall be paid to the city treasurer and shall be kept by him in a separate fund called "Police Pension Fund"; upon the written direction of the board of directors of said association, the city treasurer shall invest said funds in such interest-bearing securities as are specified from time to time by the board of directors; provided that the same shall be such securities as may be prescribed from time to time by the laws of Minnesota as permissible investments for trust funds of the State of Minnesota by the State Board of Investment, except that in addition thereto such funds may be invested in first mortgages upon improved real estate located in said city. (Act Apr. 1, 1935, c. 92, §9.)

1716-13. Board to file report.—The board of directors of said association shall file annually, on or before the first day of September of each year, with the clerk of said city, a detailed report of the amount of money received, expended and remaining on hand to the credit of said fund. The books and records of said board shall be open to inspection and audit by any taxpayer of said city or his duly authorized representative, and shall be audited with other books and records of the city at the time of the making of any general city audit. (Act Apr. 1, 1935, c. 92, §10.)

1716-14. Expenses may be paid.—Actual expenses in connection with the making of investments may be paid from said fund upon authorization by the board of directors, but no salaries or fees shall be paid to any officer or agent therefrom. (Act Apr. 1, 1935, c. 92, §11.)

1716-15. Members may receive amount paid in.—Whenever a member of said association shall cease to be a member of said department for any reason other than death or retirement he shall be paid, on demand, the full amount of the accumulated deductions from pay standing to his credit. Whenever any member shall die without having received a pension or without having received in pension payments, an amount equal to the total amount of the accumulated deductions from his salary hereinbefore provided for,

the full amount of said accumulated deductions, less such pension payments, if any, as have been paid to said member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member or, if none, to the legal representatives of such member; provided, however, if no valid claim is established therefor, such accumulated dividends shall remain with and become the property of said association. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 1, 1935, c. 92, §12.)

1716-16. May pay health or accident benefits.—In addition to the pension fund and pension payments provided hereunder, the said relief association may by proper by-laws provide for the payment of additional health or accident benefits to members of said association and to widows or dependents of deceased members thereof. For the payment of such additional benefits such relief association may assess all members of said police department an additional amount not to exceed 2½% of the monthly pay of such members. The plan and schedule of such benefits and the amount of such additional assessments upon members must be approved by a majority vote of the members of the department and may be changed by a majority vote of said members. Such additional payments shall be made from a fund to be known as the "Police Relief Fund," which shall be kept separate from all other funds of the city and separate from the police pension fund before provided. Such police relief fund shall not be supported by taxation, but shall be supported by the additional assessments herein provided for and in such other ways as the by-laws of such association may from time to time provide. (Act Apr. 1, 1935, c. 92, §13.)

1716-17. Payment of pensions—limitations.—No pension payments shall be made hereunder to any person while he is in the employ of such city in any capacity or while he is an employee of the State of Minnesota, or while he is receiving a pension from any public funds; provided that if any such person is in the employ of the city or of the state, or is receiving pension from any public funds, and the amount of his monthly compensation or pension is not equal to the monthly pension to which he is entitled hereunder, the difference shall be paid to him. (Act Apr. 1, 1935, c. 92, §14.)

1716-18. Police pensions in certain cities.—Members of such relief association shall not be compelled to become members of the Public Employees Retirement Association established by Laws 1931, Chapter 307, or acts amendatory thereof, and if already members of said association shall, upon the establishment of the relief association hereunder, cease to be members thereof and shall be entitled to receive from such association the amount of accumulated deductions of pay contributed to said association in the same manner, and in the same amount, as they would be entitled to upon ceasing to be employees of said municipality. (Act Apr. 1, 1935, c. 92, §15; Apr. 24, 1935, c. 259.)

Act Apr. 15, 1933, c. 260, provides that cities of the third class may reimburse contractors heretofore submitting bids on public works where the deposit has been forfeited.

Act Apr. 15, 1933, c. 270, provides that cities of the third class in one county contiguous to city of the first class in another county may expend one-eighth of one mill on assessed valuation, exclusive of moneys and credits, for parks, advertising, and sleeping quarters for exhibitors and delegates.

Act Apr. 15, 1933, c. 271, provides that cities of the third class in one county and contiguous to a city of the first class in another county may expend not to exceed three-eighths of one mill of assessed valuation, exclusive of moneys and credits, for emergency poor relief.

Sec. 52 of Mankato City Charter, relating to interest of officers or employees in contracts or business of the city, is self-executing. Op. Atty. Gen., Oct. 5, 1931.

Act Mar. 5, 1935, c. 37, authorizes cities of the third class refund forfeited contractors' deposits within six months from effective date of act. It is omitted as temporary.

LAWS AFFECTING CITIES OF THE THIRD CLASS

Third class cities may improve streets, and require property outside limits. Laws 1939, c. 75.

PROVISIONS RELATING TO CITIES OF FOURTH CLASS

1720. Detachment of lands—Petition—Notice.

Exclusively agricultural land subdivided into small acreages for rural purposes is "unplatted" land. De Griselles, 185M495, 241NW590. See Dun. Dig. 6521.

1722. Existing indebtedness—[Repealed].

The parenthetical credit at the end of this section as it appears in G. S. 1913 and G. S. 1923, should read "(07, c. 221, §3; amended '11, c. 197, §1)."

1722-1. Exceptions—[Repealed].

Repealed by Laws 1911, c. 173.

1726-1. Detachment of unplatted land from city and special or independent school district in such city.

This act is invalid as special legislation. 179M358, 229 NW346.

1726-6. Detachment of unplatted agricultural lands.

This act is not unconstitutional because it does not require notice to land owners not joining in the petition, or as class or special legislation. Petition Clinton Falls Nursery Co. et al., 183M164, 236NW195. See Dun. Dig. 1641, 1646, 1675, 1691, 6521.

This act is constitutional. Wesely, 188M237, 246NW 905.

1726-9. Scope of act.—This act shall only apply to cities the limits of which also constitute a separate school district; and which are located wholly within one county. (As amended Apr. 24, 1931, c. 318, §1.)

1727. Taxes for general purposes.

In addition to levy authorized by section, city of Hastings may make a levy for its valid bonded indebtedness and interest thereon incurred prior to 1929. State v. Brown, 189M257, 248NW822.

Section supersedes provision in home-rule charter of city of Hastings in regard to limitation upon total tax levies, and that city may levy tax up to 25 mills for general city and municipal purposes. State v. Brown. Id.

Moneys and credits should be excluded in calculating the amount of tax which may be levied. Op. Atty. Gen., Feb. 6, 1930, July 3, 1930.

Levy of city of fourth class for bonded indebtedness is not limited by this section. Op. Atty. Gen. (519c), May 11, 1934.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

1727-1. Rate of tax levy for certain cities.

The limit of the levy for current purposes in the city of Stillwater is to be based on the assessed valuation of real and personal property omitting the moneys and credits. Op. Atty. Gen., July 3, 1930, Feb. 6, 1930.

The maximum tax levy for municipal purposes of villages organized under Laws 1875, c. 139, is now fifteen mills on the dollar of the assessed valuation of all taxable property therein. Op. Atty. Gen., Feb. 29, 1932.

1728. Salaries of mayor and council—Submission to voters.

Election in city of St. Peter held to increase salaries of aldermen to \$100. Op. Atty. Gen. (359a-21), May 18, 1937.

Cities organized under Laws 1921, c. 462 (§1828-17 et seq.), are governed by this section rather than §1828-53 in the matter of fixing salaries of members of city council and mayor. Op. Atty. Gen. (63a-2), June 8, 1937.

1730. To what cities applicable.

General laws operating in all cities are not limited by a provision in a special charter that the general laws of the state shall not be considered as repealing the provisions of the charter. Op. Atty. Gen., Feb. 25, 1930.

1731. Parks and golf courses.—That any city of the fourth class of this state, whether said city is acting under general or special law or home rule charter, is hereby authorized and empowered, in addition to the other powers conferred upon it by law, to acquire by gift, purchase, devise, condemnation or lease, lands within its corporate limits, or lands adjacent to such city, and lying outside of its corporate limits, not exceeding one hundred acres in extent of area, for use by the public for a park or a golf course, and for park purposes, and may provide for the improvement thereof by the planting and preservation of trees and shrubs, by inclosing, ornamenting and protecting the same, and in such other ways as may be necessary to make such lands suitable for the uses of a public

park or golf course. ('05, c. 335, §1; G. S. '13, § 1739; Apr. 24, 1935, c. 293, §1.)

Sec. 2 of Act Apr. 24, 1935, cited repeals inconsistent acts, and §3 provides that the act shall take effect from its passage.

City of Sleepy Eye cannot under its charter expend money for improvements in park outside corporate limits. Op. Atty. Gen., May 5, 1931.

City of fourth class may pay money to a hockey club maintaining skating rink and warming house in consideration of the place being thrown open to the public certain days in the week without charge. Op. Atty. Gen., Nov. 13, 1933.

Whether a reasonable appropriation by city council for purpose of decorating Christmas tree and furnishing an entertainment for children at Christmas time is for a public purpose is a question of fact to be passed upon by local governing body. Id.

City may lease land outside city for transient camp where main reason or object is to have state and government employ transients for construction of dam and bathing beach and improvement of park system. Op. Atty. Gen. (330c-2), Sept. 6, 1934.

City may operate a skating rink and is not liable for injuries received thereon where no charge is made, being a governmental function. Op. Atty. Gen. (844b-1), Feb. 11, 1935.

City may erect a building or arena to be used as indoor skating rink and bathhouse, and issue bonds therefor. Op. Atty. Gen. (59b-11), Nov. 21, 1935.

City of North Mankato had power to establish and maintain a playground and park, and could grant a ball club a concession, in consideration of construction of grandstand, and charge for admission to ball park, general public to have full use of playing field during six days of week and ball club only on Sundays. Op. Atty. Gen. (59b-11), Mar. 18, 1937.

1732. Park board—Powers and duties.—That the city council of every such city may by a majority vote create a park board for such city, to be composed of three members, to be chosen by said council for terms of one, two and three years respectively, all of whom shall be free holders and residents of such city, and who shall serve without compensation. Such park board shall be authorized and empowered, for and on behalf of and in the name of such city, to acquire by gift, purchase, devise, condemnation or lease, the land to be held and used for park purposes, or purposes of a golf course, and shall provide for the improvement thereof as specified in section one of this act. Said park board shall have general supervision, management and control of such park or golf course and may appoint a suitable person to care for and take charge of the same, and may prescribe his duties and fix his compensation therefor; provided, however, that in any city of the fourth class having a population according to the 1930 federal census in excess of 5,000 inhabitants, which city is located within a county containing not less than 18,000 and not more than 19,000 inhabitants according to the 1930 federal census, and having an assessed valuation for the year 1935 in excess of \$5,000,000, and less than \$6,000,000, exclusive of moneys and credits, the city council thereof may by a majority vote create a park board for such city, to be composed of five members, to be chosen by said council for terms of one, two, three, four and five years respectively, all of whom shall be freeholders and residents of such city, and who shall serve without compensation, and said board shall have the authority and power hereinbefore specified. ('05, c. 335, §2; G. S. '13, §1740; Apr. 24, 1935, c. 293, §1; Mar. 31, 1939, c. 103.)

See note under §1731.

A city of the fourth class may not abolish a park board created under this section. Op. Atty. Gen., June 20, 1931.

Statute controls over ordinance as to method of appointing members of park board. Op. Atty. Gen. (59a-32), Oct. 9, 1935.

City may pay salary of band director out of entertainment fund, but a city may not transfer money from general fund or any other fund to band fund. Op. Atty. Gen. (59b-3), July 28, 1936.

1736. Appropriation.

Funds received by a city for the condemnation of park property stand in the place of the property and must be used for park purposes. Op. Atty. Gen., June 20, 1931.

Expenditures for band purposes of fourth class cities in counties having 17,500 to 18,000 population and 450 to 475 square miles and 12 to 14 townships, are legalized. Laws 1939, c. 218.

Fourth class cities in counties having 17,500 to 18,000 population and 450 to 475 square miles and 12 to 14

townships may levy a 2 mill tax for purpose of musical entertainment. Laws 1939, c. 219.

1737. Entertainment tax.

Act Apr. 13, 1939, c. 218, legalizes expenditures by cities of the fourth class in Le Sueur County for municipal band purposes. Probably unconstitutional as local and special.

Act Apr. 13, 1939, c. 219, authorizes cities of the fourth class and boroughs in Le Sueur County to levy annual tax for free musical entertainment. Probably unconstitutional as local and special.

City of International Falls is authorized by section 1737 to levy a tax for musical entertainment of public in public places or public grounds, but has no power to levy a tax for "band purposes" under Laws 1927, c. 79. State v. Keyes, 188M79, 246NW547. See Dun. Dig. 6688a.

This section is repealed by §§1933-17 to 1933-22, insofar as appropriating money for band purposes is concerned. Op. Atty. Gen., Feb. 15, 1933.

Section was not repealed by Laws 1927, c. 79, Mason's Minn. St. 1927, §§1933-17 to 1933-22. Op. Atty. Gen., Aug. 15, 1933.

City council cannot levy a tax for band purposes without submitting the matter to a vote of the people, nor can it transfer money from the general fund or any other fund to the band fund. Op. Atty. Gen. (59b-3), June 6, 1934.

City may not transfer money from general or current fund to band fund where city charter does not provide therefor. Op. Atty. Gen. (59b-3), Apr. 12, 1935.

City may pay salary of band director out of entertainment fund, but a city may not transfer money from general fund or any other fund to band fund. Op. Atty. Gen. (59b-3), July 28, 1936.

City council of Worthington under its home rule charter may transfer surplus moneys from water and light fund to musical entertainment fund in such amount as in exercise of its official judgment and discretion may be necessary to subservise public purpose. Op. Atty. Gen. (519h), May 18, 1937.

1742. Powers of commission.

Fourth class cities may appropriate funds for improvement of parks golf courses, etc., not located within corporate limits. Laws 1939, c. 192.

Offices of county attorney and park district attorney are incompatible. Op. Atty. Gen. (358a-1), Feb. 5, 1935.

1746. Parking lake shores—Donations—Contracts for water and ice.

City may improve shores of lake lying partially or wholly within corporate limits, and may acquire easement outside city to turn waters of irrigation or drainage system into lake, and creation of state park of part of city lying on lake does not change boundary of city so as to prevent improvements. Op. Atty. Gen. (330c-5), Nov. 26, 1934.

1746-1. Title to lands and expenditures validated.

Wherever any city in this state having a population of not more than 3,000 inhabitants, whether operating under a general or special law or under a home rule charter, shall have heretofore acquired the title to any lands exceeding 50 acres in area and lying outside of the corporate limits of said city, for use by the public for a park or park purposes, the title of the said city to the said lands is hereby cured and validated, whether said lands are contiguous to said city or otherwise, provided however said lands are situated in the same county in which such city is situated, and any expenditure of public funds heretofore made in purchasing or improving same is hereby legalized and validated and such city is hereby authorized to provide for the improvement thereof and to expend public moneys thereon in the same manner as it is now authorized to improve and expend public moneys on other lands belonging to said city which are used for park purposes and which lie within the corporate limits of said city or contiguous thereto. (Act Apr. 10, 1933, c. 205.)

1746-2. Cities of fourth class may appropriate money for improvement of parks, etc., outside of city limits.—The city council, park board or any other municipal body of any city of the fourth class shall not appropriate public funds for the improvement of parks, golf courses or recreation centers which are not within the corporate limits or contiguous to such city until the question has been submitted to the voters of the municipality and has been approved by a majority of the voters of such city voting at a general election or a special election called for said purpose. (Act Apr. 10, 1939, c. 192, §1.)

Statute is prospective and does not operate retroactively. Op. Atty. Gen. (59a-3), May 3, 1939.

City council may acquire land outside corporate limits for an airport without submission of question to voters. Op. Atty. Gen. (59a-40), May 20, 1939.

1740-3. Inconsistent acts repealed.—All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 10, 1939, c. 192, §2.)

1753-1. Waterworks and light plants.

The property owner and not the city should defray the expense of removing an obstruction in a service pipe running from water main in street to basement, under Waconia Ordinance 29. Op. Atty. Gen., Oct. 8, 1931.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

1754. Waterworks and light plants.

On expiration of franchise of power company, voters may vote upon alternative proposition; granting of new franchise; acquiring of plants under bond issue. Op. Atty. Gen., Mar. 1, 1933.

Water and light department may purchase equipment and supplies and resell the same to consumers, but it cannot finance cost of installation of equipment by a dealer. Op. Atty. Gen. (624c-5), Aug. 31, 1934.

City may use surplus earnings derived from city owned utilities for general city purposes. Op. Atty. Gen. (624a-6), Oct. 10, 1934.

A municipally owned power plant cannot arbitrarily refuse to furnish power to one desiring to consume it, at least for a purpose which it has recognized as legitimate, and which it has granted to others. Op. Atty. Gen. (624c-14), Oct. 11, 1934.

Sections 1754 to 1759 do not limit or modify powers granted to city of Stillwater in its city charter with reference constructing an electric light or gas plant or with reference to issuing bonds to pay cost of construction in such a plant. Op. Atty. Gen. (624c-8), Feb. 11, 1935.

Irrevocable future pledging of profit of electric power plant may be had for payment of bonds used in purchasing or constructing power plants by city of Eveleth. Op. Atty. Gen. (59a-7), May 31, 1935.

Majority vote of electors is sufficient to authorize issuance of certificates of indebtedness under §1486. Op. Atty. Gen. (59b-7), May 4, 1938.

City may proceed to construct a municipal light plant and issue its bonds therefor either under procedure provided by city charter or under §§1754 to 1760, *id.*

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

1755. Powers of council, etc.

Elections in City of St. James are to be called and held under procedure set out in general statute. Op. Atty. Gen., June 24, 1933.

Amount of bonds which may be issued by city of Madison for making improvements to municipal utility plant is not confined to limitations contained in this section. Op. Atty. Gen. (624d-1), Feb. 17, 1938.

1762-1. Certain cities may extend, execute or renew mortgages.—Whenever any city of the fourth class has obtained title to any real estate subject to a mortgage, the common council of that city or a proper agency thereof acting with the consent of the common council of that city may extend or renew such mortgage or may execute a new mortgage of the property. All funds secured by the new or extended mortgage must be used exclusively for the payment of the principal and interest of the original mortgage and for the payment of all prior liens on the property and for no other purpose. (Act Apr. 10, 1939, c. 190, §1.)

1762-2. Same—Mortgages may be foreclosed.—In case of default of any mortgage made pursuant to this Act the mortgagee or those claiming under him may foreclose the mortgage as any other mortgage, but in no case may the mortgagee or those claiming under him recover from the city any amount in excess of the amount obtained for the property at the foreclosure sale. (Act Apr. 10, 1939, c. 190, §2.)

1762-3. Same—To supersede other laws.—This law shall prevail over any contrary provision contained in a municipal home rule charter. (Act Apr. 10, 1939, c. 190, §3.)

1762-4. Hospital boards may execute mortgages in certain cases.—In all cities of the fourth class where hospital boards have been created, either by home rule charter or legislative enactment, and where the city has obtained title to real estate, subject to a mort-

gage, by purchase, gift or decree, such hospital boards are hereby authorized and empowered to enter into an agreement of extension of such mortgage or mortgages or to execute and deliver a new note and mortgage upon such premises for the purpose of refinancing the same, by and with the approval of the city council of any such city, provided, that all funds so secured shall be employed exclusively in the payment of principal and interest on such original mortgage and prior liens if any, upon such real estate, including real estate taxes. (Act Apr. 12, 1939, c. 196, §1.)

1762-5. Same—Limitation of act.—The lien of any such mortgage or mortgages so executed by such hospital board shall be limited to the premises there-in described and in case of default the same may be foreclosed as provided by statute in case of other real estate mortgages, but otherwise the same shall not constitute a claim against such city. (Act Apr. 12, 1939, c. 196, §2.)

Sec. 3 of Act Apr. 12, 1939, cited, provides that the act shall take effect from its passage.

1764. Purchase of electricity.

Guth et al. v. City of Staples, 183M552, 237NW411; see notes under §200.

Contract to purchase electricity held authorized under this section. Northern States Power Co. v. C., 186M209, 242NW714. See Dun. Dig. 6683.

Providing electricity for its inhabitants is a proprietary function of a municipality, and its contracts relating thereto are governed by same rules of contract law, regarding laches and estoppel, as those of private corporations or individuals. City of Staples v. M., 196M303, 265NW58. See Dun. Dig. 6669b.

Where both parties have fully performed for half 10-year term of a contract of a city providing electricity for its inhabitants and city has permitted other party to put itself to expense in performance, which will result in substantial loss if contract is set aside, city is estopped to question contract. *Id.* See Dun. Dig. 6719.

Contract for furnishing to city electric energy for longer periods than authorized by charter is void. Op. Atty. Gen. (624a-4), Oct. 7, 1935.

1765. Obligation not indebtedness.

Contract of city to purchase at wholesale electrical energy over a period of ten years with fixed minimum each year did not create an indebtedness under city charter or any state law fixing limit of indebtedness. McNaught v. C., 198M379, 269NW897. See Dun. Dig. 6683.

1765-1. Disposition of surplus electricity, etc.

Op. Atty. Gen. (59a-36), May 11, 1934; note under §1867-1.

Corporation with contract to purchase electric power from a municipal plant for distribution to rural customers of the corporation, was not a "private consumer." Owatonna v. I. (USDC-Minn), 18FSupp6.

A city selling electricity to persons outside its limits under contract may discriminate in favor of residents of the city. Guth et al. v. City of Staples, 183M552, 237NW411.

A city of the fourth class may sell surplus electricity to those outside the city limits regardless of whether the city itself manufactures the current or purchases from another. Guth et al. v. City of Staples, 183M552, 237NW411. See Dun. Dig. 6687, 6689.

City may make conditional sales purchase of electric line outside city limits for purpose of distributing surplus electricity. Op. Atty. Gen. (59a-36), May 11, 1934.

A city may supply electricity to a nearby village with the consent of latter. Op. Atty. Gen. (59a-36), May 25, 1935.

City may sell electricity to cooperative corporation at city limits to be distributed by such corporation at such rates as deemed equitable by governing body, though at lower rates than to consumers in municipality. Op. Atty. Gen. (624c-11), Aug. 7, 1936.

City of Waseca, through its water and light board, has authority to enter into contract with an electric construction company to sell electricity, to be delivered at substation in city and used by the purchaser outside limits of city, without a vote of electors, though city purchases its current at wholesale from a public utility. Op. Atty. Gen. (624c-12), June 30, 1937.

1768. Heating plants.

Council of city of Blue Earth could not cancel heating bills. Op. Atty. Gen., Mar. 14, 1933.

Police and fire departments civil service commissions cannot act for both policemen and firemen. Op. Atty. Gen., Feb. 2, 1934.

Village may not expend funds for payment of taxes on private property in consideration of person owning such private property furnishing heat for municipal building over a term of years. Op. Atty. Gen. (476b-2), Sept. 27, 1934.

1774. Expenditure of money for road, bridges and streets in Cities situate in two or more counties.—In all cities of the fourth class situated in two or more counties, except such cities of the fourth class as are situate in two or more counties, each of which contains no more than 17 full or fractional townships, the common council or other governing body shall have exclusive power to expend all moneys arising from taxation for roads, bridges and streets upon the real and personal property within the corporate limits of such cities, except as herein provided. ('13, c. 183, §1; '25, c. 300, §1; Mar. 9, 1933, c. 69.)

County treasurer is required to pay over to a city of the fourth class situated in two counties all money raised from the real and personal property within the city limits by the county road and bridge tax levy, in addition to the moneys levied by the city. Op. Atty. Gen., May 8, 1931.

Chapter 183, Laws of 1913, as amended by chapter 300, Laws of 1925, now §§1774, 1776, violates the provision of §1, article 9, of constitution, that taxes shall be uniform upon same class of subjects. State v. Scott County, 261 NW863. See Dun. Dig. 9130.

Requirement of territorial uniformity in distribution of proceeds of taxation. 20MinnLawRev234.

1786. Regulation of public utilities—Definitions.

City of Duluth may adopt ordinance declaring sewage disposal plants to be a public utility and issue bonds to pay cost of completing same payable out of rentals or charges for use of such plants, without an election and sell them to the state. Op. Atty. Gen. (387b-9), Sept. 23, 1937.

1793. Police and health departments.

City of Springfield could pay certain bonds and interest out of its public utility fund. Op. Atty. Gen., Apr. 21, 1931.

1799-1. Cities and villages may issue bonds for sewage disposal plant.—The governing body of any village or any city of the fourth class in the State of Minnesota operating under Home Rule Charter pursuant to the provisions of Section 36, Article 4, of the State Constitution is hereby authorized and empowered for the purpose herein designated, to issue the negotiable bonds of such village or city to the amount authorized by such village or city council; said bonds to be made in such denominations and payable at such places and at such times, not exceeding thirty years from the date thereof, as may be deemed best, to mature serially, and to bear interest at the rate not to exceed six per cent per annum, payable semi-annually, with interest coupons attached, payable at such place or places as shall be designated therein.

Provided that no such bonds shall be sold for less amount than the par value thereof and accrued interest thereon.

Provided also that such bonds shall be issued, negotiated and sold in accordance with the particular method prescribed by the laws governing villages or by the charter of the city so issuing such bonds, provided that this act and all proceedings taken hereunder shall be done pursuant to the provisions of Chapter 131, General Laws 1927 [§§1938-3 to 1938-13].

Provided further also, that the bonds authorized by this act or any portion thereof may be issued and sold by any such village or city, notwithstanding any limitations contained in the charter of such city or in any law of the state prescribing or fixing any limit upon the bonded indebtedness of such city or village. ('27, c. 85, §1.; Apr. 18, 1929, c. 244, §1.)

Cities of third or fourth class under home rule charter located in counties having 24 to 25 townships and 34,000 to 35,000 population, who have installed sewage disposal plants, may create a supervision commission. Laws 1939, c. 140.

Villages having populations of over 10,000 may issue bonds to complete sewage disposal plants. Laws 1939, c. 239.

This act does not apply to the city of Cloquet with respect to building a sewage disposal plant, and its powers are given by Laws 1895, c. 8, §135. Op. Atty. Gen. (387b-9), Aug. 7, 1935.

Debt limitations as to issuance of bonds for sewage systems by villages under different circumstances, stated. Op. Atty. Gen. (387g-2), Dec. 30, 1936.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

1799-2. Tax levy.—The full faith and credit of any such village or city shall at all times be pledged for the payment of any bonds issued under this act and for the payment of the current interest thereon, and said governing body of such village or city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity. ('27, c. 85, §2; Apr. 18, 1929, c. 244, §2.)

1799-3. Execution—Sale.—All bonds issued under the authority of this act shall be sealed with the seal of the village or the city issuing the same and signed by the president of the village council or mayor and attested by the village or city clerk, except that the signatures to the coupons, attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be in such manner and in such proportions of the whole amount authorized by this act and at such times as may be determined by the said governing body of such village or city, and the bonds may be purchased by the state board of investment with the funds of the State of Minnesota. ('27, c. 85, §3; Apr. 18, 1929, c. 244, §3.)

1799-4. Proceeds not to be used for other purposes.—The proceeds of any and all bonds issued and sold under authority of this act shall be used only for the purpose of constructing a sewage disposal plant for such village or city. ('27, c. 85, §4; Apr. 18, 1929, c. 244, §4.)

1799-5. Application.—Nothing herein contained shall be construed to repeal or modify the provisions of any charter adopted pursuant to Section 36, Article 4, the constitution of this state, requiring the question of the issuance of bonds to be submitted to the vote of electors. ('27, c. 85, §5; Apr. 18, 1929, c. 244, §5.)

1799-6. Powers additional.—The powers granted in this act are in addition to all existing powers of such villages or cities. ('27, c. 85, §6; Apr. 18, 1929, c. 244, §6.)

1799-7. Certain cities may contract for treatment of sewage.—Any city of the fourth class, having a population of less than 3,000 inhabitants, operating under a home rule charter and maintaining and operating a sewage purification plant and having a state institution, operated under the direction of the state board of control, located partly within and partly without the boundaries of such city, is hereby authorized and empowered to contract with the state of Minnesota for purification treatment of sewage produced at such state institution, upon such terms and for such period of time as the governing body of such city may determine and authorize. (Act Apr. 29, 1935, c. 346.)

Act Apr. 4, 1939, c. 140, authorizes any city of the third or fourth class, organized under a home rule charter or however organized, located in any county having 24 to 25 congressional townships, population of 34,000 to 35,000, which has constructed a sewage disposal plant, to create a board or commission to supervise such plant. It is omitted as local and special.

1800. Inspection of milk, dairies, etc.

Ordinances may provide for inspection of both producers and dealers of milk sold within its limits and requires payment of inspection fee. Op. Atty. Gen., Dec. 11, 1929.

Municipalities may impose license on all producers and dealers selling milk within its limits, except as power may be affected by Const., Art. 1, §18. Op. Atty. Gen., Dec. 11, 1929.

1805 to 1811. [Repealed Apr. 21, 1939, c. 345, Pt. 12, §1, ante §601-12, effective Aug. 1, 1939.]

ANNOTATIONS UNDER REPEALED SECTIONS

1805. Elections.

Reenacted as §601-11(4)n.

This act governs elections in city of Montgomery to extent that it is not inconsistent with Laws 1870, c. 31. Op. Atty. Gen., Mar. 14, 1933.

In special municipal elections in city of Ely, procedure specified in §§1828-21, 1828-31, Laws 1933, c. 203, may be followed. Op. Atty. Gen., Oct. 20, 1933.

1806. Candidates.

Reenacted as §601-11(4)o.

Provision requiring candidate to file not less than 15 days preceding election is not applicable to special election in Shakopee to elect alderman to fill vacancy. Op. Atty. Gen., Sept. 7, 1933.

This section applies to elections in city of Marshall organized under General Laws of 1894. Op. Atty. Gen., Mar. 6, 1934.

This section governs filing of candidates for city offices under §1828-19. Op. Atty. Gen. (1831), Sept. 12, 1934.

Village may construct curbing and gutters for trunk highway and pay for the same with certificates of indebtedness, but if it issues bonds there must be vote of electors, and improvement may be paid out of general fund without assessment against abutting owners. Op. Atty. Gen. (476a-4), Aug. 29, 1935.

Cities of the fourth class under home rule charter, silent as to the matter, are governed by §401-1 as to time polls shall remain open, and by §1806 as to time within which affidavits of candidacy must be filed. Op. Atty. Gen. (641), Oct. 8, 1937.

In cities of fourth class, such as Chatfield, where charter or special law under which they are operating does not prescribe method of candidates filing for city office, provisions of this section are controlling. Op. Atty. Gen. (359a-21), Apr. 19, 1938.

1807. Ballots.

Reenacted as §601-11(4)p.

Blank lines should be provided on ballots as provided in §284A. Op. Atty. Gen., Dec. 2, 1930.

City ballot of Stillwater, which holds its election at same time as biennial state election, should be printed on red paper. Op. Atty. Gen., (28b-3), Oct. 10, 1938.

Names on city ballot of Stillwater, which holds its election at same time as biennial state election, should be rotated and not arranged alphabetically. Id.

1808. Polling places.

Reenacted as §601-11(4)q.

This act and section has reference only to the general city election, and has no reference to special elections called to vote on special questions, and Mason's Stat., §§359 and 360 govern the appointment of judges and clerks of election in special elections. Op. Atty. Gen., Oct. 28, 1931.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

1809. Australian ballot system to be used.

Reenacted as §601-11(4)r.

This section is not superseded by Laws 1929, c. 198, relating to hours of opening and closing of polls. Op. Atty. Gen., Feb. 19, 1930.

This section does not apply to a city operating under a charter which makes provision for the time of opening and closing the polls. Op. Atty. Gen., Mar. 31, 1930.

Hours during which polls shall be kept open in city of Bemidji, city of fourth class governed by home rule charter which contains no special provision in relation to elections, are governed by §401-1 and not by §1809. Op. Atty. Gen., Jan. 26, 1932.

Hours, during which polling places in city of Owatonna shall be kept open at special election, are covered by Laws 1923, c. 17, but at state general elections, polls should be kept open as provided by Laws 1929, c. 198. Op. Atty. Gen., Apr. 26, 1932.

Special election in city of fourth class would probably be valid if polls did not open at 6:30 A. M. so as to conform with opening on same day of primary. Op. Atty. Gen., May 20, 1932.

1810. Challengers—Not to adjourn until polls are closed.

Reenacted as §601-11(4)s.

1811. General election laws to apply.

Reenacted as §601-11(4)s.

1815. Street and alley improvements of cities of fourth class or villages—Definitions.—In any city of the fourth class or village of this state, whether said city or village is acting under general or special law or home rule charter, the council shall have power to improve any street, streets, alley or alleys, or parts thereof, by laying and maintaining pavements, gutters and curbs thereon of any material which it may deem suitable or by grading, graveling or subjecting the same to bituminous or other treatment, when petitioned for by the owners of not less than thirty-five per cent (35%) in frontage of the real property abutting on such street, streets, alley or alleys, or parts thereof, as may be named in the petition as the location for such improvement. By the word "council" as used in this Act is meant the governing body; by the word "mayor," the chief executive officer, and by the word "clerk," the officer who performs the functions thereof, of such municipality, by whatever title they may be respectively denominated. ('19, c. 65,

§1; '21, c. 419, §1; '27, c. 185, §1; Apr. 10, 1933, c. 200.)

Laws 1931, c. 317, legalizes proceedings previously had under this act.

Act Feb. 17, 1939, c. 20, legalizes proceedings had under this section and sections 1816 to 1828, but not to affect pending actions or appeals.

Act Mar. 6, 1939, c. 49, amends Laws 1939, c. 20.

The improvement of an alley cannot be made unless 35 per cent of the abutting owners petition for it, although a number of alleys are joined in one improvement and 35 per cent of all owners petition. 177M28, 224NW254.

The city of New Ulm, under its general powers of control over its streets may reasonably prescribe a 20-foot boulevard in the middle of a residence street 120 feet wide. *Apitz v. C.*, 185M374, 241NW47. See *Dun. Dig.* 6617.

Where bonds were sold pursuant to authority vested by law, and all these bonds have been paid and there is a surplus in the special street improvement fund, such surplus belongs to the people who paid the assessments, and city council has no authority to transfer or loan the surplus to any other city fund. Op. Atty. Gen., July 2, 1931.

Old assessments prior to 1921 were not outlawed because city council passed ordinance in that year purporting to bring city within provisions of this act. Op. Atty. Gen., Mar. 15, 1934.

Village of Blooming Prairie operating under Special Laws 1874, c. 9, may pursuant to its charter improve streets by oiling them without petition of abutting owners. Op. Atty. Gen. (396a-2), Aug. 10, 1934.

As affecting petition for paving street, City of Worthington has the option of proceeding under its home rule charter, Mason's Statutes, §1815, or under §1918-17. Op. Atty. Gen. (396c-10), Apr. 15, 1936.

A city cannot institute paving improvement under this act and then follow procedure under city charter relative to notice, resolution, etc., but city may abandon project and start new one under different statute. Op. Atty. Gen. (125a-18), May 5, 1936.

Several connected streets may constitute one improvement. Id.

Resurfacing streets of city of Montgomery with oil or bituminous material—necessity for petition—assessment against benefited property. Op. Atty. Gen. (396c-2), May 22, 1936.

Property owned by city is not to be included in giving required number of signatures to petition. Op. Atty. Gen. (396c-6), June 30, 1936.

City of Fairmont cannot widen a street entering business section without a petition signed by requisite number of abutting owners. Op. Atty. Gen. (396c-6), Sept. 29, 1936.

A village operating under Laws 1885, c. 145, has option of proceeding under that act or under Laws 1919, c. 65 (§1815 et seq.), or under Laws 1925, c. 382 (§1918-15 et seq.), in making improvements referred to in each of such acts. Op. Atty. Gen. (396g-7), May 21, 1937.

Several streets may be improved upon one petition. Op. Atty. Gen., (396c-6), Nov. 14, 1938.

1816. Same—Assessment of abutting property.

Railroad right of way is subject to assessments for pavement on street abutting railroad. Op. Atty. Gen. (396g-12), May 11, 1936.

A number of streets all connecting with same main street, may be included in one project. Op. Atty. Gen., (396c-6), Sept. 26, 1938.

1819. Plans, specifications and advertisements.

A village may have street work done by day labor and buy materials itself, though cost is in excess of \$500. Op. Atty. Gen. (396c-7), May 31, 1934.

City of New Ulm need not advertise for bids in connection with laying of mains and improving light, water, power and heating plant. Op. Atty. Gen. (707a-1), Oct. 19, 1934.

City may improve street by WPA laborers by the day without advertising for bids. Op. Atty. Gen. (396b-7), Sept. 15, 1936.

Village may not separate one improvement into several projects in order to avoid advertising for bids. Op. Atty. Gen., (396g-7), Oct. 6, 1938.

Village may improve streets by day labor even though cost exceeds \$500. Id.

1820. Payments.

Act July 16, 1937, Sp. Ses., c. 75, legalizes street improvement proceedings in fourth class cities and authorizes completion of improvement under this act.

1821. Assessment.—After a contract is let, or after the work is ordered done by day labor as hereinbefore provided, the clerk with the assistance of the engineer or other person selected by the council to perform the duties of engineer, shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of Section 2 of this act, and the proposed as-

assessment so made up shall be filed with the clerk and be open to public inspection. The clerk shall thereupon under the council's direction cause notice of the time and place when and where the council will meet to pass upon such proposed assessment, to be published in the official paper at least one week prior to such meeting of the council.

At such meeting the council shall hear and pass upon all objections thereto, if any, and may, if it deems it just, amend such proposed assessment as to any lot or lots, and upon the adoption by resolution of such assessment, the same shall constitute the special assessments against the lands named therein. Such assessment, with the accruing interest thereon, shall be a lien upon the property included therein, concurrent with general taxes, and shall be payable in equal annual installments extending over such period not exceeding 20 years as the council may by resolution determine, the first of said installments to be payable on or before the first day of June following the adoption of the assessment, and any deferred payments to bear interest from the first day of June following the adoption of the assessment at such rate of interest per annum, not exceeding six per cent, as the council may by resolution determine.

It shall then be the duty of the clerk immediately thereafter to transmit a certified duplicate of such assessment to the county auditor of the county, to be extended on the proper tax lists of the county, and such assessments shall be collected and paid over in the same manner as other municipal taxes; provided, that the owner of any property, so assessed, may, at any time, pay the whole of such assessment, or any annual installment thereof with interest, as to any lot, piece or parcel of land affected thereby. (As amended Apr. 1, 1939, c. 135, §1.)

1822. County boards and school districts to pay assessments.

Liability of county for sidewalk and curb work done on property owned by county in connection with village WPA project. Op. Atty. Gen. (480a), March 31, 1939.

Act is applicable to cities of the fourth class under home rule charter, such as Owatonna. Op. Atty. Gen. (396e), April 28, 1939.

1824. Certificates of indebtedness authorized.

Act Feb. 27, 1929, c. 43, validates certificates of indebtedness issued by boroughs under this act.

Form of "certificates of indebtedness" prescribed. Op. Atty. Gen. (476c-4), May 20, 1937.

When work is done under contract section forbids issuance of certificates prior to time contract is made, but where day labor is employed on an improvement, village may issue its certificates for work done daily or in any other manner properly determined by village. Op. Atty. Gen. (59a-51), March 14, 1939.

1825. Reassessment.

Presumption of validity of assessment of the cost of a public improvement is rebuttable. 176M240, 223NW 135.

1827. Appeal to district court.

176M240, 223NW135; note under §1825.

1828. Application.

City of Pipestone has authority to regulate "transient merchants" but not "transient dealers." Op. Atty. Gen., Oct. 9, 1933.

1828-1a. Street sprinkling in fourth class cities—

Payment for—In all cities of the fourth class the city council may in its discretion pay one-half of the cost of sprinkling the streets with water; out of the general revenue fund of the city, and may assess one-half of the cost to the property abutting the streets sprinkled. In case any county has property abutting the street so sprinkled the county shall pay the cost of sprinkling the same on presentation to the county board thereof of a bill therefor properly verified. ('19, c. 187, §1.)

1828-1b. Improvement of streets with federal aid

—validation—special assessments.—In all cases where a city of the fourth class having a home rule charter under the Constitution of the State of Minnesota, Article IV, Section 36, has heretofore acting through its city council determined to improve any

street within said city by a resolution adopted by a majority vote of the council after a meeting at which all persons interested had been notified to be present by a notice of such meeting published in the official newspaper and has caused plans and specifications for such improvement to be made and has advertised for bids for such improvement and has entered into contracts for the construction thereof subject to the approval of the federal emergency administration of public works, the United States of America having previously offered a grant to aid in financing such improvement which said offer has been duly accepted by the city council, such proceedings are hereby legalized and declared to be valid and of full force and effect and the city council of such city is hereby authorized to proceed with the making of said improvement, with the levy and collection of assessments and the issuance of certificates of indebtedness therefor all as provided by Mason's Minnesota Statutes of 1927, Sections 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827 and 1828. (Jan. 13, 1936, Ex. Ses., c. 9, §1.)

1828-1c. Same—pending actions not affected.—

This act shall not apply to or affect any action or appeals now pending in which the validity of any such proceedings is called in question. (Jan. 13, 1936, Ex. Ses., c. 9, §2.)

1828-2. Extension or repair of pumping plants, reservoir systems or water main systems.

This act is applicable to cities of fourth class under home rule charter. Op. Atty. Gen. (59a-7), Aug. 2, 1935.

1828-9½. City Council may vacate streets.—

That in any city of the fourth class organized under a home rule charter, the council thereof shall have power, by a majority vote of the council to vacate any street or highway or any part of any street or highway therein, upon the petition of all the owners of lands abutting both sides of any such street or highway or part thereof proposed to be vacated wherein one end of any such street or highway or part thereof, proposed to be vacated, does not connect with any other street or highway. Except as herein provided all other provisions of such home rule charter shall apply to and govern any such vacation proceeding. (Act Mar. 20, 1933, c. 95, §1.)

1828-9½a. Application.—

This act shall apply to any proceeding now pending before the city council of any such city wherein the conditions set forth in Section 1 of this act exist. (Act Mar. 20, 1933, c. 95, §2.)

1828-9½b. Not to affect pending actions.—

The provisions of this act shall not affect any action or proceeding now pending in any of the Courts of this State in which the validity of any street vacation by the council of any such city is involved or is in question. (Act. Mar. 20, 1933, c. 95, §3.)

1828-16½. Certain cities may establish police retirement fund—Tax levy.—

That any city of the fourth class now or hereafter having property, exclusive of moneys and credits of an assessed valuation of more than \$4,000,000.00, may, at the discretion of the city council or other governing body, establish and provide by ordinance for the accumulation, administration and distribution of a police pension fund, or for the payment direct from current funds of pensions, for the benefit of all police officers retired or honorably discharged at or after reaching the age of 65 years, the last preceding 25 years of which time has been or shall have been spent as a police officer in the service of such municipality. Provided, however, that no such pension shall in any case exceed 40 per centum of the salary of such officer at the time of retirement, nor in any case exceed \$600.00 per year, nor in any case be paid after the death of such officer to any dependent or other person whomsoever, nor be subject to garnishment, attachment or other legal process.

To provide funds for the payment of such pensions the city council or other proper authority may levy a tax of not more than one-fifth of one mill on all the

taxable property of such municipality, and may provide for the use for said purposes of some portion of the fines and penalties collected by said municipality from time to time. (Act Apr. 20, 1929, c. 278.)

1828-16¾. Application of act.—This act shall apply to every city of the fourth class, whether governed by home rule charter or otherwise, having an assessed valuation of more than \$8,000,000, in which the city council shall have or hereafter may have adopted, by majority vote, a resolution electing to come under the provisions hereof. In the event any city shall at any time come under the terms of this act it shall continue thereunder notwithstanding any subsequent change in classification or valuation. (Act Apr. 13, 1935, c. 170, §1.)

Act is constitutional. Nichols v. C., 204M352, 283NW 539.

Resolution of city council adopted October 22, 1935, to take effect as of July 1, 1936, became operative at once upon adoption, and it is doubtful whether council may suspend or rescind the resolution by July 1, 1936. Op. Atty. Gen. (336), June 25, 1936.

Act is constitutional. Op. Atty. Gen. (785e-3), Apr. 19, 1938.

1828-16¾a. Police department may incorporate.—The police department in any such city is hereby authorized to become incorporated pursuant to the provisions of any laws of the State of Minnesota and to adopt articles of incorporation and by-laws as a relief association. All members of such department at the time of the taking effect of this act and all persons subsequently becoming members of such department shall be members of such association, except municipal court officers and persons appointed for temporary service or for probationary periods; provided that for purposes of this act no employment after six months shall be considered to be temporary or probationary. (Act Apr. 13, 1935, c. 170, §2.)

1828-16¾b. Termination of membership.—Every person shall cease to be a member of said association upon the termination, from any cause, of his employment in said police department, except as he may be entitled to receive benefits hereunder or under the by-laws of said association subsequent to such termination. (Act Apr. 13, 1935, c. 170, §3.)

1828-16¾c. Retirement—Pension.—When any member of said association shall have reached the age of 55 years he may retire and shall thereupon be entitled to a pension as long as he shall live, at the following rates:

(a) \$75.00 per month when such member shall have served as a member of the said police department for a period of 20 years or more, excluding temporary employment or probationary periods, as hereinbefore defined.

(b) An additional five dollars per month for each year of service over 20 that said person may have served as a member of such police department after the age of 55 years. The total amount of pension hereunder shall in no event exceed \$100 per month.

(c) In the event such member shall retire after reaching the age of 55 or more and after having been a member of said department for at least ten years, but before having served 20 years in said department, the amount of pension which he shall receive shall be that proportion of \$75.00 per month which the years of service in said department prior to retirement bear to 20 years, major fractions of years of service to be treated as one year and minor fractions to be disregarded.

(d) In no event shall temporary employment or employment for probationary period, as hereinbefore defined, be considered in computing pension allowances hereunder.

(e) In the event any member shall be discharged from the service of said police department after having served 20 years or more and before such member has reached the age of 55, he may, upon a vote of a majority of the members of the relief association, be permitted to continue as a member of such association, notwithstanding that he is no longer a member of said police department, and upon reaching the age

of 55 years, shall be entitled to a pension at the rate of \$75.00 per month; provided that in such event such member shall make application to said association for such privilege within six months from the time he is discharged and shall contribute each month after said discharge, and until reaching the age of 55 years, to the pension fund of said relief association a sum of money equal to 3½% of the then average monthly pay of members of said department holding the rank held by said member at the time of discharge. In the event such association approves such application, such member shall within 60 days thereafter pay into said association for the pension fund the monthly installments herein provided for the period between his discharge and the time of said first payment. Thereafter, in the event said member shall default in the payment of such monthly assessments and such default shall continue for a period of sixty days, all rights hereunder shall cease. (Act Apr. 13, 1935, c. 170, §4.)

1828-16¾d. Retirement not compulsory.—Retirement at the age of 55 years shall not be compulsory, but when such members shall have reached the age of 60 years the police civil service commission, if one exists in such city, or if not the board of commission charged with the administration of the department of police in said city shall have the right to insist upon the retirement of such member at the age of 60 years, regardless of the provisions of any civil service laws. (Act Apr. 13, 1935, c. 170, §5.)

Civil service commission of city of Eveleth has right to insist upon retirement of members of police department, who are over sixty years of age, even over objection of city council. Op. Atty. Gen. (785e-3), Apr. 19, 1938.

1828-16¾e. Tax levy for fund.—For the support of the fund from which such pensions are paid the city council or other governing body of such city shall each year, at the time the tax levies are made for the general revenues of the city, levy within the limits then permitted by law, a tax on all taxable property of such city in the sum of \$10,000.00 per annum, which levy shall be transmitted to the county auditor of the county in which the city is located at the time the other tax levies are transmitted and shall be collected and the payment enforced in the same manner as other taxes of such city. In addition thereto, each member of said association shall be required to contribute to such fund each month one per cent of his monthly pay, such sum to be deducted at the time of the payment of his salary or wages by the city and transferred to such fund. In addition thereto, such relief association may transfer to such fund moneys raised from other sources and under the control of such association. (Act Apr. 13, 1935, c. 170, §6.)

Section applies to men employed prior to passage of law. Op. Atty. Gen. (785e-3), Apr. 19, 1938.

City council has no jurisdiction in matter of determining whether a pension should be paid to any member of amount thereof. Id.

Action of city council in adopting provisions of act should be construed as a ratification of tax levies previously made. Id.

1828-16¾f. Tax levies to be omitted when.—If at any time the balance on hand in such fund, together with interest or other earnings accrued therein, exceeds the sum of \$50,000.00 then as often as this shall occur the levy of taxes for said fund shall be omitted for said year, and if at any time the whole amount of \$10,000.00 from taxation is not needed for the maintenance of said fund at \$50,000.00 then the sum to be raised by taxation shall be proportionately reduced to such amount as will be sufficient to keep said fund at \$50,000.00 or more. (Act Apr. 13, 1935, c. 170, §7.)

1828-16¾g. Officers.—The articles of incorporation or by-laws of such relief association shall provide for a board of directors to consist of five members, from whom there shall be elected by the board officers to consist of president, vice-president, secretary and treasurer. The mayor or principal executive officer of said city and the city treasurer shall ex officio be members of the said board, in addition to the five

members also provided for. Members of such board and the officers thereof shall hold their terms of office for such times as may be provided in the articles of incorporation or by-laws of such association. (Act Apr. 13, 1935, c. 170, §8.)

1828-16 1/4 h. Police pension fund.—The city treasurer shall be the custodian of all funds of such relief association. All moneys raised by taxation as provided hereunder shall be paid and all other funds of such association shall be paid to the city treasurer and shall be kept by him in a separate fund called "Police Pension Fund;" upon the written direction of the board of directors of said association, the city treasurer shall invest said funds in such interest-bearing securities as are specified from time to time by the board of directors; provided that the same shall be such securities as may be prescribed from time to time by the laws of Minnesota as permissible investments for trust funds of the State of Minnesota by the State Board of Investment, except that in addition thereto such funds may be invested in first mortgages upon improved real estate located in said city. (Act Apr. 13, 1935, c. 170, §9.)

1828-16 1/4 i. Report—Filing.—The board of directors of said association shall file annually, on or before the first day of September of each year, with the clerk of said city, a detailed report of the amount of money received, expended and remaining on hand to the credit of said fund. The books and records of said board shall be open to inspection and audit by any taxpayer of said city or his duly authorized representative, and shall be audited with other books and records of the city at the time of the making of any general city audit. (Act Apr. 13, 1935, c. 170, §10.)

1828-16 1/4 j. Expenses.—Actual expenses in connection with the making of investments may be paid from said fund upon authorization by the board of directors, but no salaries or fees shall be paid to any officer or agent therefrom. (Act Apr. 13, 1935, c. 170, §11.)

1828-16 1/4 k. Deductions from pay to be repaid in certain cases.—Whenever a member of said association shall cease to be a member of said department for any reason other than death or retirement, he shall be paid, on demand, the full amount of accumulated deductions from pay standing to his credit. Whenever any member shall die without having received a pension or without having received in pension payments, an amount equal to the total amount of the accumulated deductions from his salary hereinbefore provided for, the full amount of said accumulated deductions, less such pension payments, if any, as have been paid to said member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member or, if none, to the legal representatives of such member; provided, however, if no valid claim is established therefor, such accumulated dividends shall remain with and become the property of said association. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 13, 1935, c. 170, §12.)

1828-16 1/4 l. Health and accident benefits.—In addition to the pension fund and pension payments provided hereunder, the said relief association may by proper by-laws provide for the payment of additional health or accident benefits to members of said association and to widows or dependents of deceased members thereof. For the payment of such additional benefits such relief association may assess all members of said police department an additional amount not to exceed 2 1/2 % of the monthly pay of such members. The plan and schedule of such benefits and the amount of such additional assessments upon members must be approved by a majority vote of the members of the department and may be changed by a majority vote of said members. Such additional payments shall be made from a fund to be known as the "Police Relief Fund," which shall be kept separate from all

other funds of the city and separate from the police pension fund before provided. Such police relief fund shall not be supported by taxation, but shall be supported by the additional assessments herein provided for and in such other ways as the by-laws of such association may from time to time provide. (Act Apr. 13, 1935, c. 170, §13.)

1828-16 1/4 m. Limitations.—No pension payments shall be made hereunder to any person while he is in the employ of such city in any capacity or while he is an employee of the State of Minnesota, or while he is receiving a pension from any public funds; provided that if any such person is in the employ of the city or of the state, or is receiving pension from any public funds, and the amount of his monthly compensation or pension is not equal to the monthly pension to which he is entitled hereunder, the difference shall be paid to him. (Act Apr. 13, 1935, c. 170, §14.)

1828-16 1/4 n. Membership.—Members of such relief association shall not be compelled to become members of the Municipal Employees Retirement Association established by Laws 1933, Chapter 307, or acts amendatory thereof, and if already members of said association shall, upon the establishment of the relief association hereunder, cease to be members thereof and shall be entitled to receive from such association the amount of accumulated deductions of pay contributed to said association in the same manner as they would be entitled thereto upon ceasing to be employees of said municipality. (Act Apr. 13, 1935, c. 170, §15.)

1828-16 1/2. Retirement pensions for firemen in certain cities.—In any city of the fourth class having a population in excess of 6,000 and not more than 10,000 and a valuation in excess of \$9,000,000.00, exclusive of money and credits, and an area of more than four square miles, and having a Fire Department Relief Association organized under the laws of this State and authorized to pay pensions under Mason's Minnesota Statutes of 1927, Sections 1919 and 1920 and Sections 3723 to 3728, inclusive, or any amendments thereof, such Fire Department Relief Association may pay retirement pensions in excess of the amounts authorized by said statutes, but not in excess of the following total amounts:

Seventy-five dollars per month to each member of the Association who shall have reached the age of 55 years and shall have served 20 years or more as a member of the paid municipal fire department in such city. The monthly payments of \$75.00 may be increased by adding thereto an amount not exceeding three dollars per month for each year of active duty over 20 years of service before retiring; provided, that no such pension or payment hereunder shall exceed the sum of \$96.00 per month. No such pension shall be paid to any person while he remains a member of the Fire Department. (As amended Apr. 2, 1937, c. 132; Apr. 17, 1937, c. 253, §1.)

1828-16 1/2 a. Who may receive pension.—No pension authorized by this act shall be paid to any person while receiving a pension in any form, or sick benefits, from any state, county, city, village, township or other political subdivision of the State, or to any person after he removes his residence from the United States, or to any person who shall have been convicted of a felony for which he shall have been adjudged to be imprisoned, or who is a habitual drunkard, or to any person receiving a pension or sick relief from any other public relief association, and no person receiving such pension shall be entitled to any other relief from the association. (Act Apr. 17, 1935, c. 208, §2.)

1828-16 1/2 b. May pay benefits.—Nothing herein shall be construed as preventing any such association from paying any benefits other than service pensions which they may be authorized to pay to members of the association under the General Laws of this State or of the Statutes hereinbefore referred to, except that such benefits shall not be paid to any member

while he is receiving a pension hereunder. (Act Apr. 17, 1935, c. 208, §3.)

1828-16 3/4 c. Not to be subject to process.—No pension allowed or to be allowed by any Firemen's Relief Association under this act, and no accumulated contributions of members to the fund hereinafter referred to, shall be subject to judgment, garnishments, or executions or other legal process, and no person entitled thereto shall have any right to assign the same, nor shall the association have the power to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. (Act Apr. 17, 1935, c. 208, §4.)

1828-16 3/4 d. Deductions from pay—Tax levies.—In addition to the moneys in the special fund of said association or provided to be raised therefor under existing laws for the payment of pensions and other benefits, revenues from the following sources shall be paid to said special fund, to-wit: It shall be the duty of the city clerk, treasurer or other disbursing officer of such city to deduct each month from the monthly pay of each member of the fire department, who is a member of the association, a sum equal to three and one-half per cent of such monthly pay, and to place the same to the credit of said special fund. The city council or other governing body of such city shall each year, at the time the tax levies are made for the general revenues of the city, levy within the per capita or mill limitations now permitted by law, a tax of \$5,000.00 on all of the taxable property of such city, which levy shall be transmitted to the county auditor of the county in which the city is situated at the time the other levies are transmitted and shall be collected, and the penalties therefore shall be enforced, in the same manner as the other taxes of such city. The city treasurer, when the moneys derived from such tax are received by him, shall pay the same to the treasurer of the fire department's relief association, together with all penalties and interest collected thereon, in the following manner: Of the first levy made after the passage of this act and its adoption by said city, an amount not to exceed one-half of such levy may, at the discretion of the board of trustees of said relief association, be placed to the credit of the general fund of said association. The balance of said levy, as well as all subsequent levies, shall be credited to the special fund of said association, and shall not be withdrawn from said fund or transferred to any other fund except for the purposes of this act; provided however, that said board of trustees may, in its discretion, pay premiums upon the bond of the treasurer and secretary from said special fund. (Act Apr. 17, 1935, c. 208, §5; Mar. 31, 1939, c. 124.)

1828-16 3/4 e. Tax levies to be omitted in certain cases.—If at any time the balance on hand of the fund so raised by taxation as in this section provided, together with other resources in said special fund, shall exceed the sum of \$50,000.00 or more, then as often as this shall occur, the levy of said sum shall be omitted for any year in which said condition shall exist; if at any time the whole amount of the sums that may be raised by taxation in any year is not needed for the purposes of this act and the maintenance of said fund at the amount prescribed herein, then such sum so to be raised by taxation in any such year shall be proportionately reduced to such amount as will be sufficient to carry out the provisions hereof. (Act Apr. 17, 1935, c. 208, §6.)

1828-16 3/4 f. Treasurer to invest funds.—The treasurer of said association shall, upon written direction of the governing body or board of directors thereof, invest said funds in such interest-bearing securities as are specified, from time to time, by said board of directors; provided same shall be such securities as are prescribed by laws of Minnesota, from time to time, as securities for investments, of the State Board of Investment. (Act Apr. 17, 1935, c. 208, §7.)

1828-16 3/4 g. Officers and directors.—The governing board or board of directors of said association whether heretofore or hereafter incorporated shall consist of five members, to be elected annually, who shall first hold their offices for one, two, three, four and five years, respectively, and thereafter each for a five-year term, or until the successor of each is duly elected and qualified, who shall serve without compensation and shall be active members of said paid fire department, and the Mayor and Chief of said Department shall be ex-officio members of said board. The treasurer of said association shall give bond to the Board of Trustees in an amount not less than the total balance of funds owned and belonging to such Relief Association as shown by its last annual statement, conditioned for the faithful discharge of his duties during his continuance in office and for the payment without delay to the officer or persons entitled by law thereto, of all monies belonging to said Relief Association which shall come into his hands by virtue thereof. All vacancies occurring in the elective membership of said board shall be filled by a special election called for that purpose. None of said members shall be eligible to vote upon any question relating to his benefits hereunder. (Act Apr. 17, 1935, c. 208, §8.)

1828-16 3/4 h. Must file report.—The said governing board of said association shall file annually on or before the first day of September of each year with the City Clerk of said City a detailed report of the amount of money or property so received, expended, and still remaining on hand to the credit of said fund. The books and records of said board shall be open to inspection and audit by any taxpayer of said City or his duly authorized representative. (Act Apr. 17, 1935, c. 208, §9.)

1828-16 3/4 i. Deductions refunded in certain cases.—Whenever a member of said association shall cease to be a member of said department, for any reason other than death or retirement, he shall be paid, on demand, the full amount of the accumulated deductions from pay standing to his credit. Whenever any member shall die without having received a pension, or without having received in pension payments an amount equal to the total amount of the accumulated deductions from his salary heretofore provided for, the full amount of such accumulated deductions, less such pension payments, if any, as have been made to said member shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or if none, to the legal representatives of such member; provided, however, if no valid claim is established therefor, such accumulated deductions shall remain with and become the property of said association. Provided however that if any member shall pay any regular (or monthly) payment for sick relief or hospitalization while a member of any department, under any plan approved by the association, such amount may be deducted from the 3 1/2 per cent of the member's salary hereinbefore mentioned. No member shall be entitled to interest upon deductions under the provisions of this paragraph. (Act Apr. 17, 1935, c. 208, §10.)

1828-16 3/4 j. Same—Change in value, area or population not to affect pensions.—Whenever any city shall come under the provisions of this act it shall continue subject to the provisions of this act notwithstanding any subsequent change in valuation, area or population. (Act Apr. 2, 1937, c. 132, §2; Apr. 17, 1937, c. 253, §2.)

Sec. 3 of Act Apr. 2, 1937, cited, provides that the Act shall take effect from its passage.
Sec. 3 of Act Apr. 17, 1937, cited, provides that the Act shall take effect from its passage.

GENERAL INCORPORATION ACT FOR CITIES OF FOURTH CLASS

1828-17. Incorporation—petition—first election.—That inhabitants of contiguous territory not organized as a city and having not less than one thousand

(1000) inhabitants nor more than ten thousand (10,000) inhabitants, may become incorporated as a city of the Fourth Class as hereinafter provided:

(a) A petition addressed to the County Board of the County in which the whole or the larger part of said territory is situated, whether all or part of such territory had been theretofore organized into one or more adjoining boroughs or villages, or not, which is signed by one-fourth of the number of legally qualified voters residing in the territory proposed to be incorporated as a city that voted in said territory at the last preceding general election for state officers, may be filed with the County Auditor of said County praying that a city of the Fourth Class be established in said territory, and that an election be called to determine whether or not such city shall be incorporated. Such petition shall set forth the metes and bounds of the proposed city and of the several wards thereof, and the population thereof, and the number of voters voting in said territory at the last general election for state officers. The residence of each signer shall be stated opposite the signature, but the signatures to the petition need not be appended to one paper. The petition shall be verified by the oaths of at least three of the petitioners, declaring the statements made in the petition to be true. In addition thereto the petitioner procuring the signatures to each paper and petition shall make an oath before a person competent to administer oaths, that each signature is the genuine signature of the elector whose name purports to be thereto subscribed, and that each signer is an elector duly qualified to vote within the territory designated in the petition as the territory proposed to be incorporated as a city of the Fourth Class.

(b) If it shall appear that such petition is in due form, complies with the provisions hereof, and is signed by the proper number of electors residing in the territory sought to be incorporated in the proposed city, of which latter fact the affidavit of the petitioners procuring signatures on such paper and petition shall be prima facie evidence, the County Board shall adopt a resolution approving said petition and in said resolution shall designate the time and place of holding a special election upon said proposition, which election shall take place not less than 30 days nor more than 40 days from the time of presenting and filing said petition with the County Auditor; and the County Board in said resolution shall specify the location of the polling place in each ward, and that the polls will be open from 8 A. M. to 8 P. M., and shall prescribe a form of notice of such special election, a copy of which shall be attached to the resolution, in which notice shall be stated the time of such special election, the location of the polling place in each ward, the hours during which the polls shall be open, together with a statement of the question to be voted upon. Thereupon the County Auditor shall cause a copy of said petition, resolution and notice to be posted in at least five conspicuous places in said proposed city, at least 20 days prior to the date of such election, and shall cause said notice to be published in some legal newspaper published in the proposed city at least once each week for two consecutive weeks prior thereto, and if there be no newspaper published therein, then in a newspaper published in the same county.

(c) The County Board in its resolution shall also name three legally qualified voters residing in said proposed city, but not more than one from a single ward if there be three or more wards, who shall act as Inspectors of Election, who shall supervise the holding of said election and conduct the same in accordance with the laws applicable to the election of village officers in such territory. The County Board in its resolution shall also name and appoint three judges and two clerks of election for each ward who shall be legally qualified voters residing within the proposed city. They shall perform the duties of judges and clerks of election prescribed by the general elec-

tion laws. When the polls have been closed they shall correctly count and record the results of the election, tabulating the same and delivering said results and tabulations to the Inspectors of Election. Thereupon the Inspectors of Election shall canvass the results of election and forthwith make and file with the County Auditor a certificate declaring the time and place of holding of the election, that they have canvassed the ballots cast thereat, and the number cast, both for and against said proposition, and the final results thereof. The certificate shall be signed and verified by at least two of said inspectors to the effect that statements thereof are true. The inspectors shall preserve all ballots, tally sheets, and tabulations pertaining to said election, and forward the same in sealed containers to the County Auditor as soon after said election as conveniently may be to be by him kept according to law.

(d) At such special election only the proposition of incorporation of the proposed city shall be submitted to the voters for acceptance or rejection. The ballots shall bear the words "For Incorporation of the City of, Yes—No," with a square after each of the last two words, in one of which the voter may make a cross to express his choice. In the blank space shall be printed the name of the proposed city. Only voters having complied with the laws applicable to voting in the territory where they reside shall have the right to vote.

(e) The County Auditor shall attach said certificate of Inspectors of Election to the original petition, with a copy of the resolution of the County Board, and notice calling the election and naming the officers of election, and the original proofs of posting and publishing of the election notice, and file the whole as one document in his office. If the certificate shall show that three-fifths of the votes cast on the proposition were in the affirmative, he shall forthwith make and transmit to the Secretary of State a certified copy of said document to be filed there as a public document. ('21, c. 462, §1; Apr. 21, 1931, c. 289, §1.)

Where for many years an incorporated village has existed and is included in a city incorporated as a city of fourth class, no part of territory within village limits may, by information in quo warranto against city, be questioned as being not suitable for municipal government. *State v. City of Chisholm*, 199M403, 273NW235. See *Dun. Dig.* 6521.

Chapter 462, Laws 1921, as amended by Chapter 289, Laws 1931 (§1828-17 et seq.), construed to limit rights of voters to include in a city only territory of urban and suburban character and properly conditioned for municipal government. *Id.*

While lands of the Mesaba Range underlain with iron ore are not in the same class as agricultural lands when considered as suitable to become a part of the territory of a municipality, it must be recognized that for industrial purposes they must be distinguished from factories and sites for permanent industrial structures. *Id.*

In determining whether territory beyond mined areas is fit for municipal government, motive in reaching out for it so as to derive revenue therefrom is proper to consider. *Id.*

An admission of a town in its pleading does not preclude interveners from that town to prove that facts are to contrary in proceeding involving validity of organization and boundaries of a city. *Id.*

In proceeding involving validity of organization and boundaries of a city, defense of laches, waiver, and estoppel is not made out from loans obtained from state board of investment, nor from fact of judgments being obtained against city, nor from fact that it vacated a road within its territory or has functioned as a city in other respects. *Id.*

Adoption of a home-rule charter does not preclude court from determining whether territory included in city is lawfully included. *Id.* See *Dun. Dig.* 6545.

A water, light, power and building commission can only be abolished in the manner provided by §1860-1/2, et seq., and it is immaterial that village adopting such a commission has become incorporated as a city of the fourth class. *Op. Atty. Gen.* (624e-11), Oct. 4, 1934.

Where village was established as city of fourth class by election held on Sept. 1, 1934, and Oct. 8, city officials were elected and at the same election the home rule charter was adopted, which was to take effect 30 days after date of election, taxes should be levied in 1934 pursuant to new home rule charter, though such levy must take place after Oct. 10. *Op. Atty. Gen.* (484a-2), Nov. 7, 1934.

1828-18. Corporate powers in general.—Upon filing of the petition aforesaid, with the Secretary of State as aforesaid, the inhabitants within the metes and bounds therein described shall thenceforth be a body politic and corporate subject to and with the power to act under the authority of all the provisions of this act. They shall have power to sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure; and take hold and purchase, lease and convey such real and personal or mixed estate as the purpose of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted and shall have and possess all the powers granted and applicable to cities of the Fourth Class not existing or operating under a Charter adopted in pursuance of Section 36, Article 4, of the Constitution of the State of Minnesota, or a special Charter, and the authorities thereof shall have perpetual succession. ('21, c. 462, §2; Apr. 21, 1931, c. 289, §2.)

City of New Utm, regardless of charter provisions, has the power to open and deepen the channel of the river below the city to facilitate the flow of the sewerage downstream and prevent the contamination of city water. Op. Atty. Gen., Aug. 11, 1931.

Dry vote in village of North Mankato was without effect upon right of city of North Mankato to issue liquor licenses. Op. Atty. Gen., Mar. 19, 1934.

On incorporation of city of fourth class with home rule charter right of those holding position under soldier's preference law in village to retain their positions depends upon whether departments in which they are employed are continued or discontinued under the new government. Op. Atty. Gen. (484a-2), Nov. 7, 1934.

1828-19. First election.—Within 15 days after the completion of the incorporation of such city as aforesaid the County Board shall by resolution designate the time and place of holding the first election of officers therein, which shall be not less than 30 days or more than 40 days after filing of the incorporation papers with the Secretary of State. The County Board shall in the same resolution appoint three judges and two clerks of election for each ward, who shall be legally qualified voters residing in their respective wards, and in addition thereto shall appoint three legally qualified voters in said city, but not more than one from each ward thereof, if there be three or more wards, who shall conduct the said first election of officers in said city and who shall be the inspectors thereof, and shall take the usual oath or affirmation as prescribed in the general laws of the State to be taken by the judges and inspectors of elections, and shall have the power to administer the necessary oaths; and the persons so named as inspectors of the election, shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this state regarding elections and shall have power to fill vacancies in the board of inspectors, and among the judges and clerks of election.

When said city election is closed and the number of votes for each person voted for shall have been counted and ascertained, the judge and clerks of election shall make return thereof stating the number of votes for each person for each and every office and shall deliver or cause to be delivered such returns to one of the said inspectors within two (2) days after such election, and the said inspectors (or majority thereof) shall meet and canvass said returns and declare the result within one (1) day thereafter. The inspectors canvassing said returns and declaring the result shall forthwith notify the officers elected of their election by written notice served upon such officers in person or left at their usual place of abode with some person of suitable age and discretion. ('21, c. 462, §3; Apr. 21, 1931, c. 289, §3.)

Section 1806 governs the filing of candidates for city offices. Op. Atty. Gen. (1831), Sept. 12, 1934.

Registration act would not apply to first election of officers for newly incorporated city where it would result in disfranchisement of some of the residents of the new city. Id.

Newly elected treasurer was entitled to books and records of former village treasurer's office. Op. Atty. Gen. (851), Nov. 15, 1934.

1828-20. Terms of office of officers.

Term of village municipal judge may not be changed by electors in incorporating as a city of fourth class. Op. Atty. Gen. (307k), Sept. 13, 1934.

1828-21. Biennial elections.

Elections in city of St. James are to be called and held under procedure set out in general statute. Op. Atty. Gen., June 24, 1933.

In special municipal elections in city of Ely, procedure specified in §§1828-21, 1828-31, Laws 1933, c. 203, may be followed. Op. Atty. Gen., Oct. 20, 1933.

1828-24. Elective officers.—The elective officers of each city shall be Mayor, Treasurer, Recorder, and one Justice of the Peace, who shall be styled City Justice, all of whom shall be qualified voters of the city and two aldermen in each ward who shall be qualified voters therein. All officers for said city shall be appointed by the Common Council unless otherwise provided and all said officers shall hold their offices for two years and until their successors are elected and qualified. ('21, c. 462, §8; Apr. 10, 1933, c. 203, §1.)

Where at end of two year term mayor reappoints chief of police, and the council refuses to confirm it and refuses to pay such officer, such officer holds over until his successor is elected or appointed and is entitled to compensation therefor. Op. Atty. Gen. (785d), Jan. 31, 1938.

1828-26. Vacancies.—Whenever a vacancy shall occur in the office of Alderman by death or removal or resignation or otherwise, the common council shall have power and it shall be their duty to declare the office vacant by resolution entered upon their minutes. Such vacancy shall be filled by a new election, held only in the ward which has been deprived of representation on the council by the creation of such vacancy, which shall be ordered by the common council within 10 days after said vacancy is declared, and held within 20 days after such declaration, and reasonable notice of such election shall be given. Any vacancy occurring in any other office shall be filled by a resolution of the common council adopted by a majority vote of the remaining members of the council within 15 days after such vacancy occurs unless otherwise provided for. A person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof, for the unexpired term and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill. ('21, c. 462, §10; Apr. 10, 1933, c. 203, §1.)

1828-27. Elections—Ballots—Tie votes.

Special election on bond issue for parks and playgrounds may be held on same day as primary election or general election, but a special ballot box must be provided. Op. Atty. Gen. (64t), Apr. 5, 1938.

1828-28. Qualifications of electors and candidates for office, etc.

Provision with reference to qualification of electors is invalid insofar as same conflicts with Const. Art. 7, §1. Op. Atty. Gen., Nov. 7, 1933.

1828-31. Special election. [Repealed.]

Repealed by Act Apr. 21, 1939, c. 345, Pt. 12, §1, ante §601-12, effective Aug. 1, 1939.

Amended Apr. 10, 1933, c. 203, §1.

Procedure under this subdivision may be followed by city of St. James as regards notice of special elections. Op. Atty. Gen., June 24, 1933.

There is no general statutory provision specifically providing procedure for calling and conducting special election to vote on bond issue or what constitutes due notice to electors. Op. Atty. Gen., Aug. 14, 1933.

DUTIES OF OFFICERS

1828-32. Offices vacated, when.

An officer appointed to fill a vacancy or one elected to a city office must qualify within ten days after receiving notice. Op. Atty. Gen., Jan. 6, 1932.

1828-35. Oaths of office—Bonds.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and assistant cashier, and a surety on his bond is liable for money lost through failure of the

bank, notwithstanding stipulation in bond relieving surety from liability for loss caused by failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though bank does not fail until afterwards. *City of Marshall v. G.*, 193M188, 259NW377. See *Dun. Dig.* 6712.

1828-36. Duties of Mayor.—The mayor shall preside at all council meetings at which he is present and shall have an equal vote with other members of the council on any matter coming before that body. He shall have no veto power.

He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers and watchmen, except when otherwise provided for.

And in case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary; and any police officer or watchman, appointed by the mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it, or a reduction of their number renders it necessary. ('21, c. 462, §20; Apr. 10, 1933, c. 203, §1.)

1828-37. Same—Ordinances.—All ordinances and resolutions shall, before they take effect, and after receiving a required majority vote in the council, be presented to the mayor, and he shall sign the same. Unless a special meeting is called to reconsider any such ordinance or resolution as provided in this chapter, it shall be the duty of the mayor to return the said ordinance or resolution to the city recorder with his signature within ten days after the meeting at which the same was adopted by the council. The city recorder shall sign, attest and duly file and preserve ordinances or resolutions when the same are returned to him. ('21, c. 462, §21; Apr. 10, 1933, c. 203, §1.)

1828-38. Meetings of council—organization.—The common council shall biennially on the first Tuesday after the first Monday in January next succeeding the city election, organize and at the time of its organization, proceed to elect from their number a Vice-president for the ensuing two years and such other officers as may be necessary for the transaction of their business, except assessor, who shall be elected annually in the month of March. Such elections shall be by ballot and the affirmative vote of the majority of all the members elected shall be necessary to elect. The mayor shall preside over the meetings of the common council and during his absence from the city or his inability from any cause to discharge the duties of his office, the said vice-president shall exercise all the powers and discharge all the duties of the mayor. The acts of the vice-president of the common council, while performing the duties of mayor as aforesaid, shall have the same force and validity as if performed by the mayor. The mayor and vice-president of the common council shall have the right to administer oaths and affirmations. ('21, c. 462, §22; Apr. 10, 1933, c. 203, §1.)

In all fourth-class cities not operating under charter pursuant to Art. 4, §36, of the constitution, and in which the mayor is the presiding officer of council, but has no vote, the mayor may now vote in case of a tie. *Laws* 1933, c. 192.

1828-41. City attorney—Election—Duties.

In case of failure to appoint a city attorney, common council of the city of Shakopee could employ an attorney for the special purpose of giving legal advice or services and prosecuting any particular persons violating city ordinances. *Op. Atty. Gen.*, May 26, 1931.

1828-42. Treasurer—Duties.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and assistant cashier, and a surety on his bond is liable for money lost through failure of the bank, notwithstanding stipulation in bond relieving

surety from liability for loss caused by failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though bank does not fail until afterwards. *City of Marshall v. G.*, 193M188, 259NW377. See *Dun. Dig.* 8000, 8004, 8022.

City of fourth class operating under general statutes must publish financial statement. *Op. Atty. Gen.*, Sept. 30, 1931.

This section has no application to cities of fourth class operating under a home rule charter. *Op. Atty. Gen.* (277b-2), Jan. 6, 1937.

This section has no application to cities of fourth class operating under a special law or under a home rule charter. *Op. Atty. Gen.* (359a-21), Apr. 19, 1938.

Cities of the fourth class operating under special laws or home rule charters need not publish financial statements. *Op. Atty. Gen.* (277B-2), May 15, 1939.

1828-43. Chief of police—etc.

International Falls' home rule charter, c. 8, §1, permits the city council to either reduce or increase the number of officers under the chief of police. *Op. Atty. Gen.*, Apr. 27, 1931.

Where council refuses to confirm appointment and mayor refuses to appoint any officer, council may bring mandamus proceedings to compel mayor to submit name of some other person. *Op. Atty. Gen.* (785d), Jan. 31, 1938.

1828-46. City assessor—Election—Duties—Term of office.

Laws 1870, c. 31, and General Statutes 1894, §§1045 to 1195, under which city of Marshall was established were not repealed by the revision of 1905 and are still applicable to cities incorporated thereunder, except as modified by later enactment, and a city assessor may be appointed only for a term of one year. *Op. Atty. Gen.* (12a-3), Apr. 23, 1935.

1828-53. Officers—Other duties—Compensation.

Mayor may not be interested as an officer and director in a municipal depository, but a director of a regularly designated depository of city funds may be appointed as city attorney, the matter of what should be done by the appointee to place himself outside of pale of statutory provisions not being considered. *Op. Atty. Gen.* (90e-20), Apr. 14, 1936.

Council cannot increase salary of chief of police or superintendent of sewer and water system during term of appointment, or even during time he is holding over without reappointment. *Op. Atty. Gen.* (59a-41), Apr. 13, 1937.

Salaries of members of city council should be fixed as provided in §1728 rather than this section. *Op. Atty. Gen.* (63a-2), June 8, 1937.

COMMON COUNCIL—GENERAL POWERS AND DUTIES

1828-55. Common council.—The mayor and aldermen shall constitute the common council, and the style of all ordinances, shall be, "The common council of the city of do ordain" &c. The common council shall meet at such time and place as they by resolution may direct. A majority of the council shall constitute a quorum. ('21, c. 462, §36; Apr. 10, 1933, c. 203, §1.)

1828-57. Powers and duties of council enumerated.

Regulation of running at large of dogs. *Laws* 1939, c. 410.

Cities of fourth class who hold mortgaged real estate, may renew or refund such mortgage. *Laws* 1939, c. 190.

City council of a city of the fourth class could vacate parts of two streets and a railroad crossing where it was necessary for the reception of materials for use in the paving of a nearby trunk highway. *Op. Atty. Gen.*, July 14, 1931.

City council of Eveleth has no authority to authorize an allowance to members of the council or the mayor for taxi hire or gasoline and oil used in their own automobiles. *Op. Atty. Gen.*, Mar. 22, 1932.

City may use surplus proceeds derived from water, light and heating utilities for general municipal purposes. *Op. Atty. Gen.*, Feb. 5, 1934.

City may pay salary of band director out of entertainment fund, but a city may not transfer money from general fund or any other fund to band fund. *Op. Atty. Gen.* (59b-3), July 28, 1936.

City of North Mankato had power to establish and maintain a playground and park, and could grant a ball club a concession, in consideration of construction of grand stand, and charge for admission to ball park, general public to have full use of playing field during six days of week and ball club only on Sundays. *Op. Atty. Gen.* (59b-11), Mar. 18, 1937.

Whether gasoline curb pump constitutes an unlawful obstruction or nuisance is a matter for governing body of municipality to determine. *Op. Atty. Gen.* (396a-1), Mar. 4, 1938.

(3).

City cannot enter into joint contract with private creamery corporation in connection with construction of sewage disposal plants. *Op. Atty. Gen.*, Sept. 18, 1933.

(36). License ordinance for dogs is not invalid because they are also assessed as personal property. Op. Atty. Gen. (146d-4), July 19, 1933.

(65). City of fourth class may pay money to a hockey club maintaining skating rink and warming house in consideration of the place being thrown open to the public certain days in the week without charge. Op. Atty. Gen., Nov. 13, 1933.

Whether a reasonable appropriation by city council for purpose of decorating Christmas tree and furnishing an entertainment for children at Christmas time is for a public purpose is a question of fact to be passed upon by local governing body. Id.

City may operate a skating rink and is not liable for injuries received thereon where no charge is made, being a governmental function. Op. Atty. Gen. (844b-1), Feb. 11, 1935.

City may accept a deed from abutting property owners on a narrow avenue conditioned that no assessments be levied against grantor's property by reasoning of widening and grading of the avenue and that city carry cost of sewer and water improvements, but city may not waive its right to compel abutting property owners to connect with sewer and water main. Op. Atty. Gen. (396c-6), June 12, 1935.

(71). License fee of \$100 for three years for commercial photography is unreasonable. Op. Atty. Gen., July 27, 1932.

(73). This paragraph controls §1828-61, the words "appropriating money" having reference to original incurring of obligation, while §1828-61 is to be limited to authorization of the expenditure of the appropriation thus made. Op. Atty. Gen., Apr. 4, 1930.

1828-61. Ordinances, regulations, etc.

Act Jan. 18, 1936, Sp. Ses., 1935-36, c. 45, validates ordinances theretofore passed without calling for ayes and nays.

This section is controlled by §1828-57, par. 73, and the provision as to majority vote has reference to the expenditure of an appropriation made by a three-fourths vote under such paragraph 73. Op. Atty. Gen., Apr. 4, 1930.

A resolution abandoning and closing hospital in city of Hastings, and referring to admission of patients and termination of employment of various employees, contained only one subject within the meaning of Hastings' charter, c. 4, §5, which subject was included in a title simply stating that it was a resolution to abandon and cease to operate the hospital. Op. Atty. Gen., Apr. 20, 1931.

An affirmative vote of a majority of members of the city council of Hastings was sufficient for the closing of a hospital, and a two-thirds vote was unnecessary. Op. Atty. Gen., Apr. 20, 1931.

Where charter of city of Columbia Heights provided procedure to be followed in case of recall, it was not within the power of the city council in an ordinance to attach burdensome conditions to the filing of a recall petition. Op. Atty. Gen., Aug. 20, 1931.

Under Jackson City Charter, §66, an ordinance cannot be regularly adopted unless it has been read at three successive regular meetings of the council occurring at least one week apart, and it may not be read at a regular meeting and two adjournments of that meeting. Op. Atty. Gen., Oct. 12, 1931.

1828-63. Audit of accounts by council.

Council may employ certified accountants to audit city affairs. Op. Atty. Gen., Mar. 24, 1933.

1828-64. Borrowing money and issuing bonds—Tax levies—Passage of ordinances, etc.

Method of determining whether or not warrants may be issued for a special purpose for which money may be borrowed is that money on hand and taxes due and likely to be paid should be added together and from this amount deduct amount it will take to pay up outstanding indebtedness and amount which it will take before any new money is to be received from amounts levied this year, and if there is a balance, it may be used to draw new warrants, but city council has no authority to place a due date on such warrants. Op. Atty. Gen., Jan. 19, 1934.

City of North Mankato may not issue warrants or certificates in excess of limitation for white way system payable out of general funds without vote of electors. Op. Atty. Gen. (59a-49), Nov. 7, 1936.

City charter may provide for payment of hospital bonds in hospital services rather than in money. Op. Atty. Gen. (59b-5), Apr. 21, 1938.

Issuance of refunding bonds by city of North Mankato involving more than \$15,000 must be authorized by two-thirds vote of electors, §§1941 and 1942 not applying to cities of the fourth class. Op. Atty. Gen. (36i), July 22, 1939.

TAXES

1828-66. Special taxes.

City may accept a deed from abutting property owners on a narrow avenue conditioned that no assessments be

levied against grantor's property by reasoning of widening and grading of the avenue and that city carry cost of sewer and water improvements, but city may not waive its right to compel abutting property owners to connect with sewer and water main. Op. Atty. Gen. (396c-6), June 12, 1935.

1828-68. Tax levies—How made—etc.

City has no power to pay expenses of delegates from fire department to state firemen's association convention. Op. Atty. Gen., June 2, 1930.

1828-70. Disbursements to be authorized by council—Orders for.

Aldermen of city of Marshall are not entitled to extra compensation for tour of inspection to other localities to determine proper kind of engine to purchase for municipal plant, and are not entitled to reimbursement for expenses, in absence of previous authorization by council. Op. Atty. Gen., May 16, 1932.

1828-74. Laying out, opening, altering and vacating streets, etc.—Procedure.

Cities operating under this act may acquire land for street purposes. Op. Atty. Gen. (817p), Oct. 24, 1935.

OPENING AND VACATING STREETS, ALLEYS, ETC.

1828-76. Vacation of streets, etc.—Procedure.

Charter provisions prevail under this section with reference to vacating streets. Op. Atty. Gen. (396c-18), June 2, 1934.

FIRE DEPARTMENT

1828-82. Chief engineer, assistant engineers, etc.

Where mayor of International Falls submits appointment of a person as chief of fire department and council refuses to confirm the appointment, there is no vacancy in the office and the old incumbent continues as such chief unless he has resigned, or a vacancy has otherwise been created. Op. Atty. Gen., May 29, 1931. Op. Atty. Gen., Feb. 5, 1934; note under §1828-57.

MISCELLANEOUS PROVISIONS

1828-100. Mayor of certain cities may vote in case of a tie vote.—In all cities of the fourth class not organized and operating under a charter adopted pursuant to Article 4, Section 36, of the Constitution, in which the Mayor is the presiding officer of the City Council, but has no vote, he shall have the right to vote in case of a tie, but in such case only. (Act Apr. 10, 1933, c. 192.)

1828-101. Inconsistent acts repealed.—All Acts or parts of Acts inconsistent herewith are hereby repealed. (Act Apr. 10, 1933, c. 203, §2.)

1828-102. Present terms of office extended.—This Act shall take effect and be in force from and after its passage, but the present incumbents in all offices shall remain in office and continue to exercise the regular duties of said offices as heretofore provided until the expiration of their present terms of office, and thereafter no successor to the president of the council shall be elected. (Act Apr. 10, 1933, c. 203, §3.)

1828-103. Office of Mayor and Chief of Police combined in certain cities of the fourth class.—In any city of the fourth class, organized under any special or general law and having a population of not less than 500 or more than 1,000, excepting, however, any city operating under a home rule charter, the governing body of such city is hereby authorized by ordinance to combine the office of chief of police with that of the mayor and to provide that the mayor of such city shall also be the chief of police of such city and perform all the duties by law conferred upon the chief of police of such city for the preservation of the public peace. (Mar. 19, 1937, c. 68, §1.)

1828-104. Certain cities may expend money to advertise their industrial, agricultural, or recreational facilities.—That any city of the fourth class now or hereafter having an assessed valuation, exclusive of moneys and credits, of more than \$3,000,000.00 and a population of not less than 6,000 nor more than 9,000 may, by action of its governing body, annually appropriate, levy and expend not to exceed \$2,500.00 for the printing and distribution of pamphlets, newspapers, literature, and other printed matter or for road signs or for community celebrations and con-

ventions which encourages the industrial, agricultural or recreational facilities of said city or the area in which it is located. The governing body may either directly undertake the preparation and distribution of such written or printed matter and the work herein authorized or may authorize any chamber of commerce or other civic agency to carry on the preparation and distribution thereof. All moneys necessary to carry out the enabling provisions of this act may be spent from the general revenue fund of the city and within the limitations of law now existing. (Act July 14, 1937, Sp. Ses., c. 11, §1.)

1828-105. Same—change in classification of city.—If any city comes under the provisions of this act and avails itself of the powers and privileges herein contained, it shall thereafter continue within the classifications provided herein notwithstanding any subsequent change in valuation or population. (Act July 14, 1937, Sp. Ses., c. 12, §2.)

The title of Act July 14, 1937, cited, purports to authorize the creation of a "bureau of information and publicity for the purpose of furnishing tourist information, and advertising the recreational, agricultural and industrial opportunities and facilities of the community." The body of the act varies from this declared purpose.

Sec. 3 of Act July 14, 1937, cited, provides that the act shall take effect from its passage.

LAWS AFFECTING CITIES OF THE FOURTH CLASS

Laws 1931, c. 184, legalizes obligations incurred or payments made for poor relief by cities of the fourth class, having population of less than 9,000 and assessed valuation in excess of \$14,000,000.

Laws 1931, c. 361, legalizes conveyances by fourth class cities operating under home rule charter of land outside city limits, such conveyances having been made without vote of the electors.

Act Apr. 1, 1935, c. 91, validates proceedings for amendment of home rule charters of fourth class cities.

Act Mar. 24, 1937, c. 99, authorizes fourth class cities governed by home rule charter, and situated in county with 60 to 80 townships, having population of 45,000 to 75,000, and in whose favor judgment has been rendered against individual sureties on depository bond for city funds, to compromise such judgment after favorable vote of electors.

PROVISIONS RELATING TO CITIES, VILLAGES, BOROUGHES, TOWNS, AND COUNTIES

1829. Right of eminent domain.

Under §1271, notwithstanding Sp. Laws 1881, c. 410, the city of White Bear, under its home rule charter, could condemn Goose Lake, outside its corporate limits as a sewage disposal plant. 172M255, 214NW930.

A city has power of eminent domain in requiring necessary rights to empty sewerage into lake outside corporate limits subject to laws respecting nuisances and health regulations. Op. Atty. Gen., June 20, 1933.

1831. Damages—Notice of claim—Limitation.

This section is applicable to injuries to property as well as to injuries to the person. 129M267, 152NW647.

City held not liable for injury to one who negligently broke a fire alarm wire, though at the time of his injury he was repairing the wire with the consent of the chief of the fire department. 171M391, 214NW656.

Liability of city and abutting owner for injuries caused by defects in sidewalks. 172M35, 214NW671.

The notice to the municipality of the injury was sufficiently definite to appraise defendant of the place of the accident. 173M453, 217NW495.

Liability of village for injuries growing out of collision of automobile with marker on unlighted street. 174M450, 219NW774.

A notice stating that accident happened on sidewalk in front of No. 2127 on First avenue, was sufficient although it misstated the distance from a cross street. 175M361, 221NW241.

Whether village was negligent in not removing ice and snow from sidewalk, held for jury. 175M361, 221NW241.

This section does not apply to an action to enjoin, or to recover damages for, an invasion upon private property by casting sewage thereon and creating a nuisance. 177M547, 226NW898.

Depression of cement blocks in sidewalk held such a defect as to warrant finding that city should have anticipated injury to pedestrian and was negligent in failing to repair it. 178M326, 227NW177.

Contributory negligence for jury. 178M326, 227NW177. Evidence held not to warrant finding that defect in walk on bridge was cause of injury to pedestrian struck by automobile. 178M353, 227NW203.

Action for death must be commenced within one year from the occurrence of the loss or injury. 178M489, 227NW653.

City held negligent in permitting dangerous condition from accumulation of snow and ice. 179M553, 230NW89.

Evidence held not to show negligence of village in maintaining sewer or that damage was caused by negligence. Power v. Village of Hibbing, Itasca Bazaar Co. v. Same, 182M66, 233NW597. See Dun. Dig. 6666(95).

Damage from overflow of a sewer, caused by an extraordinary rainfall which could not reasonably have been anticipated or guarded against, where there was no negligence on the part of the village in the construction or maintenance of the sewer, cannot be recovered on the theory of trespass or nuisance. Power v. Village of Hibbing, Itasca Bazaar Co. v. Same, 182M66, 233NW597. See Dun. Dig. 6664(91).

Rule of *res ipsa loquitur* held not to apply against a village in action for damages for overflow of sewer. Power v. Village of Hibbing, Itasca Bazaar Co. v. Same, 182M66, 233NW597. See Dun. Dig. 7044.

In action for injuries received when stepping into open catch basin hole in sidewalk, negligence and contributory negligence held for jury. Reid v. Village of Aitkin, 182M87, 233NW826. See Dun. Dig. 6844(98).

Evidence held to show city was negligent in paving and constructing a street, causing flooding of basement. National Weeklies, Inc. v. J., 183M150, 235NW905. See Dun. Dig. 10172.

Whether paving contractors were negligent in placing and maintaining an iron pipe two inches in diameter along and upon a public sidewalk in front of an entrance to an apartment house was a question of fact for the jury. Dougherty v. G., 184M436, 239NW153. See Dun. Dig. 6845a.

Service upon mayor of city of St. Paul of a claim against that city for damages for injuries sustained because of an alleged defective sidewalk held not legal service. Aronson v. C., 193M34, 257NW662. See Dun. Dig. 6739, 6740.

Villages have no responsibility as to highways after they have been taken over by state highway department and have become part of trunk system, and village is not liable for injuries to travelers resulting from improper maintenance. Lundstrom v. G., 194M624, 261NW465. See Dun. Dig. 6818.

Duty of keeping sidewalk in a reasonably safe condition for travel is placed on city and not upon abutting owners or occupants. Abar v. R., 195M597, 263NW917. See Dun. Dig. 6829, 6845.

In action by pedestrian against city for injury received when cornice overhanging sidewalk fell, court properly withdrew from consideration of jury issue of actual notice of defect in cornice where there was no evidence of any kind indicating that any official of the city ever had actual knowledge of decayed condition of cornice or of faulty construction. Heidemann v. C., 195M611, 264NW212. See Dun. Dig. 6823.

In action against city, whether city was negligent in not barricading or warning driver that bridge had been removed and that fill was being made covering culverts, and whether driver was negligent in not observing that fill was not complete, held for jury. Wilson v. C., 196M532, 265NW438. See Dun. Dig. 6825.

In action brought to recover damages for injuries sustained as a result of a fall on an icy crosswalk, evidence held sufficient to support a finding of negligence on part of city. Callahan v. C., 197M403, 267NW361. See Dun. Dig. 6829.

A city is not liable for injury caused by a defect in a street unless it had actual or constructive notice of defect a sufficient time before accident to render it negligent in failing to guard or remove same. Baker v. C., 198M437, 270NW154. See Dun. Dig. 6823.

City is liable for negligence of its employees while engaged in repair of its streets by operating road grader. McCarthy v. C., 201M276, 276NW1. See Dun. Dig. 6818.

A city is under legal obligation to exercise reasonable care to keep and maintain streets in a safe condition for public use. *Id.*

Whether or not thirteen year old plaintiff was guilty of contributory negligence held for jury. *Id.* See Dun. Dig. 6838.

Record supports a verdict that city employee was negligent in backing a road grader by which minor plaintiff was injured. *Id.* See Dun. Dig. 6844.

Evidence that a dangerous condition on a sidewalk or crosswalk existed from one to two weeks is sufficient to sustain a finding that city had constructive notice of condition. Mathieson v. C., 201M290, 276NW222. See Dun. Dig. 6814.

A municipal corporation is liable for damages resulting from its negligent failure to keep its sidewalks free from ice and snow and reasonably safe for public use. *Id.*

Pedestrian held not contributorily negligent as a matter of law in using crosswalk, even though existence of danger from ice and ruts was known to her; no showing being made that a safer route could have been selected without substantial inconvenience. Champion v. C., 202M136, 277NW422. See Dun. Dig. 6838.

Duty of maintaining streets and sidewalks reasonably safe for travel rests upon municipality, and street railway was not liable for ruts near rails caused by plowing snow and use by automobiles. Phelon v. D., 202M224, 277NW552. See Dun. Dig. 6818.

Evidence that a defect in a sewer pipe caused a hole in street approximately one month before it caused a second hole which was cause of plaintiff's injuries is sufficient to make question for jury whether city had actual or constructive notice of defect. *Baker v. C.*, 202 M491, 279NW211. See Dun. Dig. 6823.

City and not owners or tenants of premises abutting public sidewalk is responsible for latter's safe condition for travel, and it cannot shift its responsibility to shoulders of others by ordinance. *O'Hara v. M.*, 203M541, 282 NW274. See Dun. Dig. 6845.

Where sidewalk was clear of ice and snow in the morning, city was not liable for injury to a pedestrian who slipped on a patch of ice 12 by 8 inches in the afternoon. *Johnson v. C.*, 204M115, 282NW693. See Dun. Dig. 6829.

A metal canopy extending only 10 inches over base line of building and over sidewalk and constructed to protect awning when raised from rain or snow, outer edge for ornament or use having a so-called gutter three-fourths of an inch deep, was neither a nuisance nor obstruction to the free and safe use of the sidewalk, so as to render abutting owner or city liable for very small patch of ice formed on sidewalk. *Id.* See Dun. Dig. 6829.

In action for injuries caused by ice forming on sidewalk from spout on oil station, evidence held to justify finding that defendant oil company was occupying station through its manager, notwithstanding that station had been leased to a third person by the owner thereof. *Noetzelman v. W.*, 204M26, 283NW481. See Dun. Dig. 6829.

City is liable for negligent operation of a snow plow. *Op. Atty. Gen.*, Jan. 24, 1929.

Although not liable for damages done by fire trucks and police cars, a city is liable for damage done through the negligent operation of street flusher. *Op. Atty. Gen.*, Aug. 23, 1930.

Whether village would be liable for injuries to private property by loose stones picked up in street by automobile and thrown on to private property is question of fact. *Op. Atty. Gen.*, Oct. 6, 1933.

Village council has no legal authority or power to grant privilege to individuals of installing gasoline curb pump on state trunk highway, and a village would be liable for any injuries caused by such an obstruction to one who was in exercise of due care. *Op. Atty. Gen.* (396g-9), Jan. 8, 1935.

A village is not liable for any injury resulting from failure to properly maintain trunk highway, at least where village does not affirmatively create a dangerous condition. *Op. Atty. Gen.* (844b-6), Jan. 27, 1936.

Duty and liability of city for accident occurring on state trunk highway by operating snow plow. *Op. Atty. Gen.* (844b-8), Apr. 30, 1936.

Sections 1831, 1832 and 1833 apply to all cities and villages which are duly organized and incorporated. *Op. Atty. Gen.* (476a-5), July 17, 1936.

Municipality is not liable for negligence in operation of fire apparatus in absence of statute. *Op. Atty. Gen.* (688h), Aug. 27, 1936.

This section has no application to a claim by a doctor or nurses for services in caring for a pedestrian struck by an automobile and taken to hospital as an emergency case. *Op. Atty. Gen.* (442a-7), Dec. 22, 1936.

A city or village maintaining a public park is discharging a governmental function and is not responsible for negligence in maintenance of a slide, unless so maintained as to constitute a nuisance. *Op. Atty. Gen.* (844b-1), Aug. 9, 1937.

Board cannot pay expenses of person injured at school play. *Op. Atty. Gen.* (844f-3), Aug. 11, 1937.

Village operating a water plant is acting in a proprietary and not governmental capacity, and is liable for negligence in shutting off water without notifying merchants operating electrical refrigeration machine cooled by water. *Op. Atty. Gen.* (476b-15), Sept. 18, 1937.

A city or village in operating a motor vehicle for purpose of keeping streets and highways in a safe and proper condition for public travel is performing a corporate rather than a governmental function, and is liable for negligent acts of its officers and agents, but a different rule seems to apply where primary purpose is in interest of promotion of public health, such as sprinkling streets to prevent accumulation of dust. *Op. Atty. Gen.* (844b-5), July 5, 1938.

Village is not liable by reason of inadequate water supply for fire department. *Op. Atty. Gen.* (624d-9), July 12, 1938.

Section applies to a claim for damages resulting from shutting off by a municipality of electric current. *Op. Atty. Gen.* (59a-12), Aug. 5, 1938.

City employee under workmen's compensation act need not give notice under this section. *Op. Atty. Gen.*, (523g-18), Aug. 25, 1938.

1832. Claims for death—Notice.

Action for death must be commenced within one year from the occurrence of the loss or injury. 178M489, 227 NW653.

1834. Judgment against municipality—Payment.

Payments need not be authorized by mayor or council. *Op. Atty. Gen.* (63b-10), Nov. 29, 1935.

Attorney fees, witness fees, and other court expenses incurred may be paid out of "judgment fund" or out of general fund. *Op. Atty. Gen.* (476a-4), Apr. 5, 1938.

1836. Tax levy—Execution.

Village may not levy in excess of per capita limitation for purpose of paying outstanding judgments. *Op. Atty. Gen.*, Sept. 13, 1932.

As affecting levy of tax to pay judgment against village, it is immaterial whether judgment is entered after litigation of issues or pursuant to stipulation entered into in good faith. *Op. Atty. Gen.*, Sept. 13, 1932.

It is duty of officers of village to levy a sufficient sum to pay judgment against it but levy therefor must be included in maximum amount which village council may levy under per capita law. *Op. Atty. Gen.*, Sept. 23, 1932.

Municipality may make a levy to pay judgments in addition to maximum amount permitted by statute. *Op. Atty. Gen.* (519i), Oct. 12, 1934.

Money collected from taxes levied to pay certain judgments cannot be used to pay other judgments. *Op. Atty. Gen.* (519q), Oct. 4, 1935.

1837. Codification of charter, etc.

A single ordinance may be enacted for purpose of numbering old village ordinances which may be obsolete or superseded by other later ordinances, and it is not necessary to republish old ordinances. *Op. Atty. Gen.*, Mar. 21, 1934.

1841. Deposit of public funds.

Where city treasurer has made deposits in excess of collateral securities given by a bank in lieu of a depository bond under §1973-1, city did not have a preferred claim on the theory that the over-deposit was a criminal offense. 172M324, 215NW174.

Where it is contemplated that the deposit shall be a continuing one, no date being fixed for its payment, the sureties are not released by renewals made without their consent. 174M56, 218NW444.

Where a certificate of deposit is taken for village money deposited with the bank, and such certificate is renewed from time to time, the renewal certificates, nothing else appearing, are not payments of the original deposit. 174M56, 218NW444.

Undertaking given instead of a bond will be enforced as a common-law bond. 174M56, 218NW444.

This section must be construed as a part of a depository bond, and liability of sureties is limited to the penalty of the bond, and where the bank closes, the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such right of subrogation cannot be questioned by the sureties on the treasurer's bond. 181M271, 232NW320. See Dun. Dig. 2701, 9045.

Village treasurer and surety on official bond were not relieved from liability for money of village deposited in a bank that failed, where there was no compliance with statute. *Village of Hallock v. P.*, 189M469, 250NW4. See Dun. Dig. 8022.

Fergus Falls City Charter, §27, exempting sureties on city treasurer's bond from liability for funds lawfully deposited in duly designated depository, also exempted treasurer. *Benson v. A.*, 199M119, 271NW125. See Dun. Dig. 2700.

In action on a city treasurer's bond, court rightly refused to compute and include interest in finding amount unpaid upon judgment recovered by city upon depository bond of a bank, since interest is not recoverable upon a treasurer's bond until demand of payment. *Id.*

City treasurer of Le Sueur violates its charter where bank of which he is president is designated as depository, though he takes no part in the making of the contract on the side of the city. *Op. Atty. Gen.*, May 14, 1931.

Village cannot deposit its funds in a bank without requiring bond and at same time relieve village officers from liability. *Op. Atty. Gen.*, Feb. 6, 1933.

If no depository of village funds is designated or if depository does not furnish the necessary security the village treasurer is answerable for any loss. *Op. Atty. Gen.*, Apr. 3, 1933.

Village council has right to designate a depository of village funds under charge of village treasurer. *Op. Atty. Gen.*, May 2, 1933.

City treasurer was relieved of liability for loss of funds where he deposits money lawfully in depository designated by city council. *Op. Atty. Gen.*, May 31, 1933.

Section applies to cities having home rule charters. *Id.* Credit union may not be designated as city depository nor may city funds be invested in securities thereof. *Op. Atty. Gen.* (53b), Nov. 21, 1935.

Village treasurer makes deposit in bank other than that designated by village council at his peril. *Op. Atty. Gen.* (140b-6), Aug. 5, 1936.

1844. Duty of council—Act supplementary.

Sections 1843 and 1844 prescribe a complete procedure and in proceedings instituted under those sections procedure prescribed by §§1845 to 1849 may be ignored. *Op. Atty. Gen.* (484e-1), Dec. 22, 1938.

1845. Annexation of territory to certain cities and villages.

Quo warranto to test validity, see §§132, 156. Granting of leave to a municipal corporation to file an information in nature of quo warranto, notwithstanding refusal of attorney general to apply for writ or to con-

sent to its filing, lies in sound discretion of court, and that discretion should be exercised favorably, and leave granted where one municipal corporation, on grounds prima facie valid, challenges legal effectiveness of proceedings by another to take over and include within its limits territory belonging to former, issue so raised being one of public rather than mere private interest. *State v. City of Chisholm*, 196M285, 264NW793. See *Dun. Dig.* 6521.

In proceeding involving validity of organization and boundaries of a city, defense of laches, waiver, and estoppel is not made out from loans obtained from state board of investment, nor from fact of judgments being obtained against city, nor from fact that it vacated a road within its territory or has functioned as a city in other respects. *State v. City of Chisholm*, 199M403, 273 NW235. See *Dun. Dig.* 6521.

Adoption of a home-rule charter does not preclude court from determining whether territory included in city is lawfully included. *Id.* See *Dun. Dig.* 6539.

A village annexing new territory was not entitled to any tax levied by the township board the preceding year. *Op. Atty. Gen.*, Aug. 14, 1930.

There is no apportionment of indebtedness of township because part of it is annexed by a village. *Op. Atty. Gen.*, Aug. 14, 1930.

Time and manner of contesting annexation of territory. *Op. Atty. Gen.*, Aug. 14, 1930.

1846. Petition for election.

Signers of petition for annexation of territory to village cannot withdraw their names after it has been accepted by village council. *Op. Atty. Gen.*, Apr. 23, 1932.

1847. Duty of governing body.

Village council, after accepting petition for annexation of territory and setting election date, may not rescind its action accepting and approving petition. *Op. Atty. Gen.*, Apr. 23, 1932.

1848. Election, how conducted—Ballots.

Corrupt Practices Act does not apply to election in connection with annexation of territory to village. *Op. Atty. Gen.*, Apr. 23, 1932.

In election in connection with annexation of territory to village, substitutes may be elected by electors on election day where regularly appointed inspectors refuse to serve. *Op. Atty. Gen.*, Apr. 23, 1932.

1849. Duty of city or village clerk, etc.

Act Apr. 22, 1939, c. 414, limited by its descriptive terms to Hennepin County, provides for transfer of an island located in several villages and towns to town or village having the largest area of such island. It may be unconstitutional as local and special.

WATER, LIGHT, POWER AND BUILDING COMMISSION

1852. Power and light commission created.—

There may be created in all villages regardless of population and in every city in the State of Minnesota having a population of less than 10,000 inhabitants a water, light, power and building commission with powers and duties as hereinafter provided. ('07, c. 412, §1; G. S. '13, §1807; Apr. 13, 1933, c. 221, §2.)

Act Apr. 13, 1933, c. 221, §1, amends the title of Laws 1907, c. 412, to read as follows: "An Act to authorize the creation of water, light, power and building commissions in all villages regardless of population and in all cities having a population less than 10,000 in the state of Minnesota."

In determining whether secs. 1852-1860 are applicable to a village the present population is immaterial as it is conclusively presumed that the present population is its population in the last state census. *Op. Atty. Gen.*, Feb. 1, 1933.

Laws 1907, c. 412, under which village created a water, light, power and building commission continues applicable after the population of the village according to the last census exceeds 10,000. *Op. Atty. Gen.*, Feb. 14, 1933.

Water and light commission has no power to enter into lease providing for option to buy stokers without advertising for bids. *Op. Atty. Gen.*, Aug. 12, 1933.

Member of village council may enter into contract with water, light, power and building commission, having full charge of construction work. *Op. Atty. Gen.*, Mar. 19, 1934.

A water, light, power and building commission can only be abolished in the manner provided by §1860-1/2, et seq., and it is immaterial that village adopting such a commission has become incorporated as a city of the fourth class. *Op. Atty. Gen.* (624e-11), Oct. 4, 1934.

Board of water commissioners of city of Stillwater is a part of city government and not an independent corporation separate from city itself, and employees of board are "public employees" of city within meaning of public employees retirement association act. *Op. Atty. Gen.* (331b), May 18, 1938.

1852-1. Power and light commission heretofore created ratified.—In the event there exists in any

village having a population of more than 10,000 a water, light, power and building commission established under Laws 1907, Chapter 412, and continuing to act thereunder, the existence of such commission is hereby ratified and confirmed and it shall continue to exist and be governed by said law as amended. (Act Apr. 13, 1933, c. 221, §3.)

1854. Appointment of members of water, light, power and building commissions in cities having less than 10,000 inhabitants.

It is mandatory for each member to act as president during the last year of his term. *Op. Atty. Gen.*, Mar. 16, 1929.

Village water and light commission may not compensate one of its members unless statute, under which it is operating provides for compensation. *Op. Atty. Gen.*, July 9, 1932.

The word, "appointment," requires naming of person other than person exercising appointing power, and hence a member of village council is ineligible to appointment as member of water and light commission. *Op. Atty. Gen.*, Mar. 30, 1933.

Member of water, light, power and building commission must be an inhabitant and resident of city. *Op. Atty. Gen.*, Feb. 2, 1934.

Member of city council may not be appointed as member of water and light commission during his term as councilman. *Op. Atty. Gen.* (358e-1), Jan. 17, 1935.

Terms of office cannot be lengthened or shortened by a municipal ordinance. *Op. Atty. Gen.* (785e-1), Apr. 25, 1935.

It is ground for removal of member of water, light, power and building commission that he sells supplies to the commission or purchases supplies from other members, but village council has no power to remove the officer, and officer may recover value of supplies to the village. *Op. Atty. Gen.* (707b-6), Feb. 11, 1936.

In view of G. S. 1894, §1081, a bank of which mayor or city of Marshall is a stockholder cannot be appointed depository of city, but it would be immaterial that member of water and light commission or city attorney were stockholders if they took no part in appointment of depository. *Op. Atty. Gen.* (90e-7), May 1, 1936.

Commission may not pay salaries to each of its members, with exception of the secretary. *Op. Atty. Gen.* (469b-6), Mar. 1, 1937.

City council has no authority to move member of water and light commission. *Op. Atty. Gen.* (358e-1), May 15, 1937.

Members of water, light, power and building commission of a village may enter into contract with village to furnish material for construction of a new sewer system if commission has no voice in making of contract. *Op. Atty. Gen.*, (469a-2), Oct. 22, 1938.

Commissioner holds over until his successor is appointed and qualifies. *Op. Atty. Gen.*, (469b-6), Dec. 3, 1938.

1856. Secretary of water, light and power commissions in certain Municipalities—powers—duties—bond—salary—removal.—

The said water, light, power and building commission shall have the power and authority, and it is hereby given the power and authority to appoint and employ a secretary of said commission, who shall qualify as hereinafter stated, and upon such qualification shall be the secretary of said water, light, power and building commission, provided, that in cities organized under the provision of Chapter 8, General Laws 1895, the city clerk shall be the secretary of said commission; and provided further, that said commission may appoint as such secretary a member of said commission, who shall serve as such secretary only one year in any three years, and such term as secretary shall be during the second year of the term for which he is appointed. Such secretary shall keep an accurate record, in books kept by him for that purpose, of all the proceedings and business transactions of said commission and he is also empowered and it is hereby made his duty to collect water, light and rent charges from patrons for the said city or village as the case may be, and at once pay the same into the treasury of said municipality and he shall make a detailed statement of the same at the regular monthly meeting of said commission, which shall be held on the first Tuesday of each month. He shall be furnished by said municipality with all the necessary books and stationery to properly perform all the duties of his office and he shall be required to furnish a corporate bond running to such municipality, in such amount to be fixed by said commission, that he

will faithfully perform all the duties of his office as is required of him by law and promptly pay over to the treasurer of said city or village, as the case may be, all moneys and deliver up all property to the council of said city or village, belonging to said municipality, that he may have in his possession. Said bond shall be approved by the said commission and filed with the city or village treasurer, as the case may be. The compensation of said secretary for his services shall be fixed by the said commission in a sum not to exceed one hundred twenty-five dollars (\$125) per month, the same to be when so fixed full compensation for services performed as secretary of said commission, which compensation shall be paid out of the treasury of said municipality. Said commission shall be authorized and fully empowered, and it is hereby authorized and fully empowered to revoke its said appointment and discharge its said secretary any time it may see fit and whenever it does so revoke such appointment and discharge its secretary it shall have and is hereby given the power and authority to reappoint and employ such other secretary as it may desire or determine. (Apr. 19, 1937, c. 281, §1.)

Member of commission may not act as secretary. Op. Atty. Gen., Mar. 16, 1929.

Village council and water and light commission are authorized to establish a utility electric fund and withdraw certain moneys in the water and light fund to create such new fund, and both funds continue under the protection of the village treasurer. Op. Atty. Gen., Apr. 8, 1933.

Commission has no legal right to pay premium on bond of secretary. Op. Atty. Gen., May 25, 1933.

Commission has no authority to raise salary of secretary above \$75 per month. Op. Atty. Gen. (624e-11), June 20, 1934.

Secretary should keep books of commission as a part of his duties as secretary, and is not entitled to extra compensation therefor. Op. Atty. Gen. (624a-3), Dec. 1, 1936.

Commission may appoint one of its members as secretary for one year and fix his compensation. Op. Atty. Gen. (624e-7), Dec. 7, 1936.

City council has no authority to limit powers of commission over city hall, public library, or museum building. Op. Atty. Gen. (59b-13), May 19, 1938.

Where village council appoints a new water and light commission, council has no authority to examine and audit books of old commission. Op. Atty. Gen. (469b-6), Dec. 30, 1938.

1857. Powers of water, light and building commissions in certain cases.—Said commission shall have full, absolute and exclusive control of and power over the water, light, and power plant or plants, and municipal heating plant or plants, and all parts, attachments and appurtenances hereto, and all apparatus and material of every kind and description used or to be used in operating said plants, or any or either of them in all said municipalities aforesaid, including all other public buildings and halls owned by said municipality. They shall have the power and authority to operate the same and each thereof, and to extend, add to, change or modify the same, and to do any and all things in and about the same which they may deem necessary for a proper economical operation of the same; provided, they shall not have the right to sell, lease, rent or in any way dispose of or incumber or suffer or permit, the said property or any part thereof, to come under the control of any other person or corporation whatever; provided, however, this shall not prevent the said commission from renting or leasing public halls or buildings for public use and entertainments. They shall have authority to buy all material, and employ all help necessary, or they may contract to extend, add to, change or modify said plants, building and halls, or any part thereof; they shall also have authority to buy all fuel and supplies, and employ all help necessary to operate said plant. ('07, c. 412, §6; G. S. '13, §1812; Apr. 15, 1933, c. 278.)

The water, light, power and building commission of Grand Rapids has not power to construct a gas plant and gas mains for the distribution and sale of gas. Op. Atty. Gen., Aug. 14, 1931.

The council of the village of Hawley having a water, light, power and building commission, is the proper agency to contract for the purchase of electrical energy,

and approval of the commission is unnecessary. Op. Atty. Gen., Feb. 3, 1932.

Where village attorney is required to act in an advisory capacity to a village, this makes him attorney for the water, light and power commission, and such commission has no authority to employ other counsel. Op. Atty. Gen., Feb. 3, 1932.

Commission is clothed with all power necessary to operate plant, including purchase of materials and fixing of rates to patrons, and it has power to prescribe rules as to whether or not its list of customers shall be open to general inspection by taxpayers. Op. Atty. Gen., Mar. 13, 1933.

The commission has exclusive power to contract hereunder without signature of mayor or approval of council, and this section prevails over inconsistent provisions of city charter. Op. Atty. Gen., Mar. 24, 1933.

Commission has power to contract for new well and pumping house, but has no authority to issue bonds of village. Op. Atty. Gen., Aug. 30, 1933.

Power commission may purchase equipment on installment plan if cost thereof is to be paid from earnings of water plant. Op. Atty. Gen., Jan. 23, 1934.

Village council cannot adopt ordinance interfering with powers of commission, which has right to determine its own rules and regulations. Op. Atty. Gen., Feb. 5, 1934.

Commission need not advertise for bids before purchasing a second hand machine for \$5000. Op. Atty. Gen., Mar. 1, 1934.

Management and control of a local utility operating under commission are lodged in the commission and not in the village council. Op. Atty. Gen. (469b-6), July 3, 1934.

Where village of North St. Paul desires to enter into contract with Ramsey County for purchase of water temporarily pending the digging of a new well, the contract is to be entered into by the water, light, power, and building commission and not the village council, and such commission may require bids or not as it shall determine. Op. Atty. Gen. (469b-6), Dec. 11, 1934.

Commission may not employ an attorney to advise them at meeting or to collect delinquent water bills, nor can it pay for collection of bills on a percentage basis. Op. Atty. Gen. (624c-11), June 19, 1935.

Act of superintendent of power plant in requiring employee to resign is not binding upon the commission. Op. Atty. Gen. (624c-1), June 21, 1935.

Village council cannot adopt ordinance interfering with powers of commission. Op. Atty. Gen. (469b-6), July 20, 1935.

Water, light, power and building commission of a village may not invest surplus funds in outstanding village warrants. Op. Atty. Gen. (469b-6), Sept. 19, 1935.

Surplus earnings may be used for other municipal purposes. Op. Atty. Gen. (476b-15), Feb. 14, 1936.

A village organized under Laws 1885, Chap. 145, but having a commission under this act, may purchase a secondhand Diesel engine from another village without advertising for bids. Op. Atty. Gen. (624a-3), May 26, 1936.

Power to construct and maintain village sewerage system is vested in council and not in Water, Light, Power and Building Commission. Op. Atty. Gen. (387g-5), July 30, 1936.

Power to manage, operate and extend, add to, modify or change the utilities plant is vested in commission and not city council. Op. Atty. Gen. (624a-), Dec. 1, 1936.

There is no procedure for limiting authority of commission solely to affairs of water department. Op. Atty. Gen. (469b-6), Mar. 1, 1937.

Section does not authorize leasing of part of municipal building for a term of years to a theater company. Op. Atty. Gen. (469a-9), Mar. 31, 1937.

City water, light and power commission had power to terminate unexpired contract of superintendent without approval of city council. Op. Atty. Gen. (358e-1), May 15, 1937.

A city accepting water from well for six years was liable for contract price, though contract was let without a proper call for bids and contained terms not included in call and purported to bind city to abandonment of a certain mine. Chisholm Water Supply Co. v. C., 285NW895. See Dun, Dig. 6707.

Commission may contract for group life insurance on employees. Op. Atty. Gen. (469b-6), Dec. 22, 1937.

It is not necessary to publish proceedings of water, light and power commission of city of Sauk Center, other than periodical reports. Op. Atty. Gen. (59a-37), Dec. 27, 1937.

Provision of city charter requiring water and light commission to shut off water in cases of delinquency in payment applies to a surcharge made by council for use of sewage disposal plant, even as to water users who have no sewer connections. Op. Atty. Gen. (387b-9), Apr. 5, 1938.

While it is possible that the light and water commission may borrow money without consent of village council or without vote of people and issue certificates of indebtedness payable only from future earnings, it should have village council adopt a resolution approving and ratifying law. Op. Atty. Gen., (469b-6), Sept. 27, 1938.

Commission furnishing water, heat and electricity may discontinue service of all for failure to pay one item. Op. Atty. Gen., (624c-4), Nov. 2, 1938.

Water, light, and power commissions in villages operating under Laws 1885, should advertise for bids when

constructing a filtration system at a cost of \$4,000. Op. Atty. Gen. (707a-15), April 24, 1939.

Village or water, light and power commission may install a filtration system for use in connection with water system without a vote of electors where there is sufficient money on hand obtained from operation of municipal liquor store and lighting plant. Id.

Surplus in fund may be transferred to general fund and used for other municipal purposes. Op. Atty. Gen. (624a-6), May 18, 1939.

1858. Rates, how fixed—Warrants—etc.

Op. Atty. Gen., Mar. 13, 1933; note under §1857.

Power and building commission may not furnish hydrant rental and light to village free of charge with the purpose of permitting the village to recoup its finances so that it may be able to purchase a fire truck, if the village does not levy a tax of five mills for such purpose. Op. Atty. Gen., Apr. 27, 1931.

The village council may not draw on the water and light fund to pay bills and expense properly chargeable against the general fund and the road and bridge fund. Op. Atty. Gen., Feb. 3, 1932.

Changes in water, light and power rates need not be approved by the village council and need not be submitted to the voters of the village. Op. Atty. Gen., Feb. 8, 1932.

City may enter into agreement with water and light commission fixing rates which city is to pay for water and light, provided such rates do not exceed rates charged to private parties. Op. Atty. Gen., June 13, 1932.

Claims in connection with obligations of village water, light, power and building commission are to be audited and allowed by the commission and must be verified and identified. Op. Atty. Gen., Aug. 12, 1932.

Concurrence of two members of commission in any business transaction constitutes a legal majority. Op. Atty. Gen. (469b-6), Apr. 11, 1934.

Vice-president of commission may not sign warrant or contract on refusal of president to do so, but president may be compelled to sign by mandamus. Id.

Where village prior to organization under this act operated its own public utilities and fixed rate by ordinance, upon creation of commission under this act to operate such public utilities, right to fix and change rate passed to said commission. Op. Atty. Gen. (624E-5), Sept. 29, 1934.

If city charter permits water bills to be assessed against real estate, they become liens thereon of which purchaser of lands must take notice, although not filed with county auditor. Op. Atty. Gen. (624d-5), Nov. 3, 1934.

Commission may compromise settlement by accepting less than amount actually owing by consumers if in judgment of commission it is for best interest of commission and village to accept less. Op. Atty. Gen. (469b-6), Mar. 2, 1935.

Commission may not cancel delinquent accounts, as this would amount to gratuity contrary to public policy. Id.

Where a tax has been levied for water and light purposes pursuant to §1245, commission may fix rates and collect for water furnished to residents of village, and can refuse to furnish water to persons owing delinquent accounts. Id.

Commission may fix water rates different from those set under old ordinance and without interference on part of village council. Op. Atty. Gen. (624c-11), June 19, 1935.

Village may not make water rent a lien against real property of user in absence of statute or charter authorization. Op. Atty. Gen. (477h-36), Aug. 7, 1935.

Water and light commission in exercise of its judgment and discretion, may furnish heat to a particular class of users, such as churches, at less than rates charged to consumers generally so long as it does not act arbitrary or fix rates which are unjust and unreasonable. Op. Atty. Gen. (59b-7), Apr. 1, 1938.

Commission may not furnish water free to a class of inhabitants, even though they are in outlying districts and water is transported to them in village sprinkler. Op. Atty. Gen. (469b-6), Apr. 21, 1938.

City charging rates which were discriminatory between consumers of the same class may make rebate to persons paying charges for services in excess of that charged another under flat rate. Op. Atty. Gen. (624c-11), July 29, 1938.

Proceedings are published after they have been taken, and publication is not prerequisite to effectiveness of any order. Op. Atty. Gen. (624c-4), May 15, 1939.

Resolution fixing water and light rates and providing for discontinuance of service of delinquent customers need not be published in a newspaper before going into effect. Id.

1859. Act, how availed of.

Only a majority of aldermen in a city operating under general Laws 1894, §1087, was necessary to enact a resolution, and was not necessary to publish resolution twice in paper. Op. Atty. Gen. (471o), Dec. 3, 1934.

Village council operating under Laws 1885, ch. 145, need not publish resolution establishing commission. Op. Atty. Gen. (469b-6), Mar. 1, 1937.

1860. Application of act.—This act shall apply to any city of the 4th class, operating under a Home

Rule Charter, having a population of not less than 1000 nor more than 1500, which is located in any county having a population of not less than 33,000 nor more than 34,000, according to the last Federal Census but, shall not include or apply to any other cities now or hereafter governed under a Charter adopted under and pursuant to Section 36, Article 4, of the constitution of this State, and the several acts of the legislature authorizing cities to adopt their own charter. (As amended Apr. 13, 1939, c. 230.)

1860-½. Cities or villages may rescind action.—

Any city or village which has heretofore or may hereafter avail itself of the provisions of Laws 1907, Chapter 412 [§§1852 to 1860], by the adoption of a resolution as therein provided, may rescind such action in the manner hereinafter provided. (Act Apr. 17, 1931, c. 190, §1.)

Council has no power to abolish commission without submitting same to vote of electors. Op. Atty. Gen. (624e-11), June 20, 1934.

Water and light commission adopted under §1852, et seq. can only be abolished as provided in this act, and it is immaterial that village has been incorporated as a city of the fourth class under §1828-17, et seq. Op. Atty. Gen. (624e-11), Oct. 4, 1934.

1860-½a. Petition—to be voted on.—Upon the

presentation of a petition in writing, signed by electors thereof equal to 15 per cent of the number who voted at the last preceding general municipal election, and not less than 50 in number, the council shall submit at the next general election occurring within 60 days thereafter, if any, the following question:

“Shall the action of this municipality in availing itself of the provisions of Laws 1907, Chapter 412, be rescinded?

Yes
No

If there is no general election to be so held, the council shall call a special election in the manner provided by law to be held not less than 30 days nor more than 45 days thereafter, and shall submit such question at such special election.

Notice shall be given and such election, whether general or special, shall be conducted, ballots counted and canvassed, returns made, and results declared in the same manner as in the case of other propositions submitted to the electors. (Act Apr. 17, 1931, c. 190, §2.)

1860-½b. Two-thirds vote required to rescind.—

If two-thirds of the votes cast upon the proposition be in the affirmative, the provisions of said Laws 1907, Chapter 412 [§§1852 to 1860] and of any law amendatory of or supplemental thereto, shall cease to apply to such city or village 30 days after the date of holding such election. (Act Apr. 17, 1931, c. 190, §3.)

1860-½c. Powers of water, light, power and building commission enlarged in certain cases.—

In all villages in this State having now, or hereafter having, a population of 10,000 inhabitants and in which there is existing at the present time a water, light, power, and building commission, pursuant to Chapter 412 of the Laws of 1907 [§§1852 to 1860], the said commission, in addition to the general duties and powers as outlined in said Chapter 412, Laws of 1907, as amended, shall have and possess the additional powers and duties set forth in this Act. (Act Mar. 27, 1933, c. 111, §1.)

1860-½d. Commission to collect funds.—

It shall be the duty of the said commission, and it is hereby empowered to collect water, light, heat, power, gas, and rent charges from patrons including the Village, and pay the same into a fund to be known and designated as “Water and Light Fund.” The said commission shall have exclusive control of the said fund and of all collections made by the said commission. It shall be the duty of the commission to have full, absolute, and exclusive control of the operation and management of the water, light, power, gas, and heating plants in said Villages and to pay for the opera-

tion thereof out of the said "Water and Light Fund." The said commission shall, out of the said "Water and Light Fund," purchase all necessary material and employ all necessary help in the general management, operation, and conduct of its business, including extensions and additions to systems provided, that this shall not restrict or extend the powers of the village and commission to provide replacements, additions or extensions to these systems from other funds. (Act Mar. 27, 1933, c. 111, §2.)

1860-½ c. To create reserve fund.—It shall be the duty of the said commission, on the first day of each month, commencing November 1st, 1933, to set aside into a "Reserve Fund" a sum equal to one-twelfth of not less than two per cent of the replacement value of the fixed assets, which sum shall, in any event, be equal to ten per cent of the gross receipts collected by the said commission during the preceding month. Said "Reserve Fund" shall be used by said commission only for the purpose of replacing existing buildings, plants, systems, and stationary equipment for which the reserve is established. The said commission is hereby prohibited from using any such "Reserve Fund" for any other purpose.

Provided, however, the fixed assets of the commission for the purpose of this section shall not include buildings used by other departments of the village, and no reserve shall be created for the replacement of any such buildings. Only such buildings as are principally used and necessary in the operation or administration of water, light, power, gas, and heating plants may be replaced from said reserve fund, and no revenue received from the operation thereof may be used for the maintenance of any other buildings of the Village.

The commission shall have authority to invest, and it shall invest, the "Reserve Fund" and operating surpluses, in amounts to be determined by the commission, in such securities as permitted, by the State board of investments of the State of Minnesota or in certificates of indebtedness and duly authorized bonds of said village. All income earned by such securities shall belong to and become a part of the "Reserve Fund." When such fund equals a total of seventy-five per cent of the replacement value of the fixed assets of the commission, it will no longer be necessary to add the monthly sum specified above. When such sum falls below the seventy-five per cent of the replacement value of the fixed assets, the commission will thereupon renew the placing into such "Reserve Fund" the monthly payments specified above. The commission shall require any bank in which any of its funds are deposited to give Bond as required of banks acting as depositories of municipal funds. (Act Mar. 27, 1933, c. 111, §3.)

Commission can invest reserve fund in bonds or warrants of village, but should always maintain a sufficient reserve or surplus out of which to take care of any maturity bond issues or interest and to meet ordinary operating expenses of utilities. Op. Atty. Gen. (476b-15), Aug. 26, 1935.

1860-½ f. Not to limit or extend powers of taxation.—Nothing in this act shall be construed to limit or extend the powers of the village to levy as provided by Mason's Minnesota Statutes of 1927, Sections 1245 to 1247 inclusive, or to be in lieu of such levies, nor shall be construed to limit or extend the powers or limitations with respect to levies for or expenditures from other funds by the village or commission for the operation of the Water and Light Department, or for replacements, additions or extensions to such system from such funds. Provided, further, that nothing in this act shall be construed to limit the power of the village to make levies in excess of the present per capita limitations for indebtedness existing prior to January 1, 1929, as provided by Chapter 206 and Chapter 208, General Laws of Minnesota for 1929. (Act Mar. 27, 1933, c. 111, §4.)

1860-½ g. Effective October 1, 1933.—This Act shall take effect commencing October 1, 1933. (Act Mar. 27, 1933, c. 111, §5.)

1860-½ h. Pension fund for superintendent of water works.—In every city of the fourth class in the state of Minnesota, now having or hereafter having a population of not less than 7,500 inhabitants and not more than 11,000 inhabitants, and an assessed valuation, more than 50% of which valuation consists of iron ore, there may be created a superintendent of water works pension fund, which shall be managed, controlled and distributed in accordance with the provision of this act. (July 14, 1937, Sp. Ses., c. 31, §1.)

1860-½ i. Same; powers of water and light commission.—The water and light commission of such city may, by a two-thirds vote of its membership, cause to be pensioned the superintendent of such city water works, at a salary not to exceed one-half of his average salary during the 25 or more years in which he served in that capacity for such city or its predecessor a village. (July 14, 1937, Sp. Ses., c. 31, §2.)

1860-1. Electric light and power plants in cities of fourth class, etc.

Profits of water and light plant could be used to take up indebtedness originally represented by water and light bonds though such bonds have been refunded and combined with other bonds. Op. Atty. Gen., Feb. 11, 1932.

A village purchasing electricity at wholesale and deriving a profit from resale may devote such profits for general village expenditures in the absence of statutory or charter restriction or lien. Op. Atty. Gen., Feb. 15, 1932.

City of Luverne could enter into contract for purchase of diesel generating unit, to be paid for out of earnings of power plant only, without calling for bids. Op. Atty. Gen. (707a-4), Aug. 12, 1937.

1864. Extending water pipes on streets, etc. Op. Atty. Gen. (624d-11), Aug. 2, 1934; note under §1491-2.

A municipality may not exact more from one charged with an assessment for extension of its gas and water mains than is permissible under terms of ordinance under which extension was made, and where excess payments have been exacted, municipality may be held as for money had and received. Sloan v. C., 194M48, 259 NW393. See Dun. Dig. 7461, 9114.

Village may extend its waterworks system to connect with its own cemetery outside limits. Op. Atty. Gen., May 31, 1933.

Stillwater board of water commissioners may contract with persons living outside corporate limits for distribution of water and fix price and rates therefor. Op. Atty. Gen. (59b-13), July 6, 1937.

1865. Leasing, selling or abandoning of water works or lighting plants.—Any village or city of the fourth class in this state wherein there is constructed and in operation water works and lighting plant or water works or lighting plant for supplying water and light, or either of them, for public purposes or for the private use of its inhabitants or both, owned by any such city or village, may by resolution or ordinance of its governing body, passed and adopted in the usual manner sell, lease or abandon any such plant or any specific part thereof, or discontinue wholly or in part the operations thereof; if a specific part of such plant is to be sold, leased or abandoned, or the operation thereof discontinued, such resolution shall state the specific part to be so sold, leased or abandoned, or to be discontinued. Before any such resolution or ordinance shall become effective, the same shall be submitted to the legal voters of such village or city at a regular village or city election or special election therein and approved by a two-thirds vote of the electors voting thereon at any such election. The ballots at any such election shall be printed and contain in full the resolution or ordinance to be voted upon and thereon immediately following the resolution or ordinance, there shall be printed in appropriate manner the words "yes" and "no" on separate lines and every voter desiring to vote in favor of such proposition shall thereupon make his cross (X) mark opposite the word "yes" and every voter desir-

ing to vote against such proposition shall make such mark opposite the word "no." In case of villages such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for village officers, and in case of cities of the fourth class, such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for city officers in the respective cities of the fourth class according to the law or charter governing such city. ('17, c. 172, §1; Apr. 9, 1931, c. 133.)

172M392, 215NW673.
Chisholm Water Supply Co. v. C., 285NW895; note under §1857.

Contract for furnishing by power company of electricity at city's power plant held not to contemplate abandoning by city of its own power plant. Northern States Power Co. v. C., 186M209, 242NW714. See Dun. Dig. 2996a.

Where village maintains street lighting equipment connected with a transformer of a power company over poles belonging to the power company and a telephone company, the village cannot abandon its street lighting equipment without a vote of the people. Op. Atty. Gen., Jan. 22, 1930.

Neither Laws 1917, c. 172, nor any other law, permits a city of the third class, such as Austin to sell its water and light plant, and that city cannot sell its plant without amendment of its charter, or specific legislative authority. Op. Atty. Gen., Dec. 1, 1930.

Procedure and forms necessary for sale of water and light plants. Op. Atty. Gen., May 3, 1930.

Operation of village gas plant could not be discontinued without vote of electors, and until such discontinuance village could not enter into a contract for the purchase of natural gas. Op. Atty. Gen., Feb. 17, 1932.

Village has no authority to enter into an agreement for the purchase of natural gas to distribute to the people of the village through village gas mains unless there has been an election favorable to the discontinuance of the operation of the gas plant of the village. Op. Atty. Gen., Mar. 4, 1932.

Joint use contract between city and telephone company, contemplating use by either of poles of the other, with certain specified charges, held to constitute a lease by city of certain specific parts of its municipal lighting plant so as to require authorization of voters. Op. Atty. Gen. (624c-16), Sept. 19, 1935.

1867-1. Municipalities may extend electric service.
—The governing body, or the Commission or Board charged with the operation of the public utilities if one exists therein, of any municipality in the state now or hereafter owning and operating an electric light and power plant for the purpose of the manufacture and sale of electrical power or for the purchase and redistribution of electrical power, shall, upon a two-thirds vote of said Governing Body, or said Commission or Board in addition to all other powers now possessed by such municipality, have power to sell electricity to customers, singly or collectively, outside of such municipality, within the State but not to exceed a distance of thirty miles from the corporate limits of said municipality. Before any municipality shall have the power to extend its lines and sell electricity outside of such municipality as provided by this Act, the governing body shall first submit to the voters of said municipality, at a general or special election, the general principle of going outside said municipality and fixing the maximum amount of contemplated expenditures reasonably expected to be made for any and all extensions then or thereafter contemplated. Three weeks published notice shall be given of such election as required by law, and if a majority of those voting upon the proposition favors the same, except that in the case of villages, a 5% vote shall be required, and then the said municipality shall thereafter be considered as having chosen to enter the general business of extending its electric light and power facilities beyond the corporate limits of said municipality. It shall not be necessary to submit to a vote of the people the question of any specific enlargement, extension or improvement of any such outside lines, provided the voters of the municipality have generally elected to exercise the privileges afforded by this Act, and provided that each and any specific extension, enlargement or improvement project is within the limit of the maximum expenditure

authorized at such election. Provided, however, that in cities now or hereafter operating under a home rule charter, where a vote of the people is not now required in order to extend electric light and power lines, no such election shall be required under the provisions of this or any other Act. At any such election, held to determine the attitude of the voters upon this principle, the question shall be simply stated upon the ballot provided therefor, and shall be substantially in the following form: "Shall the city (village) of undertake the general proposition of extending its electric light and power lines beyond the limits of the municipality, and limit the maximum expenditures for any and all future extensions to the sum of \$.....? For this purpose every municipality is authorized and empowered to extend the lines, wires, and fixtures of its plant to such customers and may issue certificates of indebtedness therefor in an amount not to exceed the actual cost of such extensions and for a term not to exceed the reasonable life of the said extensions. Such certificates of indebtedness shall in no case be made a charge against the municipality, but shall be payable and paid out of current revenues of said plant other than taxes. (Act Apr. 1, 1933, c. 141, §1; Apr. 29, 1935, c. 316, §1.)

Where specifications and contract for power plant called for a plant "in and for the said village" there was nothing to show that village intended to embark on an extra-corporate distribution. *Davies v. V.*, 287NW1. See Dun. Dig. 6683.

City of Willmar may furnish water and light beyond city limits without vote of people. Op. Atty. Gen., July 15, 1933.

City cannot extend power lines beyond limits without vote of people. Op. Atty. Gen., Aug. 3, 1933.

City of Fairmont may purchase electric line outside of city limits for purpose of distributing surplus electricity to nonresident consumers without a vote of the people. Op. Atty. Gen. (59a-36), May 11, 1934.

City of Alexandria having a contract with private corporation furnishing light and power to a village cannot acquire the plant of such private corporation without a vote of the electors, home rule charter of such city being silent as to extension of lines out of city. Op. Atty. Gen. (624c-2), Nov. 21, 1934.

Village operating its only owned utility may only sell surplus electricity to consumers outside corporate limits or inside corporate limits. Op. Atty. Gen. (624c-12), May 24, 1935.

A city may supply electricity to a nearby village with the consent of latter. Op. Atty. Gen. (59a-36), May 25, 1935.

Proposition of extending power lines beyond limits should be submitted to voters by village council and not by village, water, light, power and building commission. Op. Atty. Gen. (469h-6), July 9, 1935.

City may sell electricity to cooperative corporation at city limits to be distributed by such corporation at such rates as deemed equitable by governing body, though at lower rates than to consumers in municipality. Op. Atty. Gen. (624c-11), Aug. 7, 1936.

Where the cost of meters and transformers is to be computed as part of cost of extension within limitation fixed by voters is question of fact for officials. Op. Atty. Gen. (624c-7), Sept. 14, 1936.

City of Waseca, through its water and light board, has authority to enter into contract with an electric construction company to sell electricity, to be delivered at substation in city and used by the purchaser outside limits of city, without a vote of electors, though city purchases its current at wholesale from a public utility. Op. Atty. Gen. (624c-12), June 30, 1937.

There is no tax upon sale of surplus electric energy outside of corporate limits of a city, even though in another county. Op. Atty. Gen. (624c-13), Aug. 12, 1937.

Municipally owned electric light and power plant lines used for purpose of furnishing electricity to persons outside of municipality are exempt from taxation. Op. Atty. Gen. (414a-13), Feb. 2, 1938.

Village council owning its own distributing system but purchasing its energy can own lights outside corporate limits and sell and dispose of electric energy and current to persons residing outside limits, but only upon vote of electors. Op. Atty. Gen. (624d-17), June 14, 1939.

Village may repair utility lines extending outside village without submitting question to voters, line going to a farm which was at one time a part of village. Op. Atty. Gen. (624c), July 24, 1939.

1867-2. Not to extend into other municipalities.
—No lines, wires or fixtures shall be extended by any municipality into the territorial limits of any other city or village without the consent of the council or other governing body of such city or village. (Act Apr. 1, 1933, c. 141, §2; Apr. 29, 1935, c. 316, §2.)

1867-3. Provisions separable.—The various provisions of this Act, and the clauses, phrases and sentences thereof, shall be severable, and if any part or provision thereof shall be held to be invalid, it shall not be construed as invalidating any other portion thereof. (Act Apr. 1, 1933, c. 141, §3; Apr. 29, 1935, c. 316, §3.)

1867-4. Proceedings and contracts legalized.—In all cases where the council or other governing body of any village or borough, however organized, has prior to January 1, 1932, erected poles, wires and cables without the corporate limits of such village or borough for the purpose of procuring electrical current and power from a plant situated without the corporate limits, or has prior to January 1, 1932, entered into contracts of purchase and sale of electric transmission lines already built or incurred indebtedness or obligations by reason thereof, all proceedings taken, contracts made and indebtedness or obligations incurred are hereby legalized and made valid and effectual for all purposes, providing this Act shall not effect any action or proceeding now pending. (Act Apr. 4, 1933, c. 155, §1.)

Sec. 2 of act Apr. 4, 1933, cited, provides that the act shall take effect from its passage.

1868. Park boards.

A park board may not be abolished in absence of statute so providing, and abolishment does not result from reincorporation of a village into a city of the fourth class. Op. Atty. Gen. (624e-11), Oct. 4, 1934.

Statute controls over ordinances as to method appointing members of park board. Op. Atty. Gen. (59a-32), Oct. 9, 1935.

1871. Powers and duties of park board.—Said park board shall have full, absolute and exclusive control of, and power over, all real estate now or hereafter acquired by said municipality and set apart for park or boulevard purposes therein or in adjoining territory, and all public property used therein or therefor. Said board shall have power and authority to maintain the same, and to beautify and improve any and all such lands and the approaches thereto for the benefits of the general public; to erect and construct therein such roadways and paths, buildings, fountains, toilet rooms, or other improvements necessary to meet the requirements of the visiting public; to buy all necessary material and fuel required to carry out the provisions of this act; to make such reasonable rules and regulations for the government of the same as may be deemed necessary and proper; to employ such help in and about the conduct of such parks and boulevards as may be found necessary; to provide musical and other free entertainment for the general public; to employ a secretary at a salary not exceeding five hundred dollars per annum, whose duty it shall be to keep a full and complete record of all the transactions of said board, attend its meetings, and do and perform such other duties as may from time to time be required of him, by said board; to employ an attorney if found necessary to assist the board at a salary of not exceeding five hundred dollars per annum; to fix the compensation of any and all persons employed by said board; to audit and allow all just claims for labor, services or material furnished by order of said board, and endorse its approval of such claims thereon when allowed, which claims when so audited and allowed and endorsed shall be presented to the council of said municipality for payment and paid by said municipality as other claims are paid; provided, said board shall not have the right to sell, rent, lease or in any other way dispose of or encumber, or suffer, or permit the said property, or any part thereof, to come under the control of any other person or corporation whatever, provided, however, that where such park shall contain a pond or lake or any other body of water which can be used for the purpose of taking therefrom ice, the said park board shall have the power to lease the said pond or lake or any other body of water which the said park may contain for the purpose of taking therefrom ice. Said

board shall also have power and authority to receive on behalf of said municipality any proper donations of statuary, shrubbery, trees, material, or other personal property for use in and about the said parks and boulevards. Said board shall make detailed report of all its doings and proceedings to the council at least once in three months. ('09, c. 441, §4; G. S. '13, §1823; '23, c. 26, §2; Apr. 21, 1931, c. 299.)

Employee of park board was not a police officer within meaning of civil service act, though he had authority to make arrest in park and carried a star. McDougall v. B., 194M550, 261NW180. See Dun. Dig. 5558a.

City may not appropriate from city light fund moneys to be used for improvement of a state park. Op. Atty. Gen., Jan. 15, 1934.

1880. Cities and villages may construct sewage disposal plants.—In any city of this state having a population of 10,000 or less, and in all villages and boroughs of this state, whether organized under the General Laws or a special law, and in all such cities organized under home rule charters which do not provide a method of constructing sewers and assessing the cost thereof to benefited property, the city, village or borough council shall have power to maintain and extend any existing sewer system, to relay, alter or extend any existing sewer system and to establish and maintain a general system of sewers, to create sewer districts, and change, diminish or enlarge the boundaries thereof from time to time; to establish and maintain sewage treatment plants when deemed necessary. ('03, c. 312; '07, c. 141; '09, c. 364; '09, c. 385; '13, c. 396; '15, c. 35, §2; '21, c. 295, §1; Mar. 27, 1931, c. 99.)

Proceedings legalized, '37, c. 23.

Where a municipality casts sewage upon private property and creates and maintains a nuisance thereon, the owner or lawful occupant may recover damages. 177M 547, 225NW898.

Sewer warrants issued pursuant to §§1880 to 1893, and acts amendatory thereof, are not a part of outstanding obligations of city within meaning of Laws 1929, c. 351, §1, and Laws 1931, c. 155, §1. Leslie v. C., 186M543, 243 NW786. See Dun. Dig. 6579.

Village may purchase tract to provide an outlet for sewage disposal plant. Op. Atty. Gen., Nov. 28, 1930.

Sewer warrants issued by village are not general obligations thereof and may not be refunded by issuing bonds. Op. Atty. Gen., Sept. 1, 1932.

Where home rule charter provides for method of constructing sewers and assessing cost thereof to benefited property the charter provisions govern in the matter of assessments. Op. Atty. Gen., Mar. 31, 1933.

City of Cloquet which has no charter and was organized under Laws 1895, ch. 8, may establish a sewage disposal plant under this and following sections, but has no authority under §1799-1, et seq. Op. Atty. Gen. (387b-9), Aug. 7, 1935.

Village may construct addition to sewer system and assess cost upon property owners benefited and issue sewer warrants without a vote of electors. Op. Atty. Gen. (387g-3), Apr. 7, 1937.

Members of water, light, power and building commission of a village may enter into contract with village to furnish material for construction of a new sewer system if commission has no voice in making of contract. Op. Atty. Gen., (469a-2), Oct. 22, 1938.

Village building sewer system and disposal plant may finance project by warrants without vote of people, and property owners may be assessed on front footage basis. Op. Atty. Gen. (387g-1), Feb. 24, 1939.

Statute supersedes any provision in Laws 1875, with respect to power of village of Thomson to construct a sewage disposal plant. Op. Atty. Gen. (387G-9), May 9, 1939.

Section is applicable only to sanitary sewers and does not apply to a storm sewer or surface water drain. Op. Atty. Gen. (387B-10), July 27, 1939.

1883. Ordinance for improvement.

Where private parties being unable to obtain sufficient signatures to petition constructed extension of sewer at their own expense, and later others desired to use the sewer, village on proper procedure could purchase the sewer system and levy assessments and extend the payment to ten years as in other cases. Op. Atty. Gen. (59b), Feb. 13, 1935.

Power to construct and maintain village sewerage system is vested in council and not in Water, Light, Power and Building Commission. Op. Atty. Gen. (387g-5), July 20, 1936.

Filing of petition is not necessary before village council may construct, maintain or repair sewers. Op. Atty. Gen. (387g-5), July 30, 1936.

Villages may construct village hall and proceed to construct sewerage system and pay costs obtained by levying assessment against property benefited, where funds

are available or taxes have been levied and are in process of collection, without vote of electors. Op. Atty. Gen. (387g-1), Sept. 15, 1936.

1884. Cost of system.

Op. Atty. Gen., June 20, 1933; note under §1829.
Village has no power to make supplemental assessments against properties benefited by sewer in order to take care of unpaid warrants resulting from failure of some property owners to pay assessments, nor may the deficiency be paid out of the general revenue fund. Op. Atty. Gen., July 14, 1933.

City of New Ulm has authority to construct a sewage disposal plant and issue bonds to pay cost of same. Op. Atty. Gen. (387b-2), July 12, 1934.

Village could issue general obligation bond to cover cost of an interceptor sewer to connect with disposal plant of an adjoining city. Op. Atty. Gen. (476b-14), Apr. 23, 1936.

Debt limitations as to issuance of bonds for sewage systems by villages under different circumstances, stated. Op. Atty. Gen. (387g-2), Dec. 30, 1936.

Village of Edina may pay for cost of general sewage out of general fund, and may enter into contract with City of Minneapolis providing for disposal of sewage of village. Op. Atty. Gen., (387g), Oct. 14, 1938.

1885. Spreading of assessments.

District sewers are to be assessed against property benefited and cannot be paid for out of general fund. Op. Atty. Gen. (387g-5), July 30, 1936.

Where sewer in one block has been constructed and paid for by assessments and is operating satisfactorily, no assessment can be made in that block for relaying old sewer in order to get sufficient grade and depth to permit extension into another block, unless the improvement has effect of enhancing value of property. Op. Atty. Gen. (387b), Mar. 24, 1938.

Village of Edina creating a joint sewer district and granted permission by Minneapolis to use latter's system as an outlet could levy an assessment upon all benefited property in view of §1607-23. Op. Atty. Gen. (387g-1), August 21, 1939.

1887. Cost of lateral sewers.

Entire cost of lateral sewers must be assessed against abutting properties, even though sewer may also serve as a storm sewer. Op. Atty. Gen. (387b-1), Aug. 27, 1937.

State forfeited lands are not subject to assessment, and assessment will be cancelled upon lot to which state subsequently acquires title. Op. Atty. Gen. (387b-1), Oct. 22, 1937.

Procedure for issuing bonds or warrants for water works and sewer systems payable from earnings or special assessments. Op. Atty. Gen., (476b-15), Sept. 21, 1938.

1889. Advertisements for bids.

There is no charter or statutory provision requiring that Lake City advertise for bids before purchasing personal property, such as a truck. Op. Atty. Gen. (59a-38), May 7, 1936.

1891. Amount of special assessment.

Op. Atty. Gen., Feb. 13, 1935; note under 1883.

1892. Supplemental assessment.

General levy over whole village must be had to pay deficiency for sewer system arising from unforeseen expenses though only part of village benefits from system. Op. Atty. Gen., June 28, 1933.

1893. Fund for each proposed sewer.—All moneys collected on any such special assessments shall constitute a fund for the payment of the cost of improvement for the district for which such assessment was made, and the same shall be credited to the proper sewer district fund under the designation: "Fund of Sewer District No. ——" and in anticipation of the collection of such special assessment the city, village or borough may issue warrants on such fund, to be known as "sewer warrants" payable at such times and in such amounts as, in the judgment of the city, village or borough council, the collections of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed five (5) per cent per annum, payable annually, and may have coupons attached representing each year's interest. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the mayor or executive officer and countersigned by the clerk or recorder of the city, village or borough and be in denominations of not less than fifty dollars nor more than five hundred dollars. The council of any such city, village or borough may by resolution adopted prior to the issuance of such warrants pledge the full

faith and credit of the city, village or borough for the payment of the principal or interest of such warrants when the moneys on hand in the appropriate sewer district fund are insufficient for such purpose and the council shall each year include in the tax levy a sufficient amount to take care of any accumulated or anticipated deficiency in the sewer fund on which warrants are so issued and the council shall pay the principal and interest of any such warrants out of the funds in the treasury when the moneys on hand in the appropriate sewer fund are insufficient to meet the payment of such principal and interest as the same matures. Provided, however, that as to any such warrants for the payment of which the full faith and credit of the city, village or borough is not pledged, such warrants shall be payable solely out of the proper sewer fund and it shall be the duty of any city, village or borough treasurer on presentation to pay such warrants and interest coupons as they mature out of any funds on hand in the proper sewer fund and not otherwise. Such warrants may be used in making payments on contracts for the improvements or may be sold by the city, village or borough for not less than par and the proceeds thereof used in paying for such improvement.

Provided, further, that the council of any city, village or borough which has heretofore issued any such sewer warrants shall have power by unanimous vote of the members of such council to levy a tax not exceeding two mills in any one year for the support of the fund of any sewer district or districts. ('03, c. 312; '07, c. 141; '09, cc. 364, 385; '13, c. 396; '15, c. 35, §15; '21, c. 295, §6; Apr. 1, 1935, c. 98.)

Proceedings legalized. '37, c. 23.

When a municipal corporation by authority of law creates a particular fund with reference to which it contracts, any indebtedness arising on such contract is payable therefrom only. *Judd v. C.*, 198M590, 272NW577. See Dun. Dig. 6580.

A village which issues warrants in anticipation of the collection of sewer assessments, and certificates of indebtedness in anticipation of collection of special assessments for laying water mains, may pay such warrants and certificates out of the general fund as a temporary loan, but must replace the moneys taken with interest. Op. Atty. Gen., June 26, 1931.

Neither county board, Minnesota Tax Commission, nor any other public officer may waive penalty for non-payment of taxes on dates specified. Op. Atty. Gen., May 16, 1932.

Village having two sewer districts could issue assessment warrant to be paid out of funds of particular sewer district. Op. Atty. Gen. (476b-14), Apr. 23, 1936.

1903. Connections to be made on permission.

Village is not bound to pay for repairs on private extensions from lateral sewer to lot line of abutting property owners, though repairs are required because of defective workmanship of contractor employed by village. Op. Atty. Gen. (387g-8), Nov. 17, 1934.

Village may deny right of garage owner to connect with sewer if garage oil would impair or destroy effectiveness of disposal. Op. Atty. Gen. (387g-5), Apr. 28, 1936.

1904. Right of eminent domain.

Op. Atty. Gen., June 20, 1933; note under §1829.

1908. Cost assessed against abutting property.

Village council may not make improvements and then start proceedings to levy special assessment. Op. Atty. Gen. (59a-4), March 14, 1939.

1918. Same—Certificates of indebtedness.

Certificates of indebtedness are direct and general obligations of municipality issuing them; and no submission to voters for authority to issue is required. *Bergman v. V.*, 201M28, 275NW297. See Dun. Dig. 6671.

1918-1. Water mains and appurtenances in cities of fourth class, villages and boroughs—Definitions.

Where village establishes a limited water system extending its water mains along main street, and permits owners on side streets to install a two-inch private water line connecting with main street, village has no authority to permit another private owner on the same side street to connect with private pipe, in absence of a provision in ordinance granting owners right to construct private main. Op. Atty. Gen. (624d-11), Mar. 30, 1936.

Village operating under Laws 1885 may extend water main pursuant to Laws 1885, Chap. 145, §21(10), or §1918-17, or §1918-1, et seq. Op. Atty. Gen. (624d-11), Aug. 28, 1936.

1918-2. Same—Assessment of cost of improvements against abutting owners.

City may accept a deed from abutting property owners on a narrow avenue conditioned that no assessments be levied against grantor's property by reasoning of widening and grading of the avenue and that city carry cost of sewer and water improvements, but city may not waive its right to compel abutting property owners to connect with sewer and water main. Op. Atty. Gen. (396c-6), June 12, 1935.

1918-7. Same—Assessments against property.—

After a contract is let or work ordered done by day labor, as herein provided, the clerk, with the assistance of the engineer or superintendent of the work, shall forthwith calculate the amount proper and necessary to be especially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of Mason's Minnesota Statutes of 1927, Section 1918-2. The proposed assessment so made shall be filed with the clerk, for public inspection. Thereupon the clerk, under the direction of the council, shall cause notice of the time and place when and where the council will pass upon such proposed assessment. Such notice shall be published in the official paper at least one week prior to the hearing on such proposed assessment. Such hearing may be had at a regular or special, or adjourned regular or special, meeting of the council. The council shall hear and pass upon all objections, if any, and may amend the proposed assessment as to any lot or lots; and upon the adoption of such assessment by resolution of the council, the same shall become and constitute the special assessments against the lots, pieces and parcels of land therein described. Such assessment, together with the interest accruing on the total amount thereof, from the adoption of the same to the first day of June, following, at such rate of interest per annum, not exceeding six per cent, as the council may by resolution determine, shall be a lien upon the property described therein, and all thereof, which lien shall be concurrent with that of the general taxes assessed against such properties. The amount of such assessment and accrued interest shall be payable in equal annual installments, extending over such period, not exceeding twenty years, as the council may determine by resolution. The first of said installments shall be payable on or before the first day of June following the adoption of the assessment, and all deferred payments shall bear interest from the first day of June, following the adoption of the assessment, at such rate of interest per annum, not exceeding six per cent, as the council may determine by resolution. It shall be the duty of the clerk, immediately after the adoption of such assessment by the council, to transmit a certified duplicate thereof to the county auditor, by whom the same shall be extended on the proper tax lists, and such assessment shall be collected, accounted for, and paid over in the same manner as other municipal taxes, Provided, that the owner of any lot, piece or parcel of land so assessed may, at any time, pay the whole of such assessment, or any installment thereof, with accrued interest. (As amended Apr. 1, 1939, c. 135, §2.)

1918-10. Same—Certificates of indebtedness.

Act July 14, 1937, Sp. Sess., c. 20, legalizes proceedings had under this section.

Legalizing laying of water mains in villages and issuance of certificates of indebtedness not exceeding \$15,000. Act July 14, 1937, Sp. Sess., c. 20.

Where village advertises for bids on sale of certificates of indebtedness and no bids are received on day of opening bids, certificates may be sold to a bid later made, and it is not necessary to readvertise. Op. Atty. Gen. (707a-10), Oct. 12, 1934.

1918-12. Assessments for water mains.—Whenever any such city, village or borough shall have caused water mains to be laid under a general bond issue and not by special assessment, to equalize the frontage assessments, the council may cause such existing mains, if they are of cast iron, to be examined by

a competent engineer and if same are of suitable size and condition for continued use, such existing mains may be assessed against the property abutting thereon at an average cost of not to exceed eighty per cent of the cost of new mains of similar quality and construction, and this assessment of not exceeding eighty per cent shall be calculated by the engineers or other competent persons, and such assessment shall be prepared and provision made for its collection as in the case of new mains.

A hearing shall be held on old main assessments and may be at the same time as a hearing of the assessment of new mains, if new mains are at that time being laid, and in all respects the action shall be the same as prescribed for new mains. ('21 c. 425, §11½; '23, c. 380, §1; Apr. 25, 1931, c. 345.)

Op. Atty. Gen., Oct. 2, 1930.

Laws 1931, c. 345, amending this section applies only to old existing watermains already laid under a general bond issue and not by such assessments. Op. Atty. Gen. (59a-7), Apr. 25, 1934.

City may not assess abutting land owners where old water mains laid by a private corporation were purchased by city under general bond issue. Op. Atty. Gen. (624d), May 8, 1934.

City council, if operating waterworks system under its charter, has legal right to pay for material to be used in extension of water main, and is not obliged to levy a special tax against property to be benefited. Op. Atty. Gen. (624d-11), Mar. 18, 1936.

1918-14½. Governing body may construct and reconstruct sewers.—Whenever the governing body of any village or city of the fourth class, whether operating under home rule charter or not, having power to maintain sewer and water systems within its limits, shall deem it necessary and shall so determine by resolution, it may construct, reconstruct or repair any service connection or connections between its water or sewer mains or pipes, in a street or other public ground, and the abutting property served by its main or mains. (Act Apr. 11, 1929, c. 157, §1.)

1918-14½ a. May assess benefits.—Within sixty days after such municipality shall have completed such work and improvement, its governing body shall adopt a resolution fixing the time and place for the hearing of all persons interested in such construction or reconstruction or repair and the cost thereof and for ascertaining and determining the amount of benefit to the property for which such connection or connections are constructed, reconstructed or repaired, and such resolution shall be published once in a legal newspaper in said municipality or posted in three of the most public places therein. At the time and place named in said resolution, such governing body shall hear all persons interested in said work and improvement and the cost thereof. Thereupon, by resolution, such governing body shall determine and fix the amount of the benefits caused by said work and improvements to each lot, or parcel of ground for which such connection or connections are constructed, reconstructed or repaired and assess the amount of such costs, including the expense of giving said notice, against the lots or parcel of land so benefited in proportion to the benefit to the abutting property. A complete record thereof shall be kept by the clerk of such municipality in a separate book, which record shall contain a description of the property so benefited and charged with all the costs of such work and improvement, including the cost of giving such notice. (Act Apr. 11, 1929, c. 157, §2.)

1918-14½ b. Assessments may be collected with tax.—The amount of the benefit to each lot or parcel of ground so determined, shall, together with part of all of the expense of giving such notice as such governing body may determine, be a charge against the same and a lien thereon, and if such charge is not paid within thirty days after such determination, the same shall continue to be a lien on the property so charged and bear interest at the rate of six per cent per annum, which charge shall be certified to the county auditor and extended upon the tax roll and levied

against such property and collected as in case of county and state taxes. (Act Apr. 11, 1929, c. 157, §3.)

1918-14 1/2 c. Public improvements proceedings to be consolidated.—Whenever two or more petitions for public improvements signed by the percentage of owners of real property abutting on the streets, or alleys, or parts thereof, so to be improved, as now required by Mason's Minnesota Statutes of 1927, Sections 1828, 1918-1 to 1918-11, inclusive, and Sections 1918-13 and 1918-14 and by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 1815 and 1918-12, or proceedings for any public improvement are instituted under any other law authorizing the same, and all thereof are presented or instituted to the governing body of such municipality at substantially the same dates and said governing body may by resolution determine that such various improvements, although separately petitioned for or instituted, can be more economically completed if consolidated and joined as one project, and said governing body shall have the power by resolution to consolidate said various petitions and proceedings for such separate improvements, and after such consolidation all subsequent proceedings shall be conducted in all respects as if such various separate proceedings had originally been instituted under one petition or as one proceeding. (Act Apr. 8, 1939, c. 156, §1.)

1918-14 1/2 d. Proceedings validated.—In all instances where such governing body of any municipality has heretofore by resolution determined that separate proceedings pending before such governing body involving the making of improvements under and pursuant to any such law could be more economically conducted and completed by consolidating the same, and pursuant to resolution did so consolidate the same and all subsequent proceedings had accordingly, and as if said various proceedings were one project, such acts, resolutions and proceedings are hereby validated and declared lawful. (Act Apr. 8, 1939, c. 156, §2.)

1918-15. Public improvements in villages, boroughs, and cities of fourth class.

Municipalities may consolidate improvement projects petitioned for separately. Laws 1939, c. 156.

City has authority to proceed under this statute though city charter prescribes different method. Op. Atty. Gen., July 15, 1932.

City of Lake City may establish sewage disposal plant either under its home rule charter or under this act. Op. Atty. Gen., Oct. 2, 1933.

City council, if operating waterworks system under its charter, has legal right to pay for material to be used in extension of water main, and is not obliged to levy a special tax against property to be benefited. Op. Atty. Gen. (624d-11), Mar. 18, 1936.

Act does not include ordinary sidewalk construction. Op. Atty. Gen. (396g-7), May 21, 1937.

A village operating under Laws 1885, ch. 145, has option of proceeding under that act or under Laws 1919, ch. 65 (§1815, et seq.) or under Laws 1925, ch. 382 (§1918-15, et seq.), in making improvements referred to in each of such acts. Id.

City of Owatonna may proceed for financing and construction of a sewage disposal plant either under its charter or under this act. Op. Atty. Gen. (387b-9), Aug. 26, 1938.

1918-16. Same—Making of improvements and assessment of costs.

Villages having over 700 inhabitants, located in counties having 13,000 to 14,000 population and valuation of \$5,500,000 to \$6,000,000, may make special assessments for improvements. Laws 1939, c. 234.

Special benefits from storm sewers may be assessed against property not abutting on street were laid. Op. Atty. Gen., Aug. 10, 1932.

Assessments may be made under certain circumstances not only against abutting properties but also against other properties benefited by lateral sewer. Op. Atty. Gen. (387b-1), Aug. 27, 1937.

1918-17. Same—Petition for improvement.

Petition signed by 51% of abutting owners upon streets where storm sewers are to be laid is sufficient, even though property not abutting is benefited and is to be assessed. Op. Atty. Gen., Aug. 10, 1932.

As affecting petition for paving street, City of Worthington has the option of proceeding under its home rule charter, Mason's Statutes, §1815, or under §1918-17. Op. Atty. Gen. (396c-10), Apr. 15, 1936.

Property owned by city is not to be included in giving required number of signatures to petition. Op. Atty. Gen. (396c-6), June 30, 1936.

Village operating under Laws 1885 may extend water main pursuant to Laws 1885, Chap. 145, §21(10), or §1918-17, or §1918-1, et seq. Op. Atty. Gen. (624d-11), Aug. 28, 1936.

City of Fairmount cannot widen a street entering business section without a petition signed by requisite number of abutting owners. Op. Atty. Gen. (396c-6), Sept. 29, 1936.

The 51% mentioned should include property whether benefited or not, also including agricultural lands in village along which storm sewer would run. Op. Atty. Gen. (387B-10), July 27, 1939.

1918-19. Same—Hearings by council.

The village of Harmony organized under the 1885 law and reincorporated under Revised Laws of 1905, may extend water mains without submitting the matter to vote of the people. Op. Atty. Gen., Apr. 4, 1931.

1918-20. Same—Orders and contracts for improvements.

In view of §1918-56 village council may under §1918-20 proceed with a street improvement by day labor without advertising for bids. Op. Atty. Gen. (396g-7), May 21, 1937.

1918-22. Same—Proportionate share of costs, etc.

Cost of sewers, gutters and paving, but not sidewalks, may be assessed against school property. Op. Atty. Gen., Sept. 10, 1930.

City may be assessed for benefits as to any property owned by it, the same as if owned by individual. Op. Atty. Gen., July 15, 1932.

Assessments may be made under certain circumstances not only against abutting properties but also against other properties benefited by lateral sewer. Op. Atty. Gen. (387b-1), Aug. 27, 1937.

1918-23. Same—Cost of certain improvements paid by municipalities.

City council of Sleepy Eye may, on its own initiative, authorize sewer to be extended from park to sewage system and pay for same out of general revenue fund, or assess property benefited. Op. Atty. Gen., June 17, 1932.

City may pay cost of improvement at street intersections and at intersections between streets and alleys. Op. Atty. Gen., July 15, 1932.

Village may construct curbing and gutters for trunk highways and pay for the same with certificates of indebtedness, but if it issues bonds there must be vote of electors, and improvement may be paid out of general fund without assessment against abutting owners. Op. Atty. Gen. (476a-4), Aug. 29, 1935.

1918-25. Same—Assessments—etc.

Purchaser at foreclosure sale of part of property subject to special assessment, held entitled to division of assessment. Op. Atty. Gen., Apr. 2, 1930.

1918-29. Same—Disposition of funds received from assessments—Etc.

Form of "improvement warrant" prescribed. Op. Atty. Gen. (476c-4), May 20, 1937.

A tax for payment of that which is chargeable to village of Grand Rapids in making street improvement is to be deemed part of general corporation tax, and is subject to statutory limitation of 2% of assessed valuation of taxable property. Op. Atty. Gen. (396g-7), May 21, 1937.

Warrants may be issued without submitting question to electors. Op. Atty. Gen., (59a-49), June 24, 1938.

Making of assessment for proposed improvement is a prerequisite to issuance of improvement warrants. Op. Atty. Gen. (59a-22), Jan. 23, 1939.

Improvement warrants are not and cannot be made a general liability of city. Id.

1918-35. Sidewalks and sewers in villages and cities, etc.

Where petition for sidewalk is signed by two owners of three lots and other lots are all owned by life tenant, with remaindermen, petition is signed by majority. Op. Atty. Gen., July 5, 1932.

Conveyance of part of lots, after filing of petition for sidewalks and serving of notice, in no way affected proceedings. Op. Atty. Gen., July 5, 1932.

Property owner on one street cannot compel owners on adjoining street to build sidewalk. Op. Atty. Gen., June 16, 1933.

As to villages organized and operating under Laws 1885, ch. 145, provisions of Laws 1901, ch. 167 (§1918-35, et seq.) and Laws 1903, ch. 382, are still in full force and effect. Op. Atty. Gen. (396g-7), May 21, 1937.

Villages incorporated under Laws 1885, c. 145, may construct sewers under this act. Op. Atty. Gen. (387b-1), Aug. 27, 1937.

Procedure for issuing bonds or warrants for water works and sewer systems payable from earnings or special assessments. Op. Atty. Gen., (476b-15), Sept. 21, 1938.

1918-37. Same—Work, how done—Assessment of benefits.

Village may remove such trees as may be necessary to build sidewalk. Op. Atty. Gen., July 5, 1932.

1918-42. Same—Assessment of benefits on property benefited, etc.

Cost of sidewalks cannot be assessed against school property. Op. Atty. Gen., Sept. 10, 1930.

1918-54. Municipalities emergency act of 1935.—
This act may be cited as "The Municipalities Emergency Act of 1935." (Act Apr. 5, 1935, c. 125, §1.)

City council in its discretion may expend money in providing garden plots and seeds to WPA workers and persons in need, and may provide musical entertainment and pay salary of instructor in connection with physical education of youth of city. Op. Atty. Gen. (59a-23), May 16, 1936.

A county board has authority to sponsor works on township WPA project, to be paid for by township, but it must have co-operation and express consent of township itself. Op. Atty. Gen. (125a-62), Sept. 28, 1936.

1918-55. Definitions.—The following terms wherever used or referred to in this act shall have the following meaning unless a different meaning appears from the context:

(a) The term "municipality" shall mean a county, a city of any class, including a city organized under a charter framed pursuant to Section 36, Article 4 of the Constitution, a town, a village, a borough, or a school, road, sanitary or drainage district, or a county or district agricultural society.

(b) The term "governing body" shall mean the board of supervisors, council, board of trustees, board of commissioners, or other body, board, commission, or other authority charged with governing any municipality.

(c) The term "law" shall mean any act or statute, general, special or local, of this State, including, without being limited to, the charter of any municipality.

(d) The term "bonds" shall mean bonds, interim receipts, certificates, or other obligations of a municipality issued or to be issued by its governing body for the purpose of financing or aiding in the financing of any work, undertaking or project for which a loan or grant, or both, has heretofore been made or may hereafter be made by any Federal Agency.

(e) The term "Recovery Act" shall mean the National Industrial Recovery Act, being the Act of the Congress of the United States of America, approved June sixteenth, nineteen hundred thirty-three, entitled "An Act to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes," and any acts amendatory thereof, and any acts supplemental thereto, and revisions thereof, and any further Acts, or Joint Resolutions of the Congress of the United States of America to reduce and relieve unemployment.

(f) The term "Federal Agency" shall include the United States of America, the President of the United States of America, the Federal Emergency Administrator of Public Works, Reconstruction Finance Corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or hereafter may be designated, created or authorized by or pursuant to any Act or Acts of the Congress of The United States of America, to make loans or grants.

(g) The term "public works project" shall mean any work, project, or undertaking which any municipality, is authorized or required by law to undertake or any lawful purpose for which they are authorized or required by law to make an appropriation.

(h) The term "contract" or "agreement" between a Federal Agency and a municipality shall include contracts and agreements in the customary form and shall also be deemed to include an allotment of funds, resolution, unilateral promise, or other commitment by a Federal Agency by which it shall undertake to make a loan or grant, or both, upon the performance of specified conditions or compliance with rules and regulations theretofore or thereafter promulgated,

prescribed or published by a public agency. In the case of such an allotment of funds, resolution, unilateral promise, or other commitment by a Federal Agency, the terms, conditions and restrictions therein set forth and the rules and regulations theretofore or thereafter promulgated, prescribed or published shall, for the purpose of this act, be deemed to constitute covenants of such a contract that are to be performed by the municipality, if the municipality accepts any money from such Federal Agency. (Act Apr. 5, 1935, c. 125, §2; Jan. 27, 1936, Ex. Ses., c. 114.)

City may sponsor WPA project on fair grounds owned by city and leased to county fair association. Op. Atty. Gen. (772c-5), Apr. 7, 1936.

Any county or district agricultural society formed pursuant to §7835 comes within term "municipality" as defined by §1918-55. Op. Atty. Gen. (772a), June 1, 1936.

County board may employ day labor to remodel court house without advertising for bids pursuant to PWA contract. Op. Atty. Gen. (707a-7), Feb. 8, 1938.

Public, county, or judicial ditch systems fall within definition of "drainage district". Op. Atty. Gen., (148b-5), Oct. 5, 1938.

1918-56. Powers of municipalities.—Every municipality shall have power and is hereby authorized:

(a) To accept from any Federal Agency grants for or in aid of the construction of any public works project.

(b) To make contracts and execute instruments containing such terms, provision, and conditions as in the discretion of the governing body of the municipality may be necessary, proper or advisable for the purpose of obtaining grants or loans, or both, from any Federal Agency pursuant to or by virtue of the Recovery Act; to make all other contracts and execute all other instruments necessary, proper or advisable in or for the furtherance of any public works project and to carry out and perform the terms and conditions of all such contracts or instruments.

(c) To subscribe to and comply with the Recovery Act and any rules and regulations made by any Federal Agency with regard to any grants or loans, or both, from any Federal Agency.

(d) To perform any acts authorized under this act through, or by means of its own officers, agents and employees, or by contracts with private corporations, firms or individuals.

(e) To award any contract for the construction of any public works project or part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality.

(f) To sell bonds at private sale to any Federal Agency without any public advertisement.

(g) To exercise any power conferred by this act for the purpose of obtaining grants or loans or both, from any Federal Agency pursuant to or by virtue of the Recovery Act independently or in conjunction with any other power or powers conferred by this act or heretofore or hereafter conferred by any other law.

(h) To do all acts and things necessary or convenient to carry out the powers expressly given in this Act. (Act Apr. 5, 1935, c. 125, §3.)

Cities operating under home rule charter may issue bonds to pay costs of construction of a hospital. Op. Atty. Gen. (59a-7), May 22, 1935.

Governing body of each municipality has authority to acquire land and easements necessary to execution of work and to take over, maintain and operate completed works. Op. Atty. Gen. (928c-7), Sept. 12, 1935.

County may enter into indemnity contract with federal government in connection with construction of a dam. Op. Atty. Gen. (707b-3), Jan. 6, 1936.

Attorney general will not render opinion relative to powers and duties of the judiciary. Op. Atty. Gen. (307c), Jan. 23, 1936.

There was no necessity for receiving new bids because question of making addition to high school was submitted to voters after bids were received. Op. Atty. Gen. (707a-12), Jan. 28, 1936.

Village may accept deed of fair grounds and buildings from County Fair Association for purpose of carrying on WPA project. Op. Atty. Gen. (469a-6), Apr. 22, 1936.

County board may appropriate money to pay transportation expenses of WPA workers to and from place of employment. Op. Atty. Gen. (107b-1), Aug. 11, 1936.

City may improve streets by WPA laborers by the day without advertising for bids. Op. Atty. Gen. (396b-7), Sept. 15, 1936.

County board in a county operating under town system may incur such incidental expenses of national reemployment offices and WPA offices and reemployment offices as it finds necessary in order to render relief to needy and destitute persons in cooperation with state and federal agencies. Op. Atty. Gen. (1001c), Mar. 9, 1937.

As affecting advertising for bids on PWA project, this section supersedes §991. Op. Atty. Gen. (125a-17), May 7, 1937.

In view of §1918-56 village council may under §1918-20 proceed with a street improvement by day labor without advertising for bids. Op. Atty. Gen. (396g-7), May 21, 1937.

A town may construct a garage with day labor on a federal project, and need only advertise for bids for materials, and for such specialized work as plumbing, heating, etc. Op. Atty. Gen. (707a-1), June 1, 1937.

Where voters of village approved bonds for construction of building, village council could later accept federal grant without further vote of electors. Op. Atty. Gen. (469c-4), Oct. 5, 1937.

Authority of county to participate in Works Progress Administration project and to purchase materials to restore levels of lake is not limited to \$300. Op. Atty. Gen. (273a-23), Nov. 22, 1937.

City of Luverne may purchase property and construct swimming pool in cooperation with Federal Government under WPA project without vote of electors, so long as issuance of bonds is not required and so long as warrants to be issued will not exceed taxes assessed and in process of collection. Op. Atty. Gen. (59b-11), Jan. 11, 1938.

County board constructing county garage as a WPA project may employ day labor without advertising for bids. Op. Atty. Gen. (707a-17), Aug. 10, 1938.

Regardless of provisions of charter a city could contribute money toward payment of rental of quarters for local WPA unit administrative offices. Op. Atty. Gen. (59a-3), May 16, 1939.

Act gives school board broad powers in making all contracts necessary in furtherance of PWA projects. Op. Atty. Gen. (707a-12), June 23, 1939.

A city may legally contribute a share of expense of maintenance of local unemployment office. Op. Atty. Gen. (59a-22), August 17, 1939.

Any municipality, including a county, may make contributions toward work of State Employment Service, up to December 31, 1939. Op. Atty. Gen. (125B), August 30, 1939.

(e).
Mower County is not required to advertise for bids in purchasing material and employing day labor in connection with repair and construction of bridges. Op. Atty. Gen., (642a-3), Sept. 13, 1938.

1918-57. Costs of public works determined.—In determining the cost of any public works project, the following items may be included as part of the cost of such public works project and financed by the issuance of bonds: (a) Engineering, inspection, accounting, fiscal and legal expenses; (b) The cost of issuance of the bonds, including engraving, printing, advertising, accounting and other similar expenses; (c) Any interest costs on money borrowed or estimated to be borrowed during the period of construction of such public works project and for six months thereafter. (Act Apr. 5, 1935, c. 125, §4.)

Attorney's fees incurred in election and in issuance and sale of bonds may be paid out of bond proceeds. Op. Atty. Gen. (59a-7), May 28, 1935.

1918-58. Acts must be approved.—The provisions of this Act shall not operate to dispense with the approval of a public works project by a state department, board, officer, commission, or a vote of the electors or freeholders where such approval or vote is necessary or required by law. (Act Apr. 5, 1935, c. 125, §5.)

Act does not authorize issuance of bonds except in conformity with prior laws. Op. Atty. Gen. (44a-4), June 12, 1935.

Where voters of village approved bonds for construction of building, village council could later accept federal grant without further vote of electors. Op. Atty. Gen. (469c-4), Oct. 5, 1937.

1918-59. Certificates of indebtedness may be issued.—Pending the preparation or execution of definitive bonds for the purpose of financing the construction of a public works project, interim receipts, certificates of other temporary obligations may be issued by the municipality to the purchaser of such bonds. Such interim receipts, certificates or other temporary obligations shall be in such form and contain such terms, conditions and provisions as the governing body of the municipality issuing the same may determine. (Act Apr. 5, 1935, c. 125, §6.)

1918-60. Bonds legalized.—Bonds bearing the signatures of officers in office on the date of signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any or all the persons whose signatures appearing thereon shall have ceased to be the officers of the municipality issuing the same. (Act Apr. 5, 1935, c. 125, §7.)

1918-61. Powers supplemental.—The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of any other law are inconsistent with this act, the provisions of this act shall be controlling. (Act Apr. 5, 1935, c. 125, §8.)

1918-62. Public relief act.—This act is intended to aid in relieving the public emergency arising from unemployment by simplifying the procedure for the construction and financing of public works projects. This act is remedial in nature and the powers hereby granted shall be liberally construed. (Act Apr. 5, 1935, c. 125, §9.)

1918-63. Limitation of act.—Nothing in this act shall be construed to authorize the issuance of bonds for any purpose by any municipality not authorized to issue bonds for such purpose under any other law heretofore or hereafter enacted; nor to authorize the levy or expenditure of taxes for any purpose, or in any amount, in excess of the limits provided under any existing or hereafter enacted law of this state, nor for any public works project until such project shall be authorized in the manner now or hereafter provided by law. (Act Apr. 5, 1935, c. 125, §10.)

Where voters of village approved bonds for construction of building, village council could later accept federal grant without further vote of electors. Op. Atty. Gen. (469c-4), Oct. 5, 1937.

1918-64. Provisions severable.—If any provision of this act, or the application thereof to any person, body, or circumstances, is held invalid, the remainder of the act and the application of such provision to other persons, bodies, or circumstances shall not be affected thereby. (Act Apr. 5, 1935, c. 125, §11.)

1918-65. Act expires Dec. 31, 1941.—Except in pursuance of any contract or agreement theretofore entered into by and between any municipality and any Federal agency, no municipality shall exercise any of the powers conferred by this act after December 31, 1941. (Act Apr. 5, 1935, c. 125, §12; Apr. 21, 1937, c. 328, §1; Apr. 22, 1939, c. 424.)

Sec. 13 of Act Apr. 5, 1935, c. 125, cited, provides that the act shall take effect from its passage.

1918-66. Proceedings legalized and evidences of indebtedness validated.—In all cases where the governing body or the utility commission or other similar body of any city or village has made a contract, or adopted proceedings for furnishing water, gas, steam heat, electric or telephone service to any such city or village or the inhabitants thereof, or for the furnishing of any such services by a municipally owned utility to areas adjacent thereto, or for the issuance or sale of pledge orders, warrants, bonds or certificates, payable solely from the earnings of a public utility or utilities owned by the city or village issuing the same, such contract or proceedings are hereby legalized, and all such pledge orders, warrants, bonds or certificates issued or to be issued are hereby legalized and declared to be valid and binding obligations of said city or village, payable solely from the revenues of such public utility or utilities, including but not limited to pledge orders, warrants, bonds or certificates issued or to be issued, for the purpose of supplementing grants of the Federal Emergency Administration of Public Works or other Federal Agencies. (Act Apr. 4, 1939, c. 137, §1.)

Act applies only to past transactions, and did not apply to an agreement with a firm dealing in bonds to issue refunding bonds to be paid out of revenues of power plant at a smaller rate of interest, agreement not having been completed by issuance of bonds. Op. Atty. Gen. (44B-12), April 19, 1939.

1918-67. Pledges validated.—In all cases where the governing body or utility commission or other similar body of any such village or city has heretofore pledged itself to charge sufficient rates so as to pay interest and principal on such pledge orders, warrants, bonds or certificates, such pledge is hereby legalized and declared to be valid. (Act Apr. 4, 1939, c. 137, §2.)

1918-68. Act remedial.—It is hereby expressly found and determined that this act is remedial in nature, being necessary to protect the financial credit of such villages and cities, and this act shall take effect and be in force from and after its passage. (Act Apr. 4, 1939, c. 137, §3.)

1918-69. Not to apply to pending actions.—This act shall not apply to any action or proceeding now pending in any courts in the State of Minnesota. (Act Apr. 4, 1939, c. 137, §4.)

1918-71. Certain cities may install sewage systems and pumping stations.—Any city, other than cities of the first class, and cities of the second class organized under a home rule charter, however organized, and any village which has installed or may hereafter install, a system of sewers, sewage pumping station, or sewage treatment or disposal plant or plants for public use, in addition to all other powers granted to it shall have authority, by an ordinance duly adopted by the governing body thereof, to charge just and equitable rates, charges or rentals for the use of such facilities and for connection therewith by every person, firm or corporation whose premises are served by such facilities either directly or indirectly. Such charges shall be as nearly as possible equitable and in proportion to the service rendered, and shall take into consideration the quantity of sewage produced and its concentration, strength of river, lake, bay or other body of water pollution qualities in general and the cost of its disposal. The charges shall be fixed on the basis of water consumed, or on any other equitable basis said governing body may deem appropriate, and if the council so directs may be established as a surcharge on the waterbills of all water consumers in the municipality on the grounds that said sewage treatment is for the purpose of preventing pollution of sources of water supply, or on some other basis of measuring the use made of the aforesaid facilities. In case of arrangements with other municipalities, districts or private parties for the supplying of sewers aforesaid, such rates, charges or rentals may also be levied the same as in independent operations. (Act Apr. 20, 1935, c. 221, §1.)

City organized under Laws 1895, c. 8, may issue bonds without vote of electors if the city's indebtedness will not be raised above 5% of taxable property of city. Op. Atty. Gen. (59a-7), Oct. 10, 1935.

If county desires sewage facilities for court house, city may require county to pay charge to defray expenses of operation of sewage disposal plant based on quantity of water consumed. Op. Atty. Gen. (387b-9), Feb. 9, 1938.

Provision of city charter requiring water and light commission to shut off water in cases of delinquency in payment applies to a surcharge made by council for use of sewage disposal plant, even as to water users who have no sewer connections. Op. Atty. Gen. (387b-9), Apr. 5, 1938.

1918-72. Moneys received shall be placed in special fund.—The moneys received from the rates, charges or rentals as herein authorized shall be kept separate from the general or other revenues of the political subdivision, and when so collected shall be placed in a separate general sewer fund, or in the water fund of any such city, village or borough. Also, any moneys received from the sale of any by-products arising out of sewage treatment or disposal shall be credited to this fund. The moneys so received shall be recorded, deposited, secured and paid out as other funds of the political subdivision are; provided, that upon establishing and fixing the charges aforesaid the receipts therefrom shall be used first to meet the costs of operating and maintaining the said facilities, and any additional sums collected shall be applied to

capital charges represented by bonds, certificates of indebtedness, or otherwise, and to the reasonable requirements for replacements and obsolescence. In determining the amount of capital costs to be met, the amount charged to special assessments, and also any amount of such cost properly chargeable to other than sanitary sewers, shall be deducted therefrom; and no such rate, charge or rental shall include any amount therefor or be applied thereto upon their collection. (Act Apr. 20, 1935, c. 221, §2.)

1918-73. Charges to be against the owner, lessee or occupant.—The rates, charges or rentals for the aforesaid sewer service may be made a charge against the owner, lessee or occupant of the premises, duly charged and billed for the services hereunder, or against any or all of them; and any such claim for unpaid rates, charges or rentals which have been properly billed to the occupant of the premises may be collected in a civil action in any court of competent jurisdiction, or, in the discretion of the governing body of the municipality, may be certified to the county auditor (or auditors of the counties) with the taxes against such property served and shall be collected as other taxes are collected. Payments of delinquent rentals shall be credited to the same fund as current funds for that purpose are, deducting therefrom any cost of collection accruing to the political subdivision. (Act Apr. 20, 1935, c. 221, §3.)

Cost of maintenance of sewage disposal plant may be apportioned against all property owners of city. Op. Atty. Gen. (387b-9), Aug. 24, 1937.

1918-74. Cities of third class and villages may establish sewers and sewage disposal plants—charges for use of—service to other municipalities.—Any city of the third class organized under a home rule charter or however organized, and any village, may build and construct when authorized by an ordinance passed by a two-thirds vote of the governing body thereof, a sewage treatment or disposal plant or plants for public use, and any such municipality which has installed or may hereafter install, build or construct, a system of sewers, sewage pumping station, or a sewage treatment or disposal plant or plants for public use, in addition to all other powers granted to it shall have authority, by an ordinance duly adopted by the governing body thereof, to charge just and equitable rates, charges or rentals for the use of such facilities and for connection therewith by every person, firm, or corporation whose premises are served by such facilities either directly or indirectly. Such charges shall be as nearly as possible equitable in proportion to the service rendered, and shall take into consideration the quantity of sewage produced and its concentration, strength or river, lake, bay or other body of water, pollution qualities in general and the cost of its disposal. The charges shall be fixed on the basis of water consumed, or any other equitable basis said governing body may deem appropriate, and if the council so directs, may be established as a surcharge on the water bills of all water consumers in the municipality on the grounds that said sewage treatment is for the purpose of preventing pollution of sources of water supply, or on some other basis of measuring the use made of the aforesaid facilities. In case of arrangements with other municipalities, districts or private parties for the supplying of sewers aforesaid, such rates, charges or rentals may also be levied the same as in independent operations. (Mar. 2, 1937, c. 57, §1.)

Industries may be charged on one basis while private homes are charged on another basis for use of sewage facilities. Op. Atty. Gen., (387b-2), Sept. 6, 1938.

Village may adopt an ordinance providing for an annual charge for connection with sewers in various sewer districts constructed by special assessment. Op. Atty. Gen., (387g), Oct. 14, 1938.

1918-75. Same—may issue bonds—sinking fund—rates for service—project self-liquidating.—Any such municipality may issue and sell bonds for the construction of any such system of sewers, sewage pump-

ing stations or sewage treatment or disposal plant or plants for public use when authorized so to do by an ordinance or resolution adopted by a vote of two-thirds of the members of the governing body of said municipality; which bonds shall bear interest at not more than $\frac{5}{100}$ per annum, payable semi-annually, and shall mature one-twentieth at the end of each year and may be registered with the City Treasurer of said municipality. No bonds shall be sold for less than par, and that each of said bonds shall state plainly on its face that it is payable only from a sinking fund, naming said fund and the ordinance and resolution creating it, and that it does not create an indebtedness within the meaning of any charter, statutory or constitutional limitation upon the incurring of indebtedness.

At the time of, or before the issuance and sale of any such bonds, the governing body must create a sinking fund for the payment of the bonds and the interest thereon and charges of the fiscal agency for making payment of the bonds and interest thereon.

That at, or before the issuance and sale of such bonds, the governing body shall, by resolution or ordinance, set aside a sinking fund and pledge to the payment of the bonds and the interest thereon the net income and revenues of the system, including all additions thereto and replacements and improvements thereof subsequently constructed or acquired, up to an amount sufficient to provide for the payment of the principal and the interest on the bonds as such principal and interest shall become due and payable, the fiscal agency charges, and a margin of safety, which together with any unused surplus of such margin carried forward from the previous year, shall equal $\frac{20}{100}$ of all other amounts so required to be paid into the sinking fund.

The said income and revenues above mentioned shall be construed to mean all the gross income from said plant less operating expenses and cost of material and supplies used in operation and less $\frac{10}{100}$ to be set aside for replacements and depreciation of said plant.

Said payments above mentioned shall constitute a first and prior charge and lien on the entire net income and revenues derived from the operation of said system.

The governing body of such municipality shall have full power and authority, and it is hereby made its duty to fix and establish, on the basis of water consumed or any other equitable basis, by ordinance or resolution, and collect rates and charges for the services and facilities afforded by the system.

The rates and charges established for the services and facilities afforded by this system shall be sufficient in each year to provide income and revenues adequate for the payment of the reasonable expense and operation, repair and maintenance and for the payment of the sums required to be paid into the sinking fund and for the $\frac{10}{100}$ depreciation charge.

The governing body shall have the right to change and readjust from time to time the rates and charges so fixed and established provided the aggregate of such rates and charges shall always be sufficient to meet the requirements mentioned in preceding paragraph.

After any municipality has issued and sold revenue bonds under this act, it must keep all income and revenues derived from the operation of the system separate and distinct from all other revenues and shall keep books and accounts for such system separate and distinct from all other books and accounts.

That any such bonds and interest thereon shall be a valid claim of the holders thereof only against the sinking fund and the net income and revenues of the system pledged thereto and shall not constitute an indebtedness of the municipality within the meaning of any charter, statutory or constitutional limitation upon the incurring of indebtedness.

Any municipality issuing bonds under this act shall have the right to covenant with the holders of the

bonds as to (a) the purpose to which the proceeds received from the sale of the bonds shall be applied and the use and disposition thereof; (b) the use and disposition of the income and revenues derived from the operation of the system; (c) the issuance and sale of additional bonds payable from the income and revenues of the system; (d) the operation and maintenance of the system; (e) the insurance to be carried hereon and the disposition of the insurance moneys; (f) its books of account and the inspection and audit thereof and its accounting methods; (g) rates and charges for the services and facilities afforded by the system, and any other matters pertaining to the manner of handling this system and care and manner of paying the revenues on the bonds and interest.

No person, firm or corporation shall be permitted to use said system, except they pay the full and established rate for said service.

Nothing contained in this act shall be construed to permit the municipality to incur, under the provisions thereof, any obligation for the payment of which taxes may be levied.

Any bonds issued under this act may be registered with the City Treasurer or the fiscal agent with whom the sinking fund is deposited.

~~All acts and parts of acts inconsistent herewith are hereby repealed.~~ (Mar. 2, 1937, c. 57, §2.)

Bonds may be issued without vote of electors. Op. Atty. Gen., (387b-2), Sept. 6, 1938.

1919. Tax for fire department relief fund.—The village or city council or other governing body of every village and city in this state, other than cities of the first class, and other than any city or village operating under Chapter 153, 192, and 208, Laws of Minnesota for 1935, or acts amendatory thereof, which has a regularly organized fire department, may each year, at the time the tax levies are made for the support of the village or city, and in addition thereto, levy a tax of one-tenth of a mill on all taxable property of such village or city. The tax so levied shall be transmitted to the auditor of the county in which the village or city is situated at the time all other tax levies are transmitted, and shall be collected and payment thereof enforced in like manner as state and county taxes are collected and the payment thereof enforced. The village or city treasurer, when the tax is received by him, shall pay the same over to the treasurer of the duly incorporated firemen's relief association of such village or city, if there is one organized, together with all penalties and interest collected thereon; but if there is no firemen's relief association so organized in any such village or city, or if any such association resign, be dissolved or removed, or any successor of such association resign, be removed or has heretofore resigned or has been removed as trustee of such money, then the treasurer of such municipality shall keep the money in a special fund to be disbursed only for the purposes authorized by this act. Provided, that the village or city council of any village or city in this state which now has or hereafter may have a population of less than 50,000 inhabitants is hereby authorized and empowered, when in its discretion it deems it necessary or desirable so to do, to levy on the taxable property of such village or city an additional amount not to exceed nine-tenths of one mill; such additional tax to be collected and disbursed as herein provided. (As amended Apr. 22, 1937, c. 349, §1.)

Levy of one-tenth of one mill by city of International Falls, for relief fund of its organized volunteer fire department, was properly made. State v. Keyes, 188M123, 246NW547. See Dun. Dig. 6688a.

Association cannot use funds secured under §§1919, 1920, for the purchase of fire apparatus. Op. Atty. Gen., Feb. 28, 1930.

Interest received on moneys in special fund cannot be placed in the general fund of the association. Op. Atty. Gen., Feb. 28, 1930.

Firemen's relief association may expend money from its special fund for the purchase of fire fighting equipment for a village as far as funds received under section 3726 are concerned, but not from funds arising under §1919. Op. Atty. Gen., Apr. 21, 1931.

Firemen's relief association had no authority to pay any moneys levied under this section to an attorney employed by it to enforce the levy. Op. Atty. Gen., July 30, 1931.

City may not limit membership in association to older members of fire department so as to exclude younger members. Op. Atty. Gen. (198a-2), Apr. 3, 1935.

Funds acquired from taxes cannot be used to purchase group insurance, but moneys received from fees, dues, donations, etc., may be used for any purpose. Op. Atty. Gen. (198b-10(d)), Nov. 1, 1935.

Upon incorporation of a firemen's relief association 2% gross premium fund may be turned over to treasurer of such association upon his filing a proper bond. Op. Atty. Gen. (198h-11), Oct. 21, 1936.

"Regularly organized fire department" includes volunteer fire department. Op. Atty. Gen. (688j), Aug. 17, 1937.

Section 1919 is still in force and was not repealed by §3723. Id.

Depositary is not required to furnish bond as security for funds of Firemen's Relief Association. Op. Atty. Gen. (198b-2), Jan. 7, 1938.

Where active member of International Falls fire department became ill and was placed on "disability list", and was dropped as an "active member", and no longer paid any dues, his widow on his death was not entitled to benefits as widow of "active member". Op. Atty. Gen. (198a-1), Apr. 27, 1938.

Under bylaw of relief association limiting benefits to 12 weeks in any 52 weeks, one receiving a single disability incapacitating him for many years is entitled to 12 weeks relief every year during disability. Op. Atty. Gen. (198a-1), April 18, 1939.

1919-1. Municipalities to fight fires outside of limits.—The council or any other body of any municipality having control of its fire department may by resolution adopted by a five-sevenths vote authorize its fire department or any portion thereof to attend and serve at fires outside of the limits of the municipality either within or without the state. In case the fire department is controlled by an individual such authorization shall be by written notice posted at the headquarters of the fire department. (Act Apr. 18, 1929, c. 232, §1.)

City furnishing services of fire department outside limits is acting in governmental capacity as affecting liability for injuries. Op. Atty. Gen., (688a), Oct. 4, 1938.

Village is not liable for negligence of fire department for failure to respond to calls outside limits in accordance with contract. Op. Atty. Gen. (688a), March 28, 1939.

A city is not liable for negligent acts of its fire department members, and there is no necessity for a contract of indemnity as between municipalities involved in fire protection agreement. Op. Atty. Gen. (688a), May 4, 1939.

1919-2. Municipalities to arrange for compensation at outside fires.—The body or person having control of a municipal fire department shall have authority to contract with other municipalities or private groups for compensation for services rendered in fighting fires as herein provided. The compensation agreed shall be a legal charge and collectible by the municipality rendering such service in any court of competent jurisdiction. (Act Apr. 18, 1929, c. 232, §2.)

Cities and villages cannot recover for services in answering fire calls outside limits, in absence of an agreement, express or implied. Op. Atty. Gen. (688a), Mar. 23, 1937.

Towns may enter into agreement with near-by municipality or with individuals in groups living in adjoining townships. Op. Atty. Gen., (688k), Aug. 19, 1938.

Village furnished with service may contract to reimburse city for loss of or damage to equipment. Op. Atty. Gen., (688a), Oct. 4, 1938.

1919-3. Firemen serving on outside fires in line of regular duties.—All municipal firemen attending and serving at fires outside of the limits of the municipality as authorized in this act shall be considered as serving in their regular line of duties as fully as if they were serving within the limits of their own municipality. (Act Apr. 18, 1929, c. 232, §3.)

1919-4. Cities and villages to pay expenses to conventions in certain cases.—The governing body of any village or city of this state, however organized, may appropriate such reasonable sums of money as it deems proper to defray the expenses of members of its regularly organized fire department in attending the state convention of the Minnesota State Fire Department Association and/or the Northwest Fire School. (Act Apr. 13, 1931, c. 150.)

1920. Board of Trustees of firemen's relief associations.—The board of trustees of every firemen's relief association of this state shall be composed of the following persons, to-wit: six trustees elected annually by such firemen's relief association from its own members and also the following ex officio members taken from the officers of the municipality in which the relief association is located, viz.: The mayor or president, the recorder or clerk, the treasurer and chief of the fire department thereof, and any such board of trustees of a duly incorporated relief association shall have exclusive control and management of all funds received by its treasurer under the provisions of this act, funds derived from the State of Minnesota, and all moneys or property donated, given, granted or devised for the benefit of said funds, and such funds when received shall be kept in a special fund on the books of the secretary and treasurer of said association and shall never be disbursed for any purpose whatever except the following viz.: (1st) For the relief of sick, injured and disabled members of any fire department in such village or city; (2nd) for the payment of pensions to disabled firemen and the widows and orphans of firemen; (3rd) for the payment of pensions to retired firemen pursuant to the laws of the state; (4th) for the payment of the fees, dues and assessments in the Minnesota State Volunteer Firemen's Benefit Association so as to entitle the members of any fire department to membership in and benefits of such state association; (5th) for the equipment and maintenance of such department and for construction, acquisition or repair of buildings, rooms and premises for fire department use or otherwise; for the payment of such death or funeral benefits as may be from time to time stipulated in the by-laws of the respective relief associations; and (6th) for the payment of necessary expenses of administering said fund including secretary's and treasurer's salaries.

The term "widow" shall mean a woman who was the wife of the fireman or pensioner during the time he was an active fireman, provided that she was married to him three or more years prior to the time when such fireman retired as a service pensioner. The term "widow" shall not include the surviving wife who has deserted a fireman or pensioner, or who has not been dependent upon him for support.

Provided, that the funds received by any relief association from dues, fines, initiation fees and entertainments shall be kept in a fund called the general fund, and may be disbursed for any purposes authorized by the articles of incorporation and by-laws of said association. Provided, further, that said relief association is hereby authorized and empowered to invest its funds in such income paying properties and securities as the council of the village or city in which such organization is located shall from time to time authorize. Provided, further, that benefits shall in all cases be within the limits authorized by state law and in accordance with the articles of incorporation and by-laws of the association. (As amended '29, c. 166; '31, c. 71; '35, c. 135; Apr. 22, 1937, c. 349, §2.)

City is without power to pay expenses of delegates from its fire department to state firemen's association convention. Op. Atty. Gen., June 2, 1930.

The funds created by this section and section 3726 should be kept separate so that investment thereof could be approved by the proper authority. Op. Atty. Gen., Mar. 12, 1931.

A village president, recorder and treasurer automatically become members of the Firemen's Relief Association. Op. Atty. Gen., Apr. 2, 1931.

The special tax of one-tenth of a mill levied under this section creates a fund which may be invested only as approved by the village or city council. Op. Atty. Gen., Apr. 2, 1931.

Interest from investments made with moneys received by a firemen's relief association may not be placed in the general fund and expended for purposes for which such fund may be spent. Op. Atty. Gen., July 30, 1931.

A duly incorporated firemen's relief association, at least so far as special fund is concerned, may lawfully sign a waiver agreement. Op. Atty. Gen., Feb. 18, 1933.

By-laws of volunteer fire relief association may provide for benefits to widows and orphans. Op. Atty. Gen., Sept. 25, 1933.

Fireman is entitled to benefit how ever he received his injury. Op. Atty. Gen. (198a-1), Apr. 4, 1935.

Salaries of officers of association may not be paid out of special fund but may be paid out of general fund derived from dues, fines, etc., and one receiving attention may receive a salary as an officer of association. Id.

Lump sum pension may be paid to widows of firemen if such provision is made in certificate or by-laws of association, but should be limited to funds derived from one-tenth of a mill tax levy. Op. Atty. Gen. (198b-6(a)), May 9, 1935.

By-laws may provide for pensions to widows of firemen whose death does not occur in line of service. Op. Atty. Gen. (688m), Jan. 9, 1936.

Funds of relief association which are derived from 2% tax paid by fire insurance companies may be used under §3726 for improvement of firemen's quarters, but tax collected upon properties under §1919 may only be used for the purposes specified in this section. Op. Atty. Gen. (198b-10(a)), Feb. 24, 1936.

Funds may be invested in village warrants, but a village does not have authority to issue postdated warrants for purpose of borrowing money or to represent a running obligation of village. Op. Atty. Gen. (688c-1), Mar. 28, 1936.

Lump sum pension may be paid to widow and orphans of a fireman in event such pension is provided for in articles or by-laws of association and authorized by municipality. Op. Atty. Gen. (198a-1), Sept. 28, 1937.

It is within discretion of governing body of municipality to lend money to fire department to buy uniforms and take a plain unsecured note therefor. Op. Atty. Gen. (198b-5), May 6, 1938.

Statute does not prohibit amendment of articles of incorporation of a relief association so as to authorize payment of benefits to widows of nonactive members who have died prior to amendment. Op. Atty. Gen. (198a-1), July 13, 1938.

1920-1. Certain towns and school districts may carry insurance.—That all towns school districts having an assessed valuation of over \$2,000,000.00 and cities, villages and boroughs in this state are hereby authorized to carry insurance against liability of employees of any departments thereof by reason of claims for bodily injuries, death or property damage made upon any such employee by reason of his operation of a motor vehicle while in the performance of his duties, and to defend in the name and on behalf of such employee any suit brought against him to enforce a claim, whether groundless or not, arising out of the operation of a motor vehicle by him while in the performance of his duties. (Mar. 22, 1929, c. 81, §1; Apr. 29, 1935, c. 338, §1.)

Act Apr. 29, 1935, c. 338, §1, amends the title of Laws 1929, c. 81, to read as follows: "An act authorizing towns school districts having assessed valuation of over \$2,000,000.00 and all cities, villages and boroughs to carry insurance against liability of employees of any department thereof arising out of the operation of motor vehicles by them while in the performance of their duties."

It would seem that the legislature intended, but failed, to insert a comma after "towns" in the opening words of this section.

Municipality may pay premium on liability insurance on fire department automobiles. Op. Atty. Gen., Feb. 25, 1933.

Statute does not change rules of law with reference to liability of villages in operating motor vehicles in response to fire calls. Op. Atty. Gen., Mar. 4, 1933.

Members of a purely volunteer fire department whose services are gratuitous are not "employees," but if they receive a stated compensation they are, and the village is authorized to purchase a liability insurance policy for their benefit. Op. Atty. Gen., Apr. 7, 1933.

Members of volunteer fire department who are paid \$1.00 for each fire and 25 cents for each monthly meeting are employees of the village within this chapter. Op. Atty. Gen., Apr. 11, 1933.

Members of volunteer fire department receiving compensation are employees. Op. Atty. Gen., Apr. 11, 1933.

It is not necessary to specifically enumerate individual names of drivers of buses. Op. Atty. Gen. (622d), May 28, 1936.

Towns may carry public liability and property insurance. Op. Atty. Gen. (523e-2), April 10, 1939.

A city is not liable for negligent acts of its fire department members, and there is no necessity for a contract of indemnity as between municipalities involved in fire protection agreement. Op. Atty. Gen. (688a), May 4, 1939.

1920-2. Governing bodies may pay premium.—Such governing body may in its discretion pay the premiums on insurance policies insuring individuals or groups of the employees referred to in Section 1 hereof against liability for injury to person or prop-

erty, within the limitations of Section 1 [§1920-1] hereof, and such payment of insurance premiums shall in no way impose upon any municipality any liability whatever. (Act Mar. 22, 1929, c. 81, §2; Apr. 29, 1935, c. 338, §2.)

The enacting part of Act Apr. 29, 1935, c. 338, §3, amending this section purports to amend "section 12" of Laws 1929, c. 81, but the amendment as set out opens with the designation "Sec. 2."

1929-1. Itinerant carnivals, street shows, street fairs, side shows, circuses, etc., within mile of corporate limits of city of fourth class—Town's licenses or permits for—Consent of city.—No town board or other public authority shall hereafter issue any license or permit or make any other grant of authority permitting the operation or carrying on of any itinerant carnival, street show, street fair, side show, circus, or any similar enterprise, within one mile of the corporate limits of any city of the fourth class in this state, without having first obtained in writing the consent thereto of the council or other governing body of such city. ('25, c. 366, §1.)

Explanatory note—Inserted to correct typographical error in Vol. I, Mason's Minnesota Statutes of 1927.

1929-4. Same—Definition.

This act was not intended to amend or modify §5940, and state fire marshal need not consider this act in granting a license for an itinerant motion picture exhibition. Op. Atty. Gen. (197d), June 25, 1934.

1933. Municipal forests.

Subsequent curative acts. Act Mar. 9, 1929, c. 53. Municipality should acquire title to land to be used for municipal forests and should not lease it. Op. Atty. Gen., Mar. 8, 1933.

Cities, villages, and towns may not be permitted to take over management and development of tax forfeited lands as community forests. Op. Atty. Gen. (700a-1), May 24, 1938.

1933-5. Public rest rooms in certain municipalities.—That all incorporated boroughs, villages, and cities of the fourth class in the state may at the discretion of their respective governing bodies provide and maintain in or near the business center of the village or city a public rest room; such rest room shall be furnished with a suitable number of chairs and a table or tables; shall be heated and lighted between the hours of ten o'clock in the forenoon and six o'clock in the afternoon; the entrance thereto shall be from a public street and there shall be placed on or over the entrance thereto a sign bearing the words "PUBLIC REST ROOM." ('21, c. 294, §1; Apr. 8, 1933, c. 169.)

Expense of establishment of rest room may be paid from general fund, and if building is owned by city the expense of alterations may be paid from permanent improvement fund, under charter of International Falls. Op. Atty. Gen., Feb. 28, 1930.

A village would have power to provide a public rest room in a building to be erected jointly by the American Legion and the band of the village, such rest room to be provided on the first floor and to be kept and maintained by the village at public expense. Op. Atty. Gen., Mar. 25, 1931.

Village rest rooms must be kept open, heated and lighted between ten A. M. and six P. M., but need not be kept open at other hours. Op. Atty. Gen., Feb. 11, 1932.

Village may take over a memorial hall constructed by American Legion Post, and use such building as a combined memorial hall, city hall, council room, and rest room, and may rent the premises for public purposes, for entertainment, public dances or other gatherings, providing such renting does not interfere with public use of property, and does not tie hands of succeeding governing bodies of the village, but cannot assume a mortgage thereon, payment of purchase price in cash or bonds being necessary. Op. Atty. Gen. (476b-8), Mar. 2, 1937.

1933-9. Tourist camping grounds, in cities, villages, towns and boroughs.

This section merely places a limitation on expenditure of taxes for tourist camp and does not grant power to levy a special tax. International Harvester Co. v. S., 200M242, 274NW217. See Dun. Dig. 6689.

Village operating under per capita tax law may levy tax for tourist camping grounds, providing entire levy does not exceed the per capita limit. Op. Atty. Gen. (519i), Dec. 15, 1934.

Village has authority to levy taxes for public tourist camping grounds in addition to limitation contained in §1225. Op. Atty. Gen. (519h), Dec. 23, 1935.

1933-9a. Municipalities may acquire and operate recreational facilities.—Any city, however organized, or any village, borough, town, county, school district, or any board thereof may operate a program of public recreation and playgrounds; acquire, equip and maintain land, buildings or other recreational facilities; and expend funds for the operation of such program pursuant to the provisions of this act, provided, however, that the provisions of this act shall not apply to any municipality coming within the provisions of chapter 29 extra session laws of 1935. [§§1263-4 to 1263-7]. (Apr. 15, 1937, c. 233, §1.)

School district can hire band instructor and conduct concert. Op. Atty. Gen. (161b-11), May 4, 1937.

City of Litchfield has authority to acquire and maintain a golf course. Op. Atty. Gen. (469a-12), June 4, 1937.

Villages should furnish musical entertainment in form of band concerts pursuant to §1192 and §1933-17 rather than under this act. Op. Atty. Gen. (469c-1), June 5, 1937.

Village of Wadena had no right to purchase 120 acres outside corporate limits at a price of \$7,200 for use as a public bathing beach and for park purposes. Op. Atty. Gen. (476b-10), June 9, 1937.

Act does not include gift to state teachers college at St. Cloud. Op. Atty. Gen. (359a-9), June 11, 1937.

Village council may acquire land outside corporate limits of village for park and recreation purposes and appropriate money from general revenue fund not exceeding \$2,000 without submitting proposition to electors, if village has sufficient money on hand or available out of current tax levy in process of collection. Op. Atty. Gen. (476b-10), Jan. 17, 1938.

Town may operate recreational program without vote of electors of town and where no special levy is provided for expenses may be paid from general fund. Op. Atty. Gen. (519e), Apr. 12, 1938.

City of Le Sueur is authorized to construct a municipal swimming pool and playground, and may issue bonds therefor in an unlimited amount so long as total bonded indebtedness does not exceed 10% of assessed valuation of property. Op. Atty. Gen. (59b-11), Apr. 27, 1938.

School buses may be used to transport musical organizations to other cities and villages in connection with exchange of programs, and contributions for defraying expenses may be accepted. Op. Atty. Gen. (166a-9), June 13, 1938.

City may provide inhabitants with transportation to public park and bathing beach. Op. Atty. Gen. (59b-11), June 24, 1938.

School board may purchase land for recreational purposes without vote of electors, and law applies to all districts however organized. Op. Atty. Gen. (622i-1), July 1, 1938.

It is not necessary for city of St. James to submit question of constructing a swimming pool to electors where expenditure is for work and materials, but question of purchasing site must be submitted to voters. Op. Atty. Gen. (59b-11), Aug. 1, 1938.

A township or village may expend public funds to acquire land for purpose of creating an artificial lake, in connection with a program of public recreation. Op. Atty. Gen. (330-5), Sept. 2, 1938.

School authorities may offer musical instruction, and defray expense thereof out of current expense fund, but they may not purchase uniforms for school bands out of tax money, but such uniforms may be purchased out of recreational fund. Op. Atty. Gen. (159B-11), July 5, 1939.

School board owning part of block in a village may purchase or lease another part of the block for playground purposes. Op. Atty. Gen. (622i-2), August 8, 1939.

1933-9b. Same—May act independently or cooperatively.—Any city, however organized, or any village, borough, town, county, school district, or any board thereof may operate such a program independently, or they may cooperate in its conduct and in any manner in which they may mutually agree; or they may delegate the operation of the program to a recreation board created by one or more of them, and appropriate money voted for this purpose to such board. In the case of school districts the right to enter into such agreements with any other public corporation, board or body, or the right to delegate power to a board for operating a program of recreation, shall be authorized only by a majority vote cast at an annual school election, provided that expenditures for this purpose shall not be included under maintenance cost in the computation of supplemental aid to the local school district as provided by Section 3030, Mason's Minnesota Statutes for 1927 as amended. (Apr. 15, 1937, c. 233, §2.)

Unexpended school district funds, not otherwise obligated, can be used for recreational purposes, but school

board cannot operate a recreational program in connection with another political subdivision, or donate money to a recreation board, without vote of people. Op. Atty. Gen. (159b-11), June 1, 1937.

School district may own and operate recreation building jointly with township if voters authorize it. Op. Atty. Gen. (622b), Oct. 8, 1937.

1933-9c. Same—Location of activities.—Any corporation, board, or body hereinbefore designated, given charge of the recreation program is authorized to conduct its activities on

- (1) property under its custody and management;
- (2) other public property under the custody of any other public corporation, body, or board, with the consent of such corporations, bodies, or boards;
- (3) private property, with the consent of its owners; and

(4) shall have authority to accept gifts and bequests for the benefit of the recreational service and employ directors and instructors of recreational work. (Apr. 15, 1937, c. 233, §3.)

Village may accept as a gift playground equipment and right to use property not belonging to village. Op. Atty. Gen. (844b-1), June 13, 1938.

1933-9d. Same—State board of education to establish qualifications.—In all cases where school funds or property are utilized, the state board of education shall:

- (1) Establish minimum qualifications of local recreational directors and instructors;
- (2) Prepare or cause to be prepared, published and distributed adequate and appropriate manuals and other materials as it may deem necessary or suitable to carry out the provisions of this act. (Apr. 15, 1937, c. 233, §4.)

State board may prescribe reasonable qualifications for recreation directors and instructors, and may require that they hold a teacher's certificate and such additional qualifications as board may prescribe. Op. Atty. Gen. (172B), June 21, 1939.

1933-9e. Same—Recreation program to be for education purposes.—The facilities of any school district, operating a recreation program pursuant to the provisions of this act, shall be used primarily for the purpose of conducting the regular school curriculum and related activities, and the use of school facilities for recreation purposes authorized by this act shall be secondary. (Apr. 15, 1937, c. 233, §5.)

1933-10. Memorial buildings, etc.

A village may combine in one building a memorial hall, a fire hall and council room. Op. Atty. Gen., Nov. 27, 1929.

Village council may rebuild soldiers' memorial building destroyed by fire and pay for same out of fire insurance money without submitting matter to vote of people. Op. Atty. Gen. (310f), Apr. 27, 1934.

A village council has power to construct a village hall without vote of electors, unless bond issue is necessary, or to erect a building as a memorial to war veterans with vote of electors, but has no authority direct to erect a community building with or without vote of electors. Op. Atty. Gen. (476b-8), Feb. 11, 1935.

City may erect a building or arena to be used as indoor skating rink and bathhouse, and issue bonds therefor. Op. Atty. Gen. (59b-11), Nov. 21, 1935.

Village may take over a memorial hall constructed by American Legion Post, and use such building as a combined memorial hall, city hall, council room, and rest room, and may rent the premises for public purposes, for entertainment, public dances or other gatherings, providing such renting does not interfere with public use of property, and does not tie hands of succeeding governing bodies of the village, but cannot assume a mortgage thereon, payment of purchase price in cash or bonds being necessary. Op. Atty. Gen. (476b-8), Mar. 2, 1937.

Memorial building may be used as a field house for sports and recreational purposes. Op. Atty. Gen. (59b-9), Mar. 5, 1937.

This act amends and supersedes Laws 1921, c. 257 (§§1710-1 and 1710-2). Id.

Only one site may be designated in resolution in election notice. Op. Atty. Gen. (59b-9), Sept. 25, 1937.

Provisions of this section with respect to election prevail over provisions of home rule charter requiring approval of 60% of electors of purchase of property of value of more than \$3,000. Id.

1933-14. Same—Construction of law.

This act amends and supersedes Laws 1921, c. 257 (§§1710-1 and 1710-2). Op. Atty. Gen. (59b-9), Mar. 5, 1937.

1933-15. Licensing restaurants, etc., in villages and boroughs.

Village may, within reasonable limitations, regulate closing and opening hours of restaurants, chicken shacks and nite clubs, and provide reasonable limitations upon which vendors may sell non-intoxicating beverages. Op. Atty. Gen., July 28, 1932.

A village may within reasonable limitations regulate the closing and opening hours of restaurants, chicken shacks and night clubs and provide reasonable regulations upon which vendors may sell non-intoxicating malt beverages. Op. Atty. Gen. (477a), Apr. 24, 1934.

Villages can regulate closing hours of restaurants but not drug stores, etc., and may extend closing hours, and hours for sale of malt liquor provided extension is uniform for all businesses regulated. Op. Atty. Gen. (477b-35), June 2, 1936.

Village council may regulate opening and closing hours of restaurant selling non-intoxicating malt liquors, but may not do so where certain beverages are not sold. Op. Atty. Gen. (477b-35), Sept. 23, 1936.

1933-17. Transfer of funds for maintenance of band.—Cities of the second, third and fourth class, villages, boroughs or townships, however organized, may when authorized as hereinafter provided, levy each year a tax not to exceed two mills for the purpose of providing a fund for the maintenance or employment of a band for municipal purposes; provided, however, that no such levy by any such municipality shall exceed in any one year the sum of \$10,000.00 nor any such levy by any such township shall exceed the sum of \$1000.00. Any and all sums so levied shall be separately levied, and when collected shall be paid into a separate, special fund and used for the purposes aforesaid; provided, however, that in the event taxes have been levied and collected for the maintenance or employment of a band for municipal purposes and the band shall have been discontinued or the city, village, borough or township "by a vote of the people as now provided by law" shall have decided not to employ a band, said city or village council may transfer the said sum so levied and collected as aforesaid to the general fund of said municipality; no such levy shall be made for any such fund when, at the proper time for the making thereof, according to the municipal records of the receipts thereof and disbursement therefrom, there shall be in such fund an unexpended balance amounting to as much as the maximum levy permitted by law therefor, reckoning in such receipts all uncollected but not delinquent taxes, and reckoning in such disbursements all outstanding obligations against such fund. ('27, c. 79, §1; Apr. 16, 1931, c. 171; Mar. 23, 1937, c. 82, §1.)

Act Apr. 22, 1939, c. 421, applicable by its descriptive terms to villages, boroughs and cities of the fourth class in Scott County alone, authorizes such municipalities to levy a tax for free musical entertainment and a municipal band. A worthy cause, but unconstitutional as local and special.

City of International Falls is authorized by §1737 to levy a tax for musical entertainment of public in public places or public grounds, but has no power to levy a tax for "band purposes" under Laws 1927, c. 79. State v. Keyes, 188M79, 246NW547. See Dun, Dig. 6688a.

Tax may be levied in excess of the 2% limit fixed by Mason's Stat. 1927, §1225. Op. Atty. Gen., July 5, 1929.

Laws 1927, c. 79 [§§1933-17 to 1933-22], repealed G. S. 1923, §§1192, 1367 and 1737, and levy cannot be made without consent of taxpayers. Op. Atty. Gen., Oct. 28, 1929.

Village may contract with existing band association for the giving of public concerts, the form of the contract being in the discretion of the council. Op. Atty. Gen., May 3, 1930.

This act repeals §1737 insofar as appropriating money for band purposes is concerned. Op. Atty. Gen., Feb. 15, 1933.

Taxes illegally collected under §1367 after it was repealed by this act should be transferred to general fund. Op. Atty. Gen., May 26, 1933.

This act did not repeal §1737. Op. Atty. Gen., Aug. 15, 1933.

City council cannot levy a tax for band purposes without submitting the matter to a vote of the people, nor can it transfer money from the general fund or any other fund to the band fund. Op. Atty. Gen. (59b-3), June 6, 1934.

Where village has two bands and council employs one band, the other band has no right to any part of the money raised by the tax. Op. Atty. Gen. (59b-3), July 31, 1934.

Band fund may be used for repair of roof of band stand. Op. Atty. Gen. (469c-1), Mar. 12, 1935.

Time within which levy may be made by village for band or other purposes is directory and not mandatory. Op. Atty. Gen. (519h), Dec. 23, 1935.

City may pay salary of band director out of entertainment fund, but a city may not transfer money from general fund or any other fund to band fund. Op. Atty. Gen. (59b-3), July 28, 1936.

City council of Worthington under its home rule charter may transfer surplus moneys from water and light fund to musical entertainment fund in such amount as in exercise of its official judgment and discretion may be necessary to subservise public purpose. Op. Atty. Gen. (519h), May 18, 1937.

Villages should furnish musical entertainment in form of band concerts pursuant to §1192 and §1933-17 rather than under Laws 1937, c. 233. Op. Atty. Gen. (469c-1), June 5, 1937.

Municipality may hire more than one band and may hire an instructor as an incident to maintenance and employment. Op. Atty. Gen. (519h), June 16, 1937.

Appropriation for bands or musical entertainment purposes cannot be made where no tax has been levied for such purpose. Op. Atty. Gen. (469c-1), May 9, 1938.

Village may levy a tax to assist in maintenance of American Legion post drum and bugle corps providing public musical entertainment. Op. Atty. Gen. (519h), July 27, 1938.

Village council is not required to levy entire amount authorized. Op. Atty. Gen., (519h), Oct. 31, 1938.

1933-18. Same—Petition for election.—Said authority shall be initiated by a petition signed by ten per cent of the legal voters of the city, village, borough or township, as shown by the last regular municipal election. Said petition shall be filed with the governing body of each city, village, borough, or township, and shall request that the following question be submitted to the voters, to-wit: "Shall a tax of not exceeding mills be levied each year for the purpose of furnishing a band fund?" (As amended Mar. 23, 1937, c. 82, §2.)

Section 1192 was not impliedly repealed by §1933-18, and village may levy one mill tax without vote of electors. Op. Atty. Gen. (519h), July 29, 1937.

1933-19. Same—Election.—When such petition is filed, the governing body of such city, village, borough or township shall cause said question to be submitted to the voters at the first following general municipal election of such city, village, borough or township. (As amended Mar. 23, 1937, c. 82, §3.)

Notice of submission of proposition may be incorporated in regular notice of annual village election. Op. Atty. Gen. (785e-1), Nov. 13, 1935.

1933-20. Same—Election—Vote required to carry.—Said levy shall be deemed authorized if a majority of the votes cast at said election be in favor of the proposition, and the governing body of such city, village, borough or township shall then levy a tax sufficient to support or employ such band, not to exceed the rate authorized by the election. (As amended Mar. 23, 1937, c. 82, §4.)

Unmarked ballots must be considered in opposition to band tax. Op. Atty. Gen., Mar. 18, 1929.

Submission of a ballot to vote on a two mill tax does not work a cancellation or rescission of an existing one mill tax if it fails to carry. Op. Atty. Gen. (469c-1), Feb. 21, 1939.

1933-21. Same—Petition and election for rescission of tax levy.—A like petition may at any time be presented to the governing body of each city, village, borough or township asking that the following proposition be submitted, to-wit: "Shall the power to levy a tax for the maintenance or employment of a band be canceled?" Said submission shall be made at any general municipal election as heretofore provided, and if a majority of the votes cast at such election be in favor of said question no further levy for said purpose shall be made until such time as the said question may again be voted upon favorably as heretofore provided. (As amended Mar. 23, 1937, c. 82, §5.)

1933-22. Same—Use of funds.—All funds derived from said levy shall be expended as set out in Section one hereof by the governing body of each city, village, borough or township. (As amended Mar. 23, 1937, c. 82, §6.)

Laws 1895, c. 8, §285 [Mason's Minn. Stat. 1927, §1933-32, note].
Op. Atty. Gen., May 3, 1930.

Under Sp. Laws, 1891, c. 2, subc. 9, chief of police of Chaska must be a resident of the city. Op. Atty. Gen., Apr. 8, 1929.

This section is controlling over Mason's Minn. Stat., §§2211-2215, as to a city organized and operating under this act. Op. Atty. Gen., Dec. 26, 1929.

1933-23. Civil Service Commission for Firemen created in certain cities.—There may be created in every city except cities of the first class, and in villages having a population of 2,000 inhabitants or more, and having a fire department consisting of two or more regularly employed and paid firemen, a firemen's civil service commission with powers and duties as hereinafter provided. (Act Mar. 11, 1929, c. 57, §1; Jan. 13, 1936. Ex. Sess. c. 13.)

Laws 1929, c. 57, held not violative of Const. Art. 4, §§33, 34, 36. 189M352, 230NW830(2).

This act is constitutional. State v. McDonald, 188M157, 246NW900. See Dun. Dig. 6560.

The purpose of Laws 1931, c. 347, was to make operative §§4368, 4369, and it operated as an amendment to Laws 1929, c. 57, Id.

Act does not apply to a city or village having a fire department consisting of two regularly employed and paid firemen and volunteers. Op. Atty. Gen. (688b), Aug. 11, 1934.

City of International Falls with two regularly paid firemen on a monthly salary may accept benefits of act. Op. Atty. Gen. (688b), July 9, 1937.

1933-24. Last Federal census to control.—In determining the population of any such municipality, the last federal census or the last census taken therein by authority of the State of Minnesota, shall be conclusive as to the population thereof, for the purpose of this act. (Act Mar. 11, 1929, c. 57, §2.)

1933-25. City or Village Council to adopt resolution.—Any city or village in the class mentioned in Section 1 [§1933-24] of this act which may wish to avail itself of the provisions of this act, shall do so by a resolution of its common council, expressly accepting the provisions hereof, which resolution shall be adopted by a vote of a majority of all the members of said council, and be approved by the mayor of such city or the president of such village council, and this act shall not apply to any such city or village until the adoption as aforesaid of such resolution. (Act Mar. 11, 1929, c. 57, §3.)

Resolution adopting this act is in nature of a legislative act required to have three readings under charter of city of Hastings. Op. Atty. Gen. (62b), May 2, 1938.

1933-26. Membership—Duties—terms of office.—Said commission shall consist of three members who shall be citizens of the state and resident of such city or village, and shall be appointed by the council of said city or village, as the case may be, and when first created one commissioner shall be appointed for the term of one year, who shall be president of said commission, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving, hold any other office or employment under the city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of notary public. Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk or village recorder, an oath for the faithful discharge of his duties. There shall be appointed each year thereafter by the said council one member of the said commission whose term of office shall be for three years, and each member of said commission shall be president of the term for which he is appointed. (Act Mar. 11, 1929, c. 57, §4.)

Same person cannot hold offices of police civil service commissioner and firemen's civil service commissioner. Op. Atty. Gen., Jan. 22, 1934.

1933-27. Meetings.—The commission shall first meet immediately after its appointment and thereafter on the first Monday in February of each year at which said meetings it shall select from its members a secretary who shall serve until his successor is elected. The commission shall from time to time

fix the times of its meetings, and adopt, amend, and alter rules for its procedure. (Act Mar. 11, 1929, c. 57, §5.)

1933-28. Members to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding one hundred dollars per year, as it shall deem commensurate with the additional services rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and shall furnish said commission with all supplies, stationery and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Mar. 11, 1929, c. 57, §6.)

Power to purchase fire truck and equipment is vested in city council and not in civil service commission. Op. Atty. Gen. (688c-1), Mar. 5, 1937.

1933-29. Powers and duties of Commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the fire department of such city or village and these powers shall extend to and include the chief and assistant chief of such, and all inspectors, fire wardens, electricians, engineers, auto mechanics, clerks and other persons exclusively engaged in the fire prevention and protection service in said city or village.

The commission shall immediately after its appointment and organization grade and classify all of said employees of the fire department of said city or village and a service register shall be prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful.

The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses in the order of the date of application of all applicants for examination and the offices, or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Mar. 11, 1929, c. 57, §7.)

This act is complete in itself and controls over §4368 which provides that age shall not prevent a preference if the applicant is qualified. State v. McDonald, 185M 194, 240NW361. See Dun. Dig. 6560, 6600, 7986.

State v. Ritchel, 192M63, 255NW627; note under §9722. Police and fire departments civil service commissions cannot act for both policemen and firemen. Op. Atty. Gen., Feb. 2, 1934.

City council and not civil service commission fixes salary of members of department. Op. Atty. Gen. (688b), Apr. 30, 1935.

Where city has fire department consisting of three full time employees who are paid regular monthly salary and several so-called volunteer employees, including the chief, who are paid by the hour for service as they may render, civil service commission has jurisdiction only over the three employees. Op. Atty. Gen. (688b), Dec. 30, 1938.

1933-30. Same.—The commission shall, immediately after its appointment and from time to time thereafter, make, amend, alter and change rules to promote efficiency in the fire department service and to carry out the purposes of this chapter. The rules shall provide among other things, for:

(a) The classification of all offices and employments in the fire department.

(b) Public competitive examinations to test the relative fitness of applicants.

(c) Public advertisement of all examinations at least ten days in advance in a newspaper of general circulation in said city or village and posting said advertisement for ten days in the city or village hall and at each station house.

(d) The creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination. Such lists shall

be embraced in an eligible register. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

(e) The rejection of candidates or eligibles who, after the entry of their names shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any willful misrepresentation, deception or fraud in connection with the examination or in connection with their applications for employment.

(f) The certification of the name standing highest on the appropriate list to fill any vacancy.

(g) Temporary employment without examination, with the consent in each case of the commission, in cases of emergency, but no such temporary employment shall continue more than 30 days nor shall successive temporary employments be permitted for the same position.

(h) Promotion based on competitive examination and upon records of efficiency, character, conduct, and seniority.

(i) Suspension with or without pay, for not longer than 60 days and for leave of absence, with or without pay.

(j) Such other rules not inconsistent with the provisions of this act as may from time to time be found necessary to secure the purposes of this act.

Copies of such rules shall be kept posted in a conspicuous place at each fire station house and no rules of general application with reference to employment, promotion, discharge or suspension shall be effective until so posted. (Act Mar. 11, 1929, c. 57, § 8.)

(h). Laws 1931, chapter 347, has no effect upon the seniority rights of the members of the fire department. Op. Atty. Gen., Sept. 29, 1931.

Where eight men were appointed firemen at the same time and it later became necessary to discharge three of them to make room for veterans, commission could not discharge the one who stood at the head of the eligible list at time of appointment. State v. Ritchel, 192M63, 255NW627. See Dun. Dig. 6560.

1933-31. Removal or discharge—Hearings.—No officer or employee after six months' continuous employment shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard in his own defense as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The findings and decision of such commission shall be forthwith certified to the chief or other appointing or superior officer, and will be forthwith enforced by such officer. Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when he deems such suspension advisable. (Act Mar. 11, 1929, c. 57, § 9.)

1933-32. Commission to grade employees.—The commission shall ascertain the duties of each office, position and employment in the fire protection service of such city or village, and designate by rule as well as may be practicable the grade of each office, employment or position. The commission shall prescribe standards of fitness and efficiency for each office, position and employment and for each grade, and adapt its examinations thereto. (Act Mar. 11, 1929, c. 57, § 10.)

1933-33. Examinations—Examiners.—All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety and integrity, and all applicants for positions

requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the chief of the fire department and of every employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners. (Act Mar. 11, 1929, c. 57, § 11.)

1933-34. Notice of examinations.—Notice of the time, place and scope of each examination shall be given by publication and posting as specified in Section 8, and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examinations after giving credit for character and previous successful experience, shall be entered with their addresses and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application and, if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made the names selected shall be stricken from the eligible register and transferred to the service register. (Act Mar. 11, 1929, c. 57, § 12.)

1933-35. Charges to be filed—Trial.—Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of his own motion, and thereupon the commission shall try the charges after not less than ten days written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of said charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county in which such city or village is located. The commission may make a complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent, or employee of said city or village who receives compensation for his services, shall not be entitled to fees or mileage. (Act Mar. 11, 1929, c. 57, § 13.)

1933-36. Suspension or removal.—If after investigation and trial by the civil service commission as herein provided an employee is found guilty of inefficiency, breach of duty, or misconduct, he may be removed, reduced or suspended and his name may be stricken from the service register. If the board shall determine that the charges are not sustained, the accused, if he has been suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings and determinations hereunder and orders of suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the commission and it shall be the duty of the secretary to notify such employee of said decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal from the order to the district court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employee of written notice of said order as above provided.

Within five days thereafter, the secretary shall certify to the clerk of the district court, the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed on the calendar by the clerk to be tried before the court without jury at the next general term thereof to be held in the county where said city or village is located at the place nearest said city or village. The question to be determined by the court shall be:

"Upon the evidence was the order of the commission reasonable?" After trial in the district court an appeal may be taken from the decision thereof to the supreme court by the employee or the commission in the same manner as provided for other court cases. (Act Mar. 11, 1929, c. 57, §14.)

1933-37. Certain acts to be misdemeanors.—An applicant for examination, appointment or promotion in the fire prevention service of said city or village who shall, either directly or indirectly, give, render or pay or promote to give, render or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal. (Act Mar. 11, 1929, c. 57, §15.)

1933-38. Same.—Any officer or employee of the fire department, when operated under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive or pay, or be in any manner concerned in soliciting, receiving or paying any assessment, subscription or contribution for any party or political purpose shall be guilty of a misdemeanor and shall be subject to suspension or removal. (Act Mar. 11, 1929, c. 57, §16.)

Local civil service commission may not prohibit firemen "from rendering any political service." Op. Atty. Gen., Feb. 10, 1933.

1933-39. Same.—Any person who shall solicit or receive directly, or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution, or payment for any political purpose whatever from any officer or employee in a fire department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor. (Act Mar. 11, 1929, c. 57, §17.)

1933-40. Commission may be abolished.—Any firemen's civil service commission hereafter created, pursuant to the provisions of this act, except where such civil service commission has been continuously in operation for eight years or more, may be discontinued and abolished as follows: A petition signed by 25 per cent of the number of legal voters voting at the last general municipal election, shall be filed with the governing body of such city or village, and shall request that the following question be submitted to the voters, to-wit: "Shall the Firemen's Civil Service Commission be abolished?" (Laws 1929, c. 57, §18; Apr. 13, 1931, c. 152, §1; Apr. 21, 1939, c. 379.)

1933-41. Elections.—When such petition is filed, the governing body of such city or village shall cause said question to be submitted to the voters at the first following general municipal election.

Such commission shall be deemed to be abolished if two-thirds of the votes cast in said election be in favor of such abolishment; and the status of the fire department and all of the employees thereof shall thereafter be deemed to be the same as if said commission had not been created. (Laws 1929, c. 57, §19; Apr. 13, 1931, c. 152, §2.)

1933-42. Municipalities may pass zoning ordinance.—That for the purpose of promoting health, safety, order, convenience, prosperity, and general welfare, any city of the third or fourth class or any village in this state, acting by or through its governing body, may by ordinance regulate the location, size,

use and height of buildings, the arrangement of buildings on lots, and the density of population within such city or village; may make different regulations for different districts thereof; and may acquire or prepare and adopt a comprehensive plan for the future physical development and improvement of such city or village, in accordance with the regulations made as aforesaid, and may thereafter alter said regulations or plan, such alterations, however, to be made only by a two-thirds vote of all the members of the governing body of such city or village. Provided that after the adoption of an ordinance hereunder and within ten days after its publication such ordinance may be suspended in effect upon the filing of a petition signed by resident freeholders of the municipality in a number equal to not less than ten per cent of the legal voters of the municipality requesting that the question of permitting the council to zone the city be submitted to the electors at a general or special election, and the said ordinances shall not again become effective until a majority of the electors voting on the question approve the proposition permitting the governing body to zone the municipality. (Act Apr. 12, 1929, c. 176, §1; Apr. 22, 1935, c. 235, §1; Apr. 29, 1935, c. 376, §1.)

Justification for a zoning ordinance lies in police power exerted in public interest, and legislature may not unreasonably and arbitrarily restrict use of private property, neither may it permit a use of property which unreasonably and arbitrarily infringes rights of others, as by creation of a nuisance. *Gunderson v. A.*, 190M245, 251NW515. See *Dun. Dig.* 6525.

If reasonableness of a zoning ordinance is debatable, courts will not interfere with discretion which is primarily legislature's, but court is free to find and determine facts upon which reasonableness of a zoning ordinance depends. *Id.*

Zoning ordinance attempting to permit maintenance of funeral home near residences, held void as being unreasonable and arbitrary. *Id.*

City of Mankato may regulate so-called "automobile graveyards" by passing of zoning ordinance. Op. Atty. Gen., Jan. 30, 1930.

A proposal under this act may be submitted at a special election called for that purpose to be held on the same date as the state-wide primary election. Op. Atty. Gen., May 23, 1930.

Where city charter gave city council power to adopt a zoning ordinance, it was not necessary to again submit the matter to the voters under this section. Op. Atty. Gen., Feb. 18, 1931.

A zoning ordinance may not be enacted for a mere aesthetic purpose. Op. Atty. Gen., Feb. 8, 1932.

Entire ordinance should be published verbatim, and not merely synopsis. Op. Atty. Gen., May 20, 1932.

A village council may not enact an ordinance fixing minimum cost of building to be erected within prescribed area. Op. Atty. Gen., Mar. 14, 1934.

Blank ballots are to be excluded in computing total votes cast. Op. Atty. Gen. (59a-32), Apr. 16, 1935.

Zoning ordinance passed where majority voting on such specific question favored it, though election was held at same time as general city election and proposition was contained on same ballot, though there was not a majority of all persons voting at the general election. Op. Atty. Gen. (59a-32), May 3, 1935.

Zoning Ordinance may be adopted in cities of second class without vote of electors. Op. Atty. Gen. (59a-32), Oct. 6, 1935.

Laws 1935, c. 376, did not repeal Laws 1935, c. 235, amending this section. *Id.*

Zoning Ordinance for gasoline filling stations held unreasonable and invalid. Op. Atty. Gen. (477b-10), May 25, 1936.

Where Zoning Ordinance is passed, but before it goes into effect state officers granted permit under old Code, right to construct the building depends upon whether any substantial part of the building is constructed before the new Ordinance goes into effect. Op. Atty. Gen. (59a-32), July 24, 1936.

Any village may pass a Zoning Ordinance forbidding construction of filling station within residence district. Op. Atty. Gen. (477b-10), Sept. 10, 1936.

Prohibiting the keeping of turkey ranches within a small village, but permitting families to have a few chickens or turkeys for their own use, would be valid if turkey ranches were in fact a nuisance. Op. Atty. Gen. (477b-20), Nov. 5, 1936.

Village may pass ordinance governing kind of material to be used in construction of building, requiring plumbers, plasterers and electricians to have license from village, regulate height of ceilings, so long as regulation tends to protect health, safety and comfort. Op. Atty. Gen. (477b-11), Jan. 22, 1937.

Filing of application for a permit to construct filling station gives no person such right as will prevent amendment of ordinance prohibiting filling stations, unless he does something of a substantial character

toward construction of station before enactment of new zoning ordinance. Op. Atty. Gen. (59a-32), Dec. 7, 1937.

In absence of an ordinance regulating construction of buildings, it is not necessary that one obtain a permit before erecting a building. Op. Atty. Gen. (471e), Apr. 25, 1938.

Village council may adopt ordinance regulating location, size and use of buildings to be erected, and in order to ascertain whether any proposed building complies with ordinance, may require building permits to be obtained from council. Id.

Village may not fix minimum cost of buildings to be erected in village. Op. Atty. Gen., (477b-3), Oct. 13, 1938.

1933-43. May enforce regulations.—The governing body of any such city or village is hereby authorized to pass ordinances for the enforcement of the provisions of this act and of the regulations of the governing body under this act, and to provide, in and by such ordinances, penalties for the violation thereof. Such governing body is also hereby authorized to enforce its regulations under this act by mandamus, injunction, or any other appropriate remedy in any court having jurisdiction thereof. (Act Apr. 12, 1929, c. 176, §2.)

1933-44. To be construed as additional to existing laws.—In any such city or village having a planning commission, the provisions of this act shall be construed as an addition to existing powers and not as an amendment to or a repeal thereof, and the governing body may adopt a plan or plans prepared by such planning commission. (Act Apr. 12, 1929, c. 176, §3.)

1933-45. Application.—This act shall also apply to cities operating under home rule charters adopted pursuant to Section 36, Art. 4, of the State Constitution, but shall not modify, limit or affect in any way the power to enact planning and zoning regulations contained in any such charter in the manner prescribed therein. (Laws 1929, c. 176, §4; Apr. 15, 1931, c. 163.)

1933-46. Cities and villages may levy taxes for advertising purposes.—That the governing body of any village, borough, or city of the fourth class may, when authorized by the electors thereof as hereinafter provided, annually levy a tax of not to exceed one-half mill on all the taxable property within such village, borough or city, but in no event shall more than \$1,000.00 be raised in any one year for the purpose of advertising the said village, borough or city and its resources and advantages. Such tax shall be levied in the same manner and at the same time as taxes for other municipal purposes are levied, and shall be collected in the same manner. The proceeds of such tax shall be used only for the purpose of advertising such village, borough or city and its resources and advantages; provided, however, that the annual expenditure for such purposes by any such village, borough or city is hereby limited to the sum of \$1,000.00, provided, however, nothing in this act shall permit the levy of any tax in excess of the amount authorized by Chapter 417, General Laws 1921 [§§2061 to 2066]. (Act Apr. 20, 1929, c. 276, §1.)

1933-47. To be voted on by city or village.—Such governing body may by resolution adopted at least 20 days before any general village, borough or city election provide for submitting to the voters at such election, to be voted upon by ballot, the question of levying a tax as provided in Section 1 [1933-46] hereof. If a majority of the votes cast on the question be in favor of the proposition, the same shall be deemed carried, and the governing body may levy such tax annually for two successive years. No such tax shall be levied thereafter unless again authorized by the electors as herein provided. (Act Apr. 20, 1929, c. 276, §2.)

1933-48. Police civil service commissions in certain cities.—There may be created in every village or city, except a city of the first class, of this state, a police civil service commission with powers and duties as hereinafter provided.

Any city or village in the class mentioned in this Act which may wish to avail itself of the provisions hereof, shall do so by a resolution of its governing body, expressly accepting the provisions hereof, which resolution shall be adopted by a vote of a majority of all the members of said governing body, and be approved by the mayor of such city or the president of such village governing body, and this Act shall not apply to any such city or village until the adoption as aforesaid of such resolution. (Act Apr. 23, 1929, c. 299, §1; Apr. 10, 1933, c. 197, §1; Mar. 1, 1935, c. 34, §1.)

Statute is not unconstitutional as special legislation, as lacking uniformity of operation, or because it embraces a subject not expressed in title. *Naeseth v. V.*, 185M526, 242NW6. See *Dun. Dig.* 1631.

This act did not affect the general power of supervision of the Mayor of Eveleth over the police department. Op. Atty. Gen., Nov. 25, 1930.

A commission created by resolution cannot be abolished by vote of the electors. Op. Atty. Gen., Jan. 21, 1931.

A city council wishing to create a police civil service commission may proceed either by ordinance or by resolution. Op. Atty. Gen., Jan. 21, 1931.

An ordinance creating a police civil service commission cannot provide that it may be repealed and the commission abolished by a repealing ordinance or by a vote of the electors. Op. Atty. Gen., Jan. 21, 1931.

City council of Eveleth had authority to place juvenile officer within the Police Department under the jurisdiction of the Police Civil Service Commission. Op. Atty. Gen., Feb. 3, 1932.

City may adopt civil service commissions relating to police departments, notwithstanding home rule charter provisions. Op. Atty. Gen., Oct. 11, 1933.

This act applies to all cities within the class, including cities operating under home rule charters, notwithstanding inconsistent provisions in home rule charters, and it is unnecessary to amend home rule charters. Op. Atty. Gen. (785E), Nov. 16, 1934.

Adoption of resolution and appointment of police civil service commission on December 31, at a ballot meeting of old village board could not be rescinded at meeting of newly elected board, but there must be an election to determine the question of abolishment. Op. Atty. Gen. (785e-1), Mar. 19, 1935.

Resolution adopting this act is in nature of a legislative act required to have three readings under charter of city of Hastings. Op. Atty. Gen. (62b), May 2, 1938.

There is no requirement for approval or disapproval by city attorney. Op. Atty. Gen. (785E), April 14, 1939.

1933-49. Membership—Appointment—Oath.—Said commission shall consist of three members who shall be citizens of the state and residents of such city or village, and shall be appointed by the mayor or president of said city or village, as the case may be, and the appointment of each of said commissioners, to be confirmed by a majority vote of the governing body thereof, and when first created one commissioner shall be appointed for the term of one year, who shall be president of said commission, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving hold any other office or employment under the city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of Notary Public. Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk or village recorder an oath for the faithful discharge of his duties. There shall be appointed each year thereafter by the said mayor or president one member of the said commission whose term of office shall be for three years, and each member of said commission shall be president of said commission during the last year of the term for which he is appointed. (Act Apr. 23, 1929, c. 299, §2.)

Same person cannot hold offices of police civil service commissioner and firemen's civil service commissioner. Op. Atty. Gen., Jan. 22, 1934.

Where term of office of commissioner has expired and mayor attempted to reappoint same person and his confirmation was unanimously voted down by council and mayor refuses to appoint any other, mayor may be compelled to make appointment by mandamus. Op. Atty. Gen. (785e-2), Apr. 24, 1934.

Terms of office cannot be lengthened or shortened by a municipal ordinance. Op. Atty. Gen. (785e-1), Apr. 25, 1935.

President of council of city of Marshall, in absence of mayor who is in distant hospital and unable to act, may call special meeting of council and appoint a police civil service commissioner to fill a vacancy, and may also vote on question of confirmation of such appointment. Op. Atty. Gen. (61a), May 14, 1938.

Police civil service commissioner may not hold office of school trustee. Op. Atty. Gen. (785d), July 18, 1938.

As affecting residence of commissioner, a person's place of residence is that place in which his habitation is fixed and to which, whenever he is absent he intends to return. Op. Atty. Gen. (785e), Aug. 10, 1938.

Where a police civil service commissioner is appointed by mayor and council refuses to confirm, president of council cannot make appointment in case mayor fails to submit a person satisfactory to council, but mayor may be compelled by mandamus to act in the matter. Op. Atty. Gen. (785e), March 13, 1939.

1933-50. Meeting.—The commission shall first meet immediately after its appointment and thereafter on the first Monday in February of each year at which said meetings it shall select from its members a secretary who shall serve until his successor is elected. The commission shall from time to time fix the times of its meetings, and adopt, amend, and alter rules for its procedure. (Act Apr. 23, 1929, c. 299, §3.)

1933-51. Commissioners to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding \$100.00 per year, as it shall deem commensurate with the additional service rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and shall furnish said commission with all supplies, stationery and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council. (Act Apr. 23, 1929, c. 299, §4.)

1933-52. Duties of commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the police department of such city or village and these powers shall extend to and include all members of the police department.

The commission shall immediately after its appointment and organization grade and classify all of said employees of the police department of said city or village and a service register shall be prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful.

The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses in the order of the date of application of all applicants for examination and the offices or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful. (Act Apr. 23, 1929, c. 299, §5.)

Law vests in commission the exclusive power to discharge a chief of police, thereby depriving municipal councils of power of removal. *Naeseth v. V.*, 185M526, 242NW6. See Dun. Dig. 6591.

Where city police civil service commission classified all police employees of city, and classification made is alleged to be erroneous, and in violation of soldiers' preference act, proper remedy is certiorari to review the classification made and not mandamus to compel a reclassification. *State v. Ernest*, 197M599, 268NW208. See Dun. Dig. 6560.

City welfare worker appointed by mayor of city of Rochester under ordinance No. 283 did not come under jurisdiction of police civil service commission by reason of ordinance No. 467, and could be removed by mayor. *Mestad v. C.*, 198M558, 270NW577. See Dun. Dig. 6558a.

Where additional classes of officers or employees are added to the Police Department, the commission has power to change its classifications and add thereto. Op. Atty. Gen., Feb. 3, 1932.

Police and fire departments civil service commissions cannot act for both policemen and firemen. Op. Atty. Gen., Feb. 2, 1934.

The only powers of the police civil service commission are in connection with employment, promotion, discharge, suspension of employees, while the general powers of control and supervision remain with governing body of municipality. Op. Atty. Gen. (785e-1), Mar. 19, 1935.

Commission has exclusive power to discharge chief of police. Op. Atty. Gen. (785e-4), Apr. 12, 1935.

City council and not civil service commission fixes salary of members of department. Op. Atty. Gen. (688b), Apr. 30, 1935.

Commission may not establish rule requiring retirement from active duties upon reaching certain age. Op. Atty. Gen. (785i), Nov. 10, 1936.

Powers of a police civil service commission are in connection with employment, promotion, discharge and suspension of police officers and general powers of control and supervision over police force remain with mayor and city council as provided in city charter. Op. Atty. Gen. (785e-1), Jan. 20, 1937.

Mayor and council of city have power to determine number of police officers who shall be employed. Op. Atty. Gen. (785e-2), Oct. 11, 1937.

Although mayor and city council have power to determine number of police officers who shall be employed and to fix amount of appropriations for police department and salaries of officers and employees, police civil service commission should determine which officer or employee should be discharged to reduce number to that provided for. Id.

Mayor and city council have power to determine whether position of night watchman should be established in the police department and determine his hours of employment and nature of his duties, but civil service commission has control over appointment. Id.

Adoption of police civil service commission did not affect duty placed by charter upon mayor to appoint head of police department, except that such appointment must be made from eligible list provided by commission. Op. Atty. Gen. (785-2), Oct. 26, 1937.

Number of police is to be determined by city council, but appointment thereof must be by civil service commission. Op. Atty. Gen. (785e-2), Mar. 18, 1938.

General powers of control and supervision, as well as power of determining number of employees, is still vested in mayor or city council according to city charter, and only provisions of city charter inconsistent with this act are superseded. Op. Atty. Gen. (785e-2), June 3, 1939.

1933-53. May make rules for police department.—The commission shall, immediately after its appointment and from time to time thereafter, make, amend, alter and change rules to promote efficiency in the police department service and to carry out the purposes of this chapter. The rules shall provide among other things for:

(a) The classification of all offices and employments in the police department.

(b) Public competitive examinations to test the relative fitness of applicants.

(c) Public advertisements of all examinations at least ten days in advance in a newspaper of general circulation in said city or village and posting said advertisement for ten days in the village or city hall and at each station house.

(d) The creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination. Such lists shall be embraced in an eligible register. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

(e) The rejection of candidates or eligibles who, after the entry of their names, shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any willful misrepresentation, deception or fraud in connection with their applications for employment.

(f) The certification of the name standing highest on the appropriate list to fill any vacancy.

(g) Temporary employment without examination, with the consent in each case of the commission, in cases of emergency but no such temporary employment shall continue more than 30 days nor shall successive temporary employments be permitted for the same position.

(h) Promotion based on competitive examination and upon records of efficiency, character, conduct, and seniority.

(i) Suspension with or without pay for not longer than 60 days and for leave of absence, with or without pay.

(j) Such other rules not inconsistent with the provisions of this act as may from time to time be found necessary to secure the purposes of this act.

Copies of such rules shall be kept posted in conspicuous place at each police station house and no rules of general application with reference to employment, promotion, discharge or suspension shall be effective until so posted. (Act Apr. 23, 1929, c. 299, §6.)

Mayor has no voice in matter of rules and regulations by commission. Op. Atty. Gen., (785e-2), July 14, 1939.

Civil service commission by a majority vote may at any time adopt a rule as to retirement aid though it affects a police officer who has been steadily employed since establishment of commission. Id.

(e). Civil service rule requiring chief of police to be resident of city is valid. Op. Atty. Gen. (785b-3), June 25, 1936.

1933-54. Officers discharged only after hearing.—No officer or employee after six months' continuous employment shall be removed or discharged except for cause upon written charges and after an opportunity to be heard in his own defense as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The finding and decision of such commission shall be forthwith certified to the chief or other appointed or superior officer, and will be forthwith enforced by such officer. Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when he deems such suspension advisable. (Act Apr. 23, 1929, c. 299, §7.)

Mestad v. C., 198M558, 270NW577; note under §1933-52. Police civil service commission had power of summary removal of police officers during first six months of its regime. *Saholt v. C.*, 185M510, 242NW4. See Dun. Dig. 6591.

Where city police civil service commission classified all police employees of city, and classification made is alleged to be erroneous, and in violation of soldiers' preference act, proper remedy is certiorari to review the classification made and not mandamus to compel a reclassification. *State v. Ernest*, 197M599, 268NW208. See Dun. Dig. 6560.

Police civil service commission could, at any time within six months after it was created, discharge an employe without cause even though such employe may have been employed by the department for more than six months prior to the creation of the commission. Op. Atty. Gen., May 23, 1931.

By enactment of §1933-63(a) legislature intended to take from commission power to summarily remove employees of police department employed at time of establishment of commission, and who have been so employed for six months or longer. Op. Atty. Gen. (785e-2), May 16, 1938.

A policeman passing examination and employed as an extra may be discharged by commission at any time unless he has actually been employed for one continuous period of six months, though he has been an extra policeman for several years. Op. Atty. Gen. (785d), July 6, 1938.

Police commission may reconsider order removing police officer, even though district court found removal order reasonable. Op. Atty. Gen. (785e-2), August 3, 1939.

1933-55. Commission to make rules and prescribe standards.—The commission shall ascertain the duties of each office, position and employment in the police protection service of such city or village, and designate by rule as well as may be practicable the grade of each office, employment or position. The commission shall prescribe standards of fitness and efficiency for each office, position, and employment and for each grade, and adapt its examination thereto. (Act Apr. 23, 1929, c. 299, §8.)

1933-56. Examinations.—All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for

positions of trust and responsibility shall be specially examined as to moral character, sobriety and integrity, and all applicants for position requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the chief of the police department and of every employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners. (Act Apr. 23, 1929, c. 299, §9.)

1933-57. Notice of examinations.—Notice of the time, place and scope of each examination shall be given by publication and posting as specified in Section 6 [§1933-53], and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examination, after giving credit for character and previous successful experience, shall be entered with their address and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application, and, if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made, the names selected shall be stricken from the eligible register and transferred to the service register. (Act Apr. 23, 1929, c. 299, §10.)

1933-58. Charges to be filed with Secretary of commission.—Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of his own motion, and thereupon the commission shall try the charges after no less than ten days' written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of said charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county in which such city or village is located. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the District Court, except that any officer, agent, or employee of said city or village who receives compensation for his services, shall not be entitled to fees or mileage. (Act Apr. 23, 1929, c. 299, §11.)

Charges of inefficiency and misconduct in office may not be filed by private citizens. Op. Atty. Gen. (785a), March 29, 1939.

1933-59. Suspension and removal—Reinstatement.—If, after investigation and trial by civil service commission as herein provided, an employee is found guilty of inefficiency, breach of duty, or misconduct, he may be removed, reduced, or suspended and his name may be stricken from the service register. If the board shall determine that the charges are not sustained, the accused, if he has been suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings and determinations hereunder and orders of suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the commission and it shall be the duty of the secretary

to notify such employee of said decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal from the order to the district court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employee of written notice of said order as above provided.

Within five days thereafter, the secretary shall certify to the clerk of the district court, the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed on the calendar by the clerk to be tried before the court without jury at the next general term thereof to be held in the county where said city or village is located at the place nearest said city or village. The question to be determined by the court shall be:

"Upon the evidence, was the order of the commission reasonable?" After trial in the district court an appeal may be taken from the decision thereof to the supreme court by the employee or the commission in the same manner as provided for other court cases. (Act. Apr. 23, 1929, c. 299, §12.)

1933-60. Certain acts a misdemeanor.—An applicant for examination, appointment or promotion in the police department service of said city or village who shall, either directly or indirectly, give, render or pay or promise to give, render, or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal. (Act Apr. 23, 1929, c. 299, §13.)

1933-61. Certain acts a misdemeanor.—Any officer or employee of the police department, when operating under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive or pay, or be in any manner concerned in soliciting, receiving or paying, any assessment, subscription or contribution for any party or political purpose, shall be guilty of a misdemeanor and shall be subject to suspension or removal. (Act Apr. 23, 1929, c. 299, §14.)

1933-62. Certain acts a misdemeanor.—Any person who shall solicit or receive directly or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution, or payment for any political purpose whatever from any officer or employee in a police department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 299, §15.)

1933-63. Commission to be vested with powers in certain cases.—Whenever any city or village has a civil service commission, the council may provide that such commission be vested with the powers and duties of the police civil service commission, as set forth herein. (Act Apr. 23, 1929, c. 299, §16.)

1933-63a. Officers to come under commission.—Any police officer regularly employed at the time of the creation of the civil service commission shall automatically come under the jurisdiction of the civil service commission. (Added to Act Apr. 23, 1929, c. 299 by Act Apr. 10, 1933, c. 197, §1.)

An employee of park board was not a police officer, though he had authority to arrest persons in park and carried a star. *McDougall v. B.*, 194M550, 261NW180. See *Dun. Dig.* 6558a.

By passage of this section legislature intended to take from commission power to summarily remove employees who were so employed at time of establishment of commission and who have been so employed for six months or longer. *Op. Atty. Gen.* (785e-2), May 16, 1938.

Only men regularly employed come within jurisdiction of commission, and men only employed temporarily while regular officers were on vacation or traffic was heavy were not "regularly employed". *Op. Atty. Gen.* (785e-2), June 3, 1939.

1933-63b. Discontinuance of commission.—Any police civil service commission hereafter created, pursuant to the provisions of this Act may be discontinued

and abolished as follows: A petition signed by 25 per cent of the number of legal voters voting at the last general municipal election shall be filed with the governing body of such city or village and shall request that the following question be submitted to the voters, to-wit: "Shall the police civil service commission be abolished?" (Added to Act Apr. 23, 1929, c. 299, by Act Apr. 10, 1933, c. 197, §1.)

A police civil service commission created prior to April 10, 1933, cannot be abolished either by city council or electors. *Op. Atty. Gen.* (785e-1), Dec. 31, 1934.

Adoption of resolution and appointment of police civil service commission on December 31, at a ballot meeting of old village board could not be rescinded at meeting of newly elected board, but there must be an election to determine the question of abolishment. *Op. Atty. Gen.* (785e-1), Mar. 19, 1935.

Police civil service commission created after April 10, 1933, can only be abolished by submitting proposition to vote of electors. *Op. Atty. Gen.* (785e-2), Apr. 26, 1935.

1933-63c. To be submitted to voters.—When such petition is filed, the governing body of such city or village shall cause said question to be submitted to the voters at the first following general municipal election.

Such commission shall be deemed to be abolished if two-thirds of the votes cast in said election be in favor of such abolishment; and the status of the police department and all of the employees thereof shall thereafter be deemed to be the same as if said commission had not been created. (Added to Act Apr. 23, 1929, c. 299, by Act Apr. 10, 1933, c. 197, §1.)

Notice of abolition of Police Civil Service Commission may be incorporated in notice of annual village election. *Op. Atty. Gen.* (785e-1), Nov. 13, 1935.

1933-63d. Application.—The provisions of this Act, with reference to the abolition of Civil Service Commission, shall not apply and shall have no force or effect, in any village or city in this state where a commission has already been created. (Added to Act Apr. 23, 1929, c. 299, by Act Apr. 10, 1933, c. 197, §1.)

Sec. 21 of Act Apr. 10, 1933, cited, repeals all inconsistent acts.

1933-63m. Civil service commissions continued.—Whenever a board or boards of civil service commissioners have been established for police or fire departments, under and pursuant to Chapter 57, Laws of 1929, and Chapter 299, Laws of 1929, and the acts amendatory thereof, in any village having a population of 5,000 inhabitants or more and having an assessed valuation of \$8,000,000.00 or more, exclusive of moneys or credits, such board or boards are hereby authorized and empowered to continue to act in carrying out the duties and terms of office, under and pursuant to such laws and adoption of said commission by the governing bodies of such villages, where such village or villages and adjacent territory, whether incorporated or unincorporated may now or hereafter become incorporated as a city of the second, third, or fourth class, or adopt the provision of a Home Rule Charter. (Act Mar. 8, 1933, c. 64, §1.)

Power to purchase fire truck and equipment is vested in city council and not in civil service commission. *Op. Atty. Gen.* (688c-1), Mar. 5, 1937.

1933-63n. Policeman and Fireman Civil service continued.—Any policeman's civil service commission or a fireman's civil service commission, which has been or which shall hereafter be duly established in the manner prescribed by law, by the governing body of any village coming within the classification as set forth in Section 1 of this act, shall continue uninterruptedly in the same manner as heretofore provided by said Chapter 57 of the Laws of 1929, and Chapter 299, Laws of 1929, and the acts amendatory thereof, when any such village adopts the provisions of a Home Rule Charter, or becomes incorporated as a city of the second, third, or fourth class. (Act Mar. 8, 1933, c. 64, §2.)

Sec. 3 of Act Mar. 8, 1933, cited, provides that the act shall take effect from its passage.

1933-64. Villages and townships may cooperate in support of cemeteries.—Where a village or township owns and maintains an established cemetery or burial ground, either within or without the municipal limits, said village or township may by mutual agreement with contiguous villages and townships each having an assessed valuation of not less than \$1,000,000.00, join together in the maintenance of such public cemetery or burial ground for the use of the inhabitants of each of such municipalities; and each such municipality is hereby authorized by action of its council or governing body to levy a tax or make an appropriation for the support and maintenance of such cemetery or burial ground, provided, the amount thus levied or appropriated by each municipality shall not exceed a total of \$1,000.00 in any one year. (Act Apr. 20, 1931, c. 262, §1.)

1933-65. Limit to appropriations.—Such appropriation by each municipality shall not exceed the per capita amount paid by any other municipality sharing therein, based on the populations of the respective units; provided, also, that any arrangement hereunder shall not alter the management, control or ownership of any cemetery. (Act Apr. 20, 1931, c. 262, §2.)

1933-66. Certain assessments to be paid in twenty installments.—Wherever any city of this state having a population of ten thousand or less, or any village or borough of this state, whether organized under a general law or a special law, shall heretofore have extended any existing sewer system or relayed, altered or extended any existing sewer system or established a general system of sewers or created sewer districts, or changed, diminished or enlarged the boundaries of such sewer districts, or established sewer treatment plants, under and pursuant to the provisions of Sections 1880 to 1906, inclusive, General Statutes of Minnesota for 1923, and acts amendatory thereof and supplemental thereto, and shall have heretofore issued warrants under and pursuant to said sections, as amended or supplemented, which warrants were used in making payments on contracts for any of the improvements hereinbefore referred to or were sold by the city, village or borough and the proceeds thereof used in paying for any of such improvements, and the Council of any such city, village or borough shall have heretofore under and pursuant to said sections, as amended or supplemented, adopted a resolution assessing each lot, piece or parcel or land benefited by any such improvement, which resolution provides among other things that such special assessment shall be payable in ten annual installments, and which resolution shall have heretofore been certified by the clerk or recorder of such city, village or borough and filed in his office, and either the whole or a part of said assessments and interest thereon have not been extended upon the tax roll and have not been carried into the tax against the property benefited by such improvement by the County Auditor of the County wherein such improvement is located, the Council of such city, village or borough may by resolution provide that the time of payment of not less than 75% of such unextended portion of said assessments against said real estate benefited by said improvement, shall be postponed, and such unextended portion of said assessments covered by such resolution shall become payable in twenty (20) annual installments; and that the first of said installments shall include any delinquent unextended interest; provided, however, that before any such resolution extending the time of payment of such unextended portion of said assessments shall have any force and effect, the owners of at least 75% of the outstanding warrants issued by said city, village or borough, to pay the cost of such improvement, shall consent in writing to such extension and manner of payment as set forth in such resolution, which said written

consent shall be filed with the Clerk of such city, village or borough.

Within twenty (20) days after the filing of the written consent of 75% or more of the owners of unpaid warrants to the extensions of time of payment of said unextended portion of said assessments, the Council of such city, village or borough shall, by resolution, direct the Clerk or Recorder of such village, city or borough, to make up and file in the office of the County Auditor, a certified statement covering unpaid portions of said assessments and interest which have not yet been extended by the Auditor and included in the tax roll of any year, and the amount of interest thereon which shall become due on the first day of January of the following year, in the amount which bears the same ratio to the total amount of unpaid and unextended assessments as the total amount of warrants owned by the persons consenting to such extension bears to the total amount of unpaid warrants; and the Clerk or Recorder of such village, city or borough shall, within twenty (20) days thereafter, make up and file such certified statement in the office of the County Auditor, which statement shall also contain a description of the real estate affected by the assessment.

A certified copy of such resolution shall also accompany such statement and upon filing said statement and a copy of said resolution with the County Auditor, it shall be the duty of the County Auditor, in accordance with said statement and resolution, to extend upon the tax roll each year, the amount of such assessment or installment thereof, as the case may be, and the amount of interest which shall become due on the first day of January of the following year, and the first installment so extended shall include any unextended delinquent interest, as shown by said certified statement, against the lots and parcels of land therein described, and such amounts, when so extended each year, shall be carried into the tax becoming due and payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of State and County taxes. The said installments of assessments and interest shall be paid over by the County Treasurer to the Treasurer of such city, village or borough in the manner provided by law for the collection and payment of the assessments as originally authorized.

Any amount of said unpaid and unextended assessments not included in said statement filed by the said clerk of any city, village or borough with the County Auditor and not included in such extension agreement with the holders of outstanding warrants shall be certified by the said city, village or borough to said County Auditor and extended by him upon the tax roll in the manner originally provided for the collection of said assessments.

The passage of such a resolution by the city, village or borough extending the time of payment of such warrants and the consent to such extension of time of payment by the owners of said warrants shall take the place of and have the effect of invalidating any resolutions theretofore passed for the collection of any unpaid installments of said assessments not yet extended and placed upon the tax roll against the property affected by said improvement, and shall also cure any irregularities in the proceedings of the council of said city, village or borough, or in the official acts of said council, or of the County Auditor, affecting the collection of said unextended portions of said assessments.

In the event the owners of 75% or more of outstanding warrants shall file their consent to the postponement of the payment of said assessments as provided in said resolution, the council of said city, village or borough may, by resolution, authorize the issuance of new warrants to such owners, payable out of the sewer fund, to conform to the terms of said resolution, which said new warrants may be ex-

changed for existing warrants held by said warrant-holders; but such new warrants shall not place any greater obligation upon or liability against said city, village or borough than existed under the original warrants; and there shall be printed or stamped upon the face of such new warrants the following language: "This warrant is issued in lieu of an original warrant of the same number, series and amount, and in no way increases, enlarges or extends the obligation of the municipality." (Act Apr. 1, 1933, c. 138.)

1933-67. Cities, etc., may indemnify police and fire department employees.—That all cities, villages and boroughs in this state are hereby authorized to indemnify employees of the police and fire departments thereof against loss or expense arising or resulting from claims for bodily injuries, death or property damage made upon any such employee by reason of his operation of a motor vehicle while in the performance of his duties, and to defend in the name and on behalf of such employee any suit brought against him to enforce a claim, whether groundless or not, arising out of the operation of a motor vehicle by him while in the performance of his duties, and to compromise and settle any such claim or suit and to pay the amount of such settlement or compromise, or the amount of any judgment rendered against him on any such claim, without first requiring such employee to pay same. (Act Apr. 5, 1937, c. 149, §1.)

1933-68. Municipalities may carry on city planning activities.—Any municipality in the state is hereby authorized to carry on city planning activities and adopt a plan for the regulation of the future physical development of the municipality and to prepare and adopt an official map of all proposed alteration of existing lands and public spaces, and the future development of unplatted properties, and shall have power to approve subdivisions as hereinafter provided and require such approval prior to the filing of an official plat thereof. The term "municipality" as used in this act shall include any city, village, township or borough however organized. (Apr. 19, 1937, c. 287, §1.)

1933-69. Same—Planning city developments.—Any municipality may by formal procedure make a study of future developments of the municipality, including proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds and other similar developments. Such plans may be incorporated in resolutions or ordinances, in reports of officers or agents of the municipality or may be shown on formal planning maps or by a use of these and other methods singly or in combination. (Apr. 19, 1937, c. 287, §2.)

1933-70. Same—May lay out streets.—The governing body of any municipality aforesaid may provide for the future laying out of streets outside of platted territory and extending across unplatted territory within the corporate limits of such municipality. When it is thus desired to extend or reserve any lands for streets or other public use which are not yet dedicated to public use by platting or otherwise, or to provide for the future widening and improvement of an existing street or highway, the council shall direct the engineer of the municipality or other competent person to prepare a map of such platted or unplatted district indicating the proposed future extension or widening of existing streets of the municipality within such existing platted and developed territory or across such unplatted territory upon such map.

After such map has been prepared and filed with the governing body of the municipality, it shall be adopted and published as the official map of that portion of the municipality and thereafter whenever any such existing street or highway is widened or improved, or any such new street is opened, or lands for other public purposes are acquired by action of the municipality, it shall not be required in such

proceedings to pay for any building or structure whatsoever constructed upon such mapped street, or situated outside of any building line that may have been established upon the existing street, or within any area thus reserved for public purposes, placed there after the adoption and publication of said map.

No such map shall be adopted, however, or have any effect until approved by resolution duly adopted by the governing body of said municipality after a public hearing held at least 10 days after a public notice thereof is given in a legal newspaper published in that municipality. The adoption of said map shall not give the municipality any right or interest in such unplatted streets or other reserved areas except the right to secure the streets or lands indicated by the usual methods, but without the payment of compensation for any such improvement constructed upon the bed of the mapped street thereafter or outside of the established building line or within the reserved areas as herein provided. (Apr. 19, 1937, c. 287, §3.)

1933-71. Same—To approve plats, etc.—The governing body of any municipality is authorized by resolution to approve all plats of land hereafter proposed within that municipality or within two miles of its limit in any direction, provided that where two or more municipalities have contiguous territory or are situated with their boundaries less than four miles apart, each shall have control of the platting of land equidistant from its boundaries within this two-mile radius. After the adoption of planning regulations established under a city plan adopted pursuant to the provisions of this act, approval may be denied if the proposed plat fails to conform to the said plan or with any reasonable regulation of the municipality applicable thereto. No plat shall be filed or accepted for filing unless it is accompanied by a certified copy of the resolution approving it or accepting it as being in accord and conformity with any plans or regulations as herein specified. A copy of this resolution shall be supplied to the applicant.

When a copy of any plat is filed with a municipality for approval, published notice shall be given of a public hearing to be held within 30 days thereafter, in a newspaper published in that municipality or in the county if there is no newspaper published in the municipality. At such hearing all persons interested therein may be heard and the council may thereafter approve or disapprove said plat. Such approval or disapproval shall be given not more than 60 days after the filing of any plat with a formal request for its approval. The grounds for any refusal to approve a plat shall be set forth in the proceedings of the council and reported to the person or persons applying for such approval. Plats after approval as provided herein may then be recorded as now provided by law. (Apr. 19, 1937, c. 287, §4.)

1933-72. Same—Plats must be checked.—Before the approval of a plat as herein provided it shall be checked as to measurements of all lots, streets, and public lands. All proposed streets on such plat shall conform to the street plan of the municipality as adopted and laid out in the abutting territory and extended upon any official map of the adjacent district as authorized under this act. In considering requirements for the location and width of streets, the municipality shall take into consideration the prospective character of the development and make any reasonable requirements therefor.

As a condition precedent to the approval of the plat of lands located within the corporate limits of the municipality, the governing body may prescribe requirements of the extent to which and the manner in which streets shall be graded and improved, and water, sewer, and other utility mains, piping, connections, or other facilities shall be installed. The governing body may provide that, in lieu of the completion of such work before the final approval of a plat, the governing body may accept a bond, in an amount

and with such surety and conditions satisfactory to it, providing for the securing to the municipality the actual construction and installation of such improvements and utilities within a period specified by the governing body and expressed in the bond; and the municipality is hereby granted the power to enforce such bonds by all appropriate legal and equitable remedies.

In appropriate plots of subdivisions to be developed for residential uses (where the plot or subdivision is acres or more in extent) the governing body of any municipality shall have the power to approve the same as herein provided, and may require that a portion of such land of sufficient size and character (and not less than per cent of the total in any case) be set aside and dedicated to the public for public use as parks and playgrounds. (Apr. 19, 1937, c. 287, §5.)

1933-73. Same—Public utilities must have permits.—No utility, municipal service or improvement shall be constructed on any street, highway, alley, or other public way until the said street, highway, alley, or other public way has been approved by being designated upon a plat duly approved and accepted or properly indicated upon an official map of the municipality as herein provided. No permit for the erection of any building shall be issued unless it shall be located upon a street or highway giving access thereto which has been duly approved and placed on the official map, and shall conform to the building line established upon a street of the municipality and as projected into this plat or to the lines therein established. (Apr. 19, 1937, c. 287, §6.)

1933-74. Same—Governing body may create and dissolve planning commission.—The governing body of any city or village may by ordinance or resolution create, and, by unanimous vote thereof dissolve a planning commission of resident citizens who may or may not be officials to be advisory to that body, which commission when established, shall have the power to carry on the duties conveyed to the municipality hereunder, under direction of the city or village council. The council shall also adopt such penalties as it deems advisable, and impose them upon the violation of any of the provisions of a municipal ordinance or resolution adopted pursuant hereto as a misdemeanor, and may enjoin any such proposed or attempted law violation. (Apr. 19, 1937, c. 287, §7.)

1933-75. Same—Application of Act.—The powers conveyed under this act shall be in addition to all powers now possessed by any municipality subject to the provisions of this act, but this act shall not apply to cities now or hereafter containing a population of 50,000 or more inhabitants. (Apr. 19, 1937, c. 287, §8.)

Sec. 9 of Act Apr. 19, 1937, cited, provides that the Act shall take effect from its passage.

1933-76. Bids for purchase of supplies.—Whenever any county, township, city, borough, village or school district in this state calls for bids for the purchase of any supplies or equipment, no bid submitted shall be accepted unless competitive bids have also been submitted. (Apr. 24, 1937, c. 416, §1.)

This act applies to city of South St. Paul. Op. Atty. Gen. (707b-2), July 9, 1938.

Term "supplies or equipment", does not refer to contract for construction or repair of sidewalks, sewers, watermains and similar improvements involving work and labor as well as material, but does apply where city purchases material and hires work done. *Id.*

Act does not apply when contract also includes work or labor. Op. Atty. Gen., (707a-1), July 12, 1938.

Where there was not only a purchase of equipment but an installation under a contract requiring a substantial amount of work and labor, contract was not governed by this section and if bids were advertised for properly, even though there was only one bid, it was lawful to accept it. Op. Atty. Gen. (707a-12), May 25, 1939.

Act does not of itself require calling for bids but speaks only to insure competitive bidding when a municipality is otherwise required to call for bids. Op. Atty. Gen. (707b-2), Sept. 14, 1939.

1933-77. Same—Bids shall not be exclusive.—Specifications for supplies and equipment shall not be so prepared as to exclude all but one type or kind but shall include competitive supplies and equipment. (Apr. 24, 1937, c. 416, §2.)

1933-78. Same—Application of act.—The provisions of this act shall not apply to non-competitive types and kinds of supplies and equipment. (Apr. 24, 1937, c. 416, §3.)

1933-79. Same—Violation a gross misdemeanor.—The violation of any of the provisions of this act shall be a gross misdemeanor. (Apr. 24, 1937, c. 416, §4.)

1933-81. Municipalities to furnish counsel to defend public officials.—On and after the passage of this act, every city, village, borough, township or county of this State employing sheriffs, police officers or peace officers shall be required to furnish competent legal counsel to defend any sheriff, deputy sheriff, police officer or peace officer employed by any such governmental subdivision in all actions brought against such officer to recover damages for alleged false arrest, when such alleged false arrest was made by such officer in good faith and in the performance of his official duties, and shall pay reasonable costs and expenses of defending such suit, including witness fees and counsel fees, notwithstanding any contrary provisions in the laws of this State or in the Charter of any such governmental subdivision. (Apr. 24, 1937, c. 442, §1.)

1933-82. Same—Cost and disbursements to be assigned to municipalities.—If, at the termination of such suit, judgment is rendered in favor of the defendant and against the plaintiff, such judgment for costs and disbursements shall be assigned to such governmental subdivision by such officer, and all moneys collected thereon shall be paid to such governmental subdivision. If judgment be rendered in such action against such officer, such governmental subdivision so employing such officer is hereby authorized to appropriate moneys from any funds available to pay such judgment, if, in the discretion of the governing body of such governmental subdivision, it seems fitting and proper to do so. (Apr. 24, 1937, c. 442, §2.)

Sec. 3 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

INCORPORATION ACT FOR CITIES

ACT OF 1870, AS AMENDED

There is no statute regarding depositaries which is applicable to the City of Marshall. Op. Atty. Gen., June 18, 1931.

ACT OF 1895, AS AMENDED

Laws 1895, c. 8.
Laws 1933, c. 181, §§255-3, 255-4, changing time for holding city elections in certain counties operating under this act, is unconstitutional. Op. Atty. Gen., Dec. 12, 1933.

Laws 1895, c. 8, §42.
Laws 1933, c. 181, held unconstitutional as not operating uniformly throughout state. *Hiler v. C.*, 189M618, 250NW579. See Dun. Dig. 1633.

Laws 1933, c. 181, being unconstitutional, election of officers of cities coming under this act is to be held in odd numbered years. Op. Atty. Gen. (86a-20), Sept. 29, 1934.

Laws 1895, c. 8, §51.
Lumber company whose local agent, receiving straight salary, is mayor of city, is not disqualified from selling materials to public contractor. Op. Atty. Gen. (90e-5), Jan. 10, 1939.

Laws 1895, c. 8, §53.
Neither members of board of equalization of Red Lake Falls nor assessor of the city are entitled to compensation, other than compensation received as councilmen and assessor. Op. Atty. Gen. (406c), Aug. 3, 1934.

Salary of city assessor of Red Lake Falls should be fixed by the city council as provided by this section. Op. Atty. Gen. (406c), Aug. 3, 1934.

Laws 1895, c. 8, §64.
The only powers of the police civil service commission are in connection with employment, promotion, discharge and suspension of police employees, and general powers of control and supervision remain with mayor. Op. Atty. Gen. (785-e), May 31, 1934.

Laws 1895, c. 8, §66.

Mayor has control over contingent fund set aside for use pursuant to §§66 and 149. Op. Atty. Gen., Oct. 5, 1933.

Mayor has no authority to spend money out of contingent fund for purposes not authorized by §§66 and 149. Op. Atty. Gen., Oct. 11, 1933.

Laws 1895, c. 8, §88.

Contracts may be entered into and indebtedness incurred only to amount of money in treasury in fund corresponding to indebtedness sufficient to pay or as there is a tax levy in actual process of collection sufficient to pay, but this does not apply to delinquent taxes. Op. Atty. Gen., May 23, 1933.

Laws 1895, c. 8, §109.

City council may acquire land outside corporate limits for an airport without submission of question to voters. Op. Atty. Gen. (59a-40), May 20, 1933.

Laws 1895, c. 8, §126.

Total bonded indebtedness of Thief River Falls must not exceed 10% of total value of taxable property, but bonds and certificates of indebtedness issued for purchase, construction, maintenance, enlargement and improvement of a water or light plant or local telephone exchange system are not included in arriving at limit. Op. Atty. Gen., May 23, 1933.

Warrants issued under §256, are not to be included in determining bond limit, and sinking funds payment of outstanding bonds may be deducted. Id.

Current indebtedness offset by current tax levy is not included within 10% indebtedness limit. Id.

Cities organized under this act are governed by this section and not by §1941, 1942, of Mason's Stats. of 1927, and city of Cloquet may issue sewage disposal bonds without vote of electors, if effect of issuance will not raise city's indebtedness above 5% of taxable property of city. Op. Atty. Gen. (59a-7), Oct. 10, 1935.

Laws 1895, c. 8, §132.

Cities organized under this act may purchase on earnings plan equipment for water and light plants without vote of people. Op. Atty. Gen., July 11, 1933.

Laws 1895, c. 8, §133.

City may erect a building or arena to be used as indoor skating rink and bathhouse, and issue bonds therefor. Op. Atty. Gen. (59b-11), Nov. 21, 1935.

City council of Red Lake Falls has authority to purchase land and erect a building to be used as a municipal liquor store without submitting matter to city electors. Op. Atty. Gen. (218p), Apr. 7, 1937.

Laws 1895, c. 8, §135.

Mason's Stat. 1927, §1799-1, et seq., does not apply to city of Cloquet with respect to construction of sewage disposal plant, but such city has authority to establish such a plant pursuant to Mason's Stat. 1927, §1880, et seq. Op. Atty. Gen. (387b-9), Aug. 7, 1935.

Laws 1895, c. 8, §142.

City of Cloquet cannot grant electric and power franchise without advertisement or bid. Op. Atty. Gen. (624c-6), July 15, 1936.

Laws 1895, c. 8, §146.

Mason's Stat., §10939-1, does not take precedence over provisions of this section. Op. Atty. Gen., Dec. 13, 1933.

This act is applicable to 5 cities. Id.

Laws 1895, c. 8, §149.

Op. Atty. Gen., Oct. 5, 1933; note under §66.

Op. Atty. Gen., Oct. 11, 1933; note under §66.

Laws 1895, c. 8, §186.

City of Cloquet may accept donation of a building to be used as a civic recreational center in connection with its park system. Op. Atty. Gen. (700d-16), Nov. 2, 1936.

Laws 1895, c. 8, §207.

Neither members of board of equalization of Red Lake Falls nor assessor of the city are entitled to compensation, other than compensation received as councilmen and assessor. Op. Atty. Gen. (406c), Aug. 3, 1934.

Laws 1895, c. 8, §256.

Warrants issued under this section are not included in determining bond limit under §126. Op. Atty. Gen., May 23, 1933.

Laws 1895, c. 8, §296.

City of Cloquet may consider an automobile a necessary expenditure for superintendent of poor, for which reimbursement may be had from county. Op. Atty. Gen. (339m), Mar. 31, 1936.

CHAPTER 10

Public Indebtedness

1934. Scope of chapter.

Utility bonds legalized. Laws 1939, c. 137.

Fourth class cities, villages or boroughs, located in counties having 350 to 400 sq. miles area, 13,500 to 15,000 population and \$5,000,000 to \$10,000,000 valuation, and an area of 225,000 to 230,000 acres, may levy 2 mills for municipal bond purposes. Laws 1939, c. 421.

Village may issue bonds to pay for power house and distributing system and enter into valid conditional sales contract for purchase of generating equipment to be paid for solely from remains of net profits after paying interest and bond installments. Williams v. V., 187 M161, 244NW558. See Dun. Dig. 6669b.

City treasurer cannot pay interest on orders previously presented for payment after there is money available for their payment, it being the duty of the holder to keep himself informed. Op. Atty. Gen., Mar. 28, 1932.

In absence of statute or charter provision, city order, presented for payment and not paid for want of funds, becomes payable as soon as there is money available, but such warrants should be paid in order of their presentation. Op. Atty. Gen., Mar. 28, 1932.

City may not legally enter into conditional sales contract for purchase of personal property. Op. Atty. Gen., June 3, 1932.

A village may not issue bonds to care for its poor. Op. Atty. Gen., Aug. 2, 1932.

City of Winona may use city hall sinking fund, which it has no present intention of immediately using, to meet unemployment crisis by lending it to general fund. Op. Atty. Gen., Aug. 17, 1932.

City of Little Falls under its charter may issue bonds without vote of electors. Op. Atty. Gen. (624d-1), Oct. 22, 1935.

Town board may not issue bonds to improve existing town roads. Op. Atty. Gen. (43b-4), Jan. 30, 1939.

Municipalities may purchase insurance from mutual companies provided there is a limitation upon liability of members and contingent liability is within maximum indebtedness of municipality. Op. Atty. Gen. (487c-1), August 23, 1939.

An outline of municipal bond procedure in Minnesota. 20 MinnLawRev 583.

1935. Net indebtedness defined.

174M509, 219NW872.

Finding of nonpayment of certain school district warrants sustained and considered decisive of case. 173M94, 216NW789.

Holder of warrants held entitled to recover from district though treasurer was managing officer of bank and

cashed the warrants with funds of bank and sold them as property of the bank. 175M166, 220NW428.

Purchaser of school warrants from bank was entitled to collect from district, where bank cashed warrants through its managing officer who was treasurer of school district and charged them to bills receivable and not to treasurer's account. 177M30, 224NW51.

Unaccrued rent is not a debt or present obligation of a city. Ambrozich v. C., 200M473, 274NW635. See Dun. Dig. 6579, 6701.

Public service contracts calling for payment in installments as services are rendered do not create an indebtedness against municipality until service is performed at which time installments fall due. Id.

Depository for county funds may deposit and assign county warrants as collateral security. Op. Atty. Gen., May 31, 1932.

Taxes levied and in process of collection cannot be deducted from the present indebtedness in determining debt limit of city. Op. Atty. Gen. (519c), May 26, 1936.

Obligation mentioned under subdivisions, 1, 3, 4, 5 of this section may be deducted in determining indebtedness of village under Laws 1885, c. 145, §22. Op. Atty. Gen. (59a-51), Nov. 20, 1936.

Power of village of Jeffers to issue certificates of indebtedness for purchase of fire apparatus and equipment is derived from Laws 1885, c. 145, and power of erecting a building to house the equipment is derived from §1942, but procedure for issuing certificates of indebtedness and bonds is restricted by general bonding statute, §§1938-3 to 1938-12. Op. Atty. Gen., (688c), June 27, 1938.

Drainage ditch bonds did not lose their character by reason of refunding. Op. Atty. Gen. (140f), June 10, 1939.

(2). Function of a permanent improvement revolving fund is to make fund immediately available to pay for improvements, but to be replenished by special assessments. Op. Atty. Gen. (44a-4), March 6, 1939.

1935-1. Exemption of Tax Anticipated Loans.—

Each city of the first class in the state is hereby authorized, in calculating net indebtedness, to deduct from the gross indebtedness thereof, in addition to deductions otherwise authorized by statute, the amount then outstanding of all loans in anticipation of the collection of general ad valorem taxes theretofore levied for city purposes, provided that the amount to be so deducted shall not exceed fifty per cent (50%) of such taxes which are then due and