

SPECIAL LAWS  
OF  
MINNESOTA.

PASSED AND APPROVED AT THE TWELFTH SESSION OF THE STATE LEGISLATURE, COMMENCING JANUARY FOURTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY, AND TERMINATING MARCH FOURTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY.

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*An Act to Incorporate the City of Duluth.*

March 5, 1870.

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## CHAPTER I.

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

SECTION 1. All the district of country in the county of St. Louis, and state of Minnesota, contained within the limits and boundaries hereinafter described, shall be a city by the name of Duluth, and the people now inhabiting, and those who shall hereafter inhabit within the district of country herein described, shall be a municipal corporation by the name of the city of Duluth, by that name shall 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; and 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 specially granted, and the authorities thereof shall have perpetual succession.

Corporate rights.

SEC. 2. The district of country aforesaid constituting the city of Duluth, and the limits and boundaries thereof, shall be as follows: All of sections number twenty-two, twenty-three, fractional section twenty-four, twenty-seven, thirty-three, thirty-four, and the east half of section twenty-eight, in town fifty, north of range fourteen west; all of section four, in town forty-nine, north of range fourteen west; and also all those tracts or parcels of land embraced in and heretofore constituting the towns of Rice's Point and Upper and Lower Duluth, platted and recorded as such, together with all that portion of the Bay of Superior within this state, and that portion of Lake Superior lying south of the corporate limits aforesaid, and within one mile of the shore line of Minnesota Point.

City boundary.

SEC. 3. The said city shall be divided into four wards called the first, second, third and fourth wards, limited and bounded as follows: All of the district of country south of the middle of Superior street and between the centre line of Third avenue east, and Fourth avenue west, if said avenues were extended in their present direction, shall be the first ward. All of the district of country north of the middle of Superior street and between the centre of Third avenue east, and Fourth avenue west, shall be the second ward. All the district of country and ter-

Names of wards—boundaries—may change the boundaries and increase number of wards.

ritory west of said first and second wards, shall be the third ward. ; All the district of country and territory east of said first and second wards, shall be the fourth ward. The common council of said city may change the boundaries of the several wards in said city, or increase the number of such wards, by ordinance, for that purpose, but no such change or increase shall be made within three months prior to the date of a general or charter election in said city, or a special election in a ward.

## CHAPTER II.

### ELECTIONS.

Annual election when held—manner of holding the election.

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.

Elective officers.

SEC. 2. The elective officers in said city shall be a mayor, treasurer, city comptroller and justice of the peace, for the city, who shall be styled city justice, all of which said officers shall be residents within and qualified voters of said city. Each ward shall elect annually one alderman, one justice of the peace and one constable, who shall hold their offices for two years, and who shall be residents in and qualified voters of the ward for which they may be elected, except that at the first election hereunder, there shall be elected in addition to the one alderman already prescribed, one other alderman, who shall hold his office for one year, and until his successor is elected and qualified.

Term of office of city treasurer and city justice.

SEC. 3. The city treasurer and city justice shall hold their respective offices for two years, and until their successors are elected and qualified, unless otherwise provided herein.

Officers may be removed—how.

SEC. 3. Every person appointed to any office by the common council, or elected to any office by the people, may be removed from such 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 first furnished with, or notified of the charges, nor until such person shall have had a reasonable

opportunity to be heard in his defence. The common council shall have power to fix a time and place for the trial of such officer, of which not less than ten days' notice shall be given, and to compel the attendance of witnesses and the production of papers, and to hear and determine the case; and if such officer shall neglect to appear and answer to such charge, the common council may declare the office vacant.

SEC. 4. Whenever a vacancy shall occur in any office, such vacancy shall be filled by the common council. The person 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 appointed to fill.

Vacancies, how filled.

SEC. 5. All elections of 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.

All elections by the people shall be by ballot.

SEC. 6. 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. All persons entitled to vote for state or county officers, and who reside 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 name 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 of St. Louis within the time and manner prescribed by law.

In case of a tie vote how decided—qualifications of electors.

SEC. 7. Any officer [removing] from the city or ward for which he was elected, or any officer who shall neglect or refuse, 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 vacancy as herein prescribed.

When office deemed vacant.

When term of  
office to begin.

SEC. 8. The term of every officer elected under this law shall commence on the second Tuesday of April, of the year of which he was elected, and shall, unless otherwise provided, continue for one year, and until his successor is elected and qualified.

When council  
may order new  
election.

SEC. 9. 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 of holding the election being first given.

### CHAPTER III.

#### CITY OFFICERS—THEIR POWERS AND DUTIES.

Officers to take  
oath and give  
bonds.

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 clerk of the city; and the treasurer, clerk, comptroller, street commissioner, assessor, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Duluth a bond, with at least two sureties, who shall make affidavit that they are each worth the penalty specified in said bonds, 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.

Duties of mayor.

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 all police officers and watchmen; 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 render it necessary. All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approves thereof he shall sign the same, and such as he shall not sign he shall return to the common council, with his objections thereto, by depositing the same with the city clerk to be presented to the common council at their next meeting thereafter. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered, and if, after such consideration, the common council shall pass the same by a vote of two-thirds, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and nays, which shall be entered by the city clerk of record. If any 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.

SEC. 3. 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 president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability, from any reason, 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 shall discharge the duties of such president, and act in his place. The president or temporary presiding officer, while presiding over the common council or performing the duties of mayor, shall be styled acting mayor, and acts performed by either when acting as mayor as aforesaid, shall have the same force and validity as if performed by the mayor.

Council to elect  
presiding officer  
—his duties.

SEC. 4. There shall be a clerk of said city styled the city clerk, who shall be elected by the common council, and hold his office at the city hall. 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 meetings it shall be his duty to attend. Copies of all papers filed in his office, and transcripts from the 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

Council to elect  
city clerk—duties  
of clerk.

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 clerk shall have power to administer oaths and affirmations, and take the acknowledgment of deeds and other writings.

Duties of city treasurer—to give bonds.

SEC. 5. The city treasurer shall receive all moneys belonging to said city, including all taxes, license money and fines, and other revenues of said city, and keep an accurate and detailed account thereof, in such manner as to show the exact financial condition of said city. He shall exhibit to the common council, at least fifteen days before the annual election, and as often as said common council or the finance committee thereof, may require, a full and detailed account of all receipts and expenditures since the date of his last annual report, or for any required period, and also the state of the city treasury, which annual account shall be filed with the city clerk, and published in the official paper of said city. He shall give such bond as the common council may require, and the same shall be conditioned for the faithful performance of all duties imposed by this act.

How chief of police appointed—his duties.

SEC. 6. There shall be a chief of police of said city, who shall be appointed by the mayor as other police officers, 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 they shall have power to pursue and arrest any person fleeing from justice in any part of this state, and when performing the duties of constable aforesaid, shall be entitled to like fees.

Council to elect city attorney—his duties—term of office.

SEC. 7. The common council shall have power to appoint 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. The city attorney shall hold his office for two years.

SEC. 8. The common council shall at their first meeting after the annual election or an adjournment thereof, elect by ballot a city comptroller, who shall hold his office for

two years, and whose duty it shall be to report to the common council, the financial condition of the city. He shall make a list of all outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they may respectively bear, and recommend such action to the common council as will secure the punctual payment of the principal and interest of such bonds.

Council to elect city comptroller—when—term of office—his duties.

SEC. 9. He shall report annually, on or about the first day of May, 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 organization of the new council.

To make report to council—what to contain—when to make report. ;

SEC. 10. 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 by any committee of the common council or by any city officer.

To make estimates of work to be done by the city.

SEC. 11. It shall be the duty of the comptroller to keep regular books of accounts, 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, or other evidences of indebtedness issued by the common council; the amount of all bonds, orders, &c., 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 an exact account thereof, stating to whom and for what purposes issued, and the amount thereof; to keep accounts with all the receiving and disbursing officers of the city, showing the amount which they have received from all the different sources of revenue, and the amount which they have disbursed under the direction of the common council.

To keep books of accounts in which shall be entered all the indebtedness of the city.

SEC. 12. If on or before the first day of January of any year, the amount expended or to be expended, chargeable to any of the special funds (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 at once report the same to the common council; and he shall not countersign any contracts 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

To make report to council—when—what to contain

the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable.

May examine books, Sec., of treasurer.

SEC. 13. He shall examine the reports, books, papers, vouchers and the accounts of the treasurer, and from time [to time] shall perform such other duties as the common council may direct.

To assist the treasurer in carrying out the provisions of this act.

SEC. 14. He shall at all times have access to the said reports, books, papers, vouchers and accounts, and shall assist the treasurer in carrying out the provisions of chapter [ ] of this act; all claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the comptroller, and all orders on the treasurer shall be examined and countersigned by him before they are delivered to the city clerk.

To keep open books—interested in no contracts—to give bonds.

SEC. 15. The comptroller 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 records shall be open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city is a party. He shall give such bond as the common council may require, and the same shall be conditioned for the faithful performance of all the duties required of such comptroller.

When council to elect engineer—to prescribe his duties and fix compensation.

SEC. 16. The common council may at their first meeting after the annual election or an adjournment thereof elect by ballot a city engineer, who shall hold his office for two years. He shall keep his office at some convenient place in said city, and the common council shall prescribe his duties and fix the fees and compensation of any service performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of the said city, and shall be carefully preserved in the office of the surveyor, opened to the inspection of parties interested, and the same, together with all 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.

Council to select official paper.

SEC. 17. The common council, at their first meeting in each year, or as soon thereafter as may be, shall designate one newspaper printed in said city, in which shall be published all ordinances, and other proceedings and matters required by this act, or by-laws or ordinances of the common council, to be published in a public newspaper. *Provided*, That the common council may order

the publication of ordinances, advertisements, proceedings or such resolutions as may be of general importance, in such other newspapers as they may direct.

SEC. 18. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution, and no account for the publication of such notice, ordinance or resolution shall be allowed or adjusted by the comptroller, without the certificate of the city clerk that such proof of publication has been made and filed.

What shall be evidence of publication, &c.

SEC. 19. If any person, having been an officer in 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 refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Penalty for refusing to deliver property, &c., to successor.

SEC. 20. No alderman shall be a party to or interested in any job or contract with the city, and any contract in which any alderman may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and the alderman interested in the same.

Aldermen not to be interested in contracts with the city.

SEC. 21. The mayor or acting mayor, sheriff of St. Louis county, coroner, and each alderman, all justices of the peace, police officers and watchmen, shall be officers of the peace, and may command the peace, suppress in a summary manner, all rioting and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all bystanders; and if need be, of all citizens and military companies; and if any person, bystander, military officer or private, shall refuse to aid in maintaining the peace when so required, every such 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

Who deemed to be officers of the peace.

senior officer present in the order mentioned in this section shall direct the proceedings.

When council to elect street commissioner—term of office—duties—compensation—when to make report.

SEC. 22. The common council shall at their first meeting after the annual election, or an adjournment thereof, elect a street commissioner for said city, 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 render his personal services and perform labor in repairing the streets of said city, and to superintend all local improvements throughout the said city under the direction of the common council and committee on streets in relation thereto, and perform such other duties as may be prescribed by ordinance or ordered by resolution of the common council. Said street commissioner shall receive a compensation, to be fixed by the common council, and shall keep accurate accounts of all expenditures incurred in the discharge of his duties, and render monthly accounts thereof to the common council, or oftener if required.

Duties of assessor—term of office—qualifications—office can be declared vacant—compensation—books, &c., to be delivered to said assessor.

SEC. 23. The common council shall at their first meeting after the annual election, or an adjournment thereof, elect a city assessor, who shall hold his office for two years, and until his successor is elected and qualified. The assessor shall be a resident freeholder and elector of said city, and shall perform all the duties required by law of assessors of property for the purposes of taxation for state, county, city or other purposes within the city of Duluth. Said assessor shall hold his office for two years from the time of his election, and until his successor is elected and qualified, and shall file a bond with the county auditor of St. Louis county, for the sum of five thousand dollars, and shall take an oath of office in the manner and within the time prescribed for assessors under the general laws of the state. In case of his failure to qualify according to law, or in case of his death, resignation, removal, or other cause disqualifying him from performing the duties of his office, his office shall be declared vacant, and another assessor elected by the council, to act in his place. His compensation shall be fixed by the council and paid like the salaries of other officers. The books, abstracts, maps, blanks, and other papers required by law to be delivered by county auditors to assessors, shall be delivered to such assessor by the fifteenth day of January, and he shall immediately thereafter enter upon the duties of his office.

Said city assessor shall make a separate roll or return for each ward of said city, contained in a book or books to be furnished him by the county auditor, and shall return the same to the county auditor, in the manner prescribed by the general laws of the state, and on or before the first day of September of each year, and said returns and assessments shall be subject to the revision and correction of the county board of equalization, and of the county auditor of St. Louis county, in the manner and in the cases prescribed by the general laws of this state regulating the assessment of property. *Provided, however,* That no correction, revision or alteration of the assessment contained in such return shall be made by such county board of equalization, except as provided in chapter five of this act.

SEC. 24. The city justice for the city shall possess all the authority, powers and rights of a justice of the peace of the county of St. Louis, under the laws of this state, and shall have in addition thereto, sole exclusive jurisdiction to hear all complaints, and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace; but warrants returnable before said justice may be issued, in criminal cases, by any other justice in the city, but no fee shall be received therefor by said justice. The said justice shall have the exclusive jurisdiction in all cases cognizable before a justice of the peace in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation of the said city of Duluth or its charter, or for the breach or violation of any such by-law, ordinance or regulation, and in all cases of offences committed against the same. All prosecutions for assaults, batteries and affrays not indictable, and for a breach or violation of any such by-law, ordinance or regulation, shall be commenced in the name of the city of Duluth, and the same proceedings shall be had in all civil and criminal suits before said justice, where not otherwise herein directed, as are established and required to be had in civil and criminal actions, by the laws of this state before a justice of the peace. *Provided,* That in cases of prosecution for a breach or violation of an ordinance, by-law or regulation of said city or its charter, or for an assault, battery, or breach of the peace, or affray not indictable, committed within the city limits no appeal

Duties of city justice—when no appeal allowed—mayor to fill vacancy.

shall be allowed where the judgment or fine imposed, exclusive of costs, is less than twenty-five dollars. In all cases of convictions for assaults, batteries and affrays within said city, and in all cases of conviction under any ordinance of said city, for breach of the peace, disorderly conduct, keeping houses of ill-fame, or of frequenting the same, and of keeping or maintaining disorderly and ill-governed houses, the said justice shall have power, in addition to the fine or penalty imposed, to compel such offenders to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars. The said justice shall have the same power and authority in case of contempt as a court of record. *Provided*, That nothing herein contained shall be deemed to divest the district judges of their authority as conservators of the public peace, the district courts or supreme court of this state. In case of the absence, sickness or inability of such justice, or for any sufficient reason, the mayor, by warrant, may authorize any other justice of the peace within said city to perform the duties of said justice of the peace for the city; and it shall thereupon be the duty of the mayor to inform the city attorney and chief of police of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment, or appoint some other justice of the peace; and the justice of the peace so appointed shall, for the time being, possess all the authority, powers and rights of said city justice. All fines and penalties imposed by the city justice for offences committed within the city limits, or for violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city.

To make report  
—what to contain  
—fees.

SEC. 25. The city justice shall, as often as the common council may require, report to the common council all the proceedings instituted before him 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 by him belonging to said city; and said justice shall be entitled to receive from the county of St. Louis such fees in criminal cases as are allowed to other justices in the county for similar services.

SEC. 26. 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 in-

consistent 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 herein 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, except as provided in this act. The common council shall also have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act; such compensation shall be fixed by resolution, at the time the office is created or at the commencement of the year, and shall not be increased or diminished during such year.

Further powers  
of council.

## 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 Duluth 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.

Style of ordinance—when and where to meet—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 judge of the election and qualification of its own members, and [in] such case 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.

Stated meetings—special meetings how called—qualifications.

SEC. 3. The common council shall have the management and control of the finances, (subject to the provisions of this act) 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, rules and by-laws 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 the power to establish and maintain a city prison and watch-houses, for the

Council to control finances—further powers.

imprisonment, custody, and safe keeping of all persons arrested for or charged with any offence whatever, in any way cognizable before the city justice; to make all rules and regulations for the government and management of such prison and watch-houses, to appoint keepers and other officers for the same, and prescribe their duties and fix their compensation; the keepers of said prison and watch-houses shall have and possess all the powers and authority of jailors at the common law or by the laws of this state. 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 of the provisions of any ordinance, rule or by-law passed and ordained by them; and all such ordinances, rules and by-laws are hereby declared to be and have the 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 ordinances, resolutions or by-laws—

Powers of council.

First.—To license and regulate the exhibition of common showmen, and shows of all kinds, and the exhibition of caravans, circuses, concerts and theatrical performances, and also to license and regulate all auctioneers, billiard tables, pigeon hole tables, nine or ten-pin alleys, bowling saloons, butcher shops and butcher stalls, and venders of butchers' meat, pawnbrokers, insurance offices and insurance agencies, taverns, lager beer saloons, victualing houses, and all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors. *Provided*, That this act shall not be so construed as to prevent pork-packers from disposing of offal or trimmings of hogs, nor shall any person selling game, or who may dispose of any animals raised or fattened by him, or whom may sell fresh meats by the carcass or quantities not less than by the quarter, be deemed or held to be a vender of fresh or butchers' meats under the provisions of this act; and also to license and regulate the selling or contracting for the sale of any goods, wares or merchandise by samples, when such goods, wares or merchandise are thereafter to be sent or delivered to the purchaser. *And provided further*, That not less than five dollars, nor more than five hundred dollars shall be required to be paid for any license under this act, and the fee for issuing the same shall not exceed one dollar; and said common council may at any time revoke any license granted under this act for malconduct

in the course of trade, and may regulate or restrain the sale of fresh or butchers' meat within the corporate limits of said city, and punish or restrain the forestalling of poultry, game, eggs or fruit within said city.

Second.—To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice, or other games of chance, for the purpose of gaming, in said city, and to restrain any person from vending, giving, or dealing in spirituous, fermented, or vinous liquors, unless duly licensed by the city council.

Third.—To prevent any riots, noise, disturbance and disorderly assemblages in said city, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same; to suppress disorderly houses or groceries, and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments used for the purpose of gaming. Powers of comm. cil.

Fourth.—To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer, or unwholesome, nauseous house 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, distilleries and pawn-brokers, 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, lanes, alleys, public grounds or wharves, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, or any other materials or substances whatever.

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

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 ordinan-

ces. *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, and to authorize the destruction of 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 other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance; or putrid or unsound beef, pork, fish, hides or skins of any kind; and on default to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Powers of coun-  
cli.

Eleventh.—To make and establish public pounds, pumps, wells, cisterns, hydrants and reservoirs, and to provide for and conduct water into and through said city, and into and through its streets, avenues, alleys, and public grounds, and to provide for and control the erection of waterworks for the supply of water to its inhabitants; to regulate, and at a reasonable rate to license hacks, carts, omnibuses, trucks, wagons, and other vehicles engaged in hauling or carrying for hire, and the charges of the drivers of such vehicles; to regulate, and at a reasonable rate to license second-hand stores and junk shops, and to erect lamps and to provide for lighting the city, and to control the erection of gas-works, or other works for lighting the city, streets, public grounds and public buildings, and to create, alter and extend lamp districts.

Twelfth.—To establish and regulate boards of health, provide hospitals and hospital grounds, the registration of births and deaths and the returns of the bills of mortality, and regulate or prevent the burial of the dead within the city limits.

Thirteenth.—To regulate the assize 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 ox, mule, cattle, or other animal on the sidewalks or other public grounds or property in said city, or in way doing any damage to such sidewalks, grounds or property.

Fifteenth.—To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying any citizen thereof.

Sixteenth.—To prevent open or notorious drunkenness and obscenity in the streets or public places of said city, and to provide for the arrest and punishment of all persons who shall be guilty of the same.

Seventeenth.—To restrain and regulate porters; and also runners, agents and solicitors for boats, vessels, stages, cars, 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. Powers of council.

Nineteenth.—To provide for the receipt, storage, transportation, safe keeping, and dealing and traffic in gunpowder, gun-cotton, petroleum, kerosene or other dangerous explosive or inflammable oils or substances within said city, or within one mile of the corporate limits thereof, and to provide for the summary condemnation or destruction of any of said articles as may be kept, stored, dealt in, transported through or received in said city, contrary to such ordinances as said city may enact for the safety of life and property therein.

Twentieth.—To regulate the place and manner of weighing hay and selling the same, and the measuring and selling of firewood, coal 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 of the city, at the expense of such owner or occupant.

Twenty-second.—To construct or authorize any individual or corporation to construct cauals connecting Lake Superior with Superior Bay, docks, piers or wharves in the lake harbor, or bay of Superior, within said city, and to have a general supervision over the same, so as to se-

cure uniformity of construction and the freedom of navigation. *Provided, however,* That no wharfage duties or tolls shall be allowed or chargeable to any boat, vessel or craft landing at any dock, pier or wharf within said city.

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

Twenty-fourth.—To regulate time, manner and place of holding public auction or vendues.

Powers of coun-  
cil.

Twenty-fifth.—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 sixth.—To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and to require all weights and measures to be sealed by the city sealer, and to provide punishment for the use of false weights and measures.

Twenty-seventh.—To regulate the inspection of flour, pork, beef, fish, salt, whisky and other liquors and provisions.

Twenty-eighth.—To regulate the measurement and inspection of lumber, shingles, timber, and building materials.

Twenty-ninth.—To appoint inspectors, weighers and gaugers; to regulate their duties and prescribe their compensation.

Thirtieth.—To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Thirty-first.—To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the city.

Thirty-second.—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.

Thirty-third.—To do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease, and make regulations and to prevent the introduction of contagious diseases into the city; and to make quarantine laws, and enforce the same within the city limits. The jurisdiction of said city shall extend to and be in force over any lands within the county of St. Louis, purchased or used by said city for the purposes of a quarantine, for police and sanitary regulations; and for the preservation of the health of said city, and the suppression of disease and abatement of public nuisances, and the suppression of any business contrary to the sanitary regulations of the common council or board of health, the jurisdiction of said city shall extend into Lake Superior and the Bay of Superior as aforesaid. Powers of council.

Thirty-fourth.—To restrain and punish vagrants, mendicants, street-beggars and prostitutes.

Thirty-fifth.—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 and 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 not exceeding six months, and in a sum not exceeding five hundred dollars.

Thirty-six.—The common council of said city may provide by ordinance that any one convicted of an offence before the city justice, subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established by said city for that purpose, or in case of a male offender, may be kept at hard labor during his term of imprisonment, in such workhouse or upon the public streets and improvements of said city, or both; and may also provide

by ordinance that any one convicted of an offence before the city justice as aforesaid, and committed upon non-payment of a fine imposed, may be kept at hard labor in any workhouse of said city as aforesaid, or in case of a male offender, may be kept at hard labor either in such workhouse, or upon the public streets and improvements, or both, until such person shall work out the amount of such fine at such rate of compensation as said common council may prescribe, for a time not exceeding the term of such commitment; and the common council shall have full power to establish by ordinance all needful regulations for the security of such prisoners thus employed, and to prevent escape and ensure proper discipline, and shall have power to establish a suitable workhouse in said city for the purpose aforesaid, and under such regulations as the said common council may provide; *Provided*, That the common council aforesaid shall be and is hereby authorized to use the jail of St. Louis county as the workhouse of the city of Duluth, provided for in this act, the prisoners of the city to be as at present in the custody of the sheriff of St. Louis county, except when employed upon the public streets and improvements of said city.

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 before the same shall be in force, and shall be admitted as evidence in any court of the state, without further proof; and they shall be recorded by the city clerk in books to be provided for that purpose. No appropriation shall be made without a vote of the majority of the members elect of the common council in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

SEC. 5. The powers 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 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

Ordinances how  
passed—when  
used as evidence.

Nuisances.

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 clerk, treasurer, street commissioner, city justice, wharfmaster and 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 term 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 said 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 order 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 adjustments.

Council to adjust all accounts.

## CHAPTER V.

### FINANCES AND TAXATION.

SEC. 1. The common council shall have power to levy upon all property, real and personal, within the city, except such as may be exempt by the laws of this state, taxes for the support of the city government and payment of its debts and liabilities, and the same shall be assessed in the manner provided by law. The said common council may levy an annual tax upon all property in said city taxable under the laws of this state, to and for the specific purposes following; *Provided*, That nothing herein contained shall prevent the assessment, levy and collection of special taxes as provided by chapter seven of this act upon any and all real estate within said city, notwithstanding the same may have been heretofore exempt from taxation under the laws of this state.

Taxes levied for support of city government.

First.—To provide a general fund for the purchase of

ground and erecting and repairing buildings for city purposes and to pay the general current and incidental expenses of the city, including salaries of officers, police, street force, fire department, lighting the city, printing and stationery, and for a contingent fund not exceeding ten thousand dollars, and to provide for the preservation of the health of the city; but the amount of money to be raised for the above purposes shall only be so much as will be necessary, in addition to amount received from licenses, fines, bridge tolls, wharfage, markets, and other incidental sources, for an economical administration of the affairs of the city, and shall not exceed five mills on the dollar of the assessed value of the taxable property of the city; and the money so raised shall not be expended for any other purpose than above stated.

Second.—To provide a street improvement fund for the opening and improving of streets, the construction of sidewalks, sewers and other improvements of a public character, there may be levied annually a tax not exceeding five mills on the assessed value of the property of the city.

SEC. 2. The said levy shall be made by said common council on or before the first day of October of each year, and the same shall be entered upon the tax duplicates for the county of St. Louis, and collected annually in like manner as state and county taxes are collected. *Provided*, That the said city taxes shall be due and payable on the first day of January of each year, and no general law of the state extending the time for the payment of such taxes, or remitting costs or penalties for non-payment thereof, shall apply to the said city taxes, (except school taxes), unless the said law shall specially name the same; *And provided further*, That the board of equalization for said county of St. Louis shall not have power or authority to abate, alter or amend the city assessment of real and personal property as returned by the city assessor, nor shall the board of county commissioners of St. Louis county have power or authority to extend the time for the payment of city taxes, or to remit any costs or penalties for non-payment thereof, without first reporting the same for the action and approval of said common council, who may approve, disapprove, or modify the action of said board of equalization, or of said board of county commissioners. *Provided*, That such disapproval or modification shall be made within twenty days after the same is proposed and submitted to said common council.

When taxes to  
be due.

SEC. 3. The county treasurer of the county of St. Louis shall pay over to the city treasurer for said city, all taxes by him collected belonging to said city, on the first Monday of each month next after such collections are made. And thereafter, whenever the said county treasurer shall pay over to said city treasurer, any taxes belonging to said city, and collected under the levy provided for by said section four, he shall credit each of the said respective funds with its proportionate amount of such payment according to the tax levy for such separate fund, and the same shall remain so credited, and shall not be paid out by said treasurer except in payment of such fund for which said funds shall have been levied and collected. And no ordinance, resolution or order of said common council, or any committee thereof, or officer of said city, shall warrant or authorize the said treasurer to divert any of said separate funds from the legitimate purposes for which the same were collected and credited as aforesaid, or to borrow or transfer any balance or portion of one of said funds to the credit of the other.

When taxes to be paid to the city treasurer.

SEC. 4. All funds in the city treasury shall be under the control of the common council, and shall be paid out upon the order of the mayor and clerk, countersigned by the comptroller, duly authorized by a vote of the common council. Moneys out of the street improvement fund shall only be drawn out upon orders drawn upon such fund by virtue of a resolution of the common council. All orders shall be payable to the order of the person in whose favor they may be drawn, and they may be transferred by endorsement.

Council to control all funds—how orders may be transferred.

SEC. 5. That in order to meet the liability of said city to the Lake Superior & Mississippi Railroad Company, for moneys expended and to be expended by said company, under an agreement with the citizens of Duluth in the construction of a breakwater, and in the improvement of the lake and bay harbors of said city, the common council shall have power and it is authorized and required whenever said expenditure for the purpose aforesaid shall have been made by said company to the amount of fifty thousand dollars, to issue and deliver to said railroad company the bonds of said city of the denomination of five hundred dollars each, payable to said company or bearer, at some designated agency in the city of New York, the principal of said bonds to become due and payable in twenty years from date thereof, with interest coupons, interest at the

May issue bonds—for what purpose—where and how paid.

rate of seven per cent. per annum, payable semi-annually in the city of New York, as aforesaid. That the faith of said city stand pledged for the punctual payment of the semi-annual interest and principal aforesaid. That it shall be the duty of the common council, upon the issuance of said bonds, to cause a tax to be levied and collected annually thereafter, to an amount sufficient to meet the interest and provide a sinking fund for the ultimate payment of the principal of said bonds.

How liabilities to be met.

SEC. 6. That in order to meet the liabilities of the city, and extinguish or fund its indebtedness, the common council may from time to time issue and dispose of its bonds payable to bearer, to an amount not exceeding in the aggregate fifty thousand dollars, such bonds to be of such amount and denomination each, as the common council may deem best, to be payable in the city of New York, at an agency of said city, to bear interest at the rate of seven per cent. per annum, with interest coupons attached. interest payable semi-annually, and the principal of said bonds at such time after the date thereof, not exceeding fifteen years, as said common council may determine. The faith of the city is irrevocably pledged to the payment of the interest and principal of said bonds; and to secure the same, a tax shall be levied and collected annually after such issue for said purpose.

## CHAPTER VI.

### OPENING AND VACATING STREETS, ALLEYS, ETC.

Council to control highways.

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.

Council to lay out, open and vacate streets—how private property may be taken.

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 commissioner shall be notified as soon as practicable by the city clerk of said city, to attend at his office, at a time 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.

How private property may be taken.

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 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.

How private property may be taken.

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 St. Louis county, in the same manner as moneys are paid into court until the parties entitled thereto shall substantiate their claim to the same.

How private property may be taken.

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 proscribed, 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 tene-

ments, affected by any proceeding under this act, shall be an infant, or labor under legal disability, the judge of the district court of St. Louis 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 of St. Louis, within twenty days from the time of the 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 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 peace in civil suits.

Survey and profile to be filed—where.

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 of St. Louis.

When streets, &c., may be vacated.

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 proceed-

ed 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 the 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 a 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 of St. Louis.

SEC. 5. Any person aggrieved thereby, may within twenty days after the publication thereof, appeal to the district court of St. Louis county, under the same regulations as in the case of opening streets and alleys, and the judgment of the court shall be final.

Appeals may be made to the district court.

SEC. 6. It shall be the duty of the city 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.

## STREET IMPROVEMENTS.

Council to contract for grading and cleaning streets.

SECTION 1. The common council of said city shall have power to order and contract for the making, grading, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters and sewers within said city, and to direct and control the means employed therein; and all such improvements shall be superintended by the street commissioner of the city.

Duty of street commissioner.

SEC. 2. Whenever the common council shall deem it necessary to construct or repair any sidewalk within the city, they shall require the street commissioner to notify the owner or occupant of any lot adjoining such sidewalk to make or repair the same at his own proper cost and charge, by publication in the official paper once each week for three successive weeks. If such work is not done in the manner and within the time prescribed, the common council shall order the same to be done at the expense of the lots adjoining such sidewalks, and the expense thereof shall be assessed and be a lien upon such lots so chargeable by the street commissioner and returned to the common council and collected in the same manner and under the same regulations as assessments for street improvements, and shall bear a like rate of interest after confirmation. *Provided also*, That the portions of Union street and Lake avenue south of Superior street as surveyed and platted for the Western Land Association of Minnesota, by Frank B. Smith, engineer, shall be deemed public streets and may be graded and improved as such, as provided in this chapter.

Expense of surveying and grading streets, &c., how paid.

SEC. 3. The cost and expense of surveying streets, avenues, alleys, sidewalks, sewers, and estimating work thereon, and of repairing and cleansing streets, avenues and alleys, and of constructing and repairing reservoirs and sewers, shall be chargeable to and payable out of the street improvement fund; graveling, grading, planking, macadamizing or paving streets, avenues and alleys to the center thereof, shall be chargeable and payable by the lots fronting on such street, avenue or alley within the line of improvement so far as the work extends; and the whole expense thereof shall be assessed upon such lots in proportion to their fronts thereon. Sewers and drains communicating with main sewers or drains, may [be] built

by order of the common council, through any street, avenue or alley for the purpose of draining the lots fronting such street, avenue or alley, and in such case the expense thereof may be assessed upon the lots so drained and benefited and being within the line of improvement.

SEC. 4. The common council shall cause to be established, under the direction of the engineer, the grade of all streets, sidewalks and alleys, in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of St. Louis county; and should the grade so established be at any time thereafter altered, all damages, costs and charges arising therefrom shall be paid by the city to the owner of any lot, or parcel of land, or tenement, which may be affected or injured in consequence of the alteration of such grade; *Provided*, That in case a change of an established grade shall be ordered by the common council, notice of such order shall be published in the official paper of the city, and any property holder feeling himself aggrieved by such order may, within twenty days after the publication of such order, appeal therefrom to the district court of St. Louis county, in the manner provided for appeals in section two of chapter six of this act. On the trial of such appeal such court shall have full power to determine the necessity or expediency of such proposed change of grade, and all other questions involved in such appeal; and such order of the common council shall not take effect until twenty days from its publication as aforesaid, nor pending such appeal; also the common council shall at as early a time as practicable, direct the city engineer to report a plan for a system of sewerage for said city. When said profile shall be so reported, the said common council may appoint a board of engineers, not exceeding three, or may take such other course for a thorough examination of said profile and plan as they may deem best; and may adopt such amendments or modifications of said profile as they may be advised will be necessary or proper, and may thereupon refer the said profile and plan to said engineer to amend the same according to such amendments and modifications; or they may reject the said plan and profile, and appoint another engineer to prepare the same, if such new appointment shall be deemed best for the interest of said city. When the said plan and profile shall have been perfected to the satisfaction of said common council, they may by resolution adopt and establish the

Street grades—  
profiles to be filed  
—engineer to re-  
port system of  
sewerage—when  
plan for sewerage  
may be adopted  
—how changed.

same, a certified copy of which resolution shall be recorded by the city clerk upon the plan and profile so adopted. The said plan and profile shall be filed in the office of said city clerk, and a certified copy thereof shall be filed in the office of the register of deeds for St. Louis county, for record; by the said engineer, and said copy, when recorded in said register's office, shall be filed in the office of the city engineer for said city of Duluth. The said original, copy, or record thereof, shall be competent evidence of the adoption of said profile. The said plan and profile so established, shall not thereafter be vacated, altered or modified, (except for the purpose of extending the same, as the necessities of said city may require), except upon a resolution passed by a two-thirds vote of all the members of said common council; and the same shall not be made without notice, and with like liability for damages occasioned by such change or alteration, and with the same right of appeal, as in the case of alteration of street grades; *Provided, That a change of street grade under said charter, shall include said change in said plan for sewerage, as may be necessary to make the same conform to such new street grades.*

SEC. 5. Whenever a majority of the owners of lots or parcels of ground abutting upon any street, avenue or alley desire such street, avenue or alley to be graded, and paved, or any part of said street, avenue or alley to be graded or improved at the expense of the lots or parcels of ground abutting upon such street, avenue or alley, or the part of such street, avenue or alley, a petition in writing denominating such street, avenue or alley so desired to be graded, paved or improved, shall be presented to the common council signed by a majority of the owners of the property upon such street, avenue or alley, or of the part thereof so desired to be improved, and upon presentation of any such petition, it shall be the duty of the common council to pass a resolution requiring the street commissioner, with the assistance of the city engineer, to examine the premises described in the petition, and to report the grade thereof, if any, and an estimate of the whole expense of the proposed improvement, together with a list or statement of the lots chargeable with such expense, and the owners names, if known, and the proportions of the expense, in their judgment, chargeable upon each lot. Upon the presentation of such report, the common council if satisfied that such petition has been

When contract for grading streets, &c., may be given to lowest bidder—expenses how paid.

signed by a majority of the property owners, as in this chapter provided, shall adopt a resolution declaring that such improvement shall be made, and authorize and require the street commissioner to cause notice to be given in the official paper of the city for at least three consecutive weeks, that written proposals will be received by him at his office, by a certain time therein stated, for the grading, paving or other improvement so authorized, and that the same will be let to the lowest responsible bidder, and for an amount in the aggregate not exceeding the estimated report of said street commissioner and engineer, on file with the city clerk. That if satisfactory bids are not made within the time so specified, the notice heretofore required, may be again given until a bid within such estimated cost shall be received; and that the street commissioner and city engineer shall open and consider said bids, and if satisfactory, said street commissioner shall make and enter into a contract in writing on behalf of said city, with the person or persons whose bids may be so approved, and who shall give adequate security for the faithful performance of the said work or contract. That such contract shall provide for the issuing to such contractor of scrip of the city for a sum equal to the amount and proportion of said cost and expense of improvement that may be found by the common council chargeable to each lot or parcel of ground benefited thereby, certificates so to be issued to specify the lot or parcel so benefited, to bear interest from the date thereof, at the rate of ten per cent. per annum until paid, but no certificate shall issue until said work or improvement shall have been completed to the acceptance of the common council. That said street commissioner shall [sign] such contract in the name and on behalf of the city of Duluth, and upon the making and signing of said contract and the bond required to secure the performance of the same, the same shall be presented to the common council, and when approved by a resolution of the common council shall become obligatory upon the parties thereto. That thereupon the common council shall apportion to the several lots and parcels the amount based upon such contract price, chargeable to each lot or parcel in proportion to the number of feet of such lots or parcels so abutting upon such street, avenue or alley, or parcels of such street, avenue or alley embraced within such improvement as near as may be, and that the amount so charged and appointed, with interest thereon at the rate of twelve per cent.

per annum, shall become a lien upon the lots and parcels so chargeable therewith, to be collected as hereinafter provided. *Provided, however,* That the common council may by resolution and without a petition of a majority of the owners of lots abutting thereon, cause Superior street, Union street, Piedmont avenue and Lake avenue south of Superior street, to be graded, paved or otherwise improved in the manner in this chapter authorized, to all intents and purposes as though the same had been requested by petition of property owners as aforesaid.

How scrip issued!  
redeemed.

SEC. 6. That the amounts so charged and apportioned with interest thereon shall be paid into the city treasury and shall be exclusively apportioned to the payment of the scrip issued under such contract and not to be diverted or used for any other purpose.

Duty of council  
on completion of  
said work.

SEC. 7. That whenever such contractor shall claim to have completed his contract in accordance with the provisions thereof, it shall be the duty of the common council to cause the improvement to be examined by the city engineer and street commissioner, who shall report to the council in the premises, and if the same is reported as duly performed, or whenever said engineer and street commissioner shall find and report that due performance has been made by such contractor, the common council shall thereupon by resolution accept such work as performed, and such resolution shall be conclusive proof thereof.

When scrip to be  
issued—when to  
become due—col-  
lection how made  
—the city may  
be a purchaser.

SEC. 8. That whenever such contract has been so accepted as performed it shall be the duty of the common council to cause the scrip contemplated in said contract to be issued to such contractor or his assigns in performance of said contract. That the amount so chargeable upon such lots or parcels shall become due and payable at the time of the issuance and date of such said certificates, and interest thereon shall then commence to run, of which all parties will take notice, and in case the same are not paid into the city treasury within thirty days thereafter, it shall be lawful for the common council to order the collection of the several sums or amounts not so paid, by enforcing the same by action as is hereafter provided. That in order to enforce the collection of said assessments or any of them, and to the enforcement of the lien in this chapter provided, actions may be commenced and prosecuted in the name of the city of Duluth, at any time after the expiration of said thirty days, and that the provisions

of title two of chapter eighty-one, relating to the foreclosure of mortgages of real estate, and the mode of proceedings therein shall apply to the actions herein provided for, and the amount of such lien with the interest thereon shall be enforced in the same [manner] and with like [effect] as mortgage liens, and enforced by sale of the property subject to such lien. That the said city or any private person may become a purchaser at any sale made in pursuance of any judgment in any such action and in case any property so purchased is not redeemed as provided in said chapter eighty-one, the same may be sold and conveyed by said city. *Provided, however,* That any purchaser at such sale may apply in part payment of the purchase money of any particular lot the scrip certificate so issued and designating such lot or parcel.

SEC. 9. That it shall be the duty of the city clerk to make out and certify under the corporate seal of said city a copy of the proceedings of the common council in this chapter authorized as soon as conveniently may be after the work has been done and accepted by the common council as above provided, and cause the same to be recorded in the office of the register of deeds of St. Louis county, and when so recorded the record thereof shall be proof of the matters therein embraced in any proceeding or suit instituted or contemplated by this chapter.

Duty of city clerk.

SEC. 10. No irregularity in the proceedings of the common council relating to any such improvement shall invalidate said liens, but the same shall be good and valid to the extent of the proportion of the actual cost of such improvement properly chargeable to such lot, as in this chapter provided.

No irregularity in the proceedings shall invalidate said liens.

## CHAPTER VIII.

### MISCELLANEOUS PROVISIONS.

SECTION 1. No penalty for judgment recovered in favor of the city shall be remitted or discharged, except by a vote of two-thirds of the aldermen elect.

When penalty for judgment may be remitted.

SEC. 2. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police, or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

How actions to be brought.

SEC. 3. In all prosecutions of any violation of this act, or of any by-law or ordinance of the city of Duluth, the

In what cases  
warrant to be is-  
sued—what cases  
not issued.

first process shall be a warrant; *Provided*, That no war- rant 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 the city of Duluth, 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 by warrant. All warrants, process of writs by the city justice, for violation of any ordinance or by-laws of said city, shall run in the name of the city of Duluth, and shall be directed to the chief of police, or any police officer of said city.

Non-payment of  
fines how pun-  
ished.

SEC. 4. In all cases of the imposition of any fine or penalty, or of the rendering of judgment by the city justice, in pursuance to any ordinance or by-law of the said city of Duluth, or pursuant to any provision of the charter of the said city, as a punishment for any offense, or for the violation of any by-law or ordinance as aforesaid, the offender shall be forthwith committed to the common jail of St. Louis county, and be there imprisoned for a term not exceeding six months, in the discretion of the city justice, unless the fine or penalty aforesaid be sooner paid or satisfied, and in all cases where the punishment of such offenders shall be by imprisonment, such imprisonment shall be in the said common jail of St. Louis county; and from and after the time of arrest of any person or persons, for any offense whatsoever, until the time of the trial or hearing, the person or persons so arrested may be imprisoned in the said common jail of St. Louis county, or in the city prison, and in all cases when the said city justice is or may be authorized to commit any person or persons for any other cause by virtue of the provisions of the charter of said city, he may commit such person or persons to the said common jail of St. Louis county or the city prison. The sheriff of St. Louis county, and jailors and prison keepers of said common jail of St. Louis county, and their and each of their deputies, are required to receive such persons in custody and confine them safely in said common jail of St. Louis county, until they may be discharged by due course of law; and such sheriff, jailors, prison keepers, and their deputies, offending in the premises, shall be liable to the same pains and penalties, and the parties aggrieved shall be entitled to the same remedies against them or any of them, as if such prisoners had been committed to their custody by virtue of legal process issued under the authority of this state.

The said city of Duluth shall be liable to pay for the support and keeping of said prisoners the same charges and allowances as are allowed for the support and keeping of prisoners committed under the authority of the state.

SEC. 5. The city of Duluth shall not be liable, in any case for the board or jail fees of any person who may be committed by any officer of the city, or any magistrate, to the jail of St. Louis county, for any offence punishable under the state laws.

SEC. 6. All deeds, leases, or other instruments executed by said city, for the conveyance of real estate, or any interest therein, for a term exceeding one year, shall be authorized by a resolution of the common council, which shall be quoted or referred to in such instrument, and shall be signed by the mayor and city clerk, who shall affix the seal of the city thereto, and shall be countersigned by the comptroller.

SEC. 7. All bonds hereafter to be issued by said city, and all orders upon the city treasury, shall be signed by the mayor and by the city clerk, who shall affix the seal of the city thereto, and shall be countersigned by the comptroller.

SEC. 8. The said city may lease, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

SEC. 9. All contracts for work to be done for said city, or for the purchase of materials or property of any kind, for the public use of said city, in which the value of such work, or the price or value of such property or materials, shall exceed the sum of two hundred dollars, shall be let to the lowest responsible bidder.

SEC. 10. Contracts for work, or for the purchase of property or materials, where the value of the work or the price of materials shall not exceed the sum of two hundred dollars, may be authorized by a resolution of the common council, to be made and entered into by any committee or officer of said city designated in such resolution.

SEC. 11. Every ordinance of said city shall after its passage, be published in the official newspaper for said city, and shall not be in force until after such publication. The proof of such publication, by the affidavit of the foreman or of one of the publishers of such newspaper, with a printed copy of the ordinance annexed thereto, or any other competent proof of such publication, shall be con-

clusive evidence of the legal passage, enactment, publication and promulgation of such ordinance, in any court in this state.

What documents may be read in evidence in all courts.

SEC. 12. The files, papers and records in the office of the city clerk, or copies thereof duly certified by him, proofs of publication of all notices, resolutions, orders or proceedings of the common council required to be published under this act, on file in the office of the clerk, or copies thereof certified by him, and the charter and ordinances of the city and proceedings of the common council, when printed and published by authority of the common council, shall be received, and read in evidence in all courts and places without further proof.

Proceedings of the towns of Portland and Duluth are hereby legalized.

SEC. 13. That the acts and proceedings of the town council of the town of Portland and the town council of the town of Duluth, their successors, prior to the first day of December, one thousand eight hundred and sixty-nine, including the purchase of and conveyance to said town of Portland, by Charles Chester and wife, of the southwest one quarter of northwest one-quarter of section twenty-three, township fifty, range fourteen west, to be and the same are in all respects confirmed and legalized, and said town of Portland is hereby declared to have had full power and authority to receive title under said purchase.

When first election held—how judges of election appointed.

SEC. 14. The first election of officers under this act shall be held on the first Tuesday of April, A. D. one thousand eight hundred and seventy, and the persons heretofore constituting the town council of the town of Duluth, to-wit: James D. Ray, Sidney Luce, Luke Marvin, J. B. Culver and William Nettleton, are hereby authorized and empowered to designate and appoint three discreet and judicious persons in each ward to act as judges of election, and also to locate and provide a place for holding an election as aforesaid.

All power vested in the town of Duluth are hereby continued in said city.

SEC. 15. That upon election of officers and organization of said city government as aforesaid, all powers and authority heretofore vested in the town council of town of Duluth, be and the same are hereby continued and vested in the city of Duluth, and the trusts remaining unexecuted by said town council under act of congress "for the relief of citizens of towns upon lands of the United States under certain circumstances, passed May twenty-third, one thousand eight hundred and fifty-four," may be fully performed, executed and fulfilled by said common council of the city of Duluth, in the same manner and with like authority as

the said town council of town of Duluth, and that all property and franchises to which said town council of town of Duluth has any legal or equitable title shall and is hereby declared to vest in and be the property of said city of Duluth.

SEC. 16. This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved March 5, 1870.

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## CHAPTER II.

### *An Act to incorporate the City of Shakopee.*

March 8, 1870.

#### CHAPTER I.

- SECTION 1. Corporate rights of said city.
2. Boundary lines of the city of Shakopee.
  3. Divided into three wards—names of wards—boundary lines of each ward.

#### CHAPTER II.

- SECTION 1. When annual election to be held—length of time the polls to be kept open—notice to be given.
2. Elective officers of said city—term of office.
  3. Persons appointed or elected to any office may be removed for cause—how.
  4. Vacancies, how filled.
  5. All elections by the people shall be by ballot—in case of a tie vote, how decided.
  6. When qualified as an elector.
  7. Who to be judges of election—how elections to be conducted.
  8. Judges of election to make return to Clerk of Common Council.
  9. Special elections, how conducted.
  10. When office deemed vacant.
  11. When term of office to begin.
  12. In case no election held on day designated, the Common Council may order a new election.

#### CHAPTER III.

- SECTION 1. Persons elected or appointed to office to take and subscribe an oath—what officers to give bonds.