

CHAPTER 2.

[S. F. No. 514.]

AN ACT ENTITLED AN ACT TO DEFINE THE BOUNDARIES OF, AND ESTABLISH A MUNICIPAL GOVERNMENT FOR THE CITY OF DULUTH.

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

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. All the district of country in the county of St. Louis contained within the 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 hereinafter described, shall be a municipal corporation, by the name of the City of Duluth, and 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, personal or mixed estate, as the purposes of the corporation may require, within or without the limits aforesaid, shall be capable of contracting and being contracted with, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

CORPORATE BOUNDARIES.

SEC. 2. The district of country aforesaid constituting the city of Duluth, and the limits and boundaries thereof, shall be as follows: Beginning at a point where a north and south line through the center of the west half of section seven (7), township fifty (50), north of range thirteen (13) west, in St. Louis county, Minnesota, extended intersects the shore line of Lake Superior, running thence north on said line to the south line of said section seven (7); thence west along the section lines to the northwest corner of section fourteen (14), township fifty (50), north, range fourteen (14) west; thence south to quarter corner on west line of section fourteen (14), township fifty (50), north, range fourteen (14) west; thence west to center of section fifteen (15), township fifty (50), north, range fourteen (14) west; thence south to quarter corner on south line of section fifteen (15), township fifty (50), north, range fourteen (14) west; thence west to northwest corner section twenty-two (22), township fifty (50), north range fourteen (14) west; thence south to the quarter corner on the east line section twenty-one (21), township fifty (50), north range fourteen (14) west; thence west to the center of section twenty-one (21), township fifty (50), north range fourteen (14) west; thence south to the quarter corner on the south line of section twenty-one (21), township fifty (50), north range fourteen (14) west; thence west to the northwest corner section twenty-eight (28), townsh

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fifty (50), north range fourteen (14) west; thence south to the quarter corner on the west line of section twenty-eight (28), township fifty (50), north range fourteen (14) west; thence west to the center of section twenty-nine (29), township fifty (50), north, range fourteen (14) west; thence south along the quarter section lines to the north-west corner of lot two (2), section five (5), town forty-nine (49), range fourteen (14) west; thence east to shore of St. Louis bay; thence southeast to the state line in the bay of St. Louis between Minnesota and Wisconsin; thence along the state line to the mouth of the St. Louis river; thence in a straight line to the place of beginning, excepting therefrom that portion of Minnesota Point lying southerly from the ship canal cut through said Point.

ADDITIONS.

SEC. 3. Whenever any territory abutting upon the city of Duluth or upon any addition thereto shall have been platted by the owners thereof into streets, alleys, blocks or lots, in proper shape for record and conforming to and corresponding with the adjacent city streets, alleys, blocks and lots, and a map thereof made showing also the adjoining blocks and lots in the city and connecting streets and alleys of the city and the detailed topography of the platted territory accompanied by a properly certified abstract of title, to the said territory showing the title to be in the party or parties represented to be owners of the land which it is desired to annex to the city, the common council may, upon the petition of the owners of not less than half of the property of said platted territory, by ordinance declare the same to be an addition to the city of Duluth, and from thenceforth such territory shall be and become a part of said city and within the jurisdiction thereof as effectually as if the same had been annexed by act of the legislature and the said common council may by ordinance divide the same into wards or annex the same to any ward or wards in said city which is hereby established by this act.

SUCCEED THE VILLAGE OF DULUTH.

SEC. 4. All the territory above described, within which are now established or exists any municipal government under city or village charter, or organization under the general laws of this state shall, from and after the passage and approval of this act and the same takes effect, cease, and the said city of Duluth shall thereupon succeed to and become vested with, and owners of, all the property, real, personal or mixed, rights, franchises, contracts, privileges and immunities which belong to or are owned by said old city or village at the time when the same ceases to exist, and said city of Duluth shall become and be liable and responsible for all legal debts, obligations and liabilities existing against said old city or village for any cause or consideration whatsoever, in the same manner and to the same extent as if such debts, obligations or liabilities had been originally contracted or incurred by said city of Duluth, and all valid rights, privileges and franchises heretofore granted in said former city or village of Duluth to the Duluth Street Railway Co., shall continue and be in force within the new city of Duluth with the same validity as they now exist in said city or village.

NUMBER OF WARDS.

SEC. 5. Said city of Duluth shall be divided into six (6) wards, to be known, numbered and called; First; Second; Third; Fourth; Fifth; and Sixth Wards.

The *First Ward*, shall comprise all that territory lying south of the center of Michigan street and between Second avenue west and Second avenue east prolonged;

The *Second Ward*, shall comprise all that territory lying east of the center line of Tenth avenue east prolonged in a straight line to the city limits.

The *Third Ward*, shall comprise all that territory lying west of the center of Tenth avenue east prolonged in a straight line to the city limits, and the center of Lake avenue prolonged in a straight line from the center of Michigan street north to the city limits.

The *Fourth Ward*, shall comprise all that territory lying west of the center of Lake avenue prolonged in a straight line from the center of Michigan street north to the city limits and the center of Twelfth avenue west prolonged in a straight line to the city limits.

The *Fifth Ward*, shall comprise all the territory west of the center of Twelfth avenue west prolonged in a straight line to the city limits and the center of Twenty-first avenue west, prolonged in a straight line to the city limits and shall include the territory known as Rice's point.

The *Sixth Ward*, shall include all the territory in said city lying west of the center of Twenty-first avenue west prolonged in a straight line to the city limits, and within said limits west.

THE ELECTION DISTRICTS AND PRECINCTS.

SEC. 6. Each of said wards heretofore described shall constitute an election district and shall form separate election precincts of said city for the holding of all general elections provided for under the general laws of this state and for the election of all corporate officers provided for in this act, provided however; that the common council may, by a majority vote of the members elect of said council divide the said election districts as may contain five hundred (500) or more resident electors in two (2) or more election precincts in said ward and from time to time designate by ordinance such election precincts as may be deemed necessary as aforesaid in order to provide for the convenience of electors and to prevent illegal voting, such precincts to be designated by a number or otherwise as the common council may determine.

CHAPTER II.

OFFICERS AND ELECTIONS.

Elective Officers.

SECTION 1. Elective officers of said city shall be a mayor, a treasurer, a comptroller, a municipal judge and a special municipal judge, all of whom shall be residents and qualified voters of said city, and shall hold office for the term of two (2) years, except the municipal and official municipal judges, who shall hold their offices for three (3) years and until their successors are elected and qualified.

ELECTION OF ALDERMEN.

Each ward of said city shall be represented by two (2) aldermen, who shall be residents of the ward in which they are elected; and each of said aldermen shall hold his office for the term of two (2) years, and until his successor is elected and qualified.

COMMENCEMENT OF TERM OF OFFICE AND APPOINTIVE OFFICERS..

SEC. 2. The term of office of every officer elected under this act shall commence on the first (1st) Tuesday in March of the year for which he shall be elected and shall continue until his successor is elected and qualified.

APPOINTIVE OFFICERS.

The city clerk, city attorney, and all other appointive officers except as otherwise provided, in this act shall hold their offices for the term of one (1) year from and after their appointment and until their successors are appointed and qualified. The appointment of such officers shall be determined by ballot and shall require the concurrence of a majority of all the members of the common council elect. The common council unless otherwise provided in this act shall appoint said officers at their first (1st) regular meeting in March in each and every year or as soon thereafter as may be.

TIME OF ELECTION.

SEC. 3. The election for city officers and aldermen of said city shall be held on the first (1st) Tuesday of February of every year. The first general election under this charter shall be held on the first (1st) Tuesday of February, A. D. eighteen hundred and eighty-eight (1888).

VACANCIES.

SEC. 4. Whenever a vacancy shall occur in the office of any elective officer of said city or aldermen, such vacancy shall be filled by appointment by the common council of said city until the next annual election and the successor of such person so appointed to fill such vacancy aforesaid, shall be elected at the next annual election for the unexpired term.

ELECTION BY BALLOT.

SEC. 5. All the elections by the people shall be by ballot, and each ballot shall contain the names of the persons voted for with the proper designation of the officer written or printed thereon. The person receiving the highest number of votes for any office shall be declared elected to such office; when two (2) or more candidates for any elective city office or aldermen shall receive an equal number of votes, 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 the said common council shall direct.

QUALIFICATION OF VOTERS.

SEC. 6. All persons entitled to vote for state and county officers, and who shall have resided for ten (10) days next preceding the election in the ward or election precinct where they offer their vote, shall be entitled to vote for any officer elected under this law. The mode of conducting city elections shall be the same as is provided by law for the conduct of elections in cities of over twelve thousand (12,000) inhabitants, except so far as such law is modified by express provisions of this act, and all special provisions herein contained shall apply as well to all state and county elections within said city except that the returns of all elections for aldermen or city officers shall be made to the city clerk as hereinafter provided, and the returns of state and county elections shall be made to the auditor of the county of Saint Louis as provided by law.

JUDGES OF ELECTIONS.

SEC. 7. The common council of said city shall, twenty (20) days before a general or municipal election, appoint three (3) qualified electors of each ward or election precinct, of said city, who shall be the judges of election in their election ward or precinct respectively; said judges shall be of opposite political parties if practicable; said judges shall appoint two (2) qualified electors of their ward or election precinct as clerks of such election, to be of opposite political parties if possible. The election shall be held in each election precinct at the place where the last preceding election was held unless otherwise ordered by the common council.

CANVASS OF ELECTION RETURNS.

SEC. 8. When the election of aldermen or city officers shall be closed, the judges of election shall forthwith canvass the votes and make return thereof to the city clerk within one (1) day of such election in like manner provided by law, for the return of state and county officers, to the county auditor. Within one (1) week after any city election, the common council shall meet and canvass the returns thereof, and declare the result as it appears from such returns, and the city clerk shall forthwith give notice to the officers elected of their respective elections.

FAILURE TO QUALIFY, OR REMOVAL.

SEC. 9. Any officer removing from the city or the ward from which he was elected or appointed, or any officer who shall refuse or neglect for ten (10) days after notice of his election or appointment to qualify by taking the oath of office and giving the necessary bond, when a bond is required by this charter or the common council, shall be deemed to have vacated his office, and any officer having entered upon the duties of his office may resign the same by the consent of the common council. All vacancies except as herein provided shall be filled by the common council.

OATH OF OFFICE AND BOND.

SEC. 10. Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the city clerk, the treasurer, clerk, comptroller and such other officers as the common council may require, shall severally, before they enter upon the duties of their respective offices, execute to the city of Duluth bonds with sufficient sureties in such an amount and upon such conditions as the common council may prescribe and be by them approved.

PERSONS DISQUALIFIED FOR OFFICE.

SEC. 11. No person who is directly or indirectly interested in any contract with the city or any department or institution thereof, or who shall have been convicted of malfeasance in office, bribery; or other corrupt practices or shall be under indictment therefor; shall be qualified to, be elected to or shall hold the office of alderman or any other city office.

CHAPTER III.

POWERS AND DUTIES OF OFFICERS.

MAYOR.

SECTION 1. The mayor shall be the chief executive of the city and conservator of the peace; shall be a citizen of the United States and a qualified voter at the time of his election and an inhabitant of the city for at least one (1) year next before the day of his election; he shall take care that the laws of the state and ordinances of the city are duly observed and enforced within the city. It shall be his duty to keep an office within some convenient place in said city to be provided by the common council; to see that all officers of the said city faithfully comply with and discharge their official duties and to that end maintain an action of mandamus, or other appropriate action against any delinquent city officer; he shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. All ordinances and resolutions shall, before they take effect, be presented to the mayor, and if he approve thereof, he shall sign the same, and such as he shall

not sign he shall return to the common council with his objections thereto, by depositing the same with the city clerk, to be presented to the common council at their next regular meeting thereafter; upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall again be put upon passage of the same, notwithstanding the objections of the mayor; and if upon such vote the common council shall pass the same by a vote of two thirds ($\frac{2}{3}$) of the members of the council, it shall have the same effect as if approved by the mayor; if any ordinance or resolution shall not be returned to the city clerk by the mayor within five (5) days, Sundays excepted, after it shall be presented to him, the same shall have the same force and effect as if approved by the mayor.

It shall be the duty of the city clerk to endorse upon each ordinance and upon his records of the proceedings of the council the time when such ordinance was delivered to the mayor, and the time when the same shall be returned into his office by the mayor.

PRESIDENT AND VICE-PRESIDENT OF THE COMMON COUNCIL.

SEC. 2. 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 discharge the duties of such president and act in his place. The president or temporary presiding officer, while performing the duties of mayor, shall be acting mayor, and facts performed by him when acting as mayor as aforesaid shall have the same force and validity as if performed by the mayor.

CITY CLERK.

SEC. 3. There shall be a clerk of said city styled the city clerk who shall be elected by the common council, 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, the same as if the originals were produced. He shall draw and sign 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; he shall perform all other services by law required by clerks or cities or townships within said State, but when services are required of him by public law for which compensation is made from state or county treasury, such services shall not be regarded as services for said city, and he may retain such compensa-

tion in addition to the salary paid by said city. In case of absence, sickness or inability of said city clerk to act, the common council shall have power to appoint a city clerk pro tempore, and the said common council shall also have power to appoint, at any time they shall deem it necessary, an assistant city clerk who shall have authority in the disability or absence of the city clerk to perform all the duties of city clerk, to certify and affix the corporate seal to copies or files and transcripts of records, and all certificates so made by him shall have the same validity as if made by said city clerk.

CITY ATTORNEY.

SEC. 4. There shall be a city attorney who shall perform all professional services incident to the office, and shall appear in and conduct all suits, prosecutions and proceedings, civil or criminal, in which the city of Duluth is directly or indirectly interested. He shall when required, furnish opinions upon any subject submitted to him by the common council or its committees; he shall also advise with and counsel all city officers in respect to their official duties, and to attend the regular meetings of the common council and of such committees and boards as shall request his assistance. The common council shall have the power, when at any time they shall deem it necessary, to appoint an associate city attorney whose duties shall be the same as the city attorney.

HEALTH OFFICER.

SEC. 5. The common council shall elect a health officer who shall be a practicing physician. Such officer shall be the executive officer of the board of health of the city of Duluth; and as such executive officer, it shall be his duty within the city of Duluth to enforce all the laws of the state of Minnesota and the ordinances and health regulations of the city of Duluth, relating to health of the state or said city, and may appoint such assistants in such manner as prescribed by the health ordinance of the city of Duluth, except that the city clerk and city engineer shall be "ex-officio" members of said board and the ordinance of the Village of Duluth entitled "Health Ordinance" is hereby declared to be in full force and effect.

CITY ENGINEER.

SEC. 6. There shall be appointed by the common council upon the recommendation of the board of public works, a city engineer, who shall be a practical surveyor; he may by and with the consent of the board of public works employ such assistants as may be necessary. He shall keep his office at some convenient place in the city, and the board of public works shall prescribe his duties. He shall have supervision and general charge of all work done by the city under the supervision and control of the board of public work and of all work done on any street, highway, avenue or alley in the city. He may direct the manner of performing such work and the construction of all sidewalks, streets, crossings, bridges, or other structures in or upon such streets; may suspend such work or construction as shall not

conform to his requirements or those of the board of public works, and shall take care that the terms of all contracts of any work or construction in behalf of the city is fully complied with.

ENGINEERS PLANS AND ESTIMATES.

SEC. 7. All surveys or profiles, plans and estimates made by him or any of his assistants for the city shall be the property of said city and shall be carefully preserved in the office of the engineer, open to the inspection of the parties interested and the same together with all the books and appurtenances to said office shall be delivered over by said engineer, at the expiration of his term of office, to his successor, or to the common council.

CITY COMPTROLLER.

SEC. 8. It shall be the duty of the city comptroller to keep regular books of account of the city of Duluth in which he shall enter all indebtedness of said city, and which shall at all times, show the precise financial condition of the city, the amount of bonds, orders, certificates or other evidences of indebtedness outstanding, and the redemption of the same when redeemed. He shall countersign all bonds, orders, certificates or other evidences of indebtedness of the city, and no such bond, order, certificate or other evidence of indebtedness shall be valid until so countersigned. He shall keep an account of orders drawn on the treasury in separate books and shall note thereon the cancellation thereof whenever the same shall be cancelled, and shall keep such other books and records as shall be convenient for the preservation of accounts of all transactions and business of the city, and all books, lists and records heretofore kept or which shall be kept in the comptroller's office and copies thereof by him certified, shall be competent evidence of all matters shown by them. He shall keep accounts with the city treasurer and all other receiving and disbursing officers of said city. In such accounts he shall charge such officers with all amounts received by them from all sources of revenue, and with all city property in their hands or control as such officers, and credit them with all amounts disbursed or property disposed of on proper authority and with all money or property turned over to the city or their successors in office. He shall examine the reports, books, papers and vouchers of the treasurer or other receiving and disbursing officers, and perform such other duties as the common council may direct. He shall as soon as may be after the close of each fiscal year report to the common council the financial condition of the city; he shall countersign all contracts made in behalf of said city, and no such contract shall be valid until so countersigned. He shall keep a book in which he shall enter all contracts, properly indexed, which shall be opened to the inspection of all parties interested. He shall not, directly or indirectly, be interested in any contract or job to which the city is a party. All claims and demands against the city before the same shall be allowed by the common council shall be audited by the comptroller, and all orders on the treasurer on the part of said city shall be examined and coun-

tersigned by him, and by him kept until delivered to the person entitled thereto, and he shall take and preserve receipts for all orders so delivered. He may use the seal of the city in the execution of licenses and such other sealed instruments as the comptroller shall be especially directed to issue.

THE TREASURER.

SEC. 9. The treasurer shall receive all money belonging to the city, and when received give receipt therefor and make out and file a duplicate with the city comptroller, including license money and fines and shall keep an accurate account thereof, in such manner as the common council shall from time to time direct. The treasurer shall as soon as may be after the close of each fiscal year, exhibit to the common council a full and detailed account of all receipts and disbursements for the last fiscal year and also the state of the treasury, which account shall be filed with the city clerk and a copy of the same shall be published in the official papers of said city.

HARBOR MASTER.

SEC. 10. The common council shall have power to provide for the appointment of a harbor master with power of a police officer or may devolve the duties of such officer on any member of the police force and by ordinance define the duties of such harbor master and may regulate all dock landings and docks in the city.

MUNICIPAL COURT.

SEC. 11. The municipal court of said city shall have exclusive cognizance and jurisdiction of all trials and examinations within said city, cognizable before a justice of the peace under the laws of the state and of all actions, prosecutions and proceedings for the recovery of all forfeitures, fines and penalties or inflictions of punishment for the breach of any by-laws, regulation or ordinance of said city and of all offences against the same, and in all cases of conviction for assault, batteries and affrays, disorderly conduct, breach of the peace, keeping or frequenting disorderly houses, or houses of ill-fame, the municipal court may in addition to any fine or punishment authorized or imposed, or without such fine or other punishment, compel the accused to give security to keep the peace and be of good behavior, for a period not exceeding six (6) months and in a sum not exceeding five hundred (500) dollars. The judge and special judge of said court shall have all the powers of justices of the peace, under the general laws of this state. All fines and penalties imposed by said court shall belong to and be a part of the revenue of said city. Said court shall also have power in all criminal actions within its jurisdiction when the punishment is by imprisonment, or by imprisonment in default of payment of fine, to sentence any offender to hard labor in any work houses that may be established by the city for that purpose, or in case of male offenders to sentence them to labor on any public works or improvements in like manner and under the same qualifications as hereinafter provided in case of offences against city ordinances.

PENALTY FOR NON-DELIVERY OF BOOKS.

SEC. 12. If any person having been an officer of said city shall not within ten (10) 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 (\$1,000), besides all damages caused by his neglect or refusal to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of the state.

INTEREST IN CONTRACTS.

SEC. 13. No alderman or other officer or employee shall be a party to or interested in any job or contract with the city, and any contract in which any alderman or other officer or employee shall be so interested shall be null and void, and in case any money shall have been paid on any such contract, the amount so paid may be recovered by a joint or several action from the parties to such contract and the alderman or other officer or employee interested in the same.

COUNCIL MAY REQUIRE OTHER DUTIES.

SEC. 14. The common council shall have power at any other time to require other or further duties to be performed by any officer whose duties are herein prescribed not inconsistent with this act.

SALARY OF MAYOR AND ALDERMEN.

SEC. 15. The mayor shall be entitled to an annual salary not to exceed twelve hundred (1,200) dollars; the amount to be fixed by the common council which salary shall not be less than six hundred (600) dollars. Such salary shall be paid out of the city treasury in monthly installments.

Each alderman shall be entitled to receive as compensation for his services, the sum of three hundred (300) dollars per annum, to be paid out of the city treasury in monthly installments, and they shall receive no other fees or compensation for such services. The mayor, aldermen and all city officers and the men employed in the several departments of said city, while holding such office or engaged in the service of the city shall be exempt from serving as jurors in any court.

SALARY OF OTHER OFFICERS.

SEC. 16. The common council shall have power where the same is not herein fixed, to fix the compensation of all officers elected or appointed under this act. Such compensation shall be fixed by resolution at the time the officer is elected, and at the commencement of any year or as soon after election as practicable and when so fixed shall not be increased or diminished during the term for which such officer shall have been elected or appointed. The compensation to be allowed in any one fiscal year as salaries to the city clerk, city attorney, city comptroller, city treasurer, city engineer, city assessor,

board of public works and the clerk of the board of public works shall not exceed in the aggregate the sum of fifteen thousand (15,000) dollars.

INVENTORY OF PROPERTY.

SEC. 17. All officers of the city having charge of any city property, shall at the close of each fiscal year make and return to the council a full inventory of all public property in their hands or control respectively; such inventories shall be preserved and filed with the city comptroller and kept open to the inspection of all parties interested but need not be printed in the proceedings unless the common council shall so specially direct.

OFFICIAL NEWSPAPERS.

SEC. 18. The common council at their first meeting in May of each year, or soon thereafter as may be, shall designate one newspaper printed in said city, in which shall be published all ordinances and official proceedings of the common council and other matters required by this act or by the by-laws or ordinances of the common council to be published in a public newspaper. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which by this act is required to be published shall file with the city clerk a copy of such publication with his or their 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 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.

CHAPTER IV.

BOARD OF PUBLIC WORKS.

APPOINTMENT OF.

SECTION 1. There shall be appointed by the mayor, by and with the consent and advice of the common council at the first (1st) meeting of the council after this act takes effect, or as soon thereafter as may be, three (3) persons, freeholders and electors of the city, who shall constitute a board to be known and designated as, the Duluth Board of Public Works, one (1) of said persons shall be appointed for three (3) years, one (1) for two (2) years, and one (1) for one (1) year, and annually thereafter, the said mayor by and with the advice and consent of the common council shall appoint one (1) person to fill the vacancy of the person whose term expires; who shall hold his office for three (3) years. Each member of said board shall receive such salary per annum as the common council may, from time to time establish. Each member shall devote such time to the performance of his official duty as shall be necessary to the faithful performance of the same and for any failure or neglect to do so or for any other

cause deemed sufficient may be removed from office in the same manner as other elective officers of the city are removed by the common council. The members of said board shall give bonds in such sum as the common council may from time to time determine, for the faithful discharge of their duties to be approved by the city comptroller. The said board shall elect one of its own members president thereof. All vacancies in said board, whether by expiration of term of service or otherwise, shall be filled by appointment by the mayor by and with consent and advice of the common council.

As soon as practicable after the members of said board shall have been appointed and qualified, they shall meet together and appoint some suitable person as city engineer; the appointment thereof to be ratified and confirmed by the common council. The duties of such officer in addition to those already mentioned and described in this act shall be prescribed by the said board of public works and said officer shall at all times be under and subject to the orders of said board.

THE BOARD OF PUBLIC WORKS TO PREPARE AND REPORT PLANS AND ESTIMATES OF PUBLIC IMPROVEMENTS.

SEC. 2. No plat of any portion of said city shall hereafter be recorded or be of any validity, unless before such record the approval of the board of public works shall be duly endorsed thereon, and in the case of any addition to said city as provided for in this act, the said board of public works shall examine the premises to see that its streets, avenues and alleys conform to the requirements of the act allowing such incorporation and addition to the city and shall approve and endorse their approval of the plat of the same.

THE BOARD OF PUBLIC WORKS TO ESTABLISH GRADES.

SEC. 3. Said board shall, subject to the approval of the common council establish a system of grades for all streets, avenues and alleys within said corporate limits, for which grades have not been heretofore established, and when once established no grade shall be changed except by resolution of the common council passed by a two-thirds vote of all the aldermen. Said board shall establish a system of sewers for the entire city and cause to be designated on said plats the streets, avenues and alleys through which the same are to be constructed; the same to be done in such manner so as not to conflict with, or change the sewers which are already established, laid out and in operation, and no streets shall be paved until the sewer to be constructed through the same shall be completed so far as the pavement is to extend.

GAS AND WATER COMPANIES.

SEC. 4. Said board may require, before any street is paved, that the gas and water pipes be laid therein and connection made to the curb in front of each lot.

THE BOARD TO HAVE SUPERVISION OF ALL PUBLIC IMPROVEMENTS.

SEC. V. The board of public works shall supervise the grading, filling, levelling, paving, curbing, walling, bridging, grading, macadamizing, planking, opening, extending, widening, contracting, altering and straightening of all streets, avenues, alleys and public grounds; the cleaning, working, repairing and improvement of all streets, avenues, alleys and public places and also the construction, altering and repairing of public wharves, docks, bridges, culverts, receiving basins, sewers and water courses within said city; the improvements and ornamentation of all parks and public grounds within the city and the laying of gas and water pipes through any street, avenue or alley; the construction of all sewers and drains, and no person shall make any connection therewith without the consent of the board and under such general rules and regulations as the board shall adopt. Said board shall also have the general supervision and control of the erection and designate the number of lamp posts, electric lights; telegraph and telephone posts, and may order the erection of the same at such places as the same may from time to time be needed. The said board shall supervise the laying down of all sidewalks and cross walks, the construction of all vaults under any portion of the streets, the erection of all public buildings and works of the corporation and may stop the work thereon when the same is not being done according to the contract thereof, provided however, that this clause shall not be construed to give the board any right to interfere with, or change the plans and specifications of such buildings or works nor authorize them to demand any variation therefrom.

SUPERINTENDENTS.

SEC. 6. When the construction of any building or work by the corporation shall require peculiar skill the common council may, by resolution authorize the board to employ a competent person to superintend the same at a compensation not exceeding a sum to be stated in said resolution.

REPAIRS.

SEC. 7. The board of public works shall have the entire charge and control of the street cleaning, repair of paving, sewers, gutters and building of cross walks in the city of Duluth. They shall advertise from time to time for proposals for doing the work upon the same; for this purpose they may receive proposals and they shall let the work to the lowest responsible bidder who shall give adequate security for the performance of this contract, provided that they may reject all proposals made. If in their opinion the interest of the city require, they may employ laborers to clean and work the streets by the day or month as they may deem best. The board of public works shall in the month of April, in each year report to the common council an estimate of the amount of money required for the working or cleaning of streets, repairing paved streets, gutters, sewers and cross walks, building of cross walks in each ward of the city of Duluth, also the amount needed for the repairs or the construction of public

wharves, docks, bridges, buildings, culverts, receiving basins, sewers, public drains, hydrants, lamp posts and drinking or ornamental fountains erected by the city or said board and of all public works to be carried on under their supervision for the fiscal year or for any other purpose for which money may be expended under the provisions of this act, that the same may be assessed and collected and applied as prescribed in this act.

When any public improvement except the opening of public streets or public work is proposed the common council shall before proceeding with the same refer the matter to the said board of public works and the said board shall proceed to examine the same and shall as soon as practicable report thereon to the common council giving detailed estimates of the cost of such work or improvement, if any cost there will be, and shall make such recommendations as said board of public works may deem expedient.

BOARD TO HAVE A CLERK AND SEAL.

SEC. 8. The board of public works shall be entitled to one clerk and such other assistants as may be necessary from time to time to enable them to perform their official duties under this act. The said clerk and assistants shall be appointed by said board. The said clerk shall be appointed for such time as may be fixed by said board and his compensation shall be fixed by the common council the same as other appointed officers, and the council shall also fix the compensation to be paid assistants. The said board of public works shall have an office in some convenient place in the city to be provided by the common council. And they shall have and use a seal which shall be used on all official papers executed by them which require their signature to the same. The said clerk and assistants shall be subject to the orders and under the control of said board of public works, and may be discharged by them at any time and the vacancy filled if needed by said board.

CITY CLERK TO ISSUE WARRANTS.

SEC. 9. All work done under the supervision of said board shall be reported to the common council from time to time and no money shall be paid out of the treasury on account of work so done until the common council shall have instructed the city clerk to draw his warrant therefor.

CONSTRUCTION OF PUBLIC WORKS.

SEC. 10. Said board shall also exercise such other power and perform such other duties in the superintendence and construction of public works, improvements and repairs constructed by authority of the common council or owned by the city as the common council may from time to time direct including the making out of assessments against private property to be made upon the order of the common council in the manner prescribed in this act for paying the expenses of all public works as herein provided.

REPORT OF EXPENDITURES.

SEC. 11. The said board when required by the common council shall make report to the common council which shall embrace the expenditures of the different branches or departments of work under their control and contain a statement of the condition, progress and operation of the works together with such further information as it may deem of interest to the city, and the said board shall also have charge and control of the streets, parks, and public grounds of the city and may by printed rules and orders approved by the common council regulate the use of the same and provide for planting trees thereon.

COUNCIL MAY REMOVE MEMBERS.

SEC. 12. No member of said board shall be interested directly or indirectly in any contract entered into by them with any other person nor shall they be interested directly or indirectly in the purchase of any material to be used or applied in and about the use and purposes contemplated by this act. Any member of said board may at any time be removed by a two-thirds vote of the members elected to the common council of said city for sufficient cause and the proceedings in that behalf shall be entered in their journal, provided; that the said common council shall previously cause a copy of the charges preferred against such member sought to be removed and notice of the time and place of hearing the same to be served on him ten (10) days at least previous to the time so assigned, and opportunity given him to make his defense.

MONEY APPROPRIATED BY COUNCIL.

SEC. 13. The paving and grading, macademizing or improving of all streets, avenues and alleys or places ordered by the common council shall be done under the supervision of the board of public works and upon contracts and specifications to be prepared by such board and approved by said common council and all moneys appropriated by the common council for such purposes shall be expended by the said board and paid from the appropriate fund provided by the common council therefor.

POWER TO REMOVE DANGEROUS BUILDINGS.

SEC. 14. Said board shall have power summarily to remove or cause to be removed or torn down all dangerous walls or other structures that may be liable to fall so as to endanger life or property, shall cause all sidewalks, railings, streets and alleys to be kept in a safe condition and shall have the supervision and control of locating and establishing all telegraph, electric light, and telephone poles within the limits of said city.

CHAPTER V.

LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

POWER TO LEVY ASSESSMENTS.

SECTION 1. The municipal corporation of the city of Duluth is hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvement without regard to cash valuation, and is also authorized to condemn private property for public uses in the manner provided by law.

KINDS OF IMPROVEMENTS.

SEC. 2. Such assessments may be made by the said city of Duluth for filling, grading, leveling, paving, curbing, railing, bridging, graveling, macadamizing, planking, opening, extending, widening, contracting, altering and straightening any street, avenue, lane, alley or highway, and for keeping the same in repair; also for filling, grading, protecting, improving, and ornamenting any public park, square or grounds now or hereafter laid out, also for planting and protecting shade or ornamental trees in its public parks and along its streets and avenues, also for constructing, laying, and repairing cross walks and sidewalks, retaining walls, gutters, sewers and private drains, *provided*; that the common council may, when any contract is let for paving, include therein the expense of the laying of sewer pipes to the curb and cause to be assessed the expense of the same against the lot to which sewer pipes are supplied, as a part of the cost of such paving.

REAL ESTATE BENEFITED.

SEC. 3. The expense of any improvement mentioned in the foregoing section may be defrayed, save as herein otherwise provided, by an assessment upon the real estate benefited thereby or by an assessment upon the real estate fronting thereon to be levied in the manner hereinafter provided. *Provided*; that in each ward of said city there may be annually assessed by the common council, upon an estimate to be made by the board of public works of the amount of money necessary to be expended in the following year, a sum of money sufficient to cover the expense to be incurred in providing cross walks over the public streets in said ward, sidewalks adjacent to public squares public grounds and public parks. This fund shall be known as the ward improvement fund, and out of which the common council may order the same paid, or the common council may order said improvements paid out of the general fund of the city.

All assessments for local improvements aforesaid as provided in this chapter shall be made by the board of public works of the city of Duluth except as may be herein otherwise ordered.

APPLICATIONS FOR IMPROVEMENTS.

SEC. 4. All applications or propositions for any improvements mentioned in section two (2) of this chapter shall be made to or emanate from the common council of said city, and shall except in cases of sidewalks, be first referred to the board of public works by the common council. *Provided*; that any such application shall be in writing and that said council shall not be required to proceed further with any application by a reference to the board of public works, or otherwise unless said common council is satisfied that the owners of a majority of the property who would probably be assessed for the expense of such improvement, have subscribed to such application. Upon such reference, such board shall proceed to investigate the same, and if they shall determine that such improvement is necessary and proper, they shall report the same to the common council accompanied with an estimate of the expense thereof and a proper ordinance or order directing the work. If they do not approve of any such application or proposition, they shall report their reasons for such disapproval and in case of such disapproval, the common council shall not order the doing of such work or the making of such improvement except by a vote of two-thirds ($\frac{2}{3}$) of all the members elect of said council. *Provided*; that if such disapproval of said board is by a unanimous vote of all the members of said board, such work of improvement shall only be ordered by said common council by a three-fourths ($\frac{3}{4}$) vote of all the members elect thereof. In case the said board shall report in favor of said improvement or some part thereof or a modification of said improvement, the common council may in their discretion order the doing of said work or the making of said public improvement, and in all cases, the common council after having obtained from said board of public works an estimate of the expense, may make such modifications of the proposed plan as may be petitioned for by any of the owners of the property to be assessed as the common council may think proper *provided*, that such modification shall not materially change the character and object of the improvement as reported by said board or materially increase the expense thereof. *Provided*; however; that the common council shall in no case order the doing of any such work or the making of such improvement unless it is ordered by a three-fourths ($\frac{3}{4}$) vote of all the members elect, if in their opinion real estate to be assessed for such work or improvement can not be found benefited to the extent of the damages, costs and expense necessary to be incurred thereby. Two or more streets may be ordered to be graded at the same time so that the material taken from one street may be used in filling others. In case such improvement shall relate to the opening, straightening, widening, contracting, altering or grading of any street, lane, alley, highway or public grounds in said city, and said board shall report in favor of the same, they shall furnish the common council as part of their said report, with a plan or profile of the contemplated improvement and shall also report whether, in their opinion real estate to be assessed for said improvement can be found benefitted to the extent of damages, costs and expenses necessary to be incurred thereby and

whether the said improvement is asked for upon the petition or application of the owners of a majority of the property to be assessed for such improvement and if it appears by such report that the owners or a majority of the property to be assessed have not petitioned therefor, the same shall be ordered only by the votes of at least two-thirds ($\frac{2}{3}$) of all the members elect of said council.

Provided; that such report or reports of the board of public works shall not be construed as essential to give the common council authority to order any improvements local to the city of Duluth, and provided; also further; that if before such improvement is ordered, the owners of a majority of the lots to be assessed shall file with the council a written protest against the improvement it shall only be made by a three-fourths ($\frac{3}{4}$) vote of all the members elect of said council.

ASSESSMENT BY BOARD.

SEC. 5. Whenever any order shall be finally passed by the common council of said city as heretofore provided for filling, grading, paving, curbing, walling, bridging, graveling, macadamizing or planking any street, avenue, lane, alley or highway, or for keeping the same in repair, or for filling, protecting, improving or ornamenting any public square or for constructing area walls, retaining walls, gutters, sewers and private drains, except as otherwise provided in this act, the city clerk shall transmit a copy of such order of said council to said board of public works. The said board of public works shall cause said work to be let, and for that purpose, shall cause proposals for doing said work to be advertised in the official paper of said city, a plan or profile of the work to be done, accompanied with specifications for the doing of the same being first deposited with the clerk of said board to be kept by him at all times open for inspection, which advertisement shall be published for at least ten (10) times in said official paper and shall state substantially the work to be done. The bids for the doing of such work shall be sealed bids directed to the board of public works of the city of Duluth, and shall be sealed in such manner that they cannot be opened without detection and shall be accompanied by a bond or certified check to the city of Duluth in a sum not less than ten (10) per cent of the estimated cost of the work, and in the event of depositing with the board of public works the certified check instead of executing the bond, the conditions and liabilities of the bidder shall be the same as though he had accompanied his bid with a bond; said bond shall be executed by the bidder with two (2) or more responsible sureties conditioned that he will within a ten (10) days after notice that his bid has been accepted enter into the contract if awarded to him to be provided by the board of public works and furnish a bond with sufficient sureties to be approved by said board of public works in a penal sum of thirty (30) per cent of the estimated cost of the improvement, conditioned to fulfil the terms of the said contract, and if the contract for making said improvement shall be awarded to him and he shall fail to enter into the said contract within the time limited and furnish the bond aforesaid, then the said bidder shall be liable to the said city of Duluth for all the dam-

ages and costs that the said city may sustain by reason thereof and the measure of damages shall be the difference between the bid made which was accepted and the amount the city may be finally compelled to pay for making the improvement, and the same may be retained from the amount of the certified check if said check shall be deposited as aforesaid, or recovered by action on the bond in the name of the city of Duluth in any court having jurisdiction of the amount. Whenever the board of public works shall award to any person or persons upon his or their bid the contract for making any of the improvements herein mentioned, he or they shall, at the time of the execution of said contract furnish to the city of Duluth a bond with sufficient sureties to be approved by the board of public works for at least thirty (30) per cent. of the estimated cost of said improvement conditioned that he shall execute the work for the price mentioned in his bid and according to the plans and specifications, and said bond shall contain a further condition that he shall pay for all labor done and material furnished upon said improvement, and the contract to be executed shall also contain a covenant or agreement to pay for all labor done and materials furnished upon said improvement in case of default on his or their part to execute and fulfill the terms of the contract, and perform the work said bond may be sued and judgment recovered therein by the said city for all damages sustained in the premises in any court having jurisdiction of the amount. Said bids shall be opened by said board at their next meeting after the time limited for such proposals or such other time thereafter as said board may appoint, and it is hereby made the duty of the board of public works in case of default of the contractor to complete his contract within the time limited in said contract or within the time to which said contract may have been extended by the common council to cause suit to be commenced forthwith upon the bond executed and delivered to the city in accordance with the provisions of this section. No extension of the time for fulfilling any contract by the common council shall have the effect to release the sureties upon said bond. All contracts shall be let to the lowest responsible bidders who shall have complied with the above requisition and who shall guarantee to the satisfaction of the board the performance of said work, except in case of paving streets with patent pavement or pavements. In such case notice for bids may call for wood, stone, or other kind of pavement, and when all the proposals therefor are in, the board may select the one which is relatively the lowest or the most satisfactory, all things considered, and its decision thereon shall be final. If the pavement selected is patented, the said board shall require a license from the patentee to lay and relay the same for all time thereafter free from all claims of royalty. Whereupon a contract shall be made on the part of said board in the name of the city of Duluth and shall be executed on the part of said city by the president of said board or such of their members as said board may designate, and the seal of said board shall be thereto attached and the said contract shall be countersigned by the city comptroller. A copy of said contract shall be filed in the office of the city comptroller and registered in a book kept by him for that purpose. *Provided;* that said board may reject

any bid which they shall deem unreasonable or unreliable. *Provided further*; that said contract shall be awarded on the majority vote of said board, and no contract shall be awarded without the approval of the common council by a majority vote of the members thereof elect.

PAYMENTS.

SEC. 6. The said board of public works shall reserve the right in their said contracts in case of improper construction to suspend the work at any time and relet the same or to order the entire reconstruction of said work, if improperly done.

In cases where the contractor or contractors shall proceed to properly perform and complete the said contracts, the said board of public works may from time to time in their discretion as the work progresses, grant to said contractor or contractors, an estimate of the amount already earned, reserving fifteen (15) per cent. therefrom, which shall entitle said contractor or contractors to receive the amount due thereon. When the whole work has been done by said contractor or contractors to the satisfaction of the board of public works, the amount or balance due him shall be audited and allowed by the common council of said city and shall be payable out of the moneys applicable to the payment of such work, except upon sewer contracts, when five (5) per cent. may be retained for six (6) months to provide for expense for back filling and repairing streets.

ASSESSMENTS.

SEC. 7. After the whole of said work shall have been placed under contract as hereinafter provided, the said board shall assess seventy-five (75) per cent. of the amount as nearly as they can ascertain the same which will be required to defray the cost of such improvement, including ten (10) per cent. upon the amount which shall be added to the assessment to defray necessary expense of making survey, plans, specifications, and superintendence in proportion as near as may be to the benefit resulting thereto, in manner hereinafter provided, or in proportion to the frontage as may be directed by the common council.

If the amount so assessed shall be insufficient to complete the work, the board of public works shall, after the completion of the said work, make a final assessment, in the same manner, to pay the same. *Provided*; that in the repairing of any street, avenue, alley, highway, public grounds, bridge or sewer, the cost of which repairs is estimated not to exceed two hundred (\$200) dollars, may be done under the direction of said board, and in such case shall upon resolution of the common council, be paid out of the general fund of the city.

RAILROAD COMPANIES ASSESSED.

SEC. 8. When in any case any portion of the improvements mentioned in the foregoing, section shall by virtue of any law or ordinance, or by virtue of any valid contract, be chargeable upon any railroad company, the amount so chargeable, may be assessed upon such railroad company, and collected by distress and sale of personal

property, in the manner provided for by the general laws of the state, in case of taxes levied upon personal property, or by suit brought for that purpose. *Provided*; that any real estate belonging to said railroad company and being benefited by said improvement shall be assessed as in other cases.

NOTICE OF ASSESSMENT.

SEC. 9. Before proceeding to make any assessment for any improvement mentioned in section five (5), said board of public works shall give ten (10) day's notice in the official paper of said city, of the time and place of the meeting for the purpose of making such assessment, in which notice they shall specify what such assessment is to be for, and the amount to be assessed. Said notice shall be published at least three (3) times and said period of ten (10) days shall commence from the first publication. All persons interested in said proceedings, shall have the right to be present, and be heard either in person or by counsel, and the said board may in their discretion receive any legal evidence, and may adjourn if necessary from time to time and from place to place.

WHEN AND HOW CONFIRMED.

SEC. 10. When the said board shall have completed their assessment as provided in section five (5) they shall cause like notice to be published in the official paper of said city that at a time to be specified in said notice not less than ten (10) days after the date of the first publication thereof, nor more than twenty (20) days thereafter, that an application will be made to the judge of the district court of St. Louis county, at chambers in his office in said city, specifying the place, or before the district court of said county, if in session at that time, for an order of said district judge or court confirming the said assessment roll, at which time and place parties interested in said assessment may appear and make objections to the same; and it shall be the duty of said district judge to hear any objections that may be offered to the same by parties interested and the same shall take precedence before all other business before said judge or court. When the said district judge shall make an order confirming the assessment which shall be attached to or endorsed upon said assessment roll, the said assessment roll and all things contained in said roll shall be deemed *res adjudicata* and no appeal shall be allowed from said assessment; after the said assessment roll shall be confirmed by the judge of the district court as aforesaid, the same shall be filed and preserved in the office of the board of public works as a part of the public record of said city, and from and after filing the same in their office the said assessment shall become a lien upon each and every lot, piece or parcel of land therein described. As soon as the said assessment roll shall be confirmed the said board of public works shall prepare and deliver to the city comptroller a duplicate assessment roll which the said city comptroller shall record in a book to be kept by him in his office, and after recording the same he shall deliver the same duplicate assessment roll to the

city treasurer, and it shall be the duty of the city comptroller without any order or direction in the premises within ten (10) days to publish a notice to all parties interested in said assessment in the official paper of said city stating therein that said duplicate assessment roll has been delivered by him to the city treasurer and that the amount assessed against each lot, or parcel of land can be ascertained at the office of the city treasurer and that the assessment is due and payable and if paid within thirty (30) days there will be allowed a deduction of the ten (10) per cent. charged to the amount of the assessment for survey, plans, specifications and superintendence. The said notice shall take effect from the date of its first publication and shall be published at least once in each week for four (4) weeks. Any person paying his assessment within the said thirty (30) days shall be entitled and the city treasurer is hereby authorized to deduct and allow from the amount of the same the ten (10) per cent. added for survey, plans, specifications and superintendence. Upon presentation to the city comptroller of the treasurer's receipt he shall countersign the same and it shall become and hereby is his duty to mark cancelled the assessment on his books opposite the description in said receipt. After the space of thirty (30) days dating from the first publication of such notice the ten (10) per cent deduction as aforesaid shall not be allowed and within five (5) days after the expiration of the said thirty (30) days, the said city comptroller shall make out and submit to the said common council of said city a statement in writing showing the amount of the delinquent assessment and a description of the lot or parcel of land against which the same is assessed, and he may for that purpose require the treasurer to report to him the condition of the assessment roll, and thereupon the said common council may by resolution order the city comptroller to make up and file in the office of auditor of St. Louis county a certified statement of the amount of said tax containing a description of the lands affected by the tax, and after the same is filed in the office of the auditor of St. Louis county, it shall be the duty of said auditor to carry the said assessment upon his roll against the different parcels of land therein mentioned and the same shall be carried into the tax for the ensuing year and enforced and collected in the manner provided for the collection and enforcement of state and county taxes, under and in accordance with the provisions of the general laws of the state, and the taxes when paid to the county treasurer shall be canceled and paid over by him to the city treasurer at the time provided in this act for the settlement of his accounts. *Provided*; that nothing in this act shall be construed to prevent the owner or party interested in any piece or parcel of land against which there is an assessment from paying the whole amount thereof at any time before the roll is placed in the hands of the county treasurer to collect the same to the city treasurer and receive his receipt for the same countersigned by the city comptroller which shall be sufficient authority upon presentation to the auditor for him to mark the tax paid upon his roll or the statement filed with him by the city comptroller, but after the tax roll has been delivered to the county treasurer for collection the said tax must be paid to him subject to the penalties allowed by law.

Provided; that the omission of the city comptroller to give notice to property owners for any informality in said notice if any is given shall not affect the validity of the assessment and levy of the tax.

CERTIFICATES.

SEC. 11. When the assessment made against any lot or parcel of land for the purpose mentioned in section five (5) of this chapter remains unpaid after the expiration of thirty (30) days limited in which to pay the tax to the city treasurer, the common council may by a resolution divide the whole amount assessed against the lots and parcels of land for the said improvement into not more than three (3) equal instalments. The time for the enforcement of the same against the property affected by said assessment to be by the said resolution extended so that the same becomes due and payable as follows: the first instalment on or before May 31st, in the next succeeding year; the second instalment on or before May 31st, in the second succeeding year; and the third instalment on or before May 31st, of the third succeeding year thereafter with interest and penalty of ten (10) per cent. per annum upon the same until paid.

And the said common council if they shall deem it expedient may by a resolution divide the amount of said assessment for any improvement which they have divided into instalments as aforesaid into such sums and amounts as they shall deem most advisable and order the issuing of certificates representing such sums which shall entitle the holder thereof to demand and receive from the city of Duluth upon surrender of said certificate to its city treasurer on or after the time limited for its payment the sum of money mentioned to be paid therein with the rate of interest stipulated to be paid therein to the date limited for its payment and not after that date; the rate of interest to be mentioned in said certificate shall not exceed the amount collectable against the property assessed for said improvement as fixed by the common council. If the said instalments are divided into sums as aforesaid the said certificates shall be numbered from one (1) to the number ordered issued inclusive and the instalments be represented by number of the certificates; the common council may, however, cause one (1) certificate to be issued representing each instalment. The certificates shall be substantially in the following form:

Public improvement certificate of the city of Duluth.

Instalment No.

Certificate No.

Amount,

Date,

To whom it may concern:

This is to certify that the sum of.....dollars, has been duly assessed against the lots and parcels of land mentioned in the assessment roll for the improvement of..... street, (avenue or alley as the case may be) in said city, which said assessment is a valid and subsisting lien and charge against the lots, pieces and parcels of land therein mentioned and described, and that the said sum has been by resolution of the common council of said city divided into instalments; that this certificate represents the sum of.....dollars of instalment No. which is due

and payable to the city of Duluth out of the property pledged by law for its payment on or before May 31st, 18.... and is issued pursuant to the provision of an act of the legislature of the state of Minnesota, entitled "an act to define the boundaries of and establish a municipal government for the city of Duluth, approved.....one thousand eight hundred and eighty-seven (1887), and the city of Duluth hereby guarantees to the holder of this certificate that it will cause to be collected the said assessment and will pay upon the surrender of this certificate to its city treasurer at.....on the first day of July, 18... the sum of \$.....with interest thereon from the date hereof to the time mentioned herein for payment at the rate of.....per cent. per annum.

In testimony whereof the said city of Duluth has caused this certificate to be signed by its mayor and attested and its corporate seal affixed by the city comptroller this.....day of A. D. 18.. [Seal]

The said certificates shall be signed by the mayor and attested and countersigned by the city comptroller and have attached to the same the corporate seal of the said city. The amount of any such installment shall not be returned to the auditor of St. Louis county for enforcement against the lot or parcel chargeable therewith until such time as the common council of the city causes to be transmitted to said auditor the city taxes levied by them in the year preceding that in which such certificate shall become due and payable.

ASSIGNMENT OF CERTIFICATE.

SEC. 12. The common council of said city may sell and assign said certificate at a price not less than their par value and apply the proceeds thereof to the payment of the cost of improvement or other purpose for which they were respectively issued, or may in their discretion transfer said certificates at their par value direct to contractors in payment of the contract price for the improvement or other purpose to which they are respectively applicable.

RECORD OF CERTIFICATES.

SEC. 13. The comptroller of said city shall keep in his office in a book to be provided for that purpose a correct record of all certificates issued pursuant to the provisions of this chapter, the said book to be properly ruled and headed so as to show a substantial description and history of each certificate including date, number and amount, on what improvement issued, when and to whom sold, or assigned, and at what price, with space for writing final disposition of the same.

TITLE ASSESSMENT,—A LIEN ON THE PROPERTY.

SEC. 14. All deeds of conveyance of the land affected by the assessment mentioned in this chapter, shall be subject to the lien hereby created from and after the time that the assessment roll shall be confirmed, in the manner hereinbefore mentioned, and the same is filed in the office of the board of public works, but nothing herein contained shall be so construed as to prevent the owner of any lot, piece

or parcel of land affected by the said assessment from at any time after the assessment is divided into installments as aforesaid paying the full amount of his assessment with interest thereon at ten (10) per cent to the date of payment, and from and after that time the said lien shall cease.

FINAL DISPOSITION OF CERTIFICATES.

SEC. 15. The said certificate or certificates when paid and redeemed by the said city of Duluth shall be deposited by the city treasurer in the office of the city comptroller, taking his receipt therefor, who shall make a minute of the receipt of the same on his book in the record of the same to be kept by him and may at any time destroy the same when directed so to do by the common council.

SIDE-WALKS.

SEC. 16. The common council of the city of Duluth may by resolution cause side-walks to be constructed, repaired or relaid, whenever they deem the public good may require it, without a reference to the board of public works.

Whenever the said council shall order the construction, repairing or relaying of any side-walks a copy of such order shall be transmitted to the board of public works, whose duty it shall be without any unnecessary delay to prescribe the material, width and manner of constructing or relaying the same and to cause a survey and plans and specifications to be made and filed in their office in obedience to the resolutions of the common council and cause to be published in the official newspaper of said city a notice to all owners or occupants of any lot or parcel of land adjoining such proposed side-walks to construct, repair or relay so much thereof as adjoins their several lots according to such plans and specifications at his or their own proper expense and charge, within a certain time designated in such notice, not less than twenty (20) days from the first publication thereof. Said notice shall contain a substantial description of the locality where such side-walk is to be constructed, repaired or relaid, the nature of the work to be done (whether constructing, relaying or repairing) and the time which the owners or occupants are required to do the same in, but no informality in said notice shall invalidate the assessment for the tax for said side-walk.

If any such work or part thereof is not done in the manner prescribed by said plans and specifications, and within the time designated by said notice, the board of public works shall cause the same to be done at the expense of the lots or parcels of land adjoining such side-walks and add ten (10) per cent. additional to defray costs of survey, plans and specifications, and shall advertise, receive proposals for and let, the construction, repairing and relaying such side-walks, and which shall be let to the lowest, best responsible bidder therefor, at so much per lineal foot, said bidder to furnish all material, and make all necessary excavations.

Said board of public works shall immediately and within five (5) days after the contract is let for the construction, repairing or relaying

any side-walk, make or cause to be made an assessment roll and assess and levy such proportion or amount of such cost upon the lots or parcels of land adjoining and abutting said sidewalks, and shall make and transmit to the common council the said assessment and the common council may by resolution adopt the said assessment roll which may be in the following or any other form which the board of public works may deem proper.

"The common council of the city of Duluth doth hereby assess and levy upon and against the several lots or parcels of land below described, the respective sums of money set opposite each lot, piece or parcel of land. This assessment is levied to defray the expenses of constructing, repairing or relaying (as the case may be) a side-walk in the city of Duluth along.....said lots or parcels of land are assessed upon the basis of an equal sum per front foot along the line of such improvements.

NAME OF OWNER.	LOT.	BLOCK.	DIVISION.	AMOUNT.	REMARKS.

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

Attest.

.....
 City clerk. President of the council."

Upon the adoption of the assessment roll by said common council the same shall be referred to the city comptroller who shall record the same in a book to be kept for that purpose and deliver a duplicate roll to the city treasurer, and give notice by publication in the official paper for three (3) weeks that the said assessment is due and payable to the city treasurer within thirty (30) days from the first publication of said notice, and if paid within the said thirty (30) days the ten (10) per cent. theretofore added will be deducted from the several amounts due.

It shall be the duty of the city treasurer after the expiration of the said thirty (30) days to certify to the auditor of St. Louis county all these amounts remaining unpaid on said roll at the same time with the city taxes levied by the common council the several amounts so remaining unpaid against the several lots or parcels of land to be and remain a lien on said lots or parcels of land and to be collected and payment thereon enforced in the same manner that state and county taxes are collected and enforced.

CHAPTER VI.

CONDEMNATION OF PRIVATE PROPERTY.

SECTION 1. The common council of said city, whenever it becomes necessary to take private property, consisting of lands, buildings or water power, for gas works, water works, public grounds, public parks, markets, public buildings, or for laying out, opening, straightening or altering any public street, or to lay out and open any new street, and such necessity shall be determined by a majority vote of all the members elect of said council, the said property for such purposes may be acquired by purchase, if the same can be done upon terms satisfactory to the council; and if not, such property, for any of the purposes aforesaid, may be acquired, for the purposes aforesaid, or any of them, in the manner hereinafter provided.

First—Appointment of Commissioners. The common council, upon ordering an improvement above mentioned to be made, shall appoint three (3) commissioners, no two (2) of whom shall be residents of the same ward of said city, and all of whom shall be disinterested freeholders and qualified voters of said city, to view the premises, and assess the damages which may be occasioned by the taking of private property for any of the purposes aforesaid. Said commissioners shall be notified as soon as practicable by the city clerk of said city, to attend at his office, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties; and in case any such commissioner, upon being so notified, shall neglect or refuse to attend, as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty (50) dollars, and shall be liable to be prosecuted therefor in the municipal court of said city, in the same manner as 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 some ward of said city not represented on said board of commissioners, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

Second—Oath and return. 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—Survey and Plat—Notice of Meeting. The said commissioners shall, with all reasonable speed, with the assistance of the city engineer of said city, cause a survey and plat of the proposed improvement or purchase 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 paper of said city, for at least ten (10) 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—Proceedings at meeting—View—Assessment of damages. At the time and place according to said notice, the said commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day if necessary, for the purpose aforesaid; when their view and hearing aforesaid shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken or which may be damaged by said improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and also the advantages which will accrue to such property or any part thereof in making such improvement.

Fifth—Damages when building is taken or removed. 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 may be necessary, should be taken, and shall also determine and assess the amount of damages to be paid to such owner or owners in case he or they should elect to remove such building; and the damages in relation to buildings aforesaid shall be assessed separately from the damages in relation to the land upon which they are erected.

Sixth—Same in case of divided ownership. If the land and buildings belonging to the 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 person or interests respectively, may be awarded to them by the commissioners, less the benefit resulting to them from the improvement, but in no case shall the aggregate damages assessed to the owners, lessee, mortgagee or other persons having an interest therein, exceed the value of the parcel of property sought to be taken.

REPORT TO COUNCIL.

Seventh. The said commission 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 name of the owners, if known to them, and also a statement of the costs of the proceeding.

Eighth—Notice of Confirmation—Election to Remove Buildings Upon such report being filed in the office of the city clerk said city clerk shall give at least ten (10) 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 person 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 accord-

ing 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--Payment of Damages Awarded. The damages assessed shall be paid out of the proper fund 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 (6) months from the confirmation of such assessment and report, and the land or property required to be taken for the purpose aforesaid shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited by order of the common council, in the district court of the county, in the same manner as moneys are paid into court, until the parties entitled thereto shall substantiate their claim to the same.

Tenth--Removal of Buildings by Owners. In case any owner or owners of buildings aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty (30) days from the confirmation of said report, or within such further time as the common council may allow for the purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case, in case of removal.

When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct, and the same or the proceeds thereof shall belong to said city.

Eleventh--Appointment of Guardians. When any known owner of lands or tenements affected by any proceeding under this act shall be an infant, or labor under legal disability, the judge of the district court of the county, or in his absence the judge of any court of record, may upon application of said commissioners, or of said city, or such party, or his next friend appoint a suitable guardian for such party, and all notices required by this act shall be served upon such guardian.

Twelfth--Appeals. Any person feeling himself aggrieved by such assessment may by notice in writing served on the mayor of said city, a copy whereof, with proof of service shall be filed in the office of the clerk of the district court of the county, within twenty (20) days from the time of confirmation of said report or assessment, appeal from such assessment to the district court aforesaid when such appeal shall be tried by the court and jury as in ordinary cases; but no pleadings

shall be required and the party appealing shall specify, in the notice of appeal the grounds of objection to such assessment and shall not be entitled to have any other objections than those specified considered, and a transcript of such report, certified by the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law; the judgment of such court therein shall be final.

Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits.

SURVEY AND PROFILE TO BE FILED.

SEC. 2. Whenever any public ground, street or alley, shall be laid out, altered, 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 board of public works and also filed in the office of the register of deeds of the county.

RECORD OF PROCEEDINGS—DUTY OF CLERK.

SEC. 3. 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 (2) and four (4) 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 common 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.

SOLE POWER VESTED IN COMMON COUNCIL TO VACATE STREETS, AVENUES AND ALLEYS.

SECTION 1. The common council of the city of Duluth shall have the sole and exclusive power to vacate or discontinue streets, avenues, alleys and highways within said city. No such vacation or discontinuance shall be granted or ordered by the common council except upon a petition of a majority of the owners of property on the line of such street, avenue, alley or highway, resident within said city.

Such petition shall set forth the facts and reasons for such application accompanied by a plat of such street, avenue, alley or highway proposed to be vacated and shall be verified by the oath of at least two (2) of the petitioners.

The common council shall thereupon order the petition to be filed of record with the city clerk who shall give notice by publication in the official paper of the city for four (4) weeks at least once (1) 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 (10) 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.

MAY BY RESOLUTION DECLARE SUCH STREET, AVENUE, OR ALLEY VACATED.

SEC. 2. 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 by a three-fourths ($\frac{3}{4}$) vote of all the members elect declare such street, avenue, alley or highway 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 on record and duly recorded in the office of the register of deeds of the county of St. Louis.

APPEAL MAY BE TAKEN.

SEC. 3. Any person feeling aggrieved by any such vacation or discontinuance or refusal so to do may within twenty (20) days after the publication thereof, 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, appeal to said court from such vacation or discontinuance, where such appeal shall be tried by the court and jury as in ordinary cases and the judgment of which court shall be final. It shall be the duty of said city clerk as soon as any appeal is taken, to transmit to the proper court a certified copy of the records and files of all proceedings in the case, at the expense of the appellant; such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits except that no pleadings shall be required. *Provided*, that the proceedings for vacation already instituted in the district court shall not be affected by this chapter.

CHAPTER VIII.

THE COMMON COUNCIL, ITS GENERAL POWERS AND DUTIES.

THE COMMON COUNCIL, QUORUM AND PRESIDING OFFICER,—THE ALDERMEN SHALL CONSTITUTE THE COMMON COUNCIL.

SECTION 1. A majority of the aldermen shall constitute a quorum. The president or vice-president of the common council, shall when present preside at all meetings. In their absence the common council may elect a president *pro tem*, who shall for such meeting have the same power as the president.

STATED AND SPECIAL MEETINGS OF THE COMMON COUNCIL.

SEC. 2. The common council shall hold stated meetings and the mayor shall call special meetings by notice to each of the members to be delivered personally or left at their usual places of abode. At such special meetings no other business shall be transacted than such as is designated in the call. In case of the attendance of less than a quorum at any stated meeting, the members present may adjourn at any special time they may designate and all business transacted at such adjourned meeting shall have the same validity as if done at a stated meeting. All adjourned meetings of any stated or special meeting shall be a part of the meeting adjourned, but the first and subsequent meeting of any stated or special meeting so adjourned shall be designated as sessions of said meetings.

THE COMMON COUNCIL JUDGE OF ELECTION OF ITS MEMBERS—RULES OF PROCEDURE.

SECTION 3. The common council shall be the judge of the election of its own members and in such cases shall have the power to send for persons and papers. It shall determine the rules of its own proceedings and have power to compel the attendance of absent members and may provide for the punishment of such absent members.

POWER TO REMOVE OFFICERS AND HOW EXERCISED.

SEC. 4. The common council shall have power to remove from office any officer of said city appointed by the common council upon two-thirds vote of all the aldermen elect; but no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charges, nor until such person shall have had reasonable opportunity to be heard in person or by counsel in his own defense.

Continued absence from the meetings of the common council in case of aldermen and neglect of duty in case of other officers, unless for good reason, shall be deemed a good cause of removal.

The common council shall fix a time and place for the trial of such officers of which not less than ten (10) days notice shall be given and shall have power to compel the attendance of witnesses and the production of papers and to hear and determine the case, and if such officer shall refuse or neglect to appear and answer such charge the common council may declare the office vacant.

POWER TO ENACT ORDINANCES AND THEIR FORCE.

SEC. 5. The common council shall have full power and authority to make, ordain, publish, enforce, alter, amend, or repeal all such ordinances for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as it shall deem expedient, and in and by the same to declare and impose penalties and punishment, and enforce the same against any person or persons who may violate the provisions of any ordinance passed and ordained by it; and all such ordinances are hereby

declared to be and to have the force of law, provided they are not repugnant to the law of the United States or of this state; and for these purposes the said common council shall have authority by such ordinances:

First—To license and regulate the exhibition of common showmen and shows of all kinds, and the exhibition of caravans, menageries, circuses, concerts, roller skating rinks and places of amusement, and museums, for which money is charged for entrance into the same, newsboys and bootblacks and theatrical performances; also to license and regulate all auctioneers, pawnbrokers, dealers in second-hand goods, junk-dealers, keepers of intelligence or employment offices, as well as all persons doing the business of seeking employment for others, or procuring or furnishing employees for others, billiard tables, pigeon-hole tables, nine or ten pin alleys, bowling saloons, shooting galleries, taverns, victualing houses, and all persons vending, dealing in or disposing of spirituous, vinous, fermented or malt liquors; *Provided*, that the license for dealing in, vending or disposing of spirituous, vinous, fermented or malt liquors, shall not be less than one thousand (1,000) dollars per annum. *Provided, further*, that all licenses, except for exhibitions, caravans, menageries, circuses, concerts and theatrical performances, shall extend to and terminate upon the first day of May next after the same shall be issued, unless sooner revoked, and *provided, further*, that the power to regulate, above given, shall be construed to include, among other powers, the power to define who shall be considered as auctioneers, pawnbrokers, dealers in second-hand goods, and junk-dealers, and compel each and every such person, whether licensed or not, to keep, in such a manner as it may direct open at all times for inspection, a record of all such property as it may designate, with the time when received and the name, residence and description of the person from whom the same was received, and to make daily reports thereof to the police department of said city, as it shall direct; and also, among other powers, the power to require all persons doing the business of seeking employment for others, or procuring or furnishing employees for others, to keep, open at all times for inspection, such records of their business as it may designate, and to furnish to every one with whom they may deal, such written evidence of the transaction as it may designate, and to prescribe and punish all crimes or unfair dealings by such persons, in the course of their said business, and to establish such rules of legal evidence as it may see fit for the proof of such unfair dealings.

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

Third. To prevent any riots, noise, disturbances and disorderly assemblances 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, 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 gambling.

Fourth. To compel the owners or occupants of any grocery-cellar, tallow-chandler shop, soap-factory, tannery, stable, barn, privy, sewer or other unwholesome nauseous house or place, to cleanse, remove or abate the same from time to time as often as may be necessary for the health, comfort and convenience of the inhabitants of said city.

Fifth. To direct the location and management of stock-yards, slaughter-houses, and markets, breweries and distilleries, and to establish rates for and license owners of gunpowder, and regulate the storage, keeping and conveying of gunpowder, dynamite or other combustibles or explosive materials, and regulate the use thereof in blasting.

Sixth.—To prevent the encumbering of streets, sidewalks, alleys, lanes, public grounds or wharves with carriages, carts, wagons, sleighs, boxes, lumber, firewood, posts, awnings, or any other materials or substances whatsoever.

Seventh.—To regulate the movement and speed of railroad locomotives and cars, to require the maintenance of flagmen, for the construction and maintenance of gates at the crossings of railroad tracks, over such streets or avenues when said common council shall deem it necessary to require such precautions; to regulate the use of locomotive engines, to direct and control the location of cable and other railroad tracks, and to require railroad companies to construct at their own expense such bridges, tunnels or other conveniences at public railroad crossings, as the common council may deem necessary, and to regulate the rate of speed of all railroad trains within the city limits and their stops at street crossings, to regulate or prohibit the whistling of locomotive engines, to regulate or prohibit the unnecessary discharging of the steam therefrom and the causing or permitting steam to escape therefrom unnecessarily and to require the use thereon of such safety valves or other practical appliances as it may designate for the purpose of preventing or lessening the noise from the discharge or escape of steam and to prevent and punish immoderate driving, or riding 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 city limits.

Eighth.—To restrain the running at large of horses, mules, cattle, swine, sheep, poultry and geese, and to authorize the restraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances.

Ninth.—To prevent the running at large of dogs, and to require a license for keeping 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 burying, depositing or having within the 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 competent officer at the expense of such person or persons.

Eleventh.—To make and establish public pounds, pumps, wells, cisterns, hydrants, reservoirs and fountains, and to provide for and conduct water into and through the streets, avenues, alleys and public grounds of the city of Duluth, and to provide for and control the erection of water works by said city for the supply of water to said city and its inhabitants, and to grant the right to one or more private companies or corporations to erect water works to supply said city and its inhabitants thereof with water and to authorize and empower such company or corporation to lay a water pipe and main into, through and under the streets, avenues and public grounds of the said city of Duluth, and when necessary for properly carrying out the purpose of said company or corporation to appropriate private property in the city of Duluth to the use of said company or corporation in the manner provided in their charter and to control the erection and operation of such water works and the laying of such pipes and mains, in accordance with such terms and conditions as may be agreed upon with said company or corporation, to provide for and control the erection and operation of gas works, electric lights or other works or means for lighting streets, avenues, alleys and public grounds and buildings of said city and supplying light or power to the inhabitants thereof, and to grant the right to erect, maintain and operate, such works, with all rights incident or appertaining thereto, to one or more private companies or corporations, and to control the erection and operation of such works and the laying of pipes, mains and wires into, through and under the streets, avenues, alleys and public grounds of said city of Duluth and the erection of poles, masts, and towers and the running of wires thereon, over, in, upon and across the streets, avenues, alleys and public grounds, to provide for and control the erection and operation of work for heating the public buildings of said city by steam, gas or other means and supplying heat or power to the inhabitants of said city, to grant the right to erect such works and all incident right, to one or more private companies or corporations and to control the erection and operation of such works and the laying of pipes, mains, into, through and under the streets, avenues, alleys and public grounds of said city of Duluth. *Provided;* that every grant to a private company or corporation of the right to erect water works, gas works, electric light works, or heating works as hereinbefore mentioned shall provide for the sale of such works to the said city or its successor at any time after fifteen (15) years from the commencement of such grant at a valuation to be agreed upon or determined in a manner to be prescribed in the grant.

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

Thirteenth.—To regulate the size and weight of bread baked contrary thereto.

Fourteenth—To prevent all persons riding or driving any ox, mule, cattle or other animal on the side-walks in said city or in any way doing damages to such side-walks.

Fifteenth—To prevent the shooting of fire arms 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 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, expressmen, hackmen 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.

Nineteenth—To license and regulate butcher's stalls, shops and stands, for the sale of game, poultry, butcher's meat, butter, fish and other provisions, and also license and regulate all peddlers doing business within said city.

Twentieth—To regulate the place and manner of weighing hay and straw, and selling the same, and the measuring and selling of fire-wood, coal and lime, and to appoint suitable persons to superintend and conduct the same.

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

Twenty-second—To have a general supervision over docks, piers or wharves within said city, so as to secure uniformity of construction and freedom of navigation and for that purpose to establish dock lines where the same have not been established by the ordinance of the village or old city of Duluth, and to enforce all of the ordinances of said city, and village, establishing said dock lines by the punishment of any violation of any such ordinances as may be provided for in such ordinance and the common council may change or alter any dock line established by the said village or city of Duluth, upon which no dock, pier or wharf has been built, or upon faith of which no right has accrued to any person. *Provided, however,* that no wharfage duties or tolls, shall be allowed or chargeable to any boat, vessel or craft, landing at any public dock, pier or wharf within said city.

Twenty-third—To regulate, control and prevent the landing of per-

sons from boats, vessels or other conveyances, whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.

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

Twenty-fifth—To provide for watchmen and to prescribe their number and duties and regulate the same and to create and establish police of said city, and prescribe the number of police officers and their duty and to regulate the same except as hereinafter otherwise provided.

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 for the punishment of the use of false weights and measures.

Twenty-seventh—To regulate the inspection of wood, hay, grain, flour, pork, beef, mutton, veal, and all other kinds of meat, poultry, game, fish, salt, whiskey and other liquors and provisions.

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

Twenty-ninth—To direct and regulate the planting and preservation of trees, in the streets, alleys, public grounds, and highways of the city, and to appoint a forester whose duty it shall be to inspect all the trees offered for sale for the purposes named, to superintend the planting and culture of the same, and to perform such other duties as the common council may prescribe.

Thirtieth—To remove and abate any nuisance injurious to the public health and to provide for the punishment of all persons who shall cause or maintain such nuisance.

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

Thirty-second—To do all acts and make all regulation which may be necessary and expedient for the preservation of health and the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city and to make quarantine laws, and enforce the same within the city, and within three (3) miles of the limits thereof.

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

Thirty-fourth—To license and regulate hackmen, expressmen, and all other persons engaged in carrying passengers or freight and to regulate their charges therefor, to prescribe standing places or stations within the streets where such hacks, drays or other vehicles used for such carriage, may stand or remain while waiting for business or orders, and to designate such standing or waiting places in the licenses of such draymen, hackmen or other persons, and to prohibit them from standing or waiting in any other place within such streets, and to regulate and prescribe standing places for all vehicles going to or waiting at any railroad depot, dock, wharf or station in said city, and to authorize the mayor or chief of police of said city to

regulate and direct the location of vehicles at such railroad depots, stations, docks or wharves.

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; houses or buildings of any kind wherein more than fifty (50) pounds of gunpowder are deposited, stored or kept at any time, gambling houses, houses of ill-fame, disorderly taverns or beer shops or places where spirituous, vinous, fermented, mixed or intoxicating liquors are sold, given away or dealt in, without the license required therefor within the limits of said city, is hereby declared deemed public or common nuisances.

Thirteenth—To regulate the construction of all buildings of more than two stories in height within the fire limits of said city and by such regulations to prescribe the depth of cellars, the material and method of construction of foundations and foundation walls, the manner of construction and location of drains and sewer pipes, the thickness, material and construction of party walls, partitions and outside walls, the size and material of floors, beams, girders, piers, columns, roofs, chimneys, flues and heating apparatus, to apportion and adjust such regulation to the height and size of the buildings to be erected, to regulate the construction and location of privies and vaults in such buildings, to prohibit the construction of buildings not conforming to such prescribed standards either in the whole city or within such building limits as it may prescribe; to establish, alter or enlarge such building limits from time to time, to appoint an inspector or any city officer, to give such inspectors or other officer authority to enter upon, examine and inspect all buildings in process of construction in said city or within such building limits, and to direct the suspension of any such building operations as shall not conform to such regulation.

Provided, however, That neither said common council nor any inspector or officer of said city shall have control or regulation of any building erected by the United States or the State of Minnesota.

Thirteenth—To provide for and regulate the erection of hitching posts or rings for fastening horses, or to prohibit them in any portion of the city in its discretion.

Thirteenth—To regulate the opening of hatchways and compel proper guards about the same.

Thirteenth—To regulate the numbering of houses and lots, and to compel the owners of houses and other buildings to have the number of such houses or buildings designated thereon.

Thirteenth—To require the owner or lessee of any building or structure more than two (2) stories high, now or hereafter built or constructed in said city, to place thereon such fire escapes and such appliances for protection against and for the extinguishment of fire as it may direct, and also require such owner or lessee to contract, provide and furnish each and every other thing and to do each and every other act, which it may think necessary or advisable to lessen the danger to human life in case of fire or accident.

Thirteenth—To regulate or prohibit the location and use of such steam boilers in size and construction, as it may designate as being danger-

ous to life or property, or to prohibit the location of any such steam boilers except when permission therefor is first given by the common council specifying the location and prescribing the regulations for its use.

Forty-first—To regulate and control the quality and measurement of gas, to prescribe and enforce rules and regulations for the manufacture and sale of gas, to provide for the inspection of gas and gas meters, and to appoint an inspector and other officers if needed for that purpose and prescribe their duties; also to establish and maintain gas works and water works in said city and to purchase any gas works or water works already established within the said city limits and to conduct, control and maintain the same.

Forty-second—To regulate and control or prohibit the placing of poles therefor and the suspending of electric and other wires along on cross streets of said city, and to require any or all already placed or suspended either in limited districts or throughout the entire city to be removed or to be placed in such manner as it may designate, beneath the surface of the streets or sidewalks.

PUNISHMENT FOR BREACH OF ORDINANCES.

SECTION 6. The common council may impose punishment for the breach of any ordinance of the city to the extent of a fine not exceeding one hundred (\$100) dollars and imprisonment in the city prison or county jail not exceeding ninety days or both, and may provide that the offender during such imprisonment be fed on bread and water at the discretion of the judge of the municipal court, and offenders against such ordinances may be required to give security to keep the peace and for good behavior for a period not exceeding six (6) months and in a sum not exceeding five hundred (\$500) dollars.

OFFENDERS MAY BE PUT TO LABOR.

SEC. 7. The common council may also provide by ordinance that any one convicted of an offense before the municipal court subjecting such offender to imprisonment under the ordinances of said city may be kept at hard labor in any work-house established for that purpose, or in any case of a male offender may be kept at hard labor during his term of punishment in such work-house or upon the public improvements or otherwise of said city or both, and may also provide by ordinance that anyone convicted of an offense before said municipal court and committed on non-payment of fine imposed, may be kept at hard labor either in such work-house or upon public improvements or otherwise or both until such person shall work out the amount of such fine, at such rate of compensation as said council may prescribe, for a time not exceeding such commitment, and the common council shall have full power to establish by ordinance all needful regulations for the security of such persons thus employed and to prevent escape, and secure proper discipline, and shall have power to establish a proper work-house in said city for the purpose aforesaid and under such regulations as said common council may prescribe. *Provided*; that the common council aforesaid is hereby authorized

to use the Saint Louis county jail as the work-house 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 Saint Louis county except while working on the improvements of said city; when they shall be under the control of the police force of said city and *Provided further*; that the judge of the municipal court of said city shall have power for vagrancy to commit any person to the city prison or work-house or county jail or to order any such person to work on the public improvements or otherwise of said city, for a term not exceeding ninety (90) days.

STYLE OF ORDINANCES—SUBJECT TO BE STATED IN TITLE:

SEC. 8. The style of all ordinances shall be "The Common Council of the city of Duluth do ordain," the subject of every ordinance shall be expressed in its title, and no ordinance shall embrace more than one subject.

ORDINANCES AND RESOLUTIONS—HOW PASSED AND PUBLISHED.

SEC. 9. All ordinances and resolutions of the common council shall be passed by an affirmative vote of a majority of all the members of the common council by yeas and nays, which shall be entered in the records of the council. No ordinance shall be passed at the same meeting of the council at which it shall have been presented except by the unanimous consent of all the members present which shall be noted in the records, but this shall not preclude the passage of ordinances reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting; when enacted and approved they shall be recorded by the city clerk in books provided for that purpose, and before they shall be in force they shall be published in the official paper of the city.

ORDINANCES AND RESOLUTIONS — HOW AUTHENTICATED; MUNICIPAL COURT TO TAKE JUDICIAL NOTICE OF ORDINANCES.

SEC. 10. A copy of the record of any ordinance or resolution heretofore passed and recorded or that may hereafter be passed, certified by the clerk and verified by the seal of the city, any copy thereof published in the official papers of the city or printed in the books containing the official proceedings of the common council, or published in any compilation of ordinances made under the direction of the common council, shall be *prima facie* evidence of the contents of such ordinance and of the regularity and legality of all proceedings relating to the adoption and approval thereof, and shall be admitted as evidence in any court of this state without further proof in all actions, prosecutions and proceedings of every kind before the municipal court of the city of Duluth; such court shall take judicial notice of all ordinances of the said city and it shall not be necessary to plead or prove such ordinances in said municipal court.

MAJORITY OF WHOLE COUNCIL REQUIRED TO MAKE APPROPRIATIONS.

SEC. 11. No appropriation shall be made without a vote of a majority of all the members of the common council in its favor, which shall be taken by ayes and nays, and entered among the proceedings of the council.

ABATEMENT OF NUISANCE BY SUIT NOT PREVENTED.

SEC. 12. 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 according to law.

COMMON COUNCIL TO ADJUST ACCOUNTS OF CITY OFFICERS.

SEC. 13. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, clerk of the municipal court and all other officers, boards and agents of the city at such time as they 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, board and agent to exhibit his books, accounts and vouchers, for such examination and settlement, and if any such officer, board or agent shall refuse to comply with the orders of said council in the discharge of his said duty in pursuance of this section or shall neglect or refuse to render his accounts or present his books or 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 the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

COUNCIL TO HAVE CHARGE OF FINANCES AND PROPERTY OF CITY.

SEC. 14. The common council shall have the management and control of the finances and all property of the city except as otherwise provided and may provide for the sale of any such property in such manner as it shall consider for the interest of the said city.

POWER TO CONDEMN PRIVATE PROPERTY AND AWARD DAMAGES.

SEC. 15. The common council shall have the power to acquire by purchase or condemnation such private property as may be necessary for sites for public buildings, for the use of the city and all departments thereof, for all structures connected with any department of the city and for all streets, alleys and public squares in the city and to ascertain and determine the value of all such private property taken for such uses and the amount of all damages occasioned to any private property by reason of any public works or structures, and for that purpose may appoint commissioners to appraise such values of damages or acquire information thereof in the manner hereinbefore prescribed.

REVOCATION OF LICENSES.

SEC. 16. Any license issued by authority of the common council may be revoked by the common council at any time, and upon conviction before the municipal court of the city of Duluth of any person holding a license, for a violation of the provisions of any ordinance relating to the exercise of any right granted by such license, the said court may, and upon a second conviction shall revoke such license in addition to the penalties provided by law or by ordinance for any such violation.

POWER TO ESTABLISH FIRE LIMITS.

SEC. 17. The common council for the purpose of guarding against fire, shall have power to prescribe the limits within which wooden buildings or buildings of any other material that shall not be considered fire-proof, shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials or of such materials and with such precaution against fire as the common council shall by ordinance prescribe, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits when the same shall be damaged to to the extent of fifty (50) per cent or more of the value thereof and to prescribe the manner of obtaining the consent to make repairs in such fire limits and of ascertaining the extent of damages.

POWERS OF THE COMMON COUNCIL TO PREVENT FIRES.

SEC. 18. The common council shall have power to prescribe in what manner and of what material chimneys shall be constructed and to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in and about any building and to cause the same to be removed or placed in secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places and the throwing of ashes in the streets and highways; to compel the use of spark arresters in all smoke-stacks connected with apparatus where light fuel is consumed; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires, and the storing of inflammable or explosive materials and the use of fireworks and firearms; to regulate and prevent the sale or use of any fireworks, Chinese crackers, rockets, torpedoes or other explosive contrivances and to provide for the seizure and destruction of the same; also to compel owners of buildings of three or more stories in height to maintain ladders, stand-pipes and fire-escapes, and to regulate the number and location thereof, and compel the owners of buildings to have scuttles in the roofs, and stairs and ladders to the same; to regulate the location and construction of smoke-houses and to prohibit them where they shall be dangerous to other buildings and to make other provisions to guard against fire or to prevent the spreading of fire which the common council may deem proper.

COMMON COUNCIL TO HAVE POWER TO PURCHASE FIRE APPARATUS.

SEC. 19. The common council shall have power to build and maintain engine houses, hose houses and other such buildings as may be necessary or convenient also to erect and maintain fire alarms, telegraph boxes and every other means for giving notice of fire.

REGULATION OF FIRE DEPARTMENT BY ORDINANCE.

SEC. 20. The common council shall have power and authority to make by ordinance all needful rules for the government of the fire department and for the protection and use of all engine houses, telegraph lines and other property and apparatus pertaining thereto, and of the water works, mains, cisterns and hydrants in said city as used in connection with said department, and by such ordinance provide for punishment of persons injuring or interfering with such property or any portion thereof, and may also by such ordinance make provision to keep away from the vicinity of any fire all idlers and suspected persons and compel all bystanders to aid in the preservation of property exposed to danger by such fire.

WOODEN SIDEWALKS—PROHIBITED.

SEC. 21. The common council shall have power to prohibit the construction of wooden sidewalks within the fire limits of the city, whenever it shall deem the safety of the city to require it.

CHAPTER IX.

ASSESSMENT OF TAXES AND FINANCES.

APPOINTMENT OF ASSESSOR.

SECTION 1. In the month of March, A. D. 1888, and every two years thereafter, the mayor by and with the advice and consent of the common council, shall appoint one (1) assessor, who shall be an officer of said city, styled city assessor.

The term of office of city assessor shall be (2) years, commencing on the first Monday of April, of the year of his appointment, and until his successor is appointed and qualified. Vacancies in said office may be filled in the same manner as original appointments are made. The city assessor shall in each year appoint such number of deputies as may be required to enable him to properly do his work, such appointments, however, to be approved and confirmed by the common council, which deputies shall serve during the time of the making of the lists, but only so long as their services may be needed, the city assessor discharging such of said deputies from time to time as the work proceeds, as he can spare.

The city assessor shall also with the approval of the common council, employ such clerks as may be necessary, their number to be reduced or increased whenever occasion requires or the common council directs.

The city assessor shall so far as may be, present to the common council at its second regular meeting in April of each year the names of such persons as he shall desire to have for deputies, designating in each case the time when the appointee shall, with the approval of the common council, commence to serve as such, which time shall be long enough before May first (1), so that each may before that day be assigned his portion of the work and be properly instructed and prepared to do the same. He may, however, in case his deputies are not all appointed or all confirmed at that time, present to the common council other names for deputies at subsequent meetings as occasion shall require. The city assessor and his deputies shall qualify in the manner, and discharge the duties prescribed by general law.

It shall be also the duty of the city assessor to make full preparations and do whatever he can towards the making of his lists beforehand, and the county auditor shall deliver to him his assessment books and blanks in season to enable him to do so. He shall commence on the first (1) day of May of each year, and as soon as may be thereafter complete his lists according to law, but he shall be allowed until the fourth (4th) Monday in June to revise his lists, correct and equalize his appraisals and make out and complete the assessment of the city. Notices may be signed and given and other acts in the line of his duty done by any deputy assessor in the name of the city assessor.

DUTIES OF CITY ASSESSOR.

SEC. 2. In all respects not herein expressly provided for, the city assessor shall in making assessments, be governed by the rules, both in respect to the property to be listed and assessed and the manner of listing and assessing the same, which are and may be described by the general laws of the state for the government of assessors in other parts of the state.

BOARD OF REVIEW.

SEC. 3. The mayor, city comptroller and city assessor shall constitute a city board of review. The powers and duties of the board shall be such as are defined by section thirty-nine (39), chapter eleven (11) of the general statutes of one thousand eight hundred and seventy-eight (1878), except as herein provided. They shall meet on the fourth (4th) Monday in June in each year, at two (2) o'clock in the afternoon, at the place of meeting of the common council and proceed to the performance of their duties, and a majority of said board shall constitute a quorum to transact business. The board may raise the valuation of any real estate without notice to the owner. It shall have power to employ a clerk or clerks if necessary to enable it to complete its work within the time prescribed by law. It shall be the duty of the city attorney to appear before said board whenever thereto requested by the mayor or by the board, to protect the interests of the city.

COMPENSATION OF CITY ASSESSOR, CLERKS AND BOARD OF REVIEW.

SEC. 4. The city assessor shall be paid a reasonable stated annual salary to be fixed by resolution of the common council. All deputy assessors, clerks of assessors and of the board, shall be paid such reasonable compensation upon accounts of time and audited by the comptroller, as shall be determined by the common council.

FISCAL YEAR DEFINED.

SEC. 5. The fiscal year of said city shall commence on the third (3) Monday of February in each and every year.

COMPTROLLER'S REPORT.

SEC. 6. The comptroller after the close of each fiscal year and on or before the first (1st) Monday in March next, shall make to the common council a detailed report of the assets and liabilities of the city at the close of the year, and he shall at the same time submit in detail an estimate of the resources of the city for the current fiscal year from all sources other than taxes not yet levied and an estimate of the amount required to pay the ordinary expenses of the city during the current fiscal year; also an estimate of the amount required to pay interest during the current fiscal year not otherwise provided, and shall in general give the common council any information in regard to the finances of the city which may aid the common council in the performance of its duties and make any recommendations he may see fit to make. The common council may at any time call upon the comptroller for any information with reference to the finances of the city.

FUNDS CLASSIFIED.

SEC. 7. All moneys and securities belonging to the city shall be divided into the following funds, accounts of which shall be kept separate and distinct:

First. A general fund in which all revenues of the city shall be placed except such as are herein directed to be placed in some other fund.

The general fund may be used for any lawful city purpose in the discretion of the common council, and money may be transferred from the general fund to other funds by the common council.

Second. A fire department fund, into which shall be paid all taxes levied especially for this fund, and it shall be used only for payment of fire department expenses.

Third. An interest fund, into which shall be paid all taxes levied by the common council for the payment of interest on the bonded indebtedness of the city and shall be used only for the payment of interest on bonds on which the city is liable and for transfer to the sinking fund.

Fourth. A sinking fund into which shall be paid all taxes levied by the common council for that purpose, and all funds transferred to this fund from such other funds by the common council, and it shall be used only for paying bonds on which the city is liable.

Fifth—A permanent improvement fund into which shall be paid all taxes levied especially for this fund, all assessments collected on account of street grading, the construction of sewers and sidewalks ordered by the common council of the city of Duluth, all monies arising from the sale or city bonds issued for the benefit of this fund, and all monies realized on assessments for public improvements ordered by the common council by sale of certificates or otherwise, and it shall be used only in paying such part of public improvements ordered by the common council or by the common council of the village of Duluth as has been or is to be assessed, upon property fronting on the line of such improvement or benefited by the same, so that the money in this fund and the amount due it on assessments shall never be less than the amount placed in it from the sale of bonds and from taxes collected especially for this fund, and from sums permanently transferred to it by the common council from the general fund.

Sixth. A Ward Fund for each Ward in the City. Temporary loans for a term not exceeding one year may be made by the common council from one fund to any other fund than the general fund whenever there is in any of the funds money not there needed for use in that fund and it is reasonably certain that the borrowing fund will have money in it to repay the sum before needed in the loaning fund.

LEVY OF TAXES.

SEC. 8. The common council shall annually by resolution levy taxes on all taxable property in the city as follows:

For the general fund so much as they deem necessary, not exceeding five (5) mills on the dollar of assessed valuation.

For fire department fund so much as they deem necessary, not exceeding three (3) mills on the dollar of assessed valuation.

For interest fund so much as may be necessary to pay accruing interest on outstanding bonds on which the city is liable not otherwise provided for, and from year to year such additional sums as will create a sinking fund sufficient to pay all maturing bonds on which the city is liable at maturity.

On each ward of the city for the ward fund as much as deemed necessary, not exceeding one (1) mill on the dollar of assessed valuation.

ISSUE OF BONDS.

SEC. 9. The common council may, by ordinance passed by three-fourths vote of all the aldermen, authorize the issue of the coupon bonds of the city, running not more than thirty (30) years, bearing interest at not more than five (5) per cent. per annum, principal and interest payable at such times and places as may be fixed by the common council, such bonds to be signed by the mayor, sealed with the seal of the city, attested by the clerk and countersigned by the comptroller, and shall be sold at not less than par value to the highest responsible bidder, after notice published at least once in each week for three successive weeks, in a daily paper published at Duluth, and one published at St. Paul, as follows:

One hundred thousand (100,000) dollars for the permanent improvement fund, for the purchase or payment, before or at maturity, of valid outstanding bonds and coupons issued by the old city of Duluth, such as may be necessary for that purpose, and for the payment of any maturing bonds of the city or village of Duluth, so much as may be necessary after expending all the sinking fund available for that purpose, other bonds for the benefit of the general fund, in such amount as the common council shall deem advisable; *Provided*, that no bonds shall ever be issued, or be valid if issued, which shall increase the bonded indebtedness on which the city is liable, above five (5) per cent. of the assessed valuation of taxable property in the city, according to the then last assessment; *Provided, further*, that when bonds are issued for the purchase or payment of other bonds, the bonds to be so purchased or paid, shall not be considered a part of the bonds on which the city is liable for the purpose of determining whether the bonds so issued will increase the bonded indebtedness of the city above the said five (5) per cent. All sums of money realized from the sale of city bonds, shall be applied to the purpose for which they are issued, and no other, and such purpose shall be distinctly stated in the resolution or ordinance authorizing their issue.

COUNTY TREASURER MAY ADVANCE MONEY COLLECTED TO CITY
TREASURER.

SEC. 10. Whenever previous to any of the settlements provided for by law, there shall be a lack of funds in the city treasury for any purpose, and shall be funds in the county treasury which shall have been collected on account of city taxes or assessments, the county treasurer may at the request of the common council advance and pay over such sums as shall be estimated to be the amount collected on account of such city taxes or assessment, and shall take the treasurer's receipt therefor, and such advances shall be accounted for and adjusted at the next regular settlement with said city. The city treasurer shall also forthwith at such settlement adjust and apportion the fund so advanced among the several city funds in his hands.

COUNTY AUDITOR TO MAKE RETURNS TO COMPTROLLER.

SEC. 11. It shall be the duty of the county auditor of the county of St. Louis to make out and transmit to the city comptroller of said city, on or before the first (1st) day of October of each year, a statement showing the exact amount of taxes levied on account of the several funds of said city according to the tax list made out by said auditor, and at the same time make out and transmit to said comptroller a statement of all abatements, corrections or additions to said tax lists, and of all amounts of all taxes cancelled as uncollectible within the year next preceding, and the several amounts of such charges affecting each of the said several funds, and also a further statement of the amounts of taxes delinquent and outstanding, applicable to said several funds; he shall also at the time of making settlement with the county treasurer required by law, furnish said comp-

troller with a certified statement of the several amounts collected by said county treasurer on account of each of said several funds as shown by such settlement.

NO MONEY TO BE PAID OUT OF CITY TREASURY EXCEPT ON ORDER.

SEC. 12. No money shall be paid out of city treasury except for principal or interest on bonds, unless such payment shall be authorized by a vote of the common council, and shall then be drawn out only upon orders signed by the mayor and clerk, and countersigned by the comptroller; which order shall specify the purposes for which they were drawn and the fund from which they are payable, and the name of the person in whose favor they may be drawn and may be made payable to the order of such person or to bearer as the common council may determine.

ORDERS TO BE CANCELLED.

SEC. 13. When any such order shall have been paid to or received by the treasurer, it shall not again be issued but he shall immediately cancel the same and file the same away in his office, keeping the orders drawn upon each fund separate.

EXAMINATION AND DESTRUCTION OF CANCELLED ORDERS.

SEC. 14. The common council may provide for the examination from time to time, of such cancelled orders and also of cancelled bonds or other obligations in the hands of the treasurer, and for their destruction, preserving such record or vouchers thereof as the common council or any committee thereof may deem proper.

BANKS TO GIVE BONDS FOR DEPOSIT OF CITY FUNDS.

SEC. 15. Any bank in the city of Duluth with a capital equal to or exceeding fifty thousand (\$50,000) dollars, which desires to receive on deposit as provided in this act a portion of the funds in the hands of the city treasurer of said city, shall prior to the fourth (4th) Monday in March of each year, file with the city comptroller of said city, an application for said deposits, stating that they will furnish good and sufficient bonds, payable to the city of Duluth in double the amount of money likely to be received and conditioned for the safe keeping and payment of the fund so deposited and interest thereon; and that they will pay interest on such deposits as provided in this act. The application so filed shall be presented to the common council who shall determine upon the amount of bonds which will be required of each bank, and the city clerk shall notify the banks thereof; the banks shall then execute such bonds with three (3) or more sureties and present them to the common council for approval; and all of such banks which shall furnish bonds which shall be approved by the common council shall be designated by the common council as depositories for funds in the city treasury.

CITY FUNDS TO BE DEPOSITED.

SEC. 16. After such designation shall have been made, all the funds then in the hands of the city treasurer or thereafter received by him, shall be deposited in the banks designated in the name of the city of Duluth and subject to the order of the city treasurer, and the funds so deposited shall be distributed as near as may be equally in proportion to the paid up capital of any of the banks receiving such deposit.

INTEREST TO BE PAID ON ALL DEPOSITS.

SEC. 17. The banks receiving such funds on deposit shall pay interest on the same at the rate of three (3) per cent. per annum on daily balances, which interest shall be computed at the end of each calendar month and placed to the credit of said city at that time. *Provided*, that if the city treasurer shall at any time receive or have in bank funds which will probably remain on deposit three (3) months or longer, instead of leaving such funds deposited in open account, he shall therefore take certificates of deposit payable to his order on demand and bearing interest from date at a rate not less than four (4) per cent. per annum and at such higher rate as he may be able to negotiate for; *Provided further*, that the total amount deposited in any bank, both on open account and on certificates of deposit shall not at any time exceed one-half the amount of the bond of said bank to the city.

CITY TREASURER TO MAKE MONTHLY STATEMENTS OF DEPOSIT.

SEC. 18. The city treasurer shall make monthly statements of the amount of money deposited as hereinbefore provided, giving the amount deposited in open account and in interest-bearing certificates, in each bank separately and file such statement with the city clerk, who shall present the same to the common council at its next regular meeting thereafter, and the city clerk shall furnish a copy thereof to any local newspaper applying therefor, for publication free of charge.

CITY TREASURER NOT LIABLE FOR LOSSES OF DEPOSITS.

SEC. 19. When the funds in the hands of the city treasurer shall be deposited as hereinbefore provided, such treasurer and his bondsmen shall be exempt from all liability therefor, by reason of the loss of any such deposited funds from the failure, bankruptcy, or any other acts of any such bank or bankers to the extent and amount of such fund in the hands of such bank or bankers at the time of such failure or bankruptcy.

CITY TREASURER TO MAKE EFFORTS TO SECURE INTEREST.

SEC. 20. It is hereby made the duty of the city treasurer to make every endeavor to secure the interest on the public funds consistent with their safe keeping as herein provided, and to manage such funds in the interest of the city, but he shall in no case postpone or defer any

payment after the same becomes due in order to secure additional interest on such funds. At the close of each fiscal year, the city treasurer shall make a statement of the total amount of interest on public funds received by him during the year, and such interest shall be placed to the credit of the general fund.

NEWLY ORGANIZED BANKS MAY APPLY FOR DEPOSITS.

SEC. 21. Any bank in the city Duluth newly organized or which has not before received any of the city funds on deposit, having a paid up capital of not less than fifty thousand (\$50,000) dollars, may at any time make application to the common council for the deposit of a portion of the city fund, and if they shall give bonds which shall be approved by the common council, and comply with the conditions of this act, the common council may designate any such bank as a depository of such funds.

COMMON COUNCIL MAY REQUIRE ADDITIONAL BONDS.

SEC. 22. Whenever from the change in the financial ability or sureties or from other causes the common council shall deem the bonds of any bank insufficient security for the funds therein deposited or liable to be deposited by the city treasurer, the common council shall require a new bond with sureties to be approved by the common council, to be given by such bank, and if such bank shall fail to promptly execute and present such new bond, the city treasurer shall at once withdraw all deposits from such bank, and such bank shall cease to be a depository of city funds until it shall be reinstated as such by a vote of the common council upon the execution of bonds which shall be approved by the common council.

BONDS TO CONTINUE IN FORCE AND BE RECORDED.

SEC. 23. All bonds given by banks as provided in this chapter, shall continue in force so long as the funds of the city, or of which the city treasurer is the custodian in any way, if deposited in such bank shall be paid by the bank giving such bonds, and the common council at its second regular meeting in the month of April in each year, shall examine all bonds in the hands of the city treasurer, and if any are deemed insufficient they shall require new bonds to be executed, and the common council may make such examinations and orders at any other time. All of such bonds given by banks under the provisions of this chapter shall upon being approved by the common council, be recorded by and deposited with the city comptroller, for safe keeping and the record of such bonds so kept by the city comptroller or copies thereof, certified by that officer, shall be competent and *prima facie* evidence of the contents and tenor of such bonds.

CHAPTER X.

MAYOR TO HAVE CONTROL OF POLICE DEPARTMENT.

SECTION 1. The mayor shall have control and supervision of the police of the city. He shall by and with the consent of the common council, appoint all police officers and watchmen, and he may suspend any police officers or watchmen whenever in his opinion the welfare of the city may demand it, either for the appointment of other officers in their places or for the reduction of the police force, and he shall report his suspension to the common council, with his recommendations in the matter, and the common council may thereupon take such action as they may deem expedient.

MAYOR TO APPOINT.

SEC. 2. The mayor may likewise at the request of any person, firm, society, or organization, appoint policemen or watchmen, who shall serve without expense to the city and have police powers to preserve the peace and protect the property within such limits and at such places as may be designated in such appointment, but such limited policemen or watchmen shall not exercise any authority nor wear any badge of office outside the limits named in such appointment.

SPECIAL POLICE.

SEC. 3. The mayor may in case of riot, large public gatherings, or other disturbances, appoint such a number of special or temporary police officers as he may deem necessary; but such special or temporary appointments shall not continue more than one (1) week without the consent of the common council. The mayor shall in his appointments, designate one officer to be chief of police and such other officers for the performance of special duties and with such control over other officers or watchmen as may be deemed necessary, and may designate the rank of such police officers by such proper title as he may select.

POLICE TO HAVE POWER OF CONSTABLES.

SEC. 4. All police officers and watchmen of the city shall have power of constables at common law or by the laws of the state, and in addition thereto, shall have power and it shall be their duty to execute and serve all warrants, process, commitment, and all writs whatsoever, issued by the municipal court of the city, and they shall have the power with the written consent and by the discretion of the mayor, to pursue and arrest any person fleeing from justice in any part or the state. They shall also have power and it shall be their duty to serve all summons or subpoenas in behalf of said city. When such officers perform the duties of constable within the city for private parties, the city shall be entitled to like fees for their services, to be taxed and collected in like manner as other costs.

REGULATIONS FOR CONTROL OF POLICE.

SEC. 5. The mayor shall with the consent and approval of the common council from time to time, make such regulations for the control of the police force and the powers and duties of the several officers thereof as he may deem necessary, and in like manner alter the same. Such regulations may designate uniforms, badges, arms, discipline, drill and exercise of the police force, as well as the conduct of the officers and men of said force, when on or off duty, and all other matters deemed necessary to promote the efficiency of the force.

SHALL BE OFFICERS OF THE PEACE.

SEC. 6. The mayor or acting mayor, chief of police, the officers of the police next in rank to the chief, the sheriff of St. Louis county and his deputies, the coroner, the judge of the municipal court and all police officers and watchmen shall be officers of the peace, and may command the peace and suppress in a summary manner, all rioting or disorderly behavior within the city limits, and for such purpose may command the assistance of all bystanders, and if need be of all citizens and military companies, and in cases where the civil authorities may be required to suppress riot or disorderly behavior, the superior or senior officer present in the order mentioned in this section, shall direct the proceedings.

PENALTY FOR DISOBEDIENCE OF ORDERS.

SEC. 7. If any person, bystander, military officer or private, shall refuse to aid in preserving the peace when required as designated in the foregoing section, every such person shall forfeit and pay a fine of fifty (50) dollars, to be recovered by prosecution in the municipal court.

PENALTY FOR ASSUMING TO ACT AS POLICEMAN WITHOUT AUTHORITY.

SEC. 8. If any person shall without authority assume to act as policeman, or to pretend to have such power or wear the badge of a policeman in said city, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before the municipal court, he shall be fined or imprisoned, in the discretion of said court.

CHAPTER XI.

BOARD OF FIRE COMMISSIONERS.

POWER AND DUTIES VESTED IN BOARD.

SECTION 1. All the powers and duties connected with and incident to the government and discipline of the fire departments of the city of Duluth shall be as hereinafter provided, vested in and exercised by a board of three (3) commissioners, to be known as the "Board of Fire Commissioners" of the city of Duluth, a majority of whom shall constitute a quorum for the transaction of business.

THE FIRST BOARD OF COMMISSIONERS.

SEC. 2. There are hereby designated as such commissioners, F. B. Dougherty to hold his term of office until the first (1st) Monday in April, 1888, and until his successor is appointed and qualifies; H. W. Pearson to hold his term of office until the first (1st) Monday of April, 1889, and until his successor is appointed and qualifies; Jno. K. Shaw, to hold his term of office until the first (1st) Monday of April 1890, and until his successor is appointed and qualifies, subject however to the approval and confirmation of the common council of the city of Duluth, whose duty it shall be to approve or reject these appointments as soon as may be after the passage of this act, and when they shall have been confirmed by a majority vote of the common council, and shall have filed their oaths of office in accordance with the provisions of this act, they shall constitute the board of fire commissioners of the city of Duluth, to hold office for the respective terms hereinbefore named, and until their successors are appointed and qualified.

APPOINTMENT.

SEC. 3. In the year one thousand eight hundred and eighty-eight (1888), and in every year thereafter, at the first meeting of the common council in April, or as soon afterwards as may be on the nomination of the mayor, there shall be appointed by the common council, one (1) member of said board to take the place of the commissioner whose term of office then expires, who shall hold his office for three years, and until his successor is appointed and qualified. And in case any of the commissioners named in section two (2) of this chapter shall not be confirmed by the common council, or in case of vacancy in said board by reason of death, resignation, removal, failure of confirmation, declination of appointment or any other cause, such places and vacancies shall be filled without delay by new appointments under this section, whether for full term or to fill vacancy shall be made by the common council on the nomination of the mayor and the votes of a majority of all the members elect to said council shall be necessary to a confirmation.

REMOVAL.

SEC. 4. Any member of said board may at any time be removed by a vote of two-thirds ($\frac{2}{3}$) of all the members elect of the common council of said city for sufficient cause, and the proceedings in that behalf shall be entered on the journal of the council. *Provided*, that the said common council shall previously cause a copy of the charges preferred against such member sought to be removed, and notice of the time and place of hearing the same to be served on him at least ten (10) days previous to the day so assigned, and opportunity be given him to make his defense personally or by council.

COMPENSATION—ELEGIBILITY.

SEC. 5. Said commissioners shall serve without compensation. No person shall be eligible to appointment to said board unless he shall then be an elector and resident of said city, nor shall any person be

eligible who holds any elective or political office or any office by virtue of the appointment of the mayor or common council of said city, and any of said commissioners shall be considered as vacating his office, in the event of his accepting or holding any such office.

TO FILE OATH OF OFFICE.

SEC. 6. Immediately after their appointment, said commissioners and their successors, shall file with the city clerk of said city of Duluth the oath of office prescribed by this charter for city officers, and said clerk shall thereupon give to each a certificate of his appointment and the time thereof, and shall report all such acceptances of office to said common council at its next meeting.

ORGANIZATION AND REPORTS OF BOARD.

SEC. 7. As soon as the said commissioners have qualified by filing their oaths of office, they shall meet and organize by electing one of their number to be president of said board and appointing a person to be secretary and fixing his salary, subject to the approval of the common council. Whereupon they shall assume control of the fire department of said city, and they and their successors in office shall have and possess all the powers and authority conferred upon them by this act. They shall provide an office for the use of the board and their secretary, with all the necessary furniture, records and stationery, and shall hold such regular and special meetings as they may from time to time provide, and shall cause full and accurate record of the same and of all business transacted by the board to be kept by the secretary. The secretary shall keep a separate account of all expenditures ordered by the board on account of the fire department, and of all the expenses incurred by the board in managing and maintaining said department. The board shall report to the common council monthly, the condition and needs of the fire department, and the expense of conducting the same for the month, together with a statement of the number of men employed in said department. Said board shall also from time to time certify to the comptroller of said city all such accounts, claims and demands against said city, for or on account of said fire department, as shall have been approved by the board and comptroller, shall report the same to the council for payment as in other cases, and said board may also report without recommendation to the comptroller for his action, any claim or demand, the validity of which may be in doubt.

TRANSFER OF PROPERTY.

SEC. 8. On and after the organization of the board of fire commissioners as herein provided, all the engine houses, fire engines and apparatus, horses, hose, implements, tools, bells, bell-towers, fire-alarm telegraph and all property of whatever nature then in use by the fire department of the village of Duluth, shall be transferred by all persons having charge of the same, to the keeping and custody of said board of commissioners, and the care and control of said department shall pass to said board, who shall have power to reorganize

and maintain said department and prescribe all rules and regulations for the government of the same and prescribe reasonable fines and penalties for the breach of any such rules and regulations.

APPOINTMENT OF FIREMEN.

SEC. 9. Said board shall appoint one (1) chief Engineer, as many assistant engineers as they may deem necessary, and fire wardens not to exceed one (1) for each ward of said city as they may from time to time determine, a proper number of firemen, such number of hook and ladder men and hose men as they may think best, all to have the privileges and exemptions of firemen and to hold their appointments during the pleasure of said board. And said board shall as soon as may be after assuming control of said department prescribe and publish in convenient form for use a system of rules and regulations for the government of the fire department, but until such rules and regulations are published as aforesaid, the rules heretofore adopted by the common council of the village of Duluth in relation to said department shall remain in force, and the present members of said department shall continue to hold their positions until appointments are made by said board.

PURCHASE OF APPARATUS.

SEC. 10. Said board, by and with the advice and consent of the common council shall fix the salary of the chief engineer and all other persons connected with the fire department of said city, and may require the chief engineer to execute a bond to said city in such sum as they may deem best to secure the faithful performance of his duties. Said board shall have power by and with the advice and consent of the common council, to purchase all such fire engines with their hose apparatus, horses, hose-carts, ladders, trucks, fire-hooks, fire buckets, and other tools, implements and conveniences for the extinguishment of fire and to prevent injury by fire as may from time to time be necessary, and repair and replace the same; and they shall have the power to make all needed repairs to any of the engine houses now being built in said city.

FIRE DISTRICTS.

SEC. 11. Said board shall have power to organize said city into as many fire districts as they may deem necessary, to prescribe rules for the inspection of buildings by wardens and prescribe the duties of said fire wardens; to control the systems and hydrants in use by said fire department; to direct the manner in which the bells of the city shall be tolled or rung in case of fire or alarms of fire, and to establish and maintain an efficient system of fire alarms, telegraph, and such telegraphic or telephonic apparatus as may be necessary to secure the highest efficiency of the department.

DUTIES OF CHIEF ENGINEERS.

SEC. 12. The chief engineer, under the direction of the board, shall have the custody and general superintendence of the fire engines, engine houses, hooks, ladders, hose, horses, public cisterns, hy-

drants and other property and conveniences for the extinguishment and prevention of fire, and it shall be his duty to see that the same are kept in order, and see that the rules and regulations and ordinances relative to the fire department and to the prevention and extinguishment of fires are duly executed, and to make detailed and particular reports of the state of the department, the conduct of the members thereof, and such other matters as may be required by the rules and regulations, to the said board of fire commissioners.

CARE OF PROPERTY AT FIRES.

SEC. 13. Said board shall prescribe the duty of the chief engineer and other members of the fire department at fires, and may vest in them such powers as shall be deemed necessary to preserve property from being stolen, and to extinguish and prevent fires; but in no case shall any member of said board, or any officer of the city, direct the chief engineer or assistant during any fire.

They may provide for the removal and keeping away from fires all idle, disorderly or suspicious persons, and may confer powers for that purpose on the engineers, fire wardens, or other officers of the city. They shall require reports from the chief engineer or other officer in charge of the department, of all fires, fire alarms, losses and insurance on all property destroyed and keep proper record thereof, and shall report the same monthly to the common council of said city, and it shall be competent for said board at any time if in their best judgment proper, to send any steam or fire engine with hose and apparatus to the relief of any community in the vicinity of said city.

MAY DESTROY DANGEROUS BUILDINGS.

SEC. 14. Whenever any building in said city shall be on fire, it shall be the duty, and be lawful for the chief engineer with the consent of any member of the board of fire commissioners, to order and direct such or any other building in the vicinity which they may deem hazardous and likely to communicate fire to other buildings, or any part of such building, to be pulled down and destroyed, and no action shall be maintained against any person or said city therefor; but any person interested in any such building so destroyed or injured, may, within three (3) months thereafter, apply to the common council to assess and pay the damages sustained, and the amount of such damages shall be ascertained and paid.

SHALL ENFORCE ORDINANCES.

SEC. 15. The said board shall see that all the ordinances of the common council and provisions of law relating to the fire department and to the prevention and extinguishment of fires are faithfully enforced, and they may at all times call upon and direct the police force to enforce any and all such ordinances and laws.

ESTIMATES.

SEC. 16. It shall be the duty of said commissioners to prepare and submit to the common council of said city, on or before the first

(1st) Monday of October in each year, an estimate of the whole cost and expense of providing for and maintaining the fire department of said city for the ensuing year; which estimate shall be in detail, specifying the objects of expenditure, the sums desired, and such special reasons for the same as the board may have. The amounts of money so estimated to be necessary, or such increased amount as the common council may by resolution determine to be necessary, shall be certified by the city clerk of said city to the auditor of the county of St. Louis, with the other sums determined to be raised by tax for said city.

DUTY OF COMMON COUNCIL.

SEC. 17. It is hereby made the duty of the common council of said city, to pass any and all ordinances that may from time to time be necessary to enable said board of fire commissioners to fully carry out the provisions of this act, and as may be necessary to enforce all lawful rules and regulations made by said board.

CHAPTER XII.

MISCELLANEOUS PROVISIONS.

SECTION 1. All ordinances in force in the village of Duluth at the time this act goes into effect, not inconsistent herewith, shall remain in full force and effect until altered or repealed by the common council of the city of Duluth, and all rights, actions, prosecutions, and all contracts of the village of Duluth and not inconsistent herewith, shall continue the same as if this act had not been passed.

SEC. 2. All recognizances, obligations and all other instruments entered into or executed to the village of Duluth before this act goes into effect, and all fines, taxes, penalties and forfeitures, due or owing to the said village of Duluth, and all writs, prosecutions, actions and causes of actions, except as herein otherwise provided, shall continue and remain unaffected by this act going into operation; all ordinances thereof, as well as ordinances of the village of Duluth proven by a copy thereof, certified by the city clerk under the seal of the corporation, or when printed in books or pamphlet form and purporting to be published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof; in no case where the city is a party to the actions or proceedings, it shall not be necessary to prove the publication of an ordinance but the failure to publish may be proved like any other fact by the party alleging the same.

SEC. 3. Before the city of Duluth shall be liable for damages to any person injured upon any of the streets, avenues, alleys or sidewalks of the city, the person so injured or some one in his behalf, shall give the mayor or common council notice in writing of such injury, within thirty (30) days after the same has been received stating in such notice when, where, and how the injury occurred, and the extent thereof.

SEC. 4. The mayor, city clerk, city comptroller and city treasurer,

and each of them, is hereby authorized to administer oaths to any person whose oath is required under the provisions of this act.

SEC. 5. This act is hereby declared to be a public act and may be read in evidence in all the courts within this state without proof.

SEC. 6. That all papers, files, plats, and other public records required to be kept preserved and filed, unless otherwise provided in this act, shall be placed, filed and preserved in the office of the city clerk.

SEC. 7. No law of the state contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be set forth in such law.

SEC. 8. When any suit or action shall be commenced against said city the service thereof may be made by leaving a copy of the proceedings by the proper officer, with the mayor, or acting mayor; and it shall be the duty of the mayor or acting mayor forthwith to inform the common council thereof, and to take such other proceedings as, by the ordinance or resolutions of said common council may have been in such case provided.

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

SEC. 10. In all prosecutions for any violations of this act, or of any by-laws or ordinances of the city of Duluth, the first process shall be by warrant. *Provided*, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota or ordinance of the city of Duluth, but the person or persons so arrested, may be proceeded against, tried, convicted, punished or discharged, in the same manner as if the arrest had been by warrant. All process issued by the municipal court for the violation of any ordinances 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, or to the sheriff of Saint Louis county.

SEC. 11. In all cases of imposition of penalty or fine, or the rendering of judgment by the municipal court of said city, pursuant to any statute of the state of Minnesota, or pursuant to any ordinance of said city of Duluth, as a punishment for any offense, or for the violation of any by-law or ordinance aforesaid, the offender shall be forthwith committed to the city prison of said city, or to the common jail of Saint Louis county, and there be imprisoned for a period not exceeding three (3) months, in the discretion of said court, unless the said fine or penalty be sooner paid; and from the time of the arrest of any person or persons, for any offense whatever, until the time of trial, the person or persons so arrested, may be imprisoned in the county jail of Saint Louis county or city prison.

SEC. 12. Any person who shall violate any of the provisions of this act for the violation of which no punishment has been provided herein, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding one hundred (100) dollars,

or by imprisonment in the city or county jail not exceeding ninety (90) days, or by both such fine and imprisonment.

SEC. 13. There shall be a special election held in the city of Duluth, under this charter, on the third Tuesday of March, A. D. 1887, at which time there shall be elected four (4) aldermen, as follows: two (2) aldermen in the second (2d) ward, one of said aldermen to hold his office until the regular city election for the year 1889, and until his successor is elected and qualified, and one (1) until the regular city election for the year 1888, and until his successor is elected and qualified. Two (2) aldermen in the sixth (6th) ward, one of said aldermen to hold his office until the regular city election for the year 1888, and until his successor is elected and qualified, and one (1) alderman to hold his office until the regular city election for the year 1889, and until his successor is elected and qualified. There shall be elected at said special election a city comptroller, to hold his office until the annual election in 1889, and until his successor is elected and qualified. The following named officers now serving in the village of Duluth shall continue to hold their respective offices, and shall be known and designated as city officers: The mayor, until the next annual election under this act, and his successor is elected and qualified; the village treasurer, until the annual election in 1889, and until his successor is elected and qualified; the present municipal judge and special municipal judge of the municipal court of the village of Duluth to be judge and special judge of the municipal court of the city of Duluth, until the annual city election in 1889, and until their successors are elected and qualified; the present aldermen of the village of Duluth shall be aldermen of the city of Duluth, and hold their respective offices for the time for which they were elected, and until their successors are elected and qualified.

All appointive officers shall be appointed by the common council, as this charter provides, at their first meeting after the said special election, or as soon thereafter as may be, to hold their respective offices for the time provided in this act, and until their successors are appointed and qualified.

SEC. 14. The municipal court bill of the village of Duluth, entitled "An act amending sections two (2), three (3), four (4) and five (5) of chapter two (2) and repealing sections fourteen (14), fifteen (15) and sixteen (16) of Chapter four (4), of an act entitled an act to define the boundaries of, and establish a municipal government for the village of Duluth approved March eighth (8th) eighteen hundred and eighty-one (1881), and providing for the establishment of a municipal court in the village of Duluth, Saint Louis county, State of Minnesota, approved March ninth (9) eighteen hundred and eighty-five (1885), shall apply to and govern and define the powers and jurisdiction in all matters civil and criminal in the municipal court of the city of Duluth, except as hereinbefore limited, changed or modified, and from and after the time this act takes effect the municipal court of the village of Duluth shall cease to exist.

OFFICIAL NEWSPAPER,—HOW DESIGNATED.

SEC. 15. The present official paper of the village of Duluth shall be the official paper of the city of Duluth until an official paper is hereafter designated by the common council of the city of Duluth, under this act; the common council shall at its first meeting after its organization under this act or as soon thereafter as may be and at its first meeting in April in each year thereafter, or as soon thereafter as may be, cause the city clerk to advertise in the official paper of the city for one (1) week for sealed proposals for publishing in some daily newspaper which shall have been printed, published and of general circulation in said city at least six (6) months prior to the advertising for such proposals, the ordinances, official proceedings of the council and other matters required in the charter or the ordinances and resolutions of the city to be published in a public newspaper, such proposals to state the price per folio for the first and for each subsequent insertion of all matters so to be published, said proposals to be marked "Proposals for advertising" and addressed to the common council, which proposals shall be opened at the next meeting of the common council and the contract for such publishing awarded to such daily newspaper bidding the lowest therefor, in no event to exceed the rate provided in the general statutes of this state, which paper shall be declared the official paper of the city. *Provided;* that in determining which is the lowest bidder of the newspapers conforming thereto, regard may be had to the circulation and the Common Council may require proof of such circulation to be furnished, and in case any two bids are the same, the common council may by vote select one of such papers. *Provided further;* that the proprietor or proprietors of such paper shall enter into a written contract for the performance of the duties required of such newspapers, and give bond in such an amount as may be fixed by the common council, with two (2) or more satisfactory sureties to be approved by the council conditioned for the faithful performance of said contract.

The daily newspaper so designated shall be and remain the official paper of said city and contract and bond aforesaid shall remain in force for the term designated, and until the common council shall designate another paper as the official paper of the city.

The publisher or publishers of said official paper shall immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, 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.

It shall be the duty of the village recorder of the village of Duluth to give ten (10) days notice of the time of holding the special election provided for in this charter by posting in three (3) public places written or printed notices thereof, specifying the time of holding the same and the officers to be voted for at said election, and shall also publish said notice in the official paper of said Village of Duluth for

a period of at least ten (10) days immediately preceding said election.

SEC. 16. Whenever the mayor or any other officer or board having authority under this act to make appointments of any officer to serve in said city, shall nominate such officer, and his appointment or nomination is required to be ratified and confirmed by the common council, and the common council shall refuse to ratify such appointment, the said mayor or other officers or board shall on or before the next regular meeting nominate some other person to said office.

SEC. 17. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 18. This act shall take effect immediately.

Approved March 2, 1887.

CHAPTER 3.

[S. F. No. 356.]

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF RED WING," APPROVED MARCH THIRD (3d) EIGHTEEN HUNDRED AND SIXTY-FOUR (1864) AND THE SEVERAL ACTS AMENDATORY THEREOF, AND TO AMEND AND CONSOLIDATE THE CHARTER OF THE CITY OF RED WING.

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

SECTION 1. That the act entitled "an act to amend an act entitled an act to amend an act entitled an act to incorporate the city of Red Wing," approved March third (3d) eighteen hundred and sixty-four (1864), the same being chapter six (6) of the special laws of this state for the year one thousand eight hundred and sixty-four (1864), and all acts of the legislature amending the same subsequently passed are hereby amended so as to read as follows:

CHAPTER I.

CITY AND WARD BOUNDARIES—CREATION OF CORPORATION.

SECTION 1. All that district of country in the county of Goodhue contained within the limits and boundaries hereinafter described shall be a city by the name of Red Wing, and all the people now inhabiting and those who shall hereinafter inhabit the same district shall be a municipal corporation by the name of the city of Red Wing, and by that name may sue and be sued, plead and be impleaded in any court; make and use a common seal, and alter it at pleasure; take and hold, lease and convey all such real, personal and mixed property as the purposes of the corporation may require, or the transaction or exigences of the business may render convenient within or without the limits of such district; 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