

council of said city, shall be and remain in full force and effect until the same shall have been altered, modified or repealed.

SEC. 13. *Repealing Clause.* All acts and parts of acts heretofore passed for the incorporation of the city of Albert Lea, and amendatory thereof not contained in or incorporated herein, and all acts inconsistent with this act are hereby repealed; but the repeal of any and all such acts or parts of acts shall not in any manner affect, injure or invalidate any bonds, contracts, suits, claims or demands that may have been duly and lawfully issued, entered into, commenced, or that may exist under and by virtue or in pursuance of the said acts or any of them, but the same shall exist, be enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed.

SEC. 14. *Compilation of Charter and Ordinances.* The city council may from time to time provide for the compilation and publication of the charter and ordinances of the city and such resolutions and other matter as may be designated, and for the distribution or sale of copies of such compilation in its discretion, and may also provide for the exchange of such printed compilations for similar publications of other cities.

SEC. 15. *Act to Take Effect.* This act shall take effect and be in force from and after its passage.

Approved April 8th, 1889.

CHAPTER 11.

[H. F. No. 504.]

AN ACT TO REDUCE THE LAW INCORPORATING THE CITY OF BRAINERD, IN THE COUNTY OF CROW WING, AND STATE OF MINNESOTA, AND THE SEVERAL ACTS AMENDATORY THEREOF, INTO ONE ACT AND TO AMEND THE SAME.

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

That the acts of the legislature of this state incorporating the city of Brainerd, and the several acts and parts of acts amendatory thereof, be and the same are hereby amended, consolidated, and incorporated into one act as follows:

TITLE I.

SECTION 1. All that district of country in the county of Crow Wing contained within the limits and boundaries hereinafter described, shall be a city by the name of Brainerd, and all the people now inhabiting and those who shall hereafter inhabit the same district, shall be a municipal corporation by the name of "The City of

Brainerd," and by the 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 hold, and purchase, lease and convey all such real, personal and mixed property as the purposes of the corporation may require, or the transaction or exigencies of the business of said corporation may render convenient within or without the limits of such district; shall be capable of contracting and being contracted with and shall have all the general powers possessed by municipal corporations at common law, and in addition thereto shall possess all the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

SEC. 2. The district of country aforesaid constituting the city of Brainerd, and the limits and boundaries thereof shall be as follows: Lots one (1), two (2), three (3) and four (4) and the south half ($\frac{1}{2}$) of the south east quarter ($\frac{1}{4}$) of section eighteen (18), and all of sections nineteen (19), thirty (30) and thirty-one (31), in township forty-five (45), of range thirty (30), and all of fractional township forty-five (45), of range thirty-one (31), and lots one (1), two (2), three (3), four (4), five (5), six (6) and seven (7), and the south west quarter ($\frac{1}{4}$) of the north west quarter ($\frac{1}{4}$) and the west half ($\frac{1}{2}$) of the southwest quarter ($\frac{1}{4}$) of section four (4), and lots one (1), two (2), three (3) and four (4), and the north west quarter ($\frac{1}{4}$) of the north west quarter ($\frac{1}{4}$), and the south half ($\frac{1}{2}$) of the north west quarter ($\frac{1}{4}$), and the north west quarter ($\frac{1}{4}$) of the south west quarter ($\frac{1}{4}$), of section nine (9), all in township one hundred and thirty-three (133), of range twenty-eight (28); also the south east quarter ($\frac{1}{4}$) of section thirty-three (33), and lots three (3), four (4) and five (5), and the north west quarter ($\frac{1}{4}$) of the south west quarter ($\frac{1}{4}$), of section thirty-four (34), all in township one hundred and thirty-four (134), of range twenty-eight (28), all in the county of Crow Wing.

SEC. 3. The said city shall be and is hereby divided into five (5) wards, to be called first (1st), second (2d), third (3d), fourth (4th) and fifth (5th) wards, respectively, limited and bounded as follows:

First Ward: All of the territory south of the main line of the Northern Pacific railroad, on both sides of the Mississippi river, within the city limits, west of the center line of Sixth street, as said street is described in the original plat of the town of Brainerd, and as the same has since been extended, shall constitute the first ward:

Second Ward: All of the territory north of the main line of the Northern Pacific Railroad, on both sides of the Mississippi river, and west of the center line of the ravine (so called), shall constitute the second ward:

Third Ward: All of the territory north of the main line of the Northern Pacific railroad, and east of the center line of the ravine, aforesaid, shall constitute the third ward.

Fourth Ward: All of the territory south of the main line of the Northern Pacific railroad and east of the track of the St. Paul division of said railroad shall constitute the fourth ward:

Fifth Ward: All of the territory south of the main line of the Northern Pacific railroad and lying between the center line of Sixth street aforesaid and said track of the St. Paul division of said Northern Pacific railroad, shall constitute the fifth ward.

TITLE II.

SEC. 4. There shall be an election by the qualified electors of said city for all the elective officers hereinafter provided for, held on the first (1st) Tuesday in May, A. D. eighteen hundred and eighty-nine (1889), and annually thereafter, at such place or places in each ward as may be established by resolution or ordinance of the council; *provided*, that the municipal judge and special municipal judge shall be elected every two (2) years, thereafter.

SEC. 5. The elective officers of said city shall be a mayor, and a treasurer, who shall be resident freeholders and qualified electors of said city, and who shall have resided therein for the period of one (1) year next preceding their election; a municipal judge and a special municipal judge, who shall be persons learned in the law and duly admitted to practice in the courts of this state and be qualified electors of Crow Wing county, and one (1) alderman in each ward to be voted for by the qualified electors of their respective wards, and four (4) aldermen at large to be voted for by all the qualified electors of said city; the alderman elected in each ward shall be a resident freeholder and qualified elector of said ward, and said aldermen at large shall be resident freeholders and qualified electors of the city of Brainerd, and all shall have resided in said city for the period of one (1) year next preceding their election.

The municipal judge and special municipal judge shall hold their offices for two (2) years, and all other officers whether elected or appointed, shall hold their offices for one (1) year, and all until their successors are elected or appointed and qualified. All other officers necessary for the proper management of the affairs of said city and not otherwise provided for in this act shall be appointed by the city council. The appointments of such officers shall be determined by ballot, and it shall require the concurrence of a majority of all the members of the city council present to appoint such officers.

SEC. 6. All officers of said city heretofore elected or appointed, whose terms of office would otherwise expire on the second (2nd) Tuesday of March, eighteen hundred and eighty-nine (1889), shall hold and continue in such offices respectively until the second (2nd) Tuesday in May, eighteen hundred and eighty-nine (1889.) And on said second (2d) Tuesday in May, eighteen hundred and eighty-nine (1889,) the term of the aldermen from each of the wards, whose term would otherwise expire on the second (2d) Tuesday in March eighteen hundred and ninety (1890), shall cease, terminate and end, and from that date the number of aldermen shall be as hereinbefore provided.

SEC. 7. Every person appointed to any office by the city council, or elected to any office by the people, may be removed from such office by a vote of two-thirds ($\frac{2}{3}$) of all the aldermen authorized to be elected. But no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charges, nor until such person shall have reasonable opportunity to be heard in person or by counsel in his own defense. The city council shall fix a time and place for the trial of such officer, of which not less than ten (10) days' notice shall be given to such officer and each alderman, 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 charges the city council may declare such office vacant.

SEC. 8. Whenever any vacancy shall occur in the office of any elective officer of said city said vacancy shall be filled by appointment by the city council of said city until the next annual election; and the successor of such person so appointed to fill any vacancy aforesaid shall be elected at the next annual election for the unexpired term.

SEC. 9. Any officer removing from the city or from the ward for which he is elected, or any officer who shall refuse or neglect for ten (10) days after notice of his election or appointment to enter upon the discharge of the duties of his office shall be deemed to have vacated his office, and the city council shall proceed to fill the vacancy as herein prescribed.

SEC. 10. The mode of conducting elections shall be the same as provided by the general laws of this state governing elections, except as otherwise provided herein; *provided*, whenever two (2) or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the city council at such time and in such manner as it may direct.

SEC. 11. Should there be a failure by the people to elect any officer herein required to be elected on the day designated the city council may order a new election to be held, ten (10) days' notice of the time and place of holding the election being first given.

SEC. 12. It shall not be necessary to appoint judges or make new registers of voters for a special election, but the judges of election at the last general election in any district shall continue to be judges of election for such special election, and vacancies of judges may be filled the same as in case of general elections, and such judges shall have the right to take from the city clerk and use at such special election the register used at the general election next preceding such special election.

SEC. 13. Within three (3) days after any city election the city 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 written notice to the officers elected of their respective elections.

SEC. 14. The term of every officer elected under this act, unless herein otherwise provided for, shall commence on the second (2d) Tuesday in May next succeeding the day of his election.

SEC. 15. 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; and the treasurer, clerk, city assessor, city engineer, and commissioners of the sinking fund, and such other officers as the city council may direct, shall severally before they enter upon the duties of their respective offices, execute to the city of Brainerd a bond, with at least two (2) sureties to be approved by the city council, each of whom shall take an oath that he is worth the amount stated in the affidavit, over and above all his debts, exemptions and liabilities, which shall, in the aggregate, be equal to the penalty of the bond; and such bond shall con-

tain such penal sum and such conditions as the city council may deem proper, except as herein otherwise provided, and they may from time to time require new or additional bonds, and remove from office any officer refusing or neglecting to give the same; *provided*, that the bond of the treasurer shall be in amount as hereinafter provided, and executed by at least four (4) sureties, who shall justify in an aggregate amount of at least double the penal sum of such bond, and shall be approved by the city council by resolution duly adopted and published.

SEC. 16. No person shall be eligible to, or shall be elected or appointed to any city office whatever, who is, at the time of his said election or appointment, either directly or indirectly interested in any contract with the city, whether said contract was made by the city council or by any board or officer of said city.

TITLE III.

SEC. 17. The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced within the city, and that all other executive officers of the city discharge their respective duties. He shall be *ex officio* a member of the city council, for the purpose only of casting the deciding vote upon any question before said council when the aldermen composing said council, present and voting, are equally divided thereupon. He shall from time to time give the city 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 city council, with his objections thereto, by depositing the same with the city clerk to be presented to the city council at their next meeting thereafter. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall be again put upon the passage of the same notwithstanding the objections of the mayor; and if, upon such vote, the city council shall pass the same by a vote of two-thirds ($\frac{2}{3}$) of all 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 by the mayor within five (5) days, Sundays excepted, after it shall have been presented to him, the same shall have the same force and effect as if approved by the mayor.

In case the mayor shall be guilty of wilful oppression, corrupt partiality, or other malfeasance in the discharge of the duties of his office he shall be liable to indictment, and on conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500), and the court shall have the power to add to the judgment of the fine that he be removed from office.

SEC. 18. At the first meeting of the city council in each year, after the city election, they shall proceed to elect by ballot from their number, a president and vice-president. The president shall preside over the meetings of the city council, and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office 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 time, the vice-president shall discharge the duties of such president and act in his place. The president or vice-president, while performing the duties of mayor, shall be styled acting mayor, and acts performed by either when acting as mayor as aforesaid, shall have the same force and validity as if performed by the mayor.

SEC. 19. There shall be a clerk of said city styled the city clerk, who shall be elected by the city council. He shall keep the corporate seal and all papers and records of the city, at whose meetings it shall be his duty to attend. He shall keep a full and accurate record of all the by-laws, resolutions and ordinances passed by the city council, in a book or books to be provided for that purpose. Copies of all papers filed in his office, and transcripts of any records in his office, certified by him under the corporate seal, shall be evidence in all courts in this state in like manner as if the original were produced. He shall draw and sign all orders on the treasurer, in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose. The city clerk shall have power to take acknowledgments and administer oaths and affirmations. He shall perform all other services by law required of clerks of cities or townships, within said city. He shall report annually on or about the first Tuesday in May, to the city council, an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor, and the fiscal year of the city shall commence on the first Tuesday in May. The city clerk shall countersign all contracts made in behalf of the city in connection with the mayor. He shall examine all reports, books, papers, vouchers and accounts of the treasurer and shall perform such other duties from time to time as the city council may direct. He shall not be directly or indirectly interested in any contract or job to which the city is a party, or in any loan negotiated by or in behalf of the city. Whenever the city clerk is absent or for any reason is unable to act, the city council may appoint a city clerk pro tem, and said clerk so appointed shall have the same powers and be subject to the same restrictions and liabilities as the city clerk.

SEC. 20 The city council shall have power to elect a city attorney for the city, who shall perform all professional services incident to the office and when required shall furnish opinions upon any legal question submitted to him by the city council or by any of its committees. He shall also advise with and counsel all city officers in respect to their official duties, and attend the meetings of the city council and of such committees as shall request his assistance, and shall perform such other duties as may be prescribed by the city council by ordinance.

SEC. 21 There shall be appointed by the city council a city engineer who shall be a practical surveyor and engineer. He may by and with the consent of the city council employ such assistants as may be necessary. He shall keep his office in some convenient place in said city and the city council shall prescribe his duties, regulate his term of office, fix his compensation, and the compensation of all assistants employed by him. Said city engineer shall execute to the city of

Brainerd and deposit with the city clerk a bond in the penal sum of five thousand dollars (\$5000.00) and conditioned for the faithful performance of his duties, which said bond shall be signed by at least two (2) sureties to be approved by said city council.

SEC. 22. The city engineer shall have supervision and general charge of all work done for the city, and of all work done on any street, highway or alley in the city. He may direct the manner of performing such work and the construction of all sidewalks, street crossings, bridges or other structures in and upon such streets, highways or alleys, and may suspend any such work or construction as shall not conform to the requirements of the city council, and shall take care that the terms of all contracts for any work or construction on behalf of the city are fully complied with.

SEC. 23. All surveys, profiles, plans and estimates made by him or any of his assistants for the city shall be the property of said city and shall be carefully preserved in the office of said city engineer or such other place as the city council may designate, open to the inspection of all parties interested, and the same together with all the books and papers appertaining to said office shall be delivered over by the city engineer at the expiration of his term of office to his successor or to the city council.

SEC. 24. The city treasurer shall receive all moneys belonging to said city including all taxes, license moneys and fines and other revenues of said city and keep an accurate and detailed account thereof in such manner as to show the exact financial condition of said city. He shall exhibit to the city council at least fifteen days before the annual election and as often as said city council or the finance committee thereof may require a full and detailed account of all receipts and expenditures since the date of his last annual report or for any required period, and also the state of the city treasury, which annual account shall be filed with the city clerk and published in the official paper of said city. He shall keep regular books of account of said city in which he shall enter all indebtedness of said city and which shall at all times show the precise financial condition of said city, the amount of bonds, orders, certificates or other evidences of indebtedness outstanding, and the redemption of the same, when redeemed. He shall give bonds running to the city of Brainerd in a sum not less than twenty thousand dollars (20,000), and upon such condition as the city council may require. All money received by the city treasurer of the city of Brainerd by virtue of his office as such treasurer shall be deposited daily by the city treasurer in one or more designated banks in the name of the city of Brainerd, such bank or banks shall be designated by the city council. Before any bank or banks shall be designated as such depository such bank shall deposit with such treasurer a bond to the city of Brainerd and signed by not less than five (5) freeholders of the county of Crow Wing as sureties, which bond shall be approved by the city council and shall be in such amount as the city council may direct.

Whenever any portion of the funds of the said city of Brainerd shall be deposited by such treasurer in the manner provided herein such treasurer and the sureties on his bond shall be exempt from all liability thereon by reason of the loss of any such deposited funds from

the failure, bankruptcy or other act of such bank at the time of such failure or bankruptcy; *provided*, that if no bank shall be designated as aforesaid the said city treasurer shall keep said funds and be responsible therefor.

SEC. 25. Any person having been an officer in said city shall within five (5) days after notification and request deliver to his successor in office all property, papers, books and effects of every description in his possession belonging to said city, or pertaining to the office he may have held. If he fails so to do, after such notification and request, he shall forfeit and pay for the use of the city five hundred (500) dollars besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of said books, papers and effects in the manner prescribed by the laws of this state.

SEC. 26. The city council shall, at its first (1st) meeting after the annual city election, 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 newspaper which shall have been printed, published, and had general circulation in said city at least one (1) year prior to the making of such proposals, the ordinances, official proceedings of the council and other matters required in the charter of 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 (1st) insertion and for each additional insertion, not to exceed the rate established by the general laws of this state, of all matters so to be published; said proposals shall be marked "proposals for advertising" and addressed to the city council, which proposals shall be opened at the next meeting of the city council and the contract for such printing awarded to such newspaper bidding the lowest therefor, 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 character and value thereof as a medium for advertising and for placing before the tax payers of said city and all persons interested therein the matters herein provided to be advertised, and in case any two (2) bids are the same, the council may by vote select one (1) of such papers; *provided further*, that the council may reject all such proposals and adopt such other method of publishing such matter as it may in its discretion determine; *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 proprietor or publisher and give bond in the sum of five hundred (500) dollars with two (2) satisfactory sureties to be approved by the council conditioned for the faithful performance of said contract. The newspaper so designated shall be and remain the official paper of the city and the contract and bond aforesaid shall remain in force for the term designated and until the city council shall designate another paper as the official paper of the city.

SEC. 27. The publisher or publishers of said official paper immediately after the publication of any notice, ordinance or resolution required to be published shall file with the city clerk 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.

SEC. 28. The city council may at the time mentioned in section twenty-six (26) cause the city clerk to advertise in the same manner as prescribed in said section for sealed proposals for doing the job printing of said city, said bids to state the price per one thousand ems for composition, the price per pound for paper and the price per token for press work, which said bids shall be marked "Proposals for job printing," and addressed to the city council, and opened at its next meeting, and the contract awarded to the lowest responsible bidder; *provided*, that the city council may reject all such proposals and adopt such other methods for printing such matter as it may in its discretion determine, due regard being had to the facilities of the bidder to satisfactorily perform the work; *provided*, always, that such lowest bidder shall enter into a written contract for the performance of such job printing with like bonds and sureties as specified in section twenty-six (26) of this act for the faithful performance of such contract.

SEC. 29. No alderman shall be a party to or interested in any job or contract with the city or in any work prosecuted by its authority, or in the compensation to be received therefor, or in the furnishing of supplies, fuel or other articles, purchasable for the public use and any such officer so offending shall become thereby vacant, upon conviction thereof as provided in section seven (7) of this act.

SEC. 30. The city council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties unless herein otherwise provided for, but no officer elected or appointed by the city council or appointed by the mayor, as hereinbefore provided, shall be elected or appointed for a longer term than one (1) year, and until his successor is elected or appointed and duly qualified, except as provided in this act. The city council shall also have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this act; such compensation shall be fixed by a resolution at the time the office is created or filled, or at the first (1st) meeting after the annual city election, and shall not be increased during such year; *provided*, the mayor and aldermen shall receive no compensation for any services from the city.

SEC. 31. The mayor, aldermen and city officers, and the men employed in the various 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 in this state.

SEC. 32. All officers of the city having charge of any city property shall at the close of each fiscal year make and return to the city council a full inventory of all public property in their hands or control respectively; such inventory shall be preserved and filed with the city clerk and kept open for the inspection of all parties interested, but need not be printed in the proceedings unless the council shall so specially direct.

TITLE IV.

SEC. 33. The aldermen shall constitute the city council and the style of all ordinances shall be "the council of the city of Brainerd do ordain." A majority of all the aldermen shall constitute a quorum. The president or vice-president of the council shall when present preside at all meetings. In their absence the council may elect a president pro tem, who shall for such meeting have the same power as the president.

SEC. 34. The city council shall hold stated meetings and the mayor, the president of the council or any two (2) of the aldermen may call special meetings by notice to each of the members to be delivered personally or left at their usual places of abode. In case of the attendance of less than a quorum at any stated meeting, the members present may adjourn to any special time they may designate, of which adjournment the city clerk shall give notice to each alderman not then present; said notice to be served as hereinbefore provided in the case of a call for a special meeting, and all business transacted at such adjourned meeting shall have the same validity as if done at a stated meeting.

SEC. 35. The city council shall be the judge of the election and the qualification 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.

SEC. 36. The city council shall have the management and control of the finances subject to the provisions of this act, and all the property of the city; *provided*, that no real estate belonging to said city shall be sold or disposed of unless so ordered by a vote of two-thirds ($\frac{2}{3}$) of all the members of the city council, and *provided further*, that the electric light plant now belonging to said city shall not be sold nor disposed of unless the consent of a majority of the qualified electors of said city exercising the right of voting be first had therefor. They shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify and amend and repeal all such ordinances, resolutions, rules, by-laws and regulations for the government and good order of the city, for the suppression of vice and intemperance and for the prevention of crime, as they shall deem expedient, and they shall have power to establish and maintain a city prison for the imprisonment, custody and safe-keeping of all persons arrested for or charged with any offense whatever in any way cognizable before the judge of the municipal court. To make all rules and regulations for the government and management of such prison; to appoint keepers and other officers for the same and prescribe their duties and fix their compensation. The keepers of said prison shall have and possess all the powers and authority of jailers at common law or by the laws of the state.

The city council shall have full power and authority to declare and impose penalties and punishments and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, resolution, rule or by-law passed or ordained by them, and all such ordinances, resolutions, rules and by-laws, are hereby declared to be and have the force of law; *provided*, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority by ordinance, resolution or by-laws:

First—To license and regulate the exhibitions of common showmen, and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concerts and theatrical performances, and places of amusements; also to license and regulate all auctions and auctioneers, pawn-brokers, 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 employes 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, malt, or intoxicating liquors; and all licenses heretofore or hereafter issued by said city council for selling, dealing in or disposing of spirituous, vinous, fermented, malt or intoxicating liquors, within said city, shall run for and continue in force during a period of one year from and after the date of the issue of such licenses, any general law of this state to the contrary notwithstanding, and also to license and regulate the selling or contracting for the sale of any goods, wares or merchandise, at retail, by samples, when such goods, wares or merchandise are thereafter to be sent or delivered to the purchaser.

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

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

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

Fifth—To direct the location and management of stock-yards, slaughter-houses and markets, breweries, distilleries, pawn-brokers, auctioneers, dealers in second hand goods and junk dealers, and to establish rates for and license venders of gunpowder, dynamite, or other explosive or combustible material, and regulate the storage, keeping and conveying of all such materials, and regulate the use thereof in blasting or otherwise.

Sixth—To prevent the encumbering of streets, sidewalks, alleys, lanes, public grounds or wharves, with vehicles of any kind or boxes, lumber, fire-wood, posts, awnings or any other material of substances whatever.

Seventh—To regulate the movement and speed of railroad locomotives and cars, and to prevent them from obstructing the streets and public walks; to prevent and punish horse racing, immoderate riding or driving in the streets, highways or public grounds; to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

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

Ninth—To restrict, restrain and regulate, 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 running at large contrary to any ordinance in relation thereto.

Tenth—To prevent any person from bringing, depositing or having within said city any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, and on default to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Eleventh—To make and establish public pounds, pumps, wells, cisterns, hydrants and reservoirs, and to provide for and conduct water into and through the streets, avenues, alleys and public grounds, and to provide for and control suitable waterworks for the supply of water to the city and its inhabitants; to erect lamps, and create, alter and extend lamp districts, or to provide other means whereby to light the city, and to provide for and control suitable works for lighting the city streets, public grounds and public buildings, and furnishing light to the inhabitants of said city.

Twelfth—To establish and regulate boards of health, provide hospitals and hospital grounds, the registration of births and deaths, and the returns of bills of mortality, and to regulate or prevent the burial of the dead within the city limits, and to provide for and compel the removal of any mortal remains now interred within such city limits, to such cemetery or other place as they may deem proper.

Thirteenth—To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Fourteenth—To prevent all persons riding or driving any ox, mule, cattle, or other animal, on the sidewalks or public grounds or prop-

erty in said city, or in any way doing any damage to such sidewalks, grounds or property.

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

Sixteenth—To regulate and restrain porters, expressmen, hackmen, and also runners, agents and solicitors for boats, vessels, stages, cars, public houses and other establishments.

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

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

Twentieth—To license and regulate butchers stalls, shops and stands for the sale of game, poultry, butchers meats, butter, fish and other provisions, and also to license and regulate all peddlers, hucksters, hawkers and venders, doing business within said city.

Twenty-first—To regulate, control and prevent the landing or settling within said city limits of any pauper, or person liable to become a charge upon said city, whose place of residence is not legally in said city.

Twenty-second—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 conduct and superintend the same.

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

Twenty-fourth—To control and regulate the construction of piers or wharves, or grading said wharves, into the Mississippi river, with-

in the corporate limits of said city, and to prescribe and control the prices to be charged for pierage or wharfage thereon, and to prevent or remove all obstructions in the water of said river, and to prescribe and regulate the rates of wharfage and pierage to be charged to any boat or vessel mooring at any landing, wharf or pier within the limits of said city, and paid to said city, and to regulate the landings, levees, wharves and piers within the limits of said city, and boats and vessels landing and mooring at the same.

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

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

Twenty-seventh—To provide for watchmen, and to prescribe their number and duties and to regulate the same, and to prescribe the number of police officers and their duties, and to regulate the same.

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

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

Thirtieth—To regulate the measurement and inspection of lumber, shingles, timber, and building materials.

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

Thirty-second—To direct and regulate the planting and preserving of ornamental trees in the streets, alleys and public grounds and highways of the city.

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

Thirty-fourth—To remove and abate any nuisance injurious to the public health or safety, and to remove or require to be removed any buildings which, by reason of dilapidation, defects in structure, or other cause, may have or shall become imminently dangerous to life or property, and to provide for the punishment of all persons who shall cause or maintain such nuisances. A statement of such expense, specifying the lots or parcels of land upon which it was incurred, shall be filed by the city clerk in the office of the register of deeds of the county of Crow Wing, and shall thereupon become a lien in favor of said city upon such lot or parcel of land. The amount of such expense may be recovered by said city against the owner or owners of

said lot or parcel of land and the lien be enforced in a civil action in any court of competent jurisdiction; *provided*, that such statement shall be filed within three (3) months after such expense has been incurred by said city, and that if suit shall not be brought as aforesaid, to enforce such lien within one (1) year thereafter, the same shall abate; *and provided further*, that said lien shall not obtain before the filing thereof, against a bona fide purchaser, without notice of such expenditures.

Thirty-fifth—To do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease, and 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. The jurisdiction of said city shall extend to and be in force over any lands within the counties of Crow Wing or Cass, purchased or used by said city for the purpose of a quarantine. For police or sanitary regulations, and for the preservation of the health of the said city and the suppression of disease and abatement of public nuisances and the suppression of any business contrary to the sanitary regulations of the city council or the board of health, the jurisdiction of said city shall extend for a circuit of one (1) mile beyond the present or any future limits of said city.

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

Thirty-seventh—To license and regulate hackmen, draymen, expressmen, and all other persons engaged in carrying passengers, baggage 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 to such draymen, hackmen or other persons aforesaid, and to prohibit them from standing or waiting at any other place within such streets, and to regulate and prescribe standing places for all vehicles going to or waiting at any railroad depot 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 or stations.

Thirty-eighth—To regulate the construction of buildings, to prescribe the depth of cellars, the material and method of construction of foundations and foundation walls, the manner of construction and the location of drains and sewer pipes, the thickness, material and construction of party walls, partitions and outside walls, the size and material of floor beams, girders, piers, columns, roofs, chimneys, flues and heating apparatus, to apportion and adjust such regulations to the height and size of the building to be erected; to regulate the construction of privies and vaults in such buildings, to prohibit the construction of buildings not conforming to such prescribed standard, either in the whole city or within such building limits as it may prescribe, to establish, alter or enlarge such limits from time to time; to appoint an inspector or inspectors of buildings, or to devolve the duties of such inspector on any city officer; to give such inspector or other officer authority at any time to enter upon, examine and inspect all buildings in said city or within such building limits, and to direct

the suspension of any building operation as shall not conform to such regulations; *provided*, however, that neither said city 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.

Thirty-nine—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.

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

Forty-first—To regulate the numbering of houses and lots, and to compel the owners of houses and other buildings to have the numbers of such houses or other buildings designated thereon.

Forty-second—To require the owner or lessee of any building or structure, 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 fires, as it may direct; and also to require such owner or lessee to construct, 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 dangers to human life in case of fire or accident.

Forty-third—To regulate or prohibit the location and use of such steam boilers in size and construction as it may designate as being dangerous to life or property, or to prohibit the location of any such steam boiler except when permission therefor is first given by the city council specifying the location and prescribing the regulations for its use.

Forty-fourth—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 to prescribe their duties.

Forty-fifth—To regulate and control or prohibit the placing of poles therefor and the suspending of telegraph, electric light, or other wires along or across the 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 be placed in such manner as it may designate beneath the surface of the street or sidewalk.

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

Forty-seventh—To restrain, control and regulate the cutting of ice in the Mississippi river, or any other waters within the limits of said city.

Forty-eighth—To regulate or prohibit the carrying or wearing, concealed by any person, any dangerous or deadly weapon and to provide for the confiscation thereof.

SEC. 37 The city council may impose punishment for the breach of any ordinance of the city to the extent of a fine not exceeding one hundred dollars (\$100), or imprisonment within the city prison not exceeding ninety (90) days, 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 be-

havior for a period not exceeding six (6) months and in a sum not exceeding five hundred dollars (\$500).

SEC. 38. The city council may also provide by ordinance that any one convicted of a criminal offense before the municipal court, subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established for that purpose, or in case of a male offender, may be kept at hard labor during his term of imprisonment either in such workhouse or upon the streets or public improvements of said city; and may also provide by ordinance that any one convicted of an offense before said municipal court and committed upon non-payment of a fine imposed may be kept at hard labor in any workhouse of said city aforesaid, or in case of a male offender may be kept at hard labor either in such workhouse or upon the streets or public improvements 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 said commitment; and the city council shall have power to establish by ordinance all needful regulations for the security of such person thus employed, and to prevent escape and to secure proper discipline; and shall have power to establish a proper workhouse in said city for the purpose aforesaid, and under such regulations as the city council may prescribe. *Provided*, that in case the city prison is for any reason unavailable for the purpose of confining or punishing offenders the county jail of Crow Wing county may be used for that purpose. When said jail is so used the prisoners therein shall be under the control and custody of the sheriff of Crow Wing county; *provided, further*, that the police of said city are authorized to take any person from said jail who has been sentenced to work upon the streets, public works or improvements of said city, for the purpose of carrying said sentence into effect; *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 workhouse or county jail, or to order any such person to work on the streets, public works or improvements of said city, for a term not exceeding ninety (90) days.

SEC. 39. In all cases when any person shall be tried for violation of any city ordinance, such trial and a conviction or an acquittal thereupon shall be a bar to all further or other prosecution for the same offense in any other court.

SEC. 40. All ordinances, resolutions and by-laws shall be passed by an affirmative vote of a majority of the members of the city council present, by ayes and nays, and be published in one issue of the official paper, before the same shall be in force. When approved they shall be recorded by the city clerk in books provided for that purpose.

SEC. 41. A copy of the record of any ordinance or resolution heretofore passed 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 paper of the city, or recorded in the books containing the official proceedings of the city council, or published in any compilation of ordinances made under direction of the city council, shall be prima facie evidence of the contents of such ordinance or resolution, a

the regularity and legality of all proceedings relating to the adoption and approval thereof, and shall be admitted as evidence in any court in this state, without further proof.

In all actions, prosecutions and proceedings of every kind before the municipal court of the city of Brainerd, 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.

SEC. 42. The powers conferred upon the city council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law.

SEC. 43. No appropriation shall be made without a vote of a majority of all the members of the city council in its favor, which shall be taken by ayes and nays, and entered among the proceedings of the council. No vote of the city council shall be reconsidered or rescinded at any meeting unless there shall be present at such meeting as large a number of aldermen as were present when said vote was originally taken.

SEC. 44. The city council shall examine, audit and adjust the accounts of all the city officers and agents of the city at such times as they may deem proper, and also at the end of each fiscal year and before the term for which the officers of said city were elected or appointed shall expire; and the city council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties 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 city council to declare the office of such person vacant; and the city council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

SEC. 45. The city 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 the 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 or damages or acquire information thereof in any other manner it shall deem advisable.

SEC. 46. The city council shall have power to designate such of its own members as shall be selected for that purpose as a purchasing committee, and after the appointment of such committee no material or supplies for any of the departments of the city shall be purchased in behalf of the city without the approval of such committee; and no bill for any such purchases shall be allowed by the council until approved by such committee; *provided*, a majority of said purchasing committee shall control its action.

SEC. 47. Any license issued by the authority of the city council may be revoked by the city council at any time, and upon conviction before the municipal court of the city of Brainerd 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.

TITLE V.

SEC. 48. The city council shall at its first meeting in April in each year, or as soon thereafter as may be, appoint a city assessor, who shall be a resident freeholder and qualified elector of said city. The city assessor may in each year appoint a deputy, if required to enable him to properly do his work, such appointment, however, to be approved and confirmed by the city council. Such deputy shall be a resident freeholder and qualified elector of said city, and shall serve during the time of the making of the lists, unless sooner discharged by said assessor, who is hereby forbidden to retain any such deputy longer than his services are actually needed. The city assessor and deputy assessor shall qualify in the manner and discharge the duties prescribed by general law.

SEC. 49. 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 or may be prescribed by the general laws of the state for the government of assessors in other parts of the state.

SEC. 50. The mayor, president of the city council and the city clerk shall constitute a board of equalization who shall be sworn according to law as such board, and meet in some suitable room at the building now provided for meetings of the city council on the fourth (4th) Monday of June of every year and revise, amend and equalize the assessments on the roll of the city assessor. It shall be the duty of the city assessor to be present at all meetings of the said board of equalization to present before said board all facts relating to the assessment. Such board of equalization is vested with all the powers which are or may be vested in town boards of review under the general laws of the state so far as applicable.

SEC. 51. Such board of equalization may sit from day to day or adjourn from time to time as it shall deem proper until it shall have completed the equalization of such assessments. It shall complete such equalization on or before the first (1st) Monday in July, at which time the assessment books shall be returned by the city assessor to the county auditor as provided by law.

SEC. 52. The city assessor shall be paid a stated annual salary to be fixed by resolution or ordinance of the city council. The deputy assessor and members of the board of equalization shall be paid such reasonable compensation upon accounts of time not exceeding three (3) dollars per diem, as shall be determined by the city council.

SEC. 53. The city treasurer shall on or before the tenth (10th) day of September of each year report to the city council the amount of all revenues received by the city for the year ending on the first (1st) day of September from other sources than taxation. The chairman of the finance committee of the city council and the city clerk shall as soon as may be after the state board of equalization shall have completed its adjustment of the assessment of the taxable property in said city, report to the city council a computation of a rate of tax levy which, with the amount of revenue received by the city for the last year, reported as aforesaid and applicable to the current expenses of the city, shall be sufficient to defray the current expenses of the city for the next fiscal year, according to the estimate of the city clerk hereinbefore provided for.

SEC. 54. After the making of the reports provided for in the preceding section, the city council shall levy such tax on all property real and personal, within said city, except such as may be exempt by the laws of this state, or by ordinances of said city, as it shall deem necessary, in addition to the other revenue of the city applicable thereto, to defray the current expenses of the city for the next fiscal year, but no such taxes for such current expenses, nor for any of the purposes mentioned in section fifty-six (56) of this act, shall in any one year exceed ten (10) mills on the dollar of the assessed valuation of the property in said city.

SEC. 55. The city clerk shall, as soon as may be after the first (1st) Tuesday in August of each year, make report to the city council of the actual expenses of the city for the first quarter of the then current fiscal year, the amount of taxes collected and outstanding, and the revenues received from other sources, and if upon the making of such reports it shall appear that the current expenses for such quarter have exceeded the estimates upon which the tax levy therefor was based, or that the revenues of said city are likely to fall short of their estimated amount at the time of making such tax levy the city council shall forthwith proceed to reduce the current expenses of said city, in such manner as may be deemed advisable, and for that purpose may diminish the amount of service for lighting streets, reduce the force or number of men employed in the several departments of the city, but in the discharge of such employes said city council shall, so far as may be, provide that such discharge shall be operative only during the summer months of the year, and when necessary for the proper reduction of such expenses, may reduce the salaries or compensation of all officers and persons employed by said city, by a uniform rate not exceeding ten (10) per cent of such salaries or stated compensation. In all future contracts for lighting streets or furnishing water the right of the city to reduce the amount of service on account of deficiency of revenues shall be reserved.

SEC. 56. The city council shall also at the same time levy upon the taxable property aforesaid such taxes as shall be sufficient to pay the interest to become due during the next fiscal year upon all the bonds or debt of said city and an additional tax of one (1) mill on the dollar of the assessed valuation of all such taxable property, to provide for the principal of said bonds or debt when the same shall become due, and the amounts collected pursuant to this section shall not be applied

to any other purpose than herein named; but this restriction shall not prohibit the investment of the sinking fund hereinafter provided for.

SEC. 57. In order to provide for the certain payment of the bonds and debts of the city, the city council shall, at or before the time of making the tax levy in eighteen hundred and eighty-nine (1889), create, establish and maintain a sinking fund, and is hereby authorized to provide by ordinance for the care, investment and security thereof, and from time to time to amend such ordinances in such manner as may be necessary or expedient, but shall have no authority to abolish such sinking fund until all the debts of the city are fully paid; nor shall it divert said fund or any revenue or increase thereof to any other purpose. All amounts, if any there be collected of the tax to pay the interest on the bonds of the city in excess of the amount of such interest, the whole of the one (1) mill levy for the payment of the bonds of the city provided in the preceding section, and all revenues of the city not otherwise appropriated, shall be applied to the formation and increase of such sinking fund.

The city council shall by ordinance provide for and appoint a board of sinking fund commissioners, consisting of three (3) persons, each of whom shall be a resident freeholder and qualified elector of the city of Brainerd, determine the time such commissioners shall serve, and define such of their duties as are not herein enumerated. Said commissioners shall execute to the city of Brainerd, and deposit with the city clerk, their several bonds in such penal sum and upon such conditions as the council shall prescribe.

SEC. 58. Such commissioners shall have charge of said sinking fund, and any two (2) of said commissioners are hereby authorized and required to discharge the trusts and duties vested in them by this act or by ordinance or resolution of said council, but shall not be entitled to receive any salary or compensation for such services.

SEC. 59. Said commissioners shall from time to time, by and with the consent of the city council invest said sinking fund in the bonds of said city or such other bonds as are permitted for the investment of the permanent school fund of the state of Minnesota, or deposit the same in a depository to be designated by said council, but they shall at all times give the preference to the purchase of bonds of said city if the same can be procured at reasonable rates; and in the purchase of said city bonds preference is to be given to the bonds first falling due. In case of investment in the bonds of said city, the same shall not be cancelled, but shall be held by said commissioners and the interest thereon paid over and applied to the increase of said sinking fund.

Whenever the principal of any of the bonds of the city shall become due such commissioners shall, by and with the consent of the city council; dispose of such of the bonds belonging to such fund as with the money on hand belonging to the same shall be necessary to pay such bonds.

Whenever the amount of such sinking fund shall, with the interest or revenue thereof, computed to the time of maturity of the bonds or debt of the city, be sufficient to pay all of said bonds or debt at the maturity thereof the levy of the one (1) mill tax aforesaid may be

omitted, but if in case by reason of decrease of interest or depreciation of investments, or other cause, said funds shall not be sufficient the same shall be resumed.

SEC. 60. In case said sinking fund or any part thereof shall be deposited with any bank or banker, such bank or banker shall deposit with the city treasurer of the said city a bond payable to the city of Brainerd and signed by not less than six (6) freeholders of said city, as sureties, which bond shall be approved by the city council of said city, and shall be in such amount as said council shall direct, which amount shall be at least double the amount of the funds to be deposited with such bank or banker. And any of the moneys constituting said sinking fund so deposited shall be paid by said depository upon the warrant of said commissioners or any two (2) of them. The city clerk shall also attest said warrant and affix the seal of the city thereto.

SEC. 61. It shall be the duty of the city clerk to attend all the meetings of said commissioners and to keep a correct journal of all their proceedings, which said journal shall be verified by at least two (2) of said commissioners and attested by said clerk, and all investments or other acts of said commissioners shall be based upon resolutions duly entered in said journal.

SEC. 62. In case the city council, sinking fund commissioners, or other city officer shall violate or neglect to conform to any of the provisions of this chapter relating to said sinking fund, any taxpayer of the city or any owner of any of the bonds of said city shall have the right to maintain in any court of competent jurisdiction any appropriate action to enforce compliance therewith.

SEC. 63. Whenever the sinking fund provided for herein shall be insufficient to pay all the bonds of the city that may at any time become due, the city council may issue the bonds of the city to run not exceeding thirty (30) years on such terms as to place of payment and rate of interest as may be deemed advisable to such amount as may be necessary to meet such deficiency, but neither said city council nor any officer or officers of said city shall otherwise, without special authority of law, have power to issue any bonds, or create any debt, or any liability against said city, in excess of the amount of revenue actually levied and applicable to the payment of such liability.

SEC. 64. All taxes shall be levied by resolution of the city council, and no tax shall be invalid by reason of any informality in the manner of levying the same, or because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied, but in such case the surplus shall go into the fund to which such tax belongs, and may be applied to the further uses of such fund.

SEC. 65. The city council shall cause to be transmitted to the county auditor of Crow Wing county on or before the first (1st) day of November of every year a statement of all taxes by it levied, and such taxes shall be collected and the payment thereof be enforced with and in like manner as state and county taxes are paid and the payment thereof enforced.

SEC. 66. The county treasurer of Crow Wing county shall pay over such taxes, together with all interest and penalties which shall be collected on account of the same when collected, to the treasurer of said

city, and in the several settlements of the funds to be so paid over as provided by general law said county treasurer shall account for and pay over to the city treasurer such portions of the interest paid by the bankers with whom funds of said county are deposited as have accrued upon the funds arising from city taxes and assessments so deposited with such county funds, or as parts thereof.

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 there shall be funds in the county treasury which shall have been collected on account of city taxes or assessments, the county treasurer shall, on application of said city treasurer, advance and pay over such sums as shall be estimated to be the amount collected on account of such city taxes or assessments, and such advances shall be accounted for and adjusted at the next regular settlement with the city.

The city treasurer shall also forthwith, after such settlements, adjust and apportion the funds so advanced among the several city funds in his hands.

SEC. 67. No money shall be paid out of the city treasury, except for principal or interest of bonds, unless such payment shall be authorized by a vote of the city council, and shall then only be drawn out upon orders signed by the mayor and clerk, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, and the name of the person in whose favor they may be drawn, and may be made payable to the order of such person or to the bearer as the city council may determine.

SEC. 68. 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 such funds separate.

SEC. 69. The city council may provide for the examination from time to time of such cancelled orders, and also of cancelled bonds and other obligations in the hands of the treasurer, and for their destruction, preserving such record or vouchers thereof as the city council or any committee thereof may deem proper.

SEC. 70. It is hereby made the duty of the city treasurer and the city council to make every endeavor to secure 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 in no case shall payments be postponed or deferred after the same shall have become 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 several funds from which it shall have accrued.

SEC. 71. All appropriations and expenses of the city, not otherwise specially provided for, shall be paid out of the fund for the current expenses of the city.

SEC. 72. No limitation or restriction herein shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be recovered against said city, but in the case of such judgment the city council shall at the time of making the last annual tax levy after the rendition of such judgment levy and assess a special tax

upon all the taxable property in the city sufficient to pay such judgment.

In case of failure to collect taxes, or other cause, such levy shall prove insufficient, new taxes shall be levied until the whole of such judgment is paid. Any excess of the amount so levied and collected over the payment of such judgment shall be credited to the current expense fund of the city.

TITLE VI.

SEC. 73. The mayor shall have control and supervision of the police of the city. He shall, by and with the consent of the city council, appoint all police officers and watchmen. No person shall be eligible to an appointment as police officer or watchman who is not a citizen of the United States, able to read and write the English language, a resident of the city of Brainerd for at least one (1) year preceding his appointment and of good health and physique.

The mayor may remove or discharge any police officer or watchman 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.

SEC. 74. The mayor may likewise at the request of any person, firm, society or organization appoint policeman 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.

SEC. 75. The mayor, in case of riot, disturbances, or large public gatherings may appoint such special or temporary police officers as he may deem necessary, but such special or temporary appointment shall not continue more than one (1) week without the consent of the city council.

SEC. 76. 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 shall select.

SEC. 77. All police officers and watchmen of the city shall possess the powers of constables at common law, or by the laws of this state, and in addition thereto shall have the power and it shall be their duty to execute and serve all warrants, process, commitments and all writs whatsoever issued out of the municipal court of the city; and they shall have the power with the consent and by the direction of the mayor to pursue and arrest any person fleeing from justice in any part of the state, but in no case shall they go outside the limits of the said city in pursuit of any offender or to execute any warrant or process except in the case of offenses committed within said city. They shall also have power and it shall be their duty to serve all summons or subpoenas in behalf of said city within their jurisdiction.

When such officers perform the duties of constables 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.

SEC. 78. The mayor shall with the consent and approval of the city 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 the 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.

SEC. 79. The mayor or acting mayor, chief of police, the sheriff of Crow Wing county, and his deputies, the coroner, judge of the municipal court and each and every alderman and all police officers and watchmen, shall be officers of the peace, and may command the peace, 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 when 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.

SEC. 80. If any person, bystander, military officer or private shall refuse to aid in preserving the peace, when thereto required as 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.

SEC. 81. If any person shall without authority assume to act as a policeman or to pretend to have such power or wear the badge of a policeman within said city, he shall be deemed guilty of a misdemeanor and upon conviction thereof before the municipal court he shall be fined not exceeding one hundred dollars (\$100.00) or imprisoned not exceeding ninety (90) days in the discretion of said court.

TITLE VII.

SEC. 82. The city council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of all other materials that shall not be considered fireproof, or which shall be regarded as dangerous to surrounding property, shall not be erected, placed, or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constituted of fire proof materials, or of such materials and with such precaution against fire as the city council shall by ordinance prescribe, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits when the same shall have been damaged by fire or otherwise to the extent of fifty (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. The city council shall have power by resolution to order any building, structure or materials therefor hereafter erected

or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city, and shall have the power to prescribe the notice to be given to the owner or agent to remove such building or materials, and in case the same is not removed in pursuance of the notice given to order the same to be taken down, removed by the police, or in such manner as the city council may see fit; and the city council may prescribe penalties for the violation of any of the provisions of this section, or of any ordinances or resolutions made and enacted to carry out the provisions thereof, by a fine not exceeding one hundred dollars (\$100.00), which may be imposed upon conviction before the municipal court upon the complaint of any citizen.

SEC. 83. The city 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, fireplaces, hearths, stoves, stovepipes, 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 into the streets, highways and alleys; 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 manufactures 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 keeping for sale, or use of any fireworks, Chinese crackers, rockets, torpedoes, or other explosive contrivances or materials, and to provide for the seizure and destruction of the same. Also, to compel owners of buildings to provide fire buckets, and to have scuttles in roofs, and stairs and ladders to the same, and compel owners of buildings three (3) or more stories in height to maintain ladders or fire-escapes, and to regulate the number and location thereof; to regulate the location and construction of smoke-houses, and to prohibit them when they shall be dangerous to other buildings, and to make any other provisions to guard against fires, or to prevent the spreading of fires, which the city council may deem proper.

SEC. 84. The city council shall have power to purchase, keep and maintain fire extinguishers, fire engines, and other fire apparatus, to build and maintain engine houses, hose houses, and such other buildings as may be necessary or convenient, also to erect and maintain fire-alarm telegraphs and boxes, and other means for giving notice of fires.

SEC. 85. Whenever the city council may decide by a two-thirds ($\frac{2}{3}$) vote of all its members that greater protection can be secured by a fire department, it may by resolution duly passed, two-thirds ($\frac{2}{3}$) of all the members voting in the affirmative thereof, abolish the existing volunteer fire department and create in lieu thereof a paid department, which shall be officered and managed as provided in the next two (2) sections, *provided, however*, said two (2) sections shall not apply to the volunteer companies of said city.

SEC. 86. In the event of the creation of a paid department, the

city council shall annually appoint a chief engineer of said fire department and provide for ordinance for such other officers and men as may be deemed necessary for such department and define the respective ranks and duties of such chief engineer and other officers and men, and their compensation.

SEC. 87. The chief engineer shall nominate for the approval of the city council all other officers and men connected with such department, and may at any time by and with the consent of the standing committee on fire department of the city council remove or discharge such officers or men as he may deem it for the interest of the city to discharge, and whenever the council shall deem it necessary to reduce the number of men employed, said chief engineer shall upon the direction of the city council recommend the discharge of such officers or men as can be released without impairing the working efficiency of such department.

SEC. 88. The city council shall have power to authorize the formation of fire engine, hook and ladder, and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings to be prohibited, and apparatus to be given up. Every member of such company which may be authorized to be formed shall be exempt from highway work and poll tax, from serving on juries and from military duty during the continuation of such membership. Said 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, pipes, cisterns and hydrants in said city, as used in connection with said department, and by such ordinances provide for the punishment of persons injuring or interfering with such property or any portion thereof, and may also by such ordinances make provision to keep away from the vicinity of any fire all idlers and suspected persons and to compel all bystanders to aid in the preservation of property exposed to danger by such fire.

SEC. 89. The city council shall have power to appoint the chief engineer and two (2) assistant engineers of the fire department, and also one (1) fire warden in each ward, and to prescribe the duties of such officers. Said council may also designate such officer of the fire department, or other person, as it may select to act as fire marshal of the city, to see that the ordinances of the city relating to the building and care of chimneys, and respecting all other precautions against danger from fire are not violated, and who shall have power and be fully authorized to enter any dwelling house or other building at all hours between seven (7) o'clock in the forenoon and six (6) o'clock in the afternoon, and examine all chimneys, stoves, furnaces, pipes and other parts of such buildings and see that the ordinances of the city respecting the same are enforced. It shall further be the duty of such fire marshal to examine particularly into the cause of every fire which shall happen within the city, and to make and keep a brief record of the same, and make report thereof to the council at the first regular meeting in every month.

SEC. 90. Whenever the city council shall deem it necessary it may

provide for a fire police of such numbers and with such powers as it may determine, and for that purpose it may either give police powers to such of the officers or men of the fire department as may be necessary or authorize the appointment of the necessary policemen in the same manner as other policemen are appointed. In all cases all policemen present at any fire shall be subject to the direction of the officers of the fire department present at such fires.

SEC. 91. If any person shall, at any fire, refuse to obey the orders of the chief engineer of the fire department, or other officers vested with authority at such fires, such person may be arrested by the direction of the officer whose orders are so disobeyed, and, upon complaint made before the municipal court of the said city, shall be punished by a fine not exceeding fifty (50) dollars, and costs of prosecution, and imprisoned until such fine and costs are paid, not exceeding sixty (60) days.

SEC. 92. The city council shall have power to prohibit the construction of wooden side-walks within the fire limits of the city, whenever it shall deem the safety of the city to require it.

TITLE VIII.

SEC. 93. The city council shall have the care, supervision and control of all highways, streets, alleys, public squares and grounds within the limits of the city, and may lay out and open new streets and alleys, and extend, widen and straighten the same, and may build, maintain and repair bridges across streams or railway tracks, may provide for the pavement of gutters or the road bed of any street or alley.

SEC. 94. The city council shall have power to establish the grade of any street when such grade has not been established, and may by vote of two-thirds ($\frac{2}{3}$) of all the members of the council, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the city engineer.

SEC. 95. The city council may by a vote of two-thirds ($\frac{2}{3}$) of the members thereof vacate any highway, street, lane or alley, or portion of either, and such power of vacating highways, streets, lanes and alleys within the city of Brainerd is vested exclusively in said city council and no court or other body or authority shall have any power to vacate any such highway, street, lane or alley.

SEC. 96. The city council shall have power to designate districts of portions of the streets and alleys of the city for the purpose of cleaning the same, and may provide for the cleaning of such districts by a contract on such terms as shall be deemed advisable.

SEC. 97. All work done or constructions made pursuant to the provisions of this title, shall, save making, changing and repairing streets, alleys and sidewalks, of which the estimated cost shall exceed five hundred (500) dollars be let by contract to the lowest responsible bidder therefor, and the city council may require of the bidder a bond with sureties for the faithful performance of the contract. Due notice shall be given of the time and place of letting such contract;

provided, that if in the opinion of the council no just and reasonable bid shall have been received for any such work, after due notice as aforesaid, or if the person to whom the same is let fail in any particular to duly perform the same, the city council may, by a two-thirds ($\frac{2}{3}$) vote, have such work done without contract by the direct employment of labor and purchase of material by said city; and *provided further*, that all work done by the city by the direct employment of manual labor, whether for the purpose mentioned in this section, or for any other purpose, be by the day.

SEC. 98. The city council shall, at its first meeting after each annual election, or as soon thereafter as may be, appoint one street commissioner for the city, whose term of office shall be for one (1) year.

All work done by the street commissioner shall be subject to the approval of the council and the city engineer.

It shall be the duty of such street commissioner to see that all streets and sidewalks under his charge, which have been graded and open for travel, are kept clear from obstruction and in such repair as to be safe and passable; also to superintend, subject to the directions of the city engineer, the grading of streets and laying of sidewalks, and to carry into effect all orders of the city council. But no street commissioner shall do any work upon streets except such as is necessary to keep traveled streets and improved sidewalks in repair and passable condition, unless such work is specially ordered by the city council. The street commissioner shall keep accurate account of all his work and expenditures, and make detailed and itemized reports thereof to the city council at least once in every month, and oftener if ordered by the city council, and no bill for compensation to such street commissioner shall be allowed unless the same shall be accompanied by or preceded with full and itemized reports of his work and expenditures up to the time of rendition of such bill. Said street commissioner shall be paid for his services such compensation as the council shall determine, for the time actually by him given to such service, to be paid upon bills thereof audited as other claims against said city.

SEC. 99. No street commissioner shall be interested in any contract for any work to be done under his charge, nor be allowed compensation for any use of team owned by himself, or in which he shall have any interest, nor for any material or labor furnished by him, except his personal services, nor shall he receive directly or indirectly, any commission, gratuity, money or valuable thing, from any person doing work or furnishing material for any work or construction under the charge of such street commissioner or the city engineer of the city.

SEC. 100. If any city engineer, street commissioner, or any other officer of the city shall have any interest in any contract work or construction done pursuant to this title, all such contracts shall be void, and all such work done, material furnished or applied for the use of the city shall be forfeited, and every such city engineer, street commissioner or other officer who shall accept any gift or gratuity, or any commission from any person having contracts with said city for furnishing materials or performing labor under the provisions of this title, which contract, material or labor shall be under the charge or supervision of such engineer, commissioner or other officer, or subject

to acceptance by them or either of them, shall be punished in the same manner as provided by law for the acceptance of bribes by public officers.

SEC. 101. Whenever the city council shall determine to lay out or open new streets or alleys in said city, or to widen, straighten or extend any that now exist or may hereafter exist, it may, for such purposes, purchase or condemn any real estate or interest therein which is private property, and provide for the payment of the value of such property as may be taken for such improvement, and all damages done to any private property by reason of such improvement, and the expense of making such improvement by assessment, levying and collecting the whole expense of such improvement, or such parts thereof as may be considered equitable, upon the property to be benefited by such improvement, without regard to cash valuation; but no assessment for such improvement shall exceed the actual benefit to the property upon which the same shall be assessed, and in case the whole expense of such improvement shall exceed the benefits accruing therefrom to any specific property, the excess of such expense shall be made a general city charge and be paid as current expenses of the city.

Nothing in this section shall be construed as permitting the condemnation of any ground of any cemetery or burial place, and occupied for such purposes, without the consent of the owners of such ground.

SEC. 102. The city council is hereby authorized, in its discretion, to cause to be paved, repaved, or macadamized any street or alley, or any portion thereof, in the city, or any gutter along any side of any street or alley, or any portion thereof in such manner as it may direct, and to collect the expense and cost of the same by special assessment upon the property fronting on such improvements on the same side of the street, but the expense of paving or otherwise improving the crossings of said streets, and of such improvements as shall be in front of property exempt from such assessment, or belonging to the city, shall be paid from the current funds of said city. No assessment shall be made for paving or macadamizing any ground occupied by railway tracks or lying between such tracks.

SEC. 103. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said city, to construct, reconstruct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owners respectively, as may have been heretofore constructed, or as shall hereafter be constructed, or directed by the city council to be built, and of such material and width, and upon such place and grades as the city council may by ordinance or otherwise prescribe. Whenever the city council shall deem it necessary that any sidewalk in the city of Brainerd shall be constructed or reconstructed, it shall by resolution direct such construction or reconstruction, specifying the width thereof and the material of which the same is to be constructed. The publication of such resolution once in the official paper of the city shall be sufficient notice to the owners of the land along which said sidewalk is to be built to construct the same, and unless such owners shall each along his respective land construct and fully complete such

sidewalk within two (2) weeks after the publication of such resolution as aforesaid, the city council shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front. Such assessment shall be collected in the same way in all things as is provided for the collection of special assessments under provisions of title ten (10) of this charter. And the city council may either before or after making such assessment cause such portion of such sidewalks as have not been built by the owners of such land fronting on the same and all street crossings to be built by the proper street commissioner or upon contract or by any other person as the council may determine.

SEC. 104. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair it shall be the duty of the proper street commissioner to immediately repair the same in a good, substantial and thorough manner, and to report to the city council the cost of such repairs in each case and a description of the lot or parcel of land abutting which such repairs are made; and such report shall be filed and carefully preserved by the city clerk. And the city council shall once in each year, at, or as near as conveniently may be, the time of levying the yearly city taxes assess and levy upon each of the parcels of land fronting or abutting upon sidewalks which have been repaired by street commissioners the cost of making such repairs. In each case such assessment for all such repairs within the year may be combined in one assessment roll and be collected as provided for in title ten (10) of this act. In case any such sidewalks shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt, and there are no funds to defray the expense of such rebuilding it shall be the duty of the proper street commissioner to remove the same entirely, and the expense of such removal shall be added to the costs of rebuilding when the same shall be reconstructed, and collected with the assessment for such reconstruction.

SEC. 105. It is not only made the duty of all owners of land within said city to keep in good repair all sidewalks constructed or existing along or abutting upon their respective lots or parcels of land, but such owners are hereby declared to be liable for all damages to whomsoever resulting arising from their fault or evident neglect in not keeping any such sidewalk in good repair and in safe, passable condition, and no action shall be maintained against the city of Brainerd by any person injured through or by means of any defect in any sidewalk unless the owner of the land along which such sidewalk was so defective, is joined in such suit as a party defendant, and in the case of a judgment against the defendants in such action, execution shall at first issue only against the defendant owning such land, and the city shall not be required to take steps to pay such judgment until such execution shall be returned unsatisfied, and if the city shall pay such judgment it shall become the owner of the same and enforce payment of the same from the other defendant and shall be entitled to execution therein against him and to take such other proceedings as judgment creditors are entitled to take.

SEC. 106. It shall be the duty of the city council, before ordering

the construction of any new sidewalk to cause the ground on which it is to be built to be properly graded.

SEC. 107. All persons who shall by means of any excavations in, or obstructions upon any street of said city, not authorized by law or the ordinances of said city, render such street unsafe for travel, or shall, by negligence in the management of any such excavation or obstruction as shall be authorized, or by failure to maintain proper guards or lights thereat, render such street insufficient or unsafe for travel, shall be liable for all damages not caused by the negligence of the party injured, to whomsoever resulting, by reason of such obstruction or negligence, and no action shall be maintained against said city for such damages, unless such person or persons shall be joined as parties defendant, and in case of judgment against the defendants in such action, execution shall at first issue only against the defendant causing such insufficiency, and the city shall not be required to take steps to pay such judgment until such execution shall be returned unsatisfied, and if the city shall pay such judgment it shall become the owner of the same and may enforce payment of the same from the other defendant or defendants, and shall be entitled to execution therein against him or them and to take such other proceedings as judgment creditors are entitled to take.

SEC. 108. Whenever any party is joined with said city as co-defendant, in any action for the insufficiency or defective condition of any street or sidewalk, and such party is not a resident of, and cannot be found within the state, service of summons in such action may be made upon such defendants upon like evidence and in the same manner as prescribed by general law for service by publication in other actions.

SEC. 109. No action shall be maintained against the city of Brainerd on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, unless such action shall be commenced within one (1) year from the happening of the injury, nor unless notice shall have first been given in writing to the mayor of said city, or the city clerk thereof, within thirty (30) days of the occurrence of such injury or damage, stating the place where and the time when such injury was received, and that the person so injured will claim damages of the city for such injury; but this notice shall not be required when the person injured shall in consequence thereof be bereft of reason. Nor shall any such action be maintained for any defect in any street until the same shall have been graded, nor for any insufficiency of the ground where sidewalks are usually constructed, when no sidewalk is built.

SEC. 110. No railway company or street railway company shall have any right in clearing their tracks through any part of said city or otherwise, to pile up snow or other material and leave the same piled upon any traveled portion of any street in said city. Any such company shall be liable to any person who shall be injured by means of any such obstruction caused by such company or its servants for all damages sustained. And in case any damage shall be recovered against the city for injuries caused by such obstruction, the city shall have the right to recover the same again from the company by whom the obstruction was caused.

SEC. 111. Whenever any person shall subdivide any lot or piece of ground within said city into building lots for the purpose of selling the same, or any part thereof, he shall cause the same to be surveyed and platted in accordance with the provisions of chapter twenty-nine (29) of the General Statutes, and when the survey and plat are so completed and acknowledged, it shall be presented to the city council, and a copy thereof furnished the city engineer.

Said city council may accept or reject said plat, or direct it to be changed or modified in such manner as it shall deem expedient.

When any plat is accepted by the city council, the city clerk shall so certify upon the face of such plat, when it may be recorded in the same manner and with the same effect as provided by the general statutes in respect to town plats. All the provisions of section nine (9), chapter twenty-nine (29) of the general statutes shall be applicable to said city, and in addition thereto, no person shall be entitled to any damage for the laying out or extension of any street or alley over any lot or parcel of land sold or offered for sale contrary to law.

SEC. 112. The acceptance of such plat or addition of any ground, either within or outside the limits of said city, shall not make the city liable to grade the streets therein designated, nor responsible for any insufficiency of such street, until the city council shall direct the same to be graded and opened for travel.

TITLE IX.

SEC. 113. The city council shall have power to maintain the sewers now established in said city, and to enlarge, extend, re-lay and improve the same as it shall consider the public good shall require, and may construct and cause to be constructed additional sewers.

SEC. 114. Whenever in the enlargement or extension of sewers, it shall in the judgment of the city council be necessary to take any private property, consisting of either land, buildings, or other private property, the city council shall have power to acquire the same by purchase, or by condemnation, in the manner provided in title ten (10) of this charter, and in such cases of condemnation as well as purchase a full title in fee simple to the property acquired shall vest in said city.

SEC. 115. The city council may in like manner, whenever it shall deem it necessary, lay, re-lay or extend any sewer through any street in said city, and levy and assess and collect the cost thereof, not exceeding the estimated cost of a sewer eighteen (18) inches in diameter including all necessary catch basements, man holes, lamp holes and flushing valves by a special assessment upon the property on both sides of such street and abutting upon such improvement, of an equal sum per front foot without regard to cash valuation. The cost not provided for by such assessment, including the increased cost of larger sewers and constructing the same across streets and against property which is by law exempt from such assessment, shall be paid out of the sewer fund of said city; a sewer eighteen (18) inches in diameter is hereby declared to be an ordinary street sewer within the meaning of this act, for the drainage of abutting property. Or in-

stead of the plan above proposed the city council may for all sewers constructed, laid, re-laid or extended during any one season, levy and collect an equal sum per front foot without regard to the cash valuation of such property, and without regard to the size of the sewer, by a special assessment upon all the property not exempt, on both sides of all the streets along which such sewers shall be constructed, laid, re-laid or extended, and abutting upon the same, which sum shall not exceed the sum of two (2) dollars per lineal foot of such sewers. The cost in excess of said sum, and the cost of such sewers upon street crossings and against property which is by law exempt from such assessment, shall be paid out of the sewer funds of said city. To authorize the following of this plan, the city council shall first determine what portion of the cost of such sewers not exceeding the sum per lineal foot above named, is the just and fair proportion of such cost which should be borne by the abutting property and shall by resolution name and fix the amount per lineal foot to be such just and fair proportion. Thereupon this shall be the plan to be followed, and the amount so named and fixed shall be and remain in all cases, the portion of the cost of all sewers constructed, made, re-laid or extended in such city, which shall be levied upon, assessed against and collected of abutting property until a different amount be by like resolution of the city council, named and fixed, or until the city council by resolution, determines to adopt and follow the other plan first above proposed. *Provided*, that in case of a re-assessment for any cause the city council may direct that the re-assessment be made upon either of the plans here proposed without regard to which plan was adopted in the first instance.

SEC. 116. The city council may at all times regulate and control the time and manner of laying and constructing by private parties branch sewers leading from main lines of sewers, and of making connections with main lines and with branch lines both public and private. The city council may, too, whenever it shall deem it necessary to lay or construct branch sewers in order to prevent future tearing up of streets, or for any other reason, determine in the case of each main line or of any specified portion of a main line, the location, number and manner of constructions of such branch lines, providing in its discretion one (1) or more for each district, lot or parcel of land, or one (1) for two (2) or more adjacent lots or parcels of land, may require the proper officer to make surveys, plats and profiles, showing the same, which, when approved and adopted shall thereafter be preserved in the office of the city engineer; and may thereupon, whether such main line has already been constructed or is in process of construction, forthwith lay and construct all such branch sewers not already constructed by the private parties interested, from a connection with the main line to the line of the street.

Whenever the city council constructs one or more such branch sewers it shall assess the whole cost of each upon the lot or parcel of land to which it runs without regard to the valuation or frontage of said lot or parcel of land, but in case one (1) branch is to serve two (2) or more lots or parcels of land it shall assess the whole cost of the same upon all the lots or parcels of land to be served by it an equal sum per front foot without regard to cash valuation. The cost

of such branches may be assessed and collected in advance of their construction as in case of other improvements, in which case the cost shall be estimated and fixed in manner substantially like the way pointed out by Sec. 126, Title 10, hereof, for the improvements therein specified, with such variances in the matters to be reported and in the other details as shall be suggested by the different character of the improvement, or such branches may be determined upon and forthwith constructed without prior estimate or other proceedings, in which case the actual cost of construction certified to by the city engineer and approved by the city council, shall be assessed, after the completion of the same, against the private property as above specified. In either case the assessment shall be made and collected substantially as provided in case of other improvements. The city council may, however, in case it constructs any branch at the time it constructs the main line assess in the manner above named the whole cost thereof, and add the same to, and include it with the assessment for the main line. The city council may, subject to such terms and under such regulations as it may fix, require all persons using an area or any space within the line of any street, to permit to be laid within such area or space all necessary branch sewers to a connection with other branches, and also to be laid therein inclosed in tubes or otherwise sufficiently protected any and all electric and other wires it may at any time require laid beneath the surface of the street, and in the future no permits for the excavation or use of any area or space within the lines of a street shall be given except upon condition that it may be used by others in the manner and for the purposes above named.

SEC. 117. Whenever any sewer of said city shall be extended to, or in the vicinity of any tract of wet or marshy land, either within or without the limits of said city, and the city council shall consider that the public good of the city demands the drainage of such wet or marshy land and the extension of such sewer to or into such land and beyond the lines of the streets of the city, the city council may, by resolution thereof, direct the commencement of proceedings against the owner or owners of such wet or marshy land, and thereupon said city shall have the right to maintain in the district court in the county of Crow Wing, or in any other court of competent jurisdiction, an action against such owner or owners to compel a contribution from them to defray the expense of extending such sewer to or into such lands, and the additional expense, if any such may be caused by the necessity of enlarging the sewers through the streets of the city from any such tract of land to the outlet of such sewer. In such action the court shall have power to direct the joining of other parties to such action as defendants, in such manner as it shall adjudge equitable, and shall make award of such sum or sums of contribution to the expense of such sewer as it shall deem just and in proportion to the benefit to each specific parcel of such wet or marshy land as shall be affected by such sewer, but in no case to exceed the amount of benefit it shall adjudge to accrue to each of such specific parcels by reason of such extension of such sewer. Such award shall stand as the determination of such court; and said city shall, upon the completion of such work, have judgment and execution for the several sums so awarded, which

judgment shall be a specific lien upon each of the parcels of the land upon which such award shall be made; which lien shall have priority over every other lien or charge upon such parcels, and such judgments may be enforced only against such specific property. If, upon the making of such award by the said court, the city council shall consider the whole expense of such improvement of such award to be an excessive burden on the city, it may abandon the proceedings by paying the taxable costs in such action, or it may determine to proceed with part of such work and abandon the remainder thereof, in its discretion, or it may, in its discretion, delay the performance of the work, not exceeding three (3) years.

SEC. 118. All the provisions of this title relating to the levy, assessment and collection of the cost of laying sewers shall apply to the sewers already laid in said city, and the proper proportion of the costs of said sewer, as herein provided, may be levied and collected by special assessment from the property and in the manner hereinbefore set forth.

TITLE X.

SEC. 119. Whenever the city council shall consider it necessary to procure grounds for any public grounds, engine houses, markets, or public buildings, the city council shall appoint a committee of not less than three (3) of its members who, together with the city engineer shall make examination and propose to the city council a location and description of lands suitable for such public grounds, engine houses, market or other public buildings, and the most convenient manner of taking and using the same, and present to the city council a plat of the land proposed to be taken, and in their report shall show, so far as the committee shall deem necessary, what canals, tunnels, buildings or structures can be used in the appropriation, and any other matter which the committee shall deem proper for the information of the council, and such committee may present for the consideration of the council more than one location and plat.

SEC. 120. Such committee shall file their report with the city clerk of said city, who shall give notice by publication twice in the official paper of said city, that such report is on file in his office for the inspection of all persons interested, and that the same will be presented to the city council for action thereon at a meeting of said council, to be named in such notice, which shall be the regular meeting of said council which shall occur next after one (1) week from the second publication of such notice at the meeting named in such notice, the city clerk shall next after the reading of minutes of previous meeting, present such report and the matter may be acted upon by the council at the same or any subsequent meeting. The council, under such rules as it may prescribe, may hear any person interested in the matter, or refer the matter to a committee to hear such persons and report.

SEC. 121. Whenever the city council shall determine upon the lands and other property to be taken and appropriated, it shall designate the same as nearly as may be convenient, and shall cause such plat or survey as may be necessary to show or explain the same, to be

made and filed therewith with the city clerk, and the city council shall then, or afterwards, appoint three commissioners who shall be resident freeholders of said city, and no two of whom shall reside in the same ward, to view the lands or other premises to be taken and appropriated and ascertained and award the amount of damages or compensation to be paid to the owners of the property so to be taken and appropriated.

Two or more of such commissioners shall constitute a quorum and be competent to do any act required of such commissioners. They shall be notified by the city clerk by a notice to be served on them severally, either personally or through the mail, to attend at his office on or before a day fixed by him, not less than two days after the service or mailing of such notice, to qualify or enter upon their duties; and if any commissioner shall refuse or neglect to attend as aforesaid, he shall forfeit and pay to the city of Brainerd, the sum of fifty (50) dollars, to be recovered to the use of said city in the municipal court; and in case a quorum of such commissioners shall not so attend at the time and place designated in said notice, the mayor or acting mayor of said city may, in writing, appoint one or more commissioners in the stead of any such absentees. The commissioners shall be sworn by the clerk or any officer authorized to administer oaths, to discharge their duties as such commissioners in the matter, with fidelity and impartiality, and make due return of their action to the city council.

They shall give notice by two (2) publications in the official paper of said city that they will, on a day designated in such notice, which shall be at least ten (10) days after the first (1st) publication of such notice meet at a place designated in such notice, on or near the premises proposed to be taken and appropriated and view the property proposed to be taken and appropriated and ascertain an award therefor, compensation and damages, and that they will there and then hear such allegation and proofs as interested persons may offer. Such commissioners shall meet and view the premises pursuant to such notice, and may adjourn from time to time, and after having viewed the premises may, for the hearing of evidence and preparation of their award adjourn or go to any other convenient place in said city, and such commissioners shall make a true and impartial appraisal and award of the compensation and damage to be paid to each person whose property is to be taken or appropriated, and report the same to the city council, and such award shall lie over until the next regular meeting of the council; which shall occur at least one week after the reception of such award, at which, or at any subsequent time, the city council may act on such award and hear any objections made thereto, or may refer the matter to a committee to hear such objection and report thereon. The council may confirm such award, or annul the same, or send the same back to the same or a new board of commissioners for further consideration, and such commissioners may in such case, again on giving notice, published once in the official paper of said city, meet at a time and place to be designated in said notice, which shall be at least two (2) days after the publication of such notice, and hear any further evidence that may be adduced by interested persons, and may adjourn from time to

time and correct any mistakes in such award, and revise and alter the same as they may deem just, and again report such award to the city council, who may confirm or annul the same. When any such award shall be confirmed by the city council, the same shall be final and conclusive upon all parties interested, except as hereinafter provided.

SEC. 122. Whenever an award of compensation and damages shall be confirmed by the city council and not appealed from, and whenever the same when appealed from shall not be set aside by the court, the same shall constitute a lawful and sufficient condemnation and appropriation to public use of the land and property and rights and property for which compensation or damages are so awarded, and the city council shall thereupon cause to be paid from the proper fund of said city to the owners of such property the amount awarded to each severally. In case such payment is not made within one (1) year after the confirmation of the award or the determination of the appeal thereupon the proceedings shall be deemed to be abandoned.

Before payment of such award the owner of such property or the claimant of such award shall furnish an abstract of title showing himself entitled to all of the compensation and damages claimed. In case of neglect to furnish such abstract, or there shall be any doubt as to who is entitled to such compensation or damage, or any part of the same, the amount so awarded shall be by the city council appropriated and set apart in the city treasury for whoever shall be entitled thereto, and be paid over whenever any person shall show clear right to receive the same. The city council may, in its discretion, require of such claimant a bond with good and sufficient securities conditioned to indemnify and save the city harmless against all other claims for such compensation or damages, or for the property for which the same was awarded and all loss, costs or expenses on account of such claims.

Upon the payment of said award or appropriation, or the setting apart of the money in the city treasury to pay the same as aforesaid, the city shall become vested with the title to the property taken and condemned absolutely for all purposes for which the city may ever have occasion to use the same, and may forthwith enter upon and use the same.

This section shall apply as well to all cases of appropriation of private property for public use provided for in this chapter.

SEC. 123. Whenever the city council shall vote to lay out or open any new street or alley, or to straighten, widen or extend any that now or may hereafter exist, which shall make it necessary to take, injure or interfere with private property, it shall determine and designate in a general way as nearly as may be convenient, the character and extent of the proposed improvement, and thereupon it shall be the duty of the city engineer to make and present to the council a plat and survey of such proposed improvement showing the character, course and extent of the same and the property necessary to be taken or interfered with thereby, with the name of the owner of each parcel of such property so far as the engineer can readily ascertain the same, and such statement as may in the opinion of the engineer be proper to explain such plat and survey and the character and extent of the proposed improvement, and his estimate of the cost of

such improvement; and the city council may cause such plat and survey to be modified, amended or changed as it may deem proper and shall estimate and fix upon the cost of making such improvement.

When such plat and survey shall be finally adopted by the city council it shall be filed with the city clerk, and shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

Said plat shall also show the amount of land taken from each owner so far as the owners may be known, and the lands contiguous to or affected by such improvement.

The city council shall then or afterwards appoint three (3) freeholders of said city, no two (2) of whom shall reside in the same ward, as commissioners, to view the premises and to ascertain and award the amount of damages and compensation to be paid to the owners of property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expense of the improvement upon the lands and property to be benefited by such improvement, and in proportion to the benefits to be received by each parcel and without regard to cash valuation.

Two (2) or more of such commissioners shall constitute a quorum and be competent to perform any duty required of such commissioners; and they shall be notified of their appointment, and vacancies in their number shall be filled in the same manner, and they shall take the same oath and be subject to the same penalties for refusal or neglect to attend, to be collected in the same way as is provided in the case of commissioners appointed under section one hundred and twenty-two (122) of this act. They shall give notice by two (2) publications in the official paper of said city that such survey and plat is on file in the office of the city clerk, for the examination of all persons interested, and that they will on a day designated in such notice, which shall be at least ten (10) days after the first publication of such notice, meet at the place designated in said notice on or near the proposed improvement, and view the property proposed to be taken or interfered with for the purpose of such improvements, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement, and assess thereon in proportion to benefits, the amount necessary to pay such compensation and damage, and the cost of making the improvement, and that they will then and there hear such allegations and proofs as interested persons may offer. And such commissioners shall meet and view the premises pursuant to such notice and may adjourn from time to time; after having viewed the premises, may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in the city, and may have the aid and advance of the city engineer and of any other officer of the city. To viewing the premises, and hearing the evidence offered, such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement shall be benefited by such improvement, then the commissioners in considering and awarding com-

compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner in respect to the remainder of the same property and award him only the excess of the compensation or damages over and above such benefits.

The said commissioners shall then assess the amount of such compensation and damages so awarded, together with the expense and cost of making the improvements, upon the lands and property benefited by such proposed improvements, and in proportion to such benefits, but in no case shall the amount of said assessment exceed the actual benefit to the lot or parcel of land so assessed, deducting therefrom any damages or injuries to the same parties which are less than such benefits, and assessing only the excess, and prepare and report to the city council their appraisal and award, and if, in the judgment of said commissioners, the whole amount of such compensation and damages, together with the costs of making such improvement, shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report, and shall state the amount of such excess. Said commissioners shall also report to the city council an assessment list containing their assessment of such compensation, damages and cost, or so much thereof as shall not exceed the actual benefits to the property so assessed, which list shall contain a brief description of each tract or parcel of property assessed, the name or names of the owners thereof, if known, and the amount assessed of the excess of such compensation, damage and costs, as aforesaid, which they shall return unassessed.

Such report shall lie over until the next regular meeting of the council, which shall occur at least one (1) week after the reception thereof, at which time, or at any meeting, the city council may act upon such report, and hear any complaint touching such award or assessment; or it may refer the matter to a committee of the council to hear such complaints, and report thereon. The council may confirm such award and assessment, or either; or annul the same; or send the same back to the same or a new board of commissioners for further consideration; and such commissioners may, in such case, again, upon giving notice published once in the official paper of said city, meet at a time and place to be designated in said notice, which time shall be at least two (2) weeks after the publication of such notice, meet and hear any further evidence that may be adduced by interested persons, and may adjourn from time to time, and may correct any mistakes in such award and assessment, and alter and revise the same, as they shall deem just, and again report the same to the city council, who may thereupon confirm or annul the same. Whenever the city council shall confirm any such award and assessment, such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as is hereinafter provided; and the city council shall proceed, at the same or any subsequent meeting, to levy such assessments upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same, which may be in the following form, or in any other form the council may adopt:

"The city council of the city of Brainerd doth hereby assess and levy

upon and against the several lots and parcels of land below described, the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of and injury to private property, and estimated cost of improvement in and about the.....
 as shown on the plat and survey of the same on file in the office of the city clerk of said city. This levy is made conformably to the report and assessment of commissioners duly appointed to make such assessment and in proportion to benefits from such improvements to accrue to the parcels and not exceeding the benefit to the parcels so assessed.

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

Attest,

.....
 President of the Council."

(L. s) City Clerk.

SEC. 124. Any person whose property is proposed to be taken, interfered with or assessed for benefits under any of the provisions of this title and who deems that there is any irregularity in the proceedings of the council or action of the commissioners by reason of which the award of the commissioners ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property or with the amount of the assessment for benefits to any property affected by such proceedings, may at any time before such award or assessment shall be confirmed by the city council, file with the city clerk, in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of, and containing a description of the property affected by such proceedings, and if, notwithstanding such objections, the city council shall confirm the award or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the city council to the district court of the county of Crow Wing at any time within ten (10) days after such order. Such appeal shall be made by serving a written notice of such appeal upon the city clerk of said city which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, and by also delivering to said city clerk a bond to the city of Brainerd, executed by the appellant or by some one in his behalf, with two (2) sureties, who shall justify in the penal sum of fifty (50) dollars, conditioned to pay all costs that may be awarded against the appellant. Thereupon the city clerk shall make out and transmit to the clerk of said district court a copy of the award of said commissioners as confirmed by the council and of the order of the council confirming the same, and of the objection filed by the appellant as aforesaid, all certified by said city clerk to be true copies, within ten (10) days after the taking of such appeal. But if more than one (1) appeal be taken from any award it shall not be necessary that the clerk in appeals subsequent to the first shall send up anything except a certified copy of the appellant's objection. There shall be no pleading on such appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his

said written objections, that as to him the award or assessment of the commissioners ought not to stand, and whether said commissioners had jurisdiction to take action in the premises.

The case may be brought on for hearing on eight (8) day's notice at any general or special term of the court, and shall have precedence of other civil cases, and the judgment of the court shall be either to confirm or annul the proceedings only as the same affect the property of the appellant proposed to be taken, damaged or assessed for benefits and described in said written objection.

From such determination no appeal nor writ of error shall lie. In case the amount of damages awarded or assessment made for benefits is complained of by such appellant the court shall, if the proceedings shall be confirmed in other respects, upon such confirmation appoint three (3) disinterested freeholders, residents of said city, commissioners to reappraise such damages or benefits. Parties to such appeal shall be heard by said court upon the appointment of such and the court shall fix the time and place of the meeting of such commissioners. They shall be sworn to the faithful discharge of their duties as such commissioners and shall proceed to view the premises and to hear the parties interested with their allegations and proof pertinent to the question of the amount of such damages or assessments. Such commissioners shall be governed by the same provisions in respect to the method of arriving at the amount of damages and the offset thereto of benefits to other property of the same owners and in all other material respects, as are in this title made for the government of commissioners appointed by said city council. They shall, after such hearing and view of the premises, make report to said court of their appraisal of damages or assessments of benefits in respect to such appellant. The award or assessment of such commissioners shall be final unless set aside by the court for good cause shown. In case such report is set aside the court may in its discretion recommit the same to the same commissioners or appoint a new board, as it shall deem best; but no appeal or writ of error shall be allowed from any order of the court in the premises. Said court shall allow a reasonable compensation to such commissioners for their services and make such award of costs on such appeal including the compensation of such commissioners, as it shall deem just in the premises.

In case the court shall be of opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant.

SEC. 125. The city council shall have the right at any time during the pendency of any proceedings for the improvements authorized in this title, or at any time within thirty (30) days after the final order of the court, on any appeal from such proceedings, to abandon all such proceedings whenever it shall deem it for the best interests of the city to do so.

SEC. 126. Whenever the city council shall determine to cause to be paved, re-paved, or macademized any street, lane, or alley in said city or any gutter or gutters along such street, lane, or alley, or to lay, relay or extend any sewer pipes in or through such streets, lanes or alleys, or any portion thereof, it shall determine and designate in a general way, as nearly as may be convenient, the character and extent

of the improvements, and the materials to be used therein, and thereupon it shall be the duty of the city engineer to make, and present to the city council an estimate of the costs of such improvements, stating therein the proportion of such estimated costs which will be required to construct such improvements in front of abutting lands, which costs shall not in case of sewers exceed the costs of ordinary street sewers, in front of such abutting lands, and the proportion thereof, required to construct the same across streets, lanes and alleys, and in front of lands, not subject to assessment, and also the excess of cost in case of sewers over and above the cost of such ordinary sewers, also a list of the several lots and parcels of land fronting upon such proposed improvements, with the number of front feet of each extending along such improvements, and the names of the owners of the several parcels as nearly as the city engineer can readily ascertain the same; a brief minute of the reception of such report shall be made and published in the record of the proceedings of the city council, which shall be held to be sufficient notice to all persons concerned; and such report shall lie over without any assessment being made until the next regular meeting of the city council which shall occur at least one (1) week after the reception of such report; but the city council, in its discretion, may direct the city engineer to advertise for and receive in the mean time, bids for doing the work and furnishing the materials required to construct and complete such improvement, and report the same to the council at the meeting of the city council to which such report is laid over, or at any subsequent meeting. The city council may consider such estimate and list, and any further communications from the city engineer respecting the matter, and under such rules as it may make shall hear all persons interested in the matter of such improvements, who may desire to be heard, and the council may adhere to its resolution of making such improvements or may modify the character of the same, or abandon it. If the city council shall determine to go on with such improvements, whether modified or not, it may either before or after having contracted for the construction of such improvements, estimate and fix upon the costs of such improvements, and the proportion or amount of such costs which is required to construct such improvement not exceeding in case of sewer the cost of an ordinary street sewer when larger sewers are constructed, opposite to or in front of the lots and parcels of land described in the list so made by said city engineer, and may assess and levy such proportion of amount of such cost upon the same lots and parcels of land upon the basis of an equal sum per front foot of each lot or parcel, measuring along the line of such improvements, and the city council shall cause to be made, and shall adopt an assessment roll thereof, which may be in the following or any other form which the city council may deem proper:

"The city council of the city of Brainerd doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money set opposite each lot or parcel. This assessment is levied to defray the expense of.....
in the city of Brainerd along.....
and said lots and parcel of land are assessed upon the basis of an equal sum per front foot along the line of such improvement.

Done at a meeting of the city council, this.....day
of.....A. D. 188..

Attest.....
City Clerk. Prest of the Council."

Provided, however, that in all cases where the second (2d) plan proposed in section one hundred and fifteen (115) and in section one hundred and sixteen (116) of this act, for the apportionment of the cost of sewers, be the plan adopted and followed, the city engineer may omit from his report all estimates of cost and all apportionments thereof. In all cases, too, when the city council determines to go on with such improvements, it shall make the equal assessment per front foot previously determined and fixed upon, without regard to the cost of the work or to the apportionment of that cost, than was had at the time when the amount to be assessed against abutting property was named and fixed, and shall adopt an assessment roll thereof substantially like that prescribed when the other plan is followed.

SEC. 127. The city council may, in its discretion, in case where any lot fronting on two streets has been previously assessed and the assessment paid, for laying any sewer-pipe upon a different street from the one through which such proposed improvement is to be extended, remit from the assessment from such corner lot such portion of such second assessment, not exceeding the amount of assessment for a frontage of twenty-five (25) feet on such lot, as it may deem just under all the circumstances of the case; but the discretion of the city council in such matters shall be final, and the refusal or failure of said council to make such remission shall not be a ground for setting aside such assessment in any court or proceeding.

SEC. 128. Whenever the city council shall have ordered the construction of any sidewalk and the owners of the land along which such sidewalk is to be built shall refuse, or, for a space of two (2) weeks, neglect to construct the same according to the order of the city council, the city engineer shall report to the city council a description of each lot or parcel of land along which such sidewalk has not been built, and his estimate of the cost of building such sidewalk along each of such lots and parcels; such estimates shall not be binding upon the city council, but advisory merely, and the council may obtain any other information as to such cost, and the council shall fix upon and designate the cost of building such sidewalk in front of each lot and parcel of land, and thereupon the city council shall assess and levy upon and against such lot and parcel of land so reported (after correcting mistakes, if any) along which said sidewalk has not been built, such sums as will cover the cost of building such sidewalk along and fronting upon the same lots and parcels of land respectively, and cause to be made an assessment roll of the same, which shall be in the following form, or any other form which the city council may adopt:

"The city council of the city of Brainerd doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money, set against each lot or parcel, this assessment is made to defray the cost of.....a sidewalk along the.....side of.....from.....to.....in accordance with a resolution of the city council, passed he.....day of.....A. D. 18.... The amount assessed

against and leveid upon each lot or parcel being the amount necessary to build such sidewalk along and fronting upon the same lot or parcel of land.....

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

Attest..... City Clerk. Pres't of the Council."

SEC. 129. Assessment for the repairs of sidewalks, may be in the following form, or any other form which the city council may adopt:

"The city council of the city of Brainerd doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums of money set against each lot or parcel. This assessment is made to defray the cost of repairs of sidewalks fronting upon each lot or parcel, which the respective owners have neglected to make, and which have been made by the proper street commissioner since the.....day of.....A. D. 18.... The amount assessed against and levied upon each of said lots and parcels of land, is the actual cost of repairs of sidewalks abutting upon such lot or parcel, and so repaired by such commissioner.

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

Attest..... City Clerk. Pres't of the Council."

SEC. 130. Whenever any portion of any award made by commissioners and confirmed by the council, under the provisions of sections one hundred and twenty-one (121) and one hundred and twenty-three (123) of this act, shall be annulled by the court upon appeal, as hereinbefore provided for, the city council may again appoint commissioners to view the property which was affected by such appeal and appraise and amend the compensation and damages to be paid for the taking or appropriation of the same, and the like proceedings shall be had so far as applicable, as is prescribed in the sections under which the same was originally done, except that such commissioners shall make no new assessment of costs and expenses. They shall, however, in arriving at the compensation and damages to be awarded take into consideration and offset any benefits which in their judgment the contemplated improvement will be to the remainder of the property, part of which may be taken or appropriated, and report their award to the city council, whereupon the same proceedings may be had as far as applicable as upon an original award, and if such award shall again upon appeal, be annulled by the court, still another commission may be appointed and award made in the same manner, and so on, until a valid award shall be made, but no new assessments for benefits shall be made merely by reason of any change in the amount of the sum awarded for compensation and damages, and any sum which may be lacking to pay the awards shall be paid from the proper fund of the city.

SEC. 131. If any special assessment heretofore made by the city council, or under its direction, to defray the expense of any local improvement, has been or shall be, either in whole or in part, annulled, vacated, or set aside by the judgment of any court, or if the city council shall be satisfied that any such assessment is so irregular or

defective, that the same cannot be enforced and collected, or if the city council shall have omitted to make such assessment at or before the making of such improvement the city council shall anew or thereafter compute and determine upon the cost of making such improvement in a gross amount, upon such data as to it shall seem sufficient; and the city council may then proceed to cause a new assessment of the cost of such local improvements to be made as herein provided, either on the property fronting upon such improvements, or on the property benefited by such improvements, according to the character of such improvements, following as near as may be the provision of the city charter in force at the time of making such improvement in determining the property to be assessed, and in case such second assessment shall be annulled the city council may proceed to make such other assessments until a valid assessment shall be made, but nothing in this section shall authorize any new assessment in cases where such court shall determine that the lots or lands are not subject to assessment.

After such new assessment roll shall have been completed the city clerk shall note thereon against any piece of land upon which a former assessment for the same improvement has been made, the words "paid on former assessment," which shall cancel such assessment on that parcel.

SEC. 132. The city clerk shall record all assessment rolls of special assessments, in books to be by him kept for that purpose, and shall on or before the first (1st) day of November of every year, deliver to the county auditor of said county of Crow Wing all such assessment rolls theretofore recorded, and the county auditor shall extend the assessments in proper columns against the property assessed, and such assessment shall be collected and the payment thereof enforced with and in the like manner as state, county and other taxes are collected and the payment thereof enforced; and such assessments, when collected, shall be paid over by the county treasurer to the city treasurer of said city, together with all costs, penalties and interest collected thereon at the time of making payment of city taxes to the city treasurer.

SEC. 133. No omission, informality or irregularity in proceedings in or preliminary to the making of any special assessment, shall affect the validity of the same where the assessment roll has been adopted by the city council. And the assessment roll, and the record thereof kept by the city clerk, shall be competent and sufficient evidence that the assessment was duly levied and the assessment roll duly made and adopted, and that all other proceedings antecedent to the adoption of such assessment roll were duly had, taken and performed, as required by this charter. And no failure of the city clerk to record the assessment roll, or to deliver the same to the county auditor on or before the time prescribed for such delivery, or to do any other act or thing of him required, shall in any way invalidate any assessment; and no variance from the directions herein contained, as to the form or manner of any of the proceedings, shall be held material, unless it be clearly shown that the party objecting was materially injured thereby.

SEC. 134. In case any special assessment shall, in any suit where its validity shall be questioned, be adjudged invalid, the council may,

in its discretion, notify the county auditor to cease the collection of the same, if it shall have been transmitted to him for collection, and may proceed anew, by proceedings either as in the case of an original special assessment for the same purpose, or by taking up the previous proceedings at any point, and may make and levy a new assessment in the place and stead of the assessment which shall have been adjudged invalid; and the city clerk before delivering such new assessment to the county auditor for collection, shall ascertain and note thereon payments which have been made on such invalid assessment for the same purpose; which notation shall cancel the assessments as to the parcels and lots on which such payments were made, to the extent of the payments. Such new assessments shall be collected in the same manner as original special assessments.

SEC. 135. No special assessment shall be questioned or held to be invalid, because the amount of such special assessment shall happen to be either more or less than the amount of money actually required for the improvement for which such assessment shall be made. If the amount raised by such special assessment shall happen to be less than the amount required for such improvement, the balance shall be paid from the proper city fund; and if there shall happen to be any surplus from any such special assessment, the same shall be carried to the credit of the same fund, from which a deficiency would have been supplied or be otherwise disposed of as to the city council shall seem most just toward the persons upon whom such special assessment has been levied; and upon any assessment rolls or other papers made or used in any of the proceedings, it shall not be necessary that words shall be written out in full but abbreviations, letters, figures and recognized characters may be used whenever their use shall be convenient, and no error or mistake as to the name of the owner of any property shall be regarded as material in any proceedings under this act.

SEC. 136. It shall require a two-thirds ($\frac{2}{3}$) vote of the members elect of the city council to determine, in the first instance to make any improvement for which a special assessment may be levied, except in respect to sidewalks, when a majority shall suffice. But this restriction shall not apply to any subsequent act of the council touching such improvement, or the special assessment to provide means therefor.

SEC. 137. Any improvements, the means to make or construct which may be raised by special assessment, may be performed by contract let in the ordinary way or directly by the city, by the employment of labor and purchase of material, or in any other manner in which the city council may deem proper in each particular case. And the city council may, in its discretion, in any case, instead of causing the special assessment to be made entirely upon estimates, as hereinbefore provided for, wait until the levying of the contract for such improvement, or until such improvement shall be made, before determining and fixing upon the cost and expense of such improvement, and appointing commissioners to make the assessment.

SEC. 138. The city council may, at the time of ordering any improvement for which any assessment may be made, determine whether to proceed at once with such improvement or wait the collection of such assessment.

SEC. 139. In case any assessment or improvement is collected before the making of such improvement, the money so collected shall be kept separate from the funds of the city and not devoted to any other purpose than such improvement, and as soon as a majority of the assessments for such improvements are paid, the city council shall forthwith cause such improvement to be made.

SEC. 140. After any special assessment roll shall have been adopted by the city council and before the same shall have been delivered to the county auditor for collection, any assessment thereon may be paid direct to the city treasurer of said city; and upon the production of the city treasurer's receipt therefor to the city clerk, he shall enter upon such assessment roll, opposite the assessment so paid, the words "Paid to the city treasurer," which entry shall cancel the assessment so paid.

In case interest shall have been included in such assessment so much of such interest as shall not have accrued on such assessment at the time of such payment shall be deducted therefrom.

SEC. 141. Nothing herein shall interrupt or interfere with any assessments which have been heretofore made but the collection thereof shall go on according to the provisions of the charter of said city in force at the time of making such assessments.

SEC. 142. No sale under execution or other proceedings upon a judgment, decree, foreclosure or lien, and no transfer or mortgage shall divest or affect the lien of any assessment for any tax or for any improvement chargeable to or assessed against the property under this charter, although the confirmation of such assessment may be subsequent to the lien of such judgment, decree or other lien, or to such transfer or mortgage.

TITLE XI.

SEC. 143. The city council may from time to time provide for the compilation and publication of the ordinances of the city, and such resolutions as may be designated and for the distribution or sale of copies of such compilation in its discretion, and may also provide for exchange of such printed compilations for similar publications of other cities.

SEC. 144. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

SEC. 145. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process by the proper officer with the mayor, and it shall be the duty of the mayor forthwith to inform the city council thereof, or to take such other proceedings as by the ordinances or resolutions of said council may have been in such case provided.

SEC. 146. All actions brought to recover any penalty or forfeiture under this act or the ordinances, resolutions, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city.

SEC. 147. In all prosecutions for any violation of this act, or of any ordinance, resolution, or by-law of the city of Brainerd, the first pro-

cess 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, resolution or by-law of the city of Brainerd, but the person or persons so arrested may be proceeded against, tried, convicted, punished or discharged in the same manner as if arrested by warrant. All processes issued by the municipal court for violation for any ordinance, resolution or by-law of the said city, shall run in the name of the state of Minnesota, and shall be directed to the chief of police and any police officer of the said city, or to the sheriff or any constable of Crow Wing county.

SEC. 148. In all cases of imposition of penalty or fine, or the rendering of the judgment by the municipal court of said city pursuant to any statute of the state of Minnesota, or pursuant to any ordinance, resolution or by-law of the said city of Brainerd, as a punishment for any offense or for the violation of any ordinance, resolution or by-law as aforesaid, the offender shall be forthwith committed to the city prison of said city, or if there be no city prison, to the common jail of Crow Wing county, and there be imprisoned for a term 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 city prison, or in case there be no city prison, in the common jail of Crow Wing county.

SEC. 149. The city of Brainerd shall not be liable in any case for the board or jail fees of any person who may be committed by any officer or magistrate of the city to the jail of Crow Wing county under the state laws.

SEC. 150. No penalty or judgment recovered in favor of said city shall be remitted or discharged, except by a vote of two-thirds ($\frac{2}{3}$) of all the members of the city council; but nothing in this section shall be so construed as to prohibit the judge of the municipal court from granting new trials or reversing any judgment rendered by him according to the usual procedure of courts, nor to prohibit said court from suspending execution of sentence in its discretion.

SEC. 151. No city officer, or employe of the city, shall sell, dispose of, or convert to his own use, any city property in his charge without special authority from the city council.

SEC. 152. It is hereby made the duty of the register of Crow Wing county to record any deed or other instrument in which the grantor or grantee is the city of Brainerd, without requiring the same to be certified "Taxes paid and transfer entered," or "Paid by sale of lands described within," any general law of the state to the contrary notwithstanding.

SEC. 153. All ordinances, resolutions, regulations, rules, by-laws, orders, assessments and proceedings heretofore made and established by the city council of the city of Brainerd, and not inconsistent with the provisions of this act, shall remain in force, except as altered, modified or repealed by the city council of the city of Brainerd; and all books and pamphlets, published or which may be published, purporting upon their title page to be published by the authority, order or direction of the city council, and purporting to contain the ordi-

nances of said city, standing rules and orders of said city council, or either, are hereby declared to be competent and prima facie evidence or the contents of such ordinances, standing rules and orders, or any resolution or other matters purporting to be the act of said city council which may be found printed therein, and of the due and legal adoption, approval and publication thereof, and the certificate of the city clerk that any printed slip of paper to which such certificate may be attached, contains or is a true copy of any resolution, ordinance, proceeding of the city council, or other paper the original of which is presumably in the possession of said city clerk, shall constitute such printed slip or paper competent and prima facie evidence of the contents and purport of the resolution, ordinance, proceeding of the city council, or other paper, and of the legal passage, adoption, approval and publication thereof.

SEC. 154. All acts and parts of acts heretofore passed for the incorporation of the city of Brainerd, or amendatory thereto, and not necessary to carry out any of the provisions of this act, and not contained or incorporated in this act, and so much of any act as may be inconsistent with this act, is hereby repealed; but such repeal of any acts or parts of acts of the legislature shall not in any manner affect, injure or invalidate any bonds, contracts, suits, prosecutions, claims or demands that may have been duly and lawfully issued, entered into, performed or commenced, or that may exist under and by virtue or in pursuance of the said acts or any of them, but the same shall exist and be enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed.

SEC. 135. No law of this state contravening the provisions of this act, shall be construed as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law. Nothing in this act shall be construed to supersede any officer or officers of said city now acting by virtue of the act incorporating said city, or the several acts amendatory thereof heretofore passed, or under any ordinance of said city heretofore enacted; and such officer or officers shall continue in office as heretofore, until his or their term of office shall expire, except as otherwise expressly provided for in this act.

SEC. 156. This act is hereby declared to be a public act, and need not be pleaded or proved in any court of this state.

SEC. 157. This act shall take effect and be in force from and after its passage.

Approved March 4th, 1889.