

SEC. 4. This act is hereby declared to be a public act and may be read in evidence in all the courts within this state without proof.

SEC. 5. All papers, files, plats and other public records to be kept, preserved and filed, unless otherwise provided for in this act, shall be placed on file and preserved in the office of the city recorder.

SEC. 6. No law of this state contravening the provisions of this act shall be considered as repealing, amending or modifying the same unless such purpose be clearly set forth in such law.

SEC. 7. When any suit or action shall be commenced against said city, service of process therein shall be made by leaving a copy thereof by the proper officer, with the mayor or recorder, and it shall be the duty of the mayor or recorder forthwith to inform the city council thereof, and to take such other proceedings as by the ordinances or resolutions of the city council may have been in such case provided.

SEC. 8. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

SEC. 9. The city of Tower shall not be liable in any case for the jail fees of any person committed to the common jail of St. Louis county by any officer of the city or a magistrate of said city for offenses punishable under the general laws of this state.

SEC. 10. The public property of said city shall be exempt from seizure, or a sale on execution and from taxation.

SEC. 11. No person shall be an incompetent judge, 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. 12. All acts or parts of acts inconsistent with this act are hereby repealed.

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

Approved March 13th, 1889.

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## CHAPTER 6.

[H. F. No. 950.]

AN ACT TO CONSOLIDATE IN ONE ACT THE CHARTER OF THE CITY OF SAINT CLOUD, AND TO AMEND THE SAME.

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

SECTION. 1. The act entitled "An act to reduce the act incorporating the town of Saint Cloud, and to repeal a former charter of said town, approved March eighth (8th) eighteen hundred and sixty-two, (1862,) and the several acts amendatory thereto to one act, and to

amend the same, and to incorporate the city of Saint Cloud," approved March sixth (6th), eighteen hundred and sixty-eight (1868) and the several acts amendatory thereof, are hereby consolidated and reduced to one act, and amended so as to constitute the charter of the city of Saint Cloud, which shall read as follows:

## CHAPTER I.

### CITY AND WARD BOUNDARIES.

SECTION. 1. All that district of country hereinafter described, shall be a city by the name of Saint Cloud, and all the people now inhabiting, and those who shall hereafter inhabit the said district, shall be a municipal corporation, by the name of the "City of Saint Cloud", and by that name may sue and be sued, plead and be impleaded, in any court; make and use a seal and alter it at pleasure; and take, hold and purchase, lease and convey all such real, personal and mixed estate as the purposes of the corporation may require, or the transaction of exigencies of its business 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 powers possessed by municipal corporations at common law, and in addition thereto shall possess all powers hereinafter granted; and all the authorities thereof shall have perpetual succession.

SEC. 2. The district of country constituting the city of Saint Cloud shall be the following described lands situate in township one hundred and twenty-four (124), north of range twenty-eight (28) west, in the county of Stearns, and state of Minnesota, to-wit: All of section two (2), the south west quarter ( $\frac{1}{4}$ ), and the east half ( $\frac{1}{2}$ ) of section three (3), all of sections ten (10), eleven (11), twelve (12), thirteen (13) and fourteen (14), the north half ( $\frac{1}{2}$ ) of the south west quarter ( $\frac{1}{4}$ ), and the north half ( $\frac{1}{2}$ ) of the south east quarter ( $\frac{1}{4}$ ), and the south east quarter ( $\frac{1}{4}$ ) of the south east quarter ( $\frac{1}{4}$ ), and the north half ( $\frac{1}{2}$ ) of section fifteen (15), the north east quarter ( $\frac{1}{4}$ ) of the north east quarter ( $\frac{1}{4}$ ) of section twenty-two (22), the north half ( $\frac{1}{2}$ ) of section twenty-three (23), and lots one (1) and two (2) of section twenty-four (24). And also the following described lands situate in the county of Benton and state of Minnesota to-wit:

The south half ( $\frac{1}{2}$ ) of the south west quarter ( $\frac{1}{4}$ ) of section twenty-five (25); all that part of the south east quarter ( $\frac{1}{4}$ ) of the south east quarter ( $\frac{1}{4}$ ) of section twenty-six (26), not included in the platted portion of Sweet's addition to Sauk Rapids, and sections thirty-five (35) and thirty-six (36), all in township thirty-six (36) north of range thirty-one (31) west. And also the following described lands situate in the county of Sherburne and state of Minnesota to-wit:

Section one (1) and lot one (1) of section twelve (12) in township thirty-five (35) north of range thirty-one (31) west; and the south half ( $\frac{1}{2}$ ) of section six (6); and the north east quarter ( $\frac{1}{4}$ ) of section seven (7) in township thirty-five (35) north, of range thirty (30) west.

SEC. 3. That portion of the city of Saint Cloud situate in the county of Stearns shall be divided into four (4) wards to be called the first (1st), second (2nd), third (3rd), and fourth (4th) wards, limited and bounded as follows, viz:

All that part of said territory within the boundaries and limits of said city as now established, or as they may hereafter be extended, lying south of the following line, viz:

Commencing at the intersection of the center line of Fourth street south (formerly Wilson street) with the Mississippi river, and running thence west until the center line of said street extended, intersects the center line of the so-called lake boulevard as the same is shown on the plat thereof on file in the office of the city clerk, thence southerly on the center line of said boulevard to the intersection of the same with the center line of Tenth (10th) avenue, thence south on the center line of said Tenth (10th) avenue until the same intersects the south line of the northeast quarter ( $\frac{1}{4}$ ) of said section fourteen (14), thence west on said south line to the center of said section fourteen (14), thence south on the line between the southeast quarter and the southwest quarter of said section, until the same intersects the south line of the north half ( $\frac{1}{2}$ ) of the southeast quarter of said section, thence west on said line extending to the westerly limits of said city, shall constitute and be the first ward. All that part of said territory within the boundaries and limits of said city as now established, or as they may be hereafter extended lying north of the said north boundary line of the first ward, and south of the following line, viz:

Commencing at the intersection of the center line of First street south (formerly Lake street), with the Mississippi river and running thence westerly along the center line of said street until the same intersects the south line of the north half of the northeast quarter of section fourteen (14), aforesaid, and thence west on said south line and said south line extended to the westerly limits of said city, shall constitute and be the second ward.

All that part of said territory within the boundaries and limits of said city as now established or as may be hereafter extended lying north of the said north boundary line of the second ward, and south of the following line, viz:

Commencing at the intersection of the center line of Second street north with the Mississippi river and running thence west on said center line until the same intersects the center line of Fifteenth (15th) avenue, thence northerly along the center line of said Fifteenth (15th) avenue until the same intersects the center line of Third street north, thence westerly along the center line of said Third street north until the same intersects the north line of section fourteen (14) aforesaid, thence west along said north line of section fourteen (14) and said line extended along the center line of Fourth street north to the westerly limits of the city, shall constitute and be the third ward.

All the remainder of said city situate in said Stearns county shall constitute and be the fourth ward.

SEC. 4. All the territory of said city as now established or as it may be hereafter extended, situate in the county of Benton and lying north of the center line of the main track of the St. Cloud and Hinkley railway, shall constitute and be one ward of said city, and shall be called the fifth ward.

All the remainder of said territory situate in said county of Benton, shall constitute and be one ward of said city, and shall be called the sixth ward. All the territory of said city as now established, or as it may be hereafter extended, situate in the county of Sherburne, shall constitute and be one ward of said city and shall be called the seventh ward.

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## CHAPTER II.

### OFFICERS AND ELECTIONS.

SECTION 1. The officers of said city shall be those mentioned in this chapter, and such additional officers as may be appointed from time to time by the common council. The elective officers of the city shall be a mayor, treasurer, and three (3) justices of the peace for the city who shall be styled city justices. All of said officers shall be residents and qualified voters of the city. There shall also be a common council of said city, which shall consist of three (3) aldermen for each of the first four (4) wards, and one (1) alderman for each of the other wards; and whenever any of said other wards shall cast two hundred (200) votes at any city election, it shall elect one (1) additional alderman at the next charter election, and thereafter shall be entitled to two (2) aldermen, and whenever any of said other wards shall cast three hundred (300) votes at any city election, said ward shall elect a third alderman at the next charter election, and thereafter shall be entitled to three (3) aldermen. Each ward having three (3) aldermen shall elect one (1) alderman each year, and each ward having a less number shall elect an alderman whenever the term shall expire for which any alderman for that ward was elected. At the charter election in A. D. 1889, each of the fifth, sixth and seventh wards shall elect one (1) alderman for a full term. Within three (3) days after the passage of this act the common council of said city shall designate the place of holding such election in each of said wards, and shall appoint judges of such election for such wards and shall cause notice of such election to be given in said wards. Whenever either of said wards shall elect an additional alderman, he shall be elected for the longest term of either one, two, or three years that will not expire in the same year as that of any other alderman in his ward. Every alderman shall be a resident and qualified voter of the ward for which he shall be elected, and shall continue to reside in such ward during the time he shall continue to serve as such alderman. All other officers of the city shall be appointed by the common council unless otherwise provided. The appointment of such officers shall be determined by ballot, and it shall require a concurrence of a majority of all members of the common council to appoint any such officer. The common council is authorized to appoint such officers in addition to those mentioned in this charter as it may deem necessary for the proper management of the affairs of the city, and to prescribe their duties and fix their compensation.

SEC. 2. The aldermen shall each hold office for the term of three (3) years, except as provided in the preceding section, and the shorter terms there prescribed shall apply only to the first election. The city justices shall each hold office for the term of two (2) years. All other officers whether elected or appointed, shall hold their respective offices for the term of one (1) year. The term of office of every officer elected or appointed under this charter, shall commence on the second Monday in April of the year for which he shall be elected or appointed, and shall continue until a successor is elected or appointed, and shall have qualified, unless otherwise provided. All persons now holding office under the charter of said city, shall continue in office until the expiration of their respective terms, and until their successors have been chosen and shall have qualified.

SEC. 3. Elections for the elective officers provided for by this chapter shall be held annually on the first Monday in April, and shall be by ballot. The provisions of the general laws of this state governing elections, shall apply to all elections held under this charter, except as otherwise provided herein. All special provisions governing elections contained in this charter shall also apply to all elections within the city; but the returns for all city elections shall be made to the city clerk, and for all state and county elections, to the proper county auditors. The judges of election shall not be required to meet for the registration of voters at any other time than the Friday immediately preceding any general election, unless ordered so to do by the common council, and unless so ordered by the common council, they shall receive pay for no more than one each for services in the registration of voters.

SEC. 4. The common council may divide any ward of said city into as many election precincts as they deem proper and necessary. Each ward shall constitute an election precinct until so divided; and the boundaries of no precinct shall be changed within twenty (20) days of any election. The common council shall designate the place of holding election in each election precinct, at least twenty (20) days prior to such election, and the place so designated shall remain the place of holding election until a new designation is made.

SEC. 5. All persons entitled to vote for state and county officers, and who shall have resided for ninety (90) days in the city and for ten (10) days next preceding the election in the precinct where they offer their votes shall be entitled to vote for any officer elected under this charter, and to hold any office created therein except as herein otherwise provided.

SEC. 6. The aldermen of the city shall be ex-officio judges of election of the precincts wherein they respectively reside, unless disqualified or declining to serve. At least twenty (20) days before any election the common council shall appoint such number of additional judges of election as may be necessary to constitute a full board for each election precinct. No person shall serve as judge of election who is a candidate at such election.

SEC. 7. When a city election shall be closed, and the number of votes for each person voted for shall have been counted and ascertained, the judges of election shall make returns thereof, stating therein the number of votes cast for each person and every office, and shall

deliver such returns or cause the same to be delivered to the city clerk within one (1) day after such election. The common council shall meet and canvass such returns and declare the result as it appears therefrom, within four (4) days after the election; and the city clerk shall forthwith give notice to the officers elected of their respective elections by serving the same on such officers personally, or by depositing the same properly addressed in the post office at Saint Cloud.

SEC. 8. Whenever a vacancy shall occur in the office of mayor, alderman or city justice, or whenever there shall be a failure by the people to elect any such officer on the day designated, the common council shall have power and it shall be their duty to declare the office vacant by resolution entered in their minutes. Such vacancy shall be filled by a new election which shall be ordered by the common council at the time such vacancy is declared, and shall be held within twenty (20) days thereafter; and reasonable notice of not less than ten (10) days shall be given of such election. *Provided*, that whenever any such vacancy shall occur within sixty (60) days before any general charter election, the same shall be filled at the ensuing general election, and not at a special election. Any vacancy happening in any other office shall be filled by the common council. The person so appointed or elected to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term of his predecessor.

SEC. 9. It shall not be necessary to make new precincts to appoint judges, or to make new registers of votes for special elections; but the judges of election of the last general election in any precinct shall continue to be judges of election for such special election; and vacancies of judges may be filled the same as in cases of general elections; and such judges shall have the right to take from the city clerk and use at such special election the registers used at the last general election.

SEC. 10. Any officer removing from the city or the ward for which he was elected or appointed, or any officer who shall refuse or neglect for ten days after notice of his election or appointment to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office; and any officer elected by the people, or by the common council, having entered upon the duties of his office, may resign the same with the consent of the common council; and any officer appointed by the mayor, may resign the same with the consent of the mayor.

SEC. 11. Any person holding office under this charter may be removed from such office by the vote of two-thirds of all the aldermen authorized to be elected. But no officer elected by the people shall be removed except for cause, nor unless first furnished with a written statement of the charges against him; nor unless he shall have a reasonable opportunity to be heard in his defense. The common council shall have power to fix a time and place for the trial of such officer, of which no less than ten (10) days' notice shall be given, and have power to compel the attendance of witnesses, and the production of books and papers, and to hear and determine the case; and if said officer shall neglect to appear and answer the charge against him, the common council may declare the office vacant.

SEC. 12. Every person elected or appointed to any office under this

charter, shall before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the city clerk. The treasurer, clerk, street commissioners, and such other officers as the common council shall require, shall severally, before they enter upon the duties of their respective offices, execute to the city of Saint Cloud bonds in such amounts and in such conditions as the common council may prescribe; and in the absence of special provisions such officers shall give bonds in the amounts and upon the conditions of the bonds of their predecessors in office. The common council may from time to time require new bonds, and remove from office any officer refusing or neglecting to give the same. The bonds of all the city officers shall be such as shall be approved by the common council.

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### CHAPTER III.

#### POWERS AND DUTIES OF OFFICERS.

SECTION 1. The mayor shall be chief executive officer and head of the police of the city. He shall take care that the laws of the state and the ordinances of the city are duly enforced and observed within the city. He shall take care that all other officers of the city perform their respective duties, and to that end may maintain an action of mandamus or other appropriate action against any delinquent officer of the city. He shall from time to time give the common council such information and recommend such measures as he may deem advantageous to the city. All ordinances and resolutions shall, before they take effect be presented to the mayor, and such as he shall not sign, he shall return to the common council with his objections thereto. The same shall be left with the city clerk, to be presented to the common council at their next meeting thereafter. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be deemed to be reconsidered, and the question shall be again put, notwithstanding the objections of the mayor; and if upon such vote the common council shall pass the same by a vote of two-thirds of all the members of the council, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by ayes and nays, which shall be entered in the records by the city clerk. If an ordinance or resolution shall not be returned by the mayor within five days, Sunday excepted, after it shall have been presented to him, the same shall have the same effect as if approved by him. All contracts, appropriations, and all orders on the treasurer shall be signed by the mayor.

SEC. 2. During the absence of the mayor from the city or his inability from any reason to perform the duties of his office, the president of the council shall be styled and be acting mayor. During such absence or inability on the part of both the mayor and the president of the council, the vice-president of the council shall be styled and be the acting mayor. During such absence or inability on the part of the mayor, president and vice-president of the council, any alderman whom the council may elect president pro tempore shall be styled

and be the acting mayor; such acting mayor shall have all the powers and perform all the duties of the mayor; and all his acts as such acting mayor shall have the same force and validity as if performed by the Mayor.

SEC. 3. At the first meeting of the common council in each year after the annual election, under this charter, the common council shall proceed to elect by ballot from their number a president and vice-president. The president shall preside at the meetings of the common council; in case the president shall be absent from any meeting of the common council, the vice-president shall act as presiding officer of the common council, and discharge the duties of said president. Whenever any official duties devolve upon the vice-president, and he is absent, or for any reason unable to act, the common council shall elect one of their number as president pro tem, who shall perform such duties. The mayor, president and vice-president of the common council shall have the right to administer oaths and affirmations.

SEC. 4. There shall be a clerk of said city styled city clerk, who shall keep his office at the city hall or place of meeting of the common council, or such other place convenient thereto as the common council may determine; he shall keep the corporate seal and all the papers and records of the city, and all the papers required by law to be filed in his office, and shall keep a true record of the proceedings of the common council at whose meeting it shall be his duty to attend; and shall make a full and accurate record of all the by-laws, rules, ordinances and resolutions made or passed by the common council, and shall draw all orders on the treasurer in pursuance of any order or resolution of the common council. He shall keep regular books of account in which he shall enter all the indebtedness and expenditures of the city, and which shall at all times show the precise financial condition of the city, the amount of all bonds, orders, certificates or other evidences of indebtedness of the city, to whom issued, for what purposes, when and where payable and the rate of interest they respectively bear, and shall show the amount of all bonds, orders, certificates or other evidences of indebtedness which have been redeemed and the amount of each outstanding. He shall keep accounts with all receiving and disbursing officers of the city, charging them with all amounts received by them from the different sources of revenue, and with all city property in their hands or under their control as such officers, and crediting them with all amounts disbursed and property disposed of on proper authority, and with all money or property turned over to the city or to their successors in office. He shall report to the common council at the close of each fiscal year a detailed statement of the receipts and expenditures for the year, and also an estimate of the expenses of the city and of the revenue necessary to be raised for the ensuing fiscal year; and shall also report the financial condition of the city at such other times as the common council may require. He shall countersign all contracts made on behalf of the city or to which the city is a party, and all bonds, orders, certificates or other evidences of indebtedness. He shall keep a book in which he shall record all contracts made with or in behalf of the city, and shall keep an index thereto in which all



such contracts shall be properly indexed. He shall perform all other services required by law of the clerk of cities and townships, within said city; but when services are required of him by public law for which compensation is provided, such services shall not be regarded as services for said city, and he may retain such compensation in addition to the salary paid by the said city. The city clerk shall have power to take acknowledgments and administer oaths and affirmations. Copies of any papers filed in his office and transcripts of any records in his office, certified to by him under the corporate seal shall be evidence in all courts in like manner as if the original were produced; and all books, accounts, lists and records, of said city heretofore or hereafter kept in his office, and certified copies thereof, shall be *prima facie* evidence of all matters shown by them.

SEC. 5. There shall be an attorney for the city styled city attorney, who shall perform all professional services incident to his office, and shall be the legal advisor of all officers of the city upon all subjects under this charter; and he shall attend the meetings of the common council, when requested. He shall attend to and prosecute or defend all suits, actions, or proceedings either civil or criminal, for or in behalf of said city, or to which the city may be a party. Provided, that the common council may at any time procure such other and additional attorney as they may deem expedient and necessary.

SEC. 6. There shall be a city physician who shall be a physician in general practice and in good standing in his profession and a graduate of some college of medicine. He shall furnish medical and surgical attendance and medicines to all such poor of the city as he may be requested to attend by the proper authorities. It shall be his duty to make a general inspection of the city as to matters affecting the health of its citizens. He shall make reports to the state board of health of such facts as may be required by said state board. He shall be *ex officio* health officer, and also president and executive officer of the board of health of said city, and shall perform all duties required of him by any ordinance of the city.

SEC. 7. There shall be a board of health of said city consisting of three (3) members, including the city physician; each member of which shall have the same authority as a police officer in enforcing the ordinances of said city for the security of public health. The said board of health shall have all powers conferred and perform all duties imposed by the general laws of the state of Minnesota.

SEC. 8. There shall be a city engineer who shall be a practical surveyor and engineer except as otherwise determined by the common council; he shall have supervision and take charge of all work done for the city, and of all work done on any street, avenue, or alley of the city, and may direct the manner of performing such work and of the construction of all sidewalks, parks, bridges, and improvements in or upon the streets and public grounds. He may suspend any such work or construction as shall not conform to his requirements or those of the common council, until the common council shall direct the continuance of the same. He shall take care that the terms of all contracts for any work or construction in behalf of the city are fully complied with. All surveys, plats, plans, and estimates made by him or any of his assistants for the city shall be the property of the city,

and shall be carefully preserved in the office of the engineer, and be open to the inspection of all persons; and the same, together with all the books and papers pertaining to said office, shall be delivered over by said engineer at the expiration of his term of office to his successor or to the common council. The city shall furnish the engineer with all stationery necessary in the performance of the work of the city.

SEC. 9. The treasurer shall receive all moneys belonging to the city, including all taxes, license moneys, fines, and all other revenues belonging to the city, and keep a detailed account thereof in such manner as the common council shall direct, and pay them out as provided in this charter. The treasurer shall exhibit to the common council at the close of each fiscal year, or sooner if required by them, a full and detailed account of the resources and expenditures of the city since the date of his last annual report, and also of the state of the treasury, which shall be filed with the city clerk, and a copy of the same, or a summary thereof, shall be published in all of the city newspapers that will publish the same without charge. The treasurer shall report to the common council at such other times and in such other manner as they may require.

SEC. 10. All officers of the city having charge of any city property shall at the close of each fiscal year or at such other times when required, make and return to the common council a complete and verified inventory of all public property in their hands or in their control respectively; such inventory shall be preserved and kept on file by the city clerk for public inspection.

SEC. 11. If any person having been an officer of said city shall not within ten days after notification or request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the city one thousand dollars (\$1000), besides all damages caused by his neglect or refusal to deliver such property, books, papers and effects: and said successor may recover possession of such books and effects in the manner prescribed by law.

SEC. 12. The common council shall have power at any time to require other and further duties, not inconsistent with this act, to be performed by any officer whose duties are herein prescribed.

SEC. 13. Neither the mayor nor any alderman shall receive any compensation for his services as such officer; but this shall not prevent the members of the board of equalization of taxes or aldermen acting as judges of election from receiving special compensation for such services. The common council shall have power unless in this charter otherwise provided, to fix the salaries or compensation of all other officers elected or appointed under this charter. Such compensation shall be fixed by resolution in the month of May of each year, and shall not be increased during the time for which such officer shall have been elected or appointed. The compensation of any new office for the year in which it is created, shall be fixed at the time it is created.

SEC. 14. All officers of the city while holding such office shall be exempt from serving as jurors in any court.

SEC. 15. No officer elected or appointed to office under the provis-

ions of this charter, while such officer, shall either directly or indirectly be a party to or interested or concerned in any contract or job in which said city is interested or any work prosecuted by its authority, or any compensation to be received therefor; and any contract or transaction prohibited as aforesaid shall be void; and any city officer so offending may be removed from office by the common council; and in case any money or other valuable consideration shall have been paid on such transaction, the amount so paid may be recovered by the city in a joint or several action from the parties to such contract or transaction and the officer or officers interested in the same.

SEC. 16. Whenever there shall be a comptroller of said city, in addition to the other duties they may impose upon him, the common council may require him to perform such duties imposed by this charter upon other officers as it may deem proper, and may provide to what extent such other officers shall be relieved from such duties.

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## CHAPTER IV.

### THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

SECTION 1. The aldermen shall constitute the common council of the city of Saint Cloud, and a majority thereof shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

SEC. 2. The common council shall hold regular meetings at such times and places as they may determine. The first regular meeting after the annual election shall be held on the second Monday in April of each year. The mayor or any three aldermen may call a special meeting by notice to each of the members to be delivered personally or left at their usual place of abode. At such special meeting no business shall be transacted other than that designated in the call.

SEC. 3. The common council shall be the judge of the election and qualification of its own members, and in such cases shall have power to send for persons and papers. It shall determine the rules of its own proceedings, and such rules when adopted, shall not be changed or deviated from except as therein provided. It shall have power to compel the attendance of absent members, and may provide punishment of such absent members. Continued absence from the regular meetings of the common council, by any member, for two consecutive months, shall be good cause for removal, unless prior to such absence the common council or the president thereof shall have granted such member leave therefor.

SEC. 4. The common council in addition to all powers herein contained and specifically mentioned, shall have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify and repeal and amend all such ordinances, by-laws, rules and regulations, for the government and good order of the city, for the suppression of vice and intemperance; for the prevention of crime, and for the general welfare of the city and the inhabitants thereof, as they shall deem expedient. The enacting clause of all ordinances shall be, "The common council of the city of Saint Cloud do ordain:" The common

council shall have full power and authority to declare and impose penalties and punishments and enforce the same against any person or persons or corporations or associations who may violate any provisions of any ordinance or by-law passed or ordained by them; and all such ordinances and by-laws are hereby declared to have the force of law; provided that they be not repugnant to the laws of the United States or of this State.

SEC. 5. The common council shall have full power by ordinance:

1st. To license and regulate the exhibitions of common showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concerts, theatrical performances and all other devices and performances to witness which a charge is made, and also public halls and other buildings and enclosures used for places of public resort and amusement; also to license and regulate auctions and auctioneers, insurance agencies and offices, hawkers, peddlers, pawnbrokers, dealers in second-hand goods, junk dealers, slaughter houses, butcher shops, butcher stalls and venders of butchers' meat, 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, tavern keepers, victualing house keepers, billiard, pool, pigeon-hole and other like tables, nine and ten pin alleys, bowling saloons, shooting galleries, also to license and regulate canvassing for orders for goods, and selling or contracting for the sale of goods by sample, where such articles are thereafter to be sent or delivered to the purchaser, also to license and regulate all persons vending, dealing in, giving away or disposing of spirituous, vinous, fermented, malt or mixed liquors, and to designate the places where and conditions upon which any such liquors may be sold, and to prohibit the sale of such liquors in all or any part of such city. Provided that no license for dealing in such liquors shall be issued for less than the minimum sum fixed by the general laws of the state, and that every such license shall terminate on the first (1st) day of July next following its issuance, and provided further that, except as herein otherwise provided, the common council may fix the time, not exceeding one year from date of issuance, when any and all licenses issued by them or under their authority shall expire. And provided further that the common council may provide that any license for the sale of liquor issued after the first (1st) day of January of any year and before the first (1st) day of July of the same year, may be issued for any sum not less than the sum of two hundred and fifty (250) dollars.

2nd. To restrain and prohibit all description of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purposes of gambling in said city; and to prohibit the keeping of, and to authorize the seizure and destruction of all instruments and devices used for the purpose of gambling,

3rd. To prevent any rioting, noise, disturbance, disorderly, noisy or boisterous behavior or conduct, and disorderly assemblages in said city; and to provide for the arrest and punishment of any person or persons who shall be guilty of the same, and to suppress disorderly houses and houses of ill fame, and to provide for the arrest and punishment of the keepers and inmates thereof; and to restrain and prevent any person from vending or dealing in spirituous, fermented, malt,

vinous or mixed liquors, unless duly licensed by the common council'

4th. To compel the owner or keeper or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, drain, or other unwholesome or nauseous house, structure or place, to cleanse, remove or abate the same, from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city, and may regulate and prohibit the erection, operation or maintenance of any of the same in such parts of said city as they may deem necessary for the health and comfort of the inhabitants of the city.

5th. To regulate and prohibit the slaughtering of animals within said city, to regulate and control the location and management of hog pens, poultry yards, stock-yards, slaughter houses, markets, booths, stalls, breweries, distilleries and pawnbroker's shops, and to establish rates for, and license venders of gun powder, and regulate and control the storage, keeping and conveying of gun powder, gun cotton, dynamite and other explosive materials, and to regulate the use thereof for blasting and other purposes within said city, and to regulate and control the storage, keeping, dealing in and conveying of petroleum, gasoline, kerosene and other explosive or inflammable oils or substances within said city.

6th. To regulate or prevent the incumbering of streets, sidewalks, alleys, lanes, or public grounds with carriages, carts, wagons, sleighs, or any other vehicles, boxes, lumber, cordwood, poles, awnings, signs, wires, ropes, timber, building material, buildings or any other substance whatever; and the obstructing of the same in any manner whatever.

7th. To regulate the movement and speed of railway locomotives and cars within said city, to require the maintenance of flagmen, and construction and maintenance of gates at the crossing of railway tracks, over such streets and avenues as said common council may direct; to regulate or prohibit the whistling of locomotive engines, to regulate or prohibit the unnecessary discharging of steam therefrom and the escape of steam therefrom unnecessarily; and to require the use thereon of such safety valves or other practical appliances as are designed for the purpose of preventing or lessening the noise from the discharge or escape of steam; and to prevent and punish horse-racing, immoderate driving or riding in the streets, to compel persons to fasten their horses and other animals attached to vehicles and otherwise, while standing in the streets, and to compel the use of sleigh-bells during the sleighing season, and to regulate places of bathing and swimming in the waters within the city limits.

8th. To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese, or other animals, and to authorize the distraining and sale of the same, and to impose a penalty on the owner or keeper of such animals, for the violation of the ordinances; provided, that when sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling of such animals, shall be deposited in the office of the city treasurer for the use and benefit of the owners thereof, if called for within one year from date of sale; otherwise the same shall belong to the city.

9th. To prevent any person from placing, bringing, burying, or having within the city limits any putrid carcasses or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or any putrid or unsound meat, flesh, or fish, hides, or skins of any kind, and to authorize the removal of the same at the expense of such person or persons.

10th. To make and establish pounds, wells, cisterns, hydrants, reservoirs, and fountains, and to provide for and conduct water into and through the streets, avenues, alleys, and public grounds of the city; and to provide for and control the erection of water works in said city, for the supply of water for said city and its inhabitants; and to grant the right to one or more private companies or corporations to erect and maintain water works for such purpose, and to authorize and empower such companies or corporations to lay water pipes and mains into, through, and under the streets, avenues, and public grounds of the city. And when necessary for carrying out the purpose of said companies or corporations, to appropriate private property in said city to the use of said companies or corporations in the manner provided in this charter, for the appropriation of private property for public use; and to control the erection and operation of such water works, and the laying of such pipes and mains in accordance with such terms and conditions as may have been heretofore or shall be hereafter agreed upon between said city and said corporations or companies. To provide for and control the erection and operation of gas works, electric lights, or other works or material for lighting the streets and alleys, public grounds, and buildings of said city, and supplying light and power to said city and its inhabitants; and to grant the right to erect, maintain and operate such works, with all rights incident or pertaining thereto, to one or more private companies or corporations, and to control the erection and operation of such works and laying of pipes, mains, and wires into, through and under the streets, avenues, alleys, and public grounds of said city, and the erection of poles and mainstays, and the stringing of wires thereon, over, in, upon, and across the streets, alleys and public grounds; to provide for and control the erection and operation of works for heating the public buildings of said city by steam, gas, or other means, and supplying light, heat, and power to the inhabitants of said city: to grant the right to erect such works and all incident rights to one or more private companies or corporations, and to control and regulate the erection and operation of such works, and the laying of mains into, through, and under the streets, alleys, and public grounds of said city; provided, that every grant to a company or corporation of the right to erect or maintain any of said works shall provide that the city or its successor may purchase the same at such time and in such manner as shall be prescribed in the grant; and provided further, that the common council shall have authority to regulate and prescribe the fees and rates and charges of any and all companies hereinbefore mentioned.

11th. To establish a board of health, to provide for hospitals and hospital grounds and the registration of births and deaths and the returns of bills of mortality, and to regulate and prevent, if deemed ex-

pedient, the burial of the dead within the city limits, and to provide for the removal of any mortal remains now interred within such limits.

12th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked for sale contrary thereto. To regulate the inspection of flour, pork, beef, salt, fish, whiskies, and other liquors and provisions, and to appoint inspectors, measurers, weighers and gaugers, and to prescribe and regulate their duties and compensations.

13th. To prevent all persons riding or driving any horse, mule or ox, or any other animal on the sidewalks in said city, or in any way doing damage to said sidewalks, or to any curb, gutter, paving or street surface in said city, or to any pipes, mains, poles, posts, wires, trees, street numbers, grass-plats, flowers or scrubbery in any street, alley or public ground in said city.

14th. To prevent the discharge of fire-arms, fireworks, or crackers in said city, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any inhabitants thereof.

15th. To license, regulate and restrain parties, runners, agents, and solicitors for boats, vessels, storage, cars, public houses or other establishments.

16th. To prevent open and notorious drunkenness, immoderate drinking, brawling and obscenity in the streets, alleys, stores, saloons and public places in the city.

17th. To establish public markets and other public buildings, and make rules and regulations for the government of the same, and to prevent all persons from interrupting or interfering with the due observance of such rules and regulations; and to appoint suitable officers for overseeing and regulating such markets and stands.

18th. To license and regulate butcher shops and stands for the sale of game, poultry, butcher's meats, butter, fish, and other provisions.

19th. To regulate the place and manner of weighing and selling hay, straw, and other substances, and the measuring, weighing and selling of firewood and other fuel, and to appoint suitable persons to superintend and conduct the same.

20th. To compel the owner or occupant of buildings or grounds to remove all ashes, dirt, or rubbish from the sidewalk, street, or alley opposite thereto, and compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the board of health may 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 owners of low ground where water is liable to collect and become stagnant, to fill or drain such low places; and in their default, to authorize such filling or draining at the expense of the owner or owners; *provided*, that the common council may require snow or ice to be removed as aforesaid throughout such districts or parts of said city as it shall direct; and may make the expense of any such removal, or destruction of any such substance which the board of health may direct to be removed; and the expense of filling or draining any such low place, a lien upon the property from which such substances are removed, or on which

destroyed, or on which said low grounds are filled or drained, and may make a special assessment for the same to be levied and collected as in case of other special assessments under this charter.

21st. To prevent, control, and regulate the landing of persons from boats, vessels, cars and other conveyances whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city. And also to regulate, control, and prevent the landing of paupers and persons in destitute condition in the city, not having a regular settlement or residence therein, and to require that such persons be taken back to the place from which they may have been brought or where they reside, by the persons or corporation bringing or leaving them in said city.

22nd. To regulate the time, manner, and place of holding public auction and vendues.

23rd. To provide for watchmen and prescribe their number and duties and regulate the same, and to create and establish the police of said city, and to prescribe the number of police officers and their duties and to regulate the same, except as hereinafter otherwise provided.

24th. To provide for a standard of weights and measures, for the appointment of a city sealer, and require all weights and measures to be sealed by the city sealer, and to prohibit the use of false weights and measures.

25th. To regulate the inspection of wood, hay, flour, pork, beef, mutton, veal, and all other kinds of meat, poultry, and game, fish, salt, milk, whiskies and other liquors and provisions, and to provide for the taking, and summarily destroying or disposing of to soap factories to be used only as soap grease and diseased, unsound or unhealthy pork, beef, mutton, veal, game, poultry, fish, or any other kind of meat; in case the owner does not at once so destroy or dispose of the same, and to provide for taking and summarily destroying any spoiled, unsound or unhealthy flour or other provisions.

26th. To direct and regulate or prohibit the planting or preservation of ornamental trees in the streets, alleys, public grounds or highways of the city or any portion thereof, and to appoint a forester whose duty it shall be to inspect all trees offered for sale for the purpose named, and to superintend the planting and culture of the same, and to perform such other duties as the council may prescribe.

27th. To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds or highways of the city.

28th. To do all acts and make all regulations which may be necessary to or expedient for the preservation of the public health, and the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city, to make necessary quarantine laws, and enforce them within the city.

29th. To remove, abate and prohibit any nuisance injurious to the public health, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

30th. To restrain and punish vagrants, tramps, mendicants, street beggars and prostitutes.

31st. To provide for and regulate the erection of hitching posts and rings for fastening horses and other animals, or to prohibit



them in any part of the city at its discretion; and to regulate the construction, opening and use of hatchways and to compel the proper guards about the same.

32d. To provide for and regulate the numbering of houses and lots, and to compel the owners and occupants of houses or buildings to have the number of such houses and buildings designated thereon.

33d. To regulate or prohibit the collection or use of such steam boilers as it may designate as being dangerous to life or property, or to prohibit the location of any such steam boiler except when commissioned therefor in first given by the common council, specifying the location and prescribing the regulations for its use; and to prohibit the propelling by steam of motors, traction engines and other vehicles over or upon the streets of said city.

34th. To regulate and control the quality and measurement of gas. To prescribe and enforce rules and regulations for the manufacture and sale of gas, the location and construction of gas works, and the laying, maintaining and repairing of gas pipes, mains and fixtures, to provide for the inspection of gas and gas meters, and to appoint an inspector if needed and to prescribe his duties.

35th. To regulate and control or prohibit the placing of polls therefor, and the suspending of electric or other wires along or across the streets of said city, and to require any or all wires already placed or suspended or that may hereafter be placed or suspended either within limited districts or throughout the city, to be removed or to be placed in such manner as it may designate, between the surface of the streets or sidewalk.

36th. To regulate the measurement of lumber, shingles, timber, stone, lime, cement and building materials, to designate where lumber, shingles, laths and mill wood piles shall not be maintained, and to regulate the pile of lumber, shingles or lath in said city; and to require any person maintaining any lumber, shingles or lath piled in said city, to remove the same when it may become dangerous to any building or buildings or other property near the same; also to regulate and designate where the following kinds of business or amusement may be or may not be hereafter located or carried on, to-wit: windmills, wood yards, foundries, machine shops, wood working shops, tanneries, factories, dye houses, boiler shops, rendering houses, glue factories, soap factories, store houses for oil, gunpowder, dynamite, petroleum or other dangerous, explosive or other oils or substances, store houses for hides, stables, roller rinks and base ball grounds.

37th. To remove or require to be removed any buildings which by reason of dilapidation or defects in structure, or other cause may have or shall become dangerous to life or property, and to provide for the punishment of all persons who shall cause or maintain such nuisances. The expense incurred in making such removal shall be a lien upon the lot or parcel of land on which such building was situated, and may be assessed and collected in the same manner as other special assessments, or may be enforced by civil action in any court having jurisdiction.

38th. To require the owner or occupant of any building or structure now or hereafter built or constructed in said city, to place therein

such fire escapes and such appliances for protection against, and for extinguishing of fires as it may direct and also to require such owner or occupants to construct, provide, and furnish any buildings with means of egress in such manner as it may deem necessary and expedient to lessen the danger to human life in case of fire or accident.

39th. To regulate and designate the width of tires on all wheels used on any and all vehicles used in said city, and to regulate the maximum weight of any load to be drawn on any streets in said city, and may require upon what street heavily loaded vehicles may be drawn, and from what streets the same shall be excluded.

40th. To require owners of buildings or other structures which shall have been destroyed by fire or otherwise, to prevent accidents, and in case of refusal or neglect of said owner to take down the same when ordered by any officer authorized so to do by any ordinance or by the common council; then to cause the same to be done at the expense of the owner, and to collect the cost thereof by special assessment on the land on which the same stands.

41st. To license and regulate hackmen, draymen, expressmen and all other persons engaged in carrying passengers, baggage and freight, and to regulate their charges therefor, to prescribe standing places at the 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 of horses of such draymen, hackmen or other persons, and to prohibit them from standing or waiting at any other place within the 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 and all police officers of said city to regulate and direct the location of vehicles at such railroad depot or station.

42nd. To regulate the construction of all buildings within the city, to prescribe the depth of cellars, the material and mode of construction and location of drains and sewer pipes, the thickness, material and construction of party walls and outside walls, the size and material of girders, stays, columns, roof, chimney, floor and heating apparatus, to regulate the height and size of the building to be erected, to regulate the construction and location of privies and vaults in such buildings, to prohibit the construction of buildings not conforming to such prescribed standard within the whole city, or within such building limits as it may prescribe or establish, or enlarge from time to time. To appoint an inspector or inspectors, or to devolve the duties of such inspection on any such city officer or officers, as it may designate. To give such inspectors or other officers at any time power to examine and inspect all buildings in process of construction in said city, or within such building limits, and to direct the suspension of any such building operation as shall not conform with such regulation. To provide for the issuing of building permits by such inspectors, and to regulate and prescribe the requirements, terms, and conditions upon which they shall be issued, and to prohibit the erection of any building without such permit.

43rd. To require and provide for the removal in such manner with private parties or associations or otherwise throughout the city, or in such streets or districts it may determine of any swill, offal, garb-

age, ashes, barn-yard litter, manure, yard cleanings or other foul or unhealthy stuff, and to assess the expense of such removal upon the property from which such above named matter or things shall be taken ; and to direct, locate, regulate and prohibit the construction of privies and prescribe the limits within which no privies shall be constructed, unless connected with public sewers.

44th. To compel railroad companies to grade the crossings of streets, across all railways in the city, the full length of their right of way in said streets, and to keep the same in repair, and to build and maintain suitable sidewalks across the rights of way in said streets for the accommodation of foot passengers, and to build and maintain culverts, drains, and sewers across the full width of the right of way in the streets, alleys, and highways in said city, when and where the same shall be deemed necessary by the common council ; and to regulate and prohibit any railroad companies, their servants or employees from obstructing the streets or crossings in said city.

45th. To regulate the construction and building of chimneys and smokestacks within the limits of the city, also the emission of dense smoke ; to prohibit the erection and maintenance of any insecure or unsafe building, cracked wall or chimney, and the emission of dense smoke in said city, and to declare the same or any part thereof to be a nuisance ; and to provide for their summary abatement.

46th. To define and declare what shall constitute a nuisance, and to prohibit all persons from committing or continuing such nuisance or suffering the same to exist, and to provide for the removal and abatement of any nuisance, and for the assessment and collection of the expense thereof against the property upon which the same is located.

47th. To license, regulate, or prohibit the carrying or wearing of concealed, dangerous, or deadly weapons, and to provide for the confiscation thereof.

48th. To control and regulate the cutting of ice in the Mississippi river or in Lake George, within the limits of said city.

49th. To regulate the penning, herding, and pasturing of animals within said city.

50th. To provide for licensing plumbers, and for the revocation of such licenses, to fix the fee, and the amount, terms and conditions of the bond, for any such license, and the length of time such license shall remain in force ; to prohibit any person not a licensed plumber from doing plumbing in said city, to prescribe rules and regulations for doing plumbing, the materials with which the same shall be done, and the manner in which the same shall be done, to provide for inspections of the same, and for the issuance of permits, for any job or jobs of the same, and to prohibit the doing of any of the same without such permit. To prescribe the terms and conditions upon which such permits may be issued, the terms and conditions to be contained in such permit, by whom the same may be issued by whom the same may be revoked, and what additional terms and conditions may be added to such permit by the officer issuing the same, and to prescribe penalties for the violation of any of the terms or conditions of any such license or permit.

SEC. 6. The common council may impose punishments for the violation of any ordinance of the city, or of any portion thereof, to the extent of a fine not exceeding one hundred dollars (\$100), or imprisonment in the city prison or county jail not exceeding ninety (90) days, or both, and may provide that the offender during such imprisonment be fed on bread and water at the discretion of the court, and offenders against such ordinances may be required to give security to keep the peace, and for good behavior for a period not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500).

SEC. 7. The common council may also provide by ordinance that any one convicted of an offence before a city justice subjecting such offender to punishment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established or designated for that purpose, and in case of male offenders, may be kept at hard labor during his term of imprisonment in such workhouse, or upon the streets, highways, or public works or improvements of said city, or any or all of them; and may also provide by ordinance that any one convicted of an offence before a city justice, and committed upon non-payment of the fine imposed, may be kept at hard labor in any workhouse of said city as aforesaid, or in case of male offenders may be kept at hard labor either in such workhouse or upon public streets, public works, or improvements, or both, until such person shall work out such fine at such rate of compensation as the common council may prescribe for a time not exceeding the time for which he is committed; and the common council shall have full power to establish by ordinance or otherwise, all useful rules and regulations for the security of such persons, and to prevent the escape of such persons, *provided*, that unless otherwise ordered by the common council, the county jail of the county of Stearns shall be used as the city prison or workhouse of the said city; and it shall be the duty of the sheriff or jailor of said county to take into custody and safely keep in jail all persons committed thereto unless discharged according to law; and when the said jail is so used, the prisoners of the city shall be in custody of the sheriff of said Stearns county, except while working on the streets, public works, or improvements of the city as aforesaid, during which time they shall be under the control of the police force of said city, *provided, further*, that the police of said city are authorized to take any prisoner from said jail who has been sentenced to work upon the streets, public works, or improvements of said city, for the purpose of carrying such sentence into effect.

SEC. 8. The common council shall have power to establish and maintain the city prisons and workhouses, for the imprisonment, custody, and safe keeping of all prisoners retained or charged with any offence whatever in any way cognizable before a city justice; to make all proper rules and regulations for the government and management of such prisons and workhouses; to appoint keepers and officers for the same; to prescribe the duties and fix the compensation of the keepers of said prisons and workhouses, and said keepers shall have all the authority of a jailor at common law or the laws of the state.

SEC. 9. Ordinances and by-laws shall be passed by an affirmative vote of a majority of all the members of the common council by ayes and nays, which shall be entered in the record; and every ordi-

nance shall be approved by the mayor and published in the official paper of the city, or in such other manner as the common council may provide, before it shall take effect. No ordinance shall be passed at the same meeting of the council at which it shall have been presented except by the unanimous consent of all members present, which shall be noted in the record, but this shall not preclude the passage at the meeting at which they are introduced of ordinances reported by any committee of the council to whom the subject of such ordinance shall have been referred at any previous meeting.

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

SEC. 11. The common council may at any time create and define the powers and duties of such standing committees composed of its own members as it may deem proper, and it may at any time delegate to any such committee such powers and authority as it may deem proper, and may revoke any such power and authority and abolish any such committee at its pleasure. It may from time to time appoint special committees from its own members and prescribe their powers and duties. All acts performed by any committee within the scope of the authority conferred upon it by the common council shall be as binding and of the same validity as if performed by the common council itself.

SEC. 12. All courts of this state shall take judicial notice of all ordinances of said city, and it shall not be necessary to plead or prove such ordinance in any court.

SEC. 13. No appropriation of the funds of said city shall be made without the vote of the majority of all the members of the common council in its favor, which vote shall be taken by ayes and nays, and be entered upon the record among the proceedings of the council.

SEC. 14. The common council shall examine, audit, and adjust the accounts of the clerk, treasurer, street commissioner, city justices, and all other officers, and the accounts of the city, at such times as it may deem proper; and also at the end of each year, and before the term for which the respective officers were elected or appointed, shall have expired; and the common council shall require any and every officer to give an account of his books and accounts, and vouchers, for such examination and settlement. And if any such officer shall refuse to comply with the orders of said council in the discharge of his duties in pursuance of this section, and shall neglect or refuse to return his accounts, or present his books or vouchers to said council, or any proper committee thereof, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law to be commenced and prosecuted against any officers of said city who may be found delinquent or defaulting in his accounts or his official duties, and shall make a full record of all settlements and adjustments, and neglect of duty by any officer shall be sufficient cause for his removal from office by the common council.

SEC. 15. The common council shall have the management and control of all finances and all property of the city ; and may purchase any property deemed proper and necessary for the interest and convenience of the city and its inhabitants, and may sell any property of the city when deemed for the interest of the city or its inhabitants. All the legislative power granted by the charter shall be vested exclusively in the common council of the city, except as otherwise provided.

SEC. 16. The common council shall have power to acquire by purchase or condemnation such private property as may be necessary for sites for public buildings for the use of the city and all departments thereof, for all purposes connected with any department thereof, and for all streets, alleys, driveways, boulevards, public squares and parks 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, structures, or improvements in the manner hereinafter in this charter provided.

SEC. 17. Any license issued by authority of the common council may be revoked at any time by the mayor or common council, and upon conviction before any court of any person holding such license, for a violation of the provisions of any ordinance relating to the existence of any right granted by such license, the said court may revoke such license in addition to the penalty provided by law or by ordinance for any such violation, and the second conviction of any such violation shall operate to revoke such license without any further act or ceremony.

SEC. 18. If in any case any of the powers granted to said common council named in section five of this charter to be exercised by ordinance, cannot well be exercised by the passage of an ordinance, said common council may exercise any of such powers by means of the passage of a resolution, or in such other manner as said council may deem proper.

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## CHAPTER V.

### TAXES AND FINANCES.

SECTION 1. There shall be an assessor for the city, styled city assessor, who may at his own expense appoint such deputies and clerks as shall be necessary to enable him to properly do his work. He may discharge such deputies and clerks at his pleasure. All such appointments shall be approved by the common council before they take effect. The city assessor and his deputies shall qualify in the manner, and as to all territory within the city of Saint Cloud shall perform all the duties now or hereafter required of assessors by the general laws of the state, and shall have all the authority, rights and powers now or hereafter conferred upon assessors by such laws ; and any act performed by a deputy shall be as valid as if performed by the assessor. Every deputy and clerk shall be under the control and direction of the assessor, and shall perform such duties as may be assigned him by the assessor.

SEC. 2. In all respects not herein expressly provided for, the city assessor and his deputies 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. The assessments shall be completed as soon as may be after the first (1st) day of May, and shall be returned to the common council, on or before the fourth (4th) Monday of July of each year.

SEC. 3. The common council shall constitute a city board of equalization, who shall be sworn according to law as such board, and shall meet in the common council room in said city on the fourth (4th) Monday of July of every year, for the purpose of reviewing the assessment, and shall alter, revise, amend and equalize said assessment as they deem just and proper. A majority of said board shall constitute a quorum to transact business. It shall be the duty of the city assessor to be present at all meetings of said board of equalization for the purpose of presenting to the board all facts relating to the assessment. Such board of equalization is vested with, and shall perform all the powers and duties which are or may be vested in or imposed upon either town or county boards of equalization, under the general laws of the state, so far as applicable, but shall not be restricted by any limitation in respect to reducing aggregate sums of real or personal property, as returned by the assessor, and may raise the valuation of any real estate without notice to the owner. Said assessment so equalized, shall be subject to review only, by the state board of equalization.

SEC. 4. Said 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 assessment. It shall complete such equalization on or before the second (2nd) Tuesday of August of every year, and shall have power to employ such clerk or clerks as shall be necessary to complete the same within said time. Every person aggrieved by an assessment shall have the right to appear before such board, and present his grievance for its consideration. It shall be the duty of the city attorney to attend the hearing of such grievances before said board, and whenever it appears that any property is listed or assessed at less than its true value, to call the attention of the board to such undervaluation, and to make application in behalf of the city for the correction of the same.

SEC. 5. The assessor shall make a separate assessment roll for each county within which portions of said city may lie, of the property to be assessed by him and taxable in such county. When the assessment rolls shall be revised by the board of equalization and the proper corrections made therein, the several rolls shall be returned to the auditors of the respective counties in which the property listed therein is taxable, as other assessment rolls. After such equalization the city clerk shall attach to such assessment roll a certificate which may be substantially in the following form :

"I hereby certify that the assessments in the assessment roll to which this certificate is attached have been equalized by the board of

equalization of the city of St. Cloud, and appear therein as so equalized by said board.

Dated.....

.....City Clerk.”

Such equalization shall require no further authentication.

SEC. 6. The common council may determine the time of the commencement of the fiscal year of said city, and until otherwise determined such fiscal year shall commence on the first (1st) day of April of each year.

SEC. 7. The finance committee of the common council shall make to said council at its first (1st) regular meeting in October of each year, a detailed report of the assets and liabilities of the city at the close of the preceding month; and an estimate in detail of all resources of the city for the remainder of the current fiscal year, and of all resources of the city for the next ensuing fiscal year other than taxes not then levied, and an estimate of all expenditures of the city for the remainder of such current fiscal year, and an estimate of all expenditures of the city for the next ensuing fiscal year.

SEC. 8. All revenues of the city shall be divided into the following funds, and a separate and distinct account shall be kept of each.

1st. A revenue fund in which all revenues of the city shall be placed, except such as are directed to be placed in some other fund.

2nd. A poor fund, in which shall be placed all taxes levied and revenues received for the support of the poor of said city.

3rd. A fire department and water works fund, in which shall be placed all taxes levied and revenues received, for the maintenance of the fire department, and for furnishing the city with a water supply, whether such supply is obtained by contract with third parties, or by the purchase, construction, maintenance and operation of water works by the city itself.

4th. An interest fund, in which shall be placed all taxes levied and revenues received for the payment of interest on the bonds and indebtedness of the city.

5th. A sinking fund, in which shall be placed all taxes levied and revenues received for that purpose.

6th. A permanent improvement fund, in which shall be placed the proceeds of all permanent improvement bonds of the city, all sums raised for improvements by special assessments upon the property benefited, and all taxes levied and revenues received for this fund, and the common council may from time to time establish and provide for such other funds as it may deem proper.

SEC. 9. The revenue fund may be used for any lawful city purpose; and money may be transferred therefrom to other funds by the common council; the fire department and water works fund shall be used only for defraying the expenses of the fire department, including supplying the city with water, either by contract with other parties, or the purchase, construction, maintenance and operation of water works by the city. The interest fund shall be used only for the payment of interest on the bonds and indebtedness of the city as provided by this charter. The sinking fund shall be used only for paying the bonds of the city as provided in this charter. The permanent improvement



fund shall be used only for defraying the expenses of improvements as provided in this charter. Temporary loans for a term not exceeding one year may be made by the common council from one fund to any other fund other than the revenue fund; whenever there is money in any of the funds, not needed for use in that fund, and it is reasonably certain that the borrowing fund will have money in it to repay the sum borrowed before the loaning fund will need the same. Whenever the purpose for which any fund is created shall be fully attained, and all expenditures payable out of such fund shall have been fully provided for, and there shall still remain a surplus in such fund, such fund may be abolished and such surplus paid into such other fund as the common council may direct.

SEC. 10. The common council shall annually levy taxes on all taxable property in the city liable therefor, as follows: For the revenue fund such sum as it deems necessary in addition to the other revenues of the city applicable thereto not exceeding one (1) per cent. of the assessed valuation; for the poor fund such sum as it deems necessary not exceeding one (1) mill on the dollar of the assessed valuation; for the fire department and water works fund such sum as it deems necessary not exceeding six (6) mills on the dollar of the assessed valuation; for the interest fund such sum as shall be necessary to pay all accruing interest on outstanding bonds and indebtedness of the city not otherwise provided for; for the sinking fund one (1) mill on the dollar of the assessed valuation unless such levy for said sinking fund is omitted, as hereinafter in this charter provided; for the permanent improvement fund such sum as shall be sufficient to replace all expenditures made from said fund and not provided for by special assessments. And in addition thereto such sum as the council deem necessary to add to said fund. *Provided*, that the whole amount levied in any one year from said fund, shall not exceed the sum of six (6) mills on the dollar of the assessed valuation. For such funds as may be hereafter created by the common council, such several sums as the common council deem necessary for the respective purposes for which said several funds shall be created. *Provided*, that the aggregate amount of said funds, and the revenue fund, shall not exceed one (1) per cent. of the assessed valuation.

SEC. 11. All taxes shall be levied by resolution of the common council, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the 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 future use of such fund. Such resolution may be substantially in the following form.

*Resolved*, That for the fiscal year commencing April first, A. D. 18. . . ., the following sums be and hereby are levied upon the taxable property of the city of St. Cloud, to-wit:

For the revenue fund the sum of . . . . .dollars. .

For the poor fund the sum of . . . . .dollars.

For the fire department and water works fund the sum of . . . .dollars.

For the interest fund the sum of . . . . .dollars, (or a separate statement may be made for each or any issue of bonds outstanding).

For the permanent improvement fund the sum of.....dollars.  
 (And similar statements for other funds).

For the sinking fund, one mill on the dollar of the assessed valuation, (or the same may be subdivied and a separate statement made for each or any issue of bonds outstanding).

Passed this.....day of..... A. D. 18....

Ayes, aldermen.....

Nays,.....

.....  
 President of the common council.

Attest.....Clerk.

Approved.....

..... Mayor."

SEC. 12. The common council shall cause to be transmitted to the respective county auditors of the several counties in which portions of the city may lie on or before the third (3d) Monday of October of each year, a statement of all taxes by them levied, except as otherwise provided in this charter, and such taxes as well as all assessments for local improvements, statements of which shall be therewith transmitted to such auditors as provided in chapter eleven (11) of this charter, shall be collected and the payment thereof enforced with, and in like manner as state and county taxes are paid, and the payment thereof enforced; and the several county treasurers of said counties shall pay over all city taxes by them collected, together with all penalties and interest which shall be collected on account of the same to the treasurer of the city of St. Cloud at the times provided by law in case of town taxes; and in the several settlements of the funds to be paid over as provided by general law, said county treasurers shall account for and pay over to the city treasurer such portion of the interest paid by bankers with whom said funds of said county are deposited, as may have accrued upon funds arising from city taxes and assessments so deposited with such county funds, or as part thereof.

SEC. 13. 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 any county treasury which have been collected on account of city taxes, or assessments, such county treasurer shall, on the 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 and assessments and such advances shall be accounted for and adjudged at the next regular settlement with the city. The city treasurer shall also forthwith after such settlement, adjust and apportion the funds, so advanced, among the several city funds.

SEC. 14. It shall be the duty of the respective county auditors of the several counties, in which portions of said city shall be, to make out and transmit to the city clerk of said city on or before the first (1st) day of December of each year, a statement showing the exact amount of taxes levied on account of the several funds of said city according to the tax list made out by said auditors; and at the same time to make out and transmit to said clerk a statement of all abatements, corrections, or additions to said tax lists, and of all amounts

of all taxes cancelled as uncollectible within the year next preceding, and the several amounts of such changes affecting each of said several funds, and also a further statement of the amount of taxes delinquent and outstanding applicable to said several funds. Each of said auditors shall also at the time of making settlement with the county treasurer, required by law, furnish said clerk with a certified statement of the several amounts collected by said county treasurer on account of each of said several funds as shown by said settlements.

SEC. 15. No money shall be paid out of the city treasury except for principal or interest of bonds, or for the payment of judgments duly obtained against the city unless such payment shall be authorized by a vote of the common council specifying the fund to which the same is chargeable, and with the exception of the interest fund and sinking fund, judgments shall be drawn out only upon orders signed by the mayor and clerk, and also countersigned by the comptroller, whenever the city shall have such an officer. Each order shall specify the purpose for which it is drawn, the fund out of which it is payable, and the name of the person in whose favor it may be drawn, and shall be made payable to the order of such person,

*Provided*, that the common council may provide by ordinance or resolution for the payment of any or all employes of said city which are paid by order of the common council, on pay rolls to be prepared as directed by said ordinance, by heads of departments, officers of the city or otherwise, certified to as correct by the person so preparing the same, audited by the proper committees, ordered paid by said council, after being so audited and paid by the city treasurer, and receipted by the several employes of said pay rolls, which pay rolls shall be deposited by said treasurer with the city clerk. On receiving orders drawn as other orders are drawn, for the sums total, receipted for on such pay rolls; such orders shall refer to the date, number, sum total, and department paid for of such pay roll.

Said council may make such rules and regulations as to pay rolls as it may deem proper.

*And provided further*, that said council may also provide such a pay roll for the poor list of the city, and place thereon and strike therefrom, from time to time the names of such persons as it deems proper.

SEC. 16. When any order of the treasurer shall have been paid to or received by him, it shall not again be issued; but shall be immediately cancelled by him, and filed away in his office. The common council may provide for the examination from time to time of such cancelled orders and also of cancelled bonds or other obligations in the hands of the treasurer, for their return to the office of the city clerk, and for their destruction, preserving such records or vouchers thereof as said council or committee thereof may deem proper.

SEC. 17. No limitation or restriction contained in this charter 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 case of such judgment, the common council shall at the time of making the next annual tax levy, after the rendition of such judgment levy and assess a special tax upon all taxable property in the city, sufficient to pay such judgment. If for any reason such levy shall prove insuffic-

ient, new taxes shall be levied until the whole of such judgment is paid. An excess of the amount so assessed and collected, after the payment of such judgment, shall be credited to the revenue fund of the city. And such judgment shall be paid by the city treasurer, upon presentation to him of a certified copy of the docket entry thereof, if he has in his hands sufficient funds not otherwise appropriated. And in case there are not sufficient funds to fully pay the same, he shall pay thereon such amount as may be in his hands and not otherwise appropriated.

SEC. 18. The finance committee of the common council shall at the close of the first half of the fiscal year, make report to the common council of the actual expenses of the city for the first half of the first fiscal year, the amount of taxes collected and outstanding, and of the revenues received from other sources; and if upon the making of such report, it shall appear that the current expenses of such half year have exceeded the estimates upon which the tax levy thereof 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 common council shall forthwith proceed to reduce the current expenses of the city. In such manner as may be deemed advisable, and for that purpose may diminish the amount of service for lighting streets, and the amount of work to be done under any contract, and reduce the force or number of men employed in the several departments of the city. In all future contracts with said city, such right to reduce the amount of service or work to be performed, and the amount of material to be furnished, on account of deficiency of revenue, is hereby reserved and shall be so stated in such contracts.

SEC. 19. The mayor, the president of the common council, and the chairman of the finance committee of said council shall constitute and be denominated, the commissioners of the sinking fund of the city of Saint Cloud. Any two of said commissioners may exercise all the powers, and perform the trusts and duties vested in said commissioners by this charter. The common council may by ordinance or resolution, define such duties of said board as are not specified in this charter. Such commissioners shall have the charge and management of the sinking fund, and of the interest fund of said city, and from time to time by and with the consent of the common council, shall invest the moneys of the sinking fund, in the bonds of said city, or the United States, or of the state of Minnesota, or in such bonds of any county, city, village or school district in the state of Minnesota as may be approved. In case of investment in the bonds of the city of Saint Cloud, the same shall not be cancelled before maturity, but shall be held by said commissioners and the interest thereon paid over and applied to the increase of such sinking fund; whenever deemed desirable said commissioners may with the consent of the common council sell or dispose of any bonds purchased for the sinking fund and reinvest the same or the proceeds thereof in other bonds.

SEC. 20. Whenever deemed desirable, said commissioners may, with the consent of the common council, deposit any portion of the interest fund or sinking fund in any national, state or private bank, or in any savings bank. Before making any such deposit they shall advertise in such manner as they may deem best for proposals thereof,

which proposals shall state what interest will be paid on the amount so deposited, and that security will be given therefor. The common council shall designate the bank or banks in which such deposits shall be made, but no deposit shall be made in any bank until the common council shall approve the designation of the same; and the same shall have executed to the city of Saint Cloud and deposited with the city treasurer a bond with such sureties, containing such terms and conditions and in such amount, not less than double the sum that may be so deposited, as the common council shall approve. The council may at any time require other and additional bonds, and all funds shall be withdrawn from any depository failing forthwith to furnish the same. The funds so deposited shall be held subject to draft and payment from and after a time to be designated by the commissioners at the time of making any such deposit. Should any of the funds so deposited be lost to the city without any fault of the city treasurer, said treasurer shall not be liable for such loss.

SEC. 21. The moneys of the interest fund and of the sinking fund, whether in the custody of the city treasurer or of any depository, shall be paid out on warrants signed by the mayor and at least one other of said commissioners, and countersigned by the city clerk, and shall be paid out in no other manner.

SEC. 22. In the event of the vacancy in office, or inability of any of said commissioners to attend to the trust hereby imposed, it shall be the duty of the common council to designate one or more of their number to supply the place for the time being of any such commissioners by resolution. Said commissioners shall meet upon the call of the mayor or president of the common council. The mayor shall preside at such meetings if present. It shall be the duty of the city clerk to attend the meetings of said commissioners, and to keep a correct journal of all their proceedings, which journal shall be certified to by at least two (2) of said commissioners, and attested by said clerk, and once in each year, and oftener if required by the common council, said commissioners shall render to said common council a full and detailed report of all their proceedings; all investments or other acts of said commissioners shall be based upon resolutions duly entered upon said journal.

SEC. 23. All bonds and securities purchased by said commissioners shall be held in safe keeping by said city treasurer. Whenever city bonds are paid by the warrants of said commissioners a record thereof shall be made in the books of said commissioners, and the said bonds shall be carefully cancelled by writing the word "redeemed," together with the date thereof across the face of the same, and shall be returned to the common council.

SEC. 24. It shall be the duty of said commissioners to protect the credit of the city, to draw from the interest fund and the sinking fund from time to time such sums as may be necessary to pay the interest and bonded indebtedness of the city as it matures, and to transmit the same to the several places where such interest and indebtedness may be payable; and whenever the amount of said funds or of either of them shall be insufficient to meet such obligations as they mature, said commissioners shall report such fact to the common council in due time, with such recommendation as they deem proper.

SEC. 25. Whenever said amount of such sinking fund with the interest thereon computed to the time of maturity of the bonds or debt of the city shall be sufficient to pay said bonds or debt at the maturity thereof, the levy of the one (1) mill tax for such fund may be omitted; but in case by decrease of interest or depreciation of investments or other cause, said fund shall not be sufficient at any time thereafter, the levy of said tax shall be resumed. Whenever said sinking fund shall be insufficient to pay all the bonds of the city that may at any time become due, the common council may issue the bonds of the city for such time as they deem proper, not exceeding thirty (30) years, and on such terms as to place of payment and rate of interest as may be deemed advisable, and in such amount as shall be necessary to meet such deficiency.

SEC. 26. In case the common council, sinking fund commissioners, or other city officers shall violate or neglect to conform to any of the provisions of this charter, relating to said sinking fund, any taxpayer of the city, or any owner of any bonds of the city shall have the right to maintain in any court of competent jurisdiction any appropriate action to enforce compliance therewith. The provisions of this charter that relate to the collection and maintenance of said sinking fund are hereby declared to be part of the contract, with the holder of any bonds of the city, that may be hereafter issued, and shall be kept inviolate.

SEC. 27. The common council may, during their fiscal year, by a vote of two-thirds of its members, issue the bonds of said city, bearing interest not exceeding eight (8) per cent. per annum, and for a time not exceeding one (1) year, in such amounts and under such regulations as the common council may prescribe, in anticipation of the taxes and revenues of such fiscal year. *Provided*, that the amount of such bonds outstanding shall not at any one time exceed one-third of such taxes and revenues.

*And, provided*, that said bonds, or the proceeds thereof, shall be applied to the same purposes as the taxes and revenues in anticipation whereof they may have been issued.

SEC. 28. It shall be lawful for the common council of said city, at any time, to levy a corporation poll tax upon every qualified voter of said city, and provide by ordinance or otherwise for the payment and collection of the same. *Provided*, that said tax shall not in any one year exceed the sum of two dollars (\$2) on each person.

SEC. 29. The territory of said city lying on the easterly side of the Mississippi River and the real and personal property therein shall be assessed and taxed pro rata with the other property of said city for the payment of the one hundred thousand dollars (\$100,000), bonds and interest thereon of said city, issued by said city under and pursuant to chapter one hundred and thirty-eight (138) of the special laws of eighteen hundred and seventy-nine (1879), and chapter twelve (12) of the special laws of eighteen hundred and eighty-three (1883) and legalized by chapter two hundred and twenty-two (222) of the special laws of the state approved January twenty-eighth (28), eighteen hundred and eighty-five (1885), but for no other indebtedness of said city existing at the time of the passage of this act.

## CHAPTER VI.

## STREETS, SIDEWALKS, BRIDGES, AND PUBLIC GROUNDS.

SECTION 1. The common council shall have power to care for, supervise and control, to name and rename, to lay out, alter, widen, extend, straighten and narrow, to open, construct, reconstruct, build, rebuild, maintain, repair, and close to travel, to grade and regrade, either partially or to the established grade, to curb, recurb, and gutter, to pave, repave, and macadamize, to clean, park, beautify, and otherwise improve, or cause the same to be done, at such times, and in such manner as they deem proper, the highways, streets, alleys, bridges, culverts, parks, parkways, public squares and grounds within said city or such portion of the same or of any of the same as they deem proper.

SEC. 2. The common council may cause to be established from time to time, and as rapidly as the convenience of the inhabitants may require, under the direction of the city engineer, the grade of all streets, parkways, sidewalks, alleys, and public grounds in the said city, and shall cause accurate profiles thereof to be made and kept in the office of the city engineer. And may by vote of two-thirds of all the members of the council, change the grade of any of the same, after such grade has been established.

SEC. 3. The common council may also by vote of two-thirds of the members thereof vacate any highway, street, lane, or alley or portion of either, or any plat or portion of any plat of lands; and such power of vacating highways, streets, alleys, lanes, and plats within the city of Saint Cloud, is vested exclusively in said common council, and no court or other body or authority, shall have any power to vacate any such highway, street, lane, or alley, or any plat or portion of any plat of lands within said city.

SEC. 4. There shall be a street commissioner for said city, whose duty it shall be to see that all streets and sidewalks in said city, which have been graded or 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 common council, and to perform all work directed by said council, but the street commissioner shall do no work upon streets except such as is necessary to keep traveled streets and sidewalks in repair and passable condition, unless ordered to do such work by the common council. The street commissioner shall keep accurate accounts of all his work and expenditures, and make detailed and itemized reports thereof to the common council each month and oftener if required by said council.

SEC. 5. 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 street, lane, or alley next to the lands of said owners respectively, as may have been heretofore constructed, or as shall hereafter be constructed or directed by the common council to be built; and according to the plans and specifications therefor in the office of the city engineer, and at such grade

or grades as shall be indicated by said engineer. The common council may designate the grade or grades for any sidewalk or sidewalks or portions thereof without regard to the grade of the street or the established grade; and in cases that it deems proper may authorize the city engineer to make such designation. At the request of any person about to build a sidewalk ordered to be built by the common council, it shall be the duty of the city engineer to furnish such person the proper grade lines therefor. Whenever the common council shall deem it necessary that any sidewalk in the city of Saint Cloud shall be constructed or reconstructed, it shall cause plans and specifications therefor to be prepared or designated, and kept in the office of the city engineer. The common council shall also cause a notice to be published twice in the official paper of the city, which notice may be made substantially in the following form, viz: "Notice is hereby given that the common council of the city of Saint Cloud have ordered sidewalks to be constructed (or reconstructed), according to the plans and specifications therefor in the office of the city engineer as follows: on the . . . side of (name of street or avenue) from . . . to . . . (similar statements for other sidewalks). That gradelines for the same will be furnished by the city engineer, and that the same must be constructed within thirty days from the date of the first publication of this notice.

Dated.....,

.....City Clerk.

Any number of sidewalks may be included in one notice, and such publication shall be sufficient notice to the owners of the land along which such sidewalks are to be built, to construct the same; and unless the respective owners shall construct and fully complete the same along their respective tracts of land within thirty days after the date of the first publication of said notice, the street commissioner shall construct and complete the same, and report the expense of the same to the common council, provided that any such sidewalk may be built by the owner of the land abutting upon the same at any time before the street commissioner commences the construction of the same. The expense of all sidewalks constructed by the street commissioner, shall be assessed to the abutting property as provided in the chapter on special assessments.

SEC. 6. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the street commissioner immediately to repair the same in a good, substantial and thorough manner, and to report to the common council the costs 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 carefully filed and preserved by the city clerk. The common council shall assess and levy upon each of the lots and parcels of land fronting or abutting on such sidewalks that have been so repaired by the street commissioner the cost of making such repairs as provided in the chapter on special assessments. In case any such sidewalks shall become so out of repair as to become dangerous, and cannot be made safe without being rebuilt, it shall be the duty of the street commissioner to remove the same entirely, and the expense of such removal shall be collected in the same manner as the expense for repairs.



SEC. 7. The common council may cause such portions of the streets, alleys and public grounds of the city to be lighted and sprinkled as it may deem proper, and may prescribe the manner in which the same shall be done, and the time during which the same shall be done, and may make all necessary contracts for the doing of the same. In case the city shall furnish the water for such sprinkling, a supplying of such water shall be deemed the proportion of the expense of such sprinkling incurred on account of sprinkling street crossings, and all parts of streets adjoining lands exempt from assessment.

SEC. 8. All persons who shall cause or maintain any obstruction, excavation, or defect in any street, alley, bridge, sidewalk, thoroughfare, or public ground of said city, by means of which a claim for damage shall arise against said city, shall be liable for such damage to whomsoever shall be entitled to recover the same from said city; and no action for such damages shall be brought or maintained against said city unless such person or persons shall be joined as defendants; and in case of judgment against the defendants in such action, execution shall be issued only against the defendant causing such deficiency, 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 thereof, and may enforce payment of the same from the other defendants, and shall be entitled to execution thereon against them and to take such other proceedings as judgment creditors are entitled to take.

SEC. 9. Whenever any party is joined with said city as co-defendant in any action for the insufficiency of any street, alley, bridge, sidewalk, thoroughfare, or public ground, and any 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 defendant upon like evidence and in like manner as prescribed by general law for service by publication in other actions.

SEC. 10. No action shall be maintained against the city of Saint Cloud on account of any injuries or damages received by means of any defect or obstruction in any street, alley, bridge, sidewalk, thoroughfare or public ground, unless such action shall be commenced within one year from the happening of the injury or damage, 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 or damage was received, the general character of the same, and that the person so injured will claim damages of the city therefor; but the notice shall not be required in case of injury to the person, if the person injured be bereft of reason in consequence thereof. No such action shall be maintained for any defect in any street or alley until the same shall have been graded and opened for travel, nor for any defect in the same when the same is closed to travel; nor for any insufficiency of the ground where sidewalks shall be constructed, when sidewalks have not been built or have been removed.

SEC. 11. 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, or shall sell off parcels of the same for building sites, or of the usual sizes for building sites, he shall cause

the same to be surveyed and platted in accordance with the provisions of chapter twenty-nine of the general statutes of the state of Minnesota, and when such survey or plat is so completed and acknowledged, it shall be presented to the common council, together with an abstract of title of the land so platted. All plats presented to said council for acceptance and approval must be drawn in duplicate, one copy to be drawn on good and substantial muslin backed paper, and one copy to be on tracing vellum. Said plats shall be of such uniform size as may be prescribed by the common council; said council may accept or reject such plats, or direct them to be changed or modified in such manner as it shall deem expedient, and may prescribe such rules and regulations for the platting of lands, and the making, examination and approval of plats thereof as it shall deem proper; no plat of a proposed new addition shall be accepted by the common council unless the streets, alleys, and other public grounds presented thereon shall conform to the streets, alleys and other public grounds of the adjoining plats already platted, and the plats approved and recorded, so far as practicable; no plat of any proposed new addition shall be approved by the common council, unless the same is presented in duplicate as aforesaid, and no such plat shall be approved, unless the certificate of the surveyor or engineer making the same shall state that at each corner of each and every lot in said addition, where it is possible to do so, a substantial stake has been set, and that a stone monument with a proper crossmark thereon has been set at each corner of said addition. Said monuments shall be at least two and one-half ( $2\frac{1}{2}$ ) feet in length, and five (5) inches square on the top, and shall be set at least two (2) feet in the ground. Whenever any plat is approved by said council, the city clerk shall so certify thereon, and the muslin backed paper plat shall be filed in the office of the proper register of deeds, and the vellum plat in the office of the city engineer. No plat of lands within the limits of said city shall be filed by any register of deeds, until the same has been approved by the common council, and the certificate of the city clerk as aforesaid endorsed thereon. The acceptance of a plat of any grounds within the limits of the city shall not make the city liable to grade the streets therein designated, or responsible for any insufficiency of said streets, until the common council shall cause the same to be graded and opened for travel. All the provisions of section nine (9) of chapter twenty-nine (29) of the general statutes of Minnesota 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, alley, or highway, over any lot or parcel of land sold or offered for sale contrary to law.

SEC. 12. The common council is hereby authorized at such time or times and in such manner as it may deem advisable, to cause to be surveyed or re-surveyed, located, platted or re-platted and properly marked with suitable monuments, any and all lots, blocks, streets, alleys, public grounds, or any part of any of the same, within said city not having monuments, or concerning which discrepancies or uncertainties may exist as to the correct lines of the same, or any part thereof. When any such survey is made, the council shall cause duplicate maps of the same to be made showing thereon the location of

the lots, blocks, streets, alleys, public grounds, or any part of any of the same included in such survey, and also showing the location of all monuments established in such survey. When such survey and maps are completed, the council shall give notice by publication in the official paper of the city stating that such maps are open for inspection in the office of the city engineer, and stating the time at which the council will consider said maps and survey, which time shall not be less than ten (10) days from the day of such publication. After hearing any objections that may be made, the council may change and modify said maps and said locations as they may deem just and proper, and when the same shall have been made satisfactory to the council, said survey and maps and the locations of said monuments shall be adopted by ordinance or resolution. And after such adoption any and all such surveys, maps and monuments, shall be prima facie evidence to determine all lines or lots, blocks, streets, alleys and public grounds, in the parts of the city so surveyed. A certified copy of said ordinance or resolution shall be endorsed on, or attached to each of said duplicate maps, and one (1) of said duplicate maps may be filed and recorded in the office of the register of deeds of the proper county, in the same manner that town plats are filed and recorded, and the same, or the record thereof, shall be prima facie evidence, without other proof, that said map and the surveys and monuments indicated thereon have been duly adopted. The other of said duplicate maps shall be kept on file in the office of the city engineer, and shall be evidence of the same matters and with like force and effect as the one filed with the register of deeds.

Sec. 13. No more than one-half the expense of any improvement authorized by this chapter shall be defrayed by the city at large, and at least one-half of such expense shall be defrayed by assessments upon the property benefited thereby as provided in chapter eleven, (11) or by private donations. *Provided*, that this section shall not apply to parks, public squares and grounds and bridges across the Mississippi river and culverts.

Sec. 14. The common council of the city of Saint Cloud are hereby authorized to grant to any person or persons, corporation or corporations the right to occupy and use the streets, alleys and public grounds of said city for the purpose of maintaining, operating and conducting, any railroad, telegraph, telephone or street car lines, and to provide and regulate the manner in which the said streets, alleys and public grounds shall be used for such purposes, as well as the length of time the uses shall continue.

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## CHAPTER VII.

### FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or other buildings, the material or construction of which shall be considered as not fire proof or as

dangerous to surrounding property, shall not be erected, enlarged, placed or repaired, and to direct that any and all buildings within the limits prescribed, shall be made and constructed of fire proof material, or of such materials, in such manner, and with such precautions against fire as the common council shall by ordinance prescribe, and to prohibit the repairing, enlarging or rebuilding of wooden buildings within the fire limits when the same shall be damaged to the extent of fifty (50) per cent or more of the value thereof; and to prescribe the manner of obtaining consent to make repairs in such fire limits and of ascertaining the extent of damages.

Sec. 2. The common council shall have power, to order any building, structure, or materials therefor, hereafter erected or in process of erection, within the fire limits, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city, and shall have power to prescribe the notice to be given to the owner, occupant or agent to remove such building, and in case the same is not removed in pursuance of the notice given, to cause the same to be taken down and removed, and every such building is hereby declared and shall be deemed a public nuisance.

SEC. 3. The common council shall have power to prescribe in what manner and of what materials chimneys shall be constructed, and to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, furnaces, stovepipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe or secure condition when considered dangerous; to compel the use of spark-arresters in all smoke stacks connected with apparatus where light fuel is consumed; to prevent the deposit of ashes in unsafe places; to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires, and the storing of inflammable or explosive materials, and the use of fire works and fire arms; to regulate and prevent the sale, or keeping for sale or use, of any fire works, chinese crackers, rockets, torpedos or other explosive contrivances, and to provide for the seizure and destruction of the same; also to compel the owners of buildings to have scuttles in the roofs, and stairs and ladders to the same, and compel owners and occupants of buildings of three (3) or more stories in height to maintain ladders and fire escapes, and to regulate the number and location thereof; to provide for the regulation and construction of smoke houses, and to prohibit them where they shall be deemed dangerous to other buildings, and to make any other provisions to guard against fire or to prevent the spreading of fires which the common council may deem proper.

SEC. 4. The common council is authorized to provide a fire department for the city; to provide all the means, apparatus and appliances necessary or convenient for the control and extinguishment of fires, and to provide for maintaining and keeping the same in order; to provide buildings for the use of the fire department; to provide fire alarms and means for giving notice of fires; and to provide by ordinance for the organization, maintenance, government and disbanding of volunteer fire companies. Every member of the volunteer fire department shall be exempt from poll tax, from serving on juries and from military

duties while such member; and every person who shall be a member of said volunteer fire department for five (5) years shall thereafter be exempt from all such duties.

SEC. 5. The common council may, by an ordinance passed by a vote of two-thirds ( $\frac{2}{3}$ ) of all its members, abolish the volunteer fire companies and establish paid fire companies in lieu thereof, and provide for the employment and discharge of the members of such companies, and prescribe the powers and duties of the officers and men therein.

SEC. 6. The common council shall have power by ordinance to make rules and regulations for the government of the fire department and members thereof, and for the protection, management and use of all the means, apparatus and appliances for the control and extinguishment of fires, and to provide for the punishment of any person violating the rules or regulations pertaining to the fire department, and to make provisions by ordinance to keep away from the vicinity of any fires all idlers and suspected persons, and to compel all bystanders to aid in extinguishing fires and in the preservation of property exposed to danger thereat.

SEC. 7. The common council shall have power to appoint a chief engineer and two (2) assistant engineers of the fire department, and also a fire marshal, and to prescribe the powers and duties of such officers and of all other officers and members of the fire department. The fire marshal shall see that all laws, ordinances, rules and regulations for the preservation of danger from fire are completed, complied with; and he is authorized to enter any dwelling house or other building at any reasonable time to examine chimneys, stoves, furnaces, pipes and other parts of such buildings, and ascertain whether such laws, ordinances, rules and regulations are complied with. 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 common council at such times as it shall direct.

SEC. 8. Whenever the common council shall deem it necessary it may provide for a fire police of such number 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. 9. Whenever any person at any fire shall refuse to obey any lawful order of the chief engineer of the fire department or other officer vested with authority at such fire, it shall be lawful for the officer giving such order to arrest or to direct orally, any police officer or citizen to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officer or any of them may order or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly, and any person who shall refuse to obey any such lawful order or who shall refuse to arrest or aid in arresting any person so

refusing, shall be liable to such penalty as the common council may by ordinance prescribe.

SEC. 10. The common council may by ordinance prescribe penalties not exceeding a fine of one hundred (100) dollars or imprisonment for ninety (90) days or both for the violation of any of the provisions of this chapter, and for the violation of any of the provisions of any ordinance, by-law, rule or regulation, passed or adopted by the common council under or pursuant to this chapter. Any person who shall threaten or attempt any such violation may be enjoined and prohibited therefrom by any court of competent jurisdiction in an action brought by the city or any person who may be damaged thereby.

SEC. 11. All expenses pertaining to the fire department shall be paid out of the fire department and water works fund, except as otherwise provided. The construction of buildings for the use of the fire department and of water works, mains, and hydrants, may be paid for out of the permanent improvement fund.

SEC. 12. The common council may prohibit the construction of wooden sidewalks within the fire limits of the city or any portion thereof whenever it deems proper, and fire limits, when once established, shall not be reduced in extent.

SEC. 13. For the purpose of providing means, apparatus and appliances for the extinguishment of fires and for a supply of water therefor the common council is authorized to issue the bonds of said city, to be known as fire department bonds, at such times and in such amounts as the common council may deem advisable, and for such time and for not exceeding thirty (30) years, and on such terms as to rate of interest and place and manner of payment as the common council may deem advisable, *provided*, that the aggregate amount of bonds so issued, shall not at any one time exceed the sum of twenty thousand (20,000) dollars. If special assessments may be levied for the purpose to which the proceeds of said bonds are applied, the common council may, in its discretion, apply such portion as it deems proper of the proceeds of any such assessment to the payment of said bonds.

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## CHAPTER VIII,

### POLICE DEPARTMENT.

SECTION. 1 The police department of the city of Saint Cloud shall consist of the mayor, a chief of police, and such subordinate policemen, watchmen, and other officers as may be authorized by the common council and appointed by the mayor. The mayor shall appoint the chief of police, all police officers and watchmen, and all other officers pertaining to said department. All such appointments shall be subject to the approval of the common council. No person shall be eligible to an appointment in said department unless he is a citizen of the United States, is able to read and write the English language, has been a resident of the city of Saint Cloud for the two years immediately

preceding the appointment, and is of good health and physique, and has not been convicted of any criminal offense. The mayor may at any time suspend or remove any officer or member of said department, and no person so suspended shall receive any compensation for the time he is so suspended.

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

SEC. 3. The mayor may in case of any mob, riot, pestilence, large public gathering, great public excitement, or other emergency, or for days of election, or public celebration, or of public parades, appoint such number of special or temporary police officers as he may deem necessary, but such special or temporary appointments shall not continue for more than one (1) week without the consent of the common council.

SEC. 4. The mayor shall have power to prescribe the title, rank, powers and duties of the several members of the police force and from time to time to make all needful rules and regulations for the government, control, efficiency and discipline of the same, and for regulating and determining the uniform, badges, arms, discipline, drill and exercise of the same, as well as the conduct of the officers and men of said force when on or off duty. He may promulgate and enforce general and special orders for the government and direction of such police force and the several members thereof.

SEC. 5 All police officers and watchmen, and all members of the police force of the city, shall possess all the powers of constables at common law, or by the laws of the state; and shall have the power, and it shall be their duty, to execute and serve all warrants, process, commitments, and all writs whatsoever issued by any court or city justice of said city, and also all writs and process whatever, issued by any court or city justice of said city in civil actions, and they shall have authority to pursue and arrest any person fleeing from justice in any part of the state; and when performing the duties of constables as aforesaid, shall be entitled to like fees, to be taxed and collected in like manner, but the city of St. Cloud shall not be liable to them for any fees.

SEC. 6. The mayor or acting mayor, chief of police, the officers of police next in rank to the chief, the sheriff of Stearns county and his deputies, the coroner, the city justices, 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 case when the civil authorities may be required to suppress riots, or disorderly behavior, the superior or senior officer present, in the order mentioned in this section shall direct the proceedings.

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

SEC. 8. If any person shall without authority, assume to act as a policeman, or pretend to have any such a power, or wear the badge of a policeman within said city, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before a city justice, he shall be fined not exceeding one hundred dollars (\$100), or imprisonment not exceeding ninety (90) days in the discretion of said court.

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## CHAPTER IX.

### SEWERAGE AND WATERWORKS.

SECTION 1. The common council of the city of Saint Cloud shall have power to establish, construct and maintain at any time from time to time any general system or systems of sewerage for said city or any portion or portions thereof in such manner and under such regulations as said council may deem expedient; and such system or systems of sewerage, to alter or change from time to time, as said council may deem expedient, and may from time to time establish, alter, or change such sewerage district or districts as it may deem proper; and shall have power to maintain the sewers heretofore and hereafter established in said city, and to enlarge, extend, relay and improve the same, as it shall consider the public good shall require; and said council may cause sewers connected or intended at some future time to be connected with any such system or systems of sewerage to be constructed from time to time.

SEC. 2. The cost of making any improvements authorized by this chapter, together with the necessary expenses of making the assessment therefor, may be assessed upon the property benefited thereby, and enforced and collected in the manner and under the regulations provided for local improvements in said city; provided, that the common council may determine that such proportion of the cost thereof as it may deem proper be paid out of the permanent improvement fund or of the revenue fund of said city.

SEC. 3. The common council shall have power to prescribe the conditions upon which sewers, water mains and pipes, gas mains and pipes, or any any other mains or pipes laid in, through or across any of the streets, alleys or public grounds of the city may be tapped or connections made therewith; and to grant licenses therefor, and power to revoke or suspend the same. Said council shall also have power to grant licenses to any person or persons desiring to make an excavation of any kind in any of the streets, alleys or public grounds of the city, and to suspend or revoke the same. Said council shall determine the amount to be paid for such licenses, and the amount of the bond to be given on the issuance of the same, and shall also by ordinance or otherwise prescribe such rules and regulations for



excavating in the streets, alleys or public grounds, for tapping, making connection with, protecting and maintaining sewers and any other mains or pipes laid therein, and for the granting of licenses, and shall impose such penalties as a punishment for any infraction thereof as said council may deem necessary and proper. No plumber or other person shall be permitted to tap or make connection with any sewer or any other main or pipe, laid in any street, alley or public ground, or to make any excavation whatsoever, in any of the streets, alleys or public grounds without first having obtained a license therefor. Said council may also provide by ordinance or otherwise that no person or persons, whether licensed or not, shall make any excavation whatsoever, in any street, or alley or public grounds of said city, or tap or make connection with any sewer, pipe, or main therein, without first having obtained a permit therefor, and may authorize the board of public works or any officer or officers of said city to issue such permit, and may prescribe the terms and conditions of such permits, and rules and regulations for the issuance thereof, and may authorize the person or persons issuing the same to add other and further terms and conditions; and may impose such penalties for any infraction thereof, as it may deem proper.

SEC. 4. Whenever the common council of said city may deem it necessary to cross private property, to construct any water main, sewer, ditch or drain thereon, the city of Saint Cloud may take, possess, have and hold an easement in, over, under and across such property for the purpose of constructing, altering, protecting and repairing such sewer, ditch or drain, and the proceedings therefor shall be as provided in chapter eleven (11).

SEC. 5. The common council shall have power to purchase any water works and system of water supply established in said city or to construct a system of water works and shall have power to enlarge, extend, relay and improve the same as it shall consider the public good shall require.

SEC. 6. The common council may at all times regulate and control the time and manner of the laying and constructing by private parties of branch pipes and sewers, leading from water mains and sewers and of making connections with water mains and sewers and with branch lines thereof, both public and private. The common council may, whenever it shall deem it necessary to lay or construct branch pipes or branch sewers, in order to prevent future tearing up of streets, or for any other reason, determine in the case of each main line the location, number and manner of construction of such branch lines, providing, in its discretion, one or more for each district, lot or parcel of land or one for two or more adjacent lots or parcels of land. And may, whether such main line has already been constructed or is in process of construction, forthwith lay and construct all such branch pipes and sewers, not already constructed by the private parties interested, from a connection with the main line to the line of the street.

SEC. 7. Whenever the common council shall determine that any wet or marshy district in said city needs to be drained, for the public health of the city, or for other public benefit, then the said common council may cause to be devised and carried into construction and

effect a system of drainage for such wet and marshy district, by sewers or covered drains made of wood, stone, brick or other material, or partly of one (1) material and partly of other materials, as the said common council shall determine; or by open ditches or canals, where the same will best effect the drains; or partly of sewers or covered drains, and partly of open ditches or canals. Said system of draining for any such wet or marshy districts may be contracted at one (1) time or during one (1) year or at different times in different years, and in different parts or sections.

SEC. 8. The common council may, subject to such terms and under such regulations as it may fix require all persons using an area or space within the lines of any street, to permit to be laid within such area or space all necessary branch pipes, both water and gas, and branch sewers to a connection with other branches, and also to be laid therein, enclosed in tubes or otherwise 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 purpose above named.

SEC. 9. The ordinance of the city of Saint Cloud, entitled "an ordinance providing for the sale of the water works of the city of Saint Cloud to Henry W. Phelps, Edmund T. Sykes, and David D. Brooks, of the city of Minneapolis, state of Minnesota, and for the extension of said works, and defining their rights, privileges and powers," approved by the mayor of said city September 17th, 1887, and the contract created by the acceptance thereof by said grantees, is hereby legalized and said city is hereby fully authorized to do and perform all things, to be by it done and performed according to the terms of said ordinance.

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## CHAPTER X.

### BOARD OF PUBLIC WORKS.

SECTION 1. The mayor shall appoint, subject to confirmation by the common council, three (3) freeholders and electors of the city of Saint Cloud, no two (2) of whom shall reside in the same ward, and none of whom shall hold any other office under this charter, who shall constitute and be designated the Board of Public Works of the city of Saint Cloud. All vacancies in said board shall be filled by like appointments. In case any member is temporarily prevented from acting as a member of said board, or is interested in any matter coming before said board, the mayor shall appoint some properly qualified person to act for the time being in the place of such member. Each member before entering upon the discharge of his duties, shall take and subscribe an oath, and file the same with the city clerk, to the effect that he will faithfully and impartially discharge his duties to the best of his ability.

SEC. 2. Said board shall elect one of their number president, and shall have power to establish by-laws, rules and regulations for their

government, and for the management and conduct of all business that may devolve upon them. The city clerk shall be clerk of said board, and keep a record of their proceedings. Meetings of said board may be called at any time by the president, and stated meetings may be fixed by rule. A majority of said board shall constitute a quorum for the transaction of all business that may devolve upon said board.

SEC. 3. All assessments not otherwise provided for shall be made by the board of public works. And said board shall perform such other duties as the common council may from time to time prescribe. The records of said board and the official files and papers of said board shall be deemed public records, and shall be prima facie evidence of the facts therein stated.

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## CHAPTER XI.

### LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

SECTION 1. The city of Saint Cloud is hereby authorized and empowered to condemn property, or any right, interest or easement therein, for any and all of the following purposes, to-wit: For water works, gas works, heating works and electric lighting works; for markets, parks, public grounds, public squares, and sites for public building, and for buildings for the fire department; for the construction of slopes or embankments and cuts; for sewers, drains, ditches, reservoirs and cisterns; for the laying out, opening, altering, widening and extending, straightening, parking and otherwise improving of streets, avenues, parkways, lanes and alleys; for erecting poles and suspending wires thereon; for constructing and laying conduits, mains and pipe, and branches and connections pertaining thereto, whether for gas, water, sewerage or wires, and for lowering, raising, changing the course of, or diverting any stream of water, ditch, sewer or drain, and also for any and all other public purposes.

SEC. 2. The city of Saint Cloud is hereby authorized and empowered to make any and all the improvements hereinafter named, and may make any and as many of the same, and such portions of any and as many of the same, at one time, and under one order, job, contract or assessment, as may be deemed proper, and may include therewith any condemnation proceedings the same or any part thereof. Said improvements are the following, to-wit: The grading, regrading, filling, leveling, paving, repaving, curbing, recurbing, walling, bridging, graveling, macademizing, planking, replanking, opening, extending, widening, contracting, altering, railing, surfacing, ornamenting, maintaining and keeping in repair streets, avenues, lanes, alleys and parkways, and changing the grade of any of the same; also filling, grading, protecting, improving and ornamenting any market, public park, square or grounds, now or hereafter laid out; also the planting or protecting of shade and ornamental trees; also the re-constructing, building, rebuilding, extending, laying, relaying, maintaining and repairing of cross and sidewalks, area walls, bridges, culverts, gutters, sewers, ditches and private drains, gas works, water works, and elec-

tric lighting works, gas mains and pipes, water mains and pipes, sewer mains and pipes, and conduits and mains for enclosing wires; also the construction of reservoirs and cisterns; also the sprinkling of streets, alleys and highways; also the abatement of any and all public nuisances within the limits of the city; also the lowering, raising, changing of the course of, or diverting the course of any stream of water, ditch or drain, and also providing for the transmission of heat, power and electricity.

SEC. 3. The city of Saint Cloud is hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements, or both, without regard to a cash valuation. Said city is also authorized to levy assessments for such improvements upon the property benefited thereby according to the cash valuation of the property so benefited. Said city may also determine that the expense of any improvement, or series of improvements, or system of improvements, or any portion or portions thereof, be defrayed by assessments upon such taxing districts or districts as may be determined to be liable therefor. The assessments in this section authorized may be made to defray the cost and expense, or any portion thereof, of any and all improvements authorized by the charter, and to defray the expenses and damages, or any portion thereof, for taking property, for any and all purposes authorized by the charter. This section shall apply to any and all improvements heretofore ordered or made, as well as to those that shall hereafter be ordered. The method or methods of making any such assessments, and the establishing, and the extent of such taxing districts, may be determined by the common council; and said council may alter, enlarge, make smaller or abolish any taxing districts. In any case where such determination shall not have been made by the common council, the board of public works may exercise its discretion as hereinafter provided.

SEC. 4. Such assessments may be made according to and of the following methods;

1st. By levying an equal sum per front foot upon the several parcels and lots of land fronting upon the improvement for which such assessment is made.

2nd. By levying an equal sum per square foot upon the several parcels and lots of land fronting upon the improvement for which such assessment is made, provided, that in computing areas for any such assessment, the board of public works in its discretion may exclude so much of any tract of land as lies more than one hundred and thirty two (132) feet for such improvement, and provided that said parcels and lots of land may in the discretion of said board be considered as extending to the centres of adjoining streets and alleys.

3rd. By levying the same upon the several parcels and lots of land benefited by the improvement for which the same is made, according to the amount in which said several parcels are benefited thereby.

4th. By levying the same upon the several parcels and lots of land benefited by the improvement for which the same is made according to the cash valuation thereof.

SEC. 5. All such assessments shall be made by the board of public works, unless otherwise provided, and in making any such assess-

ments, said board may follow any and as many of said methods as it deems proper, and may make such several portions of the same as it deems proper according to each of the several methods so followed by said board. Said board may also in its discretion levy any such portion of any assessment as it deems proper upon such taxing district or districts as it may determine to be liable for the same, without regard to the above provisions, and may levy the remainder thereof as above provided; and may at any time alter, enlarge, make smaller or abolish any such taxing district.

SEC. 6. Whenever the common council shall deem it necessary to take or appropriate any property, or any right, interest or easement therein for any of the purposes mentioned in this chapter, said council may purchase the same, if it can be done upon terms satisfactory to said council, or it may cause the same to be condemned as in this chapter provided.

SEC. 7. Whenever any improvement, except building, rebuilding or repairing sidewalks, is to be made, for which any property is to be condemned or on account of which any assessment is to be made, or any damages are to be appraised, the common council shall cause a brief and general description of the same, and if they deem proper, specifications therefor, and plats and plans thereof, showing what improvements are to be made, and the extent of each of the same, and what property, if any, is to be condemned, to be made and filed in the office of the city clerk; and shall cause an estimate of the cost and expense thereof to be made and filed therewith; and at its discretion may require the board of public works to state whether in the opinion of said board, property to be assessed for said improvement can be found benefited to the extent of the damages, costs and expenses necessary to be incurred therefor. Said council shall cause such improvement to be designated by a suitable number, and thereafter the same may be designated as, "improvement No. . . . .;" said council may determine that the whole or any portion of the damages, costs and expenses of such improvement be defrayed by special assessments, and in case only a portion thereof are to be defrayed by such assessments, shall cause a statement showing the portion so to be collected to be attached to or filed with the aforesaid description. The territorial extent of such improvement, and of the several parts thereof, and what improvements, and the condemning of what property, shall be included in and as part of such improvement, and the extent of each of the same is left wholly to the discretion of the common council, and the aforesaid description with the accompanying plans and specifications, if any, shall be held to correctly show the same. If said council shall determine to make such improvement, it shall direct the board of public works to appraise the damages and make the assessments for such improvement by an order which may be substantially in the following form, or in any other form that the common council may adopt: "The common council of the city of Saint Cloud hereby directs the board of public works, to make the proper appraisments and assessments for improvement No. . . . ."

SEC. 8. After the making of such order by the common council, the board of public works shall cause a notice to be published twice in the official paper of the city, which notice may be substantially in



The Board of Public Works of the city of St. Cloud doth hereby assess the several benefits and damages on account of improvement No.....at the respective amounts indicated in the foregoing assessment roll. (And if in the opinion of said board such be the fact, may add, "and said benefits are the full amount of all benefits conferred by said improvement.")

Dated this.....day of.....A. D., 18.....

Board of Public Works.

Said board shall place in a proper column opposite the description of each tract or parcel of property in said assessment roll, the total amount of damages, if any, assessed thereto; in another proper column, the total amount of benefits, if any, assessed thereto; in another proper column the excess if any, of such damages over such benefits; and in another proper column, the excess, if any, of such benefits over such damages. Where the amount of damages shall exceed the amount of benefits to any tract or parcel of property only, such excess shall be paid; and where the amount of benefits shall exceed the amount of damages only such excess shall be collected; and it shall constitute no legal objection to said assessment that the aggregate amount thereof either exceeds or falls short of the estimate of the cost of said improvement.

Sec. 11. In the assessment of damages and benefits for any improvement it shall be lawful for the said board of public works in their discretion in making such assessment, where part of the land used in such improvement, has been theretofore donated or dedicated to the public or said city by the proprietors of adjoining property, to make such allowance therefor in their assessment of benefits, as shall in their opinion be equitable and just; but such allowance shall be made only as an offset to benefits assessed to other property owned by said proprietors.

Sec. 12. If there should be any building standing in whole or in part upon the land to be taken, and known to said board of public works to be owned by any person other than the owner of the land whereon the same is situated, said board shall assess said damages to said building separately; otherwise the damages to any such building shall be assessed as a part of the real estate whereon the same is located. The value of such building, or of the part thereof necessary to be taken, to the owner, to remove, shall also be determined by said board, and placed in a proper column therefor in the assessment roll. The owner of such building may at any time within ten (10) days after the date of publication of the notice provided for in the next section, file a notice in the office of the city clerk, that he elects to take such building, or part of the building at such appraisal; and in such case the amount of such appraisal shall be deducted from the amount of damages assessed to such building, or the property of which such building is parcel; and the owner shall have such time for the removal of such building after the confirmation of the assessment as the common council may allow. If the owner shall refuse to take the building at the appraisal, or fail to

give notice of his election as aforesaid, within the time prescribed, then no reduction shall be made from the estimated damages as aforesaid; and the said common council shall after the confirmation of the assessment, and after the money is provided, and set apart for the owner thereof, for his damages, be authorized to sell such building or part of building in such manner as it deems proper, or to use the same or the material therein, for such purposes as it deems proper. All funds received from such sales shall be paid in to the permanent improvement fund.

SEC. 13. Whenever the common council shall confirm any such award and assessment, such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the common council shall proceed at the same or any subsequent meeting to levy such assessment upon the several parcels of lands described in the assessment list purported by said board in accordance with the assessment so confirmed. Such assessments shall all be levied at one time, but the common council may determine at the time of making the same, either that the entire amount of such assessment shall be included with the next statement of taxes transmitted to the county auditor or auditors of the county or counties wherein such property is situated, or that only an aliquot part shall be included in said statement, and a like aliquot part thereof be included in the statement of each succeeding year until the whole thereof shall have been so transmitted. Provided that said aliquot parts shall in no case be less than one-fifth of the sum levied as aforesaid. In case the common council shall determine to transmit the same in installments, it shall indicate such determination by placing the several installments into which it shall divide the same in proper columns therefor in the assessment roll. Unless so indicated, the entire assessment remaining unpaid, shall be included with the next statement of taxes to be transmitted as aforesaid. The common council shall make such assessments by adopting an assessment roll which may be substantially in the following form or in any other form that the common council may adopt.

"The common council of the city of Saint Cloud doth hereby assess and levy upon and against the several lots and parcels of property below described, the respective sums of money set against each lot or parcel for improvement No....

Description of Property.	Total tax	First installment (and similar columns for other installments.)	
	Amount.	Paid City Treasurers.	
		Amount.	

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

.....President of the Council

Attest..... City clerk."



SEC. 14. Said assessment, or if the same is to be transmitted to the county auditor by installment, each of said installments shall draw interest at the rate of eight (8) per cent. per annum from the time of the levy of the same until the same shall be paid or shall be transmitted to the county auditor for collection. If any assessment or installment shall not be paid before the same is transmitted to the county auditor, a penalty of six (6) per cent. of the amount of such installment or assessment shall be added thereto, and the statement transmitted shall contain the gross amount of such assessment or installment, including the interest thereon computed to the third (3d) Monday of October of the year in which the same is transmitted, and the said penalty; and it shall not be necessary that the said statement show the separate amounts of such assessment, installment, interest or penalty. And assessments for constructing and repairing sidewalks may be included in such statement, or a separate and similar statement may be made for sidewalks. Said statement may be substantially in the following form:

“Statement of assessments for local improvements to be transmitted to the county auditors in A.D. 18.....

Description of Property.	Amount.	
	Dolls.	Cts.

The above and foregoing is the statement of assessments for local improvements required to be transmitted to the county auditor in A.D. 18....

Dated.....

.....City Clerk”

After such assessment has been transmitted to the county auditor all the improvements of law applying to the collection and enforcement of general taxes shall apply to said assessments.

SEC. 15. When completed, said board of public works shall cause said assessment roll to be recorded in their record and shall file the the same in the office of the city clerk; and said clerk shall publish a notice thereof once in the official paper of the city, which notice may be substantially in the following form:

“Notice is hereby given that the board of public works of the city of Saint Cloud has filed in the office of the city clerk the assessment roll for improvement No..... And that all objections thereto must be filed in said office within ten (10) days from the date of the publication of this notice.

Dated.....

.....  
City Clerk”

The owner of any property, or of any interest in property affected by said improvement, who deems himself aggrieved by such assessment, may file his objections thereto, in writing, in the office of the city clerk, within ten (10) days from the date of the publication of said notice. At any time or times after the expiration of such ten (10) days, the common council may consider said assessment and the objections filed thereto. Any person filing objections, may appear before said council, either in person or by counsel. The common council may confirm said assessment or any portion or portions thereof, or annul the same, or any portion or portions thereof, or send the same or any portion or portions thereof back to said board of public works for further consideration. The determination of the common council may be by an order entered in their minutes substantially in the following form or in any other form the common council may adopt.

“The common council hereby annuls these portions of the assessments for improvement No. . . . . to-wit: (Briefly indicate portions annulled,—if none insert word “none”); hereby sends back to the board of public works for further consideration, these portions of the same to-wit: (Briefly indicate portions sent back,—if none insert word “none”); and hereby confirms all portions of the same not annulled or sent back to the board of public works.”

If such assessment or any part thereof, shall be sent back to the board of public works, said board shall proceed de novo, without further order from the council, to make another or new assessment of so much of the same as shall be so sent back; and said board shall proceed in like manner and give like notice as required in relation to the first assessment, and all parties in interest shall have the like rights, and said board shall perform like duties, and have like powers, and the city clerk shall give like notice, and the common council shall proceed in like manner and have like powers as provided in the case of the first assessment. And in case any portion of the same shall again be sent back, like proceedings shall again be had. After said assessment shall have been confirmed, and all portions thereof that have not been confirmed shall have been annulled, the city clerk shall cause a brief notice to be published once in the official paper of the city, which notice may be substantially in the following form:

“Notice is hereby given that the common council of the city of Saint Cloud have confirmed assessments for improvement.

No. . . . .

Dated . . . . .

..... City Clerk.”

SEC. 16. Any person whose property has been assessed or appropriated and who has filed objections thereto as hereinafter provided, shall have the right to appeal from such confirmation to the district court of the county of Stearns and state of Minnesota, at any time within ten (10) days after the date of the publication of the notice last provided for in the next preceding section. Said appeal shall be made by filing with the city clerk of said city a written notice thereof referring to the objections filed by the appellant as aforesaid and specifying the property of the appellant concerning which said

appeal is taken, and by also filing with said clerk a bond to the city of Saint Cloud in the sum of one hundred (100) dollars executed by the appellant or some one in his behalf, with two or more sureties who shall justify and conditioned to pay all costs that may be awarded against the appellant. Thereupon the city clerk shall make out and file with the clerk of said court a copy of the assessment roll affecting the property specified, as confirmed by the common council, and of the order of the common council confirming the same, and of the objections filed by the appellant, and of the notice of appeal filed by the appellant, all certified by said clerk to be true copies within ten (10) days after the taking of such appeal; but if more than one appeal be taken from the same confirmation, it shall not be necessary that the clerk, in appeals subsequent to the first, file a copy of the assessment roll or of the order confirming the same. Said assessment roll and certified copies thereof shall be prima facie evidence that all assessments appearing thereon are just and valid, and that all property to be condemned as indicated by the description of said improvement, has been legally condemned. After the filing of said copies by the city clerk said cause shall stand for trial, without notice, at the next general or special term of court, and shall have the preference in order of trial over all civil causes in said court. There shall be no pleadings on such appeal, and the only questions that shall be considered or passed upon shall be whether the charter of said city authorized said city to make said improvement and assessments, and whatever said assessments, in so far as they affect the property specified in the notice of appeal are fair and impartial. The court shall determine in the first instance whether the city had authority to make said improvement and said assessments; and in case said city had not authority to make said improvement or any portion or portions thereof or to make said assessments or any portion or portions thereof, said court shall annul only so much of the same as shall be in excess of such authority and shall affect the property of the appellant, and shall confirm so much of the same affecting the property of the appellant, as said city had authority to make. In case the amount of the assessment is complained of by such appellant, the court shall, if the proceedings or any portion thereof shall be confirmed as within the authority of the city, and the city shall not have filed a notice that it abandons said proceedings, appoint three (3) disinterested freeholders, residents and legal voters of said city, as commissioners to again make such assessments as to the property of the appellant; and in case of more than one such appeal, the court may order the same commissioners to make the assessments of the property specified in all or any number of said appeals. All parties interested in said appeals shall have the right to be heard on the appointment of such commissioners, and the court shall fix the time and place of meeting of such commissioners.

Sec. 17. The commissioners shall be sworn to the faithful discharge of their duties; and shall proceed to view the premises and hear the parties interested, with their allegations and proofs pertinent to the question of the amount of such assessments; such commissioners shall be governed by the same provisions in respect to the method of arriving at the amount of damages and benefits, and in all other material respects, as are provided for the government of

the board of public works. After such hearing and view of the premises said commissioners shall make and report to the court an assessment roll substantially in the form provided for the board of public works. The assessment of such commissioners shall be final, unless set aside by the courts for good cause shown. In case such report is set aside, the court may, in its discretion, re-commit 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. In case any assessments are changed by said court the common council may make a supplemental assessment roll of said assessments as so changed which shall supercede and take the place of the original assessments, and like proceedings shall thereafter be had as in the case of the original assessment.

Sec. 18. The common council shall have the right at any time during the pendency of any proceedings in reference to any improvement authorized by this charter, or at any time within ninety (90) days after the final order of the court on any appeal from such proceedings, to abandon said improvement or any portion or portions thereof, and all proceedings therein or any of the same, whenever it shall deem it for the interest of the city so to do.

Sec. 19. When any assessment shall have been confirmed by the common council and no appeal shall have been taken therefrom, or if an appeal shall have been taken when judgment shall have been rendered thereon, the same shall constitute and be a lawful and sufficient condemnation and appropriation to public use of the land and property and rights in property sought to be appropriated by said improvement, and the common council shall thereupon cause to be paid to the owners of said property, the amount awarded to each severally; but may defer such payments until the special assessments, therefor, if any, shall have been collected and paid into the city treasury. Before payment of such award, the owner of such property, or the claimant of the award shall furnish an abstract of title showing himself entitled to all the compensation and damages claimed. In case of neglect to furnish such abstract or of 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 common council appropriated and set apart in the city treasury for whoever shall show clear right to receive the same. The council may in its discretion require of such claimant, a bond with good and sufficient sureties conditioned to indemnify and save the city harmless against all other claims for such compensation or damages, or for the property for which the same was awarded; and all loss, costs or expenses on account of such claims. The common council may also, in case of doubt, to whom the compensation and damages awarded, should be paid, deposit the same with the clerk of the court of the county of Stearns, for whomsoever shall prove himself entitled thereto, and in

such case the parties entitled to the same shall establish their right thereto by a petition to the said district court setting up the facts entitling them thereto, and by proving the same to the satisfaction of said court; and when so established the court shall make an order directing to whom the same shall be paid. Upon the payment of said award or appropriation, or the setting apart of the money therefor as aforesaid, or the payment of the same into court 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. *Provided*, however, that the city shall not be hindered, delayed or prevented by the prosecution of an appeal by any person as hereinbefore provided for, from entering upon, and appropriating such property to the use for which the same is condemned, if the city shall after such an appeal has been taken by its mayor, execute and file with the clerk of the district court of Stearns county, a bond to be approved by said clerk, payable to the appellant, conditioned that the city shall pay whatever sum shall finally be awarded as damages to such property so condemned and appropriated less such sum as shall be assessed thereon as benefits. The mayor of the city is hereby authorized and empowered to execute such bond in behalf of the city.

SEC. 20. Whenever sidewalks shall have been constructed by the street commissioner as in this charter provided, the common council shall at such time or times thereafter as it deems proper assess and levy upon and against each lot and parcel of land along which the same shall have been so constructed or repaired, the expense of constructing or repairing the same along such lot or parcel of land, and shall adopt an assessment roll which may be substantially in the following form, or in any other form the common council may adopt:

"The common council of the city of Saint Cloud doth hereby assess and levy upon and against the several lots and parcels of land below described the respective sums set against each lot or parcel. This assessment is made to defray the cost of (constructing or repairing) sidewalks along said lots and parcels of property.

Description of Property.	Amount.	
	Dolls.	Cts.

Done at a meeting of the Common Council, this ..... day of  
 ....., A.D. 18.....

.....  
 President of Council.

Attest,..... City Clerk.

And no such assessment shall be set aside as to any parcel of property unless it can be shown affirmatively that said sidewalk as to such parcel was not constructed or repaired at expense of city, or that said parcel of property was exempt from taxation. In case it is shown that said assessment as to such parcel is excessive, the same shall be reduced to the amount justly chargeable thereon, and be valid to that extent.

SEC. 21. All proceedings taken by the said board of public works, in carrying out the provisions of this chapter shall be recorded in a book or books kept for that purpose by the clerk of said board, describing particularly the respective improvements and the real estate taken and assessed. The said books in which said proceedings have been entered aforesaid and the official files and papers of said board of public works shall be deemed public records, and be prima facie evidence of the facts therein stated; and certified copies thereof by the clerk or officer having proper custody thereof, with the seal of said city attached, shall be evidence in all courts to the same effect as if the original were produced.

SEC. 22. When in any case any portion of the cost and expense of making any improvement mentioned in this chapter shall, by virtue of any valid law or ordinance, or by virtue of any valid contract, be chargeable upon any railway company, the amount so chargeable may be assessed upon such railway company, and the balance only upon the real estate benefitted thereby, and the city may collect the amount so assessed upon said railway company, by distress and sale of personal property in the manner provided for by the general laws of this state in the case of taxes levied upon personal property, or by suit brought for that purpose; provided, however, that any real estate belonging to such railway company and deemed benefitted by the said improvement, shall be assessed as in other cases.

SEC. 23. All assessments levied under the provisions of this chapter, shall be a paramount lien on the real estate on which the same may be imposed, from the date of the levying of the same. No sale under execution or other proceedings upon 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 improvements chargeable to or assessed against the property under this charter, although such assessment may be subsequent to the lien of such judgment, decree or other lien or to such transfer or mortgage.

SEC. 24. Upon any trial concerning any assessment for any improvement made under the provisions of this charter the court or commissioners shall give to the official act of the board of public works, in making such assessment, the same weight at least, as evidence as it or they would give to the testimony of an equal number of disinterested specially qualified expert witnesses upon all questions considered and determined by said board in making such assessment. In all proceedings concerning such improvements and assessments, letters, figures, characters and abbreviations may be used to denote lots, parts of lots, lands, and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

SEC. 25. Any officer of said city, who shall in any case refuse or knowingly neglect to perform any duty enjoined upon him by this

charter, or who shall consent to, or connive at any evasion of its provisions, whereby any proceeding required by this charter shall be prevented or hindered, shall, for every such neglect or refusal, be liable to said city individually and upon his official bond for double the amount of loss or damage caused by such neglect or refusal, to be recovered in an action in any court having jurisdiction of the amount thereof.

SEC. 26. No error or omission which may have been heretofore or shall be hereafter made in the proceedings of the common council or board of public works, or of any officer of said city, concerning any local improvement, provided for in this chapter, or in any assessment therefor, not affecting the substantial justice of the assessment itself, as to the amount thereof shall vitiate or in way affect such assessment.

SEC. 27. The city clerk shall record assessment rolls of special assessments in books to be by him kept for that purpose, 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 omission, informality or irregularity in proceedings in or preliminary to the making of any special assessment shall affect the validity of the same; 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 shown that the party objecting was materially injured thereby. After an assessment roll shall be recorded, the city clerk shall deliver the same to the city treasurer.

SEC. 28. After any special assessment roll shall have been adopted, and before the assessment or installment thereon shall have been transmitted to the county auditor for collection, any assessment thereon or any installment or installments thereon, may be paid direct to the city treasurer of said city, who shall issue receipts in duplicate therefor, and forthwith deliver one of said receipts to the person making such payment, and the other to the city clerk; and upon the presentation of either of said receipts to the city clerk, he shall enter upon the records of such assessment roll kept in his office opposite the assessment or installment or installments so paid, in a proper column entitled "paid city treasurer," the amount so paid, which entry shall cancel the assessment or installment or installments so paid, and the same shall not be included in the statement transmitted to the county auditor.

SEC. 29. If any special assessment heretofore made or that shall hereafter be made by the common council, or under its direction, to defray the expense of any local improvement or the building or repairing of any sidewalk 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 common council shall be satisfied that any such assessment is

so irregular or defective that the same cannot be enforced or collected, or if said common council shall have omitted, or shall hereafter omit, to make such assessment at or before the making of the improvement, the common council may annul or thereafter make a new assessment of the cost of such improvement or improvements upon the property benefited thereby in the same manner as near as may be that such assessment or assessments should have been originally made, and in case any such second assessment shall be annulled, the common council may make other assessments until a valid assessment shall be made, but nothing in this section shall authorize a new assessment in cases where such court shall determine that the lots or land are not subject to assessment. After such new assessment roll shall be adopted, the city clerk shall note thereon against any piece of land upon which a former assessment for the same improvement has been paid, the word "paid," which shall cancel such assessment to that parcel; and in all cases where judgment in favor of said city has been heretofore or shall be hereafter refused or denied by any court, or where any court has heretofore or shall hereafter set aside or declare void any assessment upon any parcel of land for any cause, the said lots or parcels of land may be reassessed or newly assessed from time to time, until each separate lot, piece or parcel of land has paid its proportionate part of the cost and expenses of said improvement as near as may be. In case the amount of such reassessment shall be less than the first assessment, the deficit may be paid out of the permanent improvement fund. In case of such reassessment, the proceedings may be either as in case of an original special assessment for the same purpose, or by taking up the previous proceedings at any point. In case any such assessment adjudged invalid shall have been transmitted to the county auditor for collection, the common council may in its discretion notify him to cease the collection of the same.

SEC. 30. If in any case the first assessment to pay for any local improvement which has heretofore been, or shall hereafter be ordered by the common council, either before or after such improvement is completed, shall prove insufficient to fully pay for the same, whether such work was done before the passage of this act or otherwise, the common council may order the board of public works to assess and reassess the same upon the property benefited, until a sufficient amount is realized to pay for the same. If too large an amount shall at any time be raised the excess shall be refunded ratably to those by whom it was paid if the common council shall so order, it being the true intent and meaning of this act to assess and reassess the property benefited to the extent of such benefits for any deficiency over and above the first assessment which said improvement may cost, whether the said improvement has heretofore been made or may hereafter be made. And no error or omission or irregularity whether jurisdictional or otherwise shall prevent a reassessment to the extent of the benefits conferred by such improvement.

SEC. 31. The common council may in its discretion, in case where any lot fronting on two (2) streets, is being assessed according to the number of feet frontage of such lot, and the frontage on any street shall have been so assessed, may remit from the frontage of said lot on any other street, such portion of the same not exceeding a frontage



of sixty-six feet (66) as the common council deem just under all circumstances in the case; but the discretion of the common council in such matter shall be final, and the refusal or failure of said council to make such remission, shall not be a ground for changing such assessment or the amount thereof in any court or proceeding.

SEC. 32 Any improvements the means to make or construct which may be raised by special assessment, may be performed by contract let in any manner the common council deem proper, or directly by the city by the employment of labor and purchase of material, or in any other manner which the common council may deem proper in each particular case. And the common council may in its discretion in any case instead of causing a special assessment to be made entirely upon estimates, wait until the letting 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 or causing the board of public works to make the assessment. And said council may cause such assessment to be made at any time either before the making of such improvement or during the making of such improvement or after the completion of such improvement. The common council may, if it determines upon the making of any improvement, determine whether to proceed at once with such improvement or to await the collection of the assessment therefor or of any portion thereof. No special assessment shall be questioned or held to be invalid because the amount thereof shall happen to be either more or less than the amount of money actually required for the improvement for which the same shall be made.

SEC. 33. Whenever the city of Saint Cloud shall have appropriated any property or any interest or easement therein for any lawful purpose to which said city had not the title, said city may at any time, in any suit to recover the same or in which the right of the city thereto is called in question, by its answer admit the appropriation of the same and allege that said city is ready and willing to pay a just compensation therefor, on having the same assessed and ascertained in the manner in this chapter provided in case of appeal, provided the claimant on the trial shall establish his right to recover the same, and the court shall first determine whether the claimant is entitled to recover the property, or rights or easements therein, in controversy, and if such question is determined in favor of the plaintiff shall cause the amount of the compensation to which the plaintiff is entitled to be ascertained as in case of appeals.

*Provided*, that when it shall appear that the land, or other real estate was taken or appropriated by and with the consent or acquiescence of the owner, such owner shall not be entitled to recover any rents or profits which accrued prior to demand for compensation for such land or other real estate, and he shall be limited to a recovery in such case, to compensation for the land taken and damages.

And the court shall have power to make all necessary orders and render all necessary judgments to carry out the provision of this section. And in case such compensation shall not be paid within ninety days (90) after the final order and determination of the court therein, the plaintiff shall recover said property and have all proper proceedings therefor. The common council may defray the expense

of such compensation by special assessments as in the case of other improvements.

SEC. 34. In the assessment of damages and benefits for the making of any improvement, it shall be lawful for the board of public works, in their discretion, in making such assessments, should there be any building in whole or in part upon the land to be taken, as aforesaid, to consider the propriety of letting such building remain upon such land taken as aforesaid, for such time after condemnation, as they may deem for the best interest of the city, and if they shall determine to let the building remain on said land for any given period, then they shall determine the value of the use of said land to the owner of said building for the time said building may be permitted to remain, which sum, when ascertained, shall be deducted from the damages awarded for said building.

SEC. 35. It shall be the duty of the city clerk to cause all deeds taken by the city for land acquired by condemnation or otherwise to be recorded without delay, and the said clerk shall be the custodian thereof; in case no deed is given for any property appropriated for any improvement, it shall be the duty of said clerk to file with the register of deeds of the proper county or counties, a certified copy of so much of the description of such improvement and of the plat or plats filed with such description as shall be necessary to indicate the property appropriated for such improvement; and the same may be recorded by said register of deeds, and such certified copy and the record thereof shall be *prima facie* evidence of title in the city of Saint Cloud to the property indicated thereby as appropriated for such improvement. And it shall be the duty of the register of deeds to record such deeds and certified copies without requiring a certificate of the county auditor that taxes and assessments thereon are paid.

At any time after the assessments for any improvement or any portion thereof shall have been confirmed, and the time to appeal from such confirmation shall have expired, such certificate may be filed as to all portions of the same so confirmed and not appealed from, and such certificate as to any portion appealed from may be filed at any time after the final determination of the court on such appeal.

SEC. 36. All assessments heretofore made by the common council of the city of Saint Cloud, to defray the expense of making any public improvement now constructed, or the estimated expense of any public improvement ordered to be constructed, and to defray the damages and compensation awarded to owners of property taken, or injured by such improvements, are hereby legalized and made valid, and the same may be collected and the collection thereof enforced, to the same extent for all purposes as though the same had been in all things, regularly and formally ascertained, levied, assessed and returned in the first instance.

SEC. 37. Whenever any assessment shall be made under any of the provisions of this chapter against any real estate owned or claimed by any county, such assessment shall be returned to the auditor of said county with and in the same manner as other like assessments, and the county commissioners of said county shall thereupon and within six (6) months after such assessment has been so returned to said auditor, appropriate from the treasury of said county and cause

to be paid to the treasurer of the city of Saint Cloud, sufficient sums of money to pay all such assessments. In case of a failure of said county commissioners to appropriate money for and pay any such assessment within the time above specified, such assessment may be collected from said county in any appropriate suit or action.

SEC. 38. Property owners may be allowed to construct streets and other public improvements upon or through their own property, at their own expense, in such cases and upon such terms, and under such regulations as the common council may prescribe, from time to time, by ordinance.

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## CHAPTER XII.

### CITY JUSTICES AND COURTS.

SECTION 1. The justices of the peace for the city styled city justices, and each of said city justices shall possess all the authority, power and rights of a justice of the peace for the county in which he shall reside, under the laws of this state, and said city justices shall in addition thereto have exclusive jurisdiction to hear all complaints, conduct all examinations and trials for all offences cognizable before a justice of the peace for violation of any provision or provisions of the charter or of any ordinance or by-law, rule or regulation made or adopted by virtue thereof; and of all cases cognizable before a justice of the peace in which the city is a party, and of all writs, prosecutions and proceedings in the recovery of any fine or forfeiture or penalty under any by-law, ordinance or regulation of the said city or its charter, and in all cases of offenses committed against the same. In all prosecutions for assaults, batteries, and affrays, and for all other offences cognizable and triable before a justice of the peace, and in all civil suits or proceedings before said city justices, the same forms and proceedings shall be had and used when not otherwise provided, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace and appeals from the judgment and decisions of said city justice shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace, provided, however, that in all actions wherein said city is a party and in all actions and proceedings for the violation of any provision or provisions of the charter and any ordinance, by-law, rule or regulation made or adopted by virtue thereof, and in case of all writs, prosecutions, or proceedings in the recovery of any fine or forfeiture or penalty under any by-law, ordinance, or regulation of the said city or its charter and in all cases of offences committed against the same, such appeal shall be taken to the district court for the county of Stearns. In all cases of convictions for assaults, batteries and affrays within said city and in all cases of convictions under ordinances of the city for breach of the peace, disorderly conduct, keeping houses of ill fame or frequenting the same, and of keeping and maintaining disorderly and illgoverned houses, the said justice shall have power in addition to the fines or penalties imposed, to compel said offenders to

give security for their good behavior and to keep the peace for a period not exceeding six (6) months and in a sum not exceeding five hundred (\$500) dollars. All fines and penalties imposed by the city justices for offences committed within the city limits or for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city.

SEC. 2. The city justices shall as often as the common council may require, report to the common council all the proceedings instituted before them, in which the city is interested, and shall at the same time account for, and pay over to the city treasurer, all fines and penalties collected or received by them belonging to said city; and said justices shall be entitled to receive from their respective counties such fees in criminal cases as are allowed by statute to justices of the peace for similar services.

SEC. 3. The common council may allow the city justices such amount for office rent as may be deemed just. Said justices shall be in attendance at their offices, for the transaction of business, at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by them at all times, in court or otherwise.

SEC. 4. In all suits brought in behalf of said city for the recovery of any forfeiture, fine or penalty, in all cases arising and complaints for the violation of any ordinance, by-law or regulation of said city, and on complaints for assault, battery or affray or other misdemeanor, or criminal offense, cognizable and triable before a justice of the peace, committed within said city, the said justices shall be authorized to tax with the other legal costs one (1) dollar for each trial, and their residence in said city shall not deprive them of jurisdiction of actions brought in favor of or against said city, when said actions are otherwise within the jurisdiction of said justices, provided, that said fee of one (1) dollar shall not be collected from any county of which said city forms a part, nor from the said city.

SEC. 5. In all prosecutions for any violation of the provisions of this charter of any ordinance, by-law or regulation of said city, the first process shall be by warrant on complaint being made, provided, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the state of Minnesota, the provisions of this charter or ordinance, by-law or regulation of said city; but the person or persons so arrested may be proceeded against, tried, convicted, and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, processes, or writs issued by any city justice for the violation of any ordinance, by-law or regulation of said city, shall be directed to the chief of police or any police officer of said city.

SEC. 6. In all cases of the imposition of any fine or penalty, or of the rendering or of any judgment by a city justice of said city, pursuant to any ordinance, by-law, or regulation of the said city of Saint Cloud, or for the violation of any ordinance, by-law, or regulation, 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 Stearns county, and be there imprisoned for a term not exceeding three (3) months, in the discretion of the city justice, 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 the county of Stearns.

SEC. 7. All prosecutions under the provisions of this act, for any violation of any ordinance, by-laws, or regulations of said city shall be commenced and prosecuted in the name of the city of Saint Cloud.

SEC. 8. In cases when alleged offenders shall be in custody and brought before said justice without a process, the justice shall enter on his docket a brief statement of the offense with which the defendant is charged, which shall stand in place of a complaint, unless the justice shall direct a formal complaint to be made.

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## CHAPTER XIII.

### CONTRACTS.

SECTION 1. The common council at its first meeting after the annual election in each year, shall receive proposals for publishing in a newspaper published in said city, the ordinances and other matters required to be published in a newspaper. Such proposals shall state the kind of type proposed to be used, the width of the columns of the newspaper named in such proposals, and the price per lineal inch, column measurement, for the first insertion and for each additional insertion of all matter so to be published; and the contract for such publishing shall be 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 taxpayers of the city, and all persons interested therein, the matters required by this charter to be advertised; and for the purpose of determining such character and value the city council may require of the parties making such proposals such showing of the extent and character of the circulation of such newspaper, and other facts connected therewith, as it may deem expedient, and in case any two bids are the same, the city council may, by vote, select one of such papers.

SEC. 2. If each and all of said proposals fix a price exceeding thirty (30) cents per inch for any first or additional insertion of such matters, the common council may reject all such proposals, and adopt such other method of publishing such matter as it may, in its discretion, determine, anything in this charter to the contrary notwithstanding; and in case said council deem the paper designated in the lowest bid as not a proper medium for placing before the tax payers of the city matters so required to be advertised may reject such bid. Before any such contract shall be let 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 bonds 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 such 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. The common council may from time to time make such contracts as it deems proper for job printing and blank books for said city.

SEC. 3. The publisher or publishers of said official paper, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution. No compensation for any such publication shall be made or allowed by the common council until such proof of publication has been made and filed.

SEC. 4. All work done, or constructions made of any kind by the said city of Saint Cloud, may be done by contract, awarded in such manner as the common council of said city may deem advisable, or said common council may, in its discretion, direct any such work, or construction, or any part thereof, which it shall deem necessary to be made, to be done by days work, under the direction of the said common council, or any officer of said city whom the said common council may designate. Whenever said common council shall determine to do any of said work or constructions, by contract, if the amount of expenditures involved in said contract shall exceed the sum of one hundred dollars (\$100), public notice shall be given and proposals invited for the same, in such manner as the said common council shall direct.

SEC. 5. The common council shall not entertain any bid for or let any contract to any person, firm or corporation who is in default to the city of Saint Cloud on any contract or bond or in any other way, whether said bid or contract be for doing anything or furnishing any material. It shall require a majority vote of all the members of the common council to make any contract.

SEC. 6. No debt or liability shall be incurred or created by the city, the common council, or any officer of the city, except pursuant to authority expressly given for that purpose; and no order or orders shall be issued upon the city treasury exceeding in amount the tax collected or assessed, or in process of collection, except as otherwise provided. All contracts to which the city is a party, shall be signed on behalf of the city by the mayor and countersigned by the city clerk, and no contract shall be valid, unless signed by both of said officers. All contracts with the city shall be recorded by the city clerk in a proper book for that purpose and he shall keep an index thereto. Said record or a certified copy thereof shall have the same force and effect as evidence as is given to the original contract.

SEC. 7. Whenever the amount contracted or appropriated to be expended out of any fund shall be greater than the amount of such fund actually on hand and one-third of the amount of uncollected tax for the current fiscal year applicable to such fund, or when the amount

called for by any proposed contract shall, together with the amounts previously appropriated or contracted for, exceed the amount of such fund on hand, and such one-third of the uncollected taxes, the city clerk shall forthwith notify the common council of such fact, and he shall not countersign any contract payable out of any such fund until the amount of such fund on hand, with one-third of the amount uncollected taxes, aforesaid, shall be sufficient to meet the liabilities created by such contract in addition to all liabilities previously contracted for.

SEC. 8. In all contracts made by the city, the right to reduce the amount of service to be rendered, the amount of work to be performed, or the amount of material to be furnished, whenever in the opinion of the common council it shall appear that the city may not have sufficient funds applicable thereto to fully pay for the full performance of all the same, is hereby reserved, and shall be a condition of all contracts.

SEC. 9. Whenever the common council shall receive bids for the letting of any contract and shall require such bids to be accompanied by a bond, certified check, or other deposit, and said contract shall be awarded to any of said bidders, if such bidders shall not execute the proper contract and bonds within such reasonable time thereafter as said council may allow, such deposit or the amount of such bond shall be forfeited to the city of Saint Cloud as liquidated damages, and said city may have any appropriate action for the recovery thereof. Said city shall in all cases have the right to reject any and all bids, and shall so state in their proposals therefor.

SEC. 10. Whenever the common council shall make any contract involving an estimated expenditure by the city of more than three hundred dollars (\$300), said council shall require from the contractor or contractors a bond to the city of St. Cloud in such sum and with such sureties as said council or any officer or officers designated by it, may approve, conditioned for the faithful performance of said contract, and all and singular its terms and conditions; and in case such contract is for the doing of any work or the making of any improvement, said bond shall also be conditioned to hold said city harmless from all expense, claims, demands and liabilities caused by any acts or negligence of said contractors and their employees or any of them, and shall also be conditioned to pay all just claims for labor or work performed or materials furnished for such contractors in and about such contract. Such bonds shall inure to the benefit of any and all persons holding such claims, and they may maintain several actions thereon for the collection of their respective claims. In case any such bond shall be insufficient to pay all claims secured by it, the claims of said city or for which said city is liable shall be first paid.

SEC. 11. If in the opinion of the common council any work under any contract does not proceed each month so as to insure its completion within the time named in the contract, or is not being performed in accordance with the terms of the contract, the said council shall have power to furnish and use men and materials to complete the work, and charge the expense thereof to the contractor, and the same shall be deducted from any moneys due him or to become due such contractor, or may be collected from him and his bondsmen if any, in a

suit by the city, or said council may relet the uncompleted portion of such contract.

SEC. 12. The common council shall have power to designate such of its own members as may 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.

## CHAPTER XIV.

### MISCELLANEOUS PROVISIONS.

SECTION. 1. No vote of the common council shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of aldermen as were present when the vote was taken.

SEC. 2. No penalty or judgment recovered in favor of the city, shall be remitted or discharged, except by the vote of two-thirds of the aldermen elect.

SEC. 3. 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. 4. All ordinances, resolutions and regulations heretofore made by the common council of the city of Saint Cloud, not inconsistent with the provisions of this act, are hereby legalized and shall be and remain in force until altered, modified, or repealed by the common council of the city of Saint Cloud.

SEC. 5. When any suitor action shall be commenced against such city, service of the process may be made by the proper officer by leaving a copy of such process with the mayor or acting mayor, and it shall be the duty of the mayor forthwith to inform the council thereof, and take such other proceedings as by the ordinance or resolutions said council may have in such case provided.

SEC. 6. The said city may purchase and hold real and personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

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

SEC. 8. 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 common council, and purporting to contain the ordinances of said city, standing rules and orders of said common council, or either, are hereby declared to be competent and prima facie evidence of the contents of such ordinances, standing rules and orders, and of any resolutions or other matter purporting to be the act of the common 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 ordinance, resolution, proceeding of the common 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 ordinance, resolution, proceeding of the common council or other paper, and of the legal passage, adoption, approval and publication thereof.

SEC. 9. The common 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. 10. 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 common council.

SEC. 11. The common council of the city of Saint Cloud, shall have all the powers and perform all the duties possessed by and enjoined upon the former town council of the town, as trustees of the trust created by virtue of the entry of the town site of Saint Cloud under the act of congress, entitled "An act for the relief of citizens of towns upon the lands of the United States, under certain circumstances," passed May 23, eighteen hundred and forty-four (1844), and shall execute deeds to the owners and occupants of lots in said town, so held in trust by the former town council; shall collect the assessments on said lots, and shall pay all liabilities incurred in the exercising and carrying out of the trust aforesaid.

SEC. 12. The amounts assessed upon the lots in said town of Saint Cloud, for the expenses incurred by reason of the exercising and carrying out of the trust mentioned in the foregoing section, shall be a lien on each of said lots, to the amount of expenses assessed upon such lot, and no sale of such lot or lots for any tax assessed thereon, shall pass any title to the purchaser or purchasers thereof, until the purchaser or purchasers shall pay to the city treasurer, the amount assessed against said lot, as its proportional share of the expenses of the entry of the town site of Saint Cloud.

SEC. 13. All claims and demands against the city except such as shall be paid on pay rolls as in this charter provided shall be itemized and duly verified by the claimant or some person having personal knowledge thereof before the same shall be allowed by the common council.

SEC. 14. All records, files and papers of the city shall be deemed to be public records, and at all reasonable times shall be open to examination and inspection of all persons; and shall be *prima facie* evidence of the facts stated therein.

SEC. 15. This charter is hereby declared to be a public act, and all courts shall take judicial notice thereof and it shall not be necessary to plead or prove the same in any court.

SEC. 16. The city of Saint Cloud shall care for and support the pauper poor residing in said city.

SEC. 17. The place of trial of all actions or proceedings by or

against the city of Saint Cloud not brought before a city justice shall be in the county of Stearns. All suits or proceedings by or against said city, not brought before a city justice, shall be brought in the district court of said Stearns county; and no other court whatever shall have original jurisdiction thereof. *Provided*, that this section shall not prevent the bringings of any proceeding, in the supreme court of the state in cases in which said supreme court may have original jurisdiction.

Sec. 18. The city of Saint Cloud shall not be liable in any case for the board or jail fees for any person who may be committed by an officer or magistrate of the city, to the jail of Stearns county, under the state laws.

Sec. 19. This act shall take effect and be in force from and after its passage.

Approved April 13th, 1889.

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## CHAPTER 7.

[H. F. No. 321]

AN ACT TO AMEND AN ACT, ENTITLED "AN ACT TO INCORPORATE THE CITY OF SOUTH SAINT PAUL," APPROVED MARCH 2ND, 1887.

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

SECTION 1. That section two (2) of chapter one (1) of said act be amended so as to read:

SEC. 2. The district of country aforesaid constituting the city of South Saint Paul and the limits and boundaries thereof shall consist of the following described sections or so much thereof as lie west of the middle of the main channel of the Mississippi river to-wit: Sections number fifteen (15), sixteen (16), twenty-one (21), twenty-two (22), twenty-three (23), twenty-six (26), twenty-seven (27), the north one-half ( $\frac{1}{2}$ ) of section twenty-eight (28); also all of sections numbered thirty-four (34), and thirty-five (35), lying west of the middle thread of the Mississippi river, except the portions of said section lying south of the south boundary line of Hause's addition, Kerst's addition, Wiseman's addition, Matthew's addition, Lincoln Park addition and the said south boundary line of said Lincoln Park addition produced east to the middle thread of the Mississippi river, including all islands in said river east of said territory belonging to Dakota county; and all of the territory described in the act to which this act is amendatory, not included in the above description, shall be hereafter excluded from the territory of said city.

SEC. 2. That section three (3) of chapter one (1) be amended so as to read: