

amendment "Yes" or "No" have voted in favor of the same, said amendment shall, upon such proclamation, take effect and be in full force as part of the constitution of the State of Minnesota.

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

Approved April 26, 1895.

S. F. No. 22.

CHAPTER 8.

Incorporation
of cities.

An act to provide for the incorporation, organization and government of cities.

Be it enacted by the legislature of the state of Minnesota:

CHAPTER I.

ORGANIZATION.

SECTION 1. Original incorporation.--The inhabitants of contiguous territory, not organized as a city and having not less than one thousand (1,000) population, may become incorporated as a city by majority vote of the qualified electors resident therein at an election called for that purpose as hereinafter set forth.

SEC. 2. Petition.--A petition stating the proposed corporate name, the population and a definite description of the territory sought to be incorporated, which shall be signed by such number of resident electors as shall equal one-quarter ($\frac{1}{4}$) of the votes cast in said territory at the last preceding general election, shall be filed in the office of the county auditor and presented to the board of county commissioners of the county wherein the territory or the greater portion thereof is located.

SEC. 3. Notice.--Said county auditor within ten (10) days after the filing of such petition shall cause a notice setting forth the contents of the petition and the fact of the filing thereof to be published in the official paper of the county, and in case there is no official paper of the county, then in some newspaper of general circulation published in the county.

SEC. 4. Name.--A petition proposing another and different name for such proposed city, when signed by at least one-half ($\frac{1}{2}$) as many of the resident electors of said territory as are required for the petition for original incorporation as above prescribed, may be presented to said board of county commissioners at any time before they shall have acted upon said original petition.

5 C 8
- 275
- 310

5 C 8
M 181

5 C 8
M 53 Who may
- 89 incorporate.

95 C 8
- M - 181

Petition filing.

Auditor to
publish notice.

Name, change
of.

SEC. 5. Adjoining territory.—Qualified electors residing upon territory adjoining that sought to be incorporated, numbering not less than one-fourth ($\frac{1}{4}$) of the number of votes cast in said territory at the last preceding general election, may at any time before said original petition is acted upon by the said board of county commissioners, sign and present to said board a petition containing a statement of the population and a definite description of such adjoining territory, and requesting that the same be included in such proposed city.

Adjoining territory may be included.

SEC. 6. Election.—Said board of county commissioners at their first regular meeting (occurring more than ten (10) days after the publication of the notice of such petition for original incorporation), shall act upon the same and order an election to be held not less than twenty (20) nor more than forty (40) days after the date of such meeting upon the question of the incorporation of the territory described in such petition, and upon such other propositions in regard to the name therefor, and including of the adjoining territory, as may be presented.

County commissioners to act upon petition.

SEC. 7. Election districts.—Said board shall also at said meeting divide such territory into election districts, in case the same contains a greater number of electors than that prescribed by law for one election district at general elections, and shall fix the boundaries of such districts, and designate the place for holding the election in each thereof; *provided*, that the territory described in the original petition shall constitute at least one election district and the territory described in any petition to include adjoining territory shall constitute at least one election district, and shall appoint three (3) qualified electors of each election district to act as judges of the election therein, and provide poll lists, ballot boxes, booths, polling places and all other appurtenances of said election.

Election districts, how divided.

SEC. 8. Election notice.—Said board shall also cause to be published in the official paper of the county, and in case there is no official paper of the county, then in some newspaper of general circulation published in the county and designated by them for that purpose, at least once a week for two successive weeks prior to the date fixed for such election and notice thereof containing the time and place, or places, of holding the same, and the description of the election districts, and the names of the judges of election appointed, and a statement of the propositions to be voted upon, and shall cause copies of such notice of election to be posted at least ten (10) days before the date fixed for

Election notice, publishing

the same, in three (3) public places in each election district.

Election returns.
How conducted.

SEC. 9. Elections—how conducted.—Such elections shall be conducted in all respects as required by law for city elections, and electors thereat shall have all the qualifications of electors at such general elections.

Form of ballot.

SEC. 10. Form of ballot.—The form of ballot to be used at such election in the territory described in the original petitions shall be substantially as follows: "Proposition to incorporate certain territory as a city by the name of....."

Yes.....
No....."

In case more than one name is proposed as aforesaid for such city, each name proposed shall be printed in a separate line below the proposition to incorporate. In case a proposition to include adjoining territory be submitted, the same shall be printed below such original proposition substantially as follows: "Proposition to include certain territory in such proposed corporation.

Yes.....
No....."

In case more than one proposition to include adjoining territory be submitted, a brief description of the territory embraced in each proposition shall be printed on said ballot, and all such ballots shall be printed as nearly as may be in conformity with the requirements of the general election law.

Adjoining territory form of ballot.

In adjoining territory sought to be included as aforesaid in such proposed city, the only question submitted shall be the proposition to include the same in such proposed city, and the form of ballot to be used at such election in such territory shall be substantially as follows: "Proposition to include this territory in proposed city.

Yes.....
No....."

Manner of voting.

SEC. 11. Manner of voting.—Each elector desiring to vote in the affirmative upon such proposition shall mark an "X" after the word "Yes" after the same, and each elector desiring to vote in the negative upon any such proposition shall mark an "X" after the word "No" after the same, and in case more than one name be proposed, each elector shall indicate his choice by marking an "X" after the name for which he desires to vote.

Election returns to county auditor.

SEC. 12. Election returns.—The votes cast at each election shall be counted, and returns thereof made to said county auditor in like manner as returns of gen-

eral elections are required to be made, and all ballots voted and appurtenances used at such election shall be deposited in the office of said county auditor.

SEC. 13. Canvass of returns.—Said county auditor, upon the receipt of the returns of said election, shall call a meeting of the board of county commissioners of the county to be held within ten (10) days thereafter, at which meeting said board of county commissioners shall canvass said returns. In case the proposition to incorporate shall have received a majority of all the votes cast thereon within the territory described in the original petition, said proposition shall be deemed to have prevailed, and the name which shall have received the greatest number of votes shall be deemed to have been adopted. In case any proposition to include adjoining territory shall have received a majority of all the votes cast thereon, both in the territory described in the original petition and in such adjoining territory, said proposition shall be deemed to have prevailed.

Canvass of returns by county commissioners.

SEC. 14. Certificate.—Said board of county commissioners shall thereupon issue their certificate of the result of the canvass upon each proposition so prevailing, together with a description of the territory incorporated, and a statement of the population in the same as appears from said petition or petitions, and shall cause a map or plat of said territory to be made, and said map or plat and said description and certificate to be filed for record forthwith in the office of the secretary of state, and copies thereof filed for record in the office of the register of deeds of each county of which said territory or any portion thereof is located, and thereupon said territory shall be and become a city and be known by the corporate name adopted as aforesaid.

Certificate by county commissioners.

SEC. 15. Election of officers.—At such meeting said board of county commissioners shall call an election for the election of city officers as provided by this act, to be held not less than twenty (20) nor more than forty (40) days thereafter, and shall prescribe the same election districts as at the election for incorporation, and shall appoint three (3) judges of election for each such election districts, not more than two of whom shall belong to the same political party, and shall make all other provisions for such city election in the manner herein provided for election upon the question of incorporation.

Election of city officers.

SEC. 16. Election notice.—Said board shall also cause to be published in the official paper of the county, and in case there is no official paper of the county, then in some newspaper in general circulation

Election notice. Publication.

published in the county and designated by them for that purpose, at least ten (10) days before the time fixed for such election, a notice thereof containing a list of the officers to be elected, and a description of such election district, and list of judges and polling places designated therefor. They shall also cause notices of such election to be posted in three (3) of the most public places of each such election district at least ten (10) days prior to the date fixed for such election. Such election shall be conducted in all respects as required by law for elections for city officers in cities under the provisions of this act, and returns thereof shall be made to the county auditor of the county where said original petition was filed.

Canvassing
votes.

SEC. 17. Canvass of votes.—The county auditor upon receipt of the returns of such election shall call together a like board of canvassers as provided by law for the canvassing of returns of general elections, said board of canvassers at like times and in like manner shall canvass said returns and declare the result thereof, and shall designate a place within said city and fix a time not more than ten (10) days after the declaration of such result, when and where the city council of such city shall meet and organize. They shall also give notice of the election, and of such time and place for the meeting of the city council, to each person declared elected at such election, and the person so declared elected shall at such prescribed time and place meet and organize the city government.

Annexing
adjoining ter-
ritory.

Petit on

SEC. 18. Annexing adjoining territory.—Any territory not included in any incorporated city or village, but adjoining any city existing under the provisions of this act, may be annexed thereto and become a part thereof, as follows: Upon the petition therefor of at least one-fourth ($\frac{1}{4}$) of the resident electors of the territory desired to be annexed, setting forth the population and a definite description of such territory, the city council of such city may order a special election to be held in such territory upon the question of the annexation thereof to such city, notice of which election shall be given and provision made therefor, and the same shall be held and conducted in conformity with the provisions of this act relative to the incorporation of unorganized territory, and every act and thing necessary to be done by, and all authority vested in the board of county commissioners, and the county auditor of the county in which such city is located relative to proposed incorporation of unorganized territory, shall be done by and vested in the city council and the city clerk of such city, respectively; *provided*,

that nothing in this section contained shall authorize any city or village lying wholly within one county or any portion of the people thereof to become attached to or become a part of any city lying within another county without a vote in favor thereof by a majority of each board of county commissioners of the respective counties to be affected thereby; *provided, further,* that whenever there may be a lot or tract of land immediately adjoining such city and located in the same county upon which no one but the owner or owners are residing, but said owner desires annexation to said city, said owner or owners of said tract may petition said city council for the annexing of such territory, and such council may by ordinance annex such territory and therein designate to what ward or wards such annexed territory shall belong; *provided, further,* that such territory shall be in no wise released thereby from taxation for past indebtedness of the town in which the same is situated, and that a copy of such petition and ordinance shall be filed with the county auditor within thirty days after its passage.

Territory in different counties.

Individual owners annexed.

SEC. 19. Form of ballot.—The ballot to be used at such election shall be in substantially the following form: "Proposition to annex certain territory to the city of....."

Form of ballot.

Yes.....
No....."

Such ballots shall be printed and voted as herein required relative to the original incorporation of cities, and such votes shall be counted and returned to the city clerk and city council, and by such city council canvassed and the result thereof declared, and in case said proposition prevails, a map or plat and a description of the territory annexed and a certificate of the result of such election, together with the order or approval of the city council, shall be filed and recorded as hereinbefore prescribed in case of the original incorporation of cities.

SEC. 20. Judicial notice.—All courts in the state shall take judicial notice of the organization, reorganization and existence of all cities under the provisions of this act.

Judicial notice of organization.

SEC. 21. Reorganization of existing cities.—Any existing city, whenever the general or special law under which the same exists is repealed, shall by operation of law become incorporated under the provisions of this act, with its existing boundaries and corporate name, and without regard to the population thereof; *provided,* that nothing in this act contained shall be taken or construed as changing or repealing in any manner

Reorganization of cities.

any general or special law governing or regulating any existing municipality in this state until such time as such municipality shall accept this act in the manner herein provided or the laws governing such municipality are repealed by some legislative act other than or outside of this act.

Existing cities and villages may adopt this act by ordinance and vote of people.

SEC. 22. Same subject.—Any city or village having a population of not less than one thousand inhabitants now existing in this state may also become subject to the provisions of this act, and the city or village council and the legal voters of said city or village may affect the same by an ordinance of said city or village duly passed by an affirmative vote of three-fourths of all the members of the city or village council, and approved by the mayor of such city or village in the manner provided by the charter of such city or village. Upon the return of said ordinance to said city or village council without the mayor's approval an affirmative vote of four-fifths of all its members shall enact such ordinance and the same shall have the same force and effect as if approved by the mayor. A certified copy of such ordinance accompanied by a statement of the vote thereon with the names of the members of the city or village council voting for and against the same and a statement showing the vote of the people of said city or village for and against the adoption of the same shall be forwarded to and filed in the office of the secretary of state after the adoption of such ordinance by the people of such city or village. Such ordinance shall not go into force or be of any effect until the same shall have been adopted by a vote of the electors of said city or village as hereinafter provided.

Ordinance to be filed with secretary of state.

Ordinance to be submitted to people.

SEC. 23. Same subject.—When such ordinance shall have been adopted as provided in the last preceding section the city or village council shall by ordinance submit the question whether such city or village shall become incorporated under and subject to the provision of this act to a vote of the electors of such city or village at the next ensuing city or village election, occurring not less than forty days after the passage and approval of the ordinance provided for in section 22, or when no regular election is to occur within ninety (90) days thereafter, a special election may be called and held for the purpose of acting thereon. In case no such ordinance shall have been adopted as provided for in said section 22, upon petition therefor of one-eighth of the number of legal voters of such city or village voting at the last preceding city or village or general election the city or village council shall by ordinance submit the question whether such city or

village shall become incorporated under and subject to the provisions of this act to a vote of the electors of such city or village occurring not less than forty days after the presentation of such petition.

SEC. 24. Notice.—The city clerk of such city or village shall either upon the passage of the ordinance provided for in section 22 or upon the passage of the ordinance provided for in section 23, give at least thirty days' notice that said question will be submitted to the electors of the city or village at such election by posting at least five copies thereof in each ward and also by publishing the same in one or more newspapers published in said city or village, as the city or village council may direct.

Thirty days' notice of election.

SEC. 25. Vote necessary to adopt.—If a majority of the votes cast at such election upon such question shall be in favor of said city or village becoming incorporated under and subject to the provisions of this act, and said proposition shall be deemed to have prevailed, and the city or village clerk of said city or village shall within ten (10) days thereafter file in the office of the secretary of state a certificate of the result of such election, together with a statement of the vote thereon, and a copy of the ordinance submitting the same to the electors.

Requires majority vote.

SEC. 26. Incorporation completed—when.—Upon the filing of such certificate, statement of vote, and copy of such ordinance with the secretary of state as aforesaid, said city or village shall become an incorporated city or village under and subject to the provisions of this act, and thereafter governed, controlled and regulated thereby.

Incorporation completed—when.

SEC. 27. Existing officers.—The city officers of such city or village at the time of its reorganization under the provisions of this act as aforesaid shall thereafter exercise the powers conferred upon like officers in this act to the ends of their respective terms and until their successors are elected and have qualified, and all laws and parts thereof not inconsistent with the provisions of this act shall continue in force and be applicable to such city or village the same as if such reorganization had not taken place, and no reorganization shall be construed to be a repeal or surrender of any rights, powers, privileges or franchises theretofore by law conferred upon such city or village, and not inconsistent with the provisions of this act, and all property and estates whatsoever of such city or village shall be and remain severally and respectively vested in such city or village unchanged, and as before said reorganization, and all proceedings for the acquirement of parks and park-

City officers to serve out their terms.

Existing laws, not inconsistent, to remain in force.

ways, the making of local improvements, and the making and collecting of assessments therefor, which have been finally ordered before the date of such reorganization, shall be proceeded with and completed in the same manner and by the same officers as if such reorganization had not taken place and all suits, prosecutions, debts, taxes and claims whatever, belonging to said city or village shall be sued for, recovered and collected under and by virtue of the provisions of law governing such city or village prior to such reorganization, and all proceedings therefor commenced before such reorganization shall be proceeded with as though no change had been made; and all rights, claims and demands of whatever nature existing prior to such reorganization shall remain in full force, and shall be sustained, enforced and collected as though no such reorganization had taken place.

Claims remain
unimpaired.

Separate dis-
tricts.

SEC. 28. Separate districts.—The territory originally incorporated into a city or annexed to an existing city as aforesaid shall thereafter cease to be a part of any township or other organization for any purpose whatsoever, except for county purposes, and such city, including all territory annexed thereto under the provisions of this act, shall constitute at least one separate road district, at least one separate assessment district, at least one independent school district, and at least one election district.

City territory
in different
counties.

SEC. 29. Cities located in more than one county.—In case any city organized and existing under the provisions of this act is located in more than one county, all taxes and assessments levied therein shall be paid to the treasurer of the county in which the property upon which the same was levied or assessed is located, and all portions thereof levied or assessed for city purposes shall be by said treasurer paid to the city treasurer of said city as hereinafter provided.

Consolidation
of cities.

SEC. 30. Consolidation of cities.—Any two or more cities existing under the provisions of this act, comprising contiguous territory, may be consolidated as one city by a majority vote of the qualified electors of each of the same at an election called for that purpose, as follows:

Petition for
consolidation
—committee.

Whenever a petition requesting the same, signed by at least one-fourth ($\frac{1}{4}$) of the qualified electors of such city, who shall have voted therein at the last preceding general or city election, shall be presented to such city council, such city council shall appoint a committee of its members, who shall notify the city council of each adjoining city of the presentation of such petition. In case the city council of such adjoining

city approve of such proceeding; or in case a petition signed by at least one-fourth (¼) of the qualified electors of such adjoining city, who shall have voted therein at the last preceding general or city election, shall be presented to the city council thereof requesting the same, a committee shall be appointed thereby, who shall meet said first named committee at the seat of government of such first named city at such time as may be designated by the first named committee, and the two committees acting jointly shall fix the date for an election to be held not less than thirty (30) nor more than sixty (60) days thereafter, when the question of such consolidation shall be submitted to the people of both cities, and thereupon the city council of each such city shall arrange for the holding of such election, which election shall be held and conducted, and returns thereof made in each of such cities, in all respects as prescribed by law for the conduct of city elections; *provided*, that nothing in this section contained shall authorize the consolidation of two or more cities lying wholly within separate counties, without a vote in favor thereof by a majority of the respective boards of county commissioners of the counties wherein each of such cities exist.

Joint committees.

Election to decide consolidation.

SEC. 31. Form of ballot.—The ballots to be used at such election shall be in substantially the following form: "Proposition to consolidate the cities of..... and.....

Form of ballot.

Yes.....
No....."

which ballots shall be voted as required in case of original incorporation.

SEC. 32. Corporate names.—Corporate name for such consolidated city may be proposed by the city council of each of such existing cities at any time before the election is ordered, all which names shall be printed upon the ballot below the proposition to consolidate, and shall be voted upon in like manner as prescribed in like cases in original incorporation hereunder.

Corporate names to be voted on.

SEC. 33. Election returns.—The votes cast at such election shall be counted, returned and canvassed in each of such cities, as provided by law in elections for city officers, and the declaration of the results thereof shall be made by the respective canvassing boards of such cities to such joint committee. Said joint committee shall meet in the same place and upon like notice as prescribed in the first instance, within thirty (30) days after such election to consider the declarations of said canvassing boards. If the proposition to consolidate shall have received a majority of the votes

Election returns.

cast thereon in each of said cities, then said proposition shall be deemed to have prevailed, and such cities shall become one corporation, to be known by the corporate name which shall have received the highest number of votes cast thereon, and the certificates of each said board of canvassers or duly certified copies thereof, and a statement of the population of such consolidated city made by said committee, shall be filed and recorded in the office of the secretary of state.

Old officers to hold over till next election

SEC. 34. After such consolidation, the government of each of such cities shall continue as before until the qualification of officers elected at the ensuing city election, as provided by law, which election shall be called in each of such cities by the acting officers thereof, as provided by law. At such election there shall be elected an entirely new complement of officers and members of the city council, the existing wards and districts of such cities remaining the same, and each being entitled to its quota of officers, as provided by law. The votes cast at such election shall be counted, returned and canvassed, and the results thereof declared by the city councils of such former cities, as provided by law. At the times fixed by law for the commencement of the terms of officers elected at such election, such former cities shall cease to exist, and such consolidated city shall be a corporation by the name aforesaid, and shall succeed to all rights and property, and be charged with all the debts and obligations of each of such cities, incurred before and existing at the time of such consolidation, which debts and obligations shall be paid by taxes levied solely upon the property within the limits of the former city, in and by which such debts and obligations were severally incurred.

New officers.

Consolidated city to succeed to all property and liabilities of the old cities.

Terms of officers.

SEC. 35. Terms of officers.—Upon the original incorporation of any city, terms of all officers elected at the first election therein, as above provided, shall extend to the beginning of the terms of their successors elected at the first succeeding regular city election under the provisions of this act, which successors shall be elected for full terms, as herein provided. In case of the reorganization of an existing city the same shall become incorporated according to the provisions of law then applicable thereto, and the officers of such city then serving or duly elected shall perform the duties of their respective offices, until the expiration of their terms, and their successors shall be elected or appointed for full or partial terms, as the case may be, to conform to the provisions of this act, and in case of the organization of any city under the provisions of this act, if the terms of any city officer elected by the

people in such city shall not extend beyond the time at which an election will occur under the provisions of this act, then in such case an election shall be held in such city at the time provided by existing law for elections in such city prior to the adoption by such city of this act; at which election city officers shall be elected to succeed all officers whose term of office for which such officers were elected, expire prior to the next succeeding election under the provisions of this act, and the terms of such officers so elected shall be until the first Tuesday after the first Monday of January succeeding the first election to be held under the provisions of this act, and at such first election officers shall be elected under and to carry out the provisions of this act.

SEC. 36. Wards.—All cities which shall have been reorganized or consolidated under the provisions of this act shall be divided into wards as the same shall exist at the time of such reorganization or consolidation, except that in the event of consolidation the respective numbers of one or more wards may be changed as the city council may determine; and shall thereafter be redivided into wards as follows: Cities of more than thirty thousand (30,000) population into not less than ten (10) nor more than fifteen (15) wards, and cities of thirty thousand (30,000) population or less into not more than ten (10) wards, the same to be so divided by ordinance duly passed by a majority vote of all the members of the first city council of the city wherein such division is made, the members of which city council shall have been elected and qualified pursuant to the provisions of this act, the same to be done at the second regular meeting of such city council, or as soon thereafter as practicable, and to take effect at the then next ensuing city election, and all the provisions of section thirty-eight (38) of this act, so far as consistent with this section, to apply thereto. The boundaries of wards so established shall thereafter be changed, extended or re-established as hereinafter provided, except that in the event of the annexation of adjoining territory, the city council of the city interested may add the same to any existing ward, or establish one or more additional wards, not to exceed in all the maximum number herein established. In any city originally incorporated under the provisions of this act, the first city council thereof shall divide the same into wards as in this section provided, and all the provisions of this section shall apply thereto as far as the same may be applicable.

Wards, how determined.

When divided.

Change in wards.

SEC. 37. Population.—The population of any city, for the purpose of this act, shall be determined by the

Estimating population.

last preceding United States or state census, and the population of territory not organized as a city shall be estimated and taken to be five (5) times the number of the qualified electors who shall have voted therein at the last preceding township or general election.

Reorganiza-
tion of wards.

SEC. 38. Reorganization of wards.—The city council of each city may after each state and federal census, by resolution by a two-thirds vote, apportion said city into wards of convenient, adjacent and contiguous territory, but such apportionment shall be made but once within the period of five (5) consecutive years. Whenever the wards or districts of the city are apportioned anew, such apportionment shall take effect at the next ensuing city election, and all officers and members of the city council previously elected, and whose successors would not be otherwise elected at such election, shall hold their respective offices for the unexpired portion of their terms as representing the wards or districts within which they reside. And in case any such ward or district shall prove to have more than its proportion of resident hold-over officers or members of the city council, then such hold-over officers or members shall be appointed to, and represent some ward or district created in whole or in part of that in which they were elected, which apportionment of officers shall be made by the city council at the time of the apportionment of the wards and districts.

When to take
effect.

Detaching ter-
ritory from the
city.

SEC. 39. Detaching territory.—Any territory included in any city under this act may become detached from any such city upon the question of such detachment being submitted to a vote of the whole of such city at any general city election, and such proposition receiving the majority of all of the votes cast at such election upon such proposition. The city council of such city shall submit the same to a vote of the people after a petition shall have been filed with the city clerk, signed by a majority of the legal voters residing in such territory, or upon the order of the city council without such petition, and the same shall be submitted and voted upon throughout the whole city and the returns of the votes canvassed in the same manner as provided in this act for the annexing of unorganized territory to cities by a vote of the people.

General pow-
ers.

SEC. 40. Powers.—The cities existing under the provisions of this act shall be and continue bodies corporate and politic under their several names, and by such names shall have perpetual succession, and be vested with the following general powers: To sue and be sued; to plead and be impleaded; defend and be defended in all courts of law and equity; to purchase,

receive and hold property, real and personal, to be used for city purposes only; to sell, lease, or otherwise dispose of any property for the benefit of such city; to receive bequests, gifts and donations of all kinds of property, within and without the city, either in fee simple or in trust, for the benefit of the city, and to do all acts necessary to carry out the purposes such bequests, gifts and donations, and to sell, lease or otherwise dispose of the same; to have and use a common seal and to alter the same at pleasure; to contract and be contracted with; to levy general and special taxes; to grant licenses, franchises, immunities and privileges not inconsistent with the constitution and laws of the United States and of this state, and revoke the same; and generally to do every act and thing properly within the province of municipal corporations at common law, to have and exercise all the powers conferred by this act.

CHAPTER II.

ELECTION, APPOINTMENT AND DUTIES OF OFFICERS.

SEC. 41. Elective officers.—The elective officers of cities shall be mayor, treasurer, one ward alderman elected from each ward and aldermen elected from the city at large; the number of aldermen elected at large to be as follows:

Elective officers.

In cities with six wards or less, two aldermen shall be elected from the city at large; in cities having more than six wards and less than ten wards, four aldermen shall be elected from the city at large; in cities having ten or more wards, eight aldermen shall be elected from the city at large. In cities with a population of 30,000 or more, there shall be elected in addition to the officers above provided for, a city comptroller. In all cities wherein there are any justices of the peace, judges of the municipal court or other city officers except school officers not provided for by this act, who are elected by the people such officers shall be elected at the city election held under this act, but shall qualify at the time and hold such offices for terms provided by the laws under which such offices exist.

Number of aldermen.

Cities of 30,000 and more.

SEC. 42. Time of election.—The regular city election shall be held on the first Tuesday after the first Monday in November of each odd numbered year.

Time of election.

SEC. 43. Terms of elective officers.—The terms of officers elected by the people under this act shall be two years; *and provided*, that where there is in any city reorganized under this act under the laws governing such city prior to such reorganization, a legislative

Terms of elective officers.

body, the members of which are elected at large, they shall serve as aldermen at large under the provisions of this act to the ends of the terms for which they were respectively elected, and where, in any city reorganized under this act, there is, under the law governing such city prior to such reorganization a legislative body, the members of which are elected by wards, such members shall serve as ward aldermen under the provisions of this act to the end of the terms for which they were respectively elected, and at the city elections respectively next preceding the expiration of the terms of such existing aldermen at large or ward aldermen, successors shall be elected for partial or full terms, to conform to the provisions of this act. *And provided further*, that at the first election in any city originally incorporated under the provisions of this act, five aldermen shall be elected from the city at large and no other aldermen shall be elected at such election. Such aldermen at large shall serve until the then next city election and until the aldermen elected thereto shall have qualified, as provided in section 44 hereof. At the said second city election there shall be elected aldermen as in this section provided for the first election held under this act.

Commencement and end of term.

SEC. 44. Commencement and end of term.—The term of each elective officer, unless herein otherwise provided, shall commence on the first Tuesday after the first Monday in January next succeeding his election; and all officers elective and appointive shall serve to the expiration of their respective terms and until their successors are elected or appointed and have qualified, except when removed as herein provided.

Removal of officers.

SEC. 45. Removal of officers.—Every person appointed to any office under the provisions of this act may be removed from such office by a vote of two-thirds of all the members of the city council, except as otherwise provided in this act; but no such officer shall be removed by the city council except for cause, nor unless he has first been furnished with a copy of the charges, nor until he shall have had reasonable opportunity to be heard in person or by council in his own defense. The city council shall have power to fix the time and place for the trial of such officer, of which he shall be given not less than ten (10) days' notice, to compel the attendance of witnesses and the production of papers, and to hear and determine the case. If such officer shall neglect to answer to such charge, the same shall be cause for removal.

Vacancy—how filled.

SEC. 46. Vacancy—how filled.—Whenever a vacancy shall occur in the office of any officer elected by the

people or appointed by the city council, such vacancy shall be filled by appointment by the city council for the unexpired term.

SEC. 47. What shall constitute an election.—A plurality of votes for elective officers shall constitute an election. When two or more persons shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the city council, at such place and in such manner as they may direct. Officers appointed by the city council shall receive a majority vote of all its members to constitute an appointment.

Plurality
electn.

95 C 8 §47
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Casting lots in
case of tie.

SEC. 48. Removal, refusal or failure to act.—Any officer removing from the city or ward for which he was elected or appointed, and any officer elected under the provisions of this act, who shall refuse, or without cause neglect to enter upon the discharge of the duties of his office for ten (10) days after the beginning of the term which he was elected to fill, he having at least ten (10) days prior thereto been notified by the city clerk of his election, or any officer appointed under the provisions of this act who shall refuse or neglect to enter upon the discharge of the duties of his office for ten (10) days after receiving notice from the city clerk of his appointment, shall be deemed to have vacated or abandoned the same.

Removal, re-
fusal or failure
to act vacates
office.

SEC. 49. Resignation.—Any officer having entered upon the duties of his office may resign the same by and with the consent of the city council.

Resignation.

SEC. 50. Oaths and bonds.—Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the city clerk. The treasurer, clerk, comptroller, and such other officers as the city council shall require, shall severally, before they enter upon the duties of their office, execute to the city bonds in such amounts and upon such conditions as the city council may prescribe. Such bonds shall be approved by the city council, and it may from time to time require new or additional bonds, and it may remove from office any officer neglecting or refusing to give same.

Oaths and
bonds.

SEC. 51. Interest in city contract disqualifies for holding office.—No mayor, member of the common council or other city officer, shall while such mayor, member of the common council, or other city officer, vote for, or make any contract in behalf of said city or any department of said city, with himself or with any firm of which he is a member, or with any corporation or association of which he is an officer or director,

No city officer
to be interested
in city con-
tract.

nor shall he be in any manner, directly or indirectly, interested in any contract with said city, and any contract in which said mayor, member of common council, or other city officer, is or becomes directly or indirectly interested, shall be and become absolutely void, and any such officer by said act shall forfeit his said office.

Penalty for failure to perform duties.

SEC. 52. Penalty for failure to observe duties imposed.—Any officer or employe of the city who shall offend against any of the provisions of this act by refusing to do any act or thing required to be done by him, or by wrongfully doing the same, or who shall willfully violate any of the provisions of this act, or commit any fraud upon the city, or convert any of the public property to his own use, or knowingly permit any other person to so convert it, or by gross and culpable neglect allow the same to be lost to the city, shall be guilty of a misdemeanor and shall be punished therefor as misdemeanors are punished by the criminal laws of the state, and shall, as a consequence thereof, forfeit his office and be forever disqualified from holding any office of trust or profit under the city government, and shall be liable to the city for any amount lost or damage suffered by reason of such wrongful act or violation of law.

Salaries to be fixed by council.

SEC. 53. The salaries of all officers and employes of the city shall be fixed by a resolution passed by a three-fourths vote of all the members of the city council and the salaries of the officers and employes shall be paid monthly and the salaries of employes may be paid weekly, unless otherwise provided by law, out of the treasury of the city, and the salaries of officers whose terms of office are fixed by this act shall not be increased or diminished during the term for which the officer shall have been chosen, nor during the time intervening between his election or appointment and the commencement of his said term; *provided, however*, that the salary of aldermen in cities containing a population exceeding thirty thousand inhabitants shall not exceed five hundred dollars per annum; and in cities containing a population exceeding fifteen thousand and not exceeding thirty thousand inhabitants the same shall not exceed three hundred dollars per annum; and in cities containing a population not exceeding fifteen thousand inhabitants, the same shall not exceed one hundred dollars per annum; *provided, however*, that until the city council shall have so fixed the salaries as herein provided, no salary or compensation shall be allowed or paid to any of the following named officers or employes or any of them,

Maximum salaries shall be fixed by council.

in cities where the same may exist, in excess of the following named sums, to-wit: The mayor, three thousand dollars (\$3,000) per annum; the mayor's private secretary, twelve hundred dollars (\$1,200) per annum; the treasurer, four thousand dollars (\$4,000) per annum; the comptroller, four thousand (\$4,000) per annum; the city clerk, four thousand dollars (\$4,000) per annum; the city attorney, four thousand dollars (\$4,000) per annum; the city engineer, four thousand dollars (\$4,000) per annum; the secretary of the board of water commissioners, two thousand dollars (\$2,000) per annum; the superintendent of the water department, eighteen hundred dollars (\$1,800) per annum; the commissioner of health, or health officer, twenty-four hundred dollars (\$2,400) per annum; the building inspector, eighteen hundred dollars (\$1,800) per annum; the chief engineer of the fire department, twenty-five hundred dollars (\$2,500) per annum; the first assistant engineer of the fire department, fifteen hundred dollars (\$1,500) per annum; the second assistant engineer of the fire department, twelve hundred dollars (\$1,200) per annum; the chief of police, twenty-five hundred dollars (\$2,500) per annum; the judge or judges of the municipal court, each, three thousand dollars (\$3,000) per annum; the clerk of the municipal court, eighteen hundred dollars (\$1,800) per annum; the superintendent of the workhouse, twenty-five hundred dollars (\$2,500) per annum; the commissioner of public works, two thousand dollars (\$2,000) per annum; *and provided further*, that where the duties performed by any of the officers aforesaid are by the terms of this act imposed upon officers otherwise designated, the limitations herein contained shall be construed to apply to such newly designated officers and in no event to perpetuate or authorize any office or position not recognized by this act.

SEC. 54. Reports of officers.—Every elective and appointive officer shall continue to reside in the ward or district for which elected or appointed, and shall keep and attend his office at such time and place as may be prescribed by the city council, and except members of the city council, shall annually and in the years when the city election is to be held, not less than ten (10) nor more than thirty (30) days before such election, make and transmit to the city council an accurate verified report of the business of his office for the preceding year, together with a true, verified inventory of all moneys, property and other effects of the city in his possession or under his control; and at the time of making such report he shall likewise make and trans-

Reports of officers.

mit to the city council and the city comptroller an estimate of the cost and expense of the operation of his office for the ensuing fiscal year; and he shall likewise, whenever requested by the mayor or city council, make to them, or either of them, a similiar report, and shall exhibit to them, or either of them, all the books of account, papers and other records of property kept in and controlled by his office. At the expiration of his term, or when removed from his office, he shall, on demand, turn over to the city or to his successor in office, all the books, papers, records, files, money and other property and things whatever pertaining to his office, or received by him, by virtue or reason of the exercise thereof.

No gift or gratuity shall be accepted.

SEC. 55. No gift nor gratuity shall be accepted—turning over fees.—No officer shall directly or indirectly, in or about the performance of the duties of his office, receive any gift, commission, gratuity or reward or other valuable thing whatever; and every such officer and member shall account for and pay over to the city at the end of each month all fees collected by him during the preceding month, by virtue or reason of his office, except as may be herein otherwise provided. Any violation of the provisions of this section shall be deemed corruption in office and punished as provided in this act.

Turning over fees.

Penalty.

Exemption from jury service.

SEC. 56. Exemption from jury service.—All officers and employes of the city while engaged in its service shall be exempt from serving as jurors in any court.

Fiscal year.

SEC. 57. Fiscal year.—The fiscal year of the city shall commence on the first day of January of each year.

CHAPTER III.

POWERS AND DUTIES OF THE MAYOR.

Mayor—powers and duties.

SEC. 58. The chief executive.—The mayor shall be the chief executive officer of the city. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced within the city. He shall see that all other officers of the city discharge their respective duties. He shall from time to time give the city council such information and may recommend such measures as he shall deem advantageous to the city.

Approval of ordinances and resolutions.

SEC. 59. Approval of ordinances and resolutions—veto power.—Every ordinance, order and resolution shall, before it takes effect, be presented to the mayor for approval. If he approves he shall sign the same, but if he disapprove it, he shall return it to the city

council with his objections thereto, by depositing the same with the city clerk, to be presented to the city council at the next regular meeting thereafter.

SEC. 60. Reconsideration.—Upon the return of any ordinance, order or resolution by the mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall be again put upon the passage of the same, notwithstanding the objections of the mayor; and if upon such vote, the city council shall pass the same by a vote of three-fourths ($\frac{3}{4}$) of all its members, it shall have the same effect as if approved by the mayor, and in such case the vote shall be by yeas and nays, which shall be entered by the city clerk of record; *provided, however*, that in all cases where the original action of the council requires a three-fourths ($\frac{3}{4}$) vote, the veto of the mayor shall be effectual unless overruled by unanimous vote of all the members of such council; *provided*, upon the return by the mayor without his approval of any ordinance, order or resolution authorizing the issuance of bonds or certificates of indebtedness without the submission for ratification to the electors of the city, or granting a franchise, such ordinance, order or resolution shall not be passed over the veto of the mayor, and shall be of no more force and effect than if the same had failed of passage by the council in the first instance.

Passing over
veto.

When unani-
mous vote
required.

Mayor's veto
absolute—
when.

SEC. 61. Time limited for approval by the mayor.—No ordinance, order or resolution shall be signed by the mayor within four (4) days after the same is presented to him, and if the same shall not be returned by him on the tenth (10) day (Sunday excepted) after it shall have been presented to him, it shall have the same force and effect as if approved by him.

Limit for ap-
proval.

SEC. 62. Indorsement by clerk.—The city clerk shall indorse upon each such ordinance, order and resolution the time when the same was delivered to the mayor, and the time when it was returned to his office by the mayor.

Indorsement
by clerk.

SEC. 63. Acting mayor.—During the absence of the mayor from the city, or in case of his death or disability for any reason to discharge the duties of his office, the president of the city council, or in his absence or in case of his disability, the vice-president of the city council shall for the time being exercise all the powers and discharge all the duties of the mayor. The president or vice-president so performing the duties of the mayor shall be styled the "acting mayor," and his acts while so acting as mayor shall have the same force and validity as if performed by the mayor.

Acting mayor.

SEC. 64. Control of police.—The mayor shall be

Control of police.

chief magistrate of the city and shall have command and control of its entire force of police.

Mayor's secretary and stenographer.

SEC. 65. Mayor's secretary and stenographer.—He may appoint a secretary and stenographer when authorized by the city council, who shall perform such clerical duties as the mayor may prescribe in his department and in the department of police.

Executive contingent fund.

SEC. 66. Executive contingent fund.—The mayor shall have authority to expend from the executive contingent fund such moneys as he may deem necessary in case of emergency to secure information and evidence of crime and arrest convicts and to relieve distress in the event of public calamity in this state.

Mayor to sign bonds, obligations and contracts.

SEC. 67. Shall sign bonds, obligations and contracts.—He shall sign all bonds and obligations of the city and all warrants drawn on the city treasurer, unless otherwise provided by law. He shall also sign all contracts entered into by the city.

Process and notices.

SEC. 68. Process and notices.—He shall, upon service of notice or process upon him in an action or proceeding against the city, forthwith inform the city attorney and city council thereof.

Mayor's report.

SEC. 69. Annual report.—He shall make an annual written report at the close of each fiscal year to the city council of the general condition of affairs of the city.

CHAPTER IV.

DUTIES OF COMPTROLLER.

Comptroller to keep books of account.

SEC. 70. To keep books of account.—It shall be the duty of the city comptroller to keep regular books of account, both of the city and the boards and departments of said city, in which he shall enter all indebtedness of said city, and which shall at all times show the precise financial condition of the city and of the amount of bonds or other evidence of indebtedness outstanding, and the redemption of the same when redeemed. The city council shall provide for the salaries of such assistants and clerical force as may be needed by the comptroller. All such assistants and clerical force shall be appointed by the comptroller. The city comptroller shall designate one of his assistants as deputy city comptroller, and such deputy shall have in the absence or disability of the city comptroller the same powers and duties as are herein prescribed for the city comptroller.

Assistants and clerks—salaries.

Warrant account.

SEC. 71. Warrant account.—He shall keep accounts of warrants drawn on the treasury in separate books, and shall note thereon the cancellation thereof when-

ever the same shall be canceled and shall keep such other books and records as shall be necessary for the preservation of the accounts of the transactions and business of the city, and all books, lists and records heretofore kept, or which shall be kept in the comptroller's office, and copies thereof by him certified, and shall be competent evidence of all matters shown by them.

SEC. 72. He shall keep accounts with the city treasurer and all other receiving or disbursing officers of said city; in such accounts he shall charge such officers with all amounts received by them from all sources of revenue, and with all city property in their hands or control, as such officers, and credit them with all amounts disbursed, or property disposed of on proper authority, and with all money or property turned over to the city or to their successors in office.

To keep accounts with city treasurer and other officers.

SEC. 73. To countersign bonds and other evidences of indebtedness.—He shall countersign all bonds, warrants or other evidences of indebtedness of the city; and no such bond, order, certificate or other evidence of indebtedness shall be valid until so countersigned.

To countersign bonds and evidences of debt.

SEC. 74. To examine accounts of other officers.—He shall examine the reports, books, papers and vouchers of the treasurer and of other receiving and disbursing officers, and perform such other duties pertaining to his office as the city council may prescribe, and it shall be the duty of the city comptroller to make a report of the financial condition of the city to the city council at any time he may deem it advisable, with such recommendation as he may think proper.

To examine accounts and reports.

SEC. 75. To report financial condition to city council.—He shall, within sixty days after the close of each fiscal year, report to the city council the financial condition of the city.

Comptroller's report.

SEC. 76. To countersign all contracts.—He shall countersign all contracts made in behalf of said city, and no such contract shall be valid for any purpose until so countersigned, and he shall be the custodian of all such contracts. He shall countersign no contract in behalf of said city unless there be sufficient funds applicable by law thereto in the treasury of such city for the payment of any liability arising under such contract, or unless provision shall have been made therefor as in this act otherwise provided. He shall keep a book, in which he shall enter all contracts, which shall be open to the inspection of all parties interested.

To countersign contracts.

SEC. 77. To audit all claims.—All claims and demands against the city before the same shall be allowed by the city council shall be audited and

To audit claims.

adjusted by the comptroller, and all warrants on the treasury, either on the part of the city or its boards, or of any officer or department thereof, shall be examined and countersigned by him, and by him kept until delivered to the person entitled thereto, and he shall take and preserve receipts for all warrants so delivered, and all claims and demands against any board or department of the city shall be allowed by the city council before payment thereof.

Same.

SEC. 78. Auditing and adjusting claims.—It shall be the duty of the city comptroller in auditing and adjusting claims and accounts against the city, to designate and specify upon each claim, demand and account so audited and adjusted, the particular fund out of which the same shall be paid; and the same shall not be audited nor adjusted by him until there shall be sufficient moneys to the credit of the particular fund out of which the same is payable to pay the same, as well as all other claims before that time audited, adjusted or allowed against such fund, and no claims whatsoever shall be reported to, nor allowed by, the city council until the same shall have been audited and adjusted by the city comptroller, as in this section provided.

To designate proper fund.

City clerk to act as comptroller—when.

SEC. 79. In any city of this state where the office of city comptroller does not exist under this act, the duties imposed upon the city comptroller by the terms of this act shall be performed by the city clerk of such city.

Reports to state auditor.

SEC. 80. Reports to state auditor.—The comptroller of each city shall annually, within sixty days after the close of the fiscal year, report to the state auditor in writing, showing the receipts and disbursements on account of each fund and in each department of the city, and the condition of each of the city funds and the amount of bonds outstanding at the close of such fiscal year. The state auditor shall furnish to each comptroller at least thirty days before the close of the fiscal year, blanks upon which such statements shall be made, and the comptroller shall make the statement in detail upon and in accordance with such blanks.

State auditor to furnish blanks.

CHAPTER V.

FINANCES—DUTIES OF TREASURER.

City treasurer—bond—duties.

SEC. 81. Bond and management of finances.—The city treasurer shall give a bond in amount double that of all moneys likely to be in his control at any time, to be executed by at least four (4) sureties, who shall justify in an aggregate amount equal to the penal amount of the bond, and which shall be approved by

the city council, filed and recorded in the office of the city comptroller, and shall be conditioned for the safe keeping of all moneys of the city that may come into his possession, and for the faithful performance of his duty, and the record of such bond, as well as the original, shall be evidence of the contents and execution thereof.

SEC. 82. To receive all moneys.—The treasurer shall receive and safely keep all moneys belonging or accruing to the city, and shall keep accurate and detailed accounts thereof, and in cities of 30,000 population or more he shall be entitled to and shall demand and receive of the treasurer of the county wherein such city is located on the tenth business day of each month all moneys which shall have been paid to such county treasurer during the calendar month preceding for taxes, assessments, and interests and penalties thereon on account of levies and assessments made for the city or for any local improvement.

To receive moneys, to keep accounts.

County treasurer to pay moneys to city treasurer.

SEC. 83. To apportion and deposit all moneys received.—The treasurer shall upon receipt of any moneys on any such account, or upon any such settlement, forthwith credit the same to the various funds to which the same belong, or for which they are levied, and shall deposit the same in the name of the city, subject to the order of the treasurer, in the various depositories which shall have been designated by the city council, and in so doing shall not deposit with any such depository an amount in excess of one-half ($\frac{1}{2}$) of the penalty of the bond furnished by such depository, and all interest that may accrue to any such moneys shall be credited to the current expense fund.

City treasurer to apportion and deposit all moneys.

SEC. 84. To pay money on warrants.—He shall pay money out of the city treasury, except for principal and interest of bonds and certificates of indebtedness, only upon warrants properly drawn, the same having been first authorized by the city council, which warrants shall specify the purpose for which they are drawn and the fund out of which, and the person to whom they are payable; and he shall, when directed so to do, pay employes of any department of the city upon pay rolls; and upon the payment or receipt by him of any such warrant, he shall cancel and file the same, and it shall not be again issued; and he shall keep separately warrants drawn upon each particular fund; *provided*, that no ordinance, warrant or order of the city council or of any officer, board or department of any city shall have any power or authority to authorize the city treasurer to divert any separate funds or money from the specific purposes for which the

To pay moneys on warrants.

Moneys not to be diverted from proper fund.

same were estimated, levied, collected and credited, as aforesaid, or to borrow and transfer any balance or portion of one of the said funds to the credit or for the use of another fund, except in the purchase of certificates as by this act provided.

Monthly re-
ports to coun-
cil.

SEC. 85. To make reports to the city council.—The treasurer shall make monthly statements to the city council, and to each board or department having control of any fund, of the amount received and disbursed on account of each fund controlled by the city council or such board or department respectively, and a statement of the amount of money in the various funds deposited with each depository and in his hands. He shall manage all moneys in the interest of the city, and shall endeavor to secure interest thereon consistent with their safe keeping, but shall not postpone or defer any payment after the same becomes due in order to secure interest. He shall, whenever he shall deem the public interest to so require and whenever notified so to do by the city council, withdraw all funds from any depository, and notify the city council thereof, and shall thenceforth deposit no more therein until directed so to do by the city council.

Depositories.

Bonds of de-
positories.

SEC. 86. Banks or trust companies may become depositories.—Any bank or trust company having its principal place of business in this state may be designated as a depository of the moneys in the city treasury as hereinbefore provided; and when so designated shall execute to the city a bond in double the amount it may desire or agree to receive on deposit, which shall also be executed by five (5) or more sureties, none of whom shall be acting officers of such bank or trust company, who shall justify in an aggregate amount double the penalty of the bond, conditioned for the safe keeping and payment of the funds so deposited and interest thereon, all of which bonds shall be approved by the city council. Such bonds shall be filed and recorded in the office of the city comptroller, and whenever required so to do by the city council, such depository shall furnish a new bond and other sureties to be likewise approved, and the record of any such bond, as well as the original, shall be evidence of the contents and execution thereof, and when the moneys in the hands of the treasurer shall be deposited with any such depository as herein provided, the treasurer and his sureties upon his official bond shall be exempt from all liability by reason of the loss of said moneys while so deposited.

General fund.

SEC. 87. General fund.—There shall be maintained in the city treasury a fund to be designated as the

general fund, into which shall be paid all moneys not specifically designated as belonging to any particular fund, and from which there may be drawn to be credited to any such fund, or for such other purposes as may be designated by law or authorized by the city council.

SEC. 88. Current expense fund.—There shall be maintained in the city treasury a fund to be designated as the current expense fund, into which shall be paid all moneys derived from licenses, rents, fines, costs and judgments collected in favor of the city and not otherwise appropriated, and which shall further be maintained by an annual tax levy to be made by the city council of an amount necessary; and prior to the levy of such tax, a certain proportion of the said fund shall by the city council be set aside to each of the departments dependent thereon, to defray the expense of the ensuing year, and no more money than the sum thus appropriated shall be expended in such fiscal year for such department. Out of such fund shall be paid all the salaries and expenses of the city government not otherwise provided for, and the cost of the operation of all the departments of the city government having no special funds created therefor, and the purchase, construction and repair of all appliances and apparatus used therein.

Current ex-
pense fund.

SEC. 89. Permanent improvement fund.—There shall be created, when not already existing and maintained in the city treasury, a fund to be designated as the permanent improvement fund, into which shall be paid all the moneys received from the sale of any property or permanent improvements of the city not otherwise provided, and such amounts from time to time as may be realized from the sale of any bonds or certificates of indebtedness issued on account of such fund, and all amounts collected on special assessments advanced in first instance out of such fund, and the principal sum of all excess of assessments for water mains and sewers. It shall be further maintained by an annual tax levy to be made by the city council of an amount necessary. And out of such fund shall be paid the cost of acquiring all real property and appurtenances, and the construction and improvement of all buildings and permanent improvements which shall not be otherwise provided for out of other funds, and also the cost of all local improvements, unless the city council maintains a permanent improvement revolving fund; and the city shall maintain such fund sufficient to meet the expenses of all such improvements as the same become payable as in this act provided.

Permanent im-
provement
fund.

SEC. 90. Permanent improvement revolving fund.—

Permanent improvement revolving fund.

There shall be created, if necessary, and maintained in the city treasury, if the city council shall so direct by ordinance, a fund to be designated as the permanent improvement revolving fund, into which shall be paid all accounts realized from the sale of certificates of indebtedness issued on account of such fund, and the principal sum of all special assessments and benefits assessed and levied on account of any local improvements, as well as all taxes levied on account of such fund, and there shall be paid out of such fund that portion of all local improvements for which special assessments are levied, and such amount of excess assessments as may in any instance be refunded, and for no other purpose whatever. And the city shall maintain such fund sufficient to meet the expenses of all such improvements as the same become payable, as in this act provided. And the city council may from time to time by ordinance by a three-fourths ($\frac{3}{4}$) vote, issue, negotiate and sell certificates of indebtedness for the creating or maintaining of such fund, and such certificates shall not be sold for less than par and accrued interest, and shall bear interest at a rate not to exceed five (5) per cent per annum, and shall be made payable from said fund and at such times as the city council may determine; *provided, however*, that the amount of certificates so issued shall not exceed at any one time two-fifths (2-5) of one per cent of the total value of taxable property of such city, according to the last preceding assessment for purposes of taxation; *provided, however*, that cities already having created a permanent improvement revolving fund, by the issuance of bonds up to the limit prescribed by existing laws, shall not have authority to issue certificates of indebtedness as permitted by this section.

Certificates of indebtedness.

Water and light works account.

SEC. 91. Water and light works account.—Where any city is the owner of its own water and light works, or either, an accurate account shall be kept of all rents, fines, dues, assessments, excess of assessments and appropriations made on account of or accruing in the water and lights works department, or either, and the proceeds of the sale of all bonds issued on account of the same, the proceeds of any property used or operated by the department; and also all salaries and expenses incurred in the operation of the department and the maintenance of the system of water and light works, or either, and the cost of the construction, enlargement, alteration or repair of any and all stations, machinery and hydrants, and of the proportion of the cost of any main or appurtenances chargeable to the city and not specially assessable. But all moneys received for rents,

finer and dues shall be paid into and accredited to the current expense fund, and receipts from assessments and other sources shall be paid into and credited to the proper fund above provided. And an appropriation shall be made to defray the expenses of the department from the current expense fund, as appropriations are made for other departments.

SEC. 92. Park fund.—In any city now or hereafter having a system of public parks there shall be maintained in the city treasury a fund to be designated as the park fund, and into such fund shall be paid all amounts received from the sale of any park property, and the principal sum of all special assessments and benefits assessed or levied on account of the acquisition, opening, laying out, extending or improving of any park, parkway or boulevard, and the cost of which is provided to be advanced out of such fund, and all amount of taxes, interest and penalties accruing thereto by reason of the levy of any tax for the use of park purposes, and out of such fund shall be paid all interest upon bonds issued by or on account of parks, and all salaries and expenses incurred in the operation of the department of parks and the maintenance of the park system and the cost of acquiring, opening, laying out, extending and improving any park, parkway or boulevard.

Park fund.

SEC. 93. Library fund.—In any city now or hereafter having a library board there shall be maintained in the city treasury a fund to be designated as the library fund, which shall be under the control of such library board and subject to be paid out upon its order, and into such fund shall be paid all amounts received from the sale of any property under the control of such board, and all appropriations thereto and the proceeds received from the sale of any property under the control of such board, and all taxes, interests and penalties accruing thereto by reason of the levy of any taxes for such board, and out of such fund shall be paid the expenses of such board and all salaries, and the cost of the acquisition, maintenance and operation of the system of public libraries of the city, and of the property under the control of such board.

Library fund.

SEC. 94. Educational fund.—There shall be maintained in the city treasury a fund to be designated as the educational fund, into which fund shall be paid all moneys received from the sale of any property under the control of the educational department of the city, and all taxes, interests and penalties accruing thereto by reason of the levy of any taxes, as well as all other moneys received for educational purposes. Such fund

Educational fund.

shall be under the control of and disbursed upon orders of the board of education in cities where a board of education exists, and out of such fund shall be paid the expense and cost of the maintenance of the educational system of the city, and the salaries and compensation of the officers, teachers and employes thereof; *provided, however,* that nothing herein contained shall apply to any city or village whose territory has heretofore, in whole or in part, been organized as an independent school district, and so exists at the present time.

Interest fund.

SEC. 95. Interest fund.—There shall be maintained in the city treasury a fund to be designated as the interest fund, which shall be maintained by an annual levy upon all the taxable property of the city of an amount which, in addition to any balance remaining in said fund, shall be sufficient to pay the interest to become due during the next fiscal year, upon all the bonds or debts of the city. There shall be maintained in the city treasury such other funds, and the city treasurer shall perform such other duties as are prescribed by law or ordinances.

Sinking fund.

SEC. 96. Sinking fund.—In every city of this state, in order to provide for the certain payment of the bonds of the city, the city council shall establish and maintain a sinking fund, and where the same has been heretofore established, shall maintain the same. It shall provide by ordinance for the care, investment and security of such fund, but shall have no authority to abolish the same until all the bonds of the city are fully paid, nor shall it divert said fund, nor any revenue nor increase thereof, for any purpose.

Investment thereof.

How maintained.

SEC. 97. How maintained.—Such fund shall be maintained by an annual tax levy of one-tenth (1-10) of one per cent of the assessed valuation of all the taxable property in the city which shall be made by the city council at the time of levying taxes for other purposes. There shall also be placed in such fund any and all amounts of taxes collected to pay the interest on the bonds of the city in excess of the amount of such interest, if any there be, and all revenues of the city not otherwise appropriated.

Sinking fund commissioners.

SEC. 98. Sinking fund commissioners.—The mayor, comptroller and treasurer shall constitute a board of sinking fund commissioners, and the city council shall define such of their duties as are not herein enumerated. Such commissioners shall have charge of such sinking fund, and by and with the consent of the city council may invest the same in the bonds and certificates of the city and such other bonds as are permitted for the investment of the permanent school fund of the state of Minnesota, and in the bonds of any city in the state of

Minnesota, and in such county and school bonds in the state of Minnesota as may be approved by the city council, and not otherwise.

SEC. 99. Bonds of city in sinking fund not canceled.—In case of investment in the bonds or certificates of the city for whose benefit the such sinking fund is established, such bonds or certificates shall not be canceled before the maturity thereof, but shall be held by said commissioners, and the interest thereon paid over and applied to the increase of such sinking fund.

Bonds of city in sinking fund not canceled.

SEC. 100. Payment of bonds from sinking fund.—Whenever the principal of any bonds or certificates of the city shall become due such commissioners shall, by and with the consent of the city council, dispose of such of the bonds or certificates belonging to such funds as, with the money on hand belonging to the same, shall be necessary to pay such bonds or certificates.

Payment of bonds from sinking fund.

SEC. 101. Discontinuance of sinking fund tax.—Whenever the amount of such sinking fund shall, with the interest or revenue thereof computed to the time of the maturity of the bonds of the city, be sufficient to pay all of said bonds at the maturity thereof, the levy of the one-mill tax above provided for shall be omitted, but in case, by reason of decrease of interest or depreciation of investment or other cause, such funds shall become insufficient, said levy shall be resumed.

Discontinuance of sinking fund tax.

SEC. 102. Action against commissioners.—In case the sinking fund commissioners, or other city officers, shall violate or neglect to perform any of the provisions of this section, any taxpayer of the city or any owner of any of its bonds shall have the right to maintain in any court of competent jurisdiction any proper action to enforce compliance therewith. The substantial maintenance of the provisions of this and the preceding section for the payment of the principal and interest of the bonds of the city is hereby declared to be part of the contract with the holder of any bonds or certificates of indebtedness of the city that may hereafter be issued, and shall be kept inviolate.

Action against commissioners.

Part of bond contract.

SEC. 103. Bonds for sinking fund.—Whenever such sinking fund shall be insufficient to pay all the bonds of the city that may at any time become due, or when it shall by the city council be deemed advisable and for the interest of the city to take up any outstanding bonds of the city not due, which may be offered for sale by the holders thereof, the city council may issue the bonds of the city, to run not to exceed thirty (30) years, on such terms as to place of payment and rate of interest as may be deemed advisable, to such an amount as may be necessary, to meet such deficiency, or to take up and re-

Bonds for sinking fund—rebonding.

fund such bonds not due; *provided*, that the refunded bonds shall in no case draw a higher rate of interest than the bonds so taken up.

Conference
committee—
duties of.

SEC. 104. Conference committee.—There shall be a conference committee in each city which shall consist of the president of the city council, the president of each election or appointive board and the head of each department of the city. Such committee shall meet on or before the first day of September of each year and shall report to the board of tax levy an estimate of the amount of the expenses of each department for the next ensuing fiscal year, and the amount required in each of the funds for which a levy may be made during the next fiscal year.

Board of tax
levy—duties of.

SEC. 105. Board of tax levy.—There shall be a board of tax levy in each city which shall consist of the mayor, comptroller and president of the city council. Said board of tax levy shall meet at the office of the mayor of said city on the second Monday in September in each year and may adjourn from time to time as may be made necessary by the duties hereby required, but not later than the first Tuesday in October. A majority vote of said board shall decide all questions coming before said board. The said board shall consider, determine and fix a maximum rate of taxation for the various purposes for which the city council of said city is authorized to levy taxes for such year, and it shall be the duty of the said board to reduce the maximum rate of taxation for the various purposes to the lowest practical limit. The city comptroller shall on or before the first Tuesday of October in each year certify and transmit to the city council the maximum rate of taxation for the various purposes for which said council is authorized to levy taxes, as fixed and determined by said board of tax levy, and no taxes shall be levied for said year by said city council in excess of the maximum rate so fixed and determined by said board.

Fixing rate of
taxation.

SEC. 106. Report of estimates.—The city comptroller shall, at the time of the certifying of the report of the board of tax levy, as above provided, report to the city council an estimate of the current expenses of the city for the fiscal year commencing on the first day of January next ensuing, together with a statement of the amount of all revenues received by the city for the then current year.

Comptroller to
submit esti-
mates for
taxes.

City council to
levy tax.

SEC. 107. The city council shall, on or before the tenth day of October of each year, upon the coming in of the said reports of the board of tax levy and the city comptroller, levy an annual tax upon all property in

such city, taxable under the laws of this state, for the purpose of defraying and paying all the expenses, obligations and liabilities existing or authorized by this act, and the said levy so made, as aforesaid, shall be reported by the city clerk forthwith to the county auditor of the proper county and shall be entered upon the tax duplicate of such county and collected annually in like manner as county and state taxes are collected.

SEC. 108. No debt or liability to be created in excess of levy.—Neither the city council of any city nor any officer or officers of said city shall, except as in this act provided, have authority to issue any bonds or create any debt or any liabilities against said city in excess of the amount of revenue actually levied and applicable to the payment of such liabilities.

No debt to be created in excess of levy.

CHAPTER VI.

POWERS AND DUTIES OF CITY COUNCIL.

SEC. 109. Legislative power vested in the city council.—The legislative power and authority of the city shall be vested in a city council, composed of the aldermen of such city as herein provided.

City council.

SEC. 110. Organization.—The city council shall, biennially, on the first Tuesday after the first Monday in January next succeeding the city election, organize, and at the time of its organization, proceed to elect from their own number a president and vice-president for the ensuing two years, and such other officers as may be necessary for the transaction of its business. Such election shall be by ballot, and the affirmative vote of the majority of all the members elect shall be necessary to elect.

Organization.

Officers.

SEC. 111. Duties of president.—The president, and in case of the absence of the president, the vice-president, shall preside over the meetings of the city council, and shall sign all resolutions and ordinances passed by the city council, and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, shall have and exercise all the powers and duties of mayor, under the style of "acting mayor." The acts of such acting mayor shall have the same force and effect as if performed by the mayor.

Duties of president.

SEC. 112. Rules and special meetings.—The city council shall prescribe rules for its own guidance and the time for its regular meetings, and provide for the calling of special meetings. No business shall be trans-

Rules and special meetings.

acted at a special meeting unless the same shall have been specified in the call therefor.

Quorum—compelling attendance.

SEC. 113. Quorum.—A majority of the members shall constitute a quorum, but less than a majority may adjourn from time to time, and a minority as well as a majority may compel the attendance of absent members.

Canvassing votes in city elections.

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111-NW 3

SEC. 114. Canvassing votes.—The city council shall have power to, and it shall, canvass the returns of votes cast at all city elections and declare the results thereof, and shall be the judge of the election and qualifications of its own members.

Ordinances and resolutions.

SEC. 115. Ordinances and resolutions.—Every legislative act of the city council shall be by ordinance or resolution. The style of all ordinances shall be: "The city council of the city of..... do ordain as follows:" No ordinance, except for general appropriations, shall contain more than one subject, which shall be expressed in its title, nor shall any ordinance be amended after its introduction so as to change its original purpose.

Readings of an ordinance.

SEC. 116. Readings of an ordinance.—No ordinance shall be introduced except at a regular meeting, at which meeting it shall have its first reading. Its second reading shall be had at subsequent regular or adjourned regular meetings occurring not less than one (1) week after its first reading, and such ordinance shall not be amended after the meeting at which it receives its second reading. It shall receive its third reading and be passed only at a regular or adjourned regular meeting occurring at least one (1) week subsequent to the time at which the second reading was had.

Passage of ordinances and resolutions.

SEC. 117. Passage of ordinances and resolutions.—Every ordinance, order and resolution, except as in this act otherwise provided, shall be passed by a majority vote of the members of the city council, taken by yeas and nays, which shall be entered upon its journal. It shall then forthwith, before it takes effect, be presented to the mayor for his approval as herein provided. Every

Publication

ordinance, order and resolution shall be published in the official newspaper of the city before it takes effect. No vote of the city council shall be reconsidered or rescinded at a subsequent meeting unless at such a meeting there are present as large a number of its members as were present when said vote was taken.

Contract awarded and warrants drawn pursuant to resolution.

SEC. 118. Contract awarded and warrants drawn pursuant to resolution.—The award of every contract and order for the payment of money shall be made and authorized only by resolution, except that the pay roll of city officers or employes whose salaries or compensation have been fixed by law or resolution may

be passed and warrants ordered therefor by motion.

SEC. 119. Two-thirds vote required.—Every ordinance, order and resolution appropriating money or creating any liability (or for the issuing of certificates of indebtedness in anticipation of tax or assessment levies), awarding or approving of any contract for the payment of money, ordering any condemnation of private property, or the making of any local improvements, shall require a two-thirds ($\frac{2}{3}$) vote of all the members of the city council.

Two-thirds
vote required.

SEC. 120. Issuance of bonds and incurring of indebtedness.—Any ordinance or resolution authorizing the issuance of bonds of the city shall require the affirmative vote of three-fourths ($\frac{3}{4}$) of all the members of the city council; if, however, it receive a majority, but less than a three-fourths ($\frac{3}{4}$) vote of all the members of the city council, it may be submitted for ratification to the electors of the city at the next regular city election, or at a special election called for that purpose, the form of ballot to be used at which shall be prescribed by the city council. If two-thirds of all the electors voting upon such question shall vote in favor of the issuance of such bonds, then said ordinance or resolution shall take effect and be in force; otherwise, the same shall become null and void; *provided, however*, that a majority vote of the members of the city council shall be sufficient to pass an ordinance or resolution authorizing the issuance of bonds for the purpose of paying maturing bonds of the city without submission to the electors; *provided, further*, that the amount of all such bonds, except as hereinafter provided, shall be controlled by the limitations herein made on the power to issue bonds, and the city council shall not in any manner, either with or without a vote of the people, authorize the issuance of any bonds, or create any indebtedness of the city in excess of the said limit herein prescribed, except as hereinafter provided.

Issuance of
bonds and in-
curring indebt-
edness.

1895 Laws.

1895—C. 8

Sec. 120 05 . 100

Bond issue
limited.

SEC. 121. Whenever a special or private ordinance is enacted, the city council shall require a bond from the beneficiary thereof to protect the city against any claim for damages resulting from the grant of right or privilege under such ordinance, the amount of such bond and the conditions thereof to be fixed and determined by the city council, and further security may be required at any time and the terms of the grant shall so provide.

Bond from
beneficiary of
special or pri-
vate ordinance.

SEC. 122. Aldermen not to solicit appointment.—No member of the city council shall demand, request or solicit any board, officer or employe connected with the city to engage or appoint to a position in said city, and upon proof of the violation of this provision the office

Aldermen not
to solicit ap-
pointment
under city.

of such member shall become and be declared vacant by the city council.

Witnesses before city council.

SEC. 123.—Witnesses before city council.—The city council, and any of its committees authorized by it so to do, shall have the power to compel the attendance of witnesses and the production of books, papers and other evidence at any of its meetings, or before such committee, and for that purpose may issue subpoenas or attachments in any case of inquiry or investigation, to be signed by its president, or the chairman of such committee, as the case may be, which shall be served and executed by any officer or person authorized by law to serve subpoenas and other process.

Punishment for refusal to testify.

SEC. 124. Punishment for refusal to testify.—If any witness shall refuse to testify to the facts, within his knowledge, or to produce any books or papers in his possession, or under his control, the city council shall have the power to fine or commit him for contempt.

Witness not to be excused.

SEC. 125. Witness not to be excused.—No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such proceeding or inquiry before the city council or any committee thereof, or before any officer of the city having power to conduct the investigation, but such testimony shall not be used against him in any criminal prosecution except for perjury.

City council to control city finances and property and provide for payment of debts.

Sec. 126 91-M . 486

SEC. 126. City council to control finances—limit on bond issue.—The city council shall control the property and finances of the city, and shall have the power to appropriate money for city purposes only, except as hereinafter provided; to provide for the payment of its debts and expenses; to borrow money on its credit for city purposes, and to issue bonds therefor, as herein provided; to issue bonds in the place of, or to supply means for paying maturing bonds or to consolidate or fund the same; *provided*, that the total indebtedness of such city, except as hereinafter provided, shall not thereby be made to exceed five (5) per cent of the total value of the taxable property of such city according to the last preceding assessment for purposes of taxation, except in cities where such limit has already been reached, or expenditures have already been authorized by vote of the people of said city, which will cause the said limit to be reached, provided, however, that the certificates of indebtedness issued for the creation and maintenance of the permanent improvement revolving fund shall not be considered as a portion of the indebtedness of the city for the purposes of this section. *Provided further*, however, that in case of any such city now organized or territory hereafter to be organized, the total indebtedness

Limit of indebtedness.

of which at the time of the passage of this act exceeds five (5) per cent of the total value of the taxable property of said city, according to the last preceding assessment for purposes of taxation, when such city shall accept the provisions of this act, the city council of such city may issue bonds sufficient to pay all the floating indebtedness then existing of such city, and any certificates of indebtedness of such city then outstanding, the proceeds of which bonds shall be used solely for the purpose of paying such indebtedness; and thereafter the city council of such city shall not be authorized to issue any bonds, except as hereinafter provided, and except for the purpose of paying maturing bonds of said city, until the total indebtedness of said city, except as hereinafter provided, shall be reduced to an amount less than five (5) per cent of the total value of the taxable property of such city, according to the last preceding assessment for the purpose of taxation; and thereafter the city council of such city may issue bonds in accordance with the provisions hereof and within the limits herein first prescribed.

Provided further, that any city having a population of less than 8,000, an indebtedness of not to exceed ten per cent of the total value of the taxable property of such city may be incurred by the issuing of bonds in the same manner as above provided for the incurring of indebtedness not to exceed five (5) per cent.

City of less than 8000 not to exceed 10 per cent of taxable property.

Provided further, that any ordinance or resolution authorizing the issuance of bonds that would increase the bonded indebtedness to an amount exceeding five (5) per cent of the total value of the taxable property of the city, shall be submitted for ratification to the electors of the city at the next regular city election, or at a special election called for that purpose, the form of ballot to be used at which shall be prescribed by the city council. If two-thirds of all the electors voting upon such question shall vote in favor of the issuance of such bonds, then said ordinance or resolution shall take effect and be in force; otherwise, the same shall become null and void.

Proposed indebtedness exceeding limit to be submitted to people.

Provided further, that where any city has, prior to its becoming subject to the provisions of this act, for the purpose of constructing, erecting, maintaining, extending or improving suitable water and light plants, or either of such plants, or for the purpose of purchasing, maintaining, extending and improving any water and light plant, or either of such plants, already in existence in said city, or for the purpose of acquiring and paying for any real estate or other property needed in connection with such water and light plants, or either of them, for the protection of the purity of the water supply, or

Water and light plants—Provision for payment.

otherwise, issued or authorized to be issued bonds, so that the amount of said bonds when added to the other indebtedness of said city shall cause the entire indebtedness thereof to exceed five per cent of the total value of the taxable property of said city, according to the last preceding assessment for purposes of taxation, then said bonds shall not be deemed to be a part of the total indebtedness of said city, which said city is hereinbefore forbidden to make to exceed five per cent of the total value of such taxable property; and thereafter said city may issue such additional bonds as may be necessary to extend, enlarge or improve such water and light plant, or either of such plants, and such additional bonds so issued for such purpose shall also not be deemed to be a part of the total indebtedness of said city, which said city is hereinbefore forbidden to make to exceed said five per cent of the total value of such taxable property. Such bonds shall be authorized, issued, negotiated and sold in the same manner as other city bonds, and shall be a first lien upon all water and light appliances and structures of every kind, if issued for both, or if for only one, then upon the appliances and structures thereof, and all property acquired or used in connection therewith, erected, owned or purchased by said city; and the proceeds of said bonds shall not be expended for any other purpose than that for which they are issued.

Renewal of
bond issue.

Provided further, that the city council by a majority vote thereof may issue such bonds in place of, or to supply means for, paying maturing bonds which have been issued for either of said purposes, or to consolidate or fund the same, and if any plant or plants acquired by the city by purchase have outstanding bonds which by their terms were not due at the time of such purchase, and the city has assumed said bonds or has purchased said plant or plants subject thereto, the city council may at any time exchange the bonds of said city for such outstanding bonds of said plant or plants, or any part thereof, the bonds so exchanged not to bear any greater rate of interest or to be greater in amount than the rate of interest or the amount of the par value of such outstanding bonds for which they are exchanged, and said bonds so issued for the purposes aforesaid or either of them, shall not be deemed to be a part of the total indebtedness of said city, which said city is hereinbefore forbidden to make to exceed five per cent of the total value of the taxable property in such city, according to the last preceding assessment for purposes of taxation.

Sinking fund.

Provided further, that the city council shall set aside annually such portion of the gross income from the water and light works, or either of the city as they shall

determine to create a sinking fund for the payment of said water and light bonds, or either, as they become due.

SEC. 127. Power to levy taxes and make assessments.—It shall have power to fix the rate of, subject to the restrictions in this act contained, and levy and collect general and special taxes for municipal purposes on real and personal property within the city, and to levy assessments for local improvements, and to prescribe the procedure in making local improvements and assessing therefor, in so far as the same is not fixed and prescribed by the terms of this act.

Power to levy taxes and make assessments

SEC. 128. Condemnation.—It shall have power to acquire by condemnation, dedication or otherwise, lands for and to lay out, open, widen and extend streets, alleys, avenues, bridge approaches, parks and public grounds, and to establish the grade and width of such streets, alleys and avenues, and to change the same; and to acquire by condemnation or otherwise easements for slopes, cuts and fills; to acquire by condemnation or otherwise land for docks, landings, wharves and levees, and to construct and improve the same; by condemnation or otherwise to extend or widen any street, alley or highway over or across or to construct any sewer under or through any railroad track, right of way or land of any railroad or other corporation, and to acquire by condemnation or otherwise the right to take, use or divert water from any lake, stream or water course, for the water supply of said city.

Condemnation.

SEC. 129. Improvement and vacation of streets.—It shall have power to extend, widen, straighten, grade, drain, pave, repave, macadamize or otherwise improve any street, alley or public ground, and to lay or order laid sidewalks, curb and gutter thereon, also to establish a building line for any residence, avenue or street, and prevent the erection of buildings in front of such line, but no such line shall be established on any such street or avenue until a majority of the owners of the property affected thereby fronting on such street or avenue shall have petitioned the city council therefor.

Improvement of streets

Building line.

SEC. 130. Maintaining and altering water courses and lakes.—It shall have the power to build and maintain bridges and viaducts, to deepen, widen, dock and cover, wall, alter or change the channel of any water course within the city, and by condemnation or otherwise, to acquire the lands and rights necessary therefor, and may remove any obstruction or unsightly structures from any lake in the city and prevent the dumping of any garbage therein.

Bridges, docks and water courses.

Approval of
plats.

SEC. 131. Approval of plats.—It shall have the sole power to accept and approve plats of additions within or adjoining the city, and to prescribe the width and location of streets and alleys required in such plats of property.

Light, water
and transpor-
tation plants.

SEC. 132. Light, water and transportation plants.—It shall have power to provide for the lighting of streets, avenues and public grounds and buildings, and to purchase, acquire or establish gas, electric and other lighting plants, and to furnish gas, heat and electricity to persons within the city limits on such terms as it may provide; to purchase, procure or establish water works and to provide water for the use and convenience of the inhabitants of such city, and to prescribe and fix the charge for the same and the manner in which the same shall be paid; and to provide for systems of public transportation within the city and to regulate the operation thereof. It shall also have the power to make contracts with individuals, firms or corporations for the use of water for protection against fire and other purposes. It shall also have the power to contract with individuals, firms or corporations for the use of electric or gas light for street lighting and other purposes. Such contracts for water and electricity and gas to be made for such time as the council may deem for the best interests of the city, not to exceed thirty (30) years for water, and not to exceed five years for gas or electricity for street lighting and other public purposes.

Power to erect
and maintain
buildings, &c.

SEC. 133. Power to maintain buildings.—It shall have power by a three-fourths ($\frac{3}{4}$) vote of all the members thereof to erect, provide for, improve and repair a city hall, police stations, fire stations, armories, jail, auditorium, workhouse, houses of corrections for females and children, and parental schools, hospitals, medical dispensaries, sanitariums, public baths and public lodging houses, infirmaries, public cemeteries, foundling homes, school houses, libraries, markets, and market houses, public wharves, pounds, pest houses, quarantine hospitals, dumping places, dumping stations, sewer stations and such appurtenances, accessories, apparatus, and equipments in connection therewith as may be necessary for the transaction of the business of the city, either within or without its limits, for its government, or the operation of its departments; and to acquire by purchase, gift or condemnation lands for sites for said buildings or to be used in connection therewith; and to acquire by purchase, condemnation or otherwise, any real property for municipal purposes, and by resolution passed by a three-fourths ($\frac{3}{4}$) vote of

all its members, to sell or authorize the sale of any of the same. *Provided*, that in any city having a board of education the power to erect, provide for, improve and repair school houses and acquire sites by purchase, gift or condemnation, shall be vested in the board of education of such city.

Except when there is board of education.

SEC. 134. Depositing of funds and auditing of accounts.—It shall designate the depositories of the funds of the city treasurer, and by resolution approve all bonds given for the safe keeping thereof, and it shall examine and audit the accounts of all city officers.

Depositories and auditing account.

SEC. 135. Specific powers.—The city council shall have power by ordinance, not inconsistent with the constitution and laws of the state and the United States, as follows: First—To regulate the use of, and to prevent and remove encroachments on and over streets, alleys, avenues and public grounds and public places, and to prevent injury to the same, and to regulate the construction of coal holes, and hatchways, and coverings, and guards therefor in sidewalks, or to prohibit the same. Second—To regulate and prevent throwing or depositing of ashes, offal, dirt, garbage or any offensive matter in or upon any street, alley or public ground or place, and to require the owner or occupant of any premises to keep the sidewalks along or in front of the same free from snow, ice or other obstruction. Third—To regulate openings and excavations in streets, alleys and public grounds, for the laying of gas, electric conductors, water mains and pipes, or for other purposes, and the building of sewers, tunnels and drains, and to regulate the construction and use of all structures and conduits underneath the streets, alleys and sidewalks. Fourth—To provide for and regulate cross walks, curbs and gutters. Fifth—To regulate and prevent the use of streets, sidewalks and public grounds for signs, sign posts, awnings, awning posts, telegraph poles, horse troughs, racks, and the posting and distributing of handbills and advertisements; to prevent the incumbering of the streets with vehicles, lumber, boxes, or any other things or material; to remove and abate any nuisance, obstruction and encroachment upon the walks, streets, alleys and public grounds; to provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit the same in any portion of the city, at its discretion; and shall prohibit the piling of snow or other incumbrances upon any street by persons owning or operating any railway along or across the same. Sixth—To regulate and control or prohibit the placing of poles and the suspending of wires along or across the streets and alleys, and to

Specific powers

To control streets.

To dispose of refuse, snow and ice.

To regulate excavations in streets.

To regulate cross-walks.

To prevent incumbering streets.

To control poles and wires.

require any and all wires within prescribed limits or throughout the city to be placed, as it may designate, beneath the surface of the streets or sidewalks, and to require any poles already erected or wires already suspended to be removed and the wires likewise placed in conduits beneath the surface of the street, and to compel any or all such wires, pipes and other constructions and conduits to be placed in a common area beneath the surface, upon such terms as it may designate.

To keep hand-bills off the street. Seventh—To regulate and prohibit the exhibition or carrying or distribution or throwing of banners, placards, advertisements and hand bills in or upon streets, public grounds and sidewalks.

Banners and signs. Eighth—To regulate and prevent the flying of flags, banners and signs across the streets, and to regulate the construction and use of bill boards adjacent to or near the streets or public places.

Street traffic. Ninth—To regulate and prohibit traffic and sales upon the streets, sidewalks or public places. Tenth—To regulate the speed of horses and other animals, vehicles, cars and locomotives upon the streets and within the limits of the city, and to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing in the streets.

May regulate speed. Eleventh—To regulate and prescribe the width of tires on the wheels of vehicles used in the city, and the highest weight of a load to be drawn over any street in the city; and may direct upon what streets heavily loaded vehicles may be drawn, and from what streets, avenues and boulevards the same may be excluded, and to license any and all vehicles of every description.

May regulate vehicles. Twelfth—To name and change the names of streets, avenues, alleys and other public places. Thirteenth—To regulate the use of all bridges, viaducts, tunnels, drains, sewers and cesspools within the city, and to prohibit the use or maintenance of cesspools and privies in such portions of the city as it may designate, and to compel sewer connections in such portions, and to make the same and to assess the cost thereof on the property so connected with the sewer.

To name streets. Fourteenth—To regulate the numbering of houses and lots and to compel the owners of houses and other buildings to have the numbers of such houses and buildings shown conspicuously thereon or adjacent thereto.

May regulate bridges, sewers and cesspools. Fifteenth—To prevent and regulate or prohibit the locating, construction and laying of street railway tracks in, under or over any street, alley or public place; *provided*, that it shall grant all public franchises and rights over, upon or under the public streets and highways of the city only to such parties as will contribute to the city the greatest amount of money for and give the best service in the exercise of the same.

House numbering.

Street railway tracks.

Sixteenth—To provide for and change the location, grade and crossing of any railroad, and to compel railroad companies to lower and bridge over their tracks and to fence their respective railroads, or any portion of the same, and to construct cattle guards on the streets and public roads, and keep the same in repair within the limits of the city. In case any railroad company fails to comply with any such ordinance it shall be liable for all damages to the owner of any cattle, horses or domestic animals which he may sustain by reason of injuries thereto while on the tracks of such railroad company, in like manner and extent as under the general laws of the state relative to the fencing of railroads; and actions to recover such damages may be instituted before any justice of the peace or other court of competent jurisdiction. Seventeenth—To require railroad companies to keep flagmen, and to erect and maintain gates at railroad crossings of streets, and to provide protection against injury to persons and property in the use of such railroad. Eighteenth—To regulate or prohibit the whistling of locomotives, and the discharge of steam, cinders, sparks and dense smoke therefrom, and to designate the kind of coal any yard or switch engine may consume while operating within the limits of the city. Nineteenth—To compel railroad companies to raise or lower their tracks to conform to any grade which may be established in said city and to keep such tracks on a level with the street surface, and to compel the planking of such tracks by such railway company so that they may be crossed at any place on the said street, alley or highway. Twentieth—To compel and require railway companies to make and keep open and in repair ditches, drains, sewers and culverts along and under their railroad tracks, so that filthy or stagnant water cannot stand on their grounds or right of way, and so that the natural drainage of adjacent property shall not be impeded. Twenty-first—To restrain the pollution of the waters of any creek, river, pond, lake or water course within or adjacent to the city; to prevent the dumping of refuse or other matter therein, and to provide for the cleansing and purification of water, water courses and canals, and the draining or filling of ponds or pools on private property whenever necessary to prevent or abate nuisances, and to compel the owner or occupant of any building or grounds to remove from the premises owned or occupied by him all such offensive substances as the city council or commissioner of health may direct, and upon his default to authorize the removal or destruction thereof by some officer of the city at the expense of said owner or occu-

Railroad tracks and grounds.

Flagmen—gates.

To regulate operation of locomotives.

Railroad crossings.

Railroads to drain grounds.

To restrain the pollution of water.

To compel owner to drain low ground.

pant. Twenty-second—To compel the owner of low ground where water is liable to collect and become stagnant to fill or drain such low places, and upon his default to authorize such draining or filling at the expense of such owner, and to make the expense of the destruction or removal of such substance, specified in subdivision 21, or expense of filling or draining any such low ground, a lien upon the property from which such substances are removed or destroyed, or in which said low ground is filled or drained, and to make a special assessment for the same upon such property, to be collected as other special assessments are collected. Twenty-third—To regulate the use and maintain general supervision and control of navigable waters within, upon and adjacent to the city limits; to regulate the use of public and private docks, landings, wharves and levees in such city; to establish, alter and maintain docks, dock lines, landings and levees; to regulate and control the anchorage, moorage and landing of all water craft and their cargoes within the city; to license and regulate or prohibit wharf boats, tugs and other boats used about the harbors or within the jurisdiction of the city; and to fix the rates of wharfage and dockage, and to collect wharfage and dockage from all boats, rafts or other craft landing at or using any public landing place, wharf, dock or levee within the city. Twenty-fourth—To make regulations in regard to the use of steamers, towing of vessels, opening and passing of bridges, to appoint harbor masters and define their duties; and to prevent and prohibit the removal of sand and other material from or near any levee, embankment or boundary line of public waters. Twenty-fifth—To fix the amount, terms and manner of issuing licenses not inconsistent with law; *provided* that no licenses shall be issued for a longer term than one year; *and provided further*, that nothing herein contained shall affect laws now in force pertaining to the issuance of licenses for the sale of intoxicating liquors. Twenty-sixth—To license and regulate or prohibit and to suppress billiard, pool, pigeon hole tables, pin alleys, bowling alleys, shooting galleries, taverns and victualing houses.

To control navigable waters and use thereof.

Vessels and harbor masters

To fix licenses.

To license billiard tables, &c.

Auctions and sundry vendors

Shows.

Twenty-seventh—To license and regulate or prohibit conductors of gift, fire, auction or bankrupt sales, itinerant merchants and transient vendors of merchandise, and tax the proceeds of their sale, and to license and regulate runners, agents and solicitors for stages, cars, vessels, public houses or other things or persons.

Twenty-eighth—To license and regulate the exhibitions of common showmen and shows of all kinds, and

the exhibitions of caravans, menageries, circuses, concerts, theatrical performances, skating rinks and all places of amusement and museums, for entrance into which money is charged.

Twenty-ninth—To license and regulate auctioneers, pawnbrokers, second-hand dealers and junk dealers, and to compel all such persons to keep such records of their transactions as it may direct, and make report thereof.

Auctioneers
and pawn-
brokers, &c.

Thirtieth—To license and regulate keepers of intelligence or employment offices, and all persons doing the business of seeking employment for or furnishing employes to others, and to require such persons to keep such records as it may direct, and make reports thereof, and to punish unfair dealings by said persons in their said business.

Employment
offices.

Thirty-first—To license and regulate newsboys, bootblacks, fortune tellers, clairvoyants, astrologists and massage doctors.

Newsboys, &c.

Thirty-second—To license and regulate or prohibit hackmen, draymen, expressmen, porters and all other persons engaged in carrying passengers, baggage or freight, and to regulate their charges therefor, and to prescribe standing places or stations within the streets or near railway stations where the same may remain while waiting for business, and to prohibit the same from standing or waiting for business at any other place than the places so prescribed.

To regulate
hackmen, &c.

Thirty-third—To license and regulate all peddlers, book agents, canvassers, street hawkers, venders and public criers doing business in the city.

Peddlers.

Thirty-fourth—To license and regulate the sale of intoxicating liquors, and the city council may designate within the territory in the city more particularly devoted to trade and manufacture than to residences, certain definite limits to be known as the patrol limits, wherein intoxicating liquors may be sold, and no such limits shall comprise any territory devoted more especially to residence than to trade and manufacture, and no license shall be granted to any person to keep or maintain a saloon or place where such liquor may be sold outside of such limits (except to regularly licensed druggists to sell for medicinal, chemical or mechanical purposes, not to be used or drunk upon the premises), and where such limits now exist or are, or shall be hereafter established by law or ordinance, the same shall not be enlarged or added to except as follows: Upon a petition signed by four-fifths (4-5) of the owners of real property within the territory sought to be included within such limit being presented to the city council, by a four-fifths (4-5) vote of all its members, the city

To license sale
of liquors.

- council may include such territory within such limits; *provided*, that where in any city in the state limits are now prescribed by law, outside of which no license shall be granted to any person to vend and deal in or dispose of any spirituous, vinous, fermented or malt liquors (except to regularly licensed druggists to sell for medicinal, chemical or mechanical purposes, not to be used or drank upon the premises), upon the acceptance of this act by any such city, the limits so established and fixed by law shall remain established and fixed, and no license shall be granted by the city council of such city to any person or persons to vend, deal in or dispose of any such liquors, outside the limits so established, or within any territory where the sale or licensing of persons to sell such liquors is now prohibited by law or ordinance; *provided*, that where any territory has, by law, been incorporated or made part of any city and by such law the city council of such city is prohibited from ever granting a license to sell or dispose of any wines, spirituous or malt liquors within such territory, or any part thereof, no license to sell or dispose of any such wines, spirituous or malt liquors within such territory shall ever be granted; *provided, further*, that in no case shall a license be granted by the city council of such city to any person or persons to vend, deal in or dispose of any such liquors within a distance of three hundred feet of any public school located within such limits.
- Temperance territory undisturbed. Thirty-fifth—To tax, license and regulate distilleries, breweries and pawnbrokers.
- Same. Thirty-sixth—To license and regulate butchers' stalls and shops, and stands for the sale of game, poultry, meat, fish and perishable provisions.
- 300 feet from public schools. Thirty-seventh—To license and regulate plumbers, and to regulate sewer and water connections of all kinds and the laying of branch sewer and water pipes.
- To tax distilleries. Thirty-eighth—To license, regulate and control or prohibit the carrying of concealed weapons, and to provide for the confiscation of the same.
- Meat markets. Thirty-ninth—To license and regulate the keeping of dogs, and to prevent the same running at large, and to authorize the destruction thereof in a summary manner.
- Plumbers. Fortieth—To regulate and prevent the storage of gunpowder, dry pitch, resin, coal oil, benzine, naphtha, gasoline, turpentine, hemp, cotton, nitro-glycerine or any products thereof, and other combustible or explosive materials within the city, and the use thereof, and of lights in stables, shops and other places, and the building of bonfires; and to regulate and restrain the use of
- Concealed weapons.
- Dogs.
- Combustible materials.

firecrackers, torpedoes, roman candles, skyrockets and other fireworks.

Forty-first—To prevent and suppress riots, routs, affrays, disturbances, disorderly assemblies, cock fights, dog fights, sparring matches and all brutal or depraving exhibitions or sports.

Riots, cock and prize fights.

Forty-second—To restrain and punish vagrants, mendicants, street beggars and prostitutes, and to regulate bathing and swimming in waters within the city limits, and to prevent and punish drunkenness, fighting, assaults, batteries and disorderly conduct and obscenity in the city; and to prohibit within the city the circulation, sale or exhibition of libelous, obscene and immoral publications, prints, pictures, advertisements and illustrations, and any printed matter naturally tending to provoke a breach of the peace or impair the morals of the community.

Vagrants, prostitutes, &c.

Forty-third—To suppress bawdy and disorderly houses and houses of ill fame and assignation within the limits of the city.

Houses of ill-fame.

Forty-fourth—To restrain and prohibit lotteries, and to prohibit all descriptions of gambling and playing of cards, dice, hazard, roulette or other games of chance; the use of blackboards, lists and tickets for the purpose of gambling; all pool rooms and betting rooms; and the selling of pools and making of books on horse races or other contests, real or fictitious; to suppress and prohibit all mechanisms and devices used for gambling or betting; to prohibit all fraudulent practices and the use of fraudulent devices, and to authorize the destruction of all instruments used for the purpose of gambling, or other unlawful purpose as aforesaid.

Lotteries, gambling, pool rooms

Forty-fifth—To establish pounds and pound districts; to restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese and other animals, and to authorize the destringing and sale of the same.

Pounds.

Forty-sixth—To establish and regulate the location of markets and market houses, and to provide for the use thereof.

Markets.

Forty-seventh—To regulate the making and sale of bread, and prescribe the weight and quality of the bread in the loaf, and provide for the seizure and forfeiture of bread baked contrary thereto.

Bread.

Forty-eighth—To provide for and regulate the inspection of meats, poultry, fish, game, butter, cheese, lard, eggs, vegetables, flour, meal, milk, fruits and other provisions, and to provide for the taking and summarily destroying of any such provisions which are unsound, spoiled or unwholesome.

To inspect foods.

Hay and fuel.

Forty-ninth—To provide for and regulate the place and manner of weighing of hay and straw and selling the same, and measuring and selling of fire wood, coal and lime.

Weights and measures.

Fiftieth—To provide for a standard of weights and measures and for the inspection and sealing of all weights and measures and to enforce the keeping and use by venders of proper weights and measures duly tested and sealed.

To regulate construction of buildings.

Fifty-first—To regulate the construction of all buildings, chimneys and stacks; to prohibit and prevent the erection or maintenance of insecure or unsafe buildings, walls, stacks or chimneys, and to provide for their summary abatement; to prescribe the depth of cellars, the material and methods of construction of foundations and foundation walls, the manner of construction and location of drains and sewer pipes, the thickness, material and construction of party walls, partition and outside walls, the size and material of floor beams, girders, piers, columns, roof, chimney flues and heating apparatus, and to apportion and adjust such regulations to the height and size of the building to be erected; to regulate the construction of privies and vaults in buildings; to prohibit the construction of buildings not conforming to such prescribed standard as it may prescribe, and to vary such regulations according to the location of such buildings, and to direct the suspension at any time of the erection of any such buildings as does not conform to such regulations.

Fire limits.

Fifty-second—To prescribe the limits within which wooden buildings shall not be erected nor placed nor repaired without permission; and to direct that all and any buildings within such fire limits, when damaged by fire, decay or otherwise, to the extent of fifty (50) per cent of the value shall be torn down and removed, and to prescribe the manner of ascertaining such damages; and to provide for requiring the owners of buildings or other structures, which shall have been destroyed or partially destroyed by fire or otherwise, to take the same or any part thereof down, to prevent accident, and in case of refusal or neglect of said owner to so take the same down when ordered by officers designated by said city council, then to cause the same to be done at the expense of the owner, the cost thereof to be made a special assessment on the land on which said buildings stand, and collected as other special assessments.

Unsafe buildings.

Fire escapes.

Fifty-third—To require the owner or lessee of any building or structure now or hereafter built in the city to place thereon such fire escapes and appliances for protection against or for extinguishment of fires as it

may direct, and to require such owner or lessee to do any act necessary or advisable to lessen the danger to human life in case of fire or accident.

Fifty-fourth—To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens and boilers, and apparatus used in or about any building or manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous; to regulate and prevent the carrying on of manufactures dangerous in causing and permitting fires; to prevent the depositing of ashes or accumulation of shavings, rubbish or other combustible material in unsafe places, and to cause all such buildings and enclosures as may be in a dangerous state to be placed in a safe condition, and to make provisions to guard against fire and to prevent the spreading of fires.

To regulate chimneys and accumulation of rubbish.

Fifty-fifth—To regulate the operation of blasts and blasting, and the construction, location and operation of derricks, windlasses, freight and passenger elevators and other mechanical structures, apparatus or operations, hazardous to life or property.

Blasting, elevators, &c.

Fifty-sixth—To declare the emission of dense smoke from chimneys, stacks, boats and locomotives within the limits of the city a nuisance, and to prohibit and prevent the emission of dense smoke in any portion of or through the city, and to require the use, in connection with furnaces, of such practical appliances as it may designate to prevent and lessen the emission of dense smoke, and to designate the kind of fuel which shall not be used in any furnace, stove or fireplace without the use of such appliances to prevent the emission of dense smoke.

To declare a nuisance.

Fifty-seventh—To regulate the construction of chimneys and smoke stacks, and to prevent the emission of sparks and cinders from the chimneys and smoke stacks, and to declare the emission of sparks and cinders a nuisance, and to prescribe and require the use of such practical appliances as it may designate to prevent the emission of such sparks and cinders.

Smoke consumers.

Fifty-eighth—To declare what shall be a nuisance, to abate the same, and to impose fines upon parties who may create, continue or suffer nuisances to exist.

To abate nuisance.

Fifty-ninth—To provide for and compel the reporting and recording of all births and deaths within the city.

Record of births and deaths.

Sixtieth—To regulate or prevent the burial of the dead within the city, and to regulate and determine the manner in which bodies have been buried in a vault or tomb or other place for the purpose of burial may be removed, and to regulate and control the location of cemeteries and crematories, and to vacate and cause

To regulate burials, cemeteries and crematories.

the removal of bodies interred in any cemetery not existing according to law.

Stock yards
and slaughter
houses, &c.

Sixty-first—To direct the location and regulate the management and construction of stock yards, slaughter houses, packing houses, renderies, tallow chandlers, store-houses for hides, bone or glue houses, gas works, soap factories, dye houses and tanneries within the limits of the city, or within a distance of one (1) mile without the limits thereof.

Breweries,
stables, shops,
&c.

Sixty-second—To direct the location and regulate the use and construction of breweries, dispensaries, stables, livery stables, blacksmith shops and founderies within the limits of the city.

Unwholesome
business.

Sixty-third—To declare what is a nuisance and prohibit any offensive or unwholesome business or establishment within or within one (1) mile of the limits of the city.

To abate pig
pens, &c.

Sixty-fourth—To compel the owner of any grocery, cellar, or soap and tallow chandlery, pig sty, privy or other unwholesome or noxious house or place, to cleanse, abate or remove the same, and to regulate and prescribe the location thereof.

Lumber yards.

Sixty-fifth—To regulate or prohibit the keeping of any lumber yard, and the places for piling of timber, wood and other combustible material within the fire limits of said city, and to require any person maintaining any lumber, shingles or lath piles or mill-wood yards in the city to remove the same when they become dangerous to any building or buildings or other property near the same.

Use of public
buildings.

Sixty-sixth—To establish and enforce rules for the use and regulation of all buildings maintained by the city.

To prevent
games on the
street.

Sixty-seventh—To prevent or regulate the rolling of hoops, playing of ball, flying of kites or any other amusement or practice having a tendency to annoy persons on the streets or sidewalks, or to frighten horses and to regulate the use of bicycles and any other vehicles on sidewalks and streets.

Removal of
refuse.

Sixty-eighth—To require and provide for the removal or destruction throughout the city in such districts or on such streets and avenues, and in such manner as the council may direct, of any and all swill, offal, garbage, ashes, street sweepings, barn yard litter, manure, rubbish, yard cleanings and the contents of privy vaults, cesspools and sinks, decaying animal matter and dead animals, or any other vile or unhealthy material, and to provide for the removal to a point beyond the city limits of any or all such matter or things, and the city council is hereby authorized and empowered to make and enter into contracts with persons or corpora-

tions for such removal of such material and substances, or any of them, upon such terms and conditions as it may deem best, and for any time not to exceed five (5) years.

Sixty-ninth—To do all acts and make all regulations which may be necessary and expedient for the preservation of health and the suppression of disease, and to make regulation to prevent the introduction of contagious, infectious or other diseases into the city, and to make quarantine laws and to enforce the same within the city, and to regulate, control and prevent the landing of persons, baggage, merchandise or property from boats, vessels, cars or other conveyances, whereon, are infectious or contagious diseases or disorders, and to make such disposition of such person or property as to preserve the health of said city, and to prevent infected boats, vessels, cars or other conveyances from coming within or near the limits of the city.

Sanitary regulations.

Seventieth—To establish and regulate public wells, cisterns, hydrants and reservoirs.

Seventy-first—To regulate and control the quality and measurement of gas, and to prescribe and enforce regulations for the manufacture and distribution of gas, and to inspect gas and gas meters, and to control and regulate the measurement and use of electricity and electrical apparatus for furnishing light, heat and power in the city.

Measurement of gas and electricity.

Seventy-second—To establish offices for inspectors, weighers, gaugers, scalers, electricians, wharf masters, market masters, quarantine masters and such other officers as it may be necessary to carry into effect the inspection laws of the city, and the powers herein granted; and to regulate the duties of said officers and to authorize and direct said officers to enforce and carry into effect the provisions of any ordinance passed hereunder.

May create offices for inspectors of various kinds.

Seventy-third—To regulate lodging houses and tenement houses, and to prevent the overcrowding of the same, and to require the same to be kept in proper sanitary condition.

Lodging houses.

Seventy-fourth—To prohibit and punish cruelty to animals and to require the places where such animals are kept to be maintained in healthful condition; and to inspect and regulate dairies and dairy products, and to regulate persons engaged in selling milk within the city.

Cruelty to animals—dairies.

Seventy-fifth—To regulate and require licenses to be obtained for the pursuit and prosecution of such occupation or kinds of business not hereinabove expressly referred to and provided for, as in the opinion of the city council may require regulation and, in general, to

To regulate other occupations.

adopt all such measures and to establish all such regulations, in cases for which no express provision is herebefore made, as the city council may from time to time deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, the suppression of vice and the enhancement of public welfare in said city.

Minors.

Seventy-sixth—To license, regulate and control the employment and occupation of minors on the public streets and other public places.

To clear vacant property.

Seventy-seventh—To compel the owner or owners of vacant property within the city limits to keep the same clear of any brush, timber or other material or substance liable to receive or communicate fire to adjoining property, and in case the owner or owners of such property shall neglect or refuse to remove the same within ten days after being notified so to do by the city council either personally or by one publication in the official newspaper of said city, said city council shall have the authority to have the same done at the expense of owner or owners, and in case such owner or owners shall refuse to pay such expense, shall have the right to assess the same against said property, and to make, enforce and collect such assessment as other assessments for local improvements for benefits are made, enforced and collected.

Appropriating money or granting franchise.

Seventy-eighth—No rule, resolution or ordinance shall be passed appropriating money or obligating any city to pay any money, and no franchise shall be granted save by a three-fourths ($\frac{3}{4}$) vote of all members elect of the council, and it shall require at least a majority vote of all members elect of the council for the council to do any official act, save to adjourn and, save as in this act otherwise expressly prescribed, no council shall have any power or authority to obligate its city beyond the revenues then in the possession of such city or embraced in its then current and uncollected tax levy.

Other powers.

Sec. 136. Other powers.—The city council shall prescribe by ordinance all regulations proper and necessary to carry into effect any and all powers granted by this act, and may provide by such ordinances for the punishment of the violation of any of the same by subjecting the offender to pay a fine not to exceed one hundred (100) dollars, or to be confined and kept at hard labor in the workhouse of the city, or upon the public works, or to be confined in any place of confinement maintained by the city, or in case there be no such place, then to be confined in the county jail of the county in which the city is located, not to exceed the term of ninety (90) days, and may provide that such imprisonment may be

cumulative or for an indefinite term, not to exceed ninety (90) days, subject to suspension or termination by reason of or during good behavior of the person so imprisoned.

SEC. 137. Revocation of license.—The city council shall have power to revoke any license granted by it.

Revocation of license.

SEC. 138. No exclusive nor perpetual franchise to be granted.—No exclusive nor perpetual franchise nor privilege shall be granted by the city council.

No exclusive nor perpetual franchise.

SEC. 139. Protection of streets and city property.—It shall have the power to punish any person wilfully damaging any sidewalk, pavement or appurtenance to the water works or sewerage system, or to any other property in or upon the public works of the city, and shall have power to punish interference with or the withholding of any property of the city by any officer thereof, or any other party, and to require any officer, member or employe of any department to produce the books and accounts thereof at any time for inspection and examination, and at the expiration of the time for which elected, appointed or employed, to turn over the same and all property in his possession to the proper custodian thereof, or his successor in office, and to require reports at any time from any such person of the condition or operation of the business under his management.

Protection of streets and city property.

SEC. 140. Appointment by ballot.—The appointment of any officer by the city council shall require the affirmative vote of a majority of all its members, taken by roll call and recorded by the clerk.

Appointment by ballot.

SEC. 141. Letting of contracts.—It shall have power to let contracts for the erection, improvement and repair of any of the public works or buildings of such city, and for the performance of any work required to be done, and material to be furnished in carrying into execution its powers, and the operation of its department; *provided*, however, that the city council may authorize the doing of the same by the employes of the city under the direction of the department in charge of such work or building, when the cost thereof shall not exceed three hundred (300) dollars. *And provided further*, that where proposals have been received for the doing of any public work, if the lowest of such proposals be higher than the estimate of the cost of such work, the city council may, if it deem it for the best interest of the city so to do, by a two-thirds ($\frac{2}{3}$) vote of all its members elect, direct such work to be done by day's labor.

Letting of contracts.

SEC. 142. Advertisements.—It shall let no contract for the performance of work or the furnishing of material

Advertising for bids.

or supplies or property or lighting service involving the expenditure of more than one hundred (100) dollars by the city, nor authorize the purchase, or sale, of any property of a greater value than one hundred (100) dollars, nor grant any public franchise, nor authorize the sale or negotiation of any bond or evidence of indebtedness issued by the city, nor designate any depository for the money of the city, except upon advertisements for proposals therefor as provided by law.

Lowest bidders

SEC. 143. Contracts to lowest bidders.—It shall let all such contracts to the lowest responsible bidder who will enter into the contract and give security for the performance thereof, and shall let no contract to any party in default to the city in the performance or by reason of any other contract. It shall sell all property, bonds and evidence of indebtedness only to the highest bidder for cash therefor, and shall not sell nor negotiate any such bond or evidence of indebtedness below its par value, the same being its face value and accrued interest. It shall designate as city depositories only such duly incorporated banks or trust companies in this state as shall furnish the bonds required by law, and shall be satisfactory to the city council.

Bonds of contractors.

SEC. 144. Bonds of contractors.—It shall require of every party entering into a contract with the city or any of its departments, or accepting any license, immunity, privilege or franchise from or under the city pursuant to any power of authority herein vested, a bond to be approved by the mayor for the full and faithful performance of such contract, or the just and lawful exercise of the powers and privileges conferred, which bond shall be sufficient in amount to indemnify the city against any loss or damage that may be sustained by a breach of contract, or any wrong committed in the exercise of such power or privilege.

Manner of advertising for bids.

SEC. 145. Advertising for proposals.—Every advertisement for proposals shall be made by the publication in the official paper of the city at least twice, of a notice containing a general description of the contract to be let or the property to be purchased or sold, or bond or other indebtedness to be negotiated, or funds to be deposited, or franchise to be granted, and shall invite sealed proposals therefor, which proposals shall be filed with the city clerk at such time as shall be designated in said advertisement, not less than one (1) week after the last publication. All proposals shall be opened and read by the city clerk in the presence of the city council before any of the same are acted upon or accepted.

Opening bids.

Official paper.

SEC. 146. Designation of official papers.—The city council shall annually, at its second regular meeting in

January of each year, or as soon thereafter as practicable, designate some newspaper printed in the English language which is, and shall have been printed, published and of general circulation in the city, for one (1) year prior to its designation as the official paper of the city, and shall let the contract of publishing the ordinances and proceedings of the council, and other public notices required by law, to such newspaper, as other contracts are required to be let. The compensation paid for printing shall never exceed two-thirds ($\frac{2}{3}$) of the amount allowed by law for legal advertising. Whenever in any city no newspaper is published, any paper printed in the English language, and published in the county in which such city is situated, may be designated as the official paper; *provided*, that if each and all of said proposals shall fix a price in excess of the maximum as herein provided, or if no proposal shall be received, then in either event the city council may adopt such other method for publication of ordinances, proceedings and other matters as it may determine, the compensation in no event to exceed the amount herein provided; *provided further*, that in any city in which three (3) or more daily papers are printed and published in the English language, the city council may, in the first instance, direct that proposals shall be received for the publication, in a daily paper published in the English language, of ordinances and proceedings and other public notices required by law to be published in the official paper of the city; and in such case the city council shall not consider any proposals for the publication of the same in any weekly paper unless no proposal to publish the same in a daily paper, as provided herein, shall have been received.

Sec. 147. Power to enter private property.—It may authorize the entry into any lands or tenements for the purpose of carrying into effect its inspection laws, and may enter upon any lands to lay any branch sewer or water main, or drain any marsh, or make any changes or erections in, upon or about any water course.

May enter private property.

Sec. 148. Relief funds.—It may set aside from the fines and penalties paid to the city such sums as it may deem proper for the maintenances of a police relief fund, pension fund and a fireman's relief fund.

Relief funds.

Sec. 149. Mayor's contingent fund.—The city council of each city shall have power to appropriate by resolution, passed by a three-fourths ($\frac{3}{4}$) vote of all the members elect of such council, such amount for the mayor's contingent fund as it may deem proper to advance the interest of the city; *provided*, however, that the sum so appropriated shall not exceed in any one year such

Mayor's contingent fund.

sum as would be realized by the tax of one-fifteenth (1-15) of one (1) mill upon the assessed valuation of all the taxable property in such city, and that none of such funds shall be used for any charitable or religious purpose, nor for the use of any person, company or corporation outside of the state of Minnesota.

Vacation of
streets.

Sec. 150. Vacation of streets.—The city council of each city shall have the sole and exclusive power to vacate and discontinue public grounds, streets, alleys or highways within said city, and also all county, territorial and state roads, whether actually traveled and used at the date of the petition for such vacation or not. No such vacation or discontinuance shall be granted or ordered by the city council except upon the petition of a majority of the owners of property on the line of such public ground, street, alley or highway, resident within such city, which petition, provided for in this section, shall state the facts and reasons for such vacation and be accompanied by a plat of such public grounds, street, alley or highway, county, territorial or state road proposed to be vacated, and shall be verified by the oath of one (1) of the petitioners. The city council, if it deem it expedient that the matter be proceeded with, shall order the petition to be filed of record with the city clerk, who shall give notice by a publication in the official paper of the city for four (4) weeks at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the city council at a certain time and place therein specified, not less than ten (10) days from the expiration of said publication. The city council, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested, and thereupon, after hearing the same, may by resolution passed by a three-fourths ($\frac{3}{4}$) vote of all the members elect declare such public ground, street, alley or highway, county, territorial or state road vacated, which resolution shall, before the same shall go into effect, be published as in the case of ordinances, and thereupon transcript of such resolution, duly certified by the city clerk, shall, before the same shall take effect, be filed for record and duly recorded in the office of the register of deeds of the county wherein the property is situated.

Vacation to
take effect—
when.

Sec. 151. Vacation to take effect, when.—No such vacation shall take effect until the value of the premises so vacated shall have been deposited in the treasury of the city, which value shall be fixed by a resolution of the city council by a three-fourths ($\frac{3}{4}$) vote of all the

members elect, and shall in no case be less than the proportionate average value of the abutting property according to the last previous assessment for taxation; *provided*, in case the city council shall have approved a plat embracing the premises proposed to be vacated, which plat dedicates to the public use, in the opinion of the city council, land equivalent in area and value to the premises sought to be vacated, then the city council may, by a three-fourths ($\frac{3}{4}$) vote of all its members, accept said plat and pass said resolution of vacation, and after said plat and resolution have been recorded in said register of deeds' office said vacation shall be valid without the payment of any money into the said city treasury; *provided, further*, however, that vacations and discontinuances of such county, territorial or state road may be granted upon the petition of a majority of the owners of property through which the same or portions thereof sought to be vacated exist, when such owners shall have platted the same and shall have provided in lieu of such road sufficient streets in the opinion of the city council, of which fact the approval and acceptance of such plat and the resolution of vacation shall, when recorded, be conclusive evidence.

Recording.

SEC. 152. Prohibiting any relief from assessment, etc.—The city council shall not have the power to relieve any citizen from the payment of any lawful tax, assessment, judgment, fine or license, bond or security, nor to exempt him from any burden imposed upon him by law or ordinance, or to ordain the payment of any demand not authorized and audited according to law. The city council shall not have power to ordain nor authorize any compromise of any disputed demand arising under contract, nor any allowance therefor or therein, except as provided in the contract therefor. The city council shall not have power nor authority to authorize or ordain the payment of any damages or claim for alleged injuries to persons or property except by resolution, adopted by the vote of three-fourths ($\frac{3}{4}$) of all the members elect.

Assessment—
no escape.

Sec. 153. Compilation of laws and ordinances.—The city council may from time to time provide for the compilation and publication, in book or pamphlet form, of the ordinances and regulations of the city, rules of the city council, police rules, regulations adopted by the board of health, and such resolutions of the city council as it may designate; and may provide for the distribution by sale or otherwise of copies of such compilation and publication; and such books or pamphlets so issued, purporting on the title page to have been published by authority of the city council and to con-

Compilation of
laws and ordi-
nances.

tain the ordinances of the city or other matter in this section above mentioned, shall be prima facie evidence of their contents in all courts of this state; and in the absence of evidence to the contrary, all ordinances, rules, regulations and resolutions found therein shall be presumed to have been duly and legally passed, promulgated or adopted. Copies, duly certified by the city clerk of such city, of ordinances, or rules, regulations or resolutions in writing or other papers in his official custody, or of any records kept by him in his official capacity, shall also be received as prima facie evidence of their contents in all courts of this state. All municipal courts, justice courts and other city courts located in such city shall take judicial notice of all ordinances duly passed by the city council of such city.

Care of streets.

SEC. 154. Care of streets.—The city council shall have and maintain an active care, supervision and control of all public highways, bridges, streets, alleys, public squares and grounds, as in this act provided, and of all other public improvements and public property within the limits of the city, and shall cause all streets which have been opened and graded under the authority of the city or with its assent, to be kept open and in repair and free from nuisances.

City not liable for damages by railroads.

SEC. 155. City exempt from liability for injuries caused by railway cars.—The city shall be exempt from all liability or damages caused by railroads, either to persons or property, when said railroads or engines or cars are passing along, across, under, over or upon any street, lane, alley or other public way within the limits of the city.

CHAPTER VII.

POLICE DEPARTMENT.

Organization.

SEC. 156. Organization.—There shall be in each city a police department, of which the mayor shall have control and supervision and be the chief executive officer and head, and which shall consist of a superintendent of police and such other officers of police, patrolmen, detectives and employes as may from time to time be authorized by the city council. Such superintendent of police and all other officers of police, patrolmen, detectives and employes so authorized shall be appointed and may be removed by the mayor of such city.

Eligibility.

SEC. 157. Eligibility.—No person shall be eligible to appointment as superintendent of police, or other officer of police, or patrolman who is not a citizen of the

United States and able to read and write the English language, and all officers, patrolmen and superintendent, shall have been for at least three (3) years residents of the city wherein appointed before they are eligible to such appointment.

SEC. 158. Extra police.—On occasions of large public gatherings, or in case of riot, unlawful assemblages or disturbances requiring additional police force the mayor may appoint such number of special or temporary police officers at a compensation not exceeding three (3) dollars a day, as he may deem necessary; but such special or temporary appointment shall not continue in force for more than one (1) week without consent of the city council.

Extra police.

SEC. 159. Special police.—The mayor may likewise, at the request of persons, firms, corporations, societies or organizations requiring special police protection, appoint special police or watchmen, who shall serve without expense to the city, and possess police power to preserve the peace, protect property and make arrests for crime at such places and within such limits as may be designated by the mayor; but such special policeman or watchman shall not exercise any official authority nor wear any badge of office outside of the limits so designated, except that, in the event of an arrest made by him, he may so wear such badge while taking the person so arrested to the nearest police station or city lock-up.

Special police.

SEC. 160. Appointments.—The mayor shall, within twenty-four (24) hours after making any appointment of superintendent of police, officer of police, patrolman, detective or employe, or after removing any person from office in said department, notify the city clerk in writing of such appointment or removal.

Appointments.

SEC. 161. Powers of police.—The superintendent of police and all regular police officers of such city shall possess the powers of constables at common law, and under the statutes of this state, and in addition thereto shall have the power to serve and execute any warrant, summons, commitment, writ, subpoena and process issued out of the municipal or other court of such city, and shall have authority to pursue and arrest in such city or in any part of the state beyond the limits of such city any person charged with, or who has committed any violation of any ordinance of such city, or any other offense or crime within the limits of such city; *provided*, that no such officer shall have power to arrest without a warrant, except in cases in which arrests without a warrant are authorized by the General Stat-

Powers of police.

utes of the state; and the violation of any city ordinance shall be deemed a public offense.

Civil service.

SEC. 162. Appointments and promotions.—All appointments and promotions in the police force in the city, except superintendent of police, shall be under and in pursuance of rules providing for the ascertainment of the comparative fitness of all applicants therefor by a systematic, open and competitive examination thereof, which rules it shall be the duty of the mayor and superintendent of police to make, subject to the general laws of the state.

Approval of rules.

SEC. 163. Approval of rules.—Said rules shall be submitted to the city council for approval, and when so approved they shall be adopted and enforced as permanent rules, and shall only be changed in the manner herein provided for their adoption.

Appointment subject to rules.

SEC. 164. Appointment subject to rules.—No officer nor member of said police force shall be appointed until such rules have been promulgated, except to fill vacancies caused by death or resignation, nor shall any member of said force, under the grade of captain, be removed until after charges are preferred in writing and an opportunity to appear and defend against the same with witnesses before the city council, but any member may be suspended pending such hearing.

Suppression of riots.

SEC. 165. Suppression of riots.—The mayor, or acting mayor, the superintendent of police, the captain of police, the sheriff of the county and all police officers shall be conservators of the peace, and may command the peace, and suppress in a summary manner all riotous or disorderly behavior or proceedings within the city limits, and for such purpose may require the assistance of all bystanders, and, if need be, of all citizens; and in suppressing any riotous and disorderly behavior or proceedings, the supreme authority to command and direct shall reside in the senior or superior officer present, in the order in this section above mentioned.

Penalty for failure to assist

SEC. 166. Penalty for failure to assist.—If any bystander or citizen shall refuse to aid in preserving the peace, or in suppressing riotous or disorderly behavior or proceedings, when thereto required as provided in the last preceding section, he shall be liable to a fine of not less than ten (10) dollars or more than one hundred (100) dollars.

Acting without authority.

SEC. 167. Acting without authority.—If any person shall without lawful authority assume to act as a police officer of said city, or falsely pretend to be authorized so to act, or wear the badge of a police officer within said city he shall be liable to a fine of not less than ten (10)

dollars nor more than fifty (50) dollars, or to imprisonment for a term not exceeding thirty (30) days.

SEC. 168. Citizens must assist.—If any person shall willfully refuse or neglect to assist the superintendent of police or any police officer of said city in making a lawful arrest when requested by such superintendent or officer so to do, or shall willfully resist, impede or obstruct such superintendent or officer in making or attempting to make a lawful arrest, or in the performance of any other official duty, such person so offending shall be liable to a fine of not less than ten (10) dollars or more than fifty (50) dollars, or imprisonment for a term not exceeding thirty (30) days.

Citizens must assist.

SEC. 169. Police relief fund.—In any city having, or in which there shall hereafter be, a police department relief association, whose articles of incorporation and by-laws shall have been approved by the city council, there shall be paid to such association, in addition to other sums now provided by law, the following: All rewards for the apprehension and conviction of offenders, all witness fees or other fees, emoluments, gifts or gratuities received or receivable by any member of the police department in the line of his duty; such portion of all sums obtained from the forfeiture of city criminal bonds and receipts from the licensing of dogs, and of moneys paid into the municipal court of any police court of the city as fines collected in criminal cases as the city council may determine.

Police relief fund—how maintained.

SEC. 170. Treasurer.—The city treasurer shall be treasurer of the police department relief association, and all moneys paid for said association shall be paid directly to said treasurer.

Treasurer.

SEC. 171. Police pension fund.—Any city may, by ordinance, provide for the establishment of a police pension fund to be under the control of a board of trustees to consist of the mayor, controller and treasurer, and appropriations therefrom for pensions may be granted to any member of the police force serving as superintendent, captain, lieutenant, sergeant, inspector, detective or patrolman at the time of the passage of such ordinance, or to any person who has been or may hereafter become a member of the police force in either of the capacities aforesaid, to be paid from the police pension fund by appropriations thereof, as follows:

Police pension fund—how distributed.

First.—To any such member of the police force in either of the capacities aforesaid, who shall have performed police duty in said city for a period of twenty-five (25) years or upwards, and shall have arrived at the age of not less than fifty-five (55) years, and who shall have retired from such service, and during the

period of such retirement; *provided*, whenever a police officer who has been or hereafter may be so pensioned shall thereafter accept a position on the police force, such officer shall forever forfeit his rights to be placed back on the pension list.

Second.—To any such member of the police force who shall be rendered unfit for service as a member of such force from injury received while in actual performance of police duty. Such sum awarded, granted and paid as a pension to any person, as provided in subdivisions 1 and 2 above, shall not amount to an annual sum during his lifetime greater than one-half ($\frac{1}{2}$) the full pay of a member of said police force of the rank of the member so pensioned; *provided, however*, that no pension granted under the provisions of this act shall exceed the sum of six hundred (600) dollars per annum nor a greater total than four thousand (4,000) dollars.

Third.—To the widow (while she remains such) of any member of the police force in either of the capacities aforesaid at the time of, or prior to the passage of this act and such ordinance, or who may thereafter become a member of the police force, who shall have been killed while in the actual performance of police duty, or shall have died from the effect of any injury received while in the actual discharge of such duty, a sum not to exceed four hundred (400) dollars per annum, and such pension may date from the time of the death of such member, the total amount not to exceed two thousand (2,000) dollars.

Fund—how
constituted.

Sec. 172. Fund, how constituted.—Such police pension fund shall consist of the appropriation of such portion of the moneys paid into the municipal or other court of the city as fines collected from criminal cases, as the city shall in such case determine, and all fines imposed by the mayor of such city upon members of the police force; and if, at any time, there shall not be sufficient money to the credit of the police pension fund to pay all claims against it in full an equal percentage shall be paid upon such claims to the full extent of the fund on hand, and shall be accepted as payment in full of his claims by the pensioner, and no pensioner shall have a legal or equitable demand or cause of action against said city, save as to the extent of his proportionate share of such fund under the provisions of this act and such ordinance; *provided, however*, that any person who has been heretofore retired from any police force of any city in this state under any existing law, shall continue to receive from such city such sum as has

been heretofore granted to such person under any such law.

CHAPTER VIII.

FIRE DEPARTMENT.

Sec. 173. Appointment of chief engineer.—In all cities of the state maintaining a fire department, the city council shall at the time of the appointing of other city officers, appoint a chief engineer of the fire department, and in cities not now having a fire department the city council thereof may by ordinance establish such department. Appointment of chief engineer

Sec. 174. Duties of engineer.—The chief engineer, under the direction of the city council, shall have the custody and general superintendence of the fire department, engines and engine houses, hooks and ladders, hose and horses, public cisterns and other property and conveniences for the extinguishment and prevention of fire; and it shall be his duty to see that the same are kept in order, and to see that the rules and regulations and ordinances relative to the fire department and to the prevention and extinguishment of fires are duly executed; and to make detailed and particular report of the state of the department and conduct of the members thereof and such other matters as may be required by the rules and regulations of the city council. Duties.

Sec. 175. The city council may provide for the appointment of one or more assistant engineers and for one or more fire wardens, and shall provide for the appointment of a proper number of firemen and such number of hook and ladder men and hose men as they may deem necessary, and shall fix the salaries thereof. Assistants.

Sec. 176. The chief engineer shall appoint, subject to the regulations herein made, all assistants, wardens, firemen, hook and ladder and hose men provided for by the city council, and shall report such appointments to the city council. How appointed

Sec. 177. All appointments and promotions to and in the fire force made by the chief engineer shall be made under and in pursuance of rules to be prescribed by the city council, providing for the ascertainment of the comparative fitness of all applicants therefor by a systematic, open and competitive examination of such applicants. No appointments to positions in said fire force shall be made by the city engineer except of men in said force prior to the adoption of this act, until such rules have been promulgated, except to fill vacancies caused by death or resignation. Appointments and promotions—rules.

Punishment
and discipline.

SEC. 178. The city council shall prescribe rules for the punishment and discipline of members of the fire department, and may provide for the summary suspension, without pay, of any member of the department, except the chief engineer, for any misconduct, insufficiency or insubordination, and the chief engineer shall have power to make such suspension.

Removals.

SEC. 179. The chief engineer of the fire department shall be subject to removal by the city council in the same manner as herein provided for the removal of other city officers. Any other member of the fire department may be removed upon recommendation of the chief engineer of the department by the chief engineer, mayor and president of the city council, acting as a board of removal, whenever such board shall deem it for the best interest of the city to remove such member; and the chief engineer shall have authority to suspend, without pay, any member of the department pending an investigation by said board concerning the removal of such member. But no member of said department, under the grade of captain, shall be removed until after charges are preferred in writing and an opportunity to appear and defend against the same with witnesses before said board.

Reappoint-
ments.

SEC. 180. In appointing members of the department, as herein provided, the chief engineer shall, in all cases, reappoint the members in the department immediately prior to such appointment, unless said board of removal shall deem it for the best interest of the city not to reappoint certain members of the department, and in that case the chief engineer shall at the time of reporting to the city council the appointments made by him, report the certificate of said board of removal, stating the names of the members that such board deemed should not be reappointed.

Duties of the
force.

SEC. 181. Duties of fire force.—The city council shall prescribe the duties of the chief engineer and other members of the fire department at fires, and may vest in them such power as shall be deemed necessary to preserve property from being stolen, and to extinguish and prevent fires; but in no case shall any member of said council, or any officer of the city direct the chief engineer or assistants during any fire; the council may provide for the removal and keeping away from fires of all idle, disorderly or suspicious persons, and may confer powers for that purpose upon the engineer, fire wardens and other officers of the city; they shall require reports from the chief engineer and other officers in charge of the department of all fires, fire alarms, losses and insurance on all property destroyed, and keep proper

record thereof, and it shall be competent for the city council to provide for the sending of any steam or fire engines, with hose and apparatus, to the relief of any community in the vicinity of the city.

SEC. 182. The city council shall have power to establish and maintain an efficient system of fire alarm, telegraphic and telephone apparatus, and to purchase or lease such fire engines and other fire apparatus and fire protection as may be necessary to secure the highest efficiency of the department.

Fire alarms
and apparatus.

SEC. 183. The city council may provide for the allowance to firemen injured in actual service in the department and rendered incapable of performing the duties of firemen, full or half pay for a period not to exceed twelve months, but not exceeding in any case the period of disability; but this provision shall not apply to cities where a fireman's relief fund is maintained in whole or in part by funds received otherwise than by contribution of the firemen.

Compensation
to injured fire-
men.

SEC. 184. Destruction of buildings adjacent to fires. — Whenever any building of said city shall be on fire it shall be the duty of and be lawful for the chief engineer to order and direct such or any other building in the vicinity, which he may deem hazardous and likely to communicate fire, or any part of such buildings, to be pulled down and destroyed, and no action shall be maintained against any person or said city therefor.

May destroy
adjacent build-
ings.

CHAPTER IX.

DEPARTMENT OF PARKS.

SEC. 185. In addition to the other city officers in cities maintaining a system of public parks, there shall be a board of park commissioners, consisting of five members, and who shall serve without compensation, who shall be appointed by the mayor and who shall each hold office for the term of five years and until their successors shall have been appointed and qualified; *provided, however*, that in making the first appointment under this act such commissioners shall be so classified that the term of office of one shall expire on the second Tuesday of the first January after his appointment; one on the second Tuesday of the second January after his appointment; one on the second Tuesday of the third January after his appointment; one on the second Tuesday of the fourth January after his appointment; and one on the second Tuesday of the fifth January after his appointment; and thereafter upon the expiration of terms of office appointments shall be made for

Appointment.

full terms of five years; *provided, however*, in filling of vacancies appointments shall be made only for unexpired terms; and in cities not now maintaining a system of public parks the city council thereof may by ordinance establish a system of public parks, and thereafter there shall exist in said city a board of park commissioners, who shall be appointed as herein provided.

Superintendent

SEC. 186. The board of park commissioners shall appoint a superintendent of parks and may employ and dismiss such employes as may be necessary in the maintenance of said parks, and fix the compensation of such employes, subject, however, to the rules and regulations of the city council governing city employes.

Duties.

SEC. 187. The superintendent of parks shall, under the direction of the board of park commissioners, have general supervision of all work and improvements on any public park, parkway or boulevard in the city, and shall see that all ordinances and rules of the city council relating to such public parks, parkways and boulevards are properly enforced.

Powers of commissioners.

SEC. 188. The board of park commissioners shall have power to recommend to the city council the acquirement by gift, purchase or condemnation of real estate for public parks, and may from time to time make such recommendations affecting the public parks of the city as they may deem proper.

CHAPTER X.

CIVIL SERVICE.

Examinations.

SEC. 189. Examinations.—All assistant engineers, inspectors and assistant inspectors, the proper discharge of whose duties require technical skill, knowledge or training, shall be appointed only after a fair competitive and open examination of all applicants for such appointment, said examination to be conducted before an impartial board of not less than three nor more than five experts, unless otherwise provided by law, which board shall certify to the qualification of such candidates as they deem thoroughly competent, and no candidate shall be appointed until so certified to. The city council shall by ordinance provide for the appointment of such board and the time of holding and manner of conducting such examination; *provided*, any candidate for any of said positions who, at the time, is holding the position to which he desires reappointment, if such officer has once been examined and certified to as competent, he need not be again examined as a condition of such reappointment, and preference over other

applicants shall always be given to any such officer who has been efficient in the discharge of his duties.

SEC. 190. Clerks.—All clerks employed in the various departments shall be appointed for competency only, and in making appointments to any such position preference shall always be given to the person occupying such position, if he has been efficient in the discharge of his duties. Clerks.

SEC. 191. Registration of laborers.—The city council shall provide books for registering the names of persons desiring employment on the public works of the city, and shall prescribe rules governing such registration. Any person desiring employment by the city shall first register his name as herein provided and shall be a *bona fide* resident of such city. Registration of laborers.

SEC. 192. Selection of laborers.—The city council and all heads of departments empowered to employ labor under the provisions of this act shall give preference to persons registered as provided in section one hundred and eighty-nine, and shall, as far as possible consistent with the best interests of the city, give employment to the persons so registered in the order of their registration. Laborers—how selected.

CHAPTER XI.

CITY CLERK.

SEC. 193. City clerk.—The city council, at the meeting of its organization, shall appoint a city clerk, whose term of office shall be two (2) years, and who shall keep the corporate seal of the city and all the papers and records of the city, except as in this act otherwise provided, and a record of the proceedings of the city council, whose meetings it shall be his duty to attend. City clerk—appointment.

SEC. 194. Copies of records—legal evidence.—Copies of all papers filed in his office and transcripts from the records of the city council, certified by him under the corporate seal, shall be received in evidence in all courts the same as though the originals thereof were produced by the city clerk at the trial, and he shall receive for certified copies of papers and instruments the same fee as allowed by law to the clerk of the district court of the county in which such city is situated, for like services. He shall draw and sign all orders on the treasury on the order of the city council, and shall keep a full and accurate account thereof in the books provided for that purpose, and shall sign all contracts and affix the seal of the city thereto and deliver the same to the city controller. All fees received by him shall be covered into the city treasury each month. Copies—records—legal evidence.

May admin-
ister oaths.

SEC. 195. May administer oaths.—The city clerk shall have power to administer oaths and affirmations and take and serve acknowledgments of deeds and other instruments in all cases in which the same are required or sanctioned by law, and shall perform all other services required of clerks in cities or townships in this state.

Official publica-
tions.

SEC. 196. Supervision of official publications.—The city clerk shall have the supervision of all printing and official publications ordered by the city council. He shall cause to be published in the official paper the minutes of all proceedings of the city council as soon after each meeting as practicable.

Assistants.

SEC. 197. Assistants.—The city clerk shall have power when authorized by the city council to appoint a deputy city clerk, who shall hold his office during the pleasure of the city clerk, and shall have authority, under the direction of the city clerk, to perform all the duties of the city clerk. The city clerk may, when authorized by the city council, select such other assistants as may be necessary in his office, the salary of said assistant city clerk and all such assistants to be paid by the city, the amount of compensation to be fixed and determined by the city council.

Salaries of
Assistants.

CHAPTER XII.

CITY ATTORNEY.

Appointment—
term.

SEC. 198. Appointment.—The city council, at the meeting of its organization, shall appoint a city attorney, whose term of office shall be two years.

Duties.

SEC. 199. Duties.—He shall be the legal advisor of the city and shall perform all the services incident to the office, and shall appear in and conduct all civil suits, prosecutions and proceedings in which the city shall be directly or indirectly interested, except as otherwise provided in this act, and, when necessary, take charge of and conduct all prosecutions for violation of city ordinances and perform such other duties as may be required of him by law.

Opinions.

SEC. 200. Opinions.—He shall, when so required, furnish opinions upon any subject submitted to him by the city council or any of the committees or boards thereof. He shall advise the city council and all city officers in respect to their official duties. He shall personally or by an assistant attend all the meetings of the city council and such of its committees or boards as shall request his attendance, and no board, department nor officer of

the city shall have or employ any other attorney in connection with their official duties.

SEC. 201. Assistants.—The city council may determine the number and fix the salaries of such assistants and clerical force as may be necessary in the department of the city attorney, and all such assistants and clerical force shall be appointed by the city attorney. He shall designate one of such assistants as the first assistant city attorney. Such first assistant attorney shall have, in the absence or disability of the city attorney, the same powers and duties as are prescribed herein for the city attorney, and the city council may provide for such temporary assistants to the city attorney—to be appointed by the city attorney—as may be necessary. In case no assistant city attorney is provided for, the city attorney, in case of absence, sickness or other inability, may at his own expense appoint an attorney to act in his stead for the time being.

Assistants—
duties.

SEC. 202. Appeals.—The city attorney, unless otherwise ordered by the city council, shall have the right to decide whether or not, in any case in which the city is a party in any court, to take an appeal from any order, judgment or determination of the court, and in case of any such appeal, or in case of suing out any writ of error, certiorari, mandamus, attachment or any writ from any court, the city shall not be obliged to give any bonds, either for costs, supersedeas or any other purposes whatever. The city attorney shall notify the city council of the result of all actions to which the city is a party, or in which it is interested.

Appeals—ac-
tions.

CHAPTER XIII.

CITY ASSESSOR.

SEC. 203. Appointment.—The city council, at the meeting for its organization, shall, by resolution, appoint a city assessor, whose term of office shall be for two (2) years.

Appointment—
term.

SEC. 204. Deputy assessors and clerks.—The city assessor shall each year appoint such number of deputies as may be required to enable him to properly perform the duties of his office, who shall serve during the time of the making of the list of property for taxation, but only so long as their services may be needed. The city assessor shall discharge such deputies from time to time as he can spare, and the city council may order said deputies or any of them to be discharged at any time. The city assessor shall present to the city council at the second regular meeting thereof in March in each year

Deputies—ten-
ure.

the names of such persons as he shall desire to have for deputies, designating in each case the time when the appointees shall, with the approval of the city council, commence to serve as such deputies, which time shall be long enough before May 1st so that each may, before that day, be assigned to his portion of the work and be properly prepared and instructed to do the same. The city assessor shall also employ such clerks as may be necessary, their number to be reduced or increased as occasion may require or the city council may direct.

Duties.

Sec. 205. Duties.—The city assessor and his deputies shall qualify in the manner and form prescribed by general law. The city assessor and his deputies shall perform all the duties required by the General Laws of this state respecting the listing of property for taxation.

Duties of deputies.

Sec. 206. Duties of deputies.—Notices may be signed and given and other acts in the line of his duty done by any deputy assessor in the name of the city assessor; *provided*, however, that in cities situate in counties where there is a county assessor provided for by law, then such city, if accepting the provisions of this act, shall continue to be governed in that respect under such law, and shall not elect a city assessor as provided in this act.

Board of equalization.

Sec. 207. Board of equalization.—The board of equalization shall consist of the president and four (4) members of the city council, to be chosen by it. Such board shall meet at the city council chamber on the second Monday in July of each year, and the members shall be sworn according to law as such board of equalization, and at such time and from day to day thereafter as they may adjourn to, such board shall proceed to amend, revise and equalize the assessments made by the assessor.

Powers of board.

Sec. 208. Powers of board.—Such board shall be vested with all the powers which are or may be vested in county boards of equalization, so far as applicable, but shall not be restricted as to reducing the aggregate sum of real or personal property as returned by the assessor. It shall complete such equalization on or before the second Tuesday in August of each year, and when completed the same shall be certified to the county auditor by the board of equalization.

Grievances.

Sec. 209. Grievances.—Any person deeming himself aggrieved by any assessment may appear before such board personally or by counsel and present his grievance for consideration, and the said board shall have power to compel the attendance of witnesses and the

production of papers, and to examine any person as to any taxable property in said city.

CHAPTER XIV.

CITY ENGINEER.

Sec. 210. Appointments—In cities containing a population of over fifteen thousand inhabitants, the city council shall, at the meeting for its organization, appoint a city engineer, who shall be a practical civil engineer, and who shall perform and have direction of all civil engineering work for all departments of the city. In cities containing a population of less than fifteen thousand inhabitants the city council shall, at the meeting for its organization, appoint a street commissioner, who shall have, under the direction of the city council, charge and control of the streets of the city, and shall perform such other duties as the city council shall order. The term of office of the city engineer and street commissioner shall be for two (2) years. Any city having a population of less than fifteen thousand inhabitants may also employ from time to time a civil engineer to perform such civil engineering for the city as may be necessary. The city engineer, whose term of office shall be for two years, shall keep his office at some convenient place in said city, and the city council shall prescribe his duties and fix his compensation and the compensation of all the assistants employed by him.

Appointment
—qualifications

Term.

Sec. 211. Assistants.—The city engineer may, with the consent of the city council, appoint an assistant city engineer, who shall act as city engineer in the absence or disability of the city engineer. The city engineer may also employ such permanent and temporary assistants as the city council may deem necessary.

Assistant.

Sec. 212. Duties—He shall have the supervision and general charge of all the work done for the city and all work done on any street, highway or alley in the city; may direct the manner of performing such work and the manner of the construction of all sidewalks, street crossings, bridges or other structures in or upon said streets; may suspend any such work when the construction thereof shall not conform to, and shall take care that the terms of all contracts for any work or construction on behalf of the city are fully complied with.

Duties.

Sec. 213. Surveys, etc.—All surveys, profiles, plans and estimates made by him or any of his assistants for the city shall be the property of said city and shall be

Surveys, &c.

carefully preserved in the office of the engineer and be public records of the city. All deeds of conveyance to the city shall, after being recorded in the proper office, be filed in the office of the city engineer, and the city engineer shall perform such other duties as are in this act, or may be by the city council required.

Deeds to city.

CHAPTER XV.

EMINENT DOMAIN; LOCAL IMPROVEMENTS AND ASSESSMENTS. DIVISION I.

Condemnation, property and rights acquired by.

Sec. 214. Condemnation, property and rights acquired by.—Any city existing under this act is hereby authorized and empowered by proceedings in condemnation acquire any real property or easement therein, for the purpose of the erection or improvement of any public building or any permanent improvement incident to the operation of any department, and for the opening, widening, laying out, extending, altering or straightening of any street, avenue, alley, highway, levee, lane or public square, park, parkway or boulevard, to acquire land for and the right to raise, lower, divert or change the course of any stream of water, ditch or drain; to acquire an easement in the land over, across or under the property of corporations, for streets, bridges, approaches, culverts, depots, sewers, conduits or water mains; to acquire an easement in any land for the construction of slopes or retaining walls for cuts and fills, upon the real property abutting upon any street, levee, lane, alley or highway, now ordered, or such as shall hereafter be ordered, to be opened, widened, extended, altered, straightened or graded; to acquire the right to take or divert from any lake, stream, dam, pond, reservoir or any public waters, whether the same be public or private property or rights, any and all water necessary or convenient for the use of said city and the inhabitants thereof, and for that purpose to construct and maintain dams and in-take pipes, and to acquire land, abate nuisances, to drain swamps, marshes and ponds, and to fill the same in said city, and to acquire any property, real or personal, and rights in property, either within or without the limits of said city, for the purpose of erecting, maintaining, extending or improving water or light works, or that may be needed in connection therewith for the protection of the purity of the water supply, or otherwise, or for other municipal purposes, and to levy assessments for all improvements mentioned above, and for such other local improvements as may be ordered by said city upon property

fronting upon such improvements, or upon property to be benefited by such improvement, without regard to cash valuation.

SEC. 215. Improvements for which assessment is made for benefits; designation and plat of improvement.—When the city council shall vote to lay out, open, widen, extend, alter or straighten any street, avenue, alley, highway, levee, lane or public square, park or parkway, or boulevard, or to raise, lower, divert or change the course of any stream of water, ditch or drain, or to acquire an easement in the land over, across or under the property of corporations, for streets, bridges, approaches, culverts, depots, sewers, conduits or water mains, or to acquire an easement in any land for the construction of slopes or of retaining walls, for cuts and fills, upon real property abutting upon any street, levee, lane, alley or highway now ordered, or such as shall be hereafter ordered to be opened, altered, extended, straightened or graded; or to acquire land to abate nuisances; or to drain swamps, marshes and ponds, or to fill the same, making it necessary to injure, take or interfere with private property, it shall determine in a general way, as nearly as may be convenient, the character and extent of the proposed improvement; and thereupon it shall be the duty of the city engineer to make and present to the city council a plat and survey of such proposed improvement, showing the character, course and extent of the same, and the property necessary to be taken, injured or interfered with therefor, together with the name of the owner of each parcel of such property, so far as the engineer can ascertain the same, with such statements as may be, in the opinion of the engineer, proper to explain the character of such survey and the character and extent of such proposed improvement. Such plat shall show approximately the amount of land to be taken from each owner, so far as the owners can be readily ascertained, and the lands contiguous to such improvement; and the city council may cause such plat and survey to be modified, amended or changed, as it may deem proper. When such plat and survey shall be finally adopted by the city council, it shall be filed with the city clerk and shall be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

Improvements,
assessments for
benefits, plats
of improve-
ments, &c.

SEC. 216. Appointment and qualification of commissioners.—The city council shall then or at a subsequent meeting appoint five (5) commissioners (all of whom shall be freeholders and electors of the city and not in any way interested in any property to be taken or

Appointment
and qualifica-
tion of commis-
sioners.

affected by the proceedings) to view the premises and ascertain and award the amount of damages and compensation to be paid for the property which is to be taken or injured by such improvement, and to assess the amount of such damages and compensation and the expenses of the improvement so far as the same can be so assessed upon the lands to be benefited by such improvement in proportion to the benefits to be received by each parcel, without regard to cash valuation. Three or more of the said commissioners shall constitute a quorum and be competent to perform any duties required of the whole number thereof.

Meeting and
qualification—
duties.

Sec. 217. Meeting and qualification.—Said commissioners shall be notified forthwith by the city clerk by a notice served personally or by mail, of their said appointment, and of a time not less than three (3) nor more than seven (7) days from the appointment, when they shall meet at the office of the city clerk. At the time specified in such notice said commissioner shall meet and shall take and subscribe an oath to discharge their duties as such commissioners with fidelity, and to make a just and impartial appraisement and award of damages and assessment of benefits, which oath shall be filed with the city clerk. In case of failure of any said commissioner to qualify, the city council may appoint others to fill the vacancy, who shall be notified and qualified as those appointed in the first instance.

Notice given by
commissioners.

Sec. 218. Notice given by commissioners.—Said commissioners shall give notice by two publications in the official paper of said city that they will go on a day designated in such notice (which shall be at least ten (10) days after the first publication), meet at a place designated in such notice, and thence proceed to view the property proposed to be taken and appropriated, and ascertain and award therefor compensation and damages, and view the premises to be benefited by such improvement and assess thereon, in proportion to the benefits, the amount necessary to pay such compensation and damages and the expenses of the improvement or such part thereof as can be so assessed, and hear such allegations and proofs as any persons may offer.

Proceedings
and award of
damages.

Sec. 219. Proceedings and award of damages.—At the time and place specified in such notice, and from day to day thereafter, and at such other places in said city as they may adjourn to, said commissioners shall attend and view the property to be taken and affected by such proceedings, and hear allegations and proofs that may be offered by persons interested herein, and for that purpose may administer oaths. After viewing the premises and taking the evidence offered, such com-

missioners shall prepare and make a true and impartial appraisement and award of the compensation and damages to be paid for each parcel or piece of property taken or injured by such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners in considering and awarding such compensation or damage shall also consider, estimate and offset the benefits which shall accrue to the remainder of the same property belonging to the same person, and shall award only the excess, if any, of the compensation or damages over and above the benefits; and, in case such benefits are in excess of the compensation or damages, the commissioners shall so state in their report of award, and shall assess such property for benefits in the proportion that such excess of benefits bears to the benefits accruing to other property. In case there are buildings or improvements upon any land proposed to be taken in such proceedings, the awards shall be for the damage to land and improvements separately.

Sec. 220. Assessments for benefits.—The said commissioners shall then assess the amount of such compensation and damages as awarded, together with the expenses of the improvement, less such portion thereof as the city council shall order, upon the land and property benefited by such improvement, in proportion to such benefits, but in no case shall the amount of said assessments exceed the actual benefit to the lot or parcel of land so assessed. If in the judgment of said commissioners, the whole amount of such compensation and damages awarded, together with the expenses of the improvement, shall exceed the actual benefit to the property subject to assessment, they shall so indicate in their report, and shall state the amount of such excess.

Assessments
for benefits.

Sec. 221. Report of commissioners.—Said commissioners shall prepare and report to the city council their appraisement and award, and assessment list containing their assessment for benefits; which list shall contain a brief description of each tract or parcel of property taken or injured or assessed, the name or the names of the owners thereof, so far as known to said commissioners, and the amount of damages awarded to or assessed against each parcel of property; which report shall, upon completion thereof, be filed with the city clerk, by said commissioners, for presentation to the city council.

Report of com-
missioners.

Notice by city clerk of filing of such report.

Sec. 222. Notice of presentation to the city council.— Upon the filing of such report, the city clerk shall give notice to all interested parties, by one publication in the official paper of said city, of the filing of such report and that he will, at the meeting of the city council named in said notice, or as soon thereafter as practicable, present the same to the city council for consideration and action; which publication shall occur at least five (5) days before such presentation. Such published notice shall contain descriptions of the several lots and parcels of land taken for such proposed improvement and the amount of award for taking such lot or parcel, together with the names of the owner or owners of the same, as nearly as they may be readily ascertained; also descriptions of the several lots and parcels of land upon which benefits have been assessed and the amount assessed against each such lot or parcel, together with the names of the owner or owners of the same as nearly as the same can be readily ascertained.

Report presented to council.

Sec. 223. Presentation of report and objections thereto.—Such report shall be presented to the city council in accordance with such notice, and shall lie over until the next regular meeting thereof, occurring one week or more thereafter. Any person whose property is proposed to be taken or interfered with or affected, or to be assessed for benefits, may at any time within ten (10) days of the publication of such notice, file with the city clerk, who shall present same to the city council, his objections to such award or compensation or damages or assessment for benefits; which objections shall contain a description of the property affected and shall specify the particular irregularity of which he complains, as to amounts either awarded or assessed, or as to the proceedings of the city council or commissioners.

Objections—filing.

Action by city council on report.

Sec. 224. Action of city council on report.—At such subsequent meeting the city council may confirm such award or assessment or may annul the same, or may refer the same to a committee to consider the same and the objections thereto, and report thereon, or refer the same back to the same or new commissioners, or abandon the proceedings, and in case of abandonment may institute them anew. In case the same be referred back to the commissioners, notice of such fact and of the time and place of meeting shall be served by the city clerk upon the commissioners, in the same manner as the original notice of the appointment of commissioners was served, and thereupon the commissioners shall meet and proceed to act as though no report had been made and shall make a new report or amend the former

report upon such proposed improvement, and all proceedings therein shall be had in like manner as in the first instance. In case the city council shall confirm any such award or assessment, such confirmation shall make such award or assessment final and conclusive upon all parties interested, unless an appeal be taken as hereinafter provided.

Confirmation,
final unless ap-
pealed.

SEC. 225. Condemnation without assessment for benefits, designation and plat.—Whenever the city council shall consider it necessary to acquire by condemnation any real property or easement therein for the purpose of erection or improvement of any public building, or any permanent improvement incident to the operation of any department, or to acquire any water power, or right to take or divert any lake, stream, dam, pond, reservoir or any public waters, whether the same be public or private property, or rights, any and all waters necessary or convenient for the use of said city and the inhabitants thereof, and thereto to construct and maintain dams and intake-pipes, or to acquire any other property, real or personal, or rights in property situated within or without the city, it shall designate the same as nearly as may be convenient, and vote to acquire the same, and thereupon it shall be the duty of the city engineer to make and present to the city council such plat or survey or description as may be necessary to show or explain the same and the property necessary to be taken, or interfered with thereby. The city council may cause such plat or survey or description to be modified, amended or changed as it may deem proper, and may adopt the same, and thereupon shall direct the same to be filed in the office of the city clerk.

Condemnation
without assess-
ment for bene-
fits, designa-
tion and plat.

SEC. 226. Appointment of commissioners. The city council shall then or afterwards appoint five (5) commissioners having the qualifications prescribed for commissioners as hereinbefore provided in condemnation proceedings, to view the land, property or water power, or to investigate the rights to be acquired, taken or appropriated, and ascertain and award the amount of damages or compensation to be paid for the property or rights to be acquired, taken or appropriated.

Appointment
of commission-
ers.

SEC. 227. Proceedings and report of commissioners.—Said commissioners shall be notified of their appointment and time of meeting, and shall meet and give like notice thereof, and shall qualify and be governed by the same rules and the same number may act as hereinbefore provided for commissioners in condemnation proceedings. After viewing the premises and hearing the evidence offered, said commissioners shall make a true and impartial appraisal and award of the

Proceedings
and report—
filing.

compensation and damage to be paid for each tract or parcel of land, property or rights to be taken, acquired, appropriated or interfered with, and report the same to the city council. Upon the completion of said report, they shall file the same with the city clerk for presentation by him to the city council.

Notice by city clerk of filing of report.

SEC. 228. Notice by the city clerk of reception of report.—The city clerk shall give notice to all interested parties by one publication in the official paper of said city, of the filing of such report, and that he will, at its first meeting, or as soon thereafter as practicable, present the same to the city council for consideration and action, which publication shall occur at least five (5) days before such presentation; such published notice shall contain a description of the several lots and parcels of land, or the property taken for such proposed improvement, and the amount of award for taking each lot or parcel of property, together with the name of the owner or owners of the same, as nearly as they can be readily ascertained.

Presentation to city council.

SEC. 229. Presentation of report and objections thereto.—Such report shall be presented to the city council in accordance with such notice, and shall lie over until the next regular meeting of the city council occurring at least one week after the reception of such report. Any person whose property is proposed to be taken or interfered with, may at any time within ten (10) days of the publication of such notice, file with the city clerk, who shall present the same to the city council, his objections to such award of compensation of damages, which objection shall contain a description of the property affected, and shall specify the particular irregularity of which he complains, as to the amounts awarded or as to the proceedings of the council or of the commissioners.

Objections.

Action by city council on report.

SEC. 230. Action of city council on the report.—At such subsequent meeting the city council may act upon such report and award, and may hear any objection thereto, or may refer the matter to a committee to hear such objections and report thereon. The city council may confirm such award or annul the same, or send the same back to the same or new commissioners for further consideration, in which case such commissioners shall give notice and proceed in like manner as herein prescribed in the case of a second reference to commissioners by the city council in condemnation proceedings. When any such report and award shall be confirmed by the city council, the same shall be final and conclusive upon all parties interested, unless an appeal be taken therefrom as hereinafter provided.

Confirmation.

SEC. 231. Appeals from confirmation of report.—Any person who shall have objected as aforesaid to the confirmation of any such award or assessment may appeal therefrom to the district court of the county in which the property affected is situated, by filing with the city clerk, within ten (10) days after such confirmation, a notice in writing of such appeal, specifying the grounds thereof and the irregularities in the proceedings complained of, and such appellant shall, within said time, enter into a bond or undertaking with the city in at least the sum of one hundred (100) dollars, conditioned to pay all costs that may be awarded against appellant, which bond shall be executed by two sureties and approved by the city attorney or by the judge of said court, and filed with the city clerk.

Appeals.

SEC. 232. City clerk to transmit record to the district court.—Upon the filing of such notice and bond the city clerk shall within ten (10) days, make and transmit to the clerk of said district court, a certified copy of the report of the commissioners as confirmed by the city council, and of the order of confirmation thereof, and the objections and notice of appeal by the appellant. In case more than one appeal be taken therefrom, upon such subsequent appeal copies of the appellant's objections and notice of appeal only shall be transmitted.

Record transmitted to district court.

SEC. 233. Proceedings in court of appeal.—There shall be no pleadings on such appeal, but the court shall determine in the first instance whether there were in the proceedings any such irregularities or omission of duty prejudicial to the appellant and specified in both his written objections and notice of appeal, that, as to him, the award or assessment of the commissioners ought not to stand, and whether the commissioners had jurisdiction to take action in the premises. The case may be brought on for a hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to either confirm or annul the proceedings only as the same shall affect the property of the appellant proposed to be taken, damaged or assessed for benefits and described in said written objection. From such determination no appeal nor writ of error shall be allowed.

Proceedings on appeal.

SEC. 234. Commissioners appointed by the court to determine award or assessment as to the appellant.—In case the amount of damages awarded or assessments made for benefits are complained of by such appellant, the court shall, if the proceedings shall be confirmed in other respects, appoint three disinterested freeholders, residents of said city, as commissioners to re-appraise such damages or re-assess such benefits.

Commissioners on appeal.

Court to fix time and place of meeting.

The parties to such appeal shall be heard by said court, upon the appointment of such commissioners, and the court shall fix the time and place for meeting of such commissioners. They shall be sworn to the faithful discharge of their duties as such commissioners, and shall proceed to view the premises and hear the parties interested, with their allegations and proofs pertaining to the question as to the amount of such damages or assessments. The commissioners shall be governed by the same provisions in respect to arriving at the amount of damages and the offset thereto of benefits to the remainder of the same property and in all material respects as are in this act made for the government of commissioners appointed by the city council.

Commissioners—how governed.

Commissioners to make report.

They shall, after such hearing and view of the premises, make a report to said court of their appraisal of damages or assessment of benefits in respect to such appellant.

Report of commissioners, if confirmed, to be final.

SEC. 235. Report of commissioners, if confirmed, to be final.—Upon the filing of such report, the court may, in its discretion, upon motion, set aside the same or recommit the same to the same commissioners, or appoint a new commission, or it may confirm the same. Upon such confirmation by the court, the award or assessment of such commission shall be final, and no appeal nor writ of errors shall be allowed from any order of the court in the premises. Said court shall allow a reasonable compensation to such commissioners for their services, and make such award of costs on such appeal, including such compensation, as it shall deem just in the premises.

Court to fix compensation for commissioners.

Right of abandonment.

SEC. 236. Right of abandonment.—The city council shall have the right at any time during the pendency of the proceedings for the improvements authorized in this act, or in case an appeal be taken as herein provided, at any time within sixty days after the final order of the court upon such appeal, to abandon all such proceedings whenever it shall deem it for the best interests of the city so to do.

Effect of final determination of proceedings.

SEC. 237. Effect of final determination of proceedings.—Whenever an award of damages and compensations shall be confirmed by the city council, and not appealed from, and whenever the same, when appealed from, shall not be annulled by the court, and whenever commissioners are appointed on such appeal and the award of such commissioners is confirmed by the court, and the proceedings are not abandoned by the city council, within sixty (60) days thereafter, then the rights of all parties shall be finally determined and fixed thereby, and the same shall constitute a lawful and suf-

ficient condemnation and appropriation to public use of the land, property and rights in property for which compensation and damages are so awarded or determined, and every right, title, interest or lien thereto, and the city shall become vested with the title to the property taken and condemned absolutely for all purposes to which the city may ever have the occasion to use the same, and may forthwith enter upon and use the same; and the city shall be bound to and shall within one year of such final determination, pay the amount of such award and compensation, with interest thereon at the rate of six (6) per cent per annum from the date of the confirmation of the commissioners' report by the city council.

Rights of all parties to be determined.

City to pay award, with per cent interest

SEC. 238. City clerk to file plat and certificate.— Within twenty (20) days after such final determination of the condemnation proceedings the city clerk shall file in the office of the register of deeds of the county in which the property is situated an accurate plat, certified to by the city engineer, showing the property condemned thereby, and the same shall be there recorded.

City clerk to file plat and certificate.

SEC. 239. Payment of awards.— Before payment of any award the owner of such property, or the claimant of the award, shall furnish an abstract of title, showing himself entitled to all of the compensation and damages claimed. In case of neglect to furnish such abstract, or in case there shall be any doubt as to who is entitled to such compensation or damage, or any part of the same, the amount so awarded shall be by the city council appropriated and set apart in the city treasury for whomsoever shall show clear right to receive the same. The city council may, in its discretion, require of said claimant a bond, with good and sufficient sureties, conditioned to indemnify and save the city harmless against all other claims for such compensation or damages, or for the property for which the same was awarded, and all loss, costs or expenses on account of such claims; *provided*, that whenever the city attorney shall certify in writing to the city council that, in his opinion, he is in doubt to whom the said awards shall be paid, the city council may order a warrant to be drawn for the same, payable to the clerk of the district court of the county; and the city clerk shall deliver the same to said clerk of the court and take his receipt for the same, which deposit with said clerk of the court shall be deemed a full and sufficient payment of such award under the provisions hereof. The parties entitled to any award so deposited shall establish their right to the same by a petition to the said district court, setting up the facts entitling them thereto, and by proving the

Payment of awards— requirements necessary.

City council may require bond.

When title is in doubt, how settled.

same to the satisfaction of the court; and, when so established, the court shall make an order directing to whom the same shall be made.

When award is annulled by court, city council may again appoint commissioners.

SEC. 240. Proceedings in case award is annulled by court.—Whenever any portion of any award made by commissioners, and confirmed by the council, under the provisions of this act, shall be annulled by the court upon appeal, as hereinbefore provided for, the city council may again appoint commissioners to view the property which was affected by such appeal and appraise and award the compensation and damages to be paid for the taking or appropriation of the same, and the like proceedings shall be had, so far as practicable, as are prescribed herein to be had in the first instance, except that such commissioners shall make no new assessments of costs and expenses. They shall, however, in arriving at the compensation and damages to be awarded, take into consideration and offset any benefits which, in their judgment, the contemplated improvement will be to the remainder of the property, part of which may be taken or appropriated, and report their award to the city council, whereupon the same proceedings may be had as far as applicable as upon an original award. If such award shall again, upon appeal, be annulled by the court, still another commission may be appointed and award made in the same manner, and so on, until a valid award shall be made, but no new assessment for benefits shall be made merely by reason of any change in the amount of the sum awarded for compensation and damages, and any sum which may be lacking to pay the award shall be paid from the permanent improvement fund.

Commissioners shall make no new assessments, etc.

Still another commission may be appointed.

Right of city to have condemnation instituted during pendency of suit.

SEC. 241. Right of city to have condemnation instituted during pendency of suit.—Whenever the city council shall have made or cause to be made, erected, constructed or laid on, across, through, in or upon any land or real estate to which said city council has not the title or right to enter upon the same, for the purpose of so making, erecting, constructing or laying any water main, sewer, conduits, building, structure, in-take pipe, dam, improvement, pavement, sidewalk, curbstone, gutter or other public work, or street grade, the city council shall have the right at any time in any suit in which the title to said real estate or land, or the right of said city to so be thereon for said purposes, is called in question, may by answer admit and allege the taking of the claimant's land or other real estate for public purposes, and that no compensation has been made for such taking, and that the said city is ready and willing to pay such compensation on having the same assessed

City may answer when no right exists.

and ascertained in the manner in this act provided; *provided*, the claimant on the trial shall establish his right to recover the land or other real estate in question, and in such case the court shall first determine whether the claimant is entitled to recover the land or other real estate in controversy; and if the court shall first determine that such claimant is so entitled, the city council may, within such time as the court shall limit, appoint commissioners as herein provided in condemnation proceedings, and like proceedings shall be had therein as herein provided in condemnation proceedings; *provided*, that when it shall appear that the land or other real estate was so taken or appropriated by and with the consent or acquiescence of the owner, such owner shall not be entitled to recover any rents or profits which accrued prior to demand for compensation for such land or other real estate, and he shall be limited in such case to compensation for the land taken and damaged. And the court shall have power to make all the necessary orders and render all the necessary judgments to carry out the provisions of this section.

Except where consent is given owner shall not be entitled to recover.

SEC. 242. City council to adopt assessment roll.— Upon confirmation of any award or assessment by the city council or by the court upon appeal, as herein provided, the city council shall proceed at the same or any subsequent meeting to levy such assessments upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with such assessment list as finally confirmed, and cause to be made and adopted an assessment roll of the same.

City council to adopt assessment roll.

DIVISION II.

SEC. 243. Establishment and change of grade.—The city council shall have power to establish the grade of any street within the city limits. It shall cause accurate profiles of the grade of all streets, when so established, to be made and kept in the office of the city engineer. It may, by ordinance passed by the vote of two-thirds ($\frac{2}{3}$) of its members, change the grade of any street after such grades have been established; and the publication of such ordinance shall be deemed notice to all parties interested in the change of such grade. Upon the passage of such ordinance the city council may at once, or at any time thereafter, cause such street to be graded in accordance with such new grade so established.

Establishment and change of grade.

SEC. 244. Objection to change of grade.—The owner of property abutting upon a street, the grade of which has been once established, shall, within thirty (30) days after the publication of the ordinance changing the

Owner barred from claiming damages unless he files objections.

grade of such street, file in the office of the city clerk his objection thereto, and make claim for damages to the property caused by such change of street, or be barred from making any claim for damages. Such objection shall contain a description of the property claimed to be damaged and owned by such person, and the amount of damage claimed to be caused to such property by such change of grade, and shall be verified by the owner or his agent.

Appointment
of commissioners
to assess
damages.

SEC. 245. Appointment of commissioners.—Upon the filing of any such objection and claim for damages, the city council shall at any time after the expiration of said period limited for the filing of objections, appoint five (5) commissioners of like qualifications as herein prescribed for commissioners in condemnation proceedings, to appraise the damages caused to the property or properties described in such objections, and to award the same to owner or owners of such property or properties and to assess the amount of damages so awarded upon the property benefited by such change of grade, in proportion to the benefits received by each tract or parcel without regard to the cash valuation thereof, but no property shall be assessed in excess of the benefits accruing to such property; and to report such award and assessment to the city council.

Hearing of
commissioners.

SEC. 246. Hearing of commissioners.—The said commissioners shall be notified of their appointment, shall meet, give notice, perform their duties and act in like manner and shall be governed by the same rules as herein prescribed for commissioners in condemnation proceedings. Said commissioners shall, in making their award of damages, appraise and award damages caused to each parcel or tract of property described in such objections and claim for damages made as herein prescribed by reason of such change of grade, not including in such damages any damage to or interruption of the use of such property caused by the work done or to be done in making such street conform to the grade as so established, and in estimating such damages to be awarded as aforesaid, said commissioners shall consider and offset any benefit accruing to the said property by reason of such change of grade, and shall award only the excess of damages over such benefits, if any.

To consider
both benefits
and damages.

Report of
commissioners.

SEC. 247. Report of commissioners.—Said commissioners shall make a report of their award of damages and assessments for benefits, and in case the benefits accruing to the property from such change of grade are not as great as the damages so awarded, they shall so indicate in their report, stating the amount of such excess of damages.

SEC. 248. Action of council on report.—Said report shall be filed and presented to the city council upon like notice, and the city council shall act thereon in like manner as herein prescribed in condemnation proceedings.

Action of council on report.

SEC. 249. Right of appeal.—Any person aggrieved by such report shall have the same right of appeal upon the filing of objections in the manner prescribed herein in condemnation proceedings, and the proceedings on said appeal shall be the same as are herein prescribed in condemnation proceedings.

Right of appeal.

SEC. 250. Abandonment.—In case the city council shall not have commenced the work of grading the street to conform to the grade changed, it shall have the right at any time during the pendency of the above proceedings, and until said proceedings are confirmed by it, and in case of any appeal from such confirmation, then within sixty (60) days after the final order of the court upon such appeal, to abandon such proposed change of grade by a resolution passed to that effect, and thereupon all proceedings had shall be abandoned and annulled, and the city council shall thereupon repeal the ordinance changing such grade.

Council may abandon proposed change of grade.

SEC. 251. Confirmation and assessment.—In case said proceedings are confirmed by the city council or by the order of the court, and not abandoned as herein provided, the same shall be final and conclusive upon all parties interested, and the city council shall proceed to levy any assessment upon the several parcels described in the assessment list reported by the commissioners in accordance with the assessment as finally confirmed, and shall cause to be made, and shall adopt an assessment roll of the same, and shall pay or cause to be paid within one year from the time of the final determination of such proceedings to the owner or owners of the property damaged by such change of grade the amount awarded therefor, upon such owner furnishing an abstract of title to such property, and with the same right to require a bond, or pay the amount of the award to the clerk of the district court, for the party entitled thereto, as herein prescribed in condemnation proceedings.

Confirmation and assessment.

DIVISION III.

COST OF IMPROVEMENTS ASSESSED IN PROPORTION TO BENEFITS.

SEC. 252. Authority to assess cost of grading, etc.—Any city existing under this act is hereby authorized to fill, grade, level, pave, repave, curb, rail, bridge, gravel, macadamize, sprinkle, plank, clean pavements upon any

City has authority to order improvement and assess cost.

street, avenue, lane, alley or highway, and to keep the same in repair; also to fill, grade, improve, protect and ornament any public park, square or ground; also to plant and protect shade or ornamental trees in its public parks and along its streets and avenues; also to construct, lay, relay and repair sidewalks, retaining walls, gutters, sewers, water mains, drains and pipes for surface water, and private drains in, over or under any street, lane, alley or highway; also to drain marshes or swamps and low grounds within the city; and the whole or any part of the expense of any such improvement may be defrayed by an assessment upon the real estate benefited thereby in proportion to such benefits without regard to cash valuation, to be determined and levied in the manner hereinafter provided; *provided*, if the system of sewerage known as "Shone Hydro-Pneumatic System" be adopted and established in and for any city, the city council, when it proposes to cause sewers to be constructed or laid for the drainage of any given portion of the city shall first determine and accurately describe by ordinance or resolution in writing the area of territory to be made tributary to an ejector station to be constructed for such district, and in each instance such territory so defined shall be known as a sewer district and shall be properly designated by number. The expense of material for and of constructing or laying all sewers and sewer pipes in each such district, the expense of material for and constructing all flush tanks, of machinery, ejectors, discharge pipes, compressed air connections, the ejector chamber and adjoining man-hole, and all other man-holes therein, and all other costs, except such portion thereof as shall be ordered paid out of the permanent improvement fund, shall be chargeable to and assessed upon the lots and parcels of land in said district benefited thereby in proportion to such benefits without regard to cash valuation.

Two or more improvements upon one order.

SEC. 253. Two or more upon one order.—Two (2) or more of said improvements, or either of any of them, upon one or more streets may be done at the same time under one order and may be included in one contract. And the city council may, when any contract is let for paving, grading, graveling or macademizing any street, lane, alley or highway within said city, include in such contract the laying of sewer pipes or water pipes to the curb, and the cost of the same may be assessed against the lots or parcels for which said sewer pipes or water pipes are laid as a part of, or in connection with the assessment of for such improvement; *provided*, if two or more improvements are included in one contract, the expense of each improvement shall be separately appor-

Expense of each to be separately assessed.

tioned and assessed upon the lots and parcels of land benefited by such improvement in proportion to such benefits, but two or more improvements may be included in one assessment proceeding.

SEC. 254. Plans and specifications.—Prior to the passage of any resolution ordering any such improvement the city council shall call for plans and specifications of such proposed work, with an estimate of the probable expenses thereof, to be made by the city engineer of said city and presented to the city council for its approval, and the same shall immediately and upon approval thereof by the city council be filed with the city engineer of said city for the inspection of all parties interested.

Plans and specifications.

SEC. 255. Notice of proposed improvement and invitation for proposals.—The city council shall then designate a time not less than twelve days distant, and a place at which it will meet and act in relation to the doing of the proposed work, and direct that a notice be given to the city clerk of such meeting and the time and place thereof, and that in the meantime sealed proposals for the doing of such work and the furnishing of all materials therefor will be received by the city clerk. In such notice shall be stated the location of the proposed work and reference shall be made to the plans and specifications and estimates so filed with the city engineer. Said notice shall be given by two publications thereof in the official paper of said city, the last of which publication shall be at least one week prior to the time designated as aforesaid by the city council.

Advertising for bids.

SEC. 256. Ordering of improvement and award of contract.—At the time and place designated in such notice opportunity shall be given to any and all parties interested to be heard for or against such proposed work, and the clerk shall, in presence of the city council, open and read all sealed proposals which may have been received for doing such work and furnishing the material therefor, and the city council may then or thereafter by a two-thirds (2/3) vote of all its members, accept the most favorable proposal (such proposal to be that of the lowest responsible bidder) and by resolution authorize the doing of said work or any part thereof, and may direct that a written contract be made therefor with the person whose proposals shall have been accepted; or they may reject all proposals offered and refuse to authorize the doing of such work or any particular part thereof, or may readvertise for bids therefor; or, if it is deemed by said council to be for the best interests of the city, and the city engineer's estimate is less than the lowest bid aforesaid for work and material, that they may reject all proposals offered, and

Ordering of improvement and awarding contract.

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by resolution, passed by a two-thirds ($\frac{2}{3}$) vote of the council authorize the doing of said work under the direction of the city engineer, or said council, in its discretion, from lack of quorum, or for other reason, postpone the consideration and decision of the whole matter, or any branch thereof, to a future time, of which postponement all parties interested shall be required and deemed to take notice. At the time of the award of any such contract the city council shall appropriate from the proper fund, to the credit of such contract, a sufficient amount to defray the cost of such work. The city engineer shall allow to the contractor, on the first day of each month, an estimate of the amount already earned, which estimate shall be due and payable on the tenth day of the month succeeding the month for which the estimate is allowed.

Apportionment of costs.

SEC. 257. Apportionment of costs.—At the time of the passage of the resolution for the doing of such work the city council may determine what proportion of the entire cost of such improvement shall be defrayed by an assessment upon the property benefited, and what proportion, if any, shall be paid from the permanent improvement fund of said city, the amount of the bid accepted by the council to be taken as the entire cost; and in case no bid is accepted, and in case the city council has authorized the doing of such work under the direction of the city engineer, without contract, then the city engineer's estimate shall be taken as the entire cost of such work for the purpose of assessment.

Commissioners to assess benefits.

SEC. 258. Commissioners to assess benefits.—The city council shall then, or thereafter, appoint commissioners in like manner and with the same qualifications as prescribed in this act for commissioners in condemnation proceedings, to view the property benefited by such proposed improvement, and to assess the cost of such proposed improvement (unless said council shall have determined that a portion only of the expense of such improvement shall be defrayed by assessments for benefits, and in such case they shall assess such portion) upon the property benefited by such improvement in proportion to the benefits actually received and without regard to cash valuation; *provided*, that in no case shall said commissioners assess upon any lot or parcel of land any greater amount than the amount of the benefit to such lot or parcel.

Proceedings of commissioners

SEC. 259. Proceedings of commissioners.—Said commissioners shall meet, give like notice, hear interested parties and proceed in like manner and make like report of their assessments for benefits to the city council, and the city council shall act thereon in like manner, and the

proceedings shall be subject, as far as may be, to the provisions herein made for proceedings in condemnation, including the right of appeal from the confirmation thereof by the city council.

SEC. 260. Levy of assessment.—Whenever the city council shall confirm any such assessment, such confirmation shall make the same final and conclusive upon all parties interested, who have not appealed therefrom, and the city council shall proceed at the same or any subsequent meeting, to levy such assessment upon the several parcels of land described in the assessment last reported by the commissioners, in accordance with the assessment so confirmed, and cause to be made and adopted an assessment roll of the same.

Confirmation final—levy of assessment.

DIVISION IV.

SEC. 261. Collection of assessments.—When any special assessment shall have been confirmed and adopted it shall be the duty of the clerk to issue a warrant for the collection thereof, which shall be under the seal of said city and signed by the mayor and such clerk of said city, and shall contain a printed or written copy of the assessment roll as confirmed and adopted as aforesaid, or so much thereof as describes the real estate and the amount of the assessment in each case.

Collection of assessment.

SEC. 262. Assessment warrants.—In all cities having a city controller the city clerk shall deliver all warrants for collection of special assessments when issued to the city controller, taking his receipt therefor.

Assessment warrants.

SEC. 263. Notice by controller or clerk.—Upon the receipt of any warrant for the collection of any special assessment the city controller shall, or in cities where there is no city controller, upon the issue of the warrant the city clerk shall forthwith give notice by one publication in the official paper of the city that such warrant has been duly issued for the collection of the taxes shown therein, briefly describing its nature and requesting all persons interested to make immediate payment at the office of the city treasurer, and that in default of payment thereof within sixty days after publication of such notice, a five per cent penalty will be added thereto, and the same will be collected at the cost and expense of the person liable for the payment of such assessment. Upon application the city controller, or the city clerk where there is no controller, shall issue a statement of the amount of such special assessment against any lot or parcel of land, and the city treasurer shall, on or before the time above specified for the adding of a penalty, receive payment of the amount shown in

Notice by controller or clerk.

such statement, and after said time and until the first Monday of October of that year shall receive payment of the amount shown in such statement, with five per cent added thereto, and give a receipt therefor, and shall keep a correct account of the same, and at the end of each business day shall report to the controller, or if there is no controller, to the city clerk, all assessments paid during the day, and the controller or clerk shall thereupon mark said assessments "paid."

Lien of assessment.

SEC. 264. Lien of assessment.—All assessments levied under the provisions of this act shall be a paramount lien on the real estate on which the same are imposed from the date the warrant issued for the collection thereof is received by the city treasurer for collection.

Five per cent penalty.

SEC. 265. If the assessment charged in any special assessment warrant made for any improvement whatsoever, under the provisions of this act, shall not be paid prior to the time when a penalty will be added as specified in the notice of the city controller or clerk, a penalty of five per cent shall be added to and collected with such assessment and each and every item thereof remaining unpaid at such date.

Return by controller or clerk to auditor of unpaid assessments.

SEC. 266. Return by controller.—Within five days after the first Monday of October of each year the city controller, or if there is no controller, the city clerk, shall transmit to the county auditor of the county in which the property so assessed is situated, a list, duly certified by him, of all unpaid assessments included in any special assessment warrants upon which the notice hereinbefore provided to be given by the city controller shall have been published prior to the first of August of that year, with the penalty hereinbefore provided added thereto. Upon receipt of such list the said county auditor shall enter the several amounts of the said unpaid assessment on the tax list of said city for the ensuing year, and levy the same upon the several lots and parcels, as to which the same are respectively chargeable, and the same shall thereupon be collected and payment thereof enforced as other taxes on real estate are collected and enforced.

Distribution of assessments over five years.

SEC. 267. Division of assessments.—Whenever the amount of any special assessment upon any lot or parcel of land so transmitted to the county auditor shall exceed the sum of twenty-five (25) dollars the county auditor shall divide each such assessment in five equal parts, as nearly as the same can be divided, and shall, in proper books to be kept by him, extend the same in proper columns in such manner that said assessment shall extend over five (5) successive years; the first of such installments shall be entered by such auditor on

the tax list for said city for the next ensuing year, and each successive installment shall be entered upon such tax list each succeeding year thereafter, respectively; said auditor shall at the time of so extending each year's installment of said special assessment on the tax list add to the amount of each installment after the first installment, interest for one (1) year on the entire amount remaining unpaid at the rate of six per cent per annum, which said interest on the whole amounts unpaid shall be paid each year at the same time and in the same manner as the installment for that year.

SEC. 268. Paying deferred installments.—At any time after the first of such installments is payable to the county treasurer the whole of the remaining installments may be paid as follows: The county auditor shall, upon request of the county treasurer, deliver to such county treasurer a statement of the total amount of such assessments not theretofore delivered by him to the county treasurer for collection, and shall charge the county treasurer with the amount shown on such statement, and the county treasurer may thereupon receive payment of the assessment shown on such statement and issue receipts therefor.

Paying deferred installment.

SEC. 269. Assessments paid over to city treasurer.—Such assessments, when collected, shall be paid over by the county treasurer to the city treasurer of said city, together with all costs, penalties and interest collected thereon at the time of making payment of city taxes to the city treasurer. Said county treasurer shall submit with such payment a statement showing the accurate distribution of the amount so collected to the several funds on account of which the assessment was made. The statement shall apply to the accurate distribution of costs, penalties and interest, as well as to the amount collected, on the original assessment.

County treasurer to pay over assessment to city treasurer.

SEC. 270. Numerals used in advertisements.—In all proceedings and advertisements for the levy and collection of such assessments, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

Numerals used in advertisements.

DIVISION V.

GENERAL PROVISIONS.

SEC. 271. Informalities not to vitiate proceedings.—No error or omission which may be made in the order or in the proceedings of the city council, or of any officers of said city in referring, reporting upon, ordering or

Informalities not to vitiate proceedings.

otherwise acting concerning any local improvement provided for in this act, or in making any assessment therefor, or in levying or collecting such assessment, shall vitiate or in any way affect any such assessment, unless it shall appear that by reason of such error or omission substantial injury has been done to the party or parties claiming to be aggrieved.

Reassessment
when it fails or
is declared void

SEC. 272. Reassessment.—In all cases where any assessment or any part thereof as to any lot, lots or parcels of lands assessed under any of the provisions of this act, or of any law of any city prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside or declared void by any court; or in case the city council shall have failed to make any assessment before the doing or ordering of any work, the expense of which could, under the provisions hereof, have been assessed on property, the city council shall, without unnecessary delay, cause a reassessment or new assessment to defray the expense of such improvement to be made, whether such improvement was made under this act or any law of any city prior to this act, and such reassessment or new assessment shall be made as nearly as may be as herein provided for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the city council it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act. And in all cases where judgments shall hereafter be refused or denied by any court, for collection or enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lots or parcels of land may be reassessed or newly assessed from time to time until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of said improvement as near as may be.

New assess-
ment warrants.

SEC. 272½. New assessment warrants.—In all cases where the collection of any special assessment cannot be enforced by reason of irregularity or omission in any proceeding subsequent to the confirmation of such assessment, the clerk and mayor of said city are hereby authorized and empowered to issue a new warrant to the treasurer for the collection of any assessment which by reason of such irregularity or omission remains unpaid or not collected. The treasurer shall proceed under such new warrants to enforce and collect the assessments herein specified in the same manner, as near as may be, as is prescribed by the provisions of this act for the enforcement and collection of special assessments

after the same shall have been confirmed as in this act provided. And as often as any failure shall occur, by reason of such irregularities or omissions, a new warrant may issue and new proceedings be had in like manner, until such special assessments shall be fully collected as to each and every tract or parcel of land charged therewith. And in case any such assessment shall be adjudged and deemed irregular and the collection thereof cannot be enforced after the same shall have been delivered to the county auditor for collection under the provisions of this act, the city council, at the time or prior to the making of such reassessments or the issuance of such new warrants, may, by resolution, direct such county auditor to cancel such special assessment on any record where the same appears, and in any case of the cancellation of any such special assessment, the auditor shall make the necessary credit of the amounts of special assessments so canceled on the proper books and to the proper officers.

Entries to be made by auditor when assessment void.

SEC. 273. Reletting of unfinished contract.—In all cases where the work for any improvement contemplated by the provisions of this act shall be suspended before final completion, by failure of the contractor to perform the same, or for any other cause, the city council may relet the unfinished portion of such work in the same manner, as nearly as may be, as provided in this act for letting of contracts for public improvements, and in every case of such new contract the work shall be paid for in the same manner as contracts for other like improvements.

Reletting of unfinished contract.

SEC. 274. New assessments.—If for any cause the proceedings of the city council or any officer may be found irregular or defective, whether jurisdictional or otherwise, the city council may order a new assessment from time to time as often as need be, until a sufficient sum is realized from the real estate abutting on the street in which such improvement has been or is to be made, to pay the costs, damages and expenses incurred thereby, it being the true intent and meaning of this act to make the cost and expense of all local improvements provided for in this act in such city payable by such abutting real estate, except as in this act otherwise provided.

New and additional assessments.

SEC. 275. Form of assessment roll.—Any assessment roll adopted by the city council in accordance with any of the provisions of this act may be substantially in the following form :

Form of assessment roll.

The city council of the city of..... do hereby assess and levy upon and against the several lots and parcels of land hereinafter described, the respec-

tive sums of money set opposite each lot or parcel. The assessment is levied to defray the expense of..... in the city of.....along..... and said lots and parcels of land are assessed upon the basis.....

Name of Owner, if Known.	Description of Land.	Lot.	Bl'k.	Amount.	
				Dolls.	Cts.
*					

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

.....
President of the Council.

Attest:

.....
City Clerk.

Letting of contracts after levy.

SEC. 276. Letting of contracts.—The city council may order any improvement and make and levy an assessment therefor and collect the same under and in accordance with the provisions of this act, prior to and without letting a contract for the doing of such work, and the contract for the doing of such work shall be let, or the city council shall direct the doing of such work under the direction of the city engineer without contract within six (6) months after such assessment, in accordance with the provisions of this act.

SEC. 277. Abandonment of improvements.—The city council may, by a two-thirds ($\frac{2}{3}$) vote of its members, at any time prior to the execution of a contract therefor, or the beginning of the work under the direction of the city engineer without contract, abandon any improvement ordered by the city council under the provisions of this act, and shall thereupon annul and cancel the special assessment made hereunder to defray the expenses of such improvement, and if any portion of such assessment has been paid it shall be refunded to the person or persons paying the same.

Moneys derived before improvement, how held and applied.

SEC. 278. Moneys derived from assessments.—how held and applied.—In case any assessment for improvement is collected before the making of such improvement the money so collected shall be kept separate from

the funds of the city, and not devoted to any other purpose than such improvement.

SEC. 279. Variance in amount of assessment not to invalidate.—No special assessment shall be questioned or held to be invalid because the amount of such special assessment shall happen to be either more or less than the amount of money actually required for the improvement for which such assessment shall be made. If the amount derived by such special assessment shall happen to be less than the amount required for such improvement, the balance shall be paid from the permanent improvement fund; and if there shall be any surplus from any such special assessment the same shall be carried to the credit of the same fund from which a deficiency would have been supplied, or be otherwise disposed of, as to the city council shall seem most just towards the persons upon whom such special assessment has been levied; *provided*, that when the total cost of any improvement for which special assessments have been made and levied shall be less than ninety (90) per centum of the total special assessments assessed, levied and collected for the same, said city council shall refund, out of the permanent improvement fund, to the person or persons who have paid the same their proportionate share of the excess of such total special assessments so collected over the total cost of such improvements.

Variance in amount of assessment not to invalidate.

SEC. 280. Property owners to construct and repair sidewalk.—It is hereby made the duty of all owners of land adjoining any street, lane or alley in the city to construct, reconstruct and maintain in good repair such sidewalks along the side of the street, lane or alley next to the lands of such owner respectively as may have been heretofore constructed, or as shall hereafter be constructed, or directed by the city council to be built, and the same shall be constructed of such material and width, and upon such plan and grade as the city council may by ordinance or otherwise prescribe.

Property owners to construct and repair sidewalks.

SEC. 281. Sidewalk—how ordered.—Whenever the city council shall deem it necessary that any sidewalk in the city shall be constructed or reconstructed, it shall, by resolution, direct such construction or reconstruction, specifying the width thereof and the material of which the same is to be constructed. Personal notice or the publication of such resolution once in the official paper of the city shall be sufficient notice to the owners of the land along which such sidewalk is to be built, to construct the same, and unless such owners shall each along his respective land construct and fully complete such sidewalk within two weeks after the publication

Sidewalk—how ordered.

of such resolution, as aforesaid, the city council shall forthwith proceed to ascertain the expense of constructing the same and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front, in accordance with the provisions herein made. It shall be the duty of the city council, before ordering the construction of any new sidewalk, to cause the ground upon which it is to be built to be properly graded.

Repair of sidewalks and assessment of costs.

SEC. 282. Repair of sidewalks and assessments of costs.—If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair it shall be the duty of the proper officer to immediately repair the same in a good, substantial and thorough manner and report to the city council the costs of such repairs in each case, and a description of the lot or parcel of land abutting upon the sidewalk on which such repairs are made, and such report shall be carefully filed and preserved by the city clerk; and the city council shall once in each year at or as near as conveniently may be, the time of levying the yearly city taxes, assess and levy upon each of the lots and parcels of land fronting or abutting upon sidewalks which have been so repaired by such officers, the cost of making such repairs. In each case such assessments for all such repairs within the year may be combined in one assessment roll, and certified to the county auditor and be collected as provided for in this act in case of assessments transmitted to the county auditor. In case any such sidewalk shall become so out of repair as to become dangerous and cannot be made safe without being rebuilt and there are no funds to defray the expense of such rebuilding, it shall be the duty of the proper officer to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding when the same shall be reconstructed, and collected with the assessment of such reconstruction.

Defective sidewalk may be removed.

Credit of former assessment paid.

SEC. 283. Credit on former assessment paid.—In case any assessment levied to defray the expense of any improvement herein provided for shall be annulled after any portion of such assessment has been paid, if reassessment is made under the provisions hereof to defray the expense of such improvement, the city clerk shall note on the warrant drawn by him for the collection of such reassessment or new assessment against any piece of land upon which such former assessment for the same improvement has been paid, the words "Paid on former assessment \$.....," which shall cancel such assessment on that parcel to the amount as paid.

SEC. 284. Refunding of assessment on abandonment of improvement.—When any improvement for which a special assessment has been levied is abandoned, if any portion of such assessment has been paid, upon the annulling of such special assessment it shall be the duty of the city controller to notify the persons having paid such assessment that the same has been annulled and that the amount paid by them will be refunded; and the city treasurer shall, upon said parties identifying themselves as being the persons entitled to have such assessment refunded, pay to such persons the amount of such assessments so paid by them. Said city controller shall also notify the county treasurer of the annullment of such assessment; and upon receipt of such notice the county treasurer shall forthwith credit the amount of such special assessment so annulled to the lots and parcels of land against which said assessment was made, provided the same has not already been paid.

Refunding of assessments on abandonment of improvement.

R SEC. 285. Certificate of city controller on deeds.—No register of deeds shall record any deeds conveying any lands within the limits of any city unless there is endorsed on such deed a certificate of the city controller of such city that all assessments in his office for collection for local improvements on said land have been paid, and any violation of this provision by any register of deeds shall be a misdemeanor, and be punished by a fine of not exceeding double the amount of the unpaid assessment. It shall be the duty of the city controller, upon the application of any person interested in such deeds where the assessment has been paid, and not otherwise, to make such certificate free of charge.

Certificate of city controller on deeds.

SEC. 286. Omission of assessment on corner lots.—The city council shall in case of any corner lot, when one frontage of such lot has been fully assessed for laying any water main or sewer, in case a like improvement is to be made along the street on the other frontage of such lot, omit the assessment on such lot to an extent not exceeding a frontage of sixty (60) feet of any such lot.

Omission of assessment on corner lots.

SEC. 287. Prior assessments not affected by this act.—Nothing in this act contained shall affect any assessment made by any city prior to this act becoming operative in such city, and all such special assessments and the deferred installment thereof, if any, shall be collected under and in accordance with the provisions of law in force at the time of the levying of such assessment.

Assessments prior to the adoption of this act not affected by it.

Completion of assessment proceedings after adoption of this act.

SEC. 288. Completion pending assessment proceedings.—Any proceedings instituted for the condemnation of land or other property, or for the assessing of benefits by commissioners for any improvement begun in any city prior to the time of this act becoming operative in such city shall be carried on and fully completed under and in accordance with the provisions of the law then in force in such city at the time such proceedings were instituted, except that upon the adoption of any assessment roll for special assessments in any such proceedings after this act shall have gone into force in such city, proceedings for the collection of the assessments therein levied shall be as herein provided for the collection of such assessments.

CHAPTER XVI.

WATERWORKS.

Waterworks—superintendent duties, &c.

SEC. 289. Superintendent.—The city council of any city maintaining waterworks shall, at the time of its organization as herein provided, appoint a superintendent of waterworks. The superintendent of waterworks shall have charge of the operation and repair of all pumps, pumping station and appurtenances, intakes, water mains, pipes and hydrants, and of the putting in and maintaining of all constructions connected with the waterworks of such city, subject to such rules and regulations as the city council may ordain. He shall appoint, by and with the consent of the city council, all engineers and assistants required in the operation of the waterworks of the city, and shall hire and discharge from time to time such subordinate employes as may be provided for by the city council; *provided*, however, that the city engineer shall perform all the civil, mechanical and hydraulic engineering work of said department. The superintendent shall inspect all water connections, hydrants and faucets through which water is consumed, and examine all water meters and gauges; and shall shut off water from any premises whenever the rent or other dues therefor are delinquent.

To keep account—clerks.

SEC. 290. Accounts.—He shall also keep all records and accounts pertaining to the waterworks, and shall receive and receipt for all water rents and moneys accruing to the department, and shall appoint by and with the consent of the city council such collectors and clerical employes of the department as may be necessary, and shall deposit all funds as collected, weekly, with the city treasurer, and report the same to the city council,

monthly, *provided*, that the city council of any city may in its discretion, confer the offices of the city engineer, and superintendent of waterworks upon one and the same person.

City engineer
may be super-
intendent.

SEC. 291. The owner of private property, which property has upon it pipes connected with the city waterworks to convey water thereto, shall, as well as the lessee of the premises, be liable to the city for the rents or rates of all water from said waterworks used upon said premises, which may be recovered in an action against such owner, lessee or occupant, or against any or all of them. The city council may provide for the punishment of all injuries to and interference with said waterworks or anything connected with them, and it shall be a misdemeanor, punishable as such, for any person without authority from the city to wilfully break, remove or in any way injure or damage any main, branch, water-pipes, intake pipes, aqueduct, dam, bulkhead, gate, gate-house, conduit or vent, box or box cover, main pipe or cover of hydrant, or any part of the machinery or property of the waterworks of said city; or to open without authority from the city any water gate or to perforate or bore or cause to be perforated or bored, any main or pipe, or to make connection with any such main or pipe without proper permit therefor. And the city council may provide by ordinance for the conviction of and punishment for any such offense.

Owner—lessee—
occupant, all
liable for water
rent.

Punishment
for injuring
pipes, &c.

SEC. 292. City council to prescribe rules.—The city council shall, by ordinance, establish such rules and regulations as it may deem necessary for the management of the waterworks of the city and the supplying of water for the use of the inhabitants thereof. And may make all necessary rules and regulations concerning the tapping of any mains or branches, or making connections therewith by any private parties or licensed plumbers, and such council may also provide for the shutting off of water from any premises where rates are payable and remain unpaid.

City council to
prescribe rules.

SEC. 293. In any city in this state having and operating its own light works the provisions of this chapter shall apply thereto, in so far as the same can be made applicable, and said light works can, if the city council shall so determine, be managed and operated under the same officers and as a part of the same department as the waterworks.

Provisions of
this chapter
applicable to
light works.

CHAPTER XVII.

CORRECTIONS, HOSPITALS AND CHARITIES.

Superintendent
of workhouse.

SEC. 294. Superintendent of workhouse.—The mayor shall, in any city maintaining a workhouse, appoint a superintendent of the workhouse, who shall have the management and control of the workhouse, subject to such rules and regulations for the management thereof as the city council may ordain. He shall have the custody of all persons confined therein, and shall receive and confine all persons sentenced thereto, and shall appoint all officers, subordinates and employes required in the management of such workhouse, and may discharge the same.

Place of deten-
tion for women
or children.

SEC. 295. Place of detention for women or children.—The city council may provide for the management and control of any place of detention for women or children maintained by the city, and prescribe all necessary rules and regulations therefor, and the mayor shall appoint such officers to manage the same as may seem necessary.

Superintendent
of poor.

SEC. 296. Superintendent of poor.—The city council may appoint at the time of its organization a superintendent of the poor. The superintendent of the poor shall, subject to the approval of the city council, appoint such subordinate employes as the city council may deem necessary. The superintendent of the poor shall investigate all applications for assistance and relief of every nature, and attend to the distribution of all fuel, food and other supplies to the poor, under such rules and regulations as the city council may ordain. He shall have the management and control of all poorhouses and charitable institutions established or maintained by the city, under the direction of the city council. And he may, by direction of the city council, establish and maintain an employment bureau for the use and benefit of the inhabitants of said city seeking employment; *provided*, that this section shall not apply to cities where hospitals, almshouses and other public charities are supported by the city and county in common, and where the care and control of such institutions and charities are under a board of control.

City Physician.

SEC. 297. City physician.—The city council shall, at the time of its organization, appoint a city physician, who shall be a regularly licensed physician and surgeon of good standing in his profession. The city physician shall appoint such assistant physicians as the city council may determine, and he shall appoint and may discharge such matrons, nurses and other subordinate employes as may be provided for by the city council.

He shall have the management and control, subject to such rules and regulations as the city council may ordain, of all hospitals maintained by the city except the quarantine or pest hospital, and shall act as physician and surgeon of all departments of the city, and attend upon and care for all sick and afflicted among the poor of the city, as directed by the superintendent of the poor; *provided*, that this section shall not apply to cities where the office of city and county physicians are united in one person.

CHAPTER XVIII.

DEPARTMENT OF HEALTH.

SEC. 298. How constituted.—The department of health shall consist of a commissioner of health, who shall be a physician regularly licensed to practice as such, and shall be the executive officer of the department, and of such number of assistants, inspectors, quarantine officers and subordinate employes as may be determined by the city council; and of a board of health, which shall be composed of the commissioner of health and three (3) members of the city council to be appointed by the city council.

Department of health—how constituted.

SEC. 299. Health commissioner—Appointment and salary.—The commissioner of health shall be appointed by the mayor and he shall hold his office during the pleasure of the mayor. The salaries of the commissioner of health and his assistants shall be fixed by the city council.

Health commissioner—appointment—salary.

SEC. 300. Bonds.—The health commissioner, before entering upon the duties of his office, shall execute a bond to the city in such sum, and with such sureties and upon such conditions as the city council may determine; such bond to be approved by the city council.

Bonds.

SEC. 301. Duties of health commissioner.—The commissioner of health shall enforce the laws of the state and ordinances and regulations of the city relative to the public health, and shall abate all nuisances injurious thereto, and prevent or exterminate contagious or infectious diseases among animals; control all quarantines, hospitals and morgues maintained by or located in the city; and all cemeteries, crematories, vaults and burial places maintained or regulated by the city, and inspect all such food products exposed for sale in the city as may be required by law or ordinance, and shall grant all burial permits, and regulate the disposition of all dead bodies.

Duties of health commissioner.

Subordinates. SEC. 302. Subordinates.—The health commissioner shall appoint all assistants, quarantine officers and subordinate employes of the health department; and the health commissioner and all members, inspectors and officers shall have power of police in and about the performance of their official duties relative to the public health, and the health commissioner shall have power to remove any and all assistants, inspectors or subordinate employes, appointed by him, at any time.

Powers of board of health SEC. 303. Powers of the board of health.—The board of health shall have such powers and perform such functions and duties as are prescribed by law for local boards of health, and such further duties as may be prescribed by law or ordinance.

Reports of births and deaths. SEC. 304. Reports.—Reports of all births, deaths and of all cases of contagious and infectious diseases in the city shall be reported by the physician or other person in attendance thereon to the commissioner of health, and he shall keep a record of such reports, and no human body shall be buried or deposited in any cemetery or vault in said city, or be removed therefrom or from said city, or otherwise disposed of, without the permit of the commissioner of health.

Commissioner to advise mayor or of sanitary condition. SEC. 305. The commissioner of health shall give to the mayor, or other city authorities, all such professional advice and information as they may require, with a view to the preservation of the public health, and whenever he shall hear of the existence of any malignant, contagious or pestilential disease, he shall investigate the same and adopt measures to arrest its progress.

Commissioner to enforce sanitary regulations. SEC. 306. It shall be the duty of the commissioner of health to enforce all laws of the state and ordinances of the city relating to the sanitary regulations of the city, and cause all nuisances to be abated with all reasonable promptness. And for the purpose of carrying out the foregoing requirements, he shall be permitted at all times, from the rising to the setting of the sun, to enter into any house, store, stable or other building, and to cause the floors to be raised, if he shall deem it necessary, in order to a thorough examination of cellars, vaults, sinks or drains; and to cause all privies to be cleaned and kept in good condition, and to cause all dead animals or other nauseous or unwholesome things or substances to be burned or removed or disposed of, as the commissioner of health may direct.

Commissioner to notify occupant to abate nuisance. SEC. 307. In order to the carrying out of the provisions of the foregoing section, it shall be the duty of the commissioner of health to serve a notice in writing upon the owner, occupant or agent of any lot, building

or premises in or upon which any nuisance may be found, or who may be the owner or cause of any such nuisance, requiring them to abate the same in such manner as he may prescribe within reasonable time; *provided*, that it shall not be necessary in any case for the commissioner to specify in his notice the manner in which any nuisance shall be abated, unless he shall deem it advisable to do so; and such notice may be given or served by any officer who may be directed or deputed to give or make the same; and if such owner, occupant or agent shall neglect or refuse to comply with the requirements of such order within the time specified, they shall be subject to a penalty hereinafter provided, and it shall be the duty of the said officer to proceed at once, upon the expiration of the time specified in said notice, to cause such nuisance to be abated; and *provided further*, that whenever the owner, occupant or agent of the premises in or upon which any nuisance may be found is unknown or cannot be found, the said commissioner shall proceed to abate the same without notice, and in either case the expense of such abatement shall be collected from the person or persons who may have created, continued and suffered such nuisance to exist.

SEC. 308. Any expense incurred by the health department in enforcing the provisions of the above sections shall be recovered in an action of debt, to be brought in the name of the city against the party offending.

Expense of abating nuisance—how recovered.

SEC. 309. It shall be the further duty of the commissioner of health to visit and examine or cause to have visited and examined all sick persons who shall be reported to him as laboring or supposed to be laboring under any yellow or ship fever, smallpox, cholera, or any infectious or pestilential disease, and cause all such infected persons to be removed to the cholera, smallpox or other hospitals, or to such other safe and proper place as he may think proper, not exceeding three miles from said city, and cause them to be provided with suitable nurses and medical attendance, at their own expense, if they are able to pay for the same, but if not, then at the expense of the city.

Commissioner to visit sick.

SEC. 310. It shall be the further duty of the commissioner of health to cause a notice, printed or written in large letters, to be placed upon or near any house in which any person may be affected or sick with smallpox, scarlet fever, or any infectious, pestilential or epidemic disease, upon which shall be written or printed the name of such disease, and if any person or persons shall deface, alter, mutilate, destroy or tear down such notice, without the permission of the commissioner of health, or of the health officer, such person or persons

Contagious diseases—posting notices.

shall be subject to the penalty hereinafter provided, the occupant of any house upon which such notice shall be placed or posted as aforesaid shall be held responsible for the removal of the same, and if the same shall be removed without the permission of the health commissioner, such occupant shall be subject to the penalty hereinafter provided.

Commissioner
to have charge
of small pox
hospital.

SEC. 311. The commissioner of health shall have charge of the smallpox hospital, and shall have power to employ such assistants and nurses as he may deem necessary; and it shall be his duty to see that said hospital is supplied with suitable furniture, nourishment, fuel and medicines, and that persons dying therein or in any other places under the charge of the city are decently and promptly buried at the expense of the city, provided such deceased persons have not the means to defray their own expenses of sickness or burial.

Pestilence—epi-
demic—duty of
commissioner.

SEC. 312. In case of pestilence or epidemic disease, or of danger from anticipated or impending pestilence or epidemic disease, or in case the sanitary condition of the city should be of such character as to warrant it, it shall be the duty of the said commissioner of health to take such measures and to do and order, and cause to be done, for the preservation of the public health (though not herein, or elsewhere, or otherwise authorized), as he may in good faith declare the public safety and health to demand.

Vaccination—
preventing
spread of dis-
ease.

SEC. 313. The commissioner of health may take such measures as he may from time to time deem necessary to prevent the spread of the smallpox, by issuing an order requiring all persons in the city or any part thereof requiring vaccination to be vaccinated within such time as he shall prescribe; and all persons refusing or neglecting to obey such order shall be liable to the penalty hereinafter provided; *provided*, that it shall be the duty of the commissioner to provide for the vaccination of such persons, as are unable to pay for the same, at the expense of the city.

Disinfection.

SEC. 314. He shall have the power to cause any house or premises to be cleansed, disinfected or closed to visitors and prevent persons from resorting thereto while any person is laboring under any pestilential or infectious disease; he may by an order in writing direct any nuisance to be abated, or unwholesome matter or substance, dirt or filth to be removed from any house or premises, and may prescribe the time and mode of doing so, and take any other measures he may deem necessary and proper to prevent the spread of any infectious, pestilential or epidemic diseases; and any person who shall neglect or refuse to obey the orders,

directions and instructions of said commissioner of health shall be subject to a penalty hereinafter provided.

SEC. 315. Said commissioner, whenever and at such times as by him it shall be deemed necessary, may, by proclamation (the approval of the city council being first had and obtained), require all boats, vessels, railroad cars or other public conveyances bound for the city, before the same shall land or stop at any wharf, depot or landing or stopping place therein, to touch or stop at any or either of the sites, places or boundaries so selected and established for quarantine purposes, and leave all such emigrants, travelers or persons, with their stores and baggage as in the opinion of the officers stationed at such quarantine sites, places or boundaries shall be deemed proper on account of the existence or general report of cholera, ship fever or any contagious disease, or disease apprehended to endanger the health of the city.

Proclamation-
quarantine.

SEC. 316. Whenever it shall be deemed necessary to issue such proclamation, it shall be the duty of the said commissioner to send the same, together with the substance of the regulations for quarantine and the period for which the same shall be in force, unless sooner revoked, to Chicago, Milwaukee, Dubuque, Sioux City and Fargo, the cities of the state, and such other cities and places as by him may be deemed proper.

Same.

SEC. 317. He shall also cause to be stationed at such quarantine sites, places and boundaries as he may deem advisable, one (1) or more physicians or health officers, whose duty it shall be to go on board and examine all boats, vessels, cars or other public conveyances so as aforesaid required to touch or stop at said quarantine, respectively, and then and there determine what emigrants, passengers or persons (if any) shall stop at such quarantine; and it shall be the duty of all persons conducting or in charge of any such vessel, boat, car or public conveyance to aid and assist any such physician or health officer in the exercise of his duties.

Same.

SEC. 318. Said commissioner or health officer shall attend to all sick persons who may be landed or placed in quarantine, and provide medicines and necessaries for their use, and shall have general supervision of such quarantines and compel persons therein to purify their bodies, clothes and baggage, and do all such acts and things as shall be proper in the premises, keeping correct accounts of all expenditures and wages which shall be allowed and paid by order of the said commissioner.

Commissioner
to attend sick
in quarantine.

SEC. 319. Whenever the physician or officer in charge of any quarantine, station or place as aforesaid shall,

May raise
quarantine.

upon examination, be satisfied that there is no longer occasion for the detention of any boat, vessel, car or conveyance at such quarantine or place, and such boat, vessel, car or conveyance shall have been thoroughly cleansed, and such persons as aforesaid landed and placed in the care of such physician or officer, such physician or officer shall give such vessel, boat, car or conveyance a permit signed by him to enter the city, which shall be ample authority for the entry of said boat, vessel, car or conveyance, and the said officers, respectively, shall discharge all persons in quarantine by their certificate for that purpose whenever they are satisfied that such persons are free of disease and baggage and effects properly purified; *provided*, however, that the commissioner, in his discretion, by proclamation for that purpose, may, during the prevalence of cholera, ship fever or other contagious or fatal diseases, forbid the emission of emigrants or others peculiarly liable thereto, in any or all of said quarantines or stations, until, in his opinion, the health of the city will justify the same.

May prevent
emission from
quarantine.

May invoke aid
of police.

SEC. 320. It shall be the duty of the said commissioner, whenever by him it shall be deemed necessary, to keep at the quarantine station or stations a sufficient police force, whose duty it shall be to enforce all regulations by this chapter required, or by said commissioner to be established, and to arrest all persons violating said regulations or committing any breaches of the peace, and bring such person before any court having jurisdiction, for trial, and to arrest and hold for trial all persons disobeying or interfering with or resisting any physician, health officer or other persons in authority at such quarantine site, place or station.

Power to en-
force quaran-
tine.

SEC. 321. In case any boat, vessel, car or public conveyance shall leave any quarantine station, place or boundary without a permit, as aforesaid, or shall fail to stop at the same, when so, as aforesaid, required by the issuing of such proclamation, or whenever the person in charge thereof, or any person under his command, shall fail or refuse to obey any regulation or command of the said commissioner of health, physician or person in charge of any quarantine station or place, or of any provision or requirement of this chapter, the said commissioner shall have the power, and it is hereby made his duty, if in his opinion the health of the city requires it, to send sufficient police force to such boat, vessel, car or public conveyance, and cause the same, with the crew and passengers on board, to be landed or stopped or conveyed to the quarantine station or place, and there to remain until properly discharged by the permit

aforesaid; and the owner, master or person in charge of any such boat, vessel, car or public conveyance shall be liable to the city for all expenses and costs incurred by reason thereof. If any emigrant, traveler or person so placed in quarantine, as aforesaid, shall leave the same without permission, as aforesaid, he may be arrested and taken back to said quarantine and there retained until such permission shall be given.

May arrest for violation.

SEC. 322. The said commissioner shall make such rules and regulations for the government of the quarantine or health of the city as, from time to time, he shall deem necessary; and the physicians or health officers in charge of any quarantine station or place shall have power to make and enforce such regulations as may be necessary for the proper conducting and management thereof; and it shall be the duty of all persons in quarantine, and all agents, officers, policemen or others employed by the city in and about said quarantine stations or places to carry out and obey the same.

May make rules and regulations.

SEC. 323. The said commissioner may appoint one or more competent physicians as quarantine physicians, who shall be present at such quarantine stations as the said commissioner of health shall designate, and attend to all the duties imposed by this chapter or by the regulations of said commissioner; and who shall receive, each, for actual services rendered, and for such time as such services shall be actually required, not more than five (5) dollars per day, to be allowed by said commissioner; also the said commissioner may employ such agents, servants, nurses or temporary medical assistants for the purpose of carrying into effect the objects and intent of this chapter or of any regulation as in his judgment shall, from time to time, be necessary, or authorize the employment thereof by the physicians or health officers in charge of any quarantine or station.

May employ physicians, nurses, &c.— compensation.

SEC. 324. All the salaries, wages and expenses in this chapter contemplated are to be audited and allowed by the said commissioner; *provided*, that when practicable the persons taken in such quarantine or stations and receiving the aid and care afforded thereby, shall each pay a sum of money sufficient to meet all expenses, labor and care incurred in his behalf, which said money shall be faithfully kept, reported and accounted for by the physician, health officer or other person in charge of said quarantine or station, to the said commissioner.

Commissioner to audit.

Quarantined persons to pay.

SEC. 325. No person, master, captain or conductor in charge of any boat, vessel, railroad car, public or private conveyance shall knowingly bring into the city any person or persons diseased of cholera, smallpox, ship fever, contagious or infectious disease whatsoever; and

Prohibitions.

no vessel, boat, railroad car, public or private conveyance, at any time covered by the said proclamation, shall pass by any quarantine station or place without stopping, nor shall leave the same without the permit aforesaid; and no person stopping in said quarantine, or so as aforesaid received therein, shall leave the same without first obtaining permission as aforesaid; nor shall any person aid or abet any master, conductor or person in charge of any boat, vessel, railroad car or public conveyance in violating, neglecting or evading any provisions or requirements of this chapter; nor shall any person interfere with, resist, neglect or refuse to obey the orders of any physician, health officer, policeman or other person in authority at any quarantine station or place of quarantine so as aforesaid established; nor to do any act or thing in violation of or in disobedience to any of the provisions, clauses or sections of this chapter; nor shall commit any breach of the peace, nor do any act calculated in any way to defeat or interfere with the provisions or requirements of this chapter or of any regulation of the said commissioner, physician or officer in charge of any quarantine.

Commissioner
to make tours
of inspection.

SEC. 326. It shall be the duty of the commissioner of health to make a circuit of observation once in every month to every part of the city and its environs, which, from the location, or from any collateral circumstances, may be deemed the cause of disease, and in all cases where he may discover the existence of any agent, the presence of which will prove dangerous to the health of the city, and there is no ordinance competent to the correction of the evil, he shall immediately report the same to the city council, accompanied with his opinion of the necessity of extraordinary or particular action.

Commissioner
to provide
hospital ac-
commodations

SEC. 327. The commissioner of health, by and with the approval of the city council, may select, purchase, lease and establish such sites, places and boundaries for quarantine stations and purposes, and, with the approval of said council, may erect, from time to time, such buildings and hospitals upon such sites and places, and so keep the same in repair as in his judgment may be deemed necessary.

To provide
record books
for births and
deaths and
other statistics

SEC. 328. It shall be the duty of the commissioner of health to provide the necessary books for keeping a record of all transactions of said department, including the proper registration of births and deaths and such other statistical information necessary for efficient working of said department; and shall also keep on hand all necessary blanks, to be used by physicians and midwives, and furnish them with the same on application.

SEC. 329. Said commissioner of health shall always have on hand, as far as practicable, a sufficient quantity of vaccine virus, and he shall vaccinate and revaccinate, without charge, all persons who may apply to him for that purpose; and shall give certificates of vaccination to children who have been vaccinated, and require such certificates to admission to the public schools. Shall vaccinate

SEC. 330. Any master of a vessel, conductor, captain or any person whosoever who shall violate any clause, provision, requirement, duty or regulation of this act, or any rule or regulation of the said commissioner of health, or physician, or health officer in the discharge of his duty, or in charge of any quarantine, or any person whosoever who shall fail or neglect to comply with any such clause, provision, requirement, duty or orders, or who shall interfere with or in any manner resist any officer or agent of the department of health of the city in the discharge of his duty as herein contemplated, or who shall commit any such breach of peace, or be guilty of any act or thing calculated to defeat or interfere with the carrying into effect any part of this act, or any regulation or order of the said commissioner of health, shall, upon conviction, be subject to a fine not to exceed one hundred (100) dollars nor less than ten (10) dollars for each offense, together with the costs of prosecution. Penalty for violation of health regulations.

SEC. 331. Said commissioner of health may order or cause any excavation, erection, vehicle, vessel, water craft, room, building, place, sewer pipe, passage, premises, ground matter or thing in the city, or adjacent water, regarded by said commissioner as in a condition dangerous or detrimental to life or health, to be purified, cleansed, disinfected, altered or improved, and may also order any substance, matter or thing being or left in any street, alley, water excavation, building, erection, place or grounds (whether such place where the same may be, be public or private), and which said commissioner may regard dangerous or detrimental to life or health, to be speedily removed to some other place; and may designate or provide a place to which the same shall be removed when no such adequate or proper place, in the judgment of said commissioner, is already provided. The said commissioner may require the police force of the city to execute any of the orders referred to in this act, and it shall be the duty of such police force to execute the orders of the said commissioners of health. May order disinfection.

SEC. 332. It shall be the duty of the said commissioner of health to aid in the enforcement of, and, as far Police to execute orders.
May enforce sanitary laws.

as practicable, to enforce all the laws of this state applicable to the preservation of human life, or to the care, promotion or protection of health; and said commissioner may exercise the authority given by the laws aforesaid to enable him to discharge the duties hereby imposed; and this section is intended to include all laws relative to cleanliness and to the use or sale of poisonous, unwholesome, deleterious or adulterated drugs, medicines or food. And said commissioner is authorized to require reports and information at such times and of such facts and generally of such nature and extent relating to the safety of life and the promotion of health as its by-laws and rules may provide, from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools, and from the managers and principals and officers thereof; and from all other public institutions, their officers and managers, and from the proprietors, managers, lessees and occupants of all theaters and other places of public resort or amusement in said district; and it is hereby made the duty of the officers, institutions and persons so called on, or referred, to promptly give such reports, verbally or in writing, as may be required by said commissioner.

Doctors and midwives to keep records.

SEC. 333. Every physician, midwife and other person who may professionally assist or advise at any birth shall make and keep a registry of every such birth, and therein enter the time and place, ward and street of such birth, and the sex and color of the child born, and the name and residence of each of the parents, so far as the foregoing facts can be ascertained; and every physician or professional adviser, who has attended any person at a late illness, or has been present by request at the death of any person, shall make and preserve a registry of such death, stating the cause thereof and specifying the date, hour, place and street of such death. Proper blanks of the above shall be furnished by the department of health.

They must report to health commissioner.

SEC. 334. That it shall be the duty of every person mentioned in the last section, or required to make and keep any such registry, to present to the said commissioner of health a copy of such registry, signed by such persons, or a written statement by him or her signed, of all the facts in said register required to be entered within five days after the birth, and within thirty-six hours after the death, of any person to whom such registry may or should relate.

Coroners to report to commissioner.

SEC. 335. That it shall be the duty of all coroners within three days after the taking of any inquest to file a written statement with the commissioner of health, signed by the coroner making the same, stating, so far

as he is able, where and upon the body of whom such inquest was held, and the cause and date and place of the death of such person.

SEC. 336. That the department of health is authorized, and it shall be its duty, to make such rules and ordinances as to them may seem proper and necessary for the purpose of compelling all physicians practicing within the limits of the city to make report of all cases of contagious and infectious diseases upon which they may be in attendance, and all keepers of boarding or lodging houses, all inn keepers or hotel keepers, to make report of all cases of contagious and infectious diseases occurring within their respective houses, and generally to make such regulations and rules as to them may be deemed necessary for the purpose of carrying into effect the objects of this section, and of obliging reports of contagious and infectious diseases to be made to said commissioner of health by persons becoming cognizant of the same.

Persons cognizant of contagious disease to report the same.

SEC. 337. And the said department of health is hereby authorized, and it shall be its duty, to make rules and ordinances regulating the interment and removal of dead bodies and their entry into, removal from and passage through the said city; and no body shall be buried within the limits of the city, removed therefrom or received therein, or passed through the city without a written permit first obtained from the said department of health, and to be issued in the manner and under the conditions by them prescribed; and the said department of health shall make all rules and regulations necessary for carrying out the objects of this act.

May make rules regulating interments and removals.

SEC. 338. That the jurisdiction of the city shall extend to and prevail over, all public cemeteries under the control of organizations established in said city; and it shall be the duty of the department of health to make such rules and regulations as it may deem necessary regarding the interment of dead bodies within the same and prescribe the duties of all sextons and keepers of such cemeteries relative to the reception of and burial of dead bodies.

Jurisdiction over cemeteries and sextons.

SEC. 339. Copies of the proceedings of said department, of its rules, regulations, by-laws and books and papers, constituting part of its archives, when authenticated by the commissioner of health, shall be presumptive evidence, and the authentication to be taken as presumptively correct in any court of justice, or judicial proceedings when they may be relevant to the point or matter in controversy of the facts, statements and recitals therein contained, and the action, proceed-

Records as evidence.

ings, authority and orders of the said department of health shall at all times be regarded as in their nature judicial and be treated as prima facie just and legal.

CHAPTER XIX.

MISCELLANEOUS.

Bonds of contractors.

SEC. 340. Bonds of contractors.—Before any contract whatsoever for the doing of any work or labor or furnishing any skill or material to or for any city shall be valid and binding against such city, the contractors shall enter into a bond with such city for the use of such city and also for the use of all persons who may perform any work or labor or furnish any skill or material in the execution of such contract, conditioned to pay, as they become due, all just claims for all work and labor performed and all skill and material furnished in the execution of such contract, and also to save such city harmless from any cost, charge and expense that may accrue on account of the doing of the work specified in such contract, and also to complete such contract, according to the terms thereof and the contract price, and to comply with all the requirements of this law; which bond shall be in such an amount as the city council shall determine, not less than the contract price agreed to be paid for the performance of such contract, and shall be duly signed and acknowledged by such contractor and two (2) or more sufficient sureties, and after being approved shall be filed, with the contract, in the office of the city controller, which said bonds shall be prepared by the city attorney and approved by the mayor.

Sureties—qualification.

SEC. 341. Sureties.—The sureties of such bond shall each take and subscribe an oath that he is a resident of the State of Minnesota, and that he is seized in fee of real estate situated in said state, and not exempt by law from sale or execution, of the value and worth over and above all incumbrances thereof on the same, for which he is to justify in said bond. More than two (2) sureties may be accepted on such bond, and they may justify in separate and different sums less than the sum specified in such bond; *provided*, that the aggregate of their justifications shall be equal to two (2) sureties, each justifying in a sum equal to the amount of said bond.

Right of action on bonds—who parties.

SEC. 342. Right of action on bonds.—Whoever shall perform, or cause to be performed, any work or labor, or furnish, or cause to be furnished, any skill or material, including any work, labor, skill or material necessary

in the repair of any tool or machine and including the use of any tool or machine or material furnished particularly for such contract and used therefor, in the execution of such contract, at the request of the contractor, his agents, heirs, administrators, executors or assigns, or at the request of any sub-contractor, his agents, heirs, administrators, executors or assigns, or at the request of such city, in case such city shall have determined such contract and shall have completed the same at the cost of the contractors, shall be considered a party in interest in said bond, and may bring an action thereon for the reasonable value or agreed price, as the case may be, of the work or labor performed or skill or material or tool or machine furnished in the performance of such contract.

SEC. 343. Trust companies may be sureties.—Any company organized under chapter three (3) of the general laws of Minnesota for eighteen hundred and eighty-five, entitled "An act to amend an act entitled an act to authorize the organization and incorporation of annuity, safe deposit and trust companies, approved March fifth, eighteen hundred and eighty-three," approved March fifth, eighteen hundred and eighty-five, and any company referred to in and complying with the provisions of chapter forty-two of the general laws of eighteen hundred and ninety-three, entitled "An act relative to recognizances, stipulations, bonds, obligations and undertakings, and to allow corporations to be accepted as surety thereon," approved April eighteenth, eighteen hundred and ninety-three, may, if satisfactory to the city, become sole surety under any bond required by this act, and in such case so much of the provisions of this act as requires two (2) or more good and sufficient sureties shall be considered to be fully satisfied by the execution of any such bond by such corporation, and none of the provisions hereof relating to sureties or approvals shall be required.

Trust companies may be sureties, who are organized under Chap 3, G. L. 1885, and chap. 42 G. L. 1893.

SEC. 344. No action shall be maintained on any such bond unless the same shall be commenced within one year after the cause of action accrues.

Action on bond within one year

SEC. 345. Monthly estimates.—Estimates shall be allowed monthly on all city contracts and the amount thereof shall be due and payable on the tenth day of the month succeeding the month in which the labor was performed or materials were furnished, on account of which the estimate is allowed.

Monthly estimates.

SEC. 346. Board of tax levy.—In any county in this state having a board of tax levy, operating under any special law or amendment thereto, whose election, designation or appointment, and whose powers and duties

Board of tax levy continued.

are prescribed by or in any such law, and who are authorized, empowered and directed thereby to fix the maximum rate or rates of taxation to be levied for certain city purposes, said board of tax levy shall continue to exist and to perform all the duties, and to exercise all the powers now prescribed by law for such board of tax levy, so far as the same affect any city accepting this act; and nothing in this act shall be held or construed to repeal any such law or to authorize or permit any officer or officers, or any person or persons, to exercise or perform any of such powers or duties.

Limitation of actions for injuries against city.

95 C 8 §347
118-NW 834

SEC. 347. Limitations of actions.—No action shall be maintained against any city on account of any injuries received in any manner whatsoever, nor on account of any injuries to persons or property by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, unless such action shall be commenced within one (1) year from the receiving of the personal injuries or the happening of the injury, nor unless notice shall first have been given in writing to the mayor of the city or the city clerk thereof, within thirty (30) days of the receiving of such personal injury, or of the occurrence of such injury to persons or property, stating the place where and the time when the same was received, and that the person injured will claim damages of the city for such injury; but the notice shall not be required when the person injured shall, in consequence thereof, be bereft of reason. Nor shall any such action be maintained for any defect in any street until the same shall have been opened and graded, nor for any insufficiency of the ground where sidewalks are usually constructed when no sidewalk is built. All actions arising ex delicto, including the action provided for by section two of chapter seventy-seven of the general statutes of eighteen hundred and seventy-eight, and including those hereinbefore stated in this section, shall be commenced within one (1) year after the cause of action accrues and not thereafter, and all actions arising ex contractu shall be commenced within two (2) years after the cause of action accrues.

Same—actions ex contractu.

Statute of limitations—general.

SEC. 348. Statute of limitations.—No right, title, estate or easement of any city in or to any property shall be prejudiced or lost by any adverse possession or occupancy, and no statute of limitation shall run or operate as against any city in favor of any person or persons occupying any of the public or platted streets or public or platted grounds, parks, parkways or boulevards of the city, whether such street or grounds or any such property be improved or not.

SEC. 349. Unauthorized obstructions in streets, etc.—If any person or company shall place or leave any obstruction, or make any excavation or opening, or cause any defect in any street, road, alley, public grounds or sidewalk in said city, or leave any obstructions or excavations or openings unguarded or without proper protection, such person or company shall be liable to any person who may be personally injured, or whose property may be injured or destroyed without his fault by means of such obstruction, excavation or opening; and in case any damage shall be recovered in any action against said city for injuries caused by such obstruction, excavation or opening, the city shall have the right to recover the amount of such damages in turn from the person or company placing such obstruction or making such excavation or opening; *provided*, that, upon the commencement of any such action against the city, notice thereof shall be immediately given in writing to such person or company so liable, with the statement that the city will look to such person or company to pay the amount of any judgment against the city which may be recovered in such action, and an opportunity given such person or company to defend such action; and such person or company may, upon his or its own application or the application of the city, be made a party defendant to such action; in which case, if judgment be recovered against the defendants, execution thereon shall be first issued against such person or company only, and the city shall not be required to pay such judgment until such execution shall be returned unsatisfied.

Unauthorized
obstruction
in streets, &c.—
subrogation.

C 8 §349
86-NW 746

c 8 §349
84-M - 23

SEC. 350. In regard to issue of warrants.—In all prosecutions for any violation of this act or of any ordinance of any city, the first process shall be a warrant; *provided*, that no warrant shall be necessary in case of the arrest of any person or persons while in the act of violating any law of the State of Minnesota or ordinance of any city; but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, processes, or writs by any court for violation of any ordinance of any city shall run in the name of the city and shall be directed to the superintendent of police or any police officer of said city.

Warrants—
process.

SEC. 351. Affidavit of city printer.—The proprietor of the official paper shall immediately after the publication of any notice, ordinance or resolution or proceedings of the city council or any other matter which is required to be published by any of the provisions of this

Affidavit of city
printer—filig.

act, or any ordinance passed in pursuance thereof, file with the city clerk of the city a copy of such publication, with his affidavit, or the affidavit of his foreman, of the time the same has been published, and such affidavit shall be prima facie evidence of the publication of any such notice, ordinance, resolution or council proceeding, or any such other matter required to be published as herein provided; and no account or claim for any publication whatever shall be allowed and adjusted by the city controller until such affidavit shall have been filed with the city clerk and the city clerk shall have certified that fact to the city controller.

Judgments—
how paid.

SEC. 352. Judgments—How paid.—Whenever any final judgment shall be recovered in any competent court against the city no execution shall issue thereon against such city, but such city shall cause the same to be paid.

No bond on ap-
peal by city.

SEC. 353. Cities not required to give bonds.—The city shall not be required in taking any appeal, or in serving out any writ or process, or in or about the prosecution of any act or proceeding, to enter into any bond, or to give any security whatever, and all proceedings in such action shall be stayed the same as though such bond had been given.

Who may ad-
minister oaths.

SEC. 354. Who may administer oaths.—The mayor, acting mayor, president of the city council or presiding officer thereof, the president, chairman or head of any board authorized by this act, shall, by virtue of their office, in all matters and proceedings before them relating to or appertaining to the city, be and are hereby authorized to administer oaths and receive testimony under oath or affirmation.

Authority to
repair roads
and bridges.

SEC. 355. Authority to repair roads and bridges.—The city council of any city, by a two-thirds vote of all the members elect, shall have the power to build, repair and maintain roads and bridges beyond the city limits into other towns and counties, whenever they deem it proper, and fix the amount and manner in which the appropriations for such purposes shall be expended.

Gas, water and
sewer pipes laid
before paving.

SEC. 356. The city council shall have the power to, and shall require, before any street is paved, that the gas, water and sewer pipes be laid therein and connections made with the front line of each lot. In the business portion of the city the word "lot" shall be construed to mean a subdivision twenty-two (22) feet front. This provision shall not apply as to gas pipes in cities where there is no system of gas lighting with mains laid in the public streets, nor water pipes in cities where there is no system of public water works with pipes laid in the streets, nor to sewer pipes in cities where

there is no system of carrying off sewerage by pipes laid in the streets.

SEC. 357. Library board—Board of education.—Library board
—board of
education. Nothing in this act contained shall be construed to affect the powers and duties of any board of education or library board in any city.

SEC. 358. No right to be affected.—That no rights already accrued to any city, or any penalty or forfeiture incurred in favor of any city under the provisions of any act of this state shall be affected by this act, nor shall this act affect any action or other legal proceeding pending at the date of the approval of this act; and all proceedings for the acquirement of parks and parkways and the making of local improvements and the making and collection of assessments therefor, which improvements have been finally ordered under the provisions of any law of this state, before the date of the approval of this act, shall be proceeded in as though this act has not been passed.No right to be
affected.

SEC. 359. All general laws and parts thereof inconsistent with the provisions of this act are hereby repealed; *provided*, nothing in this section shall be taken or construed as in any manner changing the provisions of section twenty-one (21) of this act.General laws
repealed.

SEC. 360. This act shall take effect and be in force from and after its passage.When to take
effect.

Approved April 8, 1895.

CHAPTER 9.

H. F. No. 505.

*An act to amend section two (2) of chapter ten (10), general statutes eighteen hundred and seventy-eight (1878), relating to the organization of townships.*To amend Sec.
2 Chap. 10 G. S.
1878.

Be it enacted by the Legislature of the state of Minnesota.

SECTION 1. That section two (2) of chapter ten (10), general statutes eighteen hundred and seventy-eight, (1878) be and the same is hereby amended so as to read as follows:

“A fraction of a township or any unorganized territory, whether fractional or otherwise, may be attached by said commissioners to an adjoining town, or be divided between two or more towns, or organized separately, according to the wishes of a majority of the legal voters to be affected thereby; and when rivers or lakes or creeks so divide a township as to make it inconvenient to do town business, the said commissioners may dispose of any fraction so formed by annexing the same to

May annex or
attach to or-
ganized towns.