

CHAPTER 411

INCORPORATION, CITIES FOURTH CLASS

Sec.		Sec.	
411.01	Incorporation; petition; first election	411.42	Exclusive or perpetual franchises not granted
411.02	Corporate powers	411.43	Protection of streets and city property
411.03	First election	411.44	Ordinances, regulations, resolutions, bylaws, and appropriations; enactment and effect
411.04	Terms of officers	411.45	Abatement of nuisances
411.05	Biennial elections	411.46	Audit of accounts
411.06	Wards, aldermen	411.47	Borrowing money and issuing bonds; tax levies; passage of ordinances
411.07	Corporate name; service of process and notices	411.48	Tax levy for general purposes
411.08	Elective officers; optional appointive clerk-treasurer	411.49	Special taxes
411.09	Removal of officers	411.50	Tax levy; bond issues; certificates of indebtedness
411.10	Vacancies	411.51	Tax levies; how made; validity; disposal of
411.11	Elections; ballots; tie votes	411.52	Certification and collection of taxes
411.12	Qualifications of electors and candidates for office; election districts; conduct of elections	411.53	Disbursements authorized by council; orders for
411.13	Judges of elections; general election laws	411.54	Orders to be canceled
411.14	Returns and canvass of elections	411.55	Poll tax
411.15	Offices, when vacated	411.56	Opening and vacating streets and alleys
411.16	Terms of office of elective officers	411.57	Laying out, opening, altering, and vacating streets; procedure
411.17	New election on failure to elect	411.58	Surveys and profiles to be made and filed
411.18	Oaths; bonds	411.59	Vacation of streets; procedure
411.19	Duties of mayor	411.60	Appeals
411.20	Mayor to sign ordinances	411.61	Records kept by clerk
411.21	Meetings of council; organization	411.62	Fire limits
411.22	Recorder; duties	411.63	Regulation of construction and use of buildings
411.23	Financial reports; estimates; accounts; special tax levies	411.64	Purchase of fire apparatus
411.24	City attorney	411.65	Engineers and fire-wardens
411.25	Treasurer	411.66	Assisting firemen; penalty for refusal
411.26	Chief of police; police officers and watchmen; execution of process	411.67	Street grades
411.27	Arrests	411.68	Sidewalks; construction or repair; notice to property owners
411.28	Street commissioner	411.69	Construction or repair by city; assessments
411.29	City assessor	411.70	Delinquent assessments; collection
411.30	Justices of the peace; jurisdiction; procedure; contempts; fines and penalties	411.71	Width of sidewalks and material for
411.31	City justices to make reports to council	411.72	Contracts for street lighting
411.32	Office hours of city justices; complaints to; writs and process	411.73	Gas pipes; laying
411.33	City surveyor	411.74	Water mains; laying
411.34	City printing	411.75	Action of council rescinded
411.35	Officers to deliver property and effects to successor; penalty for failure	411.76	Remission of judgments or penalties in favor of city
411.36	Officers; other duties; compensation	411.77	Prosecutions; warrants; procedure
411.37	Officers to enforce peace	411.78	Fines and imprisonments
411.38	Common council	411.79	Resident not disqualified as judge, justice, witness, or juror
411.39	Meetings of council; election and qualifications of members	411.80	Ownership of real and personal estate
411.40	Powers and duties of council enumerated	411.81	Powers, authority and limitations
411.41	Revocation of licenses		

NOTE: At the time of this publication, it appears that the only municipalities governed by this chapter are North Mankato and Waconia.

411.01 INCORPORATION; PETITION; FIRST ELECTION. Subdivision 1. **Population.** Inhabitants of contiguous territory not organized as a city but organized as a village, and having not less than 1,000 nor more than 10,000 inhabitants, may become incorporated, as a city of the fourth class, as provided in subdivisions 2 to 6.

Subd. 2. **Petition.** A petition addressed to the county board of the county in which the whole or the larger part of the village is situated, which is signed by one-fourth of the number of legally qualified voters residing in the village proposed to be incorporated as a city that voted in the village at the last preceding general election for state officers, may be filed with the auditor of the county praying that the existing village be incorporated as a city of the fourth class, and that an election be called to determine whether or not such city shall be incorporated. Such petition shall set forth the metes and bounds of the existing village, and the population thereof, and the number of voters voting in the village at the last general election for village officers, and of the proposed wards thereof. The residence of each signer shall be stated opposite the signature, but the signatures to the petition need not be appended to one paper. The petition shall be verified by the oaths of at least three of the petitioners, declaring the statements made in the petition to be true. In addition thereto the petitioner procuring the signatures to each paper and petition shall make an oath before a person

competent to administer oaths, that each signature is the genuine signature of the elector whose name purports to be thereto subscribed, and that each signer is an elector duly qualified to vote within the village designated in the petition as the village proposed to be incorporated as a city of the fourth class.

Subd. 3. Resolution of county board. If it shall appear that such petition is in due form, complies with the provisions hereof, and is signed by the proper number of electors residing in the village sought to be incorporated as a fourth class city, of which latter fact the affidavit of the petitioners procuring signatures on such paper and petition shall be prima facie evidence, the county board shall adopt a resolution approving the petition and in the resolution shall designate the time and place of holding a special election upon the proposition, which election shall take place not less than 30, nor more than 40, days from the time of presenting and filing the petition with the county auditor; and the county board, in the resolution, shall specify the location of the polling place in each ward, and that the polls will be open from 8 a. m. to 8 p. m., and shall prescribe a form of notice of such special election, a copy of which shall be attached to the resolution, in which notice shall be stated the time of such special election, the location of the polling place in each ward, the hours during which the polls shall be open, together with a statement of the question to be voted upon. Thereupon the county auditor shall cause a copy of the petition, resolution, and notice to be posted in at least five conspicuous places in the proposed city, at least 20 days prior to the date of such election, and shall cause the notice to be published in some legal newspaper published in the proposed city at least once each week for two consecutive weeks prior thereto, and if there be no newspaper published therein, then in a newspaper published in the same county.

Subd. 4. Inspectors of election. The county board, in its resolution, shall name three legally qualified voters residing in the proposed city, but not more than one from a single ward, if there be three or more wards, who shall act as inspectors of election, who shall supervise the holding of the election and conduct the same in accordance with the laws applicable to the election of village officers in such territory. The county board, in its resolution, shall name and appoint three judges and two clerks of election for each ward who shall be legally qualified voters residing within the proposed city. They shall perform the duties of judges and clerks of election prescribed by the general election laws. When the polls have been closed they shall correctly count and record the results of the election, tabulating the same, and delivering these results and tabulations to the inspectors of election. Thereupon the inspectors of election shall canvass the results of election and forthwith make and file with the county auditor a certificate declaring the time and place of holding of the election, that they have canvassed the ballots cast thereat, and the number cast, both for and against the proposition, and the final results thereof. The certificate shall be signed and verified by at least two of the inspectors to the effect that the statements thereof are true. The inspectors shall preserve all ballots, tally sheets, and tabulations pertaining to the election, and forward the same, in sealed containers, to the county auditor as soon after the election as conveniently may be to be by him kept according to law.

Subd. 5. Ballot. At such special election only the proposition of incorporation of the proposed city shall be submitted to the voters for acceptance or rejection. The ballots shall bear the words "For Incorporation of the City of, Yes—No," with a square after each of the last two words, in one of which the voter may make a cross to express his choice. In the blank space shall be printed the name of the proposed city. Only voters having complied with the laws applicable to voting in the territory where they reside shall have the right to vote.

Subd. 6. Filing. The county auditor shall attach the certificate of inspectors of election to the original petition, with a copy of the resolution of the county board, and notice calling the election and naming the officers of election, and the original proofs of posting and publishing of the election notice, and file the whole as one document in his office. If the certificate shall show that three-fifths of the votes cast on the proposition were in the affirmative, he shall forthwith make and transmit to the secretary of state a certified copy of the document to be filed there as a public document.

[1921 c 462 s 1; 1931 c 289 s 1; 1959 c 686 s 9-11] (1828-17)

411.02 CORPORATE POWERS. Upon filing of the petition with the secretary of state the inhabitants within the metes and bounds therein described shall thenceforth be a body politic and corporate subject to and with the power to act under the authority of all the provisions of this chapter. They shall have power to sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure; and take, hold, purchase, lease, and convey such real and personal or mixed estate as the purpose of the corporation may require, within or without the limits aforesaid; shall be capable of contracting and being contracted with; and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted and shall have and possess all the powers granted and applicable to cities of the fourth class not existing or operating under a charter adopted in pursuance of the Constitution of the State of Minnesota, Article 4, Section 36, or a special charter, and the authorities thereof shall have perpetual succession.

[1921 c. 462 s. 2; 1931 c. 289 s. 2] (1828-18)

411.03 FIRST ELECTION. Within 15 days after the completion of the incorporation of such city the county board shall by resolution designate the time and place of holding the first election of officers therein, which shall be not less than 30, nor more than 40, days after filing the incorporation papers with the secretary of state. The county board shall, in the same resolution, appoint three judges and two clerks of election for each ward, who shall be legally qualified voters residing in their respective wards, and in addition thereto shall appoint three legally qualified voters in the city, but not more than one from each ward thereof, if there be three or more wards, who shall conduct the first election of officers in the city, who shall be the inspectors thereof, and take the usual oath or affirmation as prescribed in the general laws of the state to be taken by the judges and inspectors of elections, and have the power to administer the necessary oaths. The persons so named as inspectors of the election shall hold and conduct the same in the manner and under the same penalties as provided by the laws of this state regarding elections and shall have power to fill vacancies in the board of inspectors, and among the judges and clerks of election.

When this city election is closed and the number of votes for each person voted for shall have been counted and ascertained the judges and clerks of election shall make return thereof stating the number of votes for each person for each and every office and deliver or cause to be delivered such returns to one of the inspectors within two days after such election, and the inspectors (or majority thereof) shall meet and canvass the returns and declare the result within one day thereafter. The inspectors canvassing the returns and declaring the result shall forthwith notify the officers elected of their election by written notice served upon such officers in person or left at their usual place of abode with some person of suitable age and discretion.

[1921 c. 462 s. 3; 1931 c. 289 s. 3] (1828-19)

411.04 TERMS OF OFFICERS. The terms of all officers elected at the first city election shall extend to the beginning of the terms of their successors elected at the first succeeding regular city election under the provisions of this chapter and until their successors are elected and qualified.

All officers appointed or elected by the common council or the mayor shall hold their offices until the first Tuesday after the first Monday in January next succeeding the first succeeding regular city election.

[1921 c. 462 s. 4] (1828-20)

411.05 BIENNIAL ELECTIONS. There shall be a biennial election for elective officers hereinafter provided held on the first Tuesday after the first Monday of November of each and every odd-numbered year at such place in each ward as the common council shall designate and the polls shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon and ten days preceding notice shall be given by the common council of the time and place of holding such election and of the officers to be elected by posting notices thereof in three public places in each ward.

[1921 c. 462 s. 5] (1828-21)

411.06 WARDS, ALDERMEN. Subdivision 1. Except as provided in subdivision 2, each city governed by this chapter shall be divided into not less than two wards and each ward shall contain as nearly as practicable an equal number of legal voters.

Subd. 2. At any time not less than 60 days prior to the biennial city election, the council may by ordinance provide that thereafter the city shall have four aldermen who shall be elected at large.

[1921 c 462 s 6; 1963 c 646 s 1] (1828-22)

411.07 CORPORATE NAME; SERVICE OF PROCESS AND NOTICES. The corporate name of each city governed by this chapter shall be: "The City of " and all and every process and notice affecting any such city shall be served upon the mayor and, in his absence, upon the president of the common council, and in the absence of both, upon the recorder and in the absence of these officers from the city, then by leaving a certified copy in the office of the recorder.

[1921 c. 462 s. 7] (1828-23)

NOTE: To extent inconsistent, superseded, Rules of Civil Procedure, Rules 4.03 (e), 86.01 and 86.02.

411.08 ELECTIVE OFFICERS; OPTIONAL APPOINTIVE CLERK-TREASURER. Subdivision 1. The elective officers of each city shall be mayor, treasurer, recorder, and one justice of the peace, who shall be styled city justice, all of whom shall be qualified voters of the city, and, except in any city electing its aldermen at large, two aldermen in each ward who shall be qualified voters therein. In any city electing its aldermen at large, the four aldermen shall be qualified voters of the city. All officers for the city shall be appointed by the common council unless otherwise provided and all these officers shall hold their offices for two years and until their successors are elected and qualified.

Subd. 2. The council may, by ordinance, abolish the elective positions of recorder and treasurer and combine said offices into one position which shall be called clerk-treasurer. The clerk-treasurer shall be appointed by the council each year, and he shall have all of the power and duties prescribed in this chapter for the offices of recorder and treasurer. Any elected recorder or treasurer in office at the time of passage of such ordinance shall remain in office for the balance of his unexpired term and such ordinance shall become effective upon the expiration of the terms of the recorder and treasurer.

[1921 c 462 s 8; 1933 c 203 s 1; 1963 c 646 s 2; 1969 c 212 s 1] (1828-24)

411.09 REMOVAL OF OFFICERS. Every person appointed to any office by the common council or elected to any office by the people may be removed from office by a vote of two-thirds of all the aldermen authorized to be elected. No officers elected by the people shall be removed except by cause nor unless furnished with a written statement of the charges against him nor until he shall have had a reasonable opportunity to be heard in his defense. The common council shall fix a time and place for the trial of such officers of which not less than ten days' notice shall be given and have power to compel the attendance of witnesses and the production of books and papers and to hear and determine the case; and, if the officer shall neglect to appear and answer the charge against him, the common council may declare the office vacant.

[1921 c. 462 s. 9] (1828-25)

411.10 VACANCIES. When a vacancy shall occur in the office of alderman by death or removal or resignation or otherwise the common council shall have power and it shall be their duty to declare the office vacant by resolution entered upon its minutes. Any vacancy occurring in any office shall be filled by a resolution of the common council adopted by a majority vote of the remaining members of the council within 15 days after such vacancy occurs. A person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof, for the unexpired term and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

[1921 c. 462 s. 10; 1933 c. 203 s. 1; 1943 c. 87 s. 1] (1828-26)

411.11 ELECTIONS; BALLOTS; TIE VOTES. All elections by the people shall be by ballot and each ballot shall contain the names of the persons voted for with a proper designation of the office written or printed thereon and a plurality of votes shall constitute an election. When two or more candidates for an elective office receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council at such time and in such manner as they shall direct.

[1921 c. 462 s. 11] (1828-27)

411.12 QUALIFICATIONS OF ELECTORS AND CANDIDATES FOR OFFICE; ELECTION DISTRICTS; CONDUCT OF ELECTIONS. All persons entitled to vote for state and county officers and who shall have resided in the city for three

months next preceding the election and ten days in the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law and to hold any office hereby created; and the different wards established by law shall constitute election districts for state and county, as well as city, elections and the mode of conducting all state and county elections in the city shall be in the manner as by law provided.

[1921 c. 462 s. 12] (1828-28)

411.13 JUDGES OF ELECTIONS; GENERAL ELECTION LAWS. The elections in the city shall be held and conducted by three judges of election to be appointed by the common council and who take the usual oath or affirmation as prescribed by the general laws of the state to be taken by judges of election and shall have power to appoint clerks of such elections and to administer the necessary oaths. These elections shall be held and conducted in the same manner and under the same penalties as required by the laws of this state regarding elections.

[1921 c. 462 s. 13] (1828-29)

411.14 RETURNS AND CANVASS OF ELECTIONS. When a city election shall be closed and the number of votes for each person voted for shall have been counted and ascertained the judges of election shall make returns thereof, stating therein the number of votes for each person for each and every office and deliver or cause to be delivered such returns to the city recorder within three days after any election, and the common council shall meet and canvass these returns and declare the results as it appears from the same within three days thereafter. The city recorder shall forthwith notify the officers elected of their election by written notice served upon such officers in person or left at their usual place of abode with some person of suitable age and discretion.

[1921 c. 462 s. 14] (1828-30)

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

[1921 c. 462 s. 16] (1828-32)

411.16 TERMS OF OFFICE OF ELECTIVE OFFICERS. Subdivision 1. The term of every officer elected under this chapter shall commence on the first Tuesday after the first Monday in January next succeeding his election and shall, unless otherwise provided, continue for two years until his successor is elected and qualified.

Subd. 2. The candidate for alderman receiving the highest number of votes in his ward at the 1963 city election shall be elected for a term of four years, and the candidate receiving the second highest number of votes in the ward shall be elected for a term of two years. In any city electing its aldermen at large, the two candidates receiving the highest number of votes at the 1963 election shall be elected for terms of four years and the two candidates receiving the next highest number of votes shall be elected for terms of two years. Terms of all aldermen elected thereafter shall be four years. All aldermen shall serve until their successors are chosen and qualify.

[1921 c 462 s 17; 1963 c 646 s 3] (1828-33)

411.17 NEW ELECTION ON FAILURE TO ELECT. Should there be a failure by the people to elect any officer therein required to be elected on the day designated, the common council may order a new election to be held, ten days notice of the time and place being given.

[1921 c. 462 s. 18] (1828-34)

411.18 OATHS; BONDS. Every person elected or appointed to any office under this chapter shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city recorder; and the treasurer and such other officers as the common council may direct, shall severally, before entering upon the duties of their respective offices, execute to the city a bond, with at least two sureties (to be approved by the common council), who shall make affidavit that they are each worth the penalty specified in the bond, over and above all debts, exemptions or liabilities, and the bonds shall contain such penal sum and such conditions as the common council may deem proper; and the common council may, from time to time, require new or additional bonds and remove from office any officer refusing

or neglecting to give the same. The provisions of section 273.05, as to the bond and oath of city assessors do not apply to bonds and oaths under this section.

[1921 c. 462 s. 19; 1969 c. 29 s. 1] (1828-35)

411.19 DUTIES OF MAYOR. The mayor shall preside at all council meetings at which he is present and shall have an equal vote with other members of the council on any matter coming before that body. He shall have no veto power.

He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city, and shall appoint such police officers and watchmen, except when otherwise provided for.

In case of a riot or other disturbances, he may appoint as many special or temporary constables as he may deem necessary; and any police officer or watchman, appointed by the mayor may be discharged from office by him when, in his opinion, the welfare of the city may demand it, or a reduction of their number renders it necessary.

[1921 c. 462 s. 20; 1933 c. 203 s. 1] (1828-36)

411.20 MAYOR TO SIGN ORDINANCES. All ordinances and resolutions shall, before they take effect and after receiving a required majority vote in the common council, be presented to the mayor and he shall sign the same. Unless a special meeting is called to reconsider any such ordinance or resolution, as provided in this chapter, it shall be the duty of the mayor to return the ordinance or resolution to the city recorder with his signature within ten days after the meeting at which the same was adopted by the common council. The city recorder shall sign, attest, and duly file and preserve ordinances or resolutions when the same are returned to him.

[1921 c. 462 s. 21; 1933 c. 203 s. 1] (1828-37)

411.21 MEETINGS OF COUNCIL; ORGANIZATION. The common 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 its number a vice-president for the ensuing two years and such other officers as may be necessary for the transaction of its business, except assessor, who shall be elected annually in the month of March. Such elections shall be by ballot and the affirmative vote of the majority of all the members elected shall be necessary to elect. The mayor shall preside over the meetings of the common council and during his absence from the city or his inability from any cause to discharge the duties of his office the vice-president shall exercise all the powers and discharge all the duties of the mayor. The acts of the vice-president of the common council, while performing the duties of mayor, shall have the same force and validity as if performed by the mayor. The mayor and vice-president of the common council shall have the right to administer oaths and affirmations.

[1921 c. 462 s. 22; 1933 c. 203 s. 1] (1828-38)

411.22 RECORDER; DUTIES. There shall be a recorder of the city, styled the city recorder, who shall keep his office at the place of meeting of the common council, or such other place convenient thereto as the council may determine. He shall keep the corporate seal and all the papers and records of the city; and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend. Copies of all papers filed in office, and transcripts from all records of the common council, certified by him under the corporate seal, shall be evidence in all courts as if the original were produced. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. The city recorder shall have power to administer oaths and affirmations, and take acknowledgement of deeds and other writings.

[1921 c. 462 s. 23] (1828-39)

411.23 FINANCIAL REPORTS; ESTIMATES; ACCOUNTS; SPECIAL TAX LEVIES. It shall be the duty of the city recorder to report to the common council the financial condition of the city, when the common council shall require. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the common council as will secure the punctual payment

of the principal and interest of such bonds. He shall report annually, on or about the first day of January to the common council, an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of January.

He shall make or cause to be made estimates of the expenses of any work done by the city, and countersign all contracts made in behalf of the city and certificates of work authorized by any committee of the common council or by any city officer. Every contract made in behalf of the city or to which the city is a party shall be void unless signed by the recorder. The city recorder shall keep regular books of account in which he shall enter all indebtedness of the city, and which shall at all times show the precise financial condition of the city, the amount of bonds, orders, certificates, or other evidences of indebtedness issued by the common council, the amount of all bonds, orders, certificates, or other evidences of indebtedness which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders, or other evidences of indebtedness of the city, and to keep accurate accounts thereof, stating to whom and for what purpose issued, and the amount thereof; to keep accounts with all receiving and disbursing officers of the city, showing the amount they have received from the different sources of revenue, and the amount which they have disbursed under the direction of the common council. He shall keep a list of all certificates issued for work or any other purpose, and, before the levy by the common council of any special tax upon the property in the city, or any part thereof, shall report to the common council a schedule of all lots or parcels of land which may be subject to the proposed special tax or assessment, and the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of land, which schedule shall be certified by the affidavit of the recorder, and shall be prima facie evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of this chapter. If before the first day of January of any year, the amount expended, or to be expended, chargeable to any city fund (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund) shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund, he shall report at once the same to the common council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The recorder shall examine all reports, books, papers, vouchers, and accounts of the city treasurer and from time to time shall perform such other duties as the common council may direct. All claims and demands against the city, before they are allowed by the common council, shall be audited and adjusted by the recorder. He shall keep a record of all his acts and doings, and keep a book in which he shall enter all contracts, with an index thereto; such record shall be open to the inspection of all parties interested. He shall not be interested directly or indirectly in any contract or job to which the city is a party, or in which the city is interested; and any contract in which he may be interested shall be null and void.

[1921 c. 462 s. 24] (1828-40)

411.24 CITY ATTORNEY. The common council shall have power to elect an attorney for the city, who shall perform all professional services incident to his office and when required furnish opinions upon any subject submitted to him by the common council or its committees.

[1921 c. 462 s. 25] (1828-41)

411.25 TREASURER. The treasurer shall receive all moneys belonging to the city, including all taxes, license money, and fines, and keep accurate and detailed account thereof in such a manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least 15 days before the biennial election, or sooner if required by the common council, a full and detailed account of the receipts and expenditures after the date of the last report and of the state of the treasury, which account shall be filed with the clerk and a copy of the same published in one or more of the city newspapers, or in the

newspaper published nearest to the city. He shall report to the common council at such times and in such manner as it may require.

[1921 c. 462 s. 26] (1828-42)

411.26 CHIEF OF POLICE; POLICE OFFICERS AND WATCHMEN; EXECUTION OF PROCESS. There shall be a chief of police of the city, who shall be appointed by the mayor by and with the consent of the common council, and who shall perform such duties as shall be prescribed by the common council for the preservation of the public peace. All police officers and watchmen of the city shall possess the powers of constables at common law or by the laws of this state; and it shall be their duty to execute and serve all warrants, process, commitments, and all writs issued by the city justice, for any violation of the laws of the state of Minnesota, or of the ordinances or by-laws of the city; and all writs and process issued by the city justice in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice, in any part of the state, and when performing the duties of constables aforesaid, shall be entitled to like fees. Watchmen shall have authority to arrest and detain any person guilty of any breach of the peace, or any violation of the laws of this state, or of the ordinances or by-laws of the city; and for these purposes shall possess the powers of constables at common law, while on duty.

[1921 c. 462 s. 27] (1828-43)

411.27 ARRESTS. All warrants issued by city justices for the violation of any general laws of this state shall run to the sheriff or any constable of the county, or to the chief of police or any policemen of the city; but no chief of police or policeman, where he goes outside of the county to make an arrest, shall receive any fees therefor, unless the commissioners of the county are satisfied that a delay in obtaining the sheriff or his deputy, or a constable, to make the arrest, might endanger an escape.

[1921 c. 462 s. 28] (1828-44)

411.28 STREET COMMISSIONER. Subdivision 1. The common council shall, at their first meeting in January succeeding the biennial election, or an adjournment thereof, elect by ballot a street commissioner, who shall hold his office for two years and until his successor is elected and qualified. It shall be the duty of the street commissioner to superintend all work and improvements on the streets, bridges, and public grounds of the city and carry into effect all orders and ordinances of the common council in relation to work or improvements upon the streets, roads, bridges, and public grounds of the city; and he shall be required to execute a bond, with sureties satisfactory to the common council, conditioned for the faithful performance of his duties, and that he will account for all moneys collected or received by him in his official capacity, or belonging to the city.

Subd. 2. The common council may, by ordinance, abolish the position of street commissioner provided for in subdivision 1 and delegate the duties of such office to such other officers as they may determine.

[1921 c. 462 s. 29; 1969 c. 212 s. 2] (1828-45)

411.29 CITY ASSESSOR. The common council shall, in the month of March each year, elect an assessor, who shall be styled the city assessor, who shall perform all duties in relation to the assessing of property for the purpose of levying of all city, county, and state taxes. Upon the completion of the assessment roll, he shall return the same to the common council, and the common council may alter, revise, and equalize the same, as it deems just and proper. The city assessor shall hold his office for one year and until his successor is elected and qualified.

[1921 c. 462 s. 30] (1828-46)

411.30 JUSTICES OF THE PEACE; JURISDICTION; PROCEDURE; CONTEMPTS; FINES AND PENALTIES. The justices of the peace of the city, styled city justices, shall possess all the authority, power, and rights of a justice of the peace of the county under the laws of this state and shall have in addition thereto exclusive jurisdiction to hear and try all complaints for violation of any provisions of the city charter, or any ordinance, by-law, rule, or regulation made or adopted under or by virtue thereof, and of all cases cognizable before a justice of the peace in which the city is a party, and of all writs, prosecutions, and proceedings in the recovery of any fine, forfeiture, or penalty under any by-law, ordinance, or regulation of the city or its charter, and in all cases of offenses committed against the same. The city justices shall have jurisdiction in cases of larceny, and may hear

and try the same where the amount claimed to have been stolen does not exceed the sum of \$25.

In all prosecutions for assaults, batteries, and affrays, and for all other offenses not indictable, and in all civil suits or proceedings before the city justices, the same forms and proceedings shall be had and used, where not otherwise directed, as are established and required to be had in civil and criminal actions by the laws of this state before a justice of the peace; and appeals from the judgment and decisions of the city justices shall be allowed as now provided by law for appeals from judgments rendered by justices of the peace. In all cases of convictions for assaults, batteries, and affrays within the city and in all cases of convictions under any ordinances of the city for breach of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same and of keeping or maintaining disorderly or ill-governed houses the city justices shall have power, in addition to the fines or penalties imposed, to compel the offenders to give security for their good behavior, to keep the peace, for a period not exceeding six months, and in a sum not exceeding \$500. The city justices shall have the same power and authority in cases of contempt as a justice of the peace under laws now in force. All fines and penalties imposed by the city justices for offenses committed within the city limits, for the violation of any ordinance, by-law, or regulation of the city, shall belong to and be a part of the finances of the city; for offenses against the laws of the state, of the county treasury.

[1921 c. 462 s. 31] (1828-47)

411.303 [Renumbered 633.035]

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

[1921 c. 462 s. 32] (1828-48)

411.32 OFFICE HOURS OF CITY JUSTICES; COMPLAINTS TO; WRITS AND PROCESS. The city justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the common council may prescribe, and complaints may be made to, and writs and process issued by, them at all times in court or otherwise.

[1921 c. 462 s. 33] (1828-49)

411.33 CITY SURVEYOR. The common council may at any regular meeting elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place in the city and the common council shall prescribe his duties, fix his term, and fix the fees and compensation for any services performed by him. All surveys, profiles, plans, or estimates made by him for the city shall be the property of the city and be carefully preserved in the office of the surveyor, open to the inspection of persons interested; and the same, together with all the books and papers appertaining to the office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor, or the common council.

[1921 c. 462 s. 34] (1828-50)

411.34 CITY PRINTING. The common council, at their first meeting in the month of January of each year, or as soon thereafter as may be, shall advertise for proposals to do the city printing, giving public notice of not less than one week, in such manner as the council may direct, that sealed bids shall be received by the recorder of the common council for doing the city printing. The bid or bids received by the clerk to do the city printing shall be publicly opened and read by the recorder, at such time and place as the common council shall appoint, and the person offering to do the city printing for the lowest sum or price in any newspaper published in the city, shall give satisfactory security for the performance of the work shall be declared city printer for the ensuing year, and in the newspaper designated in the accepted bid or proposal, shall be published all ordinances, by-laws, and other proceedings and matters required by this chapter, or by the by-laws or ordinances of the common council, to be published in a public newspaper. The city printer, immediately after the publication of any notice, ordinance, or resolu-

tion which is required to be published, shall file with the city recorder a copy of such publication, with his affidavit or the affidavit of his foreman, of the length of time the same has been published; and such affidavit shall be prima facie evidence of the publication of such notice, ordinance, or resolution; provided, that if no person will publish or offer to publish, in any newspaper published in the city such ordinances or other matters as the common council may require to be published, at a rate not exceeding that now prescribed by statute for legal advertisements or notices, the common council may make such other provisions for publishing its ordinances, by-laws, and matters requiring publication as it may think fit, anything herein contained to the contrary notwithstanding.

[1921 c. 462 s. 35] (1828-51)

411.35 OFFICERS TO DELIVER PROPERTY AND EFFECTS TO SUCCESSOR; PENALTY FOR FAILURE. If any person, having been an officer of the city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers, and effects of every description in his possession belonging to the city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city \$1,000, besides all damages caused by his neglect or his refusal so to deliver; and the successor may receive possession of such books, papers, and effects in the manner prescribed by the laws of this state.

[1921 c. 462 s. 36] (1828-52)

411.36 OFFICERS; OTHER DUTIES; COMPENSATION. The common council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this chapter, and to appoint such other officers as may be necessary to carry into effect the provisions of this chapter, and by ordinance to prescribe and delegate to such officers such duties and powers as the council may determine, including the power to appoint and remove subordinate officers and employees in any city department and the power to make or let purchases and contracts when the amount thereof does not exceed \$1,000, notwithstanding other provisions of this chapter to the contrary; but no officer elected or appointed by the common council, or appointed by the mayor, shall be appointed for a longer term than two years, and until his successor is elected or appointed and duly qualified. The common council shall have the power, unless otherwise provided, to fix the compensation of all officers elected or appointed under this chapter, and such compensation shall be fixed by resolution; and in regard to all offices created by this chapter, the compensation shall be fixed within three months from the first organization and meeting of the common council; after the first year, the compensation of officers shall be fixed on or before such time as the council may set the budget for the year in question; the compensation of any officer, after having been fixed, shall not be increased or diminished during the term for which such officer was elected or appointed. No officer elected or appointed to office under the provisions of this chapter shall be a party or interested in any contract in which the city is interested made while such officer is holding office.

[1921 c. 462 s. 37; 1963 c. 646 s. 4; 1965 c. 262 s. 1; 1969 c. 212 s. 3] (1828-53)

411.37 OFFICERS TO ENFORCE PEACE. The mayor, or acting mayor, recorder, and each alderman, the city justices, police officers, and watchmen shall be officers of the peace with powers of constables at common law, and may command the peace, suppress, in a summary manner, all rioting and disorderly behavior within the limits of the city; and, for such purposes, may command the assistance of the bystanders and, if need be, of all the citizens and military companies; and, if any person, bystander, military officer, or private, shall refuse to aid in maintaining the peace when so required, each person shall forfeit and pay a fine of \$50; and in each case where the civil powers may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

[1921 c. 462 s. 38] (1828-54)

411.38 COMMON COUNCIL. The mayor and aldermen shall constitute the common council, and the style of all ordinances, shall be, "The common council of the city of do ordain" &c. The common council shall meet at such time and place as it, by resolution, may direct. A majority of the council shall constitute a quorum.

[1921 c. 462 s. 39; 1933 c. 203 s. 1] (1828-55)

411.39 MEETINGS OF COUNCIL; ELECTION AND QUALIFICATIONS OF MEMBERS. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be delivered personally or left at their usual place of abode. The common council shall be the judges of the election and qualification of its own members and, in such cases, shall have power to send for persons and papers and shall determine the rules of its own proceedings, and have power to compel the attendance of absent members.

[1921 c. 462 s. 40] (1828-56)

411.40 POWERS AND DUTIES OF COUNCIL ENUMERATED. The common council shall have the management and control of the finances and all property of the city and shall likewise, in addition to the powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend, and repeal all such ordinances, bylaws, rules, and regulations for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as it shall deem expedient; it shall have power to establish and maintain a city prison; provided that until otherwise ordered by the common council the county jail of the county shall be used as a city prison and it shall be the duty of the sheriff or jailer of the county to take into custody and safely keep in the county jail all persons committed thereto until discharged according to law. The common council shall have full power and authority to declare and impose penalties and punishments and to enforce the same against any person or persons who may violate any provisions of any ordinance or by-law passed or ordained by them, and all such ordinances, rules, and by-laws are hereby declared to have all force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority, by ordinance, resolution, or by law;

(1) To regulate the use of, and to prevent and remove encroachments on and over streets, alleys, avenues and public grounds and public places, 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;

(2) 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;

(3) 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;

(4) To provide and regulate cross walks, curbs and gutters;

(5) 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 encumbering 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 encumbrances upon any street by persons owning or operating any railway along or across the same;

(6) To regulate and control or prohibit the placing of poles and the suspending of wires along or across the streets and alleys;

(7) To regulate and prohibit the exhibition or carrying or distribution or throwing of banners, placards, advertisements and handbills in or upon streets, public grounds and sidewalks;

(8) 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;

(9) To regulate and prohibit traffic and sales upon the streets, sidewalks or public places;

(10) 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;

(11) To name and change the names of streets, avenues, alleys and other public places;

(12) 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;

(13) 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;

(14) To prevent and regulate or prohibit the locating, construction and paving 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 and give the best service in the exercise of the same;

(15) 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;

(16) 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;

(17) To regulate or prohibit the whistling of locomotives, and the discharge of steam, cinders, sparks, and dense smoke therefrom;

(18) 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;

(19) 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;

(20) To restrain the pollution of the waters of any creek, river, pond, lake or watercourse 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, watercourses, and canals, and the draining or filling of ponds or pools on private property, when 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 occupant;

(21) 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 clause (20), 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;

MINNESOTA STATUTES 1971

4617

INCORPORATION, CITIES FOURTH CLASS 411.40

(22) 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;

(23) 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;

(24) 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;

(25) To license and regulate or prohibit and to suppress billiard, pool, pigeon-hole tables, pin alleys, bowling alleys, shooting galleries, taverns, and victualing houses;

(27) 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;

(28) 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;

(29) To license and regulate keepers of intelligence or employment offices, and all persons doing the business of seeking employment for or furnishing employees 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 these persons in their business;

(30) 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;

(31) To license and regulate all peddlers, book agents, canvassers, street hawkers, venders, and public criers doing business in the city;

(32) To tax, license and regulate pawnbrokers;

(33) To license and regulate butchers' stalls and shops, and stands for the sale of game, poultry, meat, fish, and perishable provisions;

(34) To license and regulate plumbers, and to regulate sewer and water connections of all kinds and the laying of branch sewer and water pipes;

(35) To license, regulate, and control or prohibit the carrying of concealed weapons, and to provide for the confiscation of the same;

(36) 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;

(37) To regulate and prevent the storage of gunpowder, dry pitch, resin, coal oil, benzine, naptha, 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 firecrackers, torpedoes, roman candles, skyrockets, and other fireworks;

(38) To prevent and suppress riots, routs, affrays, disturbances, disorderly assemblies, cock fights, dog fights, sparring matches, and all brutal or depraving exhibitions or sport;

(39) 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;

(40) To suppress bawdy and disorderly houses and houses of ill-fame and assignations within the limits of the city;

(41) 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 pool 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;

(42) 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 distraining and sale of the same;

(43) To establish and regulate the location of markets and market houses, and to provide for the use thereof;

(44) 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;

(45) 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;

(46) To provide for and regulate the place and manner of weighing hay and straw and selling the same, and measuring and selling of fire wood, coal, and lime;

(47) 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;

(48) 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, partitions, 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;

(49) 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 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 and requiring the owners of buildings or other structures, which shall have been destroyed or partly 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 the owner to so take the same down when ordered by officers designated by the 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 the buildings stand, and collected as other special assessments;

(50) 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;

(51) To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stove-pipes, 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;

(52) 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;

(53) 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;

(54) 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;

(55) 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;

(56) 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 the removal of bodies interred in any cemetery not existing according to law;

(57) To direct the location and regulate the management and construction of stockyards, slaughter houses, packing houses, renderies, tallow chandlers, storehouses 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 mile without the limits thereof;

(58) To direct the location and regulate the use and construction of stables, livery stables, blacksmith shops, and founderies within the limits of the city;

(59) To declare what is a nuisance and prohibit any offensive or unwholesome business or establishment within one mile of the limits of the city;

(60) 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;

(61) 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 the city, and to require any person maintaining any lumber, shingles, or lath piles or millwood yards in the city to remove the same when they become dangerous to any building or other property near the same;

(62) To establish and enforce rules for the use and regulation of all buildings maintained by the city;

(63) 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 street or sidewalks, or to frighten horses and to regulate the use of bicycles and any other vehicles on sidewalks and streets;

(64) 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 corporations for

the removal of such materials and substances, or any of them, upon such terms and conditions as it may deem best, and for any time not to exceed five years;

(65) 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 the city, and to prevent infected boats, vessels, cars, or other property conveyances from coming within or near the limits of the city;

(66) To establish and regulate public wells, cisterns, hydrants, and reservoirs;

(67) 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;

(68) 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 these officers and to authorize and direct these officers to enforce and carry into effect the provisions of any ordinance passed hereunder;

(69) To regulate lodging and tenement houses, and to prevent the overcrowding of the same, and to require the same to be kept in proper sanitary condition;

(70) 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 selling milk within the city;

(71) To regulate and require licenses to be obtained for the pursuit and prosecution of such occupations 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 adopt all such measures and to establish all such regulations, in cases for which no express provision is hereinbefore 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 the city;

(72) To compel the owners of vacant property within the city limits to keep the same clear of any brush, timber, or other material or substances liable to receive or communicate fire to adjoining property and, in case the owners of such property 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 the city, the city council shall have the authority to have the same done at the expense of the owners and, in case such owners refuse to pay such expense, shall have the right to assess the same against the property and to make, enforce, and collect such assessment as other assessments for local improvements for benefits are made, enforced, and collected;

(73) 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 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 chapter 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.

The city council shall prescribe by ordinance all regulations proper and necessary to carry into effect any and all powers granted by this chapter 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 \$100 or to be confined and kept at hard labor in the workhouse of the city or upon the public streets 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

MINNESOTA STATUTES 1971

4621

INCORPORATION, CITIES FOURTH CLASS 411.46

to exceed the term of 90 days and may provide that such imprisonment may be cumulative or for an indefinite term not to exceed 90 days, subject to suspension or termination by reason of or during good behavior of the person so imprisoned.

[1921 c. 462 s. 41] (1828-57)

411.41 REVOCATION OF LICENSES. The common council shall have the power to revoke any license granted by it.

[1921 c. 462 s. 42] (1828-58)

411.42 EXCLUSIVE OR PERPETUAL FRANCHISES NOT GRANTED. No exclusive or perpetual franchise or privilege shall be granted by the common council.

[1921 c. 462 s. 43] (1828-59)

411.43 PROTECTION OF STREETS AND CITY PROPERTY. The common council shall have the power to punish any person wilfully damaging any sidewalk, pavement, or appurtenance to the water-works or sewer system, or to any other property in or upon the public works of the city, and shall have the 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 employee 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.

[1921 c. 462 s. 44] (1828-60)

411.44 ORDINANCES, REGULATIONS, RESOLUTIONS, BYLAWS, AND APPROPRIATIONS; ENACTMENT AND EFFECT. All ordinances, regulations, resolutions, and by-laws shall be passed by an affirmative vote of a majority of the members of the common council present, by ayes and noes, and published in the official paper, before the same shall be in force; and shall be admitted as evidence in any court in the state, without further proof; they shall be recorded by the city recorder in books provided for that purpose. No appropriation shall be made without a vote of a majority of the members of the council present in its favor, which votes shall be taken by ayes and noes, and entered among the proceedings of the council.

[1921 c. 462 s. 45] (1828-61)

411.45 ABATEMENT OF NUISANCES. The power conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions, or proceedings in the courts according to law. Depots, houses, or buildings of any kind within the limits of the city, wherein more than 25 pounds of gunpowder or more than five barrels of 36 gallons each (or such greater or less quantity as the common council may direct by ordinance), of petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored, or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous, or fermented liquors are sold without license required therefore within the limits of the city, are hereby declared and shall be deemed public or common nuisances.

[1921 c. 462 s. 46] (1828-62)

411.46 AUDIT OF ACCOUNTS. The common council shall examine, audit, and adjust the accounts of the recorder, treasurer, street commissioners, city justice, and all other officers and agents of the city, at such times as they deem proper, and also at the end of each year, and before the terms for which the officers of the city were elected or appointed shall have expired. The common council shall require each and every such officer and agent to exhibit his books, accounts, and vouchers for such examination and settlement; and, if any such officer or agent shall refuse to comply with the orders of the council, in the discharge of these duties, in pursuance of this section, or shall neglect or refuse to render his accounts, or present his books and vouchers to the council, or committee thereof, it shall be the duty of the common council to declare the office of such person vacant. The common council shall institute suits and proceedings at law against any officer and agent of the city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all such settlement and adjustment.

[1921 c. 462 s. 47] (1828-63)

411.47 BORROWING MONEY AND ISSUING BONDS; TAX LEVIES; PASSAGE OF ORDINANCES. The common council of the city shall have full power, from time to time, to borrow money to pay the indebtedness of the city, and in order to pay such indebtedness the city may issue city bonds therefor, bearing interest not to exceed eight per cent per annum, redeemable at any time within ten years at the discretion of the common council. At no time shall it be lawful for the indebtedness, bonded or otherwise, to exceed the sum of \$15,000, unless the same be authorized by two-thirds of the legal votes cast at the election held for such purposes. The common council shall each and every year levy a tax of one mill on the dollar of the taxable property of the city for every thousand dollars that may be funded by the city into bonds to pay the interest on the bonds and create a sinking fund to pay the same when due. All laws, ordinances, regulations, and by-laws shall be passed by an affirmative vote of a majority of the common council, be signed by the mayor, and published in the official newspaper of the city, before the same shall be in force; and within 20 days thereafter they shall be recorded by the recorder in books provided for that purpose; but before any of the laws, ordinances, regulations, or by-laws shall be recorded, the publication thereof shall be proved by the affidavit of the foreman or publisher of such newspaper, and this affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication.

[1921 c. 462 s. 48] (1828-64)

411.48 TAX LEVY FOR GENERAL PURPOSES. The common council shall have power to levy, upon all taxable property of the city, such taxes as may be necessary for the operation of city government, notwithstanding any limitation otherwise imposed by this chapter or section 426.04.

[1921 c 462 s 49; 1969 c 212 s 4] (1828-65)

411.49 SPECIAL TAXES. The common council shall have power to levy a special tax upon all taxable property in the city, or of the different wards of the same, for the purpose of maintaining bridges and culverts, and opening, constructing, maintaining, and repairing roads, highways, streets, and alleys; for the construction of reservoirs, cisterns, sewers, drains, and street gutters, and grading of streets, and for other purposes conducive to good order and cleanliness, and for protection against crime, disease, and fire; provided, that such taxes shall, in no year, exceed one per cent of the assessed valuation. For the improvements in this section mentioned, the common council shall have power to assess the tax, to pay the same, upon the ward or wards benefited by such improvements in such manner and to such extent as the common council may think just and equitable. The tax shall be apportioned upon a cash valuation of the property which it shall be determined is liable to assessment for such improvements. No debt shall be incurred or created by the city, common council, or any officer of the city, except pursuant to the authority herein expressly given for that purpose; and no order or orders shall be issued on the city treasury exceeding the amount of tax collected or assessed and in process of collection.

[1921 c. 462 s. 50] (1828-66)

411.50 TAX LEVY; BOND ISSUES; CERTIFICATES OF INDEBTEDNESS. Subdivision 1. The common council shall have power, and it shall be the duty of the common council, to levy annually upon the taxable property of the city taxes sufficient to pay all bonds or other indebtedness due and payable in any year, and the interest on bonds or other indebtedness due or payable in any year, unless that, previously to the first day of September in each year, some other adequate provision has been made for the payment of the same. The common council shall have the power to issue bonds and levy taxes exceeding the amount authorized by other sections of this chapter; provided, the same be authorized by a majority of the voters present and voting at an election to be held for that purpose, the time, place, and manner of holding such election to be prescribed by the common council, the same notice to be given as at other elections. No bonds for any purpose shall be issued by the common council unless so authorized.

Subd. 2. The council may issue certificates of indebtedness within existing debt limits for the purpose of purchasing fire or police equipment or street construction or maintenance equipment. Such certificates shall be payable in not more than five years and shall be issued on such terms and in such manner

as the council may determine. If the amount of the certificates to be issued to finance any such purchase exceeds one percent of the assessed valuation of the city, they shall not be issued for at least ten days after publication in the official newspaper of a council resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular municipal election is filed with the clerk, such certificates shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on such certificates as in the case of bonds.

[1921 c 462 s 51; 1963 c 646 s 5] (1828-67)

411.51 TAX LEVIES; HOW MADE; VALIDITY; DISPOSAL OF. Taxes may be levied by resolution of the common council, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied; but in such case the surplus shall, if the tax be a general tax, go into the general fund of the city; if it be a bond or an interest tax, it shall be kept and used for the future payment of principal or interest of the same class of bonds, or the purchase thereof before due; if it be kept for improvements, it shall be kept and used for future improvements of the same character.

[1921 c. 462 s. 52] (1828-68)

411.52 CERTIFICATION AND COLLECTION OF TAXES. The common council shall cause to be transmitted to the auditor of the county, on or before the first day of September of each year, a statement of all taxes by it levied; and such taxes shall be collected, and the payment thereof enforced, with and in like manner as state and county taxes are paid and the payment thereof enforced, and the treasurer of the county shall pay such taxes over as fast as collected, to the treasurer of the city.

[1921 c. 462 s. 53] (1828-69)

411.53 DISBURSEMENTS AUTHORIZED BY COUNCIL; ORDERS FOR. No money shall be paid out of the city treasury, unless such payment be authorized by a vote of the common council, and these shall be drawn out only upon orders by the mayor and countersigned by the recorder, which orders shall specify the purpose for which they were drawn, and the fund out of which they are payable, and the name of the person in whose favor the same are drawn, and may be made payable to the order of such person, or to the bearer, as the common council may determine.

[1921 c. 462 s. 54] (1828-70)

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

[1921 c. 462 s. 55] (1828-71)

411.55 POLL TAX. It shall be lawful for the common council of the city at any time to levy a corporation poll tax upon every qualified voter in the city; provided, that the tax shall not in any one year exceed the sum of \$2 on each person.

[1921 c. 462 s. 56] (1828-72)

411.56 OPENING AND VACATING STREETS AND ALLEYS. The common council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and grounds within the limits of the city, and shall cause all streets which may have been opened and graded, to be kept open and in repair and free from nuisances.

[1921 c. 462 s. 57] (1828-73)

411.57 LAYING OUT, OPENING, ALTERING, AND VACATING STREETS; PROCEDURE. Subdivision 1. **Vote required.** The common council of the city, by a vote of not less than two-thirds of the members present, and constituting a quorum of any stated or special meeting, such vote to embrace a majority of all the members elect, shall have power to lay out, open, alter, and vacate public squares, streets, grounds, highways, and alleys, and to widen and straighten the same; provided, that when it shall be required to take private property for the

purposes above stated, the council shall proceed in the manner provided in subdivisions 2 to 13.

Subd. 2. Commissioners or viewers. The common council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as there may be wards, of the city, selecting one from each ward, who shall be a disinterested freeholder and qualified voter of the city, to view the premises, and assess the damages which may be occasioned, by the taking of private property or otherwise, in making the improvement. The commissioners shall be notified as soon as practicable by the clerk of the city, to attend at his office, at a time to be fixed by him for the purpose of qualifying and entering upon their duties; and in case any such commissioner upon being so notified shall neglect or refuse to attend as aforesaid he shall forfeit and pay a fine to the city, not exceeding \$50, and be liable to be prosecuted therefor before the city justice of the city, as in the case of fines imposed for a violation of an ordinance of the city; and the commissioners in attendance shall be authorized to appoint another commissioner in place of any absentee aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the common council shall fill such vacancy.

Subd. 3. Oaths of commissioners. The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make due return of their actions and doings to the common council.

Subd. 4. Survey and plat. The commissioners shall, with all reasonable speed, with the assistance of the city surveyor of the city, cause a survey and plat of the proposed improvement to be made and filed with the city clerk, exhibiting, as far as practicable, the land or parcels of property required to be taken, or which may be damaged thereby; and thereupon give notice by publication in the official newspaper of the city for at least ten days to the effect that such plat has been filed and that the commissioners will meet at a place and time designated by them and thence proceed to view the premises and assess the damages for property to be taken, or which may be damaged by such improvement.

Subd. 5. Hearings; assessment of damages. At the time and place according to the notice, the commissioners shall view the premises and may hear any evidence or proof offered by the parties interested and adjourn from day to day if necessary for the purpose aforesaid. When their view and hearing shall be concluded they shall determine and assess the amount of damages to be paid to the owner of each parcel of property proposed to be taken, or which may be damaged by the improvement and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and the advantages which will accrue to such owner in making such improvement.

Subd. 6. Removal of buildings; assessment of damages for buildings. If there should be any building standing, in whole or in part, upon the land to be taken, the commissioners shall in each case determine and assess the amount of damages which should be paid to the owner thereof in case such building, or so much thereof as might be necessary, should be taken; and determine and assess the amount of damages to be paid to such owner in case he should elect to remove such building; and the damages in relation to buildings aforesaid shall be assessed separately from the damages in relation to the land upon which they are erected.

Subd. 7. Awards. If the lands and buildings belong to different persons, or if the land be subject to lease, mortgage, or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such persons or interests, respectively, may be awarded to them by the commissioners, less the benefit resulting to them from the improvement.

Subd. 8. Report. The commissioners, having ascertained and assessed the damage aforesaid, shall make and file with the city clerk a written report to the common council of their action in the premises embracing a schedule or assessment of the damages in each case with a description of the land and the name of the owners, if known to them, and a statement of the costs of the proceeding.

Subd. 9. Notice of return of assessment. Upon such report being filed in the office of the city clerk, he shall give at least ten days' notice by publication in the official newspaper of the city to the effect that such assessment has been returned and that the same will be confirmed by the common council at a meeting

thereof to be named in the notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be taken by such improvement shall, on or before the time specified in the notice, notify the common council in writing of their election to remove such buildings, according to the award of the commissioners. The common council, upon the day fixed for the consideration of such report or at such subsequent meeting to which the same may stand over or be referred, shall have power in its discretion to confirm, revise, or annul the assessment, giving due consideration to any objections interposed by parties interested.

Subd. 10. Payment of damages. The damages assessed shall be paid out of the general funds of the city and paid or tendered, or deposited and set apart in the treasury of the city, to and for the use of the parties entitled thereto within six months from the confirmation of such assessment and report; and the land or property required to be taken for these purposes shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent or deposited and set apart for his use as aforesaid; and in case the city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited, by order of the common council, in the district court of the county in the same manner as moneys are paid into court until the parties entitled thereto shall substantiate their claim to the same.

Subd. 11. Sale of buildings. In case any owner of such buildings shall have so elected to remove his buildings, he shall so remove them within 30 days from the confirmation of the report or within such further time as the common council may allow for the purpose and thereupon be entitled to payment from the city of the amount of damages awarded in such case, in case of removal. When such person shall not have elected to remove such buildings or shall have neglected (after having elected to remove) to remove the same within the time prescribed such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, in manner aforesaid, may be then taken and appropriated, sold or disposed of, as the common council shall direct and the same or the proceeds thereof shall belong to the city.

Subd. 12. Guardian of infant. When any known owner of lands or tenements affected by any proceeding under this chapter shall be an infant, or labor under legal disability, the judge of the district court of the county, or, in his absence, the judge of any court of record, may, upon application of the commissioners, or of the city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by this chapter shall be served upon such guardian.

Subd. 13. Appeal to district court. Any person feeling himself aggrieved by such assessment may, by notice in writing served on the mayor of the city, a copy whereof, with proof of service, shall be filed in the office of the clerk of the district court of the county, within 20 days from the time of confirmation of the report or assessment, appeal from such assessment to the district court when such appeal shall be tried by the court and jury as in ordinary cases, but no pleadings shall be required; and the party appealing shall specify in the notice of appeal the grounds of objection to such assessment and shall not be entitled to have any other objections than those specified considered; and a transcript of such report, certified by the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just and made in conformity to law. The judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits.

[1921 c. 462 s. 58] (1828-74)

411.58 SURVEYS AND PROFILES TO BE MADE AND FILED. When any public ground, street, or alley shall be laid out, widened, or enlarged under the provisions of this chapter the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city surveyor and filed in the office of the register of deeds of the county.

[1921 c. 462 s. 59] (1828-75)

411.59 VACATION OF STREETS; PROCEDURE. No public grounds, streets, alleys, or highways within the city shall be vacated or discontinued by the common

council except upon the petition of a majority of the owners of property on the line of such public grounds, streets, alleys, or highways resident within the city; such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys, or highways proposed to be vacated, and be verified by the oath of at least two of the petitioners. The common council shall thereupon, if it deem it expedient that the matter should be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official newspaper of the city for four weeks, at least once a week, to the effect that such petition has been filed, as aforesaid, and stating in brief its object and that the petition will be heard and considered by the common council, or a committee appointed by them, on a certain day and place therein specified not less than ten days from the expiration of such publication. The common council, or such committee as may be appointed by them for the purpose, at the time and place appointed shall investigate and consider the matter and hear the testimony and evidence on the part of parties interested. The common council thereupon after hearing the same, or upon the report of such committee in favor of granting such petition, may by resolution passed by a two-thirds vote of all the members elect declare such public grounds, streets, alleys, or highways vacated; which resolution, after the same shall go into effect, shall be published as in the case of ordinances and thereupon a transcript of the resolution, duly certified by the city clerk, shall be filed for record and duly recorded in the office of the register of deeds of the county.

[1921 c. 462 s. 60] (1828-76)

411.60 APPEALS. Any person aggrieved thereby may, within 20 days after the publication thereof, appeal to the district court of the county under the same regulations as in the case of opening streets and alleys and the judgment of the court thereon shall be final.

[1921 c. 462 s. 61] (1828-77)

411.61 RECORDS KEPT BY CLERK. It shall be the duty of the clerk to keep in his office a record of all proceedings taken under this chapter; and, after the confirmation of any report mentioned in section 411.57, subdivision 8, and section 411.59, the clerk shall carefully record and transcribe in such record all the proceedings taken in relation to the matter in the report, including all petitions, orders, and appointments of commissioners, returns, and reports of commissioners, notices and proofs of publication thereof, and orders or resolutions of the council; and the record, or a certified transcript thereof, or the original papers, petitions, proofs of publication, orders, or resolutions on file in his office, shall be prima facie evidence of the facts therein contained in any court in this state.

[1921 c. 462 s. 62] (1828-78)

411.62 FIRE LIMITS. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or other buildings the material or construction of which shall be regarded as dangerous to surrounding property, shall not be erected, placed, or repaired and to direct that all and any buildings within the limits prescribed shall be built and constructed in such manner and of such materials as in the judgment of the common council shall not be dangerous to surrounding property; and to prohibit the repairing or rebuilding of wooden buildings within the fire limits when the same shall have been damaged by fire or otherwise to the extent of 50 percent of the value thereof, and to prescribe the manner of ascertaining such damages. The common council shall have power by resolution to order any building, structure, or materials therefor, erected, or in process of erection, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed beyond the fire limits of the city; and shall have power or prescribe the notice to be given to the owner or agent to remove such building and, in case the same is not removed in pursuance of the notice given, to order the same taken down, removed by the police or in such manner as the common council may see fit. The common council may prescribe penalties for the violation of any of the provisions of this section or of any ordinance made or enacted to carry out the provisions thereof, not exceeding \$100, which may be imposed by a city justice, upon the complaint of any citizen.

[1921 c. 462 s. 63] (1828-79)

411.63 REGULATION OF CONSTRUCTION AND USE OF BUILDINGS. The common council shall have power to prevent the dangerous construction and

condition of chimneys, fireplaces, hearths, stoves, stove-pipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe or secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places, and the throwing of ashes in the streets and alleys; to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; to regulate and prevent the use of fire arms and fire-works; to compel owners or occupants of buildings to have scuttles in the roofs, and stairs or ladders to the same; to authorize the mayor, aldermen, fire-wardens, and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires as the common council may deem expedient.

[1921 c. 462 s. 64] (1828-80)

411.64 PURCHASE OF FIRE APPARATUS. The common council shall have power to purchase fire-engines and all other apparatus which may be required for the extinguishment of fires, and to authorize the formation of fire-engine and hook-and-ladder and hose companies, and to provide for the proper support and regulation of the same, and to order such companies to be disbanded, their public meetings prohibited, and their apparatus to be given up. Every member of each company which may be authorized to be formed shall be exempt from highway work and poll tax, from serving on juries, and from military duty, during the continuance of such membership.

[1921 c. 462 s. 65] (1828-81)

411.65 ENGINEERS AND FIRE-WARDENS. The common council shall have power to appoint the chief engineer and two assistant engineers of the fire department, and one fire-warden in each ward, and to prescribe the duties of such officers.

[1921 c. 462 s. 66] (1828-82)

411.66 ASSISTING FIREMEN; PENALTY FOR REFUSAL. When any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor, or alderman at any fire it shall be lawful for the officer giving such order to arrest, or direct orally any constable, police officer, watchman, or any citizen to arrest, such person and confine him temporarily in any safe place until such fire shall be extinguished; and, in the same manner, such officers, or any of them, may arrest, or direct the arrest and confinement of, any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest, or aid in arresting, any person so refusing to obey, shall be liable to such penalty as the common council may prescribe, not exceeding a fine of \$50.

[1921 c. 462 s. 67] (1828-83)

411.67 STREET GRADES. The common council may cause to be established from time to time and as rapidly as the convenience of the inhabitants may require, under the direction of the city surveyor, the grade of all streets, sidewalks, and alleys in the city and it shall cause accurate profiles thereof to be made and kept in the office of the city surveyor.

[1921 c. 462 s. 68] (1828-84)

411.68 SIDEWALKS; CONSTRUCTION OR REPAIR; NOTICE TO PROPERTY OWNERS. When the common council shall deem it necessary to construct or repair any sidewalk in the city, it shall require the street commissioner to notify all owners and occupants of any lot or parcel of land adjoining such sidewalk, to construct or repair the same at their own proper expense and charge, within a time designated by the publication in the official newspaper of the city, for not less than two weeks, of a notice to the owners or occupants, setting forth what work is to be done, and the character of the same, by such owners or occupants, and the time within which they are required to do the same.

[1921 c. 462 s. 69] (1828-85)

411.69 CONSTRUCTION OR REPAIR BY CITY; ASSESSMENTS. If such work is not done and the sidewalks not built or repaired in the manner and within the time prescribed, the common council may order the same to be done by the street commissioner at the expense of the lots and parcels of land adjoining these

sidewalks and these expenses shall be assessed upon such lots and parcels of land so chargeable by the street commissioner and returned by him to the common council. The assessment so made and returned, if approved by the common council, shall become a lien upon these lots and parcels of land, as in case of city, county, and state taxes.

[1921 c. 462 s. 70] (1828-86)

411.70 DELINQUENT ASSESSMENTS; COLLECTION. If the assessment be not paid to the street commissioner or the city treasurer on or before the twentieth day of August in any year, the common council shall cause a statement of the same to be transmitted with the city taxes levied for that year to the auditor of the county on or before the first day of September in each year, and the auditor shall insert the same with the other taxes in the duplicate statement of taxes annually transmitted by him to the county treasurer for collection and payment thereof enforced with and in like manner as city, county, and state taxes are collected and payment thereof enforced.

[1921 c. 462 s. 71] (1828-87)

411.71 WIDTH OF SIDEWALKS AND MATERIAL FOR. The common council shall prescribe the width of sidewalks and may establish different widths in different localities and determine the kind of material of which they shall be constructed, having regard to the business and the amount of travel in the vicinity of each.

[1921 c. 462 s. 72] (1828-88)

411.72 CONTRACTS FOR STREET LIGHTING. The common council shall have authority to contract with any person or corporation for the lighting of such streets or parts of streets and public places as it shall deem proper for the convenience and safety of the inhabitants.

[1921 c. 462 s. 73] (1828-89)

411.73 GAS PIPES; LAYING. The common council may permit the laying of gas pipes in any and all the streets, alleys, highways, and public grounds of the city; but in all cases the common council shall regulate the laying of the same so that the gas pipes may not at any time interfere with the construction of common sewers or the lateral branches thereof or with the proper and convenient location of water mains and pipes, and may at any time require the location of any gas pipes to be changed if the same shall be found to interfere with the proper and convenient location of common sewers or water mains and pipes.

[1921 c. 462 s. 74] (1828-90)

411.74 WATER MAINS; LAYING. The common council may permit any party or corporation to lay water mains and pipes in any and all streets, alleys, highways, and public grounds of the city and shall regulate the position of the same so that they shall not obstruct or interfere with common sewers or with the proper drainage of the city.

[1921 c. 462 s. 75] (1828-91)

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

[1921 c. 462 s. 76] (1828-92)

411.76 REMISSION OF JUDGMENTS OR PENALTIES IN FAVOR OF CITY. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by the vote of two-thirds of the aldermen elect.

[1921 c. 462 s. 77] (1828-93)

411.77 PROSECUTIONS; WARRANTS; PROCEDURE. In all prosecutions for any violation of this chapter, the first process shall be by warrant on complaint being made; provided that no warrant shall be necessary in any case of the arrest of any person while in the act of violating any law of the state or ordinance or by-law of the city; but the person 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, process, or writs by a city justice for the violation of an ordinance or by-law of the city shall be directed to the chief of police or any police officer of the city.

[1921 c. 462 s. 78] (1828-94)

411.78 FINES AND IMPRISONMENTS. In all cases of the imposition of any fine or penalty, or of the rendering of any judgment by a city justice of the city,

MINNESOTA STATUTES 1971

4629

INCORPORATION, CITIES FOURTH CLASS 411.81

pursuant to any statute of the state, or pursuant to any ordinance or by-law of the city, as punishment for any offense or for the violation of any ordinance or by-law, as aforesaid, the offender shall be forthwith committed to the city prison of the city, or if there be no city prison, to the county jail of the county, and be there imprisoned for a term not exceeding three months, in the discretion of the city justice, unless the fine or penalty be sooner paid or satisfied; and from the time of the arrest of any person for any offense until the time of trial, the person so arrested may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the county.

[1921 c. 462 s. 79] (1828-95)

411.79 RESIDENT NOT DISQUALIFIED AS JUDGE, JUSTICE, WITNESS, OR JUROR. No person shall be an incompetent judge, justice, witness, or juror by reason of his being an inhabitant of the city, in any proceeding or action in which the city shall be a party in interest.

[1921 c. 462 s. 80] (1828-96)

411.80 OWNERSHIP OF REAL AND PERSONAL ESTATE. Each city may purchase and hold real and personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same and the same shall be free from taxation.

[1921 c. 462 s. 81] (1828-97)

411.81 POWERS, AUTHORITY AND LIMITATIONS. All cities incorporated and organized under this chapter shall have and possess all the powers and authority and be subject to all limitations and duties contained in any and all laws heretofore or hereafter enacted which refer and apply specifically to cities of the fourth class not existing or operating under a charter adopted in pursuance of the Constitution of the State of Minnesota, Article 4, Section 36.

[1921 c. 462 s. 82] (1828-98)

411.82 [Renumbered 415.031]

411.83 [Renumbered 415.032]

411.84 [Renumbered 465.70]