

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY



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CHAPTER 9

VILLAGES AND CITIES

1202. **Villages and boroughs**—Until reorganized as provided in section 1203 the several villages and boroughs existing as such at the time of the taking effect of the Revised Laws under special legislative charter or under any general law, shall continue thereunder and in all things continue to be governed by such general or special laws; except that the provisions of the General Statutes 1913 and any acts amendatory thereof or supplemental thereto relating to elections in villages, and of chapter 10 of such General Statutes 1913 and any acts amendatory thereof or supplemental thereto relating to indebtedness of villages, shall apply to and govern all such villages organized under any general law: Provided, that any village or borough of either class, having the requisite population, may reorganize as a city in the mode hereinafter prescribed. (Amended '17 c. 355 § 1)

Laws 1885 c. 145, relating to the incorporation of villages, and providing that all villages theretofore incorporated under the general law should be governed by the provisions thereof, though repealed by § 9446, nevertheless, by force of this section, remains in force as to existing villages, which were not reincorporated as provided by § 1203 (124-107, 144+464). Municipal Corporations, ↪10.

By Sp. Laws 1876 c. 14, the village of Le Roy became a village subject to Laws 1875 c. 139, and therefore comes within Laws 1885 c. 145 § 2 (124-107, 144+464). Municipal Corporations, ↪269(1).

1203. **Surrender of charter—Reincorporation**—Any village or borough organized under general or special charter may relinquish the same, and thenceforth be governed as herein provided. The council or other governing body may propose such relinquishment by a resolution ordering a special election thereon, or ordering such proposition to be submitted at the annual village election. Notice of such special election, and the conduct thereof, shall be as prescribed by law for other special village or borough elections. If submitted at the annual village election, the notice of such election shall contain a notice of the submission of such proposition. The ballots used shall bear the printed words, "For reincorporation—Yes—No," with a square after each of the last two words, in one of which the voter may insert a cross to express his choice. If a majority of the votes cast upon such proposition be in the affirmative, said governing body shall declare the result by resolution, a certified copy of which shall be filed with the county auditor, and another with the secretary of state. Thereupon the former charter shall cease, and the applicable provisions of this chapter be substituted therefor. But until after the election next ensuing, as herein provided, the officers of such former organization shall continue in the discharge of their official duties, being governed therein, so far as practicable, by this chapter. (Amended '15 c. 17 § 1)

124-107, 144+464.

VILLAGES

1204. **What territory may be incorporated—**

Estoppel of state to question legality of incorporation (see 130-100, 153+257). Municipal Corporations, ↪18.

G. S. 1894 § 1200, as amended by Laws 1903 c. 208, contemplated and required that the necessary population to authorize incorporation should be composed of actual residents in the territory, those having a fixed abode therein, and to exclude those temporarily sojourning therein, and in determining such population, laborers temporarily employed at lumber camps cannot be included (130-100, 153+257). Municipal Corporations, ↪5.

De facto public corporations, and collateral attack on proceedings for incorporation (see 132-59, 155+1040). Quo Warranto, ↪5.

1221. **Including territory not subject to village government—Effect—**

Cited (127-452, 149+951).

[1221—]1. **Annexation of territory to certain villages**—Any territory in counties having not less than seventy-six nor more than eighty congressional townships, containing a population of not less than two hundred (200) per-

sons, such territory, not included in any incorporated village having a population, according to the last census of not more than four hundred (400) persons with an area of not to exceed two hundred (200) acres and with an assessed valuation of less than seventy-five thousand dollars (\$75,000), but which said territory proposed to be annexed adjoins any such village now existing under the laws of the State of Minnesota, and no part of which territory proposed to be annexed is more than one and one-half miles from the present limits of the village which it adjoins, may be annexed to such village and become a part thereof, upon petition of a majority of the aggregate number of the legal voters residing within the territory included within the limits of said village and the territory proposed to be annexed. Such petition may be presented to the village council of any such village, and thereupon the council, by ordinance, may so extend the village boundaries so as to include the same, provided, however, that the area of said village, including the territory proposed to be annexed, shall, in no case, exceed four sections of land. No such ordinance, so extending the limits of said village, shall take effect until a certified copy thereof is filed with the secretary of state. ('15 c. 121 § 1)

1226. Extending boundaries—

Cited (127-452, 149+951).

[1226—]1. **Extending boundaries—Curative—**That whenever and in all cases between the first day of January, 1917 and the tenth day of March, 1917, the village council or governing body of any organized village in the State of Minnesota has proceeded to pass an act or adopt a village ordinance pursuant to section 1226 of the General Statutes of Minnesota for the year 1913, or pursuant to the laws of said State, and has enacted, passed or adopted such village ordinance extending the village boundaries of such village so as to include abutting lands and territory within such village, and has thereafter and within the time aforesaid filed a certified copy of such ordinance with the Secretary of State of Minnesota, all such acts, proceedings and ordinances and the annexing of the lands and territory described therein are hereby fully legalized, ratified and confirmed and made valid, notwithstanding any defect or defects in the said acts, proceedings or ordinances. ('17 c. 136 § 1)

1228. Extending boundaries of certain villages—

Cited (127-452, 149+951).

1230. Detachment of territory—

Cited (127-452, 149+951).

1231. Detachment of territory from villages of more than 1280 acres—The owner of any unplatted tract of land containing not less than forty acres occupied and used solely for agricultural purposes, situated within the corporate limits of any village in this state and not within 20 rods of the platted portion of said village, may petition the board of county commissioners of the county in which said tract of land is situated, for an order detaching said tract from said village. Upon the filing of said petition in the office of the county auditor of said county the board of county commissioners thereof shall, at their next meeting thereafter, fix a time and place for the hearing of such petition, which time shall not be less than thirty days thereafter, and shall direct a notice of such hearing to be issued and signed by the county auditor of said county on behalf of such board, which said notice shall state the name of such petitioner, describe the tract of land sought to be detached, and the time and place of such hearing, which said notice said petitioner shall cause to be served upon the president of the village council of such village, or the recorder thereof, at least twenty days before the day of hearing, and by posting three copies of such notice in three of the most public places in said village, or in lieu of such posting said notice shall be published in the official paper of such village for two successive weeks, once in each week, in case there shall be a legal newspaper printed and published in said village. Upon the hearing of said petition at the time and place so fixed, if the board of county commissioners shall find that said land is owned by the petitioner

and is used solely for agricultural purposes and that the same may be so detached from said village without unreasonably affecting the symmetry of the settled portion thereof, and that the same is so conditioned as not properly to be subjected to village government or is not necessary for the reasonable exercise of the police powers or other powers or functions of such village, such board of county commissioners shall make an order detaching such land from said village and thereupon said tract of land shall become detached therefrom, and shall thereafter form a part of the township in which it was originally situated, and shall in all things be subject to the town government of such township, and not in any manner under the jurisdiction of such village, and such order shall be filed in the office of the county auditor of such county and a duplicate thereof shall be filed in the office of the village recorder of such village within five days after the same shall have been made. Provided, that this act shall apply only to villages containing more than twelve hundred and eighty acres of land. (Amended '17 c. 477 § 1)

1233. Detaching unplatted lands from villages—

Cited (127-452, 149+951).

1238. Separate election and assessment district—

A sale of intoxicating liquor by one licensed by the common council of a village during the period of his license, but after the town in which the village is located has voted "no license," is unlawful, where there has been no statutory separation of the village and the town, and both participate in the election (126-505, 148+99). Intoxicating Liquors, ~~§~~14S.

Property within a village organized under Laws 1885 c. 145, is not, either before or after its separation from the township, liable to be taxed for the payment of any indebtedness incurred for roads and bridges (125-452, 147+439). Municipal Corporations, ~~§~~36(4).

1240. Apportionment of money and debt—Taxes—

125-452, 147+439; note under § 1238.

1241. Separation from villages of agricultural lands and annexation to towns—

Cited (127-452, 149+951).

[1245—]1. **Annexation from villages to cities of third class for city and school purposes—**Any incorporated village whose territory adjoins the territory of any incorporated city of the third class operating under a home rule charter, whether such village is in the same county as said city or not, may be annexed to said city and become a part thereof for city and school purposes in the manner herein provided for. ('15 c. 32 § 1)

[1245—]2. **Same—Petition for election—**Ten per cent or more of the legal voters of such village, according to the number of votes cast at the last village election, may petition the governing body of such village to call an election for the determination of such proposed annexation, which petition shall be filed with the clerk of said village. ('15 c. 32 § 2)

[1245—]3. **Same—Time and place of election—**Such governing body shall within ten days after the filing of said petition as aforesaid fix a time and place for the holding of an election for the determination of said matter, which time shall not be later than thirty days after the filing of said petition, and which place shall be within the limits of said village. ('15 c. 32 § 3)

[1245—]4. **Same—Notices of election—**It shall be the duty of said village clerk to cause a copy of said petition, with a notice attached thereto stating the time and place for holding said election, to be posted in three public places within such village at least ten days before the date of said election. ('15 c. 32 § 4)

[1245—]5. **Same—Judges—Election; how conducted—Ballots—**Said governing body shall also appoint three residents of said village as judges of election, and said election shall be conducted as far as practicable in accordance with the laws governing village elections. The ballots shall bear the words "For annexation Yes....., No.....," with a space after each of the last two words, in one of which the voter shall make a cross to indicate his choice. Immediately after such election the judges shall canvass the ballots, and forthwith make and file with the village clerk a certificate

that they have canvassed the ballots cast at such election, and the number of votes cast for and against said proposition. ('15 c. 32 § 5)

[1245—]6. **Same—Canvass of returns—Certificate**—Within five days after such election said governing body shall meet and canvass the returns of said election. If the canvass shows that the majority of the votes cast were in the affirmative the village clerk shall make a certificate to that effect and attach the same to the original petition together with a copy of the resolution fixing the time and place of said election and proof of the posting of the notices of election herein provided for and forthwith file the same with the city clerk or city recorder of the city to which the village is to be annexed. ('15 c. 32 § 6)

[1245—]7. **Same—Declaration of annexation—Filing—Annexation when complete**—At any time within twenty days after the filing of said certificate the governing body of said city may by resolution duly passed declare the said village to be annexed to said city and to be a part thereof, a certified copy of which resolution shall be duly filed with the secretary of state and the register of deeds of each county in which said city and village are situated, and thereafter said village shall be annexed to and form part of said city, and all the property and assets belonging to said village shall belong and be delivered to said city, and said city shall assume and be responsible for all the liabilities, obligations and indebtedness of said village. ('15 c. 32 § 7)

[1245—]8. **Same—Ward of city**—After such annexation the said village shall be part of such ward or form such new and separate ward as the said resolution annexing it shall specify. ('15 c. 32 § 8)

[1245—]9. **Same—Annexed village to be governed by what laws**—Such annexed village shall in all respects be governed by the laws governing the city at the time of such annexation, and by all of the laws relating to schools and school districts in said city; and the schools and school property of such annexed village shall be under the control and management of the officers and proper authorities of such city controlling and governing the schools and school property of such city. ('15 c. 32 § 9)

[1245—]10. **Same—Liquor licenses**—No license, however, for the sale of intoxicating liquors in the village so annexed to any such city shall ever be granted unless the question of issuing the same shall be first submitted to the electors residing within the territory of such annexed village, and shall be authorized by a majority vote of the electors voting at such election on such question. Such question shall only be submitted to the voters of such annexed village by the governing body of such city upon a petition therefor signed by at least forty per cent of the legal voters of such annexed village. Any such license granted without complying with the terms of this section shall be void. ('15 c. 32 § 10)

[1245—]11. **Same—Assessment and payment of taxes**—In all cases where the territory so annexed is situate in a county other than the county in which such city is situate, all city taxes and assessments levied by such city upon the property situate in such other county shall be certified to the county auditor of the county in which such territory is situate and the county treasurer of such county shall pay to such city and to the school officers thereof all city taxes and assessments and the proper city officers shall pay all school taxes to the proper school officers of such city authorized to receive the same. ('15 c. 32 § 11)

1246. **Elections—Officers—Terms—Vacancies**—The village election shall occur annually on the second Tuesday of March, when the resident electors shall choose the following named officers for terms beginning the first Tuesday in April next succeeding, to wit: A treasurer and a village council, composed of a president, a clerk and three trustees all for the term of one year, except as hereinafter provided. Also two constables and if there be no municipal court established in the village, two justices of the peace and if said village is a separate election district an assessor, all for the term of two years. Provided, that at the annual election held in March 1918 the three

trustees shall be elected one for a term of one year, one for a term of two years and one for a term of three years, the term for which each is elected to be designated on the ballot and thereafter one trustee shall be elected annually for the term of three years. All officers chosen, having qualified as such, shall hold until their successors qualify. Vacancies in office may be filled for the remainder of the year by the village council. (Amended '17 c. 402 § 1)

Cited (126-298, 148+276).

[1246—]1. **Election under Australian ballot system**—The village council of any village or the town board of any township in this state may by resolution or ordinance at least thirty days before the date of any election for village or township officers to be held therein, resolve or ordain that all elections of village or township officers in said village or township shall be held and conducted under the so-called "Australian Ballot System," until otherwise determined by ordinance or resolution by said village council or Town board, and after the adoption of such resolution or ordinance all elections of village or township officers in said village or township shall thereafter be held and conducted under said "Australian Ballot System," as provided by law for general elections in this state, as far as practicable. This shall relate to no preliminaries of such elections except the filing of candidates and the preparation of ballots as hereinafter provided. ('15 c. 315 § 1)

[1246—]2. **Same—Affidavit and fees—Duty of recorder—Ballots**—Candidates for such offices shall file an affidavit at least one week before election with the village recorder or the town clerk, as the case may be, paying to such officer a fee of one dollar (\$1.00). Such affidavit shall be substantially as provided by Chapter 2 of the Laws of 1912 [336], relating to non-partisan officers. There shall be no primary election, but the filing of such affidavits shall be a pre-requisite to having the name of the candidate placed on the official ballot for the general village election. The village recorder shall prepare and have printed, at the expense of their respective municipalities, the necessary tally sheets and ballots for such election. The ballots shall be printed on yellow-tinted paper, but without the fac-simile of the signature of the county auditor. The ballots shall contain no party designation of any candidates, and the names of the candidates for each office shall be arranged on the ballot alphabetically, according to the surname of such candidates. The ballots shall be counted, tallied and preserved as in general elections, except that the village recorder or town clerk, as the case may be, shall be the final custodian of such ballots, of his respective municipality. A sample ballot shall be posted at the place of election at least two (2) days before such election by the officer whose duty it is to prepare such ballot. ('15 c. 315 § 2)

[1246—]3. **Same—Registration days, etc.**—The Village council or town board, as the case may be, may also provide in such resolution or ordinance that there be two registration days preceding every such election, one of which shall be three weeks prior to the election day, and the other one week prior thereto. The board of election may act as the registration board, and such board shall be designated in time to so act. ('15 c. 315 § 2½)

[1246—]4. **Same—General election laws**—All of the provisions of laws now in force relating to offenses and penalties in connection with general elections are hereby made applicable to village elections. ('15 c. 315 § 3)

[1246—]5. **Certain village elections legalized**—That any election held since the time of the taking effect of the Revised Laws of 1905 in any village then existing under any general law and not having at the time of holding such election become reorganized or reincorporated under the provisions of the Revised Laws of 1905 or the General Statutes of 1913, at which election the provisions of such Revised Laws or General Statutes were followed, is hereby legalized and declared valid, and of the same validity and effect in all respects as if such village had prior to such election become duly reorganized or reincorporated under the provisions of the Revised Laws of 1905 or

the General Statutes of 1913 or such Statutes as amended by chapter 17 of the laws of 1915 [1203]. ('17 c. 35 § 1)

[1246—]6. **Same—Pending proceedings**—This act shall not apply to or affect any contest, action or appeal now pending in which the validity of any such election is called in question. ('17 c. 35 § 2)

[1246—]7. **Salaries of president and trustees in certain villages**—In all villages of this state, now or hereafter having, according to the then next preceding federal or state census, a population of more than five thousand inhabitants, or having, according to the state records for the then next preceding year, an assessed valuation of more than one million, five hundred thousand dollars, the president and trustees shall receive an annual salary of One Hundred Dollars for their services as such officers. ('15 c. 313 § 1)

[1258—]1. **Moneys in hands of treasurer of village declared illegally incorporated**—The moneys remaining in the hands of the person acting as treasurer of a village, the incorporation of which has heretofore or shall hereafter be declared to be illegal, shall by said person acting as village treasurer, be paid to the treasurer of the township in which the territory attempted to be included in such village is situate and in case such territory is situate in more than one township, then said money shall be paid to the township treasurers of said townships in such proportion as the assessed valuation of the real estate thereof, formerly included in such assumed, but illegal village, bears to the assessed valuation of all the real estate formerly assumed to be included therein. ('15 c. 57 § 1)

1265. Pleading—Evidence—Judgment—

In a criminal prosecution for violation of a village ordinance, the complaint is sufficient if it refers to the ordinance by number, chapter, or section, and it is not necessary to introduce the ordinance in evidence (124-498, 145+383, 51 L. R. A. [N. S.] 40, Ann. Cas. 1915B, 812). Criminal Law, ⚡304(12); Municipal Corporations, ⚡639(2).

1268. Council—Powers—Ordinances— * * *

8. **Streets—Sewers—Sidewalks—Public grounds**—To lay out, open, change, widen, extend, or vacate streets, alleys, parks, squares, and other public ways and grounds, and to grade, pave, and repair the same; to establish and maintain drains, canals, and sewers, and to alter, widen, or straighten watercourses; to lay, repair, or otherwise improve, or to discontinue, sidewalks, paths, and cross-walks; to prevent the incumbering of streets or other public ways or grounds with vehicles, railway cars or engines, building material, or other substances; to prevent racing or the immoderate riding or driving of animals or vehicles in the village, or the use of sidewalks for other than pedestrian purposes; to require the owners or occupants of buildings to remove snow, dirt, or rubbish from the sidewalks adjacent thereto; and, in default thereof, to authorize such removal at the owner's expense. But no street or alley shall be vacated except upon petition as in this chapter provided.

To define sprinkling districts and to require owners or occupants of lots or lands abutting on any public street or alley, to pay the proportionate share of the expense of sprinkling with water or oil any such street or alley, and in default of such payment to provide for the assessment of such proportionate share against such lots or lands to be collected as other taxes are collected. (Subd. 8, amended '17 c. 406 § 1)

Explanatory—The act amends subd. 8 by adding thereto the paragraph beginning "To define sprinkling districts," etc.

Subd. 6—126-477, 148+466, 52 L. R. A. [N. S.] 999.

Subd. 7—Fixing fire limits—An ordinance of a city operating under a special charter, fixing fire limits, held valid, and its enforcement could not be restrained (131-424, 155+397). Injunction, ⚡85(1).

Subd. 8—Evidence held to support a verdict that a proposed new street over a railroad right of way was a public necessity (124-107, 144+464). Municipal Corporations, ⚡321(2).

Liability for injury to children playing in sewer trench in street from caving in of earth (see 135-56, 140+190). Municipal Corporations, ⚡784, 819(3).

R. L. 1901 c. 167 cited—This provision is not unconstitutional because it does not give property owners an opportunity to be heard as to the necessity of the proposed improvement (124-471, 145+377). Constitutional Law, ⚡289.

Under § 3 of this act it was not improper for a council to postpone the construction of a sidewalk from October until the 1st of May following, such postponement not being an abandonment of the work and it not being necessary to give property owners another opportunity to build the walk themselves (124-471, 145+377). Municipal Corporations, [§446](#).

Subd. 12—131-195, 154+964, L. R. A. 1916C, 224 and 124-498, 145+383, 51 L. R. A. [N. S.] 40, Ann. Cas. 1915B, 812; note under § 1269.

Subd. 13—134-355, 159+792.

A sale of intoxicating liquor by one licensed by the common council of a village during the period of his license, but after the town in which the village is located has voted "no license," is unlawful, where there has been no statutory separation of the village and the town, and both participate in the election (126-505, 148+99). Intoxicating Liquors, [§148](#).

1269. Licensing amusements, peddlers, etc.—

A license fee of \$25 per day for auctioneers, imposed by the village under this section, held not so large as to go beyond legislative discretion (124-498, 145+383, 51 L. R. A. [N. S.] 40, Ann. Cas. 1915B, 812). Licenses, [§7\(9\)](#).

A license fee may be of sufficient amount to include the expense of issuing the license and the cost of the necessary police surveillance connected with the business licensed; and when the license relates to a business which the municipality has power to regulate the fee may be sufficiently large to work a restraint (124-498, 145+383, 51 L. R. A. [N. S.] 40, Ann. Cas. 1915B, 812). Licenses, [§7\(9\)](#).

The fact that Laws 1889 c. 122 was repealed in terms before R. L. 1905, did not affect the power of a village to pass a license ordinance, since this section went into effect prior to such repeal (124-498, 145+383, 51 L. R. A. [N. S.] 40, Ann. Cas. 1915B, 812). Statutes, [§274](#).

[1269—]1. **Public dance halls, etc.**—That the village council of any village shall have power by ordinance to license and regulate the keeping of public dance halls and the holding of public dances therein, as the same now are or may hereafter be defined by law; provided that such village council may in its discretion permit any lodge or society, not organized or maintained for profit, to conduct public dances without being licensed as herein provided. ('15 c. 190 § 1)

[1269—]2. **Musical entertainments in certain villages**—That the village council of any village of 1,000 or more population in this state is hereby authorized to annually levy a half mill tax against the taxable property in such village for the purpose of providing musical entertainment to the public in public buildings or on public grounds, provided however, that in any such village the total sum that may be levied or expended in any one year, shall not exceed the sum of five hundred (\$500.00) dollars. ('17 c. 273 § 1)

1280. Control of streets—

In the absence of an affirmative showing to the contrary, it must be presumed that an appropriation by the town supervisors of a sum of money from the road fund of the town to aid a village within the town in the construction of a bridge was within the limits of the existing fund (133-270, 158+392). Evidence, [§83\(2\)](#).

The authority of the town board to make appropriations from the road fund springs solely from this section, and when made by the board cannot be nullified by the electors at a subsequent town meeting (133-270, 158+392). Bridges, [§11](#).

Under this section the town supervisors may appropriate money from the town road fund to aid in the construction of a bridge by a village within the town, without previous authorization of the town electors (133-270, 158+392). Bridges, [§11](#).

Where the town supervisors, in pursuance of this section, make an appropriation from the town road fund to aid a village within the town in the construction of a bridge, a person who enters into a contract with the village for the construction of the bridge is not required to determine, as against the electors of the town, whether the place designated for the construction of the bridge is a public highway (133-270, 158+392). Bridges, [§20\(2\)](#).

1281. Vacating streets—

A petition signed by a majority of the owners of property abutting on the part of the street to be vacated is sufficient (129-259, 152+412). Municipal Corporations, [§657\(4\)](#).

[1281—]1. **Change of name of streets**—The village council of any village in this state, whether organized under a general or special law, may by ordinance or resolution duly enacted, change the name of any street or streets in said village. ('17 c. 415 § 1)

[1282—]1. **Certain street vacations legalized**—That in all cases in which, after the first (1st) day of January, 1914, and prior to the first (1st) day of July, 1914, the village council of any village in this state has taken proceedings to vacate and has voted to vacate any street in such village, such proceedings and the vacation of such street are hereby legalized and made valid and effec-

tual for all purposes; provided, however, that the provisions of this act shall not apply to or affect any action now pending involving the validity of any such street vacation. ('15 c. 158 § 1)

[1282—]2. **Certain street vacations legalized**—That in all cases in which, prior to the first (1st) day of January, 1915, the village council of any village in this state has taken proceedings to vacate and has voted to vacate any street or alley in such village, such proceedings and the vacation of such street or alley are hereby legalized and made valid and effectual for all purposes; provided, however, that the provisions of this act shall not apply to or affect any action now pending involving the validity of any such street or alley vacation. ('15 c. 248 § 1)

[1283—]1. **Certain village ditch proceedings legalized**—Where the village council of any village of this state, in pursuance of subdivision 8 of section 1268 of the General Statutes of Minnesota for the year 1913, and section 1283, General Statutes of Minnesota for the year 1913, have established and constructed, or attempted to establish and construct, any ditch or drain, all the proceedings for the establishment and construction of such ditch or drain are hereby legalized and made valid, and any assessments or liens levied or created or attempted to be levied or created against the lands benefited by the construction thereof for the cost of the establishment and construction of the same, are hereby legalized and declared to be valid and of full force and effect and a lien against said lands until paid, and all warrants issued under and pursuant to said subdivision of said section 1268 and said section 1283 or either of them are hereby validated. ('17 c. 414 § 1)

[1283—]2. **Same—Pending proceedings**—This act shall not apply to or affect any proceeding now pending in court, in which the validity of any such proceeding is called in question. ('17 c. 414 § 2)

1284. **Same—Street improvements**—The council of any such village may cause any street therein, or any part thereof to be graded, paved, or otherwise improved, or any sidewalk, sewer, or gutter to be built, upon a petition therefor signed by a majority of all owners of real estate bounding both sides, and by the owners of at least one-half of the frontage of the street or part of street to be improved, or may order any sewer to be built on any street or part of a street, or any sidewalk or gutter to be built on one side of a street or part of a street, upon like petition, if signed by the owners of at least one-half the frontage on such side of said street or part thereof to be so improved; and, without any petition, it may order any sidewalk, sewer or gutter previously built to be put in repair, or rebuilt, when necessary, and may also, upon petition, cause any street or part of street to be sprinkled when deemed necessary. The cost of such improvement or sprinkling, or any part thereof not less than half, may be assessed and levied, by resolution of the council, upon the lots or parcels of ground fronting on the street, part of street or side thereof, so improved or sprinkled and most benefited thereby. (Amended '11 c. 324 § 1; '15 c. 153 § 1)

124-471, 145+377.

1286. **Mode of assessment—Collection—**

124-471, 145+377.

Laws 1901 c. 167 cited—A recital in the minutes of a village council held not sufficient to show that the council did not legally ascertain and determine the benefits to defendant's property (124-471, 145+377). Municipal Corporations, §469(4).

[1286—]1. **Sprinkling and oiling streets in certain villages**—The provisions of Sections 1284, 1285 and 1286, General Statutes 1913, relating to the sprinkling or oiling of streets in villages organized or re-organized under the provisions of Chapter 9 of said General Statutes and the assessment of the cost of such sprinkling and the levy of taxes to pay the whole or a portion of such cost and the payment and collection of such assessments, all as provided for in said sections, shall extend to and be applicable in all villages incorporated under any special law or laws of the state. If the village council of any such village shall cause any street or part of street therein to be sprinkled,

it shall proceed in accordance with the provisions of said sections, anything in the charter of such village, or any special law of the state to the contrary notwithstanding. ('17 c. 48 § 1)

1305. Same—Settlement of affairs—

An improper direction as to disposition of village funds on dissolution cannot be complained of by the township in which the village was located (125-280, 146+974). Municipal Corporations, §51.

[1305—]1. **Funds of certain dissolved villages, how disposed of—**That whenever any village heretofore existing under the laws of this state shall have been dissolved in the manner provided by Sections 1274 and 1275 Revised Laws of Minnesota for 1905, and the council of any such village shall have wholly failed and neglected to designate the manner in which the money assets of such village remaining after the payment of all the debts of such village, and the settlement with the treasurer and other officers thereof, shall be used or otherwise disposed of, and funds belonging to said village shall remain in the hands of the last treasurer of said village, or to the credit of the treasurer of such village, or to the credit of such village, in the bank where such funds were on deposit at the time of the dissolution of such village, such treasurer or the bank where such funds were on deposit at the time of the dissolution of such village, is hereby authorized and directed to forthwith pay over all of such funds to the county treasurer of the county in which such village was located, and the receipt of such county treasurer shall be full and final receipt and release for such funds. That upon the receipt of any such funds as hereinbefore provided, the county treasurer and county auditor of such county shall credit such funds to such village on the books of their respective offices, and within six months thereafter the county auditor of such county shall draw his warrant in favor of the township in which such village so dissolved was located, for the full amount so received by such county treasurer for the credit of such village, after deducting from the amount so received such overdrafts or other sums as may be due to such county from said village for tax refunds or otherwise, and said county auditor shall forthwith deliver such warrant to the treasurer of such township, who shall credit the proceeds thereof to the general fund of such township. ('17 c. 193 § 1)

R. L. §§ 1274, 1275, above referred to, related to motor vehicles.

[1305—]2. **Same—Pending actions—**This act shall not affect any action now pending involving any such funds as are hereinbefore referred to. ('17 c. 193 § 2)

[1305—]3. **Dissolution of certain villages legalized—**That whenever heretofore the electors of any village governed by the provisions of chapter 9, Revised Laws of Minnesota for 1905, shall, at a special election duly called for that purpose, have by a majority vote of such electors voted to dissolve as provided for in section 742 [1304], Revised Laws of 1905, but the result of such election was not certified to the county auditor and by him to the state auditor and secretary of state, as provided for in said section 742 [1304], then and in such case the county auditor of any county wherein any such village is situate may, on its being satisfactorily made to appear to him that a majority of the votes at any such election so held were in favor of dissolution, so certify to the state auditor and the secretary of state; and upon his so doing, the dissolution of such village as a municipal corporation shall be ratified and validated as of the date when such election was so held. ('17 c. 296 § 1)

[1324—]1. **Sale, lease or abandonment of water and light plant, etc.—****Submission to voters, etc.—**Any village, in this state wherein there is constructed and in operation water works and lighting plant, or water works or lighting plant, for supplying water and light, or either of them, for public purposes or for the private use of its inhabitants, or both, owned by any such village, may by resolution or ordinance of its governing body, passed and adopted in the usual manner, sell, lease, or abandon any such plant or any specific part thereof; if a specific part of any such plant is to be sold, leased, or abandoned, such resolution shall state the specific part to be so sold, leased, or abandoned. Before any such resolution or ordinance shall become effective the same shall be submitted to the legal voters of such village at a regular

village election or special election therein and approved by a majority vote of the electors voting thereon at any such election. The ballots at any such election shall be printed and contain in full the resolution to be voted upon and thereon immediately following the resolution there shall be printed in appropriate manner the words "yes" and "no" on separate lines, and every voter desiring to vote in favor of such proposition shall thereupon make his cross (X) mark opposite the word "yes," and every voter desiring to vote against such proposition shall make such mark opposite the word "no." Such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for village officers. ('15 c. 79 § 1).

[1324—]2. **Same—Duty of officers**—Thereupon if any such proposition shall be declared adopted and carried at any such election, the proper officers of any such village shall forthwith proceed to carry out the same according to such resolution. ('15 c. 79 § 2)

[1326—]1. **Certain proceedings and taxes for water mains legalized**—That whenever and in all cases between the 1st day of July, 1913, and the 1st day of January, 1915, the village council of any village in the State of Minnesota, has proceeded to construct water works and lay water mains in such village for the furnishing of water to the inhabitants thereof, and for the purpose of raising the necessary money to pay for the labor, services and material used, including contract prices for laying such water mains, has issued village orders and had thereby procured money which has actually been used by such village for said purpose, and where such village council has levied or attempted to levy special taxes upon property in front of which any water main has been laid to pay for the cost of such water mains, all steps taken, things done and acts and proceedings had, done and performed by such village council in the construction of such water works and the laying of such water mains, and in the levying of such special taxes upon property in front of which such water mains have been laid to pay for the cost thereof, and all orders issued by such village council for the procuring of money for said purpose are hereby legalized, validated, ratified and confirmed, and all such village orders so issued by such village council are hereby legalized, validated, ratified and confirmed and made the legal, valid and binding obligations of such village. All acts and proceedings done or performed by such village council in the performance of said work of constructing such water works and laying such water mains in such village, including the procurement of the necessary money to pay for such mains and the disbursing of moneys in the payment thereof, and the levying of special taxes upon the property in front of which such water mains have been laid, are hereby legalized, validated, ratified and confirmed. Provided, that the provisions of this Act shall not apply to any action or proceeding now pending in any of the courts of this state. ('15 c. 70 § 1)

[1326—]2. **Sewer and water connections in houses—Toilets—Notice—Cost, how paid—Assessments**—Whenever any village in the State of Minnesota, having power to do so, installs, builds and constructs a municipal sewer and water plant within its corporate limits along any public street or alley, it shall be the duty of every owner or occupant of any abutting property platted into lots and blocks having a dwelling house or business property situate thereon to install a toilet in said dwelling or business property, and make connection thereof with the water and sewer in the street or alley adjacent thereto, within thirty days after written notice is given to such owner or occupant to install such toilet and make such connection by the governing body of such village, and the authority to give such notice may by ordinance of such village be delegated to any elective or appointive officer of such village and when the owner or occupant of any property so notified in writing to install a toilet and make sewer and water connection shall for thirty days after such written notice is given, and proof of the service of such notice shall fail, refuse and neglect to make such connection and install such toilet, such governing body may by resolution direct that a toilet be installed and connection made with sewer and water and that the cost of said installation be paid in the first instance by the village out of the general fund of revenue, and the actual

cost thereof assessed against the said property benefited; after such installation and connection is completed there shall be served a written notice of such assessment and an order directing the owner or his or her representative of such property to pay said assessment and within ten days after the service of said written notice, to the treasurer of such village, and after proof of such notice and order and that assessment has not been paid within said ten days the same shall be certified to the county auditor for collection as other assessments for benefits except that such assessment may be spread over a term of three years if so requested when certified, and shall become a lien upon said property until paid. ('17 c. 203 § 1)

[1326—]3. **Same—Penalty for violation**—Any person who shall in any way interfere with the carrying out of the provisions of this act shall be, when convicted subject to punishment by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100) dollars, or to imprisonment in the county jail for not more than three months or by both fine and imprisonment at the discretion of the trial court. ('17 c. 203 § 2)

[1337—]1. **Docks and warehouses in certain villages**—That any village in this state now or hereafter located upon any international navigable body of water is hereby authorized to acquire by purchase or condemnation such land bordering on any international body of navigable water, as the council of such village shall determine to be necessary for the use of said village for a public dock and warehouse, or either of the same; and to construct and maintain on such tract of land a public dock or warehouse or either of the same under such rules and regulations for the use of said dock or warehouse as the village council of said village shall by ordinance provide. ('17 c. 36 § 1)

CITIES

1339. **How classified—**

Cited (123-48, 142+1042).

This section is not unconstitutional as special legislation (124-126, 144+756). Statutes, ☞92.

1340. **State census to govern—**

123-48, 142+1042.

This section is constitutional (124-126, 144+756). Statutes, ☞92.

1342. **Home rule charters—Patrol limits—**

The adoption of a home rule charter by the people of a city is legislation, and the authority it furnishes to city officers is legislative authority (134-296, 159+627). Municipal Corporations, ☞48(2).

1345. **Proposed charter, how framed—**

128-82, 150+389.

Cited (129-240, 152+408).

Power of city under home rule charter to authorize its city council to punish a witness called before it for contempt (see 131-116, 154+750). Municipal Corporations, ☞60.

1347. **Regulation of franchises—**

Construction of special charter provision (see 130-71, 153+262, Ann. Cas. 1916B, 286).

1348. **Charter—How submitted—Ballots—**

Calling of election to submit charter returned by commission may be compelled by mandamus, though there has been an intervening election at which the charter might have been submitted (129-181, 151+970). Mandamus, ☞74(2).

1354. **Commission form of city government—**

The commission charter of the city of St. Paul is not violative of any of the provisions of this act (128-82, 150+389). Municipal Corporations, ☞48(1).

1358. **Same—Recall and removal of officers—Ordinances—**

Where an ordinance is repealed in response to a sufficient referendum petition of protest, the council cannot thereafter pass the same ordinance, though it may pass one on the same subject-matter, provided it acts in good faith (133-98, 157+991). Municipal Corporations, ☞108.

The constitutional requirement that a municipal charter shall provide a legislative body for the city is not violated by conferring the power of initiative and referendum upon the electors of the city after establishing such legislative body (134-355, 159+792). Municipal Corporations, ☞108.

Proceedings on petition for referendum to suspend ordinance of city of Duluth, under provisions of charter of that city, considered (see 135-221, 160+682). Municipal Corporations, [§](#)117.

1359. Same—Application of general election laws—

Failure to vote for the requisite number of commissioners, as required by the Duluth charter, held not to vitiate a ballot to such extent that it cannot be counted in canvassing the votes for mayor (127-411, 149+653). Elections, [§](#)186(1).

1364. Act regulating cities of first class not applicable unless expressly declared—

It is not contrary to the public policy of the state to give to cities of the first class operating under home rule charters power to prohibit the liquor traffic. The charter of the city of Duluth held to grant such power (134-355, 159+792). Intoxicating Liquors, [§](#)10(1).

[1373—]1. **Amendments to certain charters legalized—**In any case in any city or village in this state where amendments to the city charter of any city or village operating under home rule charter have been prepared and filed with the chief magistrate or chief executive officer of said city or village by a number of persons, not less than that required by the law purporting to be a board of free holders and to have been appointed and to have acted under Section 36, Article 4 of the Constitution of this state, and the laws of this state enacted thereunder; and said amendments to such home rule charter have been actually submitted to the qualified voters of such city or village at a general or special election held therein; and such amendments to said charter have been ratified and adopted by a vote as required by the constitution and laws of this state at such election; and such amendments to said charter have been actually put in operation in said city or village, and the powers by such amendments conferred, have been exercised by the village or city officers, then such amendments to said charter are hereby legalized and made lawful village or city amendments to said charter, and to have the same force and effect to be of like validity as if each, all and every requirement of law for the appointment and qualification of free holders to prepare and propose the same, the preparation, proposing and filing thereof by said board of free holders, the submission thereof to the voters of said village or city and the ratification and adoption thereof by the voters of said village or city, and the certifying and filing thereof in the office of register of deeds of the county and in the office of the Secretary of State had in all things been fully complied with.

Provided, that if said amendments to said city charter have not been filed in the office of the register of deeds of the county, a copy thereof certified by the mayor of said village or city shall be filed in said office within sixty days after the passage of this act, and if said amendments to said city charter have not been deposited in the office of the Secretary of State, a copy thereof, certified by the mayor, shall be deposited in said office within sixty days after the passage of this act. ('15 c. 297 § 1)

[1373—]2. **Same—Acts of officers legalized—**All acts of officers of said village or city under such amendments shall have the same force and validity as if said amendments to said charter had originally been fully valid and legal and filed as required by the law in the office of the register of deeds and Secretary of State. ('15 c. 297 § 2)

PROVISIONS RELATING TO ALL CITIES

1376. Same—Cities may own and operate or lease—Submission to voters—Reservations in grant—Ordinance authorizing lease—Petition for submission—Regulations and rates—Bonds—Purchase and condemnation—Valuation—Rental—

129-383, 152+777, Ann. Cas. 1916E, 845.

The legislature intends to give municipalities, owning and managing public utilities, the same freedom of action as if owned by private corporations or persons (124-73, 144+453). Municipal Corporations, [§](#)205.

Contract with a telephone company, whether considered as a franchise or a contract under this act, held invalid, where entered into without advertisement for proposals as required by city charter (122-34, 141+833). Municipal Corporations, [§](#)236.

Under its charter the city of Virginia has power to issue and negotiate bonds to obtain

funds with which to pay for a water and light plant (123-48, 142+1042). Municipal Corporations, ~~§~~911.

The terms of purchase may be fixed by agreement without resorting to the method of ascertaining value prescribed in the chapter relative to eminent domain (123-48, 142+1042). Electricity, ~~§~~1½; Waters and Water Courses, ~~§~~183(3).

The election for the purchase of such plants and for issuance of bonds therefor was valid; the notice and the publication of resolution being sufficient (123-48, 142+1042). Municipal Corporations, ~~§~~919.

1383. Certain acts relative to purchase of electric light and water plant legalized—

123-48, 142+1042.

PROVISIONS RELATING TO CERTAIN CITIES

1416. Special assessments in installments for paving in cities having 20,000 inhabitants or less—

134-204, 158+977; note under § 2108, post.

1418. Same—Duty of clerk—How collected—

134-204, 158+977; note under § 2108, post.

Cited (124-300, 145+21).

1427. Same—Taxes, how levied, etc.—When said plan is adopted, as hereinbefore set forth, and said association is formed and incorporated, the proper officers of said association shall certify annually to the proper authorities, who have charge of the levying of taxes in said city and in the county in which said city is located, the amount which it will be necessary to raise by taxation in order to carry out the plans so adopted, as hereinbefore set forth, for the coming year, and it shall be the duty of the said authorities so having charge of the levying of taxes to include in the tax levy for the ensuing year, a tax in addition to all other taxes, sufficient to produce said sum so certified.

Provided, however, that in cities of the first class which are not operating under a home rule charter, said tax shall in no event exceed two tenths of a mill upon all taxable property of said city, and in all other cities to which this law is applicable, said tax shall in no event exceed one tenth of a mill upon all taxable property of said city; and the said tax shall be collected as other taxes are collected in said city and when so collected shall be paid over to the treasurer of said association to be held and disbursed in accordance with the provisions of said plan so to be adopted. ('09 c. 343 § 6, amended '17 c. 300 § 1)

[1430—]1. Musical entertainments in cities of third and fourth classes—That the governing body of any city of the third or fourth class in this state, is hereby authorized to annually levy not to exceed a half mill tax against the taxable property in such city for the purpose of providing musical entertainments to the public in public buildings or upon public grounds; provided, however, that in any such city the total sum that may be levied or expended in any year shall not exceed the sum of two thousand (\$2,000.00) dollars. ('15 c. 316 § 1, amended '17 c. 426 § 1)

[1430—]2. Appropriation of money or issue of bonds for bridges in cities on interstate or international waters—That any city having a population of not more than 20,000 and situate on interstate or international waters be and the same hereby is authorized and empowered to appropriate money, or to issue bonds to secure money for the construction, maintenance and repair of bridges extending over or partly over such waters into another state or country, or for making reimbursement for all expenditures heretofore or hereafter made or incurred in the construction, repair or maintenance of such bridges as hereinafter specified. ('17 c. 15 § 1)

[1430—]3. Same—Appropriation, from what fund—Tax levy—The governing body of such city may appropriate not to exceed \$15,000 from the general fund, or any other fund available for bridge purposes, or partly from one fund and partly from the other, whenever authorized so to do by the electors of such city in the manner hereinafter set forth, and may levy against the taxable property of such city a tax in an amount sufficient to meet such appropriation, and may authorize the making of temporary loans in anticipation of the collection of such levy. ('17 c. 15 § 2)

[1430—]4. **Same—Bonds—Interest and amount, etc.**—In lieu of such appropriation the said governing body may issue bonds, with interest coupons attached, in any sum not exceeding fifteen thousand dollars (\$15,000), which bonds shall be in sums of not less than one hundred dollars each, and shall bear interest at a rate not exceeding six per cent, per annum, payable annually, and the principal of such bonds shall be payable at such times, not exceeding thirty years from the date thereof, as said governing body may direct. Such bonds and the interest coupons attached thereto, shall be signed by the mayor or chief executive officer of such city, countersigned by the city clerk or city recorder, and no bonds shall be negotiated, sold or disposed of by such city at less than par value, and accrued interest. ('17 c. 15 § 3)

[1430—]5. **Same—Reimbursement of private parties**—Whenever any such bridge has been constructed or improved, and paid for with money furnished by private persons, it shall be lawful for the governing body of such city to use in part the money so raised by tax levy or bond issue to reimburse the persons making such payment. ('17 c. 15 § 4)

[1430—]6. **Same—Submission to voters—Form of ballot—Tax levy, etc.**—Before any expenditures or levies shall be made or any such bonds shall be issued, the governing body of such city shall by resolution determine the amount proposed to be expended or levied, or, if a bond issue be desired, the number and amount of such bonds, the rate of interest which such bonds shall bear, and the time or times when the principal thereof shall become payable, which resolution, together with a notice that the question of issuing such bonds or making such appropriation, as the case may be, will be submitted to the legal voters of such city for their approval or rejection, at a general or special election to be held upon a day in said notice named, shall be published once in the regular issue of two of the newspapers published in the English language in said city, at least ten days prior to the time of holding such election. If such question is submitted at a special election, the governing body of such city shall give thirty days notice thereof previous to the day fixed for such election, which notice shall specify the object for which such election is ordered.

The ballot to be used at such election shall be in substantially the following form: if the proposition submitted be that of bond issuance the form shall be:

“Shall the bonds of the city of be issued in the aggregate amount of, bearing interest at the rate of per cent per annum, the proceeds thereof to be used for the purpose of constructing, maintaining or repairing the bridge over, commonly known as the bridge, or for reimbursing such citizens of such city as may have advanced money for such construction, maintenance or repair, to mature as set forth in the resolution therefor now on file in the office of the city clerk:

Yes: ()
 No: ()”

If the proposition submitted be that of appropriation, the form shall be:

“Shall the city council (or other governing body) of the city of be given authority to appropriate from the funds of said city an amount not to exceed dollars for the purpose of constructing, maintaining or repairing a bridge over the, commonly known as the bridge, or for reimbursing such citizens of said city as have advanced money for such construction, maintenance or repair:

Yes: ()
 No: ()”

If a majority of the votes cast upon such question shall be in favor of issuing such bonds or authorizing such appropriation, then the city council, or other governing body, shall be authorized to issue such bonds or to ap-

propriate such money from the proper funds of the city in such amount as may be so determined.

For the purpose of paying the principal and interest of such bonds when issued, said city council or other governing body is hereby authorized and it is hereby made its duty, on or before the first day of September next after the date of such bonds, and each and every year thereafter, on or before the first day of September, until payment of such bonds, both principal and interest, is fully provided for, to levy and in due form of law, certify to the county auditor a tax upon the taxable property of said city equal to the amount of interest and principal maturing next after such levy, and, in the event the governing body of such city decide to make direct appropriation without the issuance of bonds, to levy against the taxable property of said city an amount sufficient to meet the appropriation so to be made, and said governing body may, if necessary, issue the warrant of said city to anticipate such appropriation, payable when the same shall have been levied and collected, provided the electors of said city have voted to authorize such appropriation. ('17 c. 15 § 5)

PROVISIONS RELATING TO CITIES OF FIRST CLASS

1432. Elevator operators—License—Penalties—

A boy of 18, injured by an elevator, which he was operating in the absence of his instructor, held not employed in violation of this section, though he was not licensed and had been employed for two weeks prior to the accident (133-109, 157+995). Master and Servant, ~~§~~361, 366, 405(2).

1437. [Superseded.]

See § [1437—]1.

[1437—]1. **Salaries of aldermen in cities not under home rule charters—**That in cities now or hereafter having a population of over fifty thousand inhabitants and not governed under a charter adopted under and pursuant to section 36, article 4 of the state constitution, the salary of each alderman shall be eighteen hundred dollars per annum, payable pro rata monthly out of the city treasury. ('17 c. 460 § 1)

[1456—]1. **Police pension fund in cities under home rule charters—**In every city in this state now having or hereafter having a population of over 50,000 inhabitants and having a home rule charter, there may be created a police pension fund, which shall be managed, controlled and distributed in accordance with the provisions of this act. ('15 c. 68 § 1)

[1456—]2. **Same—Incorporation of police department as relief association—Service, disability or dependency pensions—**That every paid municipal police department now existing or which may hereafter be organized, is hereby authorized to become incorporated pursuant to the laws of this state, or adopt a constitution and by-laws as a relief association, to provide for and permit and allow such police relief association so incorporated or so organized, or any police pension relief association now in existence and incorporated according to law, to pay out of, and from any funds it may have received from any source, a service, disability, or dependency pension in such amounts and in such manner as its articles of incorporation or the constitution and by-laws shall designate, not exceeding, however, the following sum per month to each of its pensioned members who shall have reached the age of 50 years or more, and shall have served twenty years or more in such department, or their widows and children under sixteen years of age, viz:

A sum equal to one-half of the monthly compensation allowed such member as salary at the date of his retirement, when such member shall have arrived at the age of fifty (50) years or more, and shall have served as a member of such paid municipal police department for a period of twenty (20) years or more in the police department of such city in which such relief association shall be so organized, or is so in existence, or who has been disabled physically or mentally because of any injury received or suffered while in the performance of his duties as such member, so as to render necessary his retirement from active police service. Provided, however, that if any mem-

ber retires under the provisions of the act before he has served one year in the grade in which he is serving when he retires, he shall receive the same compensation as though he had retired in the next lower grade. Provided, further, that no retired member shall receive more than seventy-five (75) dollars per month. Said pension may be paid to any widow or child under sixteen years of age of any such pensioned and retired member of the police department or to any widow or child under sixteen years of age of any member who dies while in the service of the police department of any such city, and such widow or child shall receive the sums hereinafter provided:

Twenty-five (25) dollars per month to such widow and six (6) dollars per month to each of such children under sixteen years of age; provided, however, that in the event that any such widow remarries, she shall receive no further benefits under this law; provided, further, that any retired member of such police department or his family receiving benefits under any of the police pension laws of this state at the time of the passage of this act shall not be entitled to receive any increased benefits after the passage of this act; provided, further, that said fund shall not be used for any other purpose than for the payment of service, disability or dependency pensions as herein provided. ('15 c. 68 § 2)

[1456—]3. **Same—Conditions of pension**—The pension authorized by this act shall not be paid to any person while drawing salary in any amount from such city as an employee in said police department; and no member shall be entitled to said pension after he removes his residence from the United States, or who shall have been convicted of a felony or misdemeanor for which he shall have been adjudged to be imprisoned, or who is an habitual drunkard; and any person receiving the pension herein mentioned shall not receive or be entitled to receive any other or further pension or relief from said association. ('15 c. 68 § 3)

[1456—]4. **Same—Garnishment, assignment, etc.**—No pension allowed or to be allowed by said Pension Board under this act, shall be subject to judgment, garnishments, or executions or other legal process, and no person entitled to such pension shall have any right to assign the same, nor shall said association have the authority to recognize any attempted assignment or pay over any sum whatever which has been assigned or attempted to be assigned. ('15 c. 68 § 4)

[1456—]5. **Same—Fund, from what sources—Duties of treasurer and police officers—Assessments**—Said association through its officers shall have full charge, management and control of the pension fund herein provided for, which said funds shall be derived from the following sources: From gifts of real estate or personal property, rents, money or from other sources. It shall also be the duty of the city treasurer of any city affected by this act to deduct each month from the monthly pay of each member of such police department, a sum equal to one per cent of such monthly pay, and place the same to the credit of the said police pension fund; it shall be the duty of every police officer receiving any reward for services in making arrests, or otherwise, to place to the credit of the police pension fund all such rewards, and it shall be the duty of the chief of police of any such city to place to the credit of the police pension fund all moneys falling into the hands of the police that shall remain unclaimed for a period of six months, and to sell all unclaimed property falling into the hands of the police when the same shall have been unclaimed for a period of six months and place the proceeds thereof to the credit of the said police pension fund.

An amount or sum equal to one-tenth (1/10) of one mill, and not to exceed one-sixth (1/6) of one mill, in addition to the rate allowed to be levied by the charter of any city affected by this act, shall be annually assessed and levied at the time and in the manner that taxes for the other funds of such city are levied by proper officers of such city where a police relief association now exists, upon each dollar of all the taxable property in such city as the same appears on the tax records of such city and such levy of said sum for the benefit of such police relief association shall be collected and apportioned

by the proper officers of any county in which such city is located, in the same manner as are all taxes of such city. ('15 c. 68 § 5)

[1456—]6. **Same—Membership of governing board**—The governing board of said association shall consist of five members to be elected annually, who shall hold their term of office for one, two, three, four and five years, respectively, or until the successor of each is duly elected and qualified, and the mayor, chief of police, and city treasurer shall be ex-officio members of said board and the city treasurer shall be the custodian of all funds of said association and disburse the same as directed by said board. All vacancies occurring in the elective membership of said board shall be filled by a special election called for that purpose. In any such city where the police department is under the direction and supervision of a commissioner of public safety and not under the direction and supervision of the mayor of such city, said commissioner of public safety shall be ex-officio member of said board in the place of the mayor of such city. ('15 c. 68 § 6)

[1456—]7. **Same—Existing acts**—This act shall not be deemed to repeal existing acts inconsistent therewith, but shall be construed as supplemental thereto, and any paid municipal police department now operating under other police pension laws of this state, shall continue thereunder until it shall elect to come under the provisions of this act, with the consent of the city council or other governing body of said city. ('15 c. 68 § 7)

1464. **Purchasing department in cities not under home rule charters**—Each and every city of the first class in the state of Minnesota, not having or operating under a home-rule charter adopted pursuant to section 36 of article 4 of the constitution of the State of Minnesota, in addition to all the rights and powers heretofore granted thereto by law, is hereby authorized and empowered and shall at all times hereafter have the power and authority, acting by and through its city council, to establish and maintain a purchasing department as a branch of the city government, which department shall have full charge of the purchase by the city and the several boards of the city of all supplies and materials required for the use of the city and the several departments and boards of the city, including the board of charities and corrections, board of education, board of park commissioners and library board, of the city, and for making and maintaining public works and improvements of the city, excepting from the provisions of this act the purchase of books, periodicals, pamphlets, works of art and other like supplies for the library board and art museum of the city, and the purchase of supplies for the use of the board of park commissioners of the city at its several refectories and places of amusement, and to appoint a purchasing agent who shall be the head of such purchasing department, and to appoint all necessary assistant purchasing agents and other employes required for the proper management of such purchasing department, and to prescribe the duties of such purchasing agent, assistant purchasing agents and other employes, and by ordinance or otherwise to make all rules and regulations necessary for the conduct and management of such purchasing department. ('11 c. 201 § 1, amended '15 c. 234 § 1)

1465. **Payment of current bills in cities not under home rule charters**—The city council or other governing body of any city of the first class not operating under a home-rule charter, notwithstanding any provision of its charter to the contrary, may hereafter provide by ordinance for the payment of all current bills incurred by the city for goods, wares and merchandise, the purchase whereof has been duly authorized for the use of the city or any of its departments, without awaiting the formal vote of said governing body directing payment thereof. The board of park commissioners of any such city may likewise by ordinance provide for the payment of all current bills incurred by it or under its authority for goods, wares, and merchandise without awaiting the formal vote of such board directing payment thereof. ('13 c. 469 § 1, amended '15 c. 229 § 1)

1469. Civil service commission in cities not under home rule charters— In every city of the first class not organized under section 36, article 4, of the State Constitution, there shall be a civil service commission (hereinafter called the commission) of three commissioners, who shall be citizens of the state and residents of the city, and for this service each commissioner shall receive one thousand (\$1,000) dollars per annum as compensation, payable in equal monthly installments. No commissioner shall at the time of his appointment or while serving hold any other office or employment under the city, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of notary public. The mayor shall with the consent and approval of the council or governing body of any such city expressed by a majority vote thereof appoint, as commissioners persons known to favor the principle of merit and efficiency in the public service. The terms of those first appointed, to be designated in orders of appointment, shall expire, one on the first day of February in the odd numbered year next following the year of the appointment, one on the first day of February next following the first, and one on the first day of February next following the second, and thereafter the appointment shall be for three years to fill expired terms, and in case of vacancy occurring otherwise, the appointment shall be for the unexpired term. In case of cities existing at the time of the passage of this act, the first appointment shall be made on or before the first day of July, 1913.

Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk an oath for the faithful discharge of his duties. Thirty days prior to the appointment of a commissioner the mayor shall file with the city clerk, the name of the person whom he proposes to so appoint. The commissioners shall continue in office until their successors are appointed and have duly qualified. ('13 c. 105 § 1, amended '17 c. 63 § 1)

1470. Same—Civil service fund—The city council shall set apart on the first Monday in January of each year, in the city treasury, a sum not less than twenty-five (25) dollars for each thousand of the population of the city, according to the next preceding state or national census, to be known as the civil service fund and to be used only for the purposes of this act. Unexpended balances at the end of the year shall revert to the current expense fund of the city. To provide such fund, the city council shall levy a sufficient annual tax upon all the taxable property of the city, real and personal, in addition to all other taxes authorized by law. Warrants on the fund shall be drawn by order of the commission and signed by its president or vice-president and secretary and countersigned by the city comptroller. The commission shall audit its own bills and pay-rolls. The city council of any existing city shall provide like funds for the year 1917 by temporary interest bearing loans, if necessary, and add the amount thereof to the next annual tax levy. ('13 c. 105 § 2, amended '17 c. 63 § 2)

1471. Same—Meetings—Officers and employes—The commission shall first meet immediately after its appointment, at the time to be fixed by the mayor, and on the first Monday after the first day of July each year thereafter, and at each said meeting elect a president and vice-president to serve until their successors are elected. The commission at said meeting, or as soon thereafter as practicable, shall select a secretary, who shall keep the records and files of the commission and who shall be ex officio the chief examiner, and appoint other necessary employes, and fix their compensation. The commission shall from time to time fix the times of its meetings, and adopt, amend and alter rules for its procedure. All employes of the commission shall be in the classified service. ('13 c. 105 § 3, amended '17 c. 63 § 3)

1472. Same—Classified and unclassified service—The powers of the commission shall extend only to the classified service, which shall embrace the entire service of the city except the following officers and employes, which shall be known as the "unclassified service," namely:

Officers who are elected by the people; members of boards and com-

missions; the city clerk; secretaries of the several boards and commissions serving without pay; the city engineer; the chief health officer; the superintendent of police; the city assessor; superintendents, principals, supervisors of teachers and teachers in the public schools, the city attorney, the attorney of the park board; the librarian and assistants of the public library; the superintendent of parks; a landscape architect, a chief of park police, and the mayor's private secretary. None of the unclassified service shall be subject to examination or affected as to their selection, appointment, discharge or removal by the provisions of this act. ('13 c. 105 § 4, amended '17 c. 63 § 4)

1473. **Same—"Employé" defined**—The term "employé," as used in this act, shall include every officer, agent, employé and other person in the classified service of the city. ('13 c. 105 § 5, amended '17 c. 63 § 5)

1474. **Same—Employés to be listed, graded, etc.—Service register**—Immediately after the appointment and organization of the commission, all employés of the city of every nature excepting those in the unclassified service, shall be listed, graded and classified, and a service register prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment, and such other facts and data as to each employé as the commission may deem useful. To enable the commission to make such service register, the mayor, city council, each board and commission, and each appointing or employing officer shall prepare and furnish to the commission complete lists of all employés in the classified service, containing the names and data aforesaid and such other information as the commission may call for. ('13 c. 105 § 6, amended '17 c. 63 § 6)

1475. **Same—Rules for good service**—The commission shall, immediately after its appointment and from time to time thereafter, make, amend, alter and change rules, to promote efficiency in the city service and to carry out the purposes of this chapter. The rules shall provide, among other things, for:

a. The classification of all offices, positions and employments in the classified service.

b. Public competitive examinations to test the relative fitness of applicants.

c. Public advertisement of all examinations at least ten days in advance in two newspapers of the city of general circulation, one of which shall be the official newspaper, and posting such advertisement a like time in a conspicuous place in the city hall.

d. The creation of lists of eligible candidates after successful examination, in the order of their standing in the examination, and without reference to time of examination. Such lists shall be embraced in an eligible register. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

e. The rejection of candidates or eligibles who, after the entry of their names, shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or otherwise, or who have been guilty of criminal, infamous or disgraceful conduct, or of any wilful misrepresentation, deception or fraud in connection with the examination or in connection with their applicants for place.

f. The certification of the name standing highest on the appropriate list to fill any vacancy.

g. Temporary employment without examination, but with the consent in each case of the commission, in cases of emergency and pending appointment from the eligible list; but no such temporary employment shall continue longer than sixty days, nor shall successive temporary employments be permitted for the same position.

h. Transfer from one position to a similar position in the same class or grade and for reinstatement of persons who, without fault or delinquency, are separated from the service or reduced.

i. Promotion based on competitive examination and upon records of efficiency, character, conduct and seniority. Promotion shall be deemed,

among other things, to include increase in salary, and the rules shall be framed to encourage the filling of vacancies by promotion rather than otherwise.

j. Suspension, with or without pay, for not longer than ninety days, and for leave of absence, with or without pay.

k. Appointment of unskilled laborers in the order of priority of application without examination except such tests of physical fitness as the commission may prescribe. Such certification shall be so far as practicable, for each ward of said city. Selection of street commissioners for each ward shall be made from the residents thereof only.

l. Removing names from the service register upon termination of service. The commission shall adopt such other rules not inconsistent with the provisions of this act, as may from time to time be found necessary to secure the purposes of this act. ('13 c. 105 § 7, amended '17 c. 63 § 7)

1476. **Same—Notice of rules**—Before the adoption, amendment or repeal of any rule, the commission shall give notice of consideration thereof by publishing and posting a brief notice, as required in section 7, stating the subject of the rule or rules to be acted on. ('13 c. 105 § 8, amended '17 c. 63 § 8)

1477. **Same—Application register**—The commission shall keep a second register, to be known as an application register, in which shall be entered the names and addresses and order and date of application of all applicants for examination, and the offices or employments they seek. All applications shall be upon forms prescribed by the commission. ('13 c. 105 § 9, amended '17 c. 63 § 9)

1478. **Same—Notice, etc.—Offices filled from names certified**—As soon as the commission has organized and made up the service register and adopted rules, as herein provided, it shall notify the mayor, the city council, the several boards and commissions, and each appointing officer of the city, and thereafter no office, position or employment shall be filled in the classified service except from names certified by the commission and in accordance with the provisions of this act. ('13 c. 105 § 10, amended '17 c. 63 § 10)

1479. **Same—Removal and discharge of employes—Charges and investigation—Suspension**—No officer or employee after six months continuous employment shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard in his own defense. Such charges shall be investigated by or before said civil service commission or by or before some officer or board appointed by said commission to conduct such investigation. The finding and decision of such commission or investigating officer or board, when approved by said commission, shall be certified to the appointing officer, and shall be forthwith enforced by such officer. Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period, not exceeding ninety days for purposes of discipline. In the course of an investigation of charges, each member of the commission and of any board so appointed by it or any officer so appointed shall have the power to administer oaths and shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation. ('13 c. 105 § 11, amended '17 c. 63 § 11)

1480. **Same—Duties of commission—Grades of offices, etc.**—The commission shall ascertain the duties of each office, position and employment in the classified service, and designate by rule as well as may be practicable, the grade of each office, employment or position. Each grade shall comprise those offices, employments and positions having substantially similar duties. The commission shall by rule indicate the lines of promotion from each lower to higher grade wherever the experience derived in the lower tends to qualify for the higher. The commission shall prescribe standards of efficiency for each office, position and employment and for each grade, and adapt its examinations thereto. The commission shall make and keep a record of relative efficiency of each employe in the classified service other than unskilled laborers, and shall provide by rule methods for ascertaining and verifying the

fact from which such records of relative efficiency shall be made. ('13 c. 105 § 12, amended '17 c. 63 § 12)

1481. Same—Examinations—All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust shall be specially examined as to moral character, sobriety and integrity, and all applicants for positions requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. Where written answers are required from applicants for positions calling for expert knowledge, the rules may provide for examination of the answers and the comparative ranking of the various applicants, without a disclosure of the names of the applicants to the examiners. The commission may furnish to the chief examiner such assistance as may be necessary. It shall be the duty of every employé of the city to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission, collectively or individually, may act as examiners or assistant examiners. ('13 c. 105 § 13, amended '17 c. 63 § 13)

1482. Same—Notice of examination—Eligible register—Notice of the time, place and scope of each examination shall be given by publication and posting, as specified in section 7, and by mailing to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible, after giving credit for character and previous successful experience, shall be entered, with their addresses and percentages, in appropriate lists of the eligible register. No name shall remain upon the eligible register more than two years without a new application, and, if the rules of the commission so require, a new examination. ('13 c. 105 § 14, amended '17 c. 63 § 14)

1483. Same—Vacancies, how filled—When a vacancy is to be filled in the classified service, the mayor, city council, board, commission or employing officer, shall notify the commission, and the commission shall certify the highest name from the appropriate list of the eligible register, except in the case of unskilled labor, and then shall certify the name first in time on the list. All vacancies shall be filled from the names so certified, and the commission shall be immediately notified of the employment and of the compensation to be paid. The names selected shall be stricken from the eligible register and transferred to the service register. All changes in grade, title or compensation shall be likewise reported. ('13 c. 105 § 15, amended '17 c. 63 § 15)

1484. Same—Exceptional qualifications—In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, the commission, upon satisfactory evidence that competition is impracticable, and that the position can best be filled by the selection of some person of recognized attainments, without examination, and after hearing in an open, regular meeting of the commission and by the affirmative vote of all three members, may suspend competition; but no such suspension shall be general in its application to such position, and all such cases of suspension shall be reported, together with the reasons therefor in the annual reports of the commission. ('13 c. 105 § 16, amended '17 c. 63 § 16)

1485. Same—Comptroller not to pay unless names on register—After the receipt by the city comptroller of the pay roll, he shall not approve the payment of any salary, wages or compensation for any office or employment in the classified service, nor countersign any warrant therefor, unless the name of the person claiming the same appears upon the service register for the time for which such salary, wages or compensation is claimed, nor at any higher rate than shown on such register; and if the city comptroller shall

wilfully or negligently approve any payment or countersign any warrant in violation of this section, he and the sureties on his bond shall be liable to the city for the amount thereof and action may be brought therefor by any tax payer for the use of the city without making previous request to the city to sue. ('13 c. 105 § 17, amended '17 c. 63 § 17)

1486. Same—Annual report—The commission shall in each year, on or before the 30th day of January, make to the mayor and city council a report, showing as fully as may be the acts and disbursements of the commission for the preceding calendar year; the rules in force at the beginning of such year and changes made during the year; the practical effect and working of the rules and of this act; the results of the efforts to standardize services and compensation and the departures therefrom; together with such recommendations as the commission may see fit to make, to promote the efficiency and integrity of the public service. The commission shall furnish a suitable number of copies of such report to the mayor, the city council and each board and commission and each employing officer of the city. ('13 c. 105 § 18, amended '17 c. 63 § 18)

1487. Same—Commission to investigate—Charges against employes—The commission shall from time to time investigate the enforcement of this act and of the rules made under it; the action of all examiners; the duties of all departments and of all employes of the city; the efficiency of the service, and such other matters as come within the scope of this act. In the course of such investigations each commissioner shall have power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. Any person who shall wilfully testify falsely shall be guilty of perjury and any person who shall refuse to obey the lawful subpoenas or directions of the commission or any commissioner in any such investigation shall be guilty of a misdemeanor. Any member of the commission shall have power of his own motion to file written charges against any employe in the classified service, and thereupon the commission shall try the charges, after not less than ten days written notice to the person accused, in the manner and with the powers prescribed in this section; but in such case the complaining commissioner shall not sit. If found guilty of breach of duty, such employe may be removed by the commission and his name be stricken from the service register. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of the court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent or employe of the city who receives compensation for his services, shall not be entitled to fees or mileage. ('13 c. 105 § 19, amended '17 c. 63 § 19)

1488. Same—False statement on examination—Right to be entered upon eligible register—Any applicant for an office or employment in the classified service, who shall knowingly make any false answer or statement upon any examination in regard to any material matter upon which he is examined, shall thereby forfeit his right to be entered upon the eligible register, and, in case he has been appointed to any office or employment, shall forfeit the same and shall not within three years thereafter be eligible to any office or employment in the unclassified service of the city, nor shall he during such time be entitled to any of the examinations of the commission. ('13 c. 105 § 20, amended '17 c. 63 § 20)

1489. Same—Payment or promise of payment, etc., for position—Penalty—Any applicant for examination or for appointment to the classified service, who shall, either directly or indirectly, give, render or pay or promote to give, render or pay any money, service or other thing to any person for or on account of or in connection with his examination, appointment or proposed appointment, or who shall ask for or receive any recommendation or as-

istance from any person in the classified or unclassified service of the city, except a statement of his previous service and the character thereof, if any, to the city, as a subordinate under such officer or employé shall be guilty of a misdemeanor. ('13 c. 105 § 21, amended '17 c. 63 § 21)

1490. Same—Assessments, etc., for political purpose—Officers, etc., soliciting, etc.—Penalty—Any officer or employé in the classified service of the city, who shall in any manner directly or indirectly solicit or receive or pay or be in any manner concerned in soliciting, receiving or paying any assessment, subscription or contribution for any party or political purpose, shall be guilty of a misdemeanor. ('13 c. 105 § 22, amended '17 c. 63 § 22)

1491. Same—Other persons soliciting, etc.—Penalty—“Solicitation” construed—Any person who shall solicit or receive, directly or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution or payment for any political purpose whatever, from any officer or employé in the classified service of the city, shall be guilty of a misdemeanor. Provided that sections 22 [1490] and 23 [1491] hereof shall not apply to the solicitation payment or receipt of regular and fixed dues by or from a member of an established organization, but the solicitation, payment or receipt of additional dues or assessments during a political campaign shall be construed to be a violation of this act. ('13 c. 105 § 23, amended '17 c. 63 § 23)

1492. Same—Discharging employé for withholding contribution, etc.—Penalty—Any officer or employé in the classified or unclassified service of the city who shall discharge, promote or reduce in rank or in any manner change the official rank or compensation of any other officer or employé, or promise or threaten so to do, for giving or withholding or neglecting to make any service or contribution of money or other valuable thing for any party or political purpose, shall be guilty of a misdemeanor. ('13 c. 105 § 24, amended '17 c. 63 § 24)

1497. Disposal of electrical energy to private consumers—

A city furnishing electric energy to private consumers has the same rights and privileges, and is subject to the same duties and obligations, as private persons or corporations furnishing such energy (122-348, 142+319, 46 L. R. A. [N. S.] 437). Electricity, ☞11.

That one applying to such city for service used three-phase motors, for which the city could not furnish current, except at an expense of \$80 for transformers, did not relieve it of the duty to furnish service, since it could impose the expense on the applicant, if, in doing so, it did not discriminate against him. The city has a large discretion in choosing the method of adjustment of such expense (122-348, 142+319, 46 L. R. A. [N. S.] 437). Electricity, ☞11.

1506. Condemnation of land for public buildings—

The provision of this section that the city may take possession of land condemned without giving bond, but that by doing so it shall be absolutely bound to pay the award, is not applicable to proceedings taken by the city of Minneapolis under its charter, containing a provision that it may abandon condemnation proceedings at any time (135-243, 160+775). Eminent Domain, ☞246(2, 3).

1515. Same—Limit of debt—Tax levy—

123-435, 143+1124.

[1545—]1. **Draining land injurious to health in cities not under home rule charters—**Any city of the first class, not operating under a home rule charter, shall have power and authority to drain or fill any low, marsh or swamp lots and land in said city, which is injurious or detrimental to the public health. ('15 c. 275 § 1)

[1545—]2. **Same—Assessment of cost—**Whenever the city council or other governing body of said city shall determine that any low, marsh or swamp lots or land, within the limits of said city, is injurious or detrimental to the public health, it may drain or fill such lots and land with earth or other material and assess the cost, or any part of the cost thereof, upon the lots and land benefited thereby. ('15 c. 275 § 2)

[1545—]3. **Same—Petition—Duty of engineer—Notice and hearing—Assessment, etc.—**Whenever twenty-five or more residents and freeholders of said city file with the city clerk of said city a petition to drain or fill any low, marsh or swamp lots and land within the limits of said city, said city clerk shall present said petition to the city council of said city at its next regular

meeting. It shall thereupon be the duty of the city engineer of said city to make and file in the office of said city clerk an estimate of the cost of such improvement, stating therein the proportion of such estimated cost as to each lot or parcel of land to be drained or filled, and also a list of the several lots and parcels of land proposed to be drained or filled, and the names of the owners of the several lots or parcels of land as nearly as the city engineer can readily ascertain the same, and the amount of assessment for benefits to be levied upon each of said lots and parcels of land, and upon the lots and parcels of land adjacent thereto, or in the vicinity thereof that may be benefited by said improvement, not to exceed, however, the estimated cost of said improvement. Thereupon it shall be the duty of said city clerk to give notice to all parties interested by one publication in the official paper of said city that he will at the next meeting of the city council, or as soon thereafter as practicable, present such petition, estimate and report of the city engineer to the city council for consideration and action, which said notice shall be published at least five days before the meeting of said city council in which said petition, report and estimate are to be considered; said published notice shall contain a description of the several lots and parcels of land proposed to be drained or filled, and a description of the several lots and parcels of land proposed to be assessed for said improvement, and the amount proposed to be assessed against each of said lots and parcels of land, together with the names of the owner or owners of each of said lots and parcels of land, as nearly as the same can be readily ascertained, a copy of which notice shall be mailed by the city clerk to the owners of such lots and parcels of land so drained or filled and benefited so nearly as can be ascertained from the records in the office of the county auditor and otherwise. At said meeting of the city council at which said petition, report and estimate is to be heard, said city council may act upon the same and hear any complaint or objection as to the propriety and necessity of such improvement and assessment proposed to be levied against said lots and parcels of land, or any of them, or it may refer the matter to a committee of the council to hear said objections and complaints, and report thereon.

After such hearing the city council of said city may by resolution determine and provide that certain lots and land or any portion thereof, shall be drained or filled, and may adopt the assessment made by said city engineer, or may revise the same as they may deem just, and may assess the cost of said improvement, or any portion thereof on the lots or lands to be drained or filled, or the lots and lands adjacent thereto or in the vicinity thereof which said city council may determine to be benefited by said improvement, and in and by said resolution the city council shall estimate and fix upon the cost of such improvement and assess and levy such cost, or any portion thereof, upon the lots and parcels of land benefited by said improvement to the amount of such benefit, and the city council shall cause to be made and shall adopt an assessment roll thereof in any form which the city council may deem proper. Said assessment roll shall be made up and returned to the county auditor of the county in which said city is located, and said assessment shall be spread upon the books of said county auditor and all other proceedings had as in the case of assessment for sewers, water mains, or other local improvements; provided, however, that when such assessment roll shall have been delivered to the county auditor of said county, said county auditor shall divide each assessment for such improvement into five equal parts, as nearly as the same can be divided, and shall in the books of his office extend said assessment over five successive years succeeding to the year in which said assessment shall have been ordered, that is to say: said assessments are to be paid in five equal annual installments, with interest to be paid annually on each one of said assessments after the first installment, at the rate of six per cent per annum, and the owner or owners, or other persons whose duty or right it may be to pay such special assessment, shall have the right to pay the same at any time after the first year's installment becomes due, or they may pay the same in said five annual installments, with interest on each one of said deferred installments to be paid annually at the time of paying the

assessment due each year; and the auditor of said county shall at the time of extending such special assessment on the tax list in such parallel columns for such assessment, add to the amount of each assessment for each year after the first installment, interest on each installment remaining unpaid, at said rate of six per cent per annum on the whole of such unpaid installments, and said interest on the whole of said installments shall be paid each year at the same time, and in the same manner that said installments are to be paid. ('15 c. 275 § 3)

[1545—]4. **Same—Certificates of indebtedness**—The city council for the purpose of realizing the funds for making such improvement may issue and sell special certificates of indebtedness, which shall entitle the holder thereof to all sums realized upon such assessment, or if deemed advisable a series of two or more certificates against any one assessment which shall entitle the several holders thereof to share pro rata all sums realized upon such assessments including interest and penalties, and the city council may bind the city to make good deficiencies in the collection up to but not exceeding the principal and interest at the rate fixed as hereinafter provided. If the city because of any such guaranty shall redeem any certificate it shall thereupon be subrogated to the holders' rights. For the purpose of such guaranty penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates shall bear interest at a rate to be fixed by the city council of said city not exceeding, however, six per cent per annum, and such certificates may be sold at public or private sale, but for not less than the par value thereof. The city's liability upon such guaranty shall not be taken into account as a part of its indebtedness until the amount of such deficiency of collection, defined as aforesaid, is determined and then only for the amount of such deficiency. ('15 c. 275 § 4)

1546. Replacing sidewalks—

Duty to keep sidewalks in safe condition, and contributory negligence of person injured (203 Fed. 35, 121 C. C. A. 371). Municipal Corporations, ~~§~~755(1), 803(1).

A city held to have had notice of a defect in a sidewalk in time to have repaired it before an accident (126-491, 148+304). Municipal Corporations, ~~§~~819(6).

[1546—]1. **Paving arterial streets in cities not under home rule charters—Special assessments and taxes**—The city council or other governing body or [of] any city of the first class not operating under a home rule charter is hereby authorized, notwithstanding any provision in the charter of such city to the contrary, to determine in and by its resolution directing that any arterial street therein or any part of either be paved, what proportion of the cost of such paving shall be defrayed by a special assessment upon the real property fronting thereon. Such proportion, however, shall in no case be less than one-half of the cost to the city of paving that part of the arterial street lying between the center line thereof and such abutting property. ('15 c. 278 § 1)

[1546—]2. **Same—Assessment, how levied—Remaining cost, how paid**—Whenever the proportion to be so assessed is determined in the manner aforesaid, the assessment shall be levied accordingly and the remaining cost of such paving shall be paid by the city out of any funds in its treasury, not derived from such special assessments, available for paving purposes. ('15 c. 278 § 2)

[1546—]3. **Same—Tax levy**—In all such cases the council or other governing body of such city may levy with the other city taxes a tax sufficient to pay the amount not so assessed upon abutting lands on all property within the city subject to general taxation, and may direct into what fund the proceeds of said tax shall be paid. ('15 c. 278 § 3)

[1546—]4. **Same—Application to what cities**—This act shall not apply to any city whose inhabitants have adopted a charter pursuant to Section 36, Article 4, of the state constitution. ('15 c. 278 § 4)

[1546—]5. **Streets and alleys not used by public in cities not under home rule charters—Leases**—Every city of the first class not operating under a home rule charter is hereby authorized and empowered, in any and all cases where the tracts of ground have, in the platting of land in such city or otherwise, been dedicated to public use, to be used for streets, alleys or other simi-

lar public purposes, other than parks or parkways, and such tracts of ground or any part thereof by reason of change of grade of railroads or of other streets or alleys crossing such railroads or in any other way, have become, at least for a number of years in the future, unfitted for use by the public for the purpose for which they were dedicated to public use, to leave to the owner or owners of property abutting thereon the surface of such portion of streets or alleys or tracts of ground as cannot be used by said city for the purposes for which such ground was dedicated, or grant the right in the nature of a lease to erect structures overhead across the same, for a short period or permanently, or under the surface thereof, in the manner and under the conditions hereinafter set forth. ('15 c. 291 § 1)

[1546—]6. **Same—Application for lease, etc.—Procedure of council—Rental, etc.**—Whenever application shall be made to the city council or common council of any such city to lease, or to vacate, any such tract of ground as is hereinbefore referred to, the question of the advisability of said city's making such lease or vacation shall be referred to the appropriate committee of said council; and if after a full consideration of said question, including the viewing of the premises in question by the whole committee in a body, said committee shall report back to said council that it is to the interest of said city, and the citizens thereof, to make the proposed lease, then, and in every such case, if the said council shall by a two-thirds vote of the whole membership of such body, determine to proceed with such lease, the question as to the amount of yearly rental to be charged by said city for the use of such street, alley or tract of ground or portion thereof shall be referred to five commissioners appointed in the same manner as commissioners are appointed to assess benefits and award damages in case of opening new streets or alleys in said city, and such commissioners shall in all such cases receive for their services the same fees as they receive for services in proceedings for the opening of new streets or alleys; provided, that the city council or common council of the city taking proceedings to lease such streets, alleys or tracts of ground or portions thereof, as are referred to in section one [1546—5] of this act shall not be bound to lease for the rental decided upon by such commissioners, but said council may, after hearing the report of said commissioners, by a majority vote, refuse altogether to make such release or may require the person leasing such street or alley or tract of ground to pay such larger sum for such lease as the said council may determine, if in the judgment of a majority of said council a larger rental or price should in any particular case or cases be paid; but no rental shall in any case be any less than the amount recommended by the commissioners as aforesaid; nor shall such rental in any case be greater than six (6) per centum per annum on one-sixth (1-6) of the value of the fee of the land so leased; and in case of the renting of any such street or alley or tract of ground the city council may impose any such conditions as they, in their judgment, shall deem necessary, relative to reserving rights to put in, at any time, in such street, alley or tracts of ground either sewers or water mains that may be needed, and the necessary manholes, hydrants, and other appliances connected with sewers or water mains, and also any conduits that may be needed by the city itself for wires or cables to conduct electricity for any city purposes. ('15 c. 291 § 2)

[1546—]7. **Same—Disposition of rentals**—All money paid for rental under the provisions of this act shall be paid into the ward fund of the ward in which such street, alley or tract is located, or, if located in more than one ward, then into the ward funds of the respective wards in which such street, alley or tract is located in amounts proportionate to the area thereof located in each of such wards. ('15 c. 291 § 3)

[1546—]8. **Same—Damages**—If in any case where the lease of any such street, alley or tract of ground is proposed, the use of such street, alley or tract by the general public for which it was dedicated to public use is to all intents and purposes impossible, but nevertheless some persons shall be specially inconvenienced or damaged by such lease, if made, then and in every such case the commissioners referred to in section two hereof [1546—6] shall

determine the amount of damages to which each of such persons specially damaged is entitled, and make report to the council; and said council shall require the person to whom said lease is made, and before the same is consummated, to pay to each of said persons specially damaged a sum not less than the amount determined by said commissioners, and such larger sum, if any, as the said council may determine is fairly and justly due as damages to the various persons respectively who may be specially damaged by the lease in question; provided that nothing in this act shall be construed as cutting off or abridging the right of any one damaged by such lease to apply to the courts for damages or for such other relief in such case as the courts may be empowered to grant. ('15 c. 291 § 4)

[1546—]9. **Taxes for roadways in arterial streets in cities not under home rule charters**—The city council, or other governing body of any city of the first class not organized pursuant to section 36, article 4, of the state constitution, is hereby authorized to levy annually, with and as part of the general taxes of each of the years 1917, 1918, 1919, 1920, 1921, and 1922, a tax not exceeding one mill on each dollar of the assessed valuation of all property, real and personal, therein subject to general taxation, for the purpose of constructing permanent roadways not over twenty-four feet in width in arterial streets, as hereinafter defined, but not more than 40% of the expense of paving any street shall be paid out of this fund. ('17 c. 218 § 1)

[1546—]10. **Same—"Arterial street" defined—How designated**—No street shall be deemed an arterial street unless it forms a part of a main thoroughfare leading from the city boundary to the populous districts of the city. Before levying any tax hereunder, the council shall designate the arterial streets upon which the proceeds of the tax may be expended and the streets so designated shall constitute the system of arterial streets on which such taxes may be expended and the system so designated shall not be changed during the life of this act. ('17 c. 218 § 2)

[1546—]11. **Same—Estimate and rate**—The city council shall on or before the first day of September of each year, estimate the amount of such tax necessary to be levied with the taxes of that year and the amount of such levy to be expended upon each arterial street and cause a certified copy of such estimate to be transmitted to the board of tax levy. The board of tax levy may fix the maximum rate to be levied for such year and no tax shall be levied except as authorized by the board of tax levy. ('17 c. 218 § 3)

[1546—]12. **Same—Taxes, how collected and paid**—A certified copy of the resolution levying such tax shall be transmitted to the county auditor and the amount of the levy shall be included with and as part of the general taxes for the state, city and county purposes for such year and collected therewith and payment thereof shall be enforced in the same manner and with like penalties, interest and costs. ('17 c. 218 § 4)

[1546—]13. **Good roads funds for paving in cities not under home rule charters**—Each city of this state now or hereafter having over fifty thousand inhabitants and not governed under a charter adopted pursuant to section 36, article 4 of the state constitution is hereby authorized and empowered, acting through its city council, to appropriate an amount not exceeding fifteen thousand dollars from the so-called good roads funds of the city heretofore raised by taxation under and pursuant to Chapter 368, General Laws of 1909, and Chapter 175, General Laws of 1913, and to use such amount not exceeding fifteen thousand dollars for the purpose of defraying the cost of paving any of the public streets or avenues in such city laid and constructed during the year 1914, in such manner and to such extent as the city council of such city shall deem best, notwithstanding any express or implied limitations in either of said acts to the contrary, and to annul and cancel in whole or in pro rata parts according to frontage the special assessments made on abutting property for the cost of such paving to an amount not exceeding fifteen thousand dollars, and to authorize and require the county auditor of the county in which such city is situated to cancel upon the tax lists and tax books in his office and in the office of the county treasurer the special assessments or por-

tions thereof canceled and annulled by the city council pursuant to this act. The amount of any portions of any such assessments so canceled by the city council which shall be paid by owners of abutting property assessed therefor may be refunded and repaid from said amount of fifteen thousand dollars appropriated as herein provided to such owners respectively paying such assessments, and the remaining balance of said amount of fifteen thousand dollars so appropriated as herein provided equal to the amounts of any and all portions of any such assessments so canceled by the city council and not paid by owners of abutting property assessed therefor may be transferred by the city council and credited to the permanent improvement revolving fund of the city to reimburse said fund in whole or in part for the cost of such paving. ('15 c. 328 § 1)

[1547—]1. Fire departments in cities not under home rule charters—Hours of service—No member of the fire department, in cities of the first class, not operating under a home rule charter shall be compelled or required to be on duty more than fourteen hours in any one day, except days for changing from the day shift to the night shift. That no member of the fire department, in any city of the first class, not operating under a home rule charter shall be subject to call, or perform any duties in said department out of his regular hours, as defined in this section ('17 c. 91 § 1)

Section 3 repeals inconsistent acts, etc.

[1547—]2. Same—Duty of council—Rules—Temporary firemen—That the councils or other governing bodies of such cities shall be required to take such steps as are necessary to provide means and money to meet the expenditures which shall be necessary to carry out the provisions of this act. Provided, however, that the chief of fire department may establish such rules as may be necessary to ensure the attendance of members in case of a great conflagration, or unusual fire or fires, and in such cases the chief of the fire department may require each and every member of his department to assist in the protection of life and property, notwithstanding said member, or fireman, has been relieved from duty under the provisions of this act. Provided, further, that none of the provisions of this act shall be construed to apply to any vacation now, or hereafter granted to any fireman or firemen by the city or municipality. In case of riot, or other like emergency, the chief of fire department may appoint additional firemen and officers for temporary service, who need not be in the classified list of the department. Such additional firemen, or officers, to be employed only for the time during which the emergency exists. ('17 c. 91 § 2)

1550. Same—Property, how acquired—

A city cannot maintain condemnation proceedings to acquire land, ostensibly for an alley, with the intention of devoting the land to a purely private purpose in running a switch track to the land of an individual; and parol evidence is admissible to show that such is the purpose of the city, and that the statement in the petition that the property is sought to be condemned for an alley is not true (133-221, 158+240). Eminent Domain, \Leftrightarrow 13, 196.

1551. Same—Condemnation, how conducted, etc.—

Separate assessments for distinct interests in same property (128-432; 151+144). Eminent Domain, \Leftrightarrow 157.

[1556—]1. One-eighth mill tax for playgrounds in cities not under home rule charters—The Board of Park Commissioners of each city of the first class not organized under Section 36, Article 4 of the State Constitution, in addition to all powers and authority already possessed is hereby authorized and empowered and it shall be its duty to levy annually upon all the property, real and personal, of the city a tax not exceeding one-eighth of a mill upon each dollar of the assessed valuation for the purpose of acquiring, equipping, maintaining and governing playgrounds for the public use as a part of the system of parks and parkways of the city, provided that credits and real estate mortgages shall be subject only to the levy and collection of taxes now or hereafter prescribed by law, and provided further that the rate of such levy shall not exceed the maximum fixed by the board of tax levy in any year. ('15 c. 230 § 1)

[1556—]2. **Same—How certified, collected and paid**—All taxes so levied shall be certified to the county auditor of the county in which the city is situated on or before the tenth day of October of each year, and shall be included in and as a part of the general taxes for state, city and county purposes, and the same shall be collected with and the payment thereof enforced in the same manner as such general taxes and with like penalties and interest. Such taxes when collected shall be paid to the city treasurer and placed in a fund to be known as playgrounds fund, and shall be paid out by warrants ordered by the board of park commissioners and signed by the president and secretary of such board and countersigned by the city comptroller. ('15 c. 230 § 2)

[1556—]3. **Same—Ordinances**—The board of park commissioners shall have power to adopt ordinances to secure the quiet, orderly and suitable use and enjoyment of such playgrounds by the people and fix and ordain penalties for the violation thereof, which ordinances shall take effect from and after the publication thereof in the official newspaper of the city. The penalties for such violation may include fines not exceeding one hundred dollars (\$100) or confinement in the city workhouse not exceeding ninety (90) days. ('15 c. 230 § 3)

[1556—]4. **One-twentieth mill tax for shade trees in cities not under home rule charters**—The Board of Park Commissioners of each city of the first class not organized under Section 36, Article 4 of the State Constitution in addition to all powers and authority already possessed is hereby authorized and empowered and it shall be its duty to levy annually upon all the property, real and personal, of the city a tax not exceeding one-twentieth of a mill upon each dollar of the assessed valuation for the purpose of protecting, caring for, replacing and maintaining the shade and ornamental trees and shrubbery in the streets and avenues of the city—provided that credits and real estate mortgages shall be subject only to the levy and collection of taxes now or hereafter prescribed by law, and provided further that the rate of such levy shall not exceed the maximum fixed by the Board of Tax Levy in any year. ('15 c. 231 § 1)

[1556—]5. **Same—How certified, collected and paid**—All taxes so levied shall be certified to the county auditor of the county in which the city is situated on or before the tenth day of October of each year, and shall be included in and as a part of the general taxes for state, city and county purposes, and the same shall be collected with and the payment thereof enforced in the same manner as such general taxes and with like penalties and interest. Such taxes when collected shall be paid to the City Treasurer and placed in a fund to be known as the Street Forestry Fund, and shall be paid out by warrants ordered by the Board of Park Commissioners and signed by the President and Secretary of such Board and countersigned by the City Comptroller. ('15 c. 231 § 2)

[1565—]1. **Board of park commissioners in cities not under home rule charters**—In each city of the State of Minnesota now or hereafter having more than fifty thousand (50,000) inhabitants and not having a home rule charter, its board of park commissioners shall on and after the first Monday in January, 1917, consist of the mayor of the city, the chairman of the committee on roads and bridges of the city council and the chairman of the committee on public grounds and buildings of the city council, and additional members as provided in Section 2. ('15 c. 166 § 1, amended '15 c. 277 § 1)

1915 c. 166 § 5 repeals inconsistent acts, etc.

[1565—]2. **Same—Election**—At the general election of 1916 the electors residing within the city limits of each odd numbered senatorial district, any part of which lies within the boundaries of the city, shall elect one commissioner for a term of six (6) years; and at the general election of 1918 the electors residing within the city limits of each even numbered senatorial district, any portion of which lies within the boundaries of the city, shall

elect one commissioner for a term of six (6) years; and at the general election of 1920 the electors of the entire city shall elect four commissioners at large for a term of six (6) years.

The successors of each of the commissioners provided for in this section shall be elected in the same manner at the general election next preceding the expiration of their several terms. All elected commissioners in office at the time of the passage of this act shall serve out their respective terms. ('15 c. 166 § 2, amended '15 c. 277 § 2)

[1565—]3. **Same—When to enter on duties**—Each of such commissioners shall enter upon the duties of his office on the first Monday of January next following his election, and serve until his successor is elected and qualified. ('15 c. 166 § 3)

[1565—]4. **Same—Vacancies**—Whenever a vacancy occurs in the office of an elected commissioner, it shall be filled by the board. ('15 c. 166 § 4)

[1565—]5. **Sprinkling and oiling parkways in cities not under home rule charters—Assessments**—The board of park commissioners of each city of the first class not organized under Section 36, Article 4 of the state constitution, shall have power to sprinkle or oil the parkways of said city, or any part thereof, and to levy and assess the cost of said sprinkling or oiling upon the lots and lands fronting upon that part of the parkway so sprinkled or oiled by an equal rate per front foot of said lots and lands. No assessment shall be levied against property outside of the city limits of said city. ('15 c. 361 § 1)

[1565—]6. **Same—Assessments how certified, collected, and paid**—The board of park commissioners shall cause each such assessment to be certified, on or before the tenth day of October of each year, to the county auditor of the county in which the city is situated and the county auditor shall include the same with and as a part of the annual taxes for the current year upon the same lands, and such assessment shall be collected and the payment thereof enforced with and as a part of such annual taxes and with like interest, penalties and costs. Such taxes when collected shall be paid to the city treasurer and placed in the city park fund. ('15 c. 361 § 2)

1566. **System of streets, parks and parkways in cities not under home rule charters—Acquisition of lands—Duties of council and park commissioners**—The city council and the board of park commissioners of any city of the first class may by concurrent resolution adopted by a majority vote of each body, designate lands to be acquired for a system of streets, parks and parkways, and determine that such land shall be acquired by proceedings under this act, to be conducted either by the city council or the board of park commissioners, as such resolution shall specify. If said proceedings are taken by the board of park commissioners, the duties herein specified to be performed by the city clerk, the city engineer and the city attorney respectively, shall be performed by the secretary, the engineer and the attorney elected and employed by the board of park commissioners, and the powers hereinafter specified to be exercised by the city council may for the purposes of this act be exercised by the board of park commissioners. The term system of streets, parks and parkways, as used herein, shall embrace any body of contiguous land of whatever shape or area, designed ultimately to be used in part for streets and in part for parks or parkways, and the concurrent resolution shall designate what part is for streets, what part for parks and what part for parkways. Whenever the city council desires to take or improve, or take and improve, land for street purposes alone, it may proceed under this act for that purpose without the concurrence of the board of park commissioners, and whenever the board of park commissioners desires to take or improve, or to take and improve, land for parks and parkways alone, or either, it may proceed under this act without the concurrence of the city council. ('11 c. 185 § 1, amended '17 c. 103 § 2)

1917 c. 103 § 1 amends the title of 1911 c. 185, as amended by 1913 c. 345 § 7.

1567. Same—Duty of engineer—Appointment, powers and duties of commissioners—Report—Duties and powers of council—Award and assessment—Assessment roll—

In proceedings to condemn land for widening a street, the plat and survey showed the character, course, and extent of the improvement, and the property to be taken or interfered with. The plat named "H. K. Feye" as the owner of a tract, a part of which was proposed to be taken, of which plaintiff was the record owner of a four-fifths interest, but it was not named as such owner, either in the plat or published notices, and no award was made to it, the only award made and confirmed being to Feye. Held, that the provisions of this section as to notice was complied with, the omission of plaintiff's name not being a fatal departure, in view of the provision that the names of owners be stated "so far as they can readily be ascertained" (161+231). Eminent Domain, ¶181.

Such proceedings were not void as to plaintiff's interest in the land, as a denial of due process of law, or as the taking of its land without compensation (161+231).

Where the plat and survey, and the notices given and published, clearly show that the entire interest in a strip of land sought to be taken for widening a street is intended to be appropriated, the owner of an undivided interest in the land, whose name is not stated in the proceedings, cannot contend that the only interest acquired was that of the person named as owner (161+231). Eminent Domain, ¶243(1).

1568. Same—Objections to confirmation—Appeal to district court—Commissioners to reappraise—Appeal to supreme court—

161+231; note under § 1567, ante.

A notice of objection held sufficient, though not in the precise words of the statute (128-531, 150+398). Eminent Domain, ¶235.

[1568—]1. **Same—Awards on appeal in excess of or less than awards appealed from—Increase or decrease, how paid—Commissioners—Increase and decrease, how assessed—Assessment lists—Objections and appeals—**Whenever any award or awards of damages made to appellants upon any such appeal or appeals to the district court shall exceed the amount of the award or awards appealed from, and when any assessment or assessments of benefits made in respect to any appellant or appellants upon such appeal or appeals shall be less than the amount of the assessment or assessments of benefits appealed from, the amount of such increase in the amount of said award or awards of damages and the amount of such decrease in such assessment or assessments of benefits may be paid by the city from the permanent improvement fund or any fund of the city available therefor, or the city council may cause the same to be assessed upon and against any property benefited by the proposed improvements in addition and without prejudice to prior assessments made thereon in said proceedings, and may refer the matter to the commissioners theretofore appointed by the council in such proceeding or to new commissioners to be appointed by the city council. Such commissioners, whether new or old, shall have the same qualifications as required of commissioners appointed by Section 2 [1567] hereof and such commissioners shall take oath to faithfully discharge their duties as such commissioners and give notice of the time and place when and where they will meet to hear persons interested and assess the amounts of such increase of awards of damages and decrease of assessments of benefits upon the land and property benefited by such proposed improvements. Such commissioners shall meet at the time and place so designated in their notice and hear all persons interested and assess the amount of such increased awards of damages and decreased assessments of benefits upon the property benefited by such proposed improvements, in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel of land so assessed, and said commissioners shall prepare and report to the city council an assessment list of the assessment so made by the commissioners, containing a brief description of each piece of property assessed, the name of the owners thereof if known, and the amount assessed against the same. Said commissioners shall file such assessment list with the city clerk, who shall present such list to the city council for consideration. A brief minute of the presentation of such assessment list to the city council shall be made and published in the record of the proceedings of the city council, which shall be held to be sufficient notice to all persons concerned. Such assessment list shall lie over without action thereon by the city council until the next regular meeting of the

council which will occur at least one week thereafter, at which time or any meeting thereafter the city council may confirm such assessments and assessment roll or send the same back to the commissioners for further consideration and report thereon. Any person interested who is dissatisfied with the amount of any such assessment may file objections thereto and may appeal from the confirmation of such assessment by the city council to the district court in like manner and with like proceedings as provided in Section 3 hereof [1568] in respect to filing objections and taking appeals from original appeals made in such proceedings. Any decrease made in any such assessments upon any such appeals may be paid by the city from the permanent improvement fund or any fund of the city available therefor, or cause the same to be reassessed as hereinabove provided. ('11 c. 185, amended '13 c. 345; '15 c. 86 § 1)

1915 c. 86 § 1 amends 1911 c. 185, as amended by 1913 c. 385, by inserting after § 3 of said chapter 185 as amended the section above set forth.

1570. Same—Clerk to transmit assessment roll to county auditor—Installments, how made up and entered—Grounds of defense, etc.—The city clerk shall transmit a certified copy of such assessment roll to the county auditor of the county in which the land lies, and the county auditor shall include 5 per cent of the principal amount of such assessment with and as part of the taxes upon each parcel for each year for twenty years, together with annual interest at the rate ascertained, as hereinafter provided. The city council and board of park commissioners may, however, by such concurrent resolution, determine that the amount of such assessment shall be collected in five or ten equal annual installments instead of twenty, and in such case the county auditor shall include a corresponding per cent of the principal amount of such assessment with and as part of the taxes of each year, together with such annual interest until the whole is collected. With the first installment the auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first installment are delivered by the county auditor to the county treasurer, and thereafter the auditor shall include in the taxes for each year one of such installments, together with one year's interest upon such installment, and all subsequent installments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all installments that have gone into the hands of the county treasurer as aforesaid, with accrued interest, penalties and costs, as above provided, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all installments due on such parcel and accrued interest, penalties and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, interest, penalties and costs. Said assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity, provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under this act shall be called special street and parkway assessments of the city of and numbered consecutively. Whenever an assessment is certified as aforesaid by the city clerk to the county auditor, a duplicate thereof shall be sent to the city comptroller, and all such assessments

shall be sufficient [sufficiently] identified by the name and number as aforesaid. ('11 c. 185 § 5, amended '17 c. 103 § 3)

1571. Same—Method of improvement—Assessments for benefits, etc.—Existing streets, parks, etc.—The city council and park commissioners may by such concurrent resolution specify the method of improving any such street, park or parkway, including grading, planting, paving, curb, gutter and sidewalk, as well as sewer and water mains where necessary, and in the case of parks, the necessary structures and apparatus for playgrounds and general park uses. The city engineer shall estimate the cost of each item of such improvement separately and submit the estimate with the plat. Such estimates shall be for not to exceed six inch water mains and not to exceed twenty-four inch sewers. The city council shall examine such estimates and after modifying, if necessary, find and adopt an estimate of such cost. The city council, in appointing commissioners, shall recite said estimate, and the commissioners shall assess the amount thereof upon such lots and parcels of land in the city as they shall deem specially benefited in proportion to such benefits, and not exceeding the actual benefit to any parcel, and add the same to the benefits assessed under section 2 of this [1567] act and report the net result of damages or benefits as required by said section 2 [1567], and with like proceedings thereafter. Provided that if in any proceeding under this act the actual cost of the improvement of any such street, park or parkway in the manner herein designated is less than the estimated cost thereof as found and adopted by the city council, the city council may direct the distribution of such excess as follows: In case the assessments in any such proceeding have not been entirely collected, or in case the city council deem that any such assessments may not be fully collected, the city council may direct the city comptroller to retain in the fund in such proceeding a sum sufficient, in the judgment of said city council, to cover the deficiencies in the collection of such assessments, and the city council may direct that the balance of such excess of estimated cost shall be disposed of in the manner hereinafter provided. The city council may direct the city comptroller to certify the amount of such balance to the county auditor. The county auditor shall thereupon deduct such amount from the first installment of the assessment to be collected after the receipt of such certificate. Such deduction shall be made from the assessment against each piece or parcel of property in the proportion that such excess as certified by the city comptroller bears to the total of such installment of the assessment. If such balance as certified exceeds one installment, it may also be deducted in like manner from succeeding installments until the same is fully deducted.

Provided further that if any portion of the damages and cost of such improvement has been paid by the city, the city council shall direct the city comptroller to certify to the county auditor only such percentage of such balance or excess of estimated cost as shall be equal to the percentage of the total estimated cost of the improvement and damages which has been or is assessed against benefited property. No such certificate shall be directed by the council or issued to the county auditor until after a report from the city engineer that the work under any such proceeding has been completed and each item of damage or cost in such proceeding paid. In any such proceeding where there is or may be such an excess of estimated cost, and there is or shall be a balance in the fund in such proceeding over and above the actual cost, the city council shall be entitled to withdraw from such fund a percentage of such fund equal to the percentage of the cost of such improvement paid by the city, and cause such percentage to be deposited in the fund from which it was originally drawn or taken by such city council.

Any existing street, park or parkway may be improved and the expense thereof assessed and raised in the manner provided by this chapter, including any or all of the following improvements to-wit, widening, grading, planting, pavements, sidewalks, curb and gutter sewers and water mains, and in the case of parks the necessary structures and apparatus for playgrounds and general park uses. In case of streets or parkways exceeding 80 feet in width, the resolution may, for the purpose of facilitating connections with private prop-

erty and obviating the necessity of cutting or breaking into the improvements, order a double water main or a double sewer, one on either side of the street or parkway, or adopt such other arrangement or device as may seem most feasible. ('11 c. 185 § 6, amended '17 c. 103 § 4)

[1571—]1. **Same—Total cost not to be less than \$3,000—**No lands shall be acquired hereunder for streets, parks or parkways, and no proceedings shall be had for the improvement of streets, parks or parkways, where the total cost thereof shall be less than \$3,000.00. ('17 c. 103 § 5)

1572. Same—Title acquired—

161+231; note under § 1567, ante.

1575. Same—Certificates of indebtedness—Guaranty—Interest—The city council, for the purpose of realizing the funds for making such improvement and paying such damages, may issue and sell special certificates of indebtedness, or special street or parkway improvement bonds, as they may decide, which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more certificates or bonds against any one assessment, or against the assessments in two or more different proceedings, the principal and interest being payable at fixed dates out of the fund collected from such assessments, including interest and penalties, and the whole of such fund or funds is hereby pledged for the pro rata payment of such certificates or bonds and the interest thereon, as they severally become due. Such certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed as hereinafter provided and for the time specified in Section 5 [1570]. If the city, because of any such guaranty shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of such guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given, to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed five per cent per annum, payable annually or semi-annually. The city clerk shall certify to the county auditor the rate of interest so determined, and interest shall be computed upon the assessments at such annual rate, in accordance with the terms of Section 5. ('11 c. 185 § 10, amended '17 c. 11 § 1)

[1578—]1. **Regulating use of parks in cities not under home rule charters—**The Board of Park Commissioners of each city of the first class not organized under Section 36, Article 4 of the State Constitution, shall have power to regulate the use of parks and parkways heretofore actually acquired in the name of the city whether within or without the corporate boundaries, and may adopt ordinances to secure the quiet, orderly and suitable use and enjoyment of such parks and parkways by the people and fix and ordain penalties for the violation thereof, which ordinances shall take effect from and after the publication thereof in the official newspaper of the city. The penalties for such violation may include fines not exceeding one hundred dollars (\$100) or confinement, in the city workhouse not exceeding ninety (90) days. ('15 c. 132 § 1)

[1578—]2. **Same—Use of waters of lakes—**Whenever such parks or parkways, or both, embrace the entire shore of any navigable lake, the board of park commissioners may regulate the use of the waters of such lake, and for that purpose adopt ordinances and prescribe penalties for the violation as provided in Section 1 [1578—1]. ('15 c. 132 § 2)

[1578—]3. **Annual tax for park and parkway purposes in cities not under home rule charters—**Any city of the first class, not organized under section 36, article 4 of the State Constitution, is hereby authorized in addition to and without repeal or modification of powers already existing in that behalf, to

levy annually a tax for park and parkway purposes upon all the taxable property in the city, real and personal, not exceeding one-half of one mill upon the dollar of the assessed valuation of such property. No such tax shall be levied beyond the maximum rate which may from time to time be fixed for that purpose by the board of tax levy. ('17 c. 393 § 1)

[1578—]4. **Same—Levy—How collected, etc.**—The board of park commissioners or other body having the general maintenance and government of parks and parkways of the city shall by resolution make such levy on or before the first day of November of each year and transmit a duly certified copy of such resolution to the county auditor and such levy shall be included in and collected with the general taxes for state, county and city purposes for the current year, and shall be collected in the same manner and with the same penalties, interest and costs, and when collected shall be paid over to the city treasurer and placed in the city park fund. ('17 c. 393 § 2)

1579. Condemnation of lands for public playgrounds—

The provision of this section as to the right of the city to take possession under penalty of standing absolutely bound to pay the damages awarded is not applicable to a proceeding instituted by the city of Minneapolis under its charter, a provision in which permits the city to abandon a condemnation proceeding at any time during its pendency (135-243, 160+775). Eminent Domain, Ⓒ246(2, 3).

1581. Residence districts—Council may designate—

Prohibiting owner from erecting four-family flat building within residential district, on ground of unhealthful congestion, added fire risk, and more difficult police supervision, was beyond police power and void (162+477). Municipal Corporations, Ⓒ601.

An ordinance establishing a residential district and prohibiting the erection therein of hotels, stores, factories, warehouses, dry-cleaning plants, public garages or stables, or any industrial establishment or any business whatsoever, held, as applied to one who had erected a store building under a permit duly issued, and who applied for a permit to install an electric lighting system therein as required by ordinance, invalid, as taking property without compensation and as depriving him of property without due process of law, such ordinance not being within the police power of the city to restrict the erection of buildings injurious to the public welfare (158+1017). Constitutional Law, Ⓒ278(1); Eminent Domain, Ⓒ2(1); Municipal Corporations, Ⓒ625.

1598. Bonds for certain purposes authorized in cities not under home rule charters—

That a resolution authorizing the issuance of bonds was passed by the council before the final order for the improvement had been approved by the mayor and published did not make the resolution invalid (123-1, 142+886). Municipal Corporations, Ⓒ917(1).

[1623—]1. **Gifts for medical dispensaries and libraries in cities under home rule charters**—That any city in the state of Minnesota now or hereafter having a population of over fifty thousand inhabitants, shall, in addition to all other powers now possessed by it, have, and it is hereby given, power and authority to accept in trust, gifts, devises and bequests of money or property, whether the same be donated, devised or bequeathed prior or subsequent to the passage of this act, for the purpose of founding, establishing and maintaining free medical dispensaries for the benefit of the poor of any such city or of the county in which any such city is situated, and for the purpose of founding, establishing and maintaining free public libraries for the use and benefit of the inhabitants of any such city or of the county in which any such city is situated. ('15 c. 183 § 1)

[1623—]2. **Same—Power to administer, etc.**—Any such city is hereby authorized and empowered to administer any gift, devise or bequest to it in trust for the purposes aforesaid, by such officials, officers or trustees as the donor or testator may designate for that purpose in the will or instrument creating the trust, and in accordance with the terms of such will or instrument, and any officers or officials of any such city or of any county in which any such city is situated, as may be designated to administer any such trust by any will or other instrument creating the trust in any such municipality for either or both of the purposes aforesaid, are hereby empowered to administer, and are hereby charged with the duty of administering, such trust in accordance with the terms of the will or instrument creating the same. ('15 c. 183 § 2)

[1623—]3. **Same—Application to what cities—**This act shall apply to cities having a population of over fifty thousand inhabitants now or hereafter operating under a home rule charter adopted pursuant to Section 36, Article 4, of the Constitution of the State of Minnesota. ('15 c. 183 § 3)

1625. Power to maintain auditorium building—Auditorium board—

Where an auditorium in a building erected for municipal purposes is no longer needed for public use and its lease will lighten taxation, the municipality may lease it for private use (162+1073). Municipal Corporations, 717.

[1626—]1. **Auditorium buildings in cities not under home rule charters—Commission—**In any city of this state having a population of more than 50,000 inhabitants, not operating under a home rule charter, there is hereby created a commission for the purpose of acquiring the necessary land, the erection, operation and management of a building for auditorium purposes and for the purpose of raising and disbursing funds necessary therefor. ('17 c. 340 § 1)

Section 12 repeals inconsistent acts, etc.

[1626—]2. **Same—Commission, how constituted and appointed—**Said commission shall be known as the "board of auditorium commissioners," and shall consist of five persons. The mayor of the city and the president of the city council, or the governing body of the city, shall be ex-officio members thereof. The remaining three members shall be appointed by the mayor from among the freeholders of said city and two of such number shall be men skilled in the operation, construction and handling of large buildings. Such commissioners shall be originally appointed by the mayor for the terms of one, two and three years and thereafter they shall be appointed for terms of three years. ('17 c. 340 § 2)

[1626—]3. **Same—Oath—Officers—**Such commissioners shall, as soon as practicable within ninety days after the passage of this act, meet at the court house in such city and each one of said commissioners shall take an oath before one of the judges of the district court of the county in which said city is located, to support the constitution of the United States and the State of Minnesota and that he will faithfully and honestly perform the duties of said office as one of said commissioners and that he will not knowingly permit any fraud, dishonest practice or cheating by any contractor or other person doing work or performing labor for said commission in or about the purchase or condemnation of said site, or the erection, operation or furnishing of said auditorium contemplated by this act, nor will he knowingly permit any such fraud, dishonest practice or cheating by any person or persons whomsoever.

Said commissioners shall elect one of their number to act as president of the board and one of their number to act as vice-president of said board, each of whom shall hold his respective office until the first Tuesday after the first Monday of January in the year following his election, unless sooner removed by said board and until his successor shall have been elected and shall have entered on the duties of his office; and on every first Tuesday after the first Monday of January thereafter a like election of president and vice-president shall take place, who shall hold their respective offices, unless sooner removed by said board, until their successors are elected and enter upon their duties. The said clerk of said city shall serve as secretary and the city treasurer as treasurer of said board and said board may appoint such employes and agents, to be paid such compensation as it may designate and as to it may seem best. ('17 c. 340 § 3)

[1626—]4. **Same—Acquisition of property—Appraisers—Notice—Hearing—Damages—Report, etc.—**The said board shall have the power to acquire such land as is necessary for a site of said auditorium by purchase or by lease and whenever it is unable to make satisfactory arrangements for the purchase of the property necessary for such site, it shall have the authority and it is hereby authorized to appoint three disinterested citizens of said city, who shall be freeholders therein, as appraisers to appraise the damages to the owner or owners of incumbrances, or to any person having a lien on or any interest in any part of the property to be acquired; such appraisers shall, after be-

ing sworn to faithfully and impartially discharge their duties, give notice as soon as practicable of the time when and the place where they will meet to attend to the business of their appointment which said notice shall be published at least ten days in two daily newspapers published in said city and at the time and place specified in such notice they shall proceed to hear all persons interested in the subject of appraisalment, at which time they shall also view the premises. They may hear any evidence offered by any parties interested and may adjourn from day to day for the purpose aforesaid. They shall also hear the owner or owners and also any person having any interest in or lien upon any part of said property; when their view and hearing shall be concluded they shall determine the amount of damages to be paid by the owner or owners and to each person who may have any interest in or lien upon any part of said premises. If there should be any building standing in whole or in part upon any part of said land to be taken, said appraisers shall in such case, determine the amount of damages which should be paid to the owner or owners thereof, and shall also appraise and determine the amount of damages to be paid such owner or owners in case he or they should elect to remove said building and the damage in relation to the building aforesaid shall be appraised separately from the damages in relation to the land upon which the same is erected. If the lands and buildings belong to different persons, or if the land be subject to a lease, mortgage or judgment, or if there be any estate less than the estate in fee, the injury or damage done such persons so interested respectively may be awarded to them by the appraisers: provided that neither such award made by the appraisers nor the confirmation thereof by the board herein created shall be deemed to require payment of such damages to the person or persons named in said award in case it shall transpire that such person or persons are not entitled to receive the same. The said appraisers, having ascertained and appraised the damages aforesaid, shall make and file with the city clerk, as secretary of the board, a written report of said board, of their action in the premises, which report shall contain a schedule of the appraisalment of damages made to each person, with a description of the lands and names of the owners, if known to them, and of the interest therein of each person to whom they award damages and also a statement of the costs of the proceeding. Upon filing the said report the secretary of the board hereby created shall give notice in two daily newspapers printed and published in said city by publication therein of ten days to the effect that said appraisalment has been returned and filed with said city clerk, as secretary of said board and that the same will be confirmed by the board herein created at a meeting thereof to be named in said notice, unless objections are made in writing by persons interested in any land required to be taken. ('17 c. 340 § 4)

[1626—]5. **Same—Removal of buildings—Confirmation, revision, etc., of assessment—Reappraisalment—Payment of Damages, etc.**—Any person interested in any building or buildings standing in whole or in part upon any land required to be so taken shall, on or before the time specified in such notice, for such confirmation notify said city clerk, as secretary of said board, in writing of their election to remove such building. The board hereby created, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand over, or be referred, shall have power in their discretion to confirm, raise, revise or annul the appraisalment giving due consideration to any objections interposed by parties interested and if so annulled said board may appoint other appraisers in like manner, as the first appraisers, to act in the same manner to re-appraise the same. The damages appraised shall be paid by said board and shall be so paid or tendered or be deposited with the clerk of the district court of said county as hereinafter provided, within three (3) months after the confirmation of such appraisalment and report; but in case any appeal or appeals shall be taken from the order confirming such appointment, then the amount of such damages shall not in any case be required to be paid or tendered or deposited with said clerk of the district court as aforesaid, until thirty (30) days after the determination of all appeals which shall have been so taken. The land and property re-

quired to be taken for the purposes aforesaid, shall not be taken possession of until the damages awarded to the owner thereof, or other person entitled thereto, shall have been paid or tendered to such owner or deposited with the clerk of said court, as hereinafter provided and in case said board shall be unable to find the owner or other person to whom such damages are due, in order to pay or tender the same, or in case said board shall be unable to determine to whom the damages so awarded should in any particular case be paid, or in case of disputed claims in relation thereto, the amount of damages in any such case may be deposited by order of said board in the district court of the county in which said city is located; the said court, upon proper application of any person claiming the award or any part thereof, shall determine to whom the same shall be paid.

In case any owner or owners of buildings as aforesaid shall have elected in manner aforesaid to remove his or their buildings, he or they shall so remove them within thirty (30) days from the confirmation of said report, or within such further time as the board may allow for the purpose and shall thenceforth be entitled to payment of the amount of damages awarded in such case. In case of removal, when such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove 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 a manner aforesaid, may be taken and appropriated, sold or disposed of as the said board shall direct and the same or the proceeds thereof shall belong to the fund hereinafter named.

When any known owner of lands or tenements affected by any proceeding within this act, shall be an infant or shall labor under any legal disability, a judge of the district court of the county in which said city is located may, upon application of one of said commissioners, or of said board, or if such party by his next friend, appoint a suitable guardian for such party and all notices required by this act shall be served upon such guardian. ('17 c. 340 § 5)

[1626—]6. **Same—Appeals, etc.**—Any person whose property is proposed to be taken or interfered with, under any provisions of this act and who deems that there is any irregularity in the proceedings of the said board or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of or interference with his property, may at any time before such award shall be confirmed by the board of commissioners, file with the secretary of said board in writing, his objection to such confirmation, setting forth therein specifically the particular irregularities complained of and containing a description of the property affected by such proceedings, and if, notwithstanding such objections, the said board shall confirm the award, such person so objecting shall have the right to appeal from such order of confirmation of the board, to the district court of the county in which said city is located, at any time within twenty (20) days after such order; such appeal shall be made by serving a written notice of such appeal upon the said city clerk as secretary of said board, which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid and also by delivering to said city clerk, as secretary of said board, a bond to the said board, executed by the appellant, or by someone on his behalf, with two (2) sureties who shall justify in the penal sum of fifty (\$50.00) dollars, conditioned to pay all costs that may be awarded against the appellant. Thereupon the said city clerk, as secretary of said board, shall make out and transmit to the clerk of the said district court a copy of the award of said commissioners, as confirmed by said board and of the order of the board, confirming the same and of the objection filed by the appellant as aforesaid, all certified by said city clerk, as secretary of said board, to be true copies, within ten (10) days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the city clerk, as secretary of said board shall send up anything except a certified copy of the appellant's objection. There shall be no pleading on such appeal, but the

court shall determine in the first instance whether there was in the proceeding any such irregularity or omission of duty prejudicial to the appellant and specified in said written objections, that as to him the award or appraisal of the appraisers ought not to stand and whether said appraisers had jurisdiction to take action in the premises. The case on such irregularities may be brought on for hearing on eight (8) days notice, at any general or special term of the court and shall have precedence of other civil cases and the judgment of the court shall be either to confirm or annul the proceedings only as the same affects the property of the appellant proposed to be taken or damaged and described in said written objection. From such determination no appeal or writ of error shall lie. In case the amount of damages awarded is complained of by such appellant, the court shall, if the proceedings shall be confirmed in other respects, upon such confirmation, submit the question of damages sustained by appellant to a jury, at a general term of said court and said jury shall find the value of the real estate of the appellant as well as of the buildings thereon, separately, or of the value of the real estate and the buildings thereon together, as the court may direct, in accordance with the facts in the case, whether or not the appellant has elected to retain the buildings, as hereinbefore provided. Upon said verdict, unless set aside by the court as in the case of other verdicts of juries on the motion for a new trial by appellant or by said board, the court shall enter judgment as in any other civil case from which judgment or from any other order of the court, whether the same be from an order granting or refusing a new trial or otherwise, there shall be no appeal or writ of error. ('17 c. 340 § 6)

[1626—]7. **Same—Proceedings of board for acquiring site to be filed with the register of deeds**—As soon as said proceedings for acquiring the title to such lands shall have been completed said board shall make an accurate description of each parcel of land so condemned, together with the names of the owners thereof and any incumbrancer thereof or other person having any lien or interest therein, with a statement of the amount of damages awarded therefor, either by said appraisers or by the court or jury, together with a copy of the receipt of such owner, incumbrancer, or other person having a lien upon or interest therein, or in case the same has been paid to the clerk of said court and has not been received by such owner, incumbrancer or other person having a lien upon or interest in said land, then a copy of the receipt of said clerk of the court therefor, all of which shall be certified to by the president and city clerk, as secretary of said board, under the official seal of said board and be filed for record in the office of the register of deeds in said county in which said city is located, which said register of deeds shall record the same in his office in the usual way of recording transfers of real estate in said county and when so recorded the same shall be prima facie evidence of title to such parcel of land and of the transfer of all the interests of such former owner, incumbrancer or other person having any lien upon or interest in said parcel of real estate to said board of auditorium commissioners. ('17 c. 340 § 7)

[1626—]8. **Same—Bonds**—For the purpose of providing money for acquiring title to or release of the land necessary for such auditorium and for the construction of said auditorium building, said board of auditorium commissioners is hereby authorized to issue bonds to run not to exceed thirty (30) years, bearing interest payable semi-annually, not to exceed four and one-half ($4\frac{1}{2}$) per cent per year, in such amount as may be required for such purpose, from time to time, but not to exceed in all the sum of eight hundred thousand (\$800,000.00) dollars, which bonds shall be denominated "auditorium bonds" and which are hereby made a lien upon the said property acquired and any such building constructed by said commissioners. Said bonds shall be issued under the seal of said board and shall be signed by the president and city clerk as secretary thereof. ('17 c. 340 § 8)

[1626—]9. **Same—Payment of bonds—Tax levy**—The said city is hereby charged with the payment of the principal and interest of all bonds so issued by this board. It is hereby made the duty of the city council of said city to raise by levy on all taxable property within said city sufficient money each year to pay the interest on said bonds and the said city council shall also raise

by a like tax a sum of money equal to not to exceed two (2) per cent of the principal of said bonds, to be invested and held as a sinking fund for the payment of the principal of said bonds, which shall be invested in like manner as the sinking funds provided for the payment of other bonds of said city. '17 c. 340 § 9)

[1626—]10. **Same—Meetings of board—Moneys from use of building, how disposed of—Annual report**—Said board shall hold stated meetings as often as once in each month and shall keep a record of its proceedings. The members of said board shall serve without compensation. All moneys derived from the use of said building shall be daily turned into the city treasury and shall be credited to the fund to be known as the auditorium fund and the expense of maintaining said building and the operation thereof shall be paid from said fund and any and all moneys which may accrue from said building in excess of the cost of maintenance and operation shall be set apart and be preserved for the payment of interest upon any bonds or indebtedness which may be issued or incurred in the construction of said building and as a sinking fund for the redemption of such bonds or indebtedness. Said board shall in the month of January in each year make and file with the city clerk of said city a full and detailed report of its proceedings including all receipts and expenditures and the sources thereof for the preceding year. ('17 c. 340 § 10)

[1626—]11. **Same—Contracts how let**—The contract for the construction of said auditorium and for all equipment and supplies exceeding in cost the sum of one thousand (\$1,000.00) dollars, shall be let to the lowest bidder therefor, after reasonable notice thereof shall have been given by said board. ('17 c. 340 § 11)

[1639—]1. **Franchises for street railways in cities not under home rule charters—Term—Conditions, etc.**—The council of any city now or hereafter having a population of more than fifty thousand inhabitants, not operating under Section 36, Article 4 of the Constitution of this State, is hereby authorized, unrestricted by any provision of statute or charter, to grant a franchise for the construction, extension, maintenance and operation of street railways in and upon the streets, highways and public grounds within the city, and within any park or parkway heretofore or hereafter acquired by the city within or without the corporate boundaries. But no street railway shall be laid in any park or parkway without the consent of the board of park commissioners or other body charged with the care and maintenance of the park or parkway. No franchise shall be granted under this act except to a corporation organized under the laws of this state and having power to construct, maintain and operate street railways for the common carriage of passengers, nor shall the same, or any interest in the same, ever, for purposes of operation, be assigned or transferred to or owned by any person or corporation except a corporation organized under the laws of this state having the powers aforesaid. And in case of any assignment or transfer to, or ownership by, any such domestic corporation; all privileges and immunities contained in such franchise, as well as all obligations imposed thereby, shall pass to and be enjoyed by and be binding upon such assignee, transferee or owner. The city shall reserve the right to authorize any existing or future suburban railway company the joint use of tracks, poles, wires, appliances, power and electric current, of any company to which a franchise is granted under this act, and the franchise shall contain provisions for determining the compensation to be paid for such joint use. This act shall not be construed to authorize the extension of any existing contract or franchise.

Any such franchise shall not be granted hereunder for more than thirty (30) years in the first instance, and shall contain an option on the part of any such city to purchase the entire street railway property at the end of each five (5) or ten (10) year period of such term and at the expiration of such term of the franchise, and thereafter at the expiration of any five year period, upon giving one (1) year's written notice to the owners of said railway of the city's intention to purchase said street railway property. The franchise may provide that upon failure of any such city to condemn or ex-

ercise such option to purchase at or before the expiration of the franchise said franchise shall without further act continue until terminated by purchase or condemnation of the property, but not exceeding thirty (30) years or such lesser period as the franchise may fix. The term of any such franchise may begin at the expiration of a now existing franchise, and the new franchise may, in the discretion of the council, be granted to the holder of an old or existing franchise, provided such holder is a Minnesota corporation having the powers aforesaid. The reservation of any such option to purchase on the part of any such city shall not prevent resort to eminent domain. The franchise shall terminate at time of purchase or condemnation of the entire plant and properties.

The term "council" as used in this act, shall include the chief governing body of the city by whatever name known. The word "may" shall nowhere in this act be construed as "shall." ('15 c. 124 § 1)

[1639—]2. **Same—Fixing fares—Extension—Power of regulation—**The franchise may embrace an agreement fixing fares and shall provide for compensation to the city in the form of a division of surplus earnings, amortization or otherwise. The council shall have power to regulate reasonably construction and operation and may, from time to time require reasonable improvements and service. The council shall have power to fix in said franchise, the terms and conditions upon which it may require extension. Any agreement fixing fares shall not exceed the period of thirty (30) years. Any agreement fixing fares may provide for different fares at different times or under varying circumstances. In the absence of an agreement fixing fares and upon the expiration of any agreement fixing fares, the council shall have power to fix a reasonable fare. The power of regulation herein granted shall not be contracted away. The power of regulation may be exercised by ordinance, with penalty by fine and imprisonment in case of violation and regulations may be enforced by mandamus, injunction or other appropriate civil action. ('15 c. 124 § 2)

[1639—]3. **Same—Basis for purchase—Valuation—**For the purpose of fixing a basis for the purchase price of the property and for a division of surplus earnings, a physical valuation of the property shall, in case of a grant to a company already having a street railway property, be made either before the granting of the franchise and incorporated therein, or at the beginning of the term of the franchise. The valuation may include a fair going concern value but shall not include any franchise or good-will value. The franchise may provide for increasing such valuation by additions and improvements and decreasing it by depreciation, alienation and loss of properties. Additional provisions may be made in the franchise for making the valuation. ('15 c. 124 § 3)

[1639—]4. **Same—Annual report—**The holder of the franchise shall file with the city clerk annual reports by the corporation, from the beginning of the franchise until its termination, of receipts and disbursements, inventories, stock and bond issues, and there shall be an annual inspection by the city of all property, books, accounts, records, checks, vouchers, contracts and documents of the corporation, and such further inspection thereof by the city as the franchise may provide. ('15 c. 124 § 4)

[1639—]5. **Same—Disposition of shares, certificates, etc.—**The holder of the franchise shall not sell, dispose of or pledge any shares of its capital stock, or issue any certificates therefor, for less than ninety-five per cent (95%) of their par value nor until such shares shall have been paid for in money, nor issue any bonds, except for money to the market value of the bonds, not, however, less than ninety per cent (90%) of the par value thereof. The proceeds of all stocks and bonds shall be devoted to the lawful purposes of the holder under such franchise. ('15 c. 124 § 5)

[1639—]6. **Same—Power, how exercised—Ordinance—Acceptance—**The power to grant a franchise under this act shall be exercised only by ordinance adopted by a majority of all the members of the council at a regular meeting, and the ayes and nays shall be entered in the minutes. The vote on the

final passage of the ordinance shall not be taken until the expiration of at least fourteen (14) days after the publication of the proposed ordinance in its final form in the official newspaper of the city. The corporation shall have such time as may be fixed by the ordinance, not less than thirty (30) days after final passage and publication, in which to accept. Acceptance shall be first authorized by the board of directors of the corporation and a copy of the resolution authorizing such acceptance shall be filed with the acceptance in the office of the city clerk. The grant shall be fully effective when made and accepted as aforesaid, and ratified as provided in the next section. ('15 c. 124 § 6)

[1639—]7. **Same—Ratification by voters**—No such franchise shall be effective until it shall have been ratified by a majority of the votes of the electors of the city cast upon the question at a general or special election not less than ninety (90) days after the filing of the acceptance of the franchise. The franchise shall provide for such submission. ('15 c. 124 § 7)

[1639—]8. **Same—Bonds for valuation—Tax levy, etc.**—For the purpose of raising funds for making the valuation provided for in Section 3 [1639—3], the council is hereby authorized to issue and sell bonds of the city to an amount not exceeding fifty thousand (\$50,000) dollars in par value. Said bonds shall be issued only in pursuance of a resolution adopted by the affirmative vote of a majority of all the members of a city council or other governing body of such city. The faith and credit of the city shall be pledged to the payment of said bonds and the interest thereon. The council or governing body aforesaid shall include in the tax levy of each year an amount sufficient to pay the current interest on such bonds, and the sinking fund of the city shall be pledged to their redemption at maturity.

Bonds issued under this act shall not run for a term longer than thirty years or bear a rate of interest higher than four per cent per annum, payable semi-annually. The place of payment of principal and interest, and the denominations of said bonds, shall be fixed by the resolution authorizing their issue, and all or any of them may be in the form of coupon bonds or of registered certificates, so-called as the purchaser may prefer.

All bonds or certificates so issued shall be signed by the mayor, attested by the city clerk, and countersigned by the city comptroller of such city, and be sealed with the city seal, except that the signatures to the coupons attached thereto, if any, may be lithographed. None of such obligations shall be sold at less than ninety-five per cent (95%) of their par value and accrued interest, or to any but the highest responsible bidder therefor. ('15 c. 124 § 8)

[1639—]9. **Contracts with street railway companies for transporting property, etc., in cities not under home rule charters**—Every city of this state now or hereafter having over fifty thousand inhabitants and not governed under a charter adopted pursuant to Section 36, Article 4 of the state constitution, in addition to all the powers now possessed by such city, is hereby authorized and empowered, acting by and through its city council or common council, to provide for and enter into and make contracts with any street railway company operating street railway lines in the city for the carriage and transportation over the street railway lines of such company in the city of any property or materials of any kind or description belonging to the city, including any and all kinds of garbage, rubbish, ashes and other refuse materials, and any materials to be used exclusively by said city, which the city shall desire to have transported, carried or removed in, through or from the city, and any such street railway company is hereby authorized and empowered to enter into, make and perform any such contract with the city, as hereinbefore provided, for such reasonable compensation therefor as may be agreed upon. Provided, that no such contract or contracts shall be made for a longer period of time than the time of duration of any franchise or right to use the streets of such city of any such company. ('15 c. 255 § 1)

[1639—]10. **Restricted residence districts in cities under home rule charters**—Any city of the first class may, through its council, upon petition of fifty (50) per cent of the owners of the real estate in the district sought to

be affected, designate and establish by proceedings hereunder restricted residence districts within its limits wherein no building or other structure shall thereafter be erected, altered or repaired for any of the following purposes, to-wit, hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and laundering establishments, bill-boards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called, schools, churches, or signs advertising for rent or sale the property only on which they are placed.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder.

The term "council" in this act shall mean the chief governing body of the city by whatever name called. ('15 c. 128 § 1)

[1639—]11. **Same—Designation of district—Eminent domain—**The council shall first designate the restricted residence district, and shall have power to acquire by eminent domain the right to exercise the powers granted by this act by proceedings hereinafter defined, and when such proceedings shall have been completed the right to exercise such powers shall be vested in the city. ('15 c. 128 § 2)

[1639—]12. **Same—Appointment of appraisers, etc.—Notice—View and hearing—Damages and benefits—Report—Notice of appraisal—Duties of council—Assessments and awards—Appeals—**The council shall appoint five appraisers who shall be disinterested qualified voters of the city, and none of whom shall be a resident of the ward or wards in which any part of the district so designated is situate, to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted.

Said appraisers shall be notified as soon as practicable by the city clerk, as the case may be, to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the council.

Second. The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the council.

Third. The appraisers shall give notice, by publication in the official newspaper of the city, once a week for two consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the council, and give notice that a plat of the same has been filed in the office of the city clerk, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted, and to assess benefits in the manner hereinafter specified.

Fourth. The city clerk shall, after the first publication of such notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person in whose name each tract or parcel of said land is then assessed, a copy of said notice by depositing the same in the postoffice of said city, with postage prepaid, directed to such person at his place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein.

After the first publication of said notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, a copy of the same

shall also be served upon the person in possession of each of said tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them.

Fifth. At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and may hear the evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which each piece or parcel of land in the district is a part. They shall also determine the amount of benefits, if any, to each such piece or parcel of land. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any.

Sixth. If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them separately by the appraisers. Provided, that neither such award of the appraisers, nor the confirmation thereof by the council shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such person or persons are not entitled to receive the same.

Seventh. The said appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them and also a statement of the costs of the proceedings.

Eighth. Upon such report being filed, the city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the council at a meeting thereof to be named in the notice, which notice shall be published in the official newspaper of said city, once a week for two consecutive weeks, and the last publication shall be at least 10 days before such meeting. The council upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that said council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisal and assessment is annulled, the council may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisal, and upon the coming in of their report, the council shall proceed in a like manner and with the same powers as in the case of the first appraisal.

Ninth. If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the parties entitled thereto, within six months after the confirmation of the appraisal and award. But in case any appeal or appeals

shall be taken from the order confirming said appraisalment and assessment, as hereinafter provided, then the time for payment of said awards shall be extended until and including sixty days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessments upon appeal, the council may, by resolution duly adopted, at any time within sixty days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per cent per annum from the time of the filing of the original appraisers' report and all subsequent awards and awards upon appeal shall be made as of the day and date of filing of such original reports.

Tenth. Upon the conclusion of the proceedings and the payment of the awards, the several tracts of lands shall be deemed to be taken and appropriated for the purpose of this act, and the right above specified shall vest absolutely in the city in which the lands are situate. In case the council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the council shall, and in any and every case, the council may in its discretion deposit the amount of damages with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

Eleventh. Any owner of land within said district who deems that there is any irregularity in the proceedings of said council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded, to him or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the council, file with the city clerk, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the said council shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the council to the district court of the county where such land is situate, within twenty days after such order. Such appeals shall be made by serving a written notice of appeal upon the city clerk which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, thereupon said city clerk, at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the council and of the order of the council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by said city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the city clerk in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises.

Twelfth. The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court

shall be to confirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be included in said district or damaged or assessed, and described in said written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested qualified voters, appraisers to reappraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in this chapter made for the government of appraisers appointed by said council. They shall, after the hearing and view of the premises, make a report to said court of their award of damages and assessment of benefits in respect to the property of such appellant. The award shall be final unless set aside by the court. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings. ('15 c. 128 § 3)

[1639—]13. **Same—Maps, plats and lists—Duties of officers—Assessments**—As soon as such condemnation proceedings have been completed, it shall be the duty of such council to cause maps or plats of such restricted residence district to be made, with a list of the parcels of land within such district, and to file one of such maps and list duly certified by the president of the council and the city clerk, in each of the following offices, to-wit, the office of the city engineer, the office of the register of deeds of the county and the office of the city clerk, and the same shall be prima facie evidence of the full and complete condemnation and establishment of said restricted residence district. As soon as the assessments are confirmed, the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the county auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county and city taxes, against the several tracts or parcels of land, and said assessments shall be collected with and as a part of, and shall be subject to the same penalties, costs and interest, as the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed "Restricted Residence District Assessments," and when collected a separate account thereof shall be kept by the county auditor, and the same shall be transmitted to the treasurer of the city, and placed to the credit of the proper fund. ('15 c. 128 § 4)

[1639—]14. **Same—Ordinances**—The council shall have the power to enact ordinances for the enforcement of the rights which shall be acquired under this act, and to fix penalties for their violation, including a fine not exceeding one hundred dollars (\$100) or confinement in the city workhouse not exceeding ninety (90) days. Violations of the ordinances may be prosecuted in the municipal court of the city. ('15 c. 128 § 5)

[1639—]15. **Same—Buildings when nuisances**—Any building or structure erected, altered, repaired or used in violation of this act or any ordinance passed under it, shall be deemed a nuisance and may be abated at the suit of the city in a civil action. The city may maintain actions for injunction to

prevent violation of the act and of the ordinances passed in pursuance hereof. Owners of land and others interested in land within the district may also maintain similar actions of abatement and for injunction. ('15 c. 128 § 6)

[1639—]16. **Same—Application to what cities**—This act shall also apply to cities existing under a charter framed pursuant to Section 36, Article IV of the Constitution of the State of Minnesota. ('15 c. 128 § 7)

[1639—]17. **Municipal forests in cities under home rule charters—Annual tax**—Any city in the State of Minnesota, now or hereafter having a population of more than fifty thousand inhabitants, by resolution of the governing body thereof, may accept donations of land as such governing body may deem to be better adapted for the production of timber and wood than for any other purpose, for a forest, and may manage the same on forestry principles. The donor of not less than one hundred acres of any such land shall be entitled to have the same perpetually bear his or her name. The governing body of any such city, when funds are available or have been levied therefor, may purchase or obtain by condemnation proceedings, and preferably at the sources of streams, any tract of land for a forest which is better adapted for the production of timber and wood than for any other purpose, which is conveniently located for the purpose, and manage the same on forestry principles. The selection of such lands, and the plans of management thereof, shall have the approval of the state forester. Such city is authorized to levy and collect an annual tax of not exceeding five mills on the dollar of its assessed real estate valuation, in addition to all other taxes authorized or permitted by law, to procure and maintain such forests. ('15 c. 217 § 1)

[1639—]18. **Same—Application to what cities**—This act shall apply only to such cities as are or may be governed by a charter adopted pursuant to Section 36 Article 4 of the Constitution of this state. ('15 c. 217 § 2)

[1639—]19. **Transfer of funds of city, departments or boards in cities not under home rule charters**—Whenever in any city of this state having over 50,000 inhabitants and not governed under a home-rule charter adopted pursuant to section 38, article 4 of the state constitution, such city or any department or board of such city shall furnish or deliver to any department or board of such city, any water, gas, heat, light, power, goods, wares, merchandise, supplies or any service whatever, the city council of such city is hereby authorized and empowered to transfer and cause to be transferred and paid into the city treasury, by warrant or otherwise as it may deem best, from any available funds appropriated to the use of such department or board to whom any such water, gas, heat, light, power, goods, wares, merchandise or service is furnished, to the credit of the proper funds of the city, or of the department or board, furnishing the same, the amount of the agreed price or reasonable value of such water, gas, heat, light, power, goods, wares, merchandise or service so furnished and delivered. ('17 c. 105 § 1)

[1639—]20. **Refunding moneys advanced for water mains or other public improvements in cities not under home rule charters**—The city council, common council or other chief governing body of any city of this state of the first class not governed by a home-rule charter is hereby authorized and empowered to refund moneys heretofore advanced by any person for the construction of water mains or other public improvements in the public streets of said city in cases where such water mains or other public improvements were after the advancement of said moneys, actually constructed in such public streets of such cities, but which improvements were not ordered or the assessment therefor against abutting property was not made or levied respectively in accordance with the charter or other governing act of said city, and where it appears that such public improvement is available and can be connected with abutting property and has already been connected with and used by the city for public municipal purposes. Such refundment shall only be made upon verified proofs of such advancement presented to the city council, common council or other chief governing body of such cities, showing that

such advancement of moneys has been heretofore made and that such cities have had and retained said moneys. ('17 c. 189 § 1)

[1639—]21. **Same—Assessments—**The city council, common council or other chief governing body of such cities are hereby authorized and empowered to levy assessments, in like manner as other assessments for local improvements are made in such city, against the abutting property for the cost of the construction of such water main or other public improvement, notwithstanding the provisions of the city charter or other governing act of such cities to the contrary and whether or not there has been an attempted levy of assessments against such abutting property. Provided however that this Act shall not authorize a double assessment against the same property for the same improvement.

The foregoing provisions of this act as to refunding advancements for such public improvements and the right to levy assessments therefor shall not be affected by the lapse of time or the statute of limitations. ('17 c. 189 § 2)

[1639—]22. **Annual tax for current expenses in cities not under home rule charters—**Any city of this state now or hereafter having over fifty thousand inhabitants and not governed under a charter adopted pursuant to section 36, article 4 of the state constitution, is hereby authorized and empowered to levy annually such tax on all the taxable property in the city as it shall deem necessary in addition to the other revenue of the city applicable thereto to defray the current expenses of the city for the next fiscal year, but no such taxes for current expenses of such city shall in any year amount to more than seven mills on each dollar of the assessed valuation of the taxable property in the city. Such levy of taxes shall be made by resolution of the city council or other chief governing body of the city at the same time and in the same manner as other taxes of the city are levied and all taxes levied under this act shall be extended upon the tax lists of the county and collected and enforced in like manner and by the same agencies as other taxes levied by such city are extended, collected and enforced. ('17 c. 341 § 1)

This act appears to supersede 1915 c. 186.

PROVISIONS RELATING TO CITIES OF SECOND CLASS

[1650—]1. **Dense smoke—Abatement—Ordinances—**That the city council or other governing body of each city in this state which now has or hereafter may have 20,000 and not more than 50,000 inhabitants, is hereby authorized and empowered to enact and publish, and to provide penalties for the violation of, ordinances to regulate, control, prohibit and abate the issuance or emission of dense smoke in such city.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the State of Minnesota. ('17 c. 8 § 1)

[1650—]2. **Same—Ordinances to define the meaning of dense smoke—**Such ordinances may define the meaning of dense smoke, and declare the issuance or emission thereof to be a public nuisance, and provide all effective steps for the abatement thereof. ('17 c. 8 § 2)

[1650—]3. **Board of fire and police commissioners—**That in each city in the State of Minnesota, which now has or hereafter may have no more than 50,000 and not less than 20,000 inhabitants, there be and hereby is created and established a board of fire and police commissioners which shall have the control and management of the fire and police departments of such city with the powers and duties hereinafter designated.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the State of Minnesota. ('15 c. 125 § 1)

Section 20 repeals inconsistent acts, etc.

[1650—]4. **Same—Authority—In whom vested—**That all authority under this act in each such city shall be exercised by a board of five commis-

sioners, to be known and designated as the "Board of Fire and Police Commissioners" who shall be appointed by the mayor of such city, and whose terms of office shall be as hereinafter designated. ('15 c. 125 § 2)

[1650—]5. **Same—Terms of commissioners**—It is hereby made the duty of the mayor of each such city in this state to appoint, within fifteen days after the approval of this act, five persons, residents and tax payers of such city, as such commissioners, one of whom shall be appointed to serve for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. The five persons so appointed shall constitute the first board of fire and police commissioners for the city and each shall hold office until his successor has been appointed and qualified.

The terms of office of each of such commissioners shall commence on the first Monday in May, 1915, and on that day they shall enter upon the performance of their duties and assume the control and management of the fire and police departments of the city in which they have been so appointed. ('15 c. 125 § 3)

[1650—]6. **Same—Mayor annually to appoint one commissioner**—The mayor of each such city shall annually thereafter on the last Monday in March appoint one person, resident and tax payer of such city, as a member of said board and as the successor of the commissioner whose term of office expires in that year, to serve for a term of five years from the first Monday in May of the year in which he is appointed and until his successor is appointed and qualified. ('15 c. 125 § 4)

[1650—]7. **Same—Qualifications of commissioners, etc.—Vacancies—Removal—Oath**—All such appointments shall be subject to the approval of the city council before the same become effective. Provided that all appointments made under the provisions of this act, including the filling of vacancies, shall be so made that not more than one of such commissioners shall be appointed from the same ward in cities having five or more wards, and in cities having less than five wards at least one of such commissioners shall be appointed from each ward.

All vacancies by resignation or otherwise shall be filled by appointment by the mayor, subject to the approval of the city council.

The mayor may remove any of the commissioners for misconduct, incompetency, or neglect of duty, after a reasonable opportunity shall be given him to be heard upon written charges.

Each member of the board before entering upon the discharge of his duties shall take and subscribe the usual oath of office and file the same with the city recorder, together with a written acceptance of his appointment. All appointments made by the mayor shall be in writing and filed with the city recorder. ('15 c. 125 § 5)

[1650—]8. **Same—Annual meeting—President, etc.—Expenses**—The annual meeting of said board shall be held on the first Tuesday in May. At such meeting said board shall elect one of their number to be president of the board and another to be vice-president. Said board may make rules for their government not inconsistent herewith. A majority of the board shall constitute a quorum.

All contracts, engagements, acts and doings of said board within the scope of their authority shall be obligatory and binding upon such city.

The members of said board shall receive no compensation for their services, but shall be allowed their reasonable official expenses, except that traveling expenses outside such city shall not be allowed any such members, unless authority to incur such expenses be granted by such board and approved in writing by the mayor before such expenses are incurred. ('15 c. 125 § 6)

[1650—]9. **Same—City clerk and treasurer to act—Bond—City attorney**—The city recorder or clerk shall act as secretary of the board, shall execute

and file with the board a bond in such penal sum and containing such conditions and with such sureties as the board may prescribe and approve.

The treasurer of each such city is hereby declared to be ex officio treasurer of said board. The city attorney of each such city shall be the legal advisor of said board. ('15 c. 125 § 7)

[1650—]10. **Same—Duties of Secretary—Reports**—It shall be the duty of the secretary under the direction of the board to collect, receive and pay into the city treasury all moneys due said board on account of the operation of said departments. He shall keep a set of books which at all times shall contain a full and complete statement of the condition, operation and expenditures of each such department and of all moneys received and paid out by order of said board in each of such departments, together with an accurate account of all the expenses and liabilities of said board in each such department. The books of said board shall be open at all times to the examination of any tax payer of such city, and to any member or committee of the city council.

On the first day of each month said board shall make a full report in detail to the city council of all moneys received and expended and liabilities incurred by the board. Whenever requested by the city council so to do said board shall transmit to it a concise statement of the financial condition of said departments. ('15 c. 125 § 8)

[1650—]11. **Same—Duties of Treasurer—Fire and police fund**—The city treasurer shall receive all moneys paid into the city treasury on account of said board or appropriated for the use of said board from all sources, and place the same in a separate fund therefor to be designated as the "Fire and Police Fund," which fund is hereby created for each such city. The treasurer shall keep a detailed and exact account thereof in such manner as to show the exact financial condition of the board at all times. ('15 c. 125 § 9)

[1650—]12. **Same—Board to sue and be sued**—Said board may sue or be sued, appear and prosecute to final judgment and defend in any court in the name of the board, any action at law or suit in equity. The board may prosecute an action in the name of the board against any person for the breach of any contract with said board and for injury done or caused to any of the property, real or personal, belonging to the city and used in said fire or police departments, or under the control of said board. ('15 c. 125 § 10)

[1650—]13. **Same—Expenses—Accounts**—Such board shall keep an accurate and detailed record and account of the current expense of operating, maintaining, and improving the fire and police departments of such cities, and such other accounts as may be necessary to show the true financial condition of each of said departments and all property belonging thereto. ('15 c. 125 § 11)

[1650—]14. **Same—Estimates—Duplicates—Duties of recorder—Tax levy**—On or before the second Monday in August each year the secretary of said board shall present to it an estimate of the several amounts required during the next ensuing fiscal year for the operation, maintenance and improvement of each of the departments under its control. The board shall consider the same and make such corrections or changes therein as may be deemed necessary, and shall approve and establish the same on or before the last Monday in August. A duplicate of such estimate, when so approved and established, shall be certified by the president and secretary of the board and transmitted to and filed with the recorder of the city on or before the last Monday in August of each year. The city recorder shall include the amounts so established by said board in his estimate to the city council of the several sums which will be required to meet the expenses of the city during the next ensuing fiscal year. The city council may change or correct such estimates and shall then establish the same in the tax levy for such year. ('15 c. 125 § 12)

[1650—]15. **Transfer of funds**—It shall be the duty of the city treasurer immediately after this act takes effect and such board is organized, to trans-

fer to the fire and police fund created by this act all moneys then in the treasury for the use of the fire and police departments; and to place in said fund all moneys thereafter paid into the city treasury for the use of said departments.

The city council may at any time it may deem it advisable, transfer from the general fund to said fire and police fund any money then in said general fund not otherwise required for the specific purpose for which it was levied. ('15 c. 125 § 13).

[1650—]16. **Same—Payments—Vouchers**—No money shall be paid out of the fire and police fund in the city treasury belonging to said board, unless such payment is authorized by the affirmative vote of a majority of all the members of the board, and then only by order drawn by the secretary of the board, signed by the president; or in his absence the vice-president, and countersigned by the secretary, specifying the purpose, the department for which and the account upon which it is drawn, and made payable to the order of the person in whose favor it is issued. Provided, that orders in the form above prescribed may be issued at the proper times without specific action by the board for the payment of salaries or wages previously fixed and determined by the board and made payable at certain definite times and in certain definite installments. ('15 c. 125 § 14)

[1650—]17. **Same—Appropriations—Loans**—In all appropriations or purchases made and liabilities incurred, the said board shall not exceed in any fiscal year the amount of the estimate made therefor as established by the city council as hereinbefore provided, in addition to such sums as the city council may transfer to said fire and police fund as provided in Section 13 hereof [1650—15], and no loans shall be made by said board for any purpose, except when extraordinary expenditure shall be rendered unavoidable by some unforeseen cause and such expenditure has been approved by the majority vote of the city council of such city. ('15 c. 125 § 15)

[1650—]18. **Same—Contracts—Repairs**—Every contract for the purchase of property to be used in said departments of such cities which shall involve the expenditure of \$200.00 or more, shall be in writing and be filed with the secretary of the board. In making purchases for either of said departments involving an expenditure of more than \$500.00, bids shall be solicited and the purchase made from the lowest responsible bidder, after notice soliciting bids shall have been published in the official newspaper of such city in at least two separate issues thereof, but said board shall have the right to reject any and all bids. Provided, that in case there shall be any sudden or extraordinary injury to any of the property of the city used in either of said departments, and damage or loss may ensue by reason of delay in replacing or repairing such property, said board may cause such damage to be repaired or such property to be replaced without a contract and without letting the same to the lowest bidder, in such manner as the board may deem best for the interest of the city, provided that its action shall be approved by a majority vote of the city council. ('15 c. 125 § 16)

[1650—]19. **Same—Rules—Merit system**—Said board shall adopt rules for the government of each of said departments and shall appoint, promote, suspend, dis-rate or discharge any member of the police or fire department, including all superior officers in each such department, in the manner provided by such rules. By such rules it shall define the duties and powers and fix the compensation of all persons serving in said departments, and may amend such rules and prescribe penalties for their violation. Such rules shall provide for the examination of all applicants for permanent positions, which shall be practical in their nature, public, and free to all persons desiring to take them. The selection, promotion and term of employment of all persons regularly serving or to serve in said departments shall be governed by the merit system, subject to reasonable limitations as to age, health, habits and character of such persons, but wholly without reference to their political affiliations. Said board shall have power to appoint and remove

special police officers to serve without pay from the city and to be subject to such rules as the board may prescribe.

All rules established by the board shall be changed only by an affirmative vote of four-fifths of all the members of the board.

The rules and regulations of any such city governing the management and control of said departments shall remain in force until superseded by rules adopted by said board. ('15 c. 125 § 17)

[1650—]20. **Same—Power to summon witnesses**—Said board shall have power to summon and compel the attendance of witnesses, to examine them under oath and to require the production of documentary evidence for use at any investigation or hearing had by said board in relation to the management of said departments or the control of the persons serving therein. Each member of the board shall have power to administer oaths to witnesses at such hearings. ('15 c. 125 § 18)

[1650—]21. **Same—Powers of board—Receipts**—Said board shall have power to buy, lease, sell, maintain and manage real and personal property for the use of said departments, but no purchase or sale of real property shall be made, unless authorized by a majority vote of the city council. It may establish, maintain and equip fire and police stations and substations and police precincts, electrical alarm and signal systems, and shall license and revoke licenses for junk-dealers and pawn-brokers in accordance with such ordinances as the city council may adopt on the subject of such licenses.

All receipts from the sale of property and from licenses shall be deposited with the city treasurer to the credit of the general fund of the city. ('15 c. 125 § 19)

[1650—]22. **Buildings and fire protection—Regulations and penalties**—That the city council or other governing body of each city in this state which now has or hereafter may have 20,000, and not more than 50,000 inhabitants, is hereby authorized and empowered to enact, adopt, repeal and amend, and to provide penalties for the violation of, any and all regulations, rules, resolutions and ordinances, not inconsistent with the laws of this state, relating to building within such city, and the planning, construction, repair, maintenance, fire protection and all other matters relating to buildings within such city.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the state of Minnesota. ('17 c. 190 § 1)

[1650—]23. **Same—Inspection and regulation of construction**—Such city council or other governing body of such city shall have power by ordinance to provide for inspection and regulation of any construction work within such city, whether buildings, plumbing, heating, ventilating, wiring or any other construction whatsoever. ('17 c. 190 § 2)

[1650—]24. **Same—Building inspector and assistants—Powers**—Such city council or other governing body is authorized and empowered to appoint a building inspector and such assistants and employes as may be deemed necessary and define their powers and duties and fix their salaries and terms of service.

Such inspector and his authorized assistants under his direction, shall have power and be fully authorized to enter any dwelling house or other building at all hours between seven o'clock in the morning and six o'clock in the evening and examine all chimneys, stoves, furnaces, pipes and other parts of such buildings, and see that the ordinances of such city respecting the same are enforced.

Provided, however, that no such entry shall be made in any building occupied as a dwelling house without written notice of such entry for the purpose of inspection, served upon an occupant or person in charge of such dwelling house, by such inspector or under his direction at least 24 hours prior to such entry, unless such occupant or person in charge shall consent to such entry. ('17 c. 190 § 3)

[1650—]25. **Same—Duties of inspector**—Under such conditions as such city council or other governing body may prescribe, such inspector shall inspect or cause to be inspected all buildings and structures of any character whatsoever within such city and see that they conform to the laws of the state and the ordinances of such city, and shall enforce all laws of the state and all ordinances of such city applying to buildings within such city, whether relating to their planning, repair, fire protection or any other matter. ('17 c. 190 § 4)

[1650—]26. **Same—Powers of city**—For a more specific enumeration and definition of some of the powers hereinbefore granted and a fuller exposition thereof and as an additional grant thereto, such city or other governing body shall have the following power and authority:

(a) To regulate the construction, alteration, removal and repair of all structures and the permanent equipment thereof, and to provide for the safety of the occupants of all structures and all property in the vicinity thereof against danger from fire or panic or from methods of construction or installation detrimental to life, health or property, and to prohibit the use of buildings or parts of buildings when dangerous to life from collapse, fire or panic.

(b) To prescribe limits within which all roofs shall be covered by non-combustible material.

(c) To compel the installation in all structures of devices, appliances and arrangements for the preservation of life, health and property.

(d) To license, regulate, prohibit and suppress the erection and maintenance of signs, signboards, billboards and fences.

(e) To establish and enforce building lines and to regulate the height of buildings.

(f) To regulate the measurement and inspection of all building materials.

(g) To prescribe the depth of cellars, the material and method of construction of foundations and foundation walls, the material and 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, roofs, chimneys, flues and heating apparatus, and apportion and adjust such regulations to the height and size of buildings.

(h) To regulate the construction and location of privies and vaults.

(i) To prohibit the construction of buildings not conforming to the prescribed standard, either in the whole city or within such building limits as it may prescribe, and to establish, alter or enlarge such building limits from time to time.

(j) To give such inspector and his assistants authority to enter upon, examine and inspect all buildings in process of construction in such city or within such building limits, and to direct the suspension of any such building operation as does not conform to such regulations.

Provided, however, that neither such city council or other governing body nor any inspector of such city shall have control or regulation of any building erected by the United States or the state of Minnesota. ('17 c. 190 § 5)

[1650—]27. **Sprinkling streets—Assessments**—That the city council or other governing body of each city in the state of Minnesota which now has or hereafter may have 20,000, and not more than 50,000, inhabitants, is hereby authorized and empowered to sprinkle its streets, alleys, highways, public ways and public grounds, without letting the same by contract, and to levy assessments for all or any portion of the cost thereof upon property to be benefited thereby as such city council or other governing body may determine, in the manner and as hereinafter designated, notwithstanding any provisions in the charter of such city or the general laws of this state to the contrary.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the state of Minnesota. ('17 c. 509 § 1)

[1650—]28. **Same—Sprinkling defined**—Sprinkling as used or referred to in this act shall be deemed to include sprinkling, flushing, saturating or treat-

ing the surface of streets, alleys, highways, public ways and public grounds with water, oil or any kind of fluid, mineral or other substance, for the purpose of preventing dust in the atmosphere or on the surface of such streets, alleys, highways, public ways and public grounds. ('17 c. 509 § 2)

[1650—]29. Same—Sprinkling districts—Plans and specifications—Such city council or other governing body may at any time determine by resolution what territory in such city shall be sprinkled during the sprinkling season of that year and may divide such territory into two or more sprinkling districts, describing the boundary lines of each such district. Each district so determined shall be designated by number, and thereafter all reference to such district by number in any notice required by this act or in any other proceeding having reference thereto, shall be deemed a sufficient designation.

Such city council or other governing body may cause to be prepared plans and specifications therefor and may approve the same and upon such approval they shall be filed with the clerk or recorder of such city for the inspection of all parties interested.

Such resolution shall be published once in the official paper of such city. ('17 c. 509 § 3)

[1650—]30. Same—Meeting of council—Notice—Resolution—Equipment and materials—After the adoption of such resolution and the approval and filing of such plans and specifications as aforesaid, such city council or other governing body shall designate a time, not less than ten days distant, and a place at which it will meet and act in relation to the doing of the proposed sprinkling, and direct that notice be given by the clerk or recorder of such meeting, and the time, place and purpose thereof. Such notice shall state that the plans and specifications therefor are on file with the clerk or recorder, and that all persons interested will be heard at the time and place of such meeting, and shall be published once in the official paper of such city at least five days before the time of such meeting. At such meeting an opportunity shall be given by such city council or other governing body to any and all interested parties to be heard for or against the proposed sprinkling, and such city council or other governing body may then, by an affirmative vote of a majority of all its members, by resolution in writing, determine what sprinkling shall be done during that year and the manner of doing the same, or may in its discretion, from lack of a quorum or for any other reason postpone the consideration and decision of the whole matter, or any part thereof to a future definite time, of which postponement all parties interested shall be required and deemed to take notice. Such resolution may designate what officer or officers of such city shall supervise such work.

Such city council or other governing body is hereby authorized and empowered to purchase all necessary horses, wagons, sprinklers, vehicles, equipment and outfit and all materials necessary or required for proper sprinkling in such city. ('17 c. 509 § 4)

[1650—]31. Same—Duties of clerk and mayor—After the adoption of the resolution last mentioned it shall be signed by the president of such city council or other governing body and attested by the clerk or recorder of such city, and on the next day after the adoption thereof the same shall be transmitted by such clerk or recorder to the mayor of such city for his approval. If the mayor approves the same, he shall append his signature with the date of his approval thereto and return the same to the clerk or recorder within five days, Sundays excepted, from the date of its transmission to him. If he declines to approve the same, he shall, within said period of five days, Sundays excepted, return the same to the clerk or recorder with a statement of his objections thereto, to be presented to such council or other governing body at its next meeting thereafter.

Upon the return of said resolution to the city council or other governing body without the mayor's approval, the same shall again be put upon the passage of the same, notwithstanding the objections of the mayor, and if, upon such vote, which shall be taken by a call of the roll, two-thirds of all the members of such city council or other governing body shall vote in favor of the

adoption of such resolution, the same shall be declared adopted and shall have the same force and effect as if approved by the mayor.

If such resolution, transmitted to the mayor, shall not be returned by him to said clerk or recorder within said five days, Sundays excepted, after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the clerk or recorder on demand. Such resolution need not be published. ('17 c. 509 § 5)

[1650—]32. **Same—Modification of district**—At any time after the adoption of the resolution last mentioned, such city council or other governing body may, by resolution in writing, approved by the mayor, or by a two-thirds vote over his objections, without notice or publication of such resolution, amend or modify the same by adding to the territory of any sprinkling district or omitting any portion thereof or by changing the method or manner of sprinkling therein for the remainder of that year; and such city council or other governing body may at any time discontinue sprinkling from time to time or altogether in any sprinkling district. ('17 c. 509 § 6)

[1650—]33. **Same—Assistants**—Such city council or other governing body may, from time to time, appoint one or more persons to assist the officer designated to supervise such sprinkling, and may fix their compensation and terms of service, or provide that they shall serve during its pleasure. ('17 c. 509 § 7)

[1650—]34. **Same—Sprinkling supervisor to keep cost**—The supervisor of sprinkling shall keep an accurate account of the cost of such sprinkling, including the compensation paid to such assistant or assistants, in each of such sprinkling districts, and promptly upon the completion of each season's sprinkling under the provisions of this act, transmit to such city council or other governing body a detailed statement thereof. ('17 c. 509 § 8)

[1650—]35. **Same—Assessment by council**—The city council or other governing body shall then proceed without unnecessary delay to apportion and assess the entire cost of such sprinkling including all expenses in connection therewith or such portion thereof as it may determine, upon the real estate by them deemed benefited, to the extent of the benefits received, and in proportion, as near as may be, to the benefits resulting thereto from such sprinkling.

In all proceedings for the making and collection of any assessment under this act, letters, figures and the usual and customary abbreviations may be used to designate lots, parts of lots, lands, blocks, additions, subdivisions, sections, townships, ranges and parts thereof, the year and the amounts. Such assessments shall be in writing, in which shall be given a description of each lot or parcel so assessed, the name of the owner thereof, if known, and the exact amount assessed thereto. ('17 c. 509 § 9)

[1650—]36. **Same—Meeting of council—Notice**—Upon the completion of such assessment such city council or other governing body shall direct that the same be placed on file with the clerk or recorder, and shall appoint a time, not less than ten days distant, and a place when and where it will meet to consider and act upon such assessment, and such clerk or recorder shall thereupon cause notice of such meeting, and the time, place and purpose thereof, to be given by one publication of such notice in the official newspaper of such city, at least five days prior to the time appointed for such meeting. Such notice shall state that the assessment has been made for sprinkling, referring to the number of each district sprinkled for which the assessment was made and that the assessment is on file with the clerk or recorder and open to the inspection of all parties interested, and that all objections to the same must be filed in writing with the clerk or recorder of such city at least one day (Sunday and legal holidays excepted) prior to said meeting, and that unless sufficient cause is shown to the contrary, the same will be confirmed. A reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the property embraced in such assessment. ('17 c. 509 § 10)

[1650—]37. **Same—Council to consider assessment—Objections—Confirmation, etc.**—At the time and place so appointed, as provided in section 10 hereof [1650—36], said city council or other governing body shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto, and may adjourn as often as deemed expedient to a future definite time and place, and if none of the members are present the clerk or recorder may adjourn to some other convenient time and place, of which postponement all parties interested shall be required and deemed to take notice. All objections to said assessment shall be in writing and filed with said clerk or recorder at least one day (Sunday and legal holidays excepted) prior to the said meeting; provided however, that said city council or other governing body, may, in its discretion, allow any party interested, who has omitted to file his objection as aforesaid, to do so at the time of such meeting. Such city council or other governing body may, at any time cause a new notice of such hearing to be given, if the previous notice is deemed by it to be imperfect, or for any other reason.

Said city council or other governing body, after consideration may make such correction or changes in said assessment and may revise the same as it may deem necessary or proper, and confirm and establish the same.

The assessment, when so confirmed and established, shall be final, conclusive and binding upon all parties interested therein, and the several amounts charged in such assessment as so confirmed and established against the several lots and parcels of land therein mentioned shall be enforced and established as hereinafter provided: If any assessment be annulled or set aside, the said city council or other governing body may proceed de novo to make a new assessment in like manner, and like notice shall be given as herein required in relation to the first, and all parties interested shall have the like rights. ('17 c. 509 § 11)

[1650—]38. **Same—Assessments to be liens**—All assessments levied under the provisions of this act shall be a paramount lien on the real estate upon which the same may be imposed, from the date of the confirmation of such assessments. ('17 c. 509 § 12)

[1650—]39. **Same—Record of assessments**—The clerk or recorder of each such city shall keep in his office, in books to be provided for that purpose, a correct record of all assessments confirmed by the city council or other governing body and authorized by this act. Said books shall be properly ruled and headed so as to show at all times a substantial description and history of each assessment on each lot or parcel of ground, whether paid to the city treasurer or the county treasurer or remaining unpaid. ('17 c. 509 § 13)

[1650—]40. **Same—Warrant for collection**—When any such assessment shall be confirmed and established as aforesaid, the clerk or recorder of such city shall issue a warrant for the collection thereof under the seal of such city and signed by the mayor and the clerk or recorder thereof, containing a printed or written copy of the assessment roll as so confirmed, or so much thereof as describes the real estate and the amount of the assessment in each case, and deliver the same to the city treasurer of such city as soon as practicable thereafter.

The clerk or recorder shall in each instance take a receipt for such warrant and place the same on file. ('17 c. 509 § 14)

[1650—]41. **Same—Notice of assessment**—Upon the receipt of such warrant the city treasurer shall forthwith give notice by publication once in the official newspaper of such city, that such warrant is in his hands for collection, briefly describing its nature and stating that such assessment is for sprinkling. A reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the property embraced in such assessment. Such notice shall require all persons interested to make payments within thirty days from the date of such notice, at his office or at the option of said treasurer, at some bank in said city acting for him. ('17 c. 509 § 15)

[1650—]42. **Same—Duties of treasurer, clerk, and county auditor—Tax list**—If the assessments charged in any such assessment warrant shall not be paid within thirty days after the publication of the notice by the city treasurer that he has received such warrant for collection, he shall return to the clerk or recorder of such city a list, duly certified by said treasurer of the assessments so made which still remain unpaid, giving in such list the description of the several lots and parcels on which the assessments have not been paid, with the name of the respective owners thereof, if known, and the several amounts assessed thereto.

Such clerk or recorder shall thereupon add to each delinquent and unpaid assessment a penalty of ten per cent thereof and transmit a duly certified list of such unpaid assessments with such penalty added, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the auditor of the county in which such city is located, who shall enter the several amounts of said unpaid assessments on the tax list for such city for the next ensuing year, and levy the same upon the several lots and parcels of land to which the same are respectively chargeable, and the same shall thereupon be enforced and collected as other taxes on real estate are enforced and collected under the general laws of this state. ('17 c. 509 § 16)

[1650—]43. **Same—Assessment, when set aside**—No such assessment shall be set aside or held invalid by reason of any informality in the proceedings prior to the entry thereof on the tax list by the county auditor, as hereinbefore required, unless it shall appear that by reason of such informality or irregularity substantial injury has been done to the party or parties claiming to be aggrieved. ('17 c. 509 § 17)

[1650—]44. **Same—New assessments**—If for any cause the proceedings of the city council or other governing body of any such city, or any of its officers, may be found irregular or defective, whether jurisdictional or otherwise, or so deemed by the city council or other governing body, it may make a new assessment from time to time, and as often as needs be, upon all real estate benefited and on which no payment has been made for said sprinkling, until the full amount of all benefits assessed have been realized from the real estate so benefited by such sprinkling. ('17 c. 509 § 18)

[1650—]45. **Same—Sprinkling, how paid for**—The work of sprinkling authorized by this act shall be paid for upon monthly or semi-monthly estimates, made by the person having supervision of such sprinkling and approved by the city council or other governing body, and that portion of the cost of sprinkling which is to be assessed against property benefited thereby shall be paid from the local improvement fund of such city; and all assessments paid for such sprinkling shall be credited to such fund. ('17 c. 509 § 19)

[1650—]46. **Same—Certificates of indebtedness**—If, at any time, it is found that the moneys in said fund will not be sufficient to pay the portion of said estimates which will be payable therefrom as the work progresses, such city is hereby authorized and empowered to issue from time to time its certificates of indebtedness, in anticipation of the collection of such assessments, in such amount or amounts as the city council or other governing body may deem necessary to pay for such portion of the estimates as the same become payable, and to negotiate and sell such certificates upon the best terms for said city, subject, however, to all the following conditions. ('17 c. 509 § 20)

[1650—]47. **Same—Certificates, how authorized—Form—Interest**—The issue of such certificates shall first be authorized by a resolution in writing passed by an affirmative vote of a majority of all the members of the city council or other governing body and approved by the mayor of such city.

If the mayor shall not approve such resolution within five days after its transmission to him, then the same may be passed by said city council or other governing body, notwithstanding his objections thereto, by a two-

thirds vote of all its members, and shall then have the same force and effect as if approved by the mayor.

Such resolution shall designate the number of such certificates so to be issued, the principal sum of each certificate, the time or times when payable and the purpose for which the money realized thereon is to be paid.

Such certificates shall be numbered consecutively, without regard to the time of issue, and shall be made payable to bearer or to the order of the person or corporation to whom the same may be delivered, as the city council or other governing body may designate, and shall draw interest at a rate not exceeding six per cent per annum and be payable at the city treasury of such city not later than one year from the day of issue and be payable out of the local improvement fund and no other of such city. They shall be signed by the mayor and attested by the clerk or recorder of such city and shall have imprinted thereon the corporate seal of such city.

No certificate shall be sold for less than par value and accrued interest. ('17 c. 509 § 21)

[1650—]48. **Same—Record of certificates—Proceeds, how used—**The clerk or recorder and the city treasurer shall each keep an accurate record of all certificates so issued, in books to be kept for that purpose.

Any and all proceeds realized from the sale of such certificates shall be turned into the local improvement fund of such city and neither the said certificates nor the proceeds from the sale thereof, shall be used for or devoted to any purpose other than that designated in the resolution authorizing their issue. ('17 c. 509 § 22)

[1650—]49. **Same—Irregularities in proceedings—**No irregularity or informality in any of the proceedings for sprinkling or in the making or levying of any assessment in anticipation of the collection of which such certificates are issued, shall affect the liability of such city to redeem the same, but the faith and credit of such city issuing the same is hereby irrevocably pledged for the redemption of the certificates so issued. ('17 c. 509 § 23)

[1650—]50. **Same—Redemption and cancellation of certificates—**The city treasurer shall immediately after any such certificate shall have been redeemed by such city, cancel the same by a writing upon the face thereof showing date of redemption and the amount and to whom paid, and shall affix his signature thereto, and within twenty-four hours thereafter transmit such certificate so cancelled to the clerk or recorder and take his receipt therefor, who shall immediately make an entry of such redemption and cancellation in his certificate register and enter such payment in the said fund account. ('17 c. 509 § 24)

[1650—]51. **Same—Payment of assessments—Cancellation—**Any person owning or interested in any piece or parcel of land against which an assessment is levied, as herein provided, may pay such assessment, together with the penalty thereon, to the treasurer of such city at any time before the first Monday in January next following the date on which the same has been certified to the clerk or recorder or to the county auditor, as hereinbefore provided, and said treasurer shall thereupon give his receipt in duplicate for the same, which shall be sufficient authority for the cancellation of such assessment by the county auditor or county treasurer on his books, or by such clerk or recorder, as the case may be. After the first Monday in January next following the date on which any delinquent assessment shall have been certified to the county auditor, the same must be paid to the county treasurer the same as state and county taxes.

Upon the presentation of one of said duplicate receipts by such owner or interested party to the county auditor or county treasurer, as the case may be, he shall cancel such assessment on his books, or if the same has not yet been transmitted to the county auditor, said clerk or recorder shall thereupon cancel such assessment on the delinquent list containing the same. The county auditor, if such receipt be filed with him, shall report the same in the next settlement thereafter with said city treasurer, for taxes collected and payable to such city treasurer.

On the first Monday of each year the city treasurer shall certify to the clerk or recorder of such city all payments made to such treasurer, of assessments certified to the county auditor for collection, and such clerk or recorder shall enter all such payments in the proper records therefor. ('17 c. 509 § 25)

[1650—]52. **Same—Affidavit of publication**—When any notice is required to be published in any newspaper, under the provisions of this act, an affidavit of the publisher or printer of such newspaper, or of the foreman or clerk of such publisher or printer, annexed to a printed copy of such notice taken from the paper in which it was published and specifying the time when, and the paper in which such notice was published, shall be prima facie evidence in all cases and in all courts of this state of the facts contained in such affidavit. ('17 c. 509 § 26)

[1650—]53. **Same—Auditor not to certify taxes paid until assessments paid**—The county auditor shall not issue his certificate that taxes are paid on any piece or parcel of land upon which any delinquent assessment authorized by this act has been certified to him, until such assessment with penalties and interest thereon, if any, has been fully paid. ('17 c. 509 § 27)

[1650—]54. **Same—Charters not repealed**—This act shall not be deemed to repeal any provision of any special or home rule charter in force at the date of the passage hereof. ('17 c. 509 § 28)

[1650—]55. **Reconstructing and repairing bridges**—That each city in the State of Minnesota which now has or hereafter may have 20,000 and not more than 50,000, inhabitants, is hereby authorized and empowered to reconstruct, rebuild, pave, repair and improve any foot and carriage bridge and approaches thereto and any part or parts thereof across a river adjacent to such city, and thereafter to maintain the same.

For the purposes of this act the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the State of Minnesota. ('15 c. 14 § 1)

Section 8 repeals 1915 c. 2.

[1650—]56. **Same—Bonds**—That the city council or other governing body of each city referred to in Section one of this act is hereby authorized and empowered by a vote of two-thirds of all its members to issue the bonds of such city, with coupons attached, to the amount of one hundred twenty-five thousand dollars, or so much thereof as said council or governing body may deem necessary, for the purpose of reconstructing, rebuilding, paving, repairing and improving the bridge and approaches or any part or parts thereof, mentioned in this act. ('15 c. 14 § 2)

[1650—]57. **Same—Denominations of bonds and when payable**—One-half in number of said bonds shall be of denominations of one hundred dollars each and the other half in number of said bonds shall be of denominations of one thousand dollars each, and shall be payable at such place and at such times within thirty-five years from the date of their issue as the city council or other governing body may designate, and any portion of said principal sum not exceeding twenty thousand dollars may be made payable in any one year, any provision in the charter of such city or the general laws of this state to the contrary notwithstanding. ('15 c. 14 § 3)

[1650—]58. **Same—Form of bonds—Interest**—Said bonds shall be drawn payable to bearer or to the order of the person or corporation to whom they may be delivered, as the city council or other governing body may deem best and shall draw interest, payable annually or semi-annually at such place as such council or governing body may determine, at a rate not exceeding five per cent per annum to be represented by coupons attached to said bonds. Said bonds shall be signed by the mayor and attested by the recorder or clerk of such city and the corporate seal of such city shall be imprinted thereon, and said coupons shall be signed by the recorder or clerk or a fac-simile of his signature be printed thereon. ('15 c. 14 § 4)

[1650—]59. **Same—Taxes for payment of bonds**—The city council or governing body of such city is hereby authorized and empowered to and shall make provision, by the levying of taxes, for the payment of the principal and interest of the bonds issued under and by virtue of the authority and power granted by this act, as the same may become due. ('15 c. 14 § 5)

[1650—]60. **Same—Proceeds of bonds, how used**—The proceeds of all bonds issued under and by virtue of this act shall be devoted to the purpose or purposes herein contemplated, including the fees and expenses of the engineers employed in connection therewith. ('15 c. 14 § 6)

[1650—]61. **Same—Bonds, when to be issued**—No bonds shall be issued by virtue of this act after three years from the date of its passage. ('15 c. 14 § 7)

PROVISIONS RELATING TO CITIES OF THIRD CLASS

1670. **Water works—Power to acquire**—
123-48, 142+1042.

[1727—]1. **Dams on lakes in parks in cities under home rule charters**—The council of every city of the third class operating under a home rule charter and which city owns and maintains a public park on any stream, the navigable portions of which lie wholly within the limits of this state, is hereby empowered to erect and maintain a dam over and across such stream for the purpose of using the back water thereof for an artificial lake or pool connected with such public park, provided that such dam shall be built in such a manner that it will not force the waters of said stream over the high water or meandered borders of such stream. ('15 c. 198 § 1)

[1727—]2. **Same—Plans to be approved by whom**—No dam as hereinbefore provided for shall be built or commenced until the location and plans thereof have been submitted to and approved by the chief of engineers and the secretary of war of the United States, and until the location and plans thereof have been submitted to and approved by the state drainage commission of the State of Minnesota, and it shall be unlawful to deviate from such plans either before or after completion of the structure unless the modification of said plans has previously been submitted to and received the approval of the chief of engineers and secretary of war of the United States and said state drainage commission. ('15 c. 198 § 2)

[1727—]3. **Same—Authority subject to laws of state and United States**—The authority and power herein conferred upon the council of said cities is given subject to all the laws, rules and regulations of the State of Minnesota and the United States relating to such matters. ('15 c. 198 § 3)

[1727—]4. **Donations of land in adjoining state for park purposes to certain cities**—That any city in this State having a population of not less than ten thousand inhabitants nor more than twenty thousand inhabitants, situate upon the boundary line between the State of Minnesota and any other city of the United States, is hereby authorized to accept any donation of land situate in any State adjoining the State of Minnesota and adjacent to such city for park purposes, and to acquire title to lands for such purposes and to improve and govern the same by the same authority as any such city may have with reference to similar land situate within the city limits of such city, and to expend money for the improvement of any such park. ('17 c. 127 § 1.)

[1727—]5. **Same—Acceptances heretofore made legalized**—That any acceptance of any conveyance of any lands situate as aforesaid, heretofore made by any such city, is hereby validated and legalized. ('17 c. 127 § 2)

[1727—]6. **Annual tax for current expenses in cities not under home rule charters**—The city council or other governing body of any city in the State of Minnesota now or hereafter having more than ten thousand and not more than twenty thousand inhabitants, not operating under a home rule charter, in addition to the powers possessed by such city council or other governing body, is hereby authorized and empowered, acting by resolution duly adopted, to levy annually at the time other city taxes are levied such

tax on all the taxable property in such city as it shall deem necessary, in addition to the other revenues of the city applicable thereto, to defray the current expenses of such city for the next fiscal year; but no such tax for current expenses shall in any one year exceed two per cent of the assessed value of all the taxable property in such city. ('15 c. 188 § 1)

[1727—]7. **Same—Application to what cities—**This act shall not apply to cities now or hereafter governed under a charter framed pursuant to Section 36, Article 4, of the constitution of this state, and the several acts of the legislature authorizing cities to adopt their own charters. ('15 c. 188 § 2)

PROVISIONS RELATING TO CITIES OF FOURTH CLASS

1729. **Same—Proceedings—Jurisdiction acquired—**

De facto public corporations and attack on proceedings for incorporation (see 132-59, 155+1040). Municipal Corporations, ↪18; Quo Warranto, ↪8.

1762. **Water works and light plants—Power to acquire—Bonds—Condemnation—**Whenever at any general or special election, held in any city in the class hereinafter mentioned, the electors thereof by an affirmative vote of three-fifths of the legal voters, voting thereat, so determine, each city in the State of Minnesota, having ten thousand inhabitants or less or existing under special or general law, or under a home rule charter is hereby authorized and empowered, in addition to all powers to issue bonds conferred upon it by its city charter, or by virtue of any general or special law, and in addition to all other bonds that it is by law authorized to issue, to issue its bonds in the aggregate amount hereinafter mentioned to be determined as hereinafter set forth and to dispose of the same as hereinafter provided, and to use the proceeds thereof for the purpose of acquiring, constructing, extending, enlarging, improving or purchasing municipal waterworks, or light, or power plants or either or all or any part thereof, and the lands or flowage rights therefor whether the whole or any part of such plant or the land or flowage rights therefor is situate within or without the corporate limits of the city, but in each case the said city may either acquire such waterworks system or light or power plants or any part or portion thereof or any or all lands or flowage rights necessary therefor by purchase at such price not exceeding its fair value and on such terms as may be agreed on between said city and the owner or owners thereof or by condemnation. The procedure in the event of condemnation shall be that prescribed by Chapter 41 General Statutes of 1913 and any amendments thereof or that prescribed by said city's charter and the purchase price of said plant or system or portion thereof, or lands or flowage rights as so fixed by agreement or condemnation may be paid out of the proceeds of the bonds by this act authorized to be issued and the balance of the proceeds, if any, may be used for extension, enlargement or improvement of such plant or plants so acquired. ('09 c. 43 § 1, amended '17 c. 134 § 1)

1766. **Same—Terms of—**Such bonds shall be of such denomination as the city council may determine, shall be payable at such place as the city council may designate; at such times, not more than thirty years from date of issue, as the city council may determine; shall be made payable to bearer, or to the order of the person or corporation to whom they may be delivered, as such city may deem best, and shall draw interest payable semi-annually, at such place as the city council may determine, at a rate not exceeding five per cent per annum, to be represented by coupons attached to said bonds. Said bonds and coupons shall be signed by the mayor and attested by the clerk, or similar officer, or recorder of such city, and the corporate seal of the city shall be imprinted upon said bonds. ('09 c. 43 § 5, amended '17 c. 507 § 1)

[1773—]1. **Disposition of surplus electricity—**Any city of this state now or hereafter owning and operating an electric light and power plant for the production and distribution of electricity, and now or hereafter having a population of ten thousand (10,000) inhabitants, or less, shall be authorized and empowered to dispose of any surplus electricity so produced to private consumers desiring the same residing outside the corporate limits of said city, at

such rates and upon such terms as the city council, or other governing body of such city, may deem proper. ('15 c. 34 § 1)

[1773—]2. **Change of system of electric street lighting—Petition—Power of council**—Whenever a petition shall be presented to the common council or any other governing body of any city of the fourth class in this state, whether operating under a home-rule charter or the general laws of this state, which petition asks that said city council change the plan or system of electric street lighting or any part thereof in use in said city, or change the equipment for electric street lighting in use in said city at the time of presenting said petition and such petition is signed by the owners of a majority in area of the real estate of such city, which may be deemed by said common council to be specially benefited, then and in such case the said common council or other governing body may make such investigation as to the advisability, expediency and feasibility of the doing of the things asked in said petition as it deems necessary, and, if it deems it advisable, expedient and feasible to do them or any of them, it may and is hereby authorized and empowered to grant such petition or any or all of its requests at its discretion. ('17 c. 180 § 1)

Section 3 repeals 1915, c. 263.

[1773—]3. **Same—Special assessment**—In case such petition shall be granted and to the extent rendered necessary by the granting of the same in whole or in part, the said common council or other governing body may levy and collect by special assessment the entire or a portion of the cost and expense of such change, alteration, replacement, reconstruction or installment against such real estate as may, in the judgment of said common council, derive special benefits therefrom. ('17 c. 180 § 2)

[1773—]4. **Municipal or private ownership heating plants**—Any city of this state having a population of not more than 10,000 inhabitants, is hereby authorized and empowered:

(a) To grant to any person, persons, company or corporation, the right of the use of the streets, alleys and other public grounds of such city for the erection, operation and maintenance of any heating system to furnish heat to the inhabitants of such city, the same to be on such terms and subject to such conditions as the governing body of such city shall determine, including therein the right to sell to such person, persons, company or corporation, at a profit to such city, any steam generated or water heated by any plant owned and operated by such city, and to make contracts and arrangements for the furnishing of heat to the inhabitants of such city thereby, and for the regulation and control of such heating system.

(b) To grant to any person, persons, company or corporation the right of the use of the streets, alleys and other public grounds of such city for the installation, without any expense to such city, of pipes, conduits and other equipment necessary and incidental to the construction, operation and maintenance of a heating system to furnish heat to the inhabitants of such city, the same to be on such terms and subject to such conditions as the governing body of such city shall determine, including the right to make all necessary and incidental contracts and arrangements for the furnishing of heat to the inhabitants of such city, at a profit to such city, from any steam generated or water heated by any plant owned and operated by such city, including the right to acquire, own, operate and enlarge the heating system after the same shall have been installed, and including the right to issue certificates of indebtedness of such city payable in heat to be sold by such city. ('17 c. 122 § 1)

[1773—]5. **Same—Obligation—Limitation on indebtedness**—The obligation incurred by any such city in the making of such contracts and arrangements shall not be considered as a part of its indebtedness under the provisions of its governing charter or of any law of this state fixing a limit of indebtedness for such city. ('17 c. 122 § 2)

[1773—]6. **Fixing rates of for electric current of persons and corporations not having franchise, etc.—Resolution**—In all cities of the fourth class in this state where any person or corporation sells, conveys or delivers electricity or

electric current that is manufactured, created or obtained in another state and where such person or corporation occupies or uses any of the streets, alleys or public grounds of such city for the purpose of erecting or maintaining any towers, masts, poles, wires or conduits therein for the purpose of conveying or conducting electricity or electric current, or conducts or conveys electricity or electric current into or through such city, without having a written franchise, license or authority from such city therefor, the city council or governing body of such city may, by resolution, at any regular or special meeting thereof, name, fix and regulate an amount in money that such person or corporation shall pay into the city treasury of such city each month for the privilege of so doing, or so using such streets, alleys or public grounds. ('15 c. 311 § 1)

[1773—]7. **Same—Effect of resolution**—Such resolution shall state and fix the amount of such monthly payments and the time and manner of paying the same and the amount so stated and fixed shall be a legal charge against any such person or corporation and may be recovered by such city in a civil action in any court having jurisdiction. ('15 c. 311 § 2)

[1773—]8. **Same—Vested rights not granted**—Nothing herein contained shall be construed as granting to any such person or corporation any vested rights, license or authority in such city, or to prevent any such city from at any time causing the removal from the streets, alleys and public grounds thereof of any and all towers, masts, poles, wires or conduits, of such person or corporation. ('15 c. 311 § 3)

[1773—]9. **Proceedings for construction of lighting and heating plants in certain cities not under home rule charters legalized**—That whenever and in all cases where any city of the fourth class, having a population of less than ten thousand (10,000) inhabitants and not operating under a home rule charter, has proceeded to construct, and is operating a heating system in connection with its lighting and power plant for the furnishing of heat to the inhabitants of said city and for the purpose of raising the necessary money to pay for the installation thereof has issued the warrants of the said city and thereby has obtained the money which has actually been used for such purpose, all steps taken, things done, and acts and proceedings had, done and performed, by such common council, or other governing body of such city, in the construction of and operation of such heating system and all orders issued by such governing body for the procuring of money for such purpose are hereby legalized, validated, ratified and confirmed and made the legal, valid and binding obligations of said city. And in all such cases where such heating plants have been constructed, and are in actual operation in any city of the fourth class, authority and power is hereby granted such city or cities to continue to maintain and operate said heating plants together with the right to make such extensions and improvements as may be necessary and to provide for the financing of the same as in the case of municipal lighting and power plants and at its option may sell and dispose of the same. Provided that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts of this state. ('17 c. 125 § 1)

[1773—]10. **Proceedings for construction of water plants and sewer system, etc., in certain cities under home rule charters legalized**—In any case in any city of the fourth class, operating under home rule charter authorizing the construction, maintaining, extending or enlarging and improving of a suitable water plant and sewer system therein, and the establishment and maintaining of a permanent improvement revolving fund therefor, or either of said plants or said revolving fund, where the governing body thereof has determined to extend or enlarge such water plant or sewer system, or both, and has provided for a permanent improvement revolving fund therein, in accordance with the provisions of its charter, and has issued warrants or orders for any of said purposes or all thereof, not exceeding the actual cost of such improvements, the action of such governing body shall be and hereby is ratified and declared effectual, and bonds voted or that may be issued in pursuance of any resolution or ordinance passed by a four-fifths vote of all the members of such

governing body, to an amount not to exceed the actual cost of such improvement or improvements, are hereby legalized and declared valid. ('17 c. 195 § 1)

[1773—]11. **Same—Pending actions, etc.**—This act shall not apply to or affect any action or appeal now pending in which the validity of such proceedings or of such bonds is called in question. ('17 c. 195 § 2)

[1778—]1. **Delegating authority to improve highway to adjoining municipality**—Any city of the fourth class in this state may delegate to an adjoining municipality the authority to improve any public highway within such city connecting it with such an adjoining municipality or it may make a joint contract with such adjoining municipality for the improvement of such highway, under the joint supervision of both municipalities. ('15 c. 330 § 1)

[1778—]2. **Same—Payment of money by city delegating authority**—If the authority to improve such highway is delegated to any adjoining municipality by such city it may cause to be paid over from time to time for such improvement during the progress thereof or upon the completion thereof, to such municipality or such contractor as may make such improvement, any money that such city may have in its treasury available for the payment of such improvement. ('15 c. 330 § 2)

[1778—]3. **Constructing or rebuilding curbs and gutters in certain cities—Petition—Resolution**—Whenever the governing body of any city have a population of ten thousand inhabitants or less, incorporated under the general laws of this state, shall deem it necessary and expedient to construct or rebuild any curb or gutter, or both, in said city, they may, acting on their own motion, and if a majority of the owners of the property fronting on the street or streets where it is proposed to construct or rebuild such curb or gutter, or both, shall petition the common council of such city therefor, they shall adopt a resolution to that effect, which resolution shall specify the place or places where such curb or gutter, or both, shall be constructed or rebuilt, the kind and quality of materials to be used therein, the width, the size and manner of construction thereof, and the time within which the same shall be completed, which shall not be less than forty days after the service of said resolution, as hereinafter provided.

Said resolution shall contain the names of the owners of all lots, parcels of lots, and parcels of ground fronting the street or streets where such curb or gutter, or both is to be constructed or rebuilt. ('17 c. 123 § 1)

[1778—]4. **Same—Service on abutting owners**—Such resolution shall be served upon the persons named in said resolution at least forty days prior to the time therein named for the completion of said curb or gutter, or both, in the following manner:

First: By causing a copy thereof to be handed to and left with each of the persons therein named who are residents of and within said city, and are actually therein.

Second: If any of the persons so named in said resolution are not residents of said city, or cannot be found therein, then said resolution shall be published in one issue of a newspaper regularly published in said city, in the English language, and having a general circulation therein, or in the designated official paper of said city.

Third: If there be no such newspaper published in said city, then such service and publication may be made by posting a copy of said resolution in at least three public places in said city, at least forty days prior to the time named therein for the completion of said curb or gutter, or both.

Affidavits shall be made by the person serving or posting said resolution of the manner, time and place of serving or posting the same, and by the foreman, editor or publisher of such newspaper of the time and manner of publishing the same, and such affidavits shall be attached to said resolution and with it filed with the city recorder. Any and all such service when made in accordance with the provisions of this act, shall for the purposes thereof, be deemed personal service of such resolution upon the persons named therein. ('17 c. 123 § 2)

[1778—]5. **Same—Powers of council to cause work to be done—Benefits, how assessed, etc.**—If such work shall not be fully done and said curb or gutter or both shall not be fully constructed or rebuilt in the manner and at the time prescribed in said resolution, then the governing body of said city may order the same to be done by the street commissioner or commissioner of public works, or cause the same to be done by contract let to the lowest responsible bidder, the entire expense thereof to be paid out of the general revenue fund of said city.

At any time within thirty days after said city shall have completed the construction of said curb or gutter or both as aforesaid, the city council or governing body of such city shall adopt a resolution fixing the time and place when and where they shall hear testimony of all persons interested or affected and ascertain the amount of benefits to property fronting on said curb or gutter, or both, or by reason of the construction thereof, and such resolution shall be served on all the persons named in the resolution adopted under section 1 [1778—3] of this act, and in the manner therein provided.

At the time and place named in said resolution said city council or governing body of said city shall hear any and all testimony offered by or on behalf of all parties interested or affected by the construction of said curb or gutter, or both, and for said purpose the president of the council or other presiding officer is hereby authorized to administer oaths to witnesses. Thereupon, by resolution, the city council or governing body of said city shall determine the amount of benefits caused by said construction, to each lot, part of lot, or parcel of ground fronting the street or streets where such curb or gutter, or both shall have been constructed or rebuilt as aforesaid; and a full and complete record thereof shall be made and kept by the city recorder in a separate book kept for that purpose, which record shall contain a description of the property benefited and charged with the construction of such curb or gutter, or both, the amount of benefit determined in each case as aforesaid, and when so determined the amount of each annual installment thereof; when transmitted to the county auditor of the county for assessment; the amount paid thereon and when paid. Such record to be used in making each annual levy and assessment, as in this act provided.

The amount of the benefits to each lot, part of lot, or parcel of ground so determined as aforesaid shall be and become a charge against the same and shall be assessed thereon, as in the case of county, city or state taxes, in three annual installments. ('17 c. 123 § 3)

[1778—]6. **Same—Certificates of indebtedness**—If such assessments for either or any of the purposes aforesaid be not fully paid to the city treasurer or other officer authorized by law to collect the same, within twenty days after said assessment shall have been made as aforesaid, the council or governing body of said city may issue or cause to be issued the certificates of indebtedness of said city or for the aggregate amount of unpaid balance of each of said assessments payable in three annual installments, each of which installments shall be represented by a separate certificate bearing interest payable annually at a rate to be determined by said city, not exceeding six per cent and payable as follows:

One payable on or before the first day of June of the year next following the issuance thereof; one payable the first day of June of the second year next following; and one payable the first day of June of the third year next following. Said certificates shall be made payable to the bearer and the same may be issued, negotiated and sold by said city for not less than their par or face value. The proceeds of such sale shall be paid into the city treasury, as the case may be. All of said certificates shall be substantially in the following form:

\$..... Dated at, Minnesota 19....

The treasurer of the (city) of will pay to the bearer hereof the sum of dollars and cents on or before the 1st day of June, A. D. 19...., with interest from date hereof, at the rate of per cent per annum, interest payable on the first day of June, 19...., and the first day of June, 19.... This certificate represents one-third of the

amount expended in the construction of a (curb or gutter or both) in said (city) in the year 19....

A record of said certificates shall be made and kept by said city recorder, which record shall show the date the same was issued, amount thereof, date when due, to whom sold, amount sold for, for what purpose the same was issued, when the same was paid, and the amount paid as shown by the treasurer's books. Books shall be provided for said purposes. ('17 c. 123 § 4)

[1778—]7. **Tax levy—Payment of assessments**—After the completion of said curb or gutter or both as aforesaid, by said council or governing body of said city, said city council or governing body of said city shall annually on or before the first day of October, of each year until the whole of said assessments have been levied as herein provided, cause to be transmitted with the city taxes of that year, to the auditor of the county a statement of the amount of the annual installment next thereafter payable, together with interest at the rate of six per cent per annum on the amount of the total assessment from the time of the completion of the work to the first day of June next following its completion, or in case any installment or installments shall have been paid to the treasurer or transmitted to the county auditor and extended as herein provided for, then with interest at said rate for one year on the total of the installment or installments not previously so transmitted and remaining unpaid, and the said auditor shall extend 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 and the same shall be enforced with and in like manner as city, county and state taxes are collected and payment thereof enforced and with like penalties and interest in case the same are not paid before the same become delinquent.

After the completion of said curb or gutter or both, the owner or owners of land adjoining the same or interested therein shall have the privilege of paying all or any portion of the cost of construction thereof to the treasurer of the city at any time within twenty days after the assessment of benefits and before said levy has been made and the amount so paid shall be deducted from the amount of said assessment. ('17 c. 123 § 5)

[1778—]8. **Same—Not to affect prior assessments**—This act shall not in any way affect any assessments heretofore made by any city or any assessment hereafter to be made by any city upon any contract made prior to the time when this act shall take effect. ('17 c. 123 § 6)

[1778—]9. **Same—Application to what cities**—The provisions of this act shall not modify or repeal the provisions of the city charter of any city of the fourth class having a home rule charter, but any such city may, however, avail itself of the benefits of this act. ('17 c. 123 § 7)

[1778—]10. **Sprinkling, oiling, curbing, and building gutters in cities not under home rule charters—Petition—Assessments**—In any city of this state having a population of ten thousand or less, the City Council shall have power and may cause any street or public highway therein or any part thereof to be improved or maintained by sprinkling, oiling, curbing, or building gutters upon a petition therefor signed by three-fourths of all owners of real estate bounding both sides of such street or highway and by the owners of at least one-half of the frontage of such street or highway or part thereof to be improved; or may order any curb or gutter to be built on one side of a street or highway or part thereof upon like petition if signed by the owners of at least one-half the frontage on such side of said street, highway, or part thereof, to be so improved; and without any petition it may order any curb or gutter previously built to be put in repair when necessary; and it may, upon such petition so providing, cause such sprinkling, or oiling to be done annually at such time or times as shall be required by said petition, the cost of such improvement, sprinkling, or oiling or any part thereof not less than one-half, may be assessed and levied by resolution of the council upon the lots or parcels of ground fronting on the street, public highway, or side thereof so improved, sprinkled, or oiled and most benefited thereby; and if such petition provides for sprinkling or oiling annually the council may make

such assessment or levy for such amount as will be required for such purpose during any such year, until a petition for the discontinuance of said sprinkling or oiling, similarly executed, is presented to the council. ('15 c. 285 § 1)

[1778—]11. **Same—Tax levy**—If the tax so levied proves insufficient to pay the cost or proportion thereof assessed to such property the council may levy an additional tax thereon to make good the deficiency. ('15 c. 285 § 2)

[1778—]12. **Same—Assessments, how made, etc.**—The assessments authorized in Sections 1 and 2 hereof [1778—10, 1778—11] shall be made by resolution of the council setting forth the purpose thereof, a description of each lot or parcel benefited, the name of its owner if known, and the amount assessed thereon. Two weeks published notice in a newspaper in the municipality shall be given of the contents of such resolution and of the time when the council will attend at its usual place of meeting to hear objections to the assessment or any part thereof; at such time and place the council shall consider all objections made and for that purpose may adjourn from day to day not exceeding three days and by resolution may modify such assessment or any part thereof. On October 10th next following, if any of the assessments be not previously paid to the city treasurer, the city clerk shall certify the same to the county auditor who shall extend all such unpaid amounts against the land assessed and the same shall be enforced, collected, and paid over to the city treasurer as in the case of other city taxes. ('15 c. 285 § 3)

[1778—]13. **Same—Application to what cities**—This act shall not in any manner apply to any city having a home rule charter adopted pursuant to Section 36, Article 4 of the Constitution of the state, and it shall not be construed as in any manner superseding, repealing, amending, or qualifying the provisions of any such home rule charter. ('15 c. 285 § 4)

[1778—]14. **Same—Acts not repealed**—This act shall not repeal, and shall not be construed as, repealing, amending, or modifying the power of any city to levy taxes, for any of the purposes herein provided, in accordance with any charter, law, or ordinance, but it shall apply equally to all cities as herein provided in addition to any such power. ('15 c. 285 § 5)

[1778—]15. **Same—Orders on treasury**—The city council may authorize orders to be issued on the city treasury, bearing not to exceed 6 per cent interest, to defray the cost of any such improvement until such time as the assessment above provided for shall be paid. ('15 c. 285 § 6)

[1778—]16. **“Public Utilities” and “Public Improvements” defined**—For the purposes of this act, the term “public utilities” shall include electric light, heat and power works, water works, gas works, ice plants, stone quarries and crushing works, telephone systems, public markets, public slaughtering establishments, creosoting and other paving works, and sewer systems; and the term “public improvements,” shall include city halls, lock-ups, fire department buildings, streets, alleys, public ways, sidewalks, curbs, gutters, paving, parks, and all other public grounds and works thereon or therein, (not including library grounds and buildings), and all public buildings and structures other than libraries not hereinbefore specifically mentioned. ('17 c. 358 § 1)

[1778—]17. **Same—To what cities applicable**—This act shall apply to all cities of the fourth class; but it shall not be in force in any such city until its adoption by the electors as hereinafter provided. ('17 c. 358 § 2)

[1778—]18. **Same—Civil service commission—Qualifications of commissioners—Election—Terms—Oath**—In every city to which this act is made applicable there shall be a civil service commission, consisting of one member for every four hundred (400) of population according to the last preceding state or federal census, not, however, in any case to consist of less than nine nor more than fifteen members, all of whom shall be citizens of the state and residents of the city, and serve without compensation. No such commissioner shall at the time of his election, or while serving, hold any other office or employment under the city, the United States, the state of Minnesota, or any

public corporation or political division thereof, other than the office of notary public, nor shall he be interested, directly or indirectly, in any contract, express or implied, with such city, or any board, officer or department thereof, as a contractor, subcontractor, employee, or otherwise.

The members of the first commission shall be elected (conditionally on the adoption of this act) at the same election at which the question of the adoption of this act is submitted to the electors in any such city, and shall hold their offices until noon on the Thursday next following the first regular city election held more than one year after their election, and until their successors are elected and qualified; and thereafter such commissioners shall be elected at regular city elections for the term of two years and until their successors are elected and qualified; and in case a vacancy occurs at any time in said commission, the same shall be filled for the unexpired term by a majority vote of the remainder of the commissioners. Each commissioner before entering upon his duties shall subscribe and file with the city clerk or recorder an oath for the faithful discharge of his duties. ('17 c. 358 § 3)

[1778—]19. **Same—Meetings of commission—Officers—Rules—**The first commission shall hold its first meeting within ten days after its election, at a time and place to be fixed by the mayor of the city, written notice of which shall be given to each member by said mayor, either personally or by mail, at least three days before the date of such meeting. At said meeting, or as soon thereafter as practicable, at an adjourned regular or special meeting, the commission shall elect from its own members a president, a vice-president and a secretary. It shall be the duty of the president to preside at all meetings of the commission, and in his absence the vice-president shall preside. The secretary shall keep the records and files of the commission.

The commission shall, from time to time, fix the times and places of its meetings and adopt, amend and alter rules for its procedure. Four members shall constitute a quorum at any legally provided or called meeting for the transaction of any business, except as otherwise herein provided. ('17 c. 358 § 4)

[1778—]20. **Officers and employees under commission—**All officers and employees of such cities who are not elected by the people shall be under the jurisdiction of the civil service commission and subject to the provisions of this act. After the adoption of this act, the mayor, alderman, treasurer and recorder or clerk of such cities shall be elected by the people; but all other officers and employees, except as herein otherwise expressly provided, shall be elected, appointed or employed by the public utilities board, civil service commission or in other manner provided by this act and shall be included within the term "Employee" as used in this act. ('17 c. 358 § 5)

[1778—]21. **Same—Public utilities board—Officers—City manager—Duties—Vacancy—Qualifications—Bond—Treasurer—**In every city to which this act is made applicable there shall be a public utilities board, which shall consist of three members to be elected by the civil service commission, for the term of one year, subject, however, to removal at any time by a majority vote of the commission. Two of the members of such board, one of whom shall be designated as chairman, and the other as vice-chairman, may be elected from the members of the civil service commission, and shall serve without salary or compensation; but the third member of such board shall be selected without regard to his residence, and he shall receive such salary or compensation as shall be prescribed by the civil service commission, payable in monthly installments. He shall be designated as "City Manager," and shall have such authority and perform such duties in connection with all public utilities and public improvements of said city, subject to the general approval, control and direction of the public utilities board, as are hereinafter prescribed, and subject, also, to removal at the end of any month by written notice signed by the other two members of the board, whenever in their judgment the best interests of the city will be served thereby. He shall also be ex-officio city surveyor, city engineer and street commissioner, and may also at any time be made assistant secretary of the civil service commission, and, if elected thereto, may also hold the office of city recorder or clerk. If the office of city

manager shall be vacant at any time for any reason and the board is unable to find a person to fill the same having the requisite qualifications, the other two members of the board may make a temporary appointment, at a reduced salary, of some person with less than the prescribed qualifications; provided, however, that such temporary appointment shall at no time continue for a longer period than four months. After the adoption of this act by the electors of any city the common council of such city shall have no authority to elect or appoint any city surveyor, engineer, or street commissioner and upon the appointment and qualifications of a city manager under the provisions of this act the terms of all persons holding any such offices in any such city, by election, or by appointment of the common council, shall at once terminate. Such city manager shall be selected upon the recommendation of the other members of such board and with special reference to his qualification and fitness to act as executive officer of such board and to take charge of and manage the public utilities and public improvements of said city and discharge the duties of his ex-officio offices. Before entering upon the discharge of the duties of his office the city manager shall be or become a citizen of the United States and a resident of the city, and he shall take, sign and file with the city clerk or reporter, an oath for the faithful performance of his duties, and he shall also give a surety bond in form and amount to be prescribed by order or rule of the public utilities board. The city treasurer shall be ex-officio treasurer of such board, and shall keep the funds under control of such board separate from the other funds of said city and pay the same out only on the order of the chairman or vice-chairman of such board and countersign by the city manager. ('17 c. 358 § 6)

[1778—]22. **Same—Other duties of city manager—Powers—**In addition to the duties prescribed by law for the city surveyor, city engineer and street commissioner, the city manager shall be superintendent of all public utilities of the city, have charge of the operation and repair thereof and of all buildings, appliances and improvements used in connection therewith, as well as of the installation and maintenance of all extensions and appliances connected therewith; and shall perform such other and further duties, not inconsistent with law, as the public utilities board may, from time to time, by order, rule or direction, prescribe. He shall, by and with the consent and approval of the public utilities board, appoint all assistants and deputies required by him in the discharge of his duties, and may remove them for cause, subject to appeal to the public utilities board, and shall hire and discharge, from time to time, such subordinate employes and laborers as may be provided for by the public utilities board; and all such subordinate employes of every character elected, appointed or employed in connection with the public utilities or public improvements of the city shall be under the direct supervision and control of the city manager. ('17 c. 358 § 7)

[1778—]23. **Same—Police, health, library and fire departments—Taxes and assessments—Control of moneys—Estimates—**In all cities to which this act is made applicable the police, health, library and fire department shall continue to be governed in the same manner as before the taking effect of this act and all taxes and assessments of every kind shall be levied and collected in the same manner as before the taking effect of this act. All money derived from the operation and management of all public utilities shall be under the exclusive control of the public utilities board and all other money appropriated by the common council of this city, or in any other lawful manner, for any purpose or purposes connected with the public utilities or public improvements of any such city, shall, after the same has been so appropriated or provided, be under the exclusive control of such public utilities board; but the same shall be expended only for the purpose for which the same was appropriated or provided. The common council of any such city shall not appropriate any money or levy any tax or assessment of any kind for the purpose of obtaining any money for the use of such public utilities board unless a recommendation therefor, setting out in detail the purposes for which such money is required, together with estimates of the cost of the various items thereof, shall first have been presented to the common council of such city

by said public utilities board; but such board shall not be required to present any such recommendation or estimate for any such improvement in any case where the money for the same has already been provided, either from the earnings of the public utilities and improvements of such city or otherwise. ('17 c. 358 § 8)

[1778—]24. **Same—Rules of commission**—The commission shall, immediately after its election, and from time to time thereafter, make, amend and alter, rules to promote efficiency in the city service and to carry out the purposes of this act. All rules so adopted shall be published once in the official newspaper of the city and shall take effect three days after such publication. The public utilities board, city manager, or other appointing authority, shall be governed by such rules in the appointment and discharge of all subordinate officers and employes. Immediately after the adoption of any such rule, or any amendment or alteration thereof, the commission shall cause to be delivered to the mayor and the city clerk or recorder copies thereof. ('17 c. 358 § 9)

[1778—]25. **Same—Removing and discharging employes**—Nothing in this act contained shall in any manner prohibit the mayor, the city council, or any other board or officer having the power to appoint or employ any city employee not under the control of the public utilities board or civil service commission, from removing or discharging such subordinate employee, but in case of any such removal or discharge the same shall be forthwith reported in writing, together with the cause thereof, to the civil service commission and the city clerk or recorder. ('17 c. 358 § 10)

[1778—]26. **Same — Commission — Rules — Records** — The civil service commission shall ascertain the duties of each office, position and employment under the management and control of the public utilities board, and shall designate by rule as well as may be practicable the grade of each office, employment or position; and shall prescribe standards of efficiency for each grade. The commission may by rule recommend the maximum and minimum to be paid for each office and employment, and for each grade and the title thereof, annually, or more frequently if deemed necessary. The commission shall make and keep a record of relative efficiency of each employee in the service under its jurisdiction other than unskilled laborers and shall provide by rule methods for ascertaining and verifying the facts from which such records of relative efficiency shall be made. ('17 c. 358 § 11)

[1778—]27. **Same—Powers of commission—Investigations—Witnesses**—The commission shall from time to time investigate the enforcement of this act and of the rules made under it; the duties of all departments and of all employees of the city; the efficiency of the service, and such other matters as come within the scope of this act. In the course of such investigations each commissioner shall have power to issue subpoenas, to administer oaths, and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. Any person who shall on any such hearing or investigation willfully testify falsely shall be guilty of perjury, and any person who shall refuse to obey the lawful subpoenas or directions of the commission in any such investigation shall be guilty of a misdemeanor. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe the notice to be given to the person accused and require him to obey the commission's subpoena or order, if found within the lawful powers of the commission, and punish disobedience as contempt of the court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent or employee of the city who receives compensation for his services shall not be entitled to fees or mileage. ('17 c. 358 § 12)

[1778—]28. **Same—Findings, recommendations and orders**—It shall be the duty of the commission, on the completion of any such investigation as provided for in the foregoing section, to make written findings of facts and recommendations or orders with reference to the matters so investigated;

and copies thereof shall be forthwith delivered to the city manager, mayor, and city recorder or clerk, by each of whom the same shall be kept open to public inspection, and the same may also be published in the official newspaper of said city by the commission. All recommendations and orders so made by the commission shall be carried out by the proper officers and employees under the jurisdiction of the commission, and a failure so to do shall be cause for removal or discharge of the offending officer or employee by the commission; but no such removal or discharge shall be made without reasonable notice to and an opportunity to be heard by the accused official or employee. ('17 c. 358 § 13)

[1778—]29. **Same—Submission of act to voters**—This act shall not be in force in any city until the question of its adoption in such city shall first have been submitted to the electors at a general election or at a special election called for that purpose, and it is approved by a majority of those voting on that question at such election. The common council of any such city on its own motion may, and on petition of a number of electors of said city equal to twenty per cent of those voting at the last preceding election shall, by ordinance or resolution, direct that the question of the adoption of this act by such city be submitted to a vote of the electors of such city at a general city election, or special city election called for that purpose to be held in such city on a day specified, not less than ten days nor more than thirty days after the last publication of such ordinance or resolution. The signatures to such petition need not be all appended to one paper, but one of the signers on each such paper shall make oath, before any officer competent to administer oaths, that each signature to the paper appended is the signature of the person whose name purports to be thereto subscribed and that all the subscribers thereto are legal voters of said city. Such petition shall be filed with the city recorder or clerk, and it shall be his duty then to forthwith give written notice to the mayor and each alderman of said city, by mail, of the filing of such petition, and in such notice to fix a time and place, not less than three nor more than ten days thereafter, for the common council to meet and act on such petition. Such ordinance or resolution shall be published and posted, as soon after its adoption as conveniently may be, in manner now provided, or as may be hereafter provided, by law for such cities. ('17 c. 358 § 14)

[1783—]1. **Certain city warrants legalized**—That all warrants drawn and issued by any city in this state having less than ten thousand inhabitants upon any fund, between November 1st, 1913, and the 10th day of March, 1915, be and the same are hereby legalized and declared valid. Provided that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts of this state. ('15 c. 323 § 1)

PROVISIONS RELATING TO CITIES, VILLAGES, BOROUGHS AND TOWNS

1784. **Eminent domain**—All cities and villages may exercise the right of eminent domain for the purpose of acquiring private property within or without the corporate limits thereof for any purpose for which it is authorized by law to take or hold the same by purchase or gift and may exercise the right of eminent domain for the purpose of acquiring a right of way for sewerage or drainage purposes and an outlet for sewage or drainage within or without the corporate limits thereof. The procedure in the event of condemnation shall be that prescribed by chapter 41, General Laws of the state of Minnesota for the year 1913, or that prescribed by the charter of such village or city. (Amended '17 c. 424 § 1)

Municipal corporations have no inherent power of eminent domain, and can exercise such power only on express or implied legislative grant (124-271, 144+960). Eminent Domain, 6-9.

1785. Gifts to municipalities—

Under this section a city had the power to take a conveyance of land from a pauper, and where it agreed to support the grantor during his lifetime, and has fully performed, the con-

veyance cannot be assailed, whether or not the contract could have been enforced against the city (134-343, 159+833). Municipal Corporations, Ⓒ224.

1786. Damages—Notice of claim—Limitation—

Constitutionality—This act is not unconstitutional as class legislation (130-41, 153+121, L. R. A. 1915E, 749). Statutes, Ⓒ85(4).

Application in general—R. L. 1905 § 768 applied to an action for injury to private property occasioned by the negligence of the municipality. The rule applied in 97-23, 106+89, was abrogated by the general revision of the statutes in 1905. The act of 1913, though fully covering the subject of notice in actions against municipalities, does not apply to an injury inflicted before the act was passed (129-267, 152+647). Municipal Corporations, Ⓒ741(1).

Refusal to direct a verdict at the close of plaintiff's case is not available error, though plaintiff had failed to prove notice of her injuries to defendant city, where such evidence was in fact received before the case was submitted to the jury (126-491, 148+304). Trial, Ⓒ420.

Home rule charters—This act was intended to prescribe the only rule governing the subject-matter of the act, and supersedes special provisions on the same subject in home rule charters of cities (133-405, 158+616). Municipal Corporations, Ⓒ1001.

In what cases notice required—This act does not apply to an action for damages to real property growing out of the re-establishment of a grade line of a street, and the filling up to such new grade line, and in such case no written notice to the city is required (133-405, 158+616). Municipal Corporations, Ⓒ1001.

When the main purpose of the suit is to enjoin a city or village from maintaining a private nuisance, the notice prescribed need not be served before suit, as the action is not predicated on negligence (132-121, 155+1067, L. R. A. 1916D, 426). Municipal Corporations, Ⓒ846.

Service of notice under this section is a condition precedent to a suit for damages against a city to recover for an illness caused by the use of contaminated water supplied from the waterworks owned and operated by the city (130-41, 153+121, L. R. A. 1915E, 749). Municipal Corporations, Ⓒ845(11).

Where mayor of city had actual notice of injury to city employé written notice of injury was not required under § 8213 to entitle the employé to recover compensation under the Workmen's Compensation Act (131-352, 155+103). Master and Servant, Ⓒ398.

Under this section and § 690 of the St. Paul charter, prior to the enactment of 1913 c. 391, the limitation of one year after injury in which to bring suit did not apply when the claim was based upon a negligent failure of the city to observe a duty imposed upon it by law as an employer (124-257, 144+955). Municipal Corporations, Ⓒ742(3).

Sufficiency of notice—In an action for injuries from diversion of the natural flow of surface water by the negligent construction of street improvements, the preliminary notice held to sufficiently point out the acts complained of, and that there was not a material departure therefrom in the complaint (132-170, 156+287); Municipal Corporations, Ⓒ845(1, 2).

A misstatement of one day in the date given in the notice to the city of the time of the accident is not fatal upon demurrer (130-410, 153+619). Municipal Corporations, Ⓒ812(7).

Notice by parent of injuries to child need not state relative claims to damages of parent and child or make apportionment of damages claimed (129-190, 151+976, L. R. A. 1915D, 1111, Ann. Cas. 1916E, 897). Municipal Corporations, Ⓒ741(2).

Pleading notice—That complaint fails to allege giving of notice does not prevent opening of judgment for defendant for default of plaintiff in filing reply (122-154, 141+1134; 122-154, 142+134). Judgment, Ⓒ145(1).

Waiver of notice—A city may waive the failure of the complaint to allege statutory notice (132-219, 156+284). Municipal Corporations, Ⓒ816(5).

1787. Same—Claims based on relation of master and servant—

Cited (133-405, 158+616).
124-257, 144+955.

1788. Same—Claims for death—Notice—

Cited (133-405, 158+616).
124-257, 144+955.

1789. Same—To what cities and villages applicable—

124-257, 144+955; 133-405, 158+616; note under § 1786.

1797. Roads, bridges and ferries outside city or village—

This section does not place on a city of the fourth class the duty of maintaining and keeping in repair highways beyond its boundaries and leading into it, for the improvement and maintenance of which such city had appropriated money (135-384, 160+1026). Municipal Corporations, Ⓒ759(1).

1798. Annexation of territory to certain cities and villages having 10,000 inhabitants or less—Ordinance—

Cited (127-452, 149+951).

1800. Annexation of territory to certain cities and villages—

This act applies both to existing and to future municipal corporations. The word "present," in the latter part of this section, refers to the village limits as "present" or existing at the time of the institution of the annexation proceedings, and not to the time of the passage of the statute. It is no valid objection to village annexations that territory properly conditioned to be annexed was not included. Territory annexed, like territory originally incorporated, must be so conditioned as properly to be subjected to village government. In the present case, it is held that there is nothing to show by the record that the territory annexed is not within the condition mentioned (127-452, 149+951). Municipal Corporations, ⚡29(4), 33(2).

1801. Same—Petition for election—

De facto public corporations and attack on proceedings for organization (see 132-59, 155+1040). Municipal Corporations, ⚡17, 18; Quo Warranto, ⚡8.

The words "legal voters residing within such territory" mean resident citizens who would have been entitled to vote in the territory proposed to be annexed on the date they signed the petition, and none others; and a petition not signed by persons having such qualification did not confer jurisdiction on the council (132-48, 155+1064). Municipal Corporations, ⚡33(5).

1803. Same—Election, how conducted—Ballots—

An election under this section held not invalidated by alleged fraudulent colonization of voters (127-452, 149+951). Municipal Corporations, ⚡34.

[1804—]1. **Annexation of territory to cities, villages and boroughs—Ordinance—**That the council of any incorporated city of the fourth class, village or borough, owning property situated outside of, but contiguous to or abutting on the incorporated limits of such city, village or borough, may, by ordinance, declare such property to be a part of the said city, village or borough, and such territory shall thereupon become a part of such city, village or borough, as effectually as if it had been originally a part thereof. ('15 c. 240 § 1)

[1804—]2. **Same—Certified copy of ordinance to be filed—**It shall be the duty of the council of any city, village or borough, adding territory under this act, to cause a certified copy of the ordinance aforesaid to be recorded and filed in the office of the register of deeds of the county in which said city, village or borough is located, in the same manner as city or village charters are filed and recorded under the general laws of this state. ('15 c. 240 § 2)

1819. Extending water pipes on streets, etc.—

Cited (127-452, 149+951).

[1819—]1. **Sale, lease or abandonment of water works and lighting plants in villages and cities—Submission to voters—**Any village or city of the fourth class in this state wherein there is constructed and in operation water works and lighting plant or water works or lighting plant for supplying water and light, or either of them, for public purposes or for the private use of its inhabitants or both, owned by any such city or village, may by resolution or ordinance of its governing body, passed and adopted in the usual manner, sell, lease or abandon any such plant or any specific part thereof; if a specific part of such plant is to be sold, leased or abandoned, such resolution shall state the specific part to be so sold, leased or abandoned. Before any such resolution or ordinance shall become effective, the same shall be submitted to the legal voters of such village or city at a regular village or city election or special election therein and approved by a two-thirds vote of the electors voting thereon at any such election. The ballots at any such election shall be printed and contain in full the resolution or ordinance to be voted upon and thereon immediately following the resolution or ordinance, there shall be printed in appropriate manner the words "yes" and "no" on separate lines and every voter desiring to vote in favor of such proposition shall thereupon make his cross (X) mark opposite the word "yes" and every voter desiring to vote against such proposition shall make such mark opposite the word "no." In case of villages such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for village officers, and in case of cities of the fourth class, such election shall be conducted and the votes cast thereat shall be canvassed and the result thereof certified in like manner as in case of an election for city

officers in the respective cities of the fourth class according to the law or charter governing such city. ('17 c. 172 § 1)

Section 4 repeals 1915 c. 79.

[1819—]2. **Same—Duty of officers**—Thereupon if any such proposition shall be declared adopted and carried at any such election, the proper officers of any such village or city of the fourth class shall forthwith proceed to carry out the same according to such resolution. ('17 c. 172 § 2)

[1819—]3. **Same—Application to what cities**—This act shall apply to all villages in this state and to all cities of the fourth class however organized and whether operating under general or special laws or home rule charters, or otherwise. ('17 c. 172 § 3)

[1831—]1. **Sewer systems in cities, villages and boroughs**—In any city of this state having a population of ten thousand (10,000) or less, and in all villages and boroughs of this state, whether organized under the General Laws or a special law, the city, village or borough council shall have power to maintain and extend any existing sewer system, to relay, alter or extend any existing sewer system and to establish and maintain a general system of sewers, and to create sewer districts, and change, diminish or enlarge the boundaries thereof from time to time. ('15 c. 35 § 2)

Section 1 provides that 1903 c. 312, as amended by 1907 c. 141, 1909 c. 364, 1909 c. 385, and 1913 c. 396, be amended so as to read as set forth in sections herein designated as [1831—]1 to [1831—]26, inclusive.

Section 28 repeals "all acts and parts of acts inconsistent with this act, except as qualified in section 27 [1831—26] hereof."

[1831—]2. **Same—Classification of sewers**—The city, village or borough council may at any time establish a general sewer system, and may classify sewers as general, district, joint-district and lateral. General sewers shall be the designation of such large sewers as shall be common to the entire city, village or borough or used as outlets for district or joint-district sewers, and shall not include those which may or shall be constructed for the immediate draining of any particular district. District sewers shall be the designation of all main sewers laid for the immediate draining of a particular sewer district. Joint district sewers shall be the designation of such large sewers as may be laid through or be used jointly by two or more sewer districts between a district sewer and a general sewer or independently of general sewers, and for all purposes of construction, maintenance, repairing and taxation or providing for the cost therefor, shall be treated as though in a single district. Lateral sewers shall be the designation of all sewers of whatever size, capacity or length, which may be constructed to drain any portion of a sewer district directly into any district, joint district or general sewer. Sewer districts shall be wherever practicable laid out to include any particular portion of the city, village or borough, which may be drained entirely by itself, or which may be first drained by itself and then through connection with a general sewer. ('15 c. 35 § 3)

[1831—]3. **Same—Location of sewers—Land, how acquired**—All general, district and joint-district sewers shall be laid when practicable, in public grounds, streets or alleys. Whenever it shall be necessary in the judgment of the city, village or borough council to lay and maintain any general, district, joint district, or lateral sewer in or through other than public lands, the city, village or borough, may acquire the right thereto by purchase, or by condemnation under the right of eminent domain. ('15 c. 35 § 4)

[1831—]4. **Same—Duties and powers of council and engineer, etc.**—No action shall be taken for the extension of any existing sewer nor for the construction of an entire or partial system, except upon the adoption of an ordinance or resolution by a majority vote of all the members of the city, village or borough council. The creation of sewer districts and the alteration of the boundaries thereof shall be by ordinance, and the council may at all times cause inspections, surveys, plans and profiles to be made by the city, village or borough engineer, or other competent engineer to be selected by

the city, village or borough council, and reported to the city, village or borough council for its guidance in determining the form and extent of any sewer district to be created, enlarged or diminished; and such sewer districts shall be consecutively numbered. ('15 c. 35 § 5)

[1831—]5. **Same—Cost, how paid**—The cost of constructing a general sewer shall be paid out of the sewer fund, if any, or, if there is no sufficient sewer fund, then out of the general revenue fund of the city, village or borough. ('15 c. 35 § 6)

[1831—]6. **Same—District sewers—Assessment**—The cost of constructing every district sewer may be assessed against all the land in the sewer district subject to assessment for local improvements, without regard to cash valuation, and each lot, piece or parcel of land in the district so subjected to assessment shall be assessed in the ratio of the square feet area to the total assessable area of the whole sewer district. ('15 c. 35 § 7)

[1831—]7. **Same—Joint district sewers—Assessment**—The cost of constructing every joint district sewer may be assessed against all the land in the two or more sewer districts which it drains, and for that purpose all of the districts so drained by any joint district sewer shall be treated as one district, and the same plan, method and means employed as in assessing for the cost of a district sewer. ('15 c. 35 § 8)

[1831—]8. **Same—Lateral sewers—Assessment**—The entire cost of constructing all lateral sewers may be assessed against every lot, piece or parcel of land abutting thereon, subject to assessment for local improvement at an equal sum per front foot without regard to cash valuation. ('15 c. 35 § 9)

[1831—]9. **Same—Estimate of cost—Plans and specifications**—Whenever the city, village or borough council shall determine by ordinance or resolution to alter, repair, relay or extend any existing sewer, or to construct any new sewer, the cost thereof shall be estimated by the city, village or borough engineer or some other competent engineer to be selected by the city, village or borough council, who shall draw plans and specifications and tabulate the results of his estimate of the cost, and report the same to the city, village or borough council; and such plans and specifications shall be filed with the clerk or recorder of such city, village or borough before any proposals for bids for work thereunder shall be advertised, and shall remain on file, open to the inspection of all persons until after the contract for such work shall be let and copies of such plans and specifications shall be furnished by the engineer who shall prepare the originals, to any person applying therefor, at a cost of seventy-five cents per hour for the time necessarily employed in making such copies. ('15 c. 35 § 10)

[1831—]10. **Same—Proposals for bids—Contract, how let, etc.**—The city, village or borough council shall then cause proposals for bids for such work to be advertised in the official paper of the city, village or borough, and in a newspaper at the capital of the state, at least once in each week for three successive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for the work, and shall state the time within which bids will be received and the exact time at which the same will be opened for consideration by the city, village or borough council. No bid shall be considered unless the same shall be accompanied by a cash deposit or duly certified check payable to the order of the treasurer of the city, village or borough for at least fifteen per cent of the amount bid, and be directed to the clerk or recorder of the city, village or borough, securely sealed, so as to prevent its being opened without detection, and be indorsed upon the outside wrapper with a brief statement or summary as to the work for which the bid is made. In letting contracts for any such work it shall be the duty of the city, village or borough council to require the execution of a written contract and a bond in such sum as the city, village or borough council may require, conditioned for the faithful performance of the contract and for saving the city, village or borough harmless from any and all liability in the prosecution and completing of the

work. The city, village or borough council, if a contract is awarded, shall award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then such defaulting bidder shall forfeit to the city, village or borough the amount of his cash deposit or certified check, and the city, village or borough council may thereupon award the contract to the next lowest responsible bidder; provided the city, village or borough council shall have the right to reject all bids, and provided further, that whenever the estimates made for the city, village or borough council for the entire work projected shall be less than five hundred dollars, then the city, village or borough council, may directly purchase the materials therefor and cause the work to be done by day labor. Every contract awarded under this act shall be made between the city, village or borough as one party, in the name of the city, village or borough, and the successful bidder as the other party, and such contract shall be executed on the part of the city, village or borough by the mayor or executive officer thereof and countersigned by the clerk or recorder of said city, village or borough, with the corporate seal of the city, village or borough affixed, and an attested copy thereof shall be filed and remain in the office of the clerk or recorder of the city, village or borough.

In every contract executed under this act, whether or not so stated therein, there shall be reserved the right of the city, village or borough council to have the work supervised by the city, village or borough engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by the contractor, to order and cause suspension of the work at any time and to relet the contract therefor or to order a reconstruction of any portion of the work improperly done, or where the remaining work to be done or the work of reconstruction to be made shall call for an expenditure of less than five hundred dollars to complete the work or reconstruction by the employment of day labor. ('15 c. 35 § 11)

Laws 1903 c. 312 § 7 cited—City may abandon acceptance of bid; but an accepted bid is binding, though insufficient deposit was made (121-212, 141+163). Municipal Corporations, 333, 334.

[1831—]11. **Same—Allowances on account**—In case the contractor to whom any such contract may be let shall properly perform the work therein designated, the city, village or borough council may, from time to time, before the completion of the work, in its discretion, pay to such contractor eighty (80) per cent of the amount already earned thereunder upon the estimate of the city, village or borough engineer or other competent engineer selected by the city, village or borough council. ('15 c. 35 § 12)

[1831—]12. **Same—Duty of engineer—Assessments—Cost, when payable from revenue fund—Right of private owners to relay or extend—Approval by council—Notice—Objections—Interest—Assessment, when lien—Certified statement—Collection—Payment, etc.**—Whenever any work or improvement provided for by this act shall have been determined upon and a contract let therefor, the city, village or borough engineer, or other competent engineer selected by the city, village or borough council, shall forthwith calculate the proper amount to be specially assessed for such district, joint district and lateral sewers against every assessable lot, piece or parcel of land within the sewer district affected, without regard to cash valuation, in accordance with the provisions of sections seven, eight and nine of this act.

Provided, that no property shall be especially assessed for the cost of a sewer in excess of the cost of a sewer eighteen inches in diameter, and that whenever any district, joint district or lateral sewer of larger diameter than eighteen (18) inches shall be laid, or relaid, the cost thereof in excess of the estimated cost of a like sewer eighteen (18) inches in diameter shall be paid out of the sewer fund, if any, or in case there is no sufficient sewer fund, then out of the general revenue fund of the city, village or borough.

Provided further, that in calculating the special assessment for any district sewer or joint district sewer, the cost of laying or relaying such sewer

in any public ground, street or alley; and all catch basins, manholes, lamp holes and flushing valves and tanks shall be taken as a part of such district sewer or joint district sewer and to be paid for by such special assessment.

And provided further, that private owners may lay, relay or extend any lateral sewer through any public ground, street or alley and connect the same with any general, district or joint district sewer, upon permission granted by a majority of the city, village or borough council, and that any private owner alone, or two or more owners jointly, may lay, relay or extend lateral sewers through private ground pursuant to rights acquired therefor by agreement or purchase from any private owner or owners. In the event that any private owner alone or jointly with others lay, relay or extend any such lateral sewer through public ground, the city, village or borough shall not be or become in any manner or in any respect liable for any act or negligence involved therein.

When such engineer shall have finished his calculation of the amount to be specially assessed, as aforesaid, against each lot, piece or parcel of land in the sewer district affected, he shall at once prepare and file with the clerk or recorder of the city, village or borough tabulated statements in duplicate, showing the proper description of each and every lot, piece or parcel of land to be specially assessed and the amount he has calculated against the same, and such statement shall be the basis of the assessment and be known as the proposed assessment to be made by the city, village or borough council, as hereinafter prescribed, and shall be laid before the city, village or borough council for its approval at its next regular meeting, to be held not less than ten (10) days thereafter. The clerk or recorder of the city, village or borough shall thereupon cause notice of the time and place when and where the city, village or borough council will meet in regular session, to pass upon such proposed amendment, to be published in the official paper of the city, village or borough at least ten (10) days prior to such meeting of the city, village or borough council.

During all the time between the filing of such proposed assessment with the clerk or recorder of the city, village or borough and such meeting of the city, village or borough council, such proposed assessment shall be open to inspection and copying by all persons interested.

At such meeting of the city, village or borough council, all persons aggrieved by such proposed assessment may appear before the city, village or borough council and present their reasons why such proposed assessment or any particular item thereof should not be adopted, and the city, village or borough council shall hear and pass upon all objections thereto, if any, and may alter, or affirm and adopt such proposed assessment as shall be deemed just in the premises, and upon the adoption by resolution of such proposed assessment the same shall be certified by the clerk or recorder of the city, village or borough and filed in his office, and shall thereupon be and constitute the special assessment. The amounts assessed against each lot, piece or parcel of land by such special assessment shall bear interest from the date of the adoption of such special assessment until the same have been paid, the rate of interest to be designated by a resolution of the city, village or borough council at the time of the adoption of such special assessment but not to exceed six per cent (6%) per annum, and such special assessment, with the accruing interest thereon, shall be a paramount lien upon the property included therein from the time of the adoption of such assessment by the city, village or borough council, and shall remain such lien until fully paid, and shall have precedence over all other liens, except general taxes, and as to such shall be concurrent, and shall not be divested or impaired by any judicial sale, and no mistake in the description of the property or in the name of the owner shall invalidate the lien.

The city, village or borough council, may at any time by resolution direct the clerk or recorder of the city, village or borough to make up and file in the office of the County Auditor a certified statement of the amount of all such unpaid assessments and the amount of interest which will be due thereon on the first day of January of the following year, and the clerk or recorder of said

city, village or borough shall within twenty (20) days thereafter make up and file such certified statement in the office of the auditor of the county, which statement shall also contain a description of the lands affected by the assessment. Such resolution may also direct that such special assessment shall be payable in equal annual installments, not exceeding ten, and payable on the first day of January of each year, each of said installments to bear interest at the rate hereinbefore provided until fully paid, and the certified statement of the clerk or recorder shall in this case show the amount of each of such installments, the date when each installment becomes due and the amount of interest to be paid on each installment in each year. After said statement is filed in the office of the County Auditor it shall be the duty of such auditor to extend upon the tax roll of each year the amount of such assessment or installment thereof, as the case may be, and the amount of interest which will become due on the first day of January of the following year as shown by said certified statement against the different lots or parcels of land therein described, and such amounts when so extended each year shall be carried into the tax becoming due or payable in January of the following year, and enforced and collected in the manner provided for the enforcement and collection of state and county taxes and the assessments and interest paid to the County Treasurer shall be paid over by him to the treasurer of such city, village or borough upon the apportionment of general taxes. Provided that any person may at any time before the transmission of the certified statement of the clerk or recorder of such city, village or borough to the County Auditor pay such special assessment as to any lot, piece or parcel of land affected thereby, together with the interest accrued thereon at the date of such payment, to the city, village or borough treasurer, and receive the proper receipt therefor, and the clerk or recorder of said city, village or borough shall upon the presentation of such receipt from said city, village or borough treasurer cancel upon the special assessment roll the special assessments so paid.

Provided further, that any person may pay any such assessment with accrued interest thereon after the same has been so certified to the County Auditor, provided the tax roll containing such assessment has not in due course been delivered to the county treasurer for collection, and the receipt of such city, village or borough treasurer shall be sufficient authority upon presentation to the county auditor for him to mark such assessment "paid" upon his roll, but after the roll has been delivered to the county treasurer for collection, the said assessment must be paid to him, with the penalties allowed by law. The same penalties and interest shall attach and be collected by the county treasurer on assessment as upon general taxes, which penalties and interest shall belong to the city, village or borough and to be turned over by the county treasurer to the city, village or borough with the assessments. ('15 c. 35 § 13)

[1831—]13. **Same—Supplemental assessments**—In case of omission, errors or mistakes, in making such assessments in respect of the total cost of such improvement, or otherwise, it shall be competent for such city, village or borough council to provide for and make supplemental assessments to correct such omission, errors or mistakes; and such supplemental assessments shall be a lien as in case of the original assessment, drawing interest at the same rate and be payable and enforceable in the same manner as is herein provided with respect to the original assessment. ('15 c. 35 § 14)

[1831—]14. **Same—Sewer funds—Warrants**—All moneys collected on any such special assessments shall constitute a fund for the payment of the cost of the improvement in the district for which such assessment was made, and the same shall be credited to the proper sewer district fund under the designation: "Fund of Sewer District No.," and in anticipation of the collection of such special assessment the city, village or borough may issue warrants on such fund, to be known as "sewer warrants," payable at such times and in such amounts as, in the judgment of the city, village or borough council, the collections of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed six (6) per cent per annum, payable annually, and may have coupons attached representing each

year's interest. Each warrant shall upon its face state for what purpose it is issued and specify the particular fund against which it is drawn, and shall be signed by the mayor or executive officer and countersigned by the clerk or recorder of the city, village or borough, and be in denominations of not less than fifty dollars nor more than five hundred dollars. Such warrants may be used in making payments on contracts for the improvements or may be sold by the city, village or borough for not less than par and the proceeds thereof used in paying for such improvement. It shall be the duty of the city, village or borough treasurer on presentation to pay such warrants and interest coupons, as they mature, out of the proper sewer district fund, and to cancel the same when paid. If any such warrants shall become due, or any interest shall become due on any such warrant, when there are no funds to pay the same, the city, village or borough council is hereby authorized to effect a temporary loan for the payment thereof. ('15 c. 35 § 15)

[1831—]15. **Same—Payment by warrant or interest coupon**—Any matured sewer warrant or interest coupon may be used in payment of any such special assessment on any particular property situate within the district for which such warrant or coupon shall have been issued; and the warrants and coupons so used shall be cancelled and retired by the city, village or borough treasurer. ('15 c. 35 § 16)

[1831—]16. **Same—Conveyance not to be recorded until assessment paid**—No conveyance of any land upon which any such special assessment or portion thereof remains unpaid shall be recorded until all of such special assessment shall have been paid in full, any provision in this act to the contrary notwithstanding. ('15 c. 35 § 17)

[1831—]17. **Same—Records—Letters, Figures, etc.**—In all proceedings and records prepared or used in the making, levy or collection of such special assessments, letters, figures and proper ditto marks may be used to denote lots, pieces and parcels of land, and blocks, sections, townships, ranges and parts thereof and dates. ('15 c. 35 § 18)

[1831—]18. **Same—Errors and omissions**—No error or omission which may be made in any of the proceedings of the city, village or borough council or any officer of such city, village or borough, in refusing to, reporting upon, ordering or otherwise acting, concerning any local improvement provided for in this act, or in making any such special assessment or in levying or collecting the same, shall invalidate such assessment; unless it shall appear that by reason of such error or omission substantial injury has been done to the party claiming to be aggrieved. ('15 c. 35 § 19)

[1831—]19. **Same—Reassessments**—In all cases where any assessment, or any part thereof, as to any lot, lots or parcels of land assessed under any of the provisions of this act, or of any law of any city, village or borough prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside, or declared void by any court, the city, village or borough council shall, without unnecessary delay, cause a reassessment or new assessment to defray the expenses of such improvement to be made, whether such improvement was made under this act or any laws of any city, village or borough prior to this act, and such reassessment or new assessment shall be made as nearly as may be, as herein provided for making the assessment therefor in the first instance; and when the same shall have been made and confirmed by the city, village or borough council, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act and in all cases where judgments shall hereafter be refused or denied by any court for the collection and enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lot or parcel may be reassessed or newly assessed from time to time, until each separate piece or parcel of land has paid its proportionate part of the costs and expenses of said improvement as near as may be. ('15 c. 35 § 20)

[1831—]20. **Same—Prior assessments**—Nothing in this act shall affect any valid assessment made by any city, village or borough prior to the pas-

sage of this act, but all such prior assessments shall be collected in accordance with the provisions of law in respect of the same in force prior to the passage of this act. ('15 c. 35 § 21)

[1831—]21. **Same—Notice of meeting—Objections**—The notice of the time and place when and where the city, village or borough council will meet, in regular session to adopt any proposed assessment under section 13 of this act [1831—12], and to be prepared by the clerk or recorder of such city, village or borough and published, shall specify the particular sewer district or districts in which the improvement is to be made and shall describe with all reasonable certainty the location, extent and termini of the sewer or sewers to be laid, relaid or extended; provided that no omission or inaccuracy in such notice shall invalidate the notice or the assessment, unless substantial injury shall be shown by the person claiming to be aggrieved thereby.

When the city, village or borough council shall meet for the purpose of adopting any proposed assessment under the provisions of section XIII of this act [1831—12], no grievance or objection thereto, or to any item therein shall be heard by the city, village or borough council, unless the party objecting, or his duly authorized agent or attorney shall on or before the date of such session of the city, village or borough council file with the clerk or recorder of such city, village or borough for presentation to the city, village or borough council, a complete written statement of the objection with specific reference to the matter or items called in question and to which objection is made. ('15 c. 35 § 22)

[1831—]22. **Same—Appeals from assessment**—Any person feeling himself aggrieved by such special assessment may, by notice in writing served upon the mayor or executive officer, and also upon the clerk or recorder of the city, village or borough, a copy whereof, with proof of service shall be filed in the office of the clerk of the district court of the proper county, within twenty days after the adoption of such special assessment, appeal from such special assessment to the district court aforesaid, and such appeal shall be disposed of in a summary manner by the court. And at the trial of such appeal no pleadings shall be required, but the party appealing shall in his notice of appeal specify and enumerate the particular grounds of his objection to such special assessment, and shall not be entitled to have considered on such appeal any grounds of objections or items other than those specified in such notice, and no question shall be tried on such appeal as to any fact which may have arisen or existed prior to the letting of the contract or contracts for the improvement; and a copy of the assessment roll in question and of the resolution of the city, village or borough council confirming or adopting the same, certified by the clerk or recorder of the city, village or borough, or the originals thereof, shall be prima facie evidence of the facts therein stated or denoted, and that such assessment was regular, just and made in conformity to law, and the judgment of the court on the determination of such appeal shall be final. Such appeal shall be entered and brought on for hearing and be governed by the same rules as far as applicable as in appeals from justices of the peace in civil actions, and like bonds shall be given to the city, village or borough by the person appealing as are required in the appeals from justices of the peace in civil actions, but such bond shall, to render such appeal effective, be approved by the judge of such district court. Provided, that no appeal to the district court shall be made, heard or determined as to such special assessment, or any item therein, unless such objection shall have been, as in this act specified, previously presented to and passed upon by the city, village or borough council. ('15 c. 35 § 23)

[1831—]23. **Same—Sewer to be kept in repair**—Whenever any such sewer shall be laid, relaid or extended, it shall be the duty of the city, village or borough council to maintain and keep the same in repair, at the expense of the city, village or borough. ('15 c. 35 § 24)

[1831—]24. **Same—Private connections**—All private connections shall be made with lateral sewers, unless some insurmountable obstacle of a practical or scientific nature shall prevent, and no private connection with any sewer

whatever, shall in any event be made without formal permission therefor granted by the city, village or borough council, and the making of all private connections with any sewer shall be subject to supervision and control by the city, village or borough council; provided that such supervision and control may be delegated by the city, village or borough council to the city, village or borough engineer or other person to be selected by the city, village or borough council at its discretion. ('15 c. 35 § 25)

[1831—]25. **Same—Eminent domain**—Whenever it shall become necessary for the city, village or borough to exercise the right of eminent domain for the purposes included within this act all proceedings therein shall conform as near as may be to the provisions of Sections 2620 to 2632, both inclusive of the General Statutes of 1894 and amendments thereto. ('15 c. 35 § 26)

[1831—]26. **Same—Home rule charters**—This act shall not be construed as in any manner superseding, repealing, amending or qualifying the provisions of any home rule charter heretofore or hereafter adopted by any city or village under existing laws; provided that any proceedings taken or commenced by any city or village under the provisions of this act before the time when such home rule charter shall take effect may be carried out and completed according to the terms and provisions of this act. ('15 c. 35 § 27)

[1831—]27. **Certain proceedings for constructing sewers, etc., legalized**—That whenever and in all cases between the first day of January 1916 and the first day of January 1917 the city council of any city in the State of Minnesota of less than ten thousand inhabitants incorporated and organized under the provisions of chapter 8 of the General Laws of Minnesota for 1895, has proceeded to establish one or more sewer districts and to construct therein a system of public sewers under the provisions of chapter 35 of the General Laws for 1915 [1831—1 to 1831—26] and where such city council has let contracts for the construction of such sewers and has levied special assessments against the property in the sewer district created to pay the cost of construction of such sewer, but where the proposal for bids for construction of such sewers was not advertised in a newspaper at the Capitol of the State of Minnesota as provided by section 11 of chapter 35 of the General Laws of Minnesota for 1915 [1831—12], all steps taken, things done, and acts and proceedings had, done and performed by such city council in the letting of such contract for construction of such sewers and levying of such special taxes or assessments upon property within the sewer district benefited thereby and all warrants, certificates of indebtedness and bonds issued or authorized to be issued by such city council for the procuring of money to pay for such construction and lawful expenses in connection therewith are hereby legalized, validated, ratified and confirmed and all such warrants, certificates of indebtedness or bonds issued or to be issued by such city council in said proceedings are hereby legalized, ratified, and confirmed and made the legal, valid and binding obligations of such city. Provided, that the provisions of this act shall not apply to any other action or proceedings now pending in any of the courts of this State. ('17 c. 126 § 1)

[1831—]28. **Macadam or pavement, gutter and curbs in villages having 10,000 inhabitants**—In any village of this state, whether organized under a general or special law, now or hereafter having a population of ten thousand (10,000), or less, the common council shall have power to lay and maintain macadam or pavement and gutter and curbs, upon any of its streets and alleys, with any material which the common council may deem suitable, the council may, upon a petition of the owners of more than one-half the property affected, proceed with such improvement. ('17 c. 364 § 1)

[1831—]29. **Same—Cost, how assessed—Payment from general fund**—The costs of constructing any macadam, pavement, gutter or curb may be assessed upon the abutting property based upon the number of feet fronting upon said street or alley proposed to be paved or upon the basis of benefits; but the common council may pay the cost of constructing the macadam or pavement across intersecting streets and alleys, and one-half the costs oppo-

site any public park or municipal property, and the entire costs of the gutters out of the general road fund, if any there be, or out of the general fund of said village. ('17 c. 364 § 2)

[1831—]30. **Same—An ordinance by council, etc.**—No action shall be taken for the construction of any such improvement except upon the adoption of an ordinance or resolution by a majority vote of all members of the common council, at a meeting at which all property owners whose property is liable to be assessed therefor, have been notified to be present, by a notice of such meeting published for two weeks in the official newspaper. ('17 c. 364 § 3)

[1831—]31. **Same—Owners when required to lay branch sewers and water pipes**—Before making any such improvement the common council may by resolution require the owners of the abutting property to lay branch sewers and water pipes from the mains to the curb or lot line of each lot, and, in case any property owner neglects to lay such sewer or water pipe, within sixty days (60) after being served with a copy of said resolution, the council may cause the same to be put in and may assess the cost of the same against the property and collect the same as taxes are collected. All such water pipe connections shall be of lead or such material as the council may prescribe. ('17 c. 364 § 4)

[1831—]32. **Same—Plans and specifications—Contracts how let—Powers of council**—Whenever the common council of any such municipality shall determine by ordinance or resolution to lay any such macadam, pavement, gutter or curb it may cause plans and specifications thereof to be made and filed with the recorder or clerk of such municipality and may advertise for bids for such improvements in the official paper and such other paper or papers as the council may deem advisable, once in each week for three successive weeks, which advertisement shall specify the work to be done and shall call for such bids on the basis of cash payment for such work and shall state the time when the bids will be open and considered by the council; no bids shall be considered unless sealed and filed with the clerk or recorder, and accompanied by a cash deposit or certified check payable to the clerk or recorder, for at least ten per cent (10%) of the amount of such bid.

In letting contracts for any such work, it shall be the duty of the common council to require the execution of a written contract and a bond in such sum as the council may require, conditioned for the faithful performance of the contract and for saving the village harmless from any and all liability in the prosecution and completing of the work; and conditioned further for the payment of all material used and labor performed thereon. The common council, if a contract is awarded, may award the same to the lowest responsible bidder. If any bidder to whom such contract is awarded shall fail to enter promptly into such written contract and to furnish such bond, then such defaulting bidder shall forfeit to the municipality the amount of his cash deposit or certified check, and the council may thereupon award the contract to the next lowest responsible bidder; provided the council shall have the right to reject all bids; and provided, further, that whenever the estimates made for the council for the entire work projected shall be less than five hundred dollars, then the council may directly purchase the materials therefor and cause the work to be done by day labor. The village council may have the work supervised by the village engineer or other person, and in case of improper construction or unreasonable delay in the prosecution of the work by a contractor, it may order and cause the suspension of the work at any time and relet the contract therefor, or order a reconstruction of any portion of the work improperly done, and where the work to be done shall call for an expenditure of less than five hundred dollars to complete the work, or the reconstruction necessary, the council may do it by the employment of day labor. ('17 c. 364 § 5)

[1831—]33. **Same—Payments on account**—In case the contractor shall properly perform the work, the village council may, from time to time, before the completion of the work, in its discretion, pay to such contractor seventy-

five (75) per cent of the amount already earned thereunder upon the estimate of the city engineer or other competent person selected by the village council. ('17 c. 364 § 6)

[1831—]34. **Same—Amount of assessment how calculated—Notice of meeting—Lien of assessment—Tax list, etc.**—After a contract is let, or the work ordered done, if it will cost less than five hundred dollars, the city engineer or other person selected by the council may forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, in accordance with the provisions of section 2 of this act [1831—28]. The clerk or recorder may thereupon cause notice of the time and place when and where the village council will meet, to pass upon such proposed assessment, to be published in the official paper of the village at least one week prior to such meeting of the village council.

At such meeting the council shall hear and pass upon all objections thereto, if any, and may if it deems just, alter such proposed assessment, and upon the adoption by resolution of such assessment, the same shall constitute the special assessment. And such assessment, with the accruing interest thereon, shall be a lien upon the property included therein, concurrent with general taxes.

It shall then be the duty of the clerk or the recorder immediately thereafter, to transmit a certified duplicate of such assessment to the county auditor of the county, to be extended on the proper tax lists of the county and such assessment shall be collected and paid over in the same manner as other municipal taxes. Such assessments shall be payable in equal annual installments extending over a period not exceeding ten years, and the interest thereon shall not exceed the rate of six (6) per centum per annum.

Provided, that the owner of any property, so assessed, may at any time pay the whole of such assessment, or any annual installment thereof with interest, as to any lot, piece or parcel of land affected thereby. ('17 c. 364 § 7)

[1831—]35. **Same—Omission, errors, etc.**—In case of omission, errors, or mistakes, in making such assessment in respect to the total cost of such improvement, or otherwise, it shall be competent for the council to provide for and make supplemental assessments to correct such omission, errors or mistake. ('17 c. 364 § 8)

[1831—]36. **Same—Pavement warrants**—In anticipation of the collections of such special assessment, the village may issue warrants on such fund, to be known as "pavement warrants" payable at such times and in such amounts as the collection of such special assessments will provide for, which warrants shall bear interest at a rate not to exceed six (6) per cent per annum, payable annually, and may have coupons attached representing each year's interest. The warrant shall specify the particular fund against which it is drawn, and shall be signed by the mayor and countersigned by the clerk or recorder, and be in denominations of not less than fifty dollars, nor more than five hundred dollars. Such warrants may be sold by the village for not less than par. If any such warrants shall become due, or any interest shall become due on any such warrant, when there are no funds to pay the same, the village council is hereby authorized to effect a temporary loan for the payment thereof. The municipality may call in and pay any warrants not due on any interest paying date. ('17 c. 364 § 9)

[1831—]37. **Same—Reassessments**—In all cases where any assessment or any part thereof, as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any cause whatever, is set aside, the council may cause a reassessment or new assessment to defray the expenses of such improvement to be made. ('17 c. 364 § 10)

[1831—]38. **Same—Objections**—The party desiring to object to the assessment, or his duly authorized agent or attorney, shall, on or before the date of

hearing upon such assessment, file with the clerk or recorder a written statement of the objections, and all objections not specified therein shall be deemed waived. ('17 c. 364 § 11)

[1831—]39. **Same—Appeals**—Within ten days after the adoption of the assessment, any person, aggrieved, who appeared and filed objections thereto, may appeal to the district court by serving a notice upon the president of the village council, or other chief executive officer of the village, which notice shall be filed with the clerk of the district court within ten days after service thereof. The clerk or recorder shall furnish appellant a certified copy of his objections filed therein, and the assessment roll or part complained of, and all papers necessary to present the appeal. The appeal shall be placed upon the calendar of the next general term commencing more than five days after the date of serving the notice and shall be tried as other appeals in such cases. If appellant does not prevail upon the appeal, the costs incurred, if not paid, shall be included in the special assessment. ('17 c. 364 § 12)

[1846—]1. **Donation of lands by state to St. Paul for municipal forest**—Upon the adoption of a resolution by the governing body of the city of St. Paul, in Ramsey county, Minnesota, accepting a donation and conveyance from the state of a portion of the land of the first state fish hatchery of the city of St. Paul, Minnesota, hereinafter set forth, pursuant to the provisions of Chapter 211, Laws of Minnesota for the year 1913 [1846], for a municipal forest in the city of St. Paul, and upon the presentation and delivery of a certified copy of such resolution to the governor of the state, a donation and conveyance of said land shall be made by the state to the city of St. Paul. ('15 c. 108 § 1)

[1846—]2. **Same—Deed of conveyance**—The deed of conveyance shall be executed by the governor and the state auditor, and attested by the secretary of state. Such instrument of conveyance shall recite that the donation and conveyance is made for use as a municipal forest only, under the provisions of said Chapter 211, Laws of Minnesota for 1913 [1846], and shall further provide that the said premises shall be used by the said city of St. Paul for a municipal forest only, and that in the event the said city of St. Paul shall cease to use the same for such purpose within the spirit and intent of this act, the title to said property shall ipso facto revert to the said State of Minnesota. ('15 c. 108 § 2)

[1846—]3. **Same—Land donated**—The land and premises hereinbefore referred to, which is to be donated and conveyed by the State of Minnesota to the city of St. Paul, is a part of the lands and premises of the state known as the first state fish hatchery, situated in the city of St. Paul, in Ramsey county, Minnesota, to-wit:

Beginning at the Northwest corner of Section Three (3), Township Twenty-eight (28) North, Range Twenty-two (22) West; thence South along the West line of said Section Three (3), a distance of Three Hundred Four and Eighty-four Hundredths (304.84) feet to a point; thence South Forty-two degrees Twenty-eight minutes (42° 28') East, a distance of Five Hundred Eighty-nine and Forty-five Hundredths (589.45) feet to a point; thence South Seventy-two degrees Forty-eight minutes (72° 48') East a distance of Five Hundred Thirty-two and Thirty-five Hundredths (532.35) feet to a point; thence North Seventy-four Degrees Twenty-six minutes (74° 26') East a distance of Four Hundred Twenty-five and three-tenths (425.3) feet to a point on the North and South quarter-quarter ($\frac{1}{4} \frac{1}{4}$) line; thence North along said quarter-quarter ($\frac{1}{4} \frac{1}{4}$) line a distance of Seven Hundred Seventy-two and Twenty-five Hundredths (772.25) feet to the North line of said Section Three (3); thence West along said North line of Section three (3), a distance of One Thousand, Three Hundred Seventeen and Two Hundredths (1,317.02) feet to place of beginning. Excepting the Point Douglas Road.

Containing Twenty and Fifty-five hundredths (20.55) acres more or less. ('15 c. 108 § 3)

[1846—]4. **Lost or destroyed orders or warrants of counties, cities, townships, villages or school districts—Issue of duplicate**—That whenever any order or warrant of any county, city, township, incorporated village or school district in the State of Minnesota shall become lost or destroyed, a duplicate thereof may be issued by the officers authorized by law to issue such orders or warrants under the regulations and restrictions hereinafter prescribed. ('15 c. 36 § 1)

[1846—]5. **Same—Form of duplicate**—Such duplicate shall correspond in number, date, and amount, with the original order or warrant and shall have endorsed on its face by the officers issuing the same, the word, "duplicate," together with the date of its issuance. ('15 c. 36 § 2)

[1846—]6. **Same—Affidavit of owner—Bond**—A duplicate for a lost or destroyed order or warrant shall not issue until there shall have been filed with the proper officer, an affidavit of the owner thereof setting forth the ownership of such order or warrant, the description thereof, and the manner of its loss and destruction, and until there shall have been executed and filed with the same officer, an indemnifying bond, with sureties to be approved by such officer, in a sum equal to double the amount of such warrant or order, conditioned that the parties thereto shall pay all damages which the county, city, township, incorporated village or school district, as the case may be, may sustain, if compelled to pay such lost or destroyed orders or warrants. ('15 c. 36 § 3)

[1846—]7. **Same—Record to be kept**—Any officer issuing duplicates under this act shall keep a record showing the number, dates and amounts of such mutilated, lost or destroyed orders or warrants, together with the date of issuance of the duplicates therefor, and the names of the persons to whom issued. ('15 c. 36 § 4)

[1846—]8. **Decorating graves of soldiers on Memorial Day in cities, villages and towns—Duty of clerk or recorder**—It shall be the duty of the clerks or recorders of all cities and villages, and the town clerks of all towns, within the State of Minnesota, to ascertain,—as far as it shall be practicable so to do,—if within their respective city, village or town, there are any graves of soldiers of the United States which probably will not be decorated at the next Memorial Day, and if any such grave or graves shall be found, it shall be the duty of such city or village clerk or recorder and of such town clerk, to cause any and all such graves within their respective town, city or village, to be decorated annually, upon Memorial Day by placing thereat an American flag. ('15 c. 280 § 1)

[1846—]9. **Same—Expenses, how paid**—The reasonable value of the service and expense necessary to comply with the foregoing section shall be a charge upon such town, city or village, and the governing body thereof, after due examination shall audit any bill which shall be duly itemized, verified and presented by such town clerk or city or village clerk or recorder, for such service and expense and shall order paid out of the treasury of such respective town, city or village, such bill or portion thereof as shall be found just and reasonable. ('15 c. 280 § 2)