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Duluth City Charter.



STATE OF MINNESOTA,
DEPT OF STATE
Filed in the office of Secretary
of State this SEP 24 day
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Albert J. ...
Secretary of State

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DULUTH CITY CHARTER.

Chapter I.

Organization.

Boundaries of City.

Section 1. The territory in the county of St. Louis and state of Minnesota described as follows shall be and constitute a city governed as herein provided, to-wit:

Commencing at a point where the north line of section twenty-five (25), township fifty-one (51) north of range thirteen (13), west, in St. Louis county Minnesota, intersects the shore line of Lake Superior; thence west to the northwest corner of section twenty-six (26), in said township fifty-one (51), north of range thirteen (13), west; thence south to the quarter corner post on the west line of said section twenty-six (26); thence west to the center of section twenty-seven (27), in said township fifty-one (51), north, of range thirteen (13) west; thence south to the quarter corner post on the south line of said section twenty-seven (27); thence west to the northwest corner of section thirty-five (35), in township fifty-one (51), north of range fourteen (14), west; thence south to the southwest corner of said section thirty-five (35); thence west to the northwest corner of township fifty (50), north of range fourteen (14), west; thence south to the southwest corner of said township fifty (50), north of range fourteen (14), west; thence west to the northwest corner of section two (2), in township forty-nine (49), north of range fifteen (15), west; thence south to the southwest corner of section four-

teen (14), in said township forty-nine (49), north of range fifteen (15), west; thence west to the northwest corner of section twenty-two (22), in said township forty-nine, north of range fifteen (15) west; thence south to the southwest corner of section thirty-four (34), in said township forty-nine (49), north of range fifteen (15), west; thence west on the town line between township forty-eight (48), north of range fifteen (15), west and township forty-nine (49), north of range fifteen (15), west, to the southwest corner of said township forty-nine (49), north of range (15), west; thence south on the range line between township forty-eight (48), north of range fifteen (15), west, and township forty-eight (48), north of range sixteen (16), west, to the center line of the channel of the St. Louis river; thence along the center line of the channel of said river to the state boundary line between the states of Minnesota and Wisconsin, thence along said state boundary line to the mouth of the St. Louis river at the entry of the bay of Superior between Minnesota and Wisconsin points; thence in a straight line to the place of beginning.

Boundaries of Wards.

Section 2. The wards and all other political and administrative districts and sub-divisions shall remain unchanged except as otherwise provided herein.

Names and Powers.

Section 3. The people now inhabiting or who shall hereafter inhabit said territory, shall be and continue a municipal corporation under the name of the city of Duluth, and by such name shall have perpetual succession, sue and be sued, complain and defend in any court or tribunal, make and use its common seal and alter the same at pleasure; take, hold and purchase and lease and convey any and all such real, personal or mixed property as its purposes may require, whether the same be within or without the corporate limits of the city; contract and be contracted with, and shall have all the general powers possessed by municipal corporations at common law, as well as all powers herein granted.

Succession.

Section 4. When this charter takes effect, the city of Duluth shall be and become the legal successor of the city of Duluth under its former charter, and shall be vested with all franchises, rights and immunities formerly vested in said city, except as herein otherwise provided.

All property and property-rights and interests of every kind and nature formerly vested in said city of Duluth, or in any board or public officer of the same, shall, when this charter takes effect be and become vested in and be possessed by the city of Duluth under this charter and all previously exist-

ing indebtedness, obligations and liabilities of said city of Duluth or any board or department thereof shall, together with all interests accrued or to accrue thereon, be assumed and paid by the city of Duluth. This section shall not apply to the independent school district of Duluth.

Ordinances, Etc., Left in Force.

Section 5. Nothing contained herein shall be understood or construed as repealing, amending or modifying any city ordinance, resolution, rule or order which may be in force in the city of Duluth at the time this charter goes into effect and becomes operative except so far as the same may be incompatible with any of the provisions of this charter, but the same shall continue in full force until repealed, amended or modified by the common council herein provided for.

License Limits Unchanged.

Section 6. Nothing in this charter shall be so construed as to repeal, amend, modify, limit or alter the force or effect in any manner whatsoever of any provisions of law which now prohibit vending, dealing in or disposing of spirituous, vinous, fermented or malt liquors or the granting of license to vend, deal in or dispose of such liquors within any specifically defined territory within the city of Duluth.

Chapter II.

Elections and General Provisions Concerning Officers.

Elective Officers—Who Are.

Section 7. The elective officers of the city shall be a mayor, a comptroller, a treasurer, and sixteen (16) aldermen, to be elected two (2) from each of the eight wards. Judges of the municipal court are not embraced within the

meaning of the term "elective officers" as used in this charter.

Elections—Time of Holding.

Section 8. Regular elections shall be held on the first (1st) Tuesday in February of each and every year.

Terms of Office.

Section 9. The mayor of said city shall be elected at the general city election in each even numbered year and shall hold office for a term of two (2) years commencing the first day of March next succeeding said election and until his successor is elected and qualified. The comptroller and treasurer shall be elected at the general city election in each odd numbered year and shall hold office for a term of two (2) years from the first day of March following such election and until their successors are elected and qualified.

There shall be one (1) alderman elected from each ward at the general city election in each year, who shall hold office for a term of two (2) years, commencing with the first day of March succeeding such election and until his successor is elected and qualified.

Elections—Regulations of.

Section 10. A plurality of votes for elective officers shall constitute an election. When two or more persons shall receive an equal number of votes for the same elective office, the election shall be determined by the casting of lots in the presence of the common council at such time and place and in such manner as it may direct.

Officers appointed by the common council shall receive a majority vote of all the members to constitute an appointment, such vote to be had viva voce on roll call.

Elective Officers—How Removed.

Section 11. Any elective officer provided for by this charter or any officer, appointed by the common council, may be removed from his office by the affirmative vote of two-thirds (2-3) of all the members of the common council; but no such officer shall be removed except for cause nor unless he has first been furnished with a copy of the charges, and has had reasonable opportunity to be heard, in person, or by counsel, in his own defense. The common council shall have power to fix the time and place of trial of such officer, who shall be given at least ten (10) days notice thereof; to ar-

range the mode of trial; to compel attendance of witnesses and the production of papers; to administer oaths and to hear the proofs and arguments. If such officer shall neglect after due notice, to make answer to such charges, the same shall be cause for removal without further notice. When the common council shall declare by motion that the hearing is ended, it shall forthwith proceed without debate to vote viva voce on roll call upon a motion declaring such officer removed, provided, however, that this section shall not apply to the members of any board provided for by this charter.

Removal by District Court.

Section 12. Whenever one hundred or more freeholders of the city of Duluth shall file in the district court of St. Louis county a verified complaint charging that any elective or appointive officer of the city has been guilty of a misdemeanor or malfeasance in office, or has committed any act which is cause for removal from office under this charter, and setting forth the facts upon which such charges are based, any one of the judges of said district court upon presentation of said complaint to him, may issue an order returnable before him, or before said district court, requiring the officer complained of to appear and answer said complaint and show cause why he should not be removed from his office.

Upon the return of such order the court or judge shall prescribe the course of pleading, the time of trial and the manner of procedure therein. After hearing the said cause, said court shall remove such officer from office if it shall appear at the trial that said officer has been guilty of the misdemeanor or malfeasance in office specified in the complaint, or has committed any act so specified which is cause for removal from office under this charter.

Abandonment of Office.

Section 13. Any elective or appointive officer changing his residence from the city or any alderman from the ward for which he was elected or ap-

pointed under the provisions of this charter, and any such officer who shall refuse or without cause neglect to enter upon the discharge of the duties of his office for ten (10) days after the beginning of the term which he was elected or appointed to fill, and ten (10) days after being notified by the city clerk of his election or appointment, shall be deemed to have vacated or abandoned such office.

Resignation of Office.

Section 14. Any elective or appointive officer provided for by this charter, having entered upon the duties of his office, may resign the same by and with the consent of the common council, provided that any member of a board may resign with the consent of such board.

Filling Vacancies.

Section 15. Whenever a vacancy shall occur in any of the elective offices provided for by this charter, by reason of death, resignation, change of residence, or refusal or neglect to enter upon the discharge of the duties of such office, on the part of such an officer, such vacancy shall be filled for the unexpired term by appointment by the common council.

Whenever a vacancy shall occur by removal, as herein provided, in the office of any officer appointed by the common council, such vacancy shall be filled for the unexpired term by appointment by the mayor.

Whenever a vacancy shall occur in the office of mayor by removal as herein provided, less than six (6) months before the expiration of the term for which he was elected, such vacancy shall be filled for the unexpired term by appointment by the common council.

Whenever a vacancy shall occur in the office of alderman, comptroller or treasurer, by removal, as herein provided, less than six (6) months before the expiration of the term for which the officer so removed was elected, such vacancy shall be filled for the unexpired term by appointment by the mayor.

Whenever a vacancy shall occur in any of the elective offices provided for by this charter by removal six (6) months or more before the expiration of the term for which the officer so removed was elected, such vacancy shall be filled by a special election, to be held on the Tuesday next following the expiration of forty (40) days after the removal, excluding the day of such removal.

Failure to Elect.

Section 16. If an elective officer is not chosen at the time when such elective officer should be chosen, under the terms of this charter, the common council shall forthwith call a special election to fill the vacancy, except where other provision is made herein for such emergency.

Oath of Office.

Section 17. Every person elected or appointed to any office under this charter shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same with the city clerk.

Contracts With City Officers Prohibited.

Section 18. No officer or employe of the city shall vote for or make any contract in behalf of said city or any department thereof with himself, or with any firm of which he is a member, or with any corporation or association of which he is an officer, stockholder or director; nor shall he be in any manner, directly or indirectly, interested in any contract with the city; and any contract in which any such officer or employe is or becomes, directly or indirectly, interested, shall be and become absolutely void, and any such officer by the fact of such interest shall forfeit his office; and any money which shall be paid on such contract by the city may be recovered back from any or all the persons interested therein, by a joint or several action.

Penalties for Malfeasance.

Section 19. Any officer or employe of the city who shall wilfully or negligently violate any of the provisions of this charter, or convert any of the public property to his own use, or knowingly permit any other person to so convert it, shall be guilty of a misdemeanor, and shall be punished, when the punishment therefor is not otherwise provided for by law, as misdemeanors are punished by the criminal laws of the state, and on conviction thereof shall also forfeit his office, and shall be liable to the city for any amount lost or damage suffered by reason of such violation of law.

Salaries—How Fixed and Paid.

Section 20. In all cases where the salaries of officers are fixed by the common council, they shall be fixed by resolution.

Report of Officers.

Section 21. Every elective and appointive officer and all boards provided for by this charter, except members of the common council, shall annually, on or before the last Tuesday in January make and transmit to the common council, full and detailed reports, properly verified by affidavit, of the business of such office or department for the preceeding fiscal year, together with a true and full inventory of all moneys, property and other effects of the city in possession of such officer or board, or under their respective control. Such reports shall show among other things all the operations, transactions, receipts, disbursements and accounts of such officers and boards respectively; all moneys received, and from what sources received; all moneys paid out, and on what account paid

out; and the common council is empowered to cause to be printed such a number of said annual reports as they may deem necessary, not exceeding three thousand (3,000) of any one report. Such officers and boards shall likewise, whenever requested by the common council, make to them a similar report, and shall exhibit to them all the books of account, papers and other records of property kept or controlled by said officers or boards respectively.

Transfer of Books at Expiration of Term of Office.

Section 22. Every elective and appointive officer and board, and member thereof provided for by this charter, shall at the expiration of his term of office, in whatsoever way terminated, turn over to the city, or to his successor in office, or to some other properly authorized officer, on demand, all the books, papers, files, records, moneys and other property and things whatsoever pertaining to his office received by reason thereof.

Only Electors to Hold Office.

Section 23. All persons who are elected or appointed to any office under this charter shall at the time of their election or appointment be qualified electors of the city of Duluth.

Disqualifications.

Section 24. No person shall be elected or appointed to any office under this charter who at the time of his appointment is interested in any contract with the city of Duluth, to which he is a party either individually or as a member of a firm or an officer or director of a corporation.

Chapter. III.

The Mayor.

Powers.

Section 25. The mayor shall be the chief executive officer of the city. He shall take care that the laws or the state the provisions of this charter and the ordinances of the city are duly observed and enforced within the city, and that all other officers discharge their respective duties, and to that end may maintain an action of mandamus or other appropriate action or proceeding against any delinquent officer. He shall from time to time give the common council such information and recommend such measures as he shall deem advantageous to the city. He shall be the chief magistrate of the city, and shall have command and control of its entire force of police.

Acting Mayor.

Section 26. During the absence of the mayor from the city, or in case of his disability for any reason to discharge the duties of his office, the president of the common council, or in case of his absence or disability, the acting president thereof, shall for the time being, exercise all the powers and discharge all the duties of the mayor. The president or the acting president

so performing the duties of the mayor shall be styled the "Acting Mayor," and his acts while so acting as mayor, shall have the same force and validity as if performed by the mayor.

Secretary.

Section 27. He may appoint a private secretary who shall perform such duties as the mayor may prescribe, and who may be removed by the mayor at pleasure.

Mayor to Sign Contracts.

Section 28. He shall sign all bonds and obligations on behalf of the city, and all warrants and orders drawn on the city treasurer unless otherwise provided by law. He shall also sign all contracts on the part of the city except as otherwise in this charter provided.

Mayor Shall Communicate Service of Process.

Section 29. He shall, upon service of notice, summons or process upon him in any action or proceeding against the city, forthwith inform the city attorney and the common council thereof.

Chapter IV.

The Comptroller.

To Keep Books of Account of Indebtedness and Countersign Bonds and Other Evidences of Indebtedness.

Section 30. It shall be the duty of the comptroller to keep regular books of

account, in which he shall enter all indebtedness of the city and which shall at all times show the precise financial condition of the city; a record of all bonds, orders, warrants or other evidence of indebtedness issued; a record of all bonds, orders, warrants or

other evidence of indebtedness which have been redeemed, and the amount of each outstanding. He shall countersign all orders, bonds, warrants or other evidence of indebtedness and keep an exact account thereof, stating to whom and for what purpose issued.

To Furnish Certificates of Unpaid Assessments.

Section 31. Upon request of any person and upon payment by such person of the sum of twenty-five cents, the comptroller shall furnish to such person a certified statement showing all unpaid assessments against, and all sales for unpaid assessments of, any particular pieces or parcels of land as shown by the records in his office. The comptroller and his bond shall be liable for any damage resulting from any error in such certified statement. Moneys received for such certified statement by the city comptroller shall be paid by him into the treasury of the city.

To Keep Accounts With the Treasurer and Other Officers.

Section 32. He shall keep accounts with the treasurer and all other receiving and disbursing officers of the city and in such accounts he shall charge such officers with all amounts received by them from all sources of revenue, and with all city property in their hands or control, and credit them with all amounts disbursed or property disposed of on proper authority and with all money or property turned over to the city or their respective successors in office.

To Keep Books of Account and Records.

Section 33. He shall keep books of accounts of orders drawn on the treasury and shall note thereon the cancellation thereof whenever the same shall be cancelled, and shall keep such other books and records as shall be necessary for the preservation of the accounts of the transactions and business and separate funds of the city.

To Examine Reports and Vouchers.

Section 34. He shall examine at the end of each month the reports, books, papers and vouchers of the treasurer and of all other receiving and disbursing officers, and shall at all times have access to such reports, books, papers, vouchers and accounts and shall make reports to the common council of such examinations on or before the tenth day of the month following.

To Audit and Adjust Claims and Demands.

Section 35. All claims and demands against the city or any board or department thereof, before they shall be allowed by the common council, shall be audited and adjusted by the comptroller, and all warrants or orders on the treasury, either on the part of the city or its boards, or any officer or department thereof, shall be examined and countersigned by him, and by him kept until delivered to the person entitled thereto, and he shall take and preserve receipts for all warrants or orders as delivered, and all claims and demands against any board or department of the city shall be allowed by the common council before payment thereof, except as otherwise herein provided.

To Countersign Contracts And Keep a Record Thereof.

Section 36. He shall countersign all contracts made on behalf of the city, and no such contracts shall be valid for any purpose until so countersigned, and he shall be the custodian of all such contracts and of all bonds relating thereto. He shall countersign no contract in behalf of the city unless there be sufficient funds applicable by law thereto, in the treasury of the city, for the payment of any liability arising under such contract, unless provision shall be made therefor as in this charter otherwise provided, except in the case of local improvements to be provided for by special assessments. He shall keep a book in which he shall enter all contracts, which shall be open to the inspection of the public.

To Make Distribution of Funds.

Section 37. It shall be the duty of the comptroller immediately on the receipt of any taxes by the city from the county treasurer, or upon receipt of assessments paid after becoming delinquent, to make the proper distribution of the same to the several funds.

Other Duties of Comptroller.

Section 38. He shall perform such other duties pertaining to his office as the common council by resolution may prescribe, and it shall be his duty to make a report of the financial condition of the city or of any fund thereof to the common council or the mayor at the time he may deem it advisable and whenever required by the common council or the mayor with such other recommendations as he may think proper.

Assistant and Employee.

Section 39. The comptroller shall appoint, and at his pleasure may remove, an assistant comptroller, who shall perform such duties as the comptroller may prescribe.

During the absence of the comptroller from the city or his inability for any reason to discharge the duties of his office, the assistant comptroller shall act in his place and stead, and shall have the same powers and duties and the comptroller and the sureties on his bond shall be liable for the acts of the assistant comptroller, the same as if they were done by the comptroller.

The comptroller shall, subject to the civil service provisions of this charter and the rules of the civil service commission, appoint, remove, discharge or suspend such clerks and other employees as the common council may authorize, who shall perform such duties as the comptroller may prescribe.

The comptroller and such assistant or other employes as he shall appoint, shall give their whole time to the business of the city, during their respective terms of employment.

Bond of Comptroller.

Section 40. The comptroller, before entering upon the duties of his office, shall execute a bond to the city in the sum of five thousand dollars (\$5,000), conditioned for the faithful performance of the duties of his office.

Chapter V.

The Treasurer.

To Receive and to Keep Moneys Belonging to the City.

Section 41. The treasurer shall receive and safely keep all moneys belonging or accruing to the city, including license money and fines, and shall keep accurate and detailed accounts thereof, and he shall be entitled to and shall demand and receive of the treasurer of St. Louis county at the times specified by law, all money due the city for taxes, assessments and interest and penalties thereon on account of levies and assessments made by the city or its predecessors for any

local improvement. He shall be the custodian of all bonds, certificates of indebtedness or other securities held by the city, or in the sinking fund of any department thereof.

To Credit Moneys Received to Various Funds and Deposit the Same.

Section 42. The treasurer shall upon the receipt of any moneys, forthwith credit the same to the separate funds to which the same respectively belong or for which they are levied, and shall deposit the same daily in the name of the city, to the order of the

treasurer, in the various depositories which shall have been designated by the common council, but shall not deposit with any such depository an amount in excess of one-half (½) of the penalty of the bond furnished by such depository; and all interest that may accrue upon any such moneys shall be credited to the general fund.

City Depository.

Section 43. Any bank, banking house or trust company, having its principal place of business in the state of Minnesota, may be designated as a depository of the moneys in the city treasury as hereinafter provided. Such banks, banking houses or trust companies shall be designated by the common council of the city, by resolution, after advertising in the official paper of the city once in each week for two (2) consecutive weeks for proposals and receiving proposals stating what security will be given to said city, for such funds so deposited, upon condition that said funds with accrued interest, shall be held subject to draft and payment at all times on demand. Provided, that the amount deposited in such bank, or banking house or trust company, shall not exceed the assessed capital stock of said bank, or banking house or trust company as the same shall appear on the duplicate tax list.

Capital stock, for the purposes of this act, shall be defined as follows: As including shares of capital stock of national or state banks, whether assessed in the name of the bank or of the stockholders thereof; and as including the personal and real estate property of private banks or bankers, or the individual members of said banking firms, which property is liable for the debts of said banks or bankers, and is assessed upon the tax lists of any county in this state.

Before any such bank, banking house or trust company, shall be designated as such depository, such bank, banking house or trust company, shall deposit with such treasurer a bond payable to the city and executed by not less than five (5) freeholders of the state as sureties, which bond shall be approved by the common council and

shall be in such amount as said common council shall direct, and at least double the amount of the funds to be deposited with said bank, banking house or trust company, said bond to be conditioned for the safe keeping and payment of such funds and the interest thereon. Such bonds shall be filed and recorded in the office of the comptroller, and whenever required so to do by the common council such depository shall furnish a new bond and other sureties to be likewise approved, and the record of any such bond, as well as the original, shall be evidence of the contents and the execution thereof; provided, that when no depository is designated as aforesaid, the fiscal agent of the city of Duluth in New York shall by reason of that fact become the depository. But in such case the common council shall determine what amount the treasurer may keep in his hands and when he shall make deposits.

Whenever any portion of the funds of the city shall be deposited by the treasurer, in such depository, the sureties on his official bond shall to such extent be exempt from all liability thereon by reason of the loss of any such deposited funds, while so deposited, by reason of the failure, bankruptcy, or any other act or default of such bank, banking house or trust company.

When to Pay Money Out of the City Treasury.

Section 44. The treasurer shall pay no money out of the city treasury except in the following cases:

First.—In the payment of the principal and interest of bonds or of certificates of indebtedness.

Second.—Upon an order properly drawn and countersigned, which has been first duly authorized and allowed, and which shall specify the purpose for which it is drawn and the fund out of which and the person to whom it is payable; and upon the payment and receipt by him of any such order, the treasurer shall cancel and file the same and it shall not be again issued; and he shall keep separate orders drawn upon each particular fund,

Third.—In the duly authorized payment of employes of any department of the city on pay rolls, in which case he shall make such payment to each employe, taking his receipt therefor.

Fourth.—In the payment out of the moneys appropriated for the contingent expenses of the mayor, warrants drawn on such appropriation, signed by the mayor and countersigned by the comptroller, not exceeding the amount appropriated by the common council for such purposes in any fiscal year.

Treasurer to Make Monthly Statements.

Section 45. The treasurer shall at the first of each month, make statements to the common council and to each board or department having control of any fund, of the amount received and distributed on account of each fund controlled by the common council or such board or department respectively, and a statement of the amount of money in the various funds deposited with each depository and in his hands, at the same time he shall report to the common council the total amount of city funds and where placed or deposited. He shall, whenever no-

tified so to do by the common council, withdraw all funds from any depository designated as hereinbefore provided, and notify the common council of such withdrawal, and shall thenceforth deposit no more therein until authorized so to do by the common council.

Funds Not to be Loaned or Unlawfully Disposed of

Section 46. No funds of the city shall be loaned by the treasurer to any city officer or other person, or otherwise disposed of except in accordance with the law. Any violation of any of the provisions of this section shall, unless otherwise punishable by the criminal laws of the state, be punishable by a fine not exceeding one thousand dollars (\$1000) or by imprisonment not exceeding one year.

Bond of Treasurer

Section 47. The treasurer before entering upon the duties of his office, shall give bond in the sum of one hundred thousand dollars (\$100,000), conditioned for the faithful performance of the duties of his office.

Chapter VI.

Common Council.

General Powers

Section 48. The legislative authority of the city shall be vested in a common council composed of the aldermen elected by the several wards thereof, which council shall meet for the transaction of business at the city hall, and shall hold regular meetings at such times as it may determine by its rules.

Regular and Special Meetings

Section 49. There shall be a regular meeting of the common council on the second (2nd) Tuesday of March, in

each year, at seven thirty (7:30) p. m., and the mayor may call special meetings thereof by notice to each of the members, to be delivered personally or left at their usual place of abode, at which meetings only business specified in the call shall be transacted. The common council may also provide for regular or special meetings to be called according to its rules.

Organization

Section 50. At said meeting on the second (2nd) Tuesday of March, the common council shall proceed to elect

by ballot from its own members a president and vice president; such president shall for one (1) year after such election, or until his successor is elected, preside over the common council, and the vice president, in case the president is absent, shall discharge his duties and act in his place.

To Act as Judge of Election of Members.

Section 51. The common council shall be the judge of the election and eligibility of its own members.

Quorum.

Section 52. A majority shall constitute a quorum to transact business, but a smaller number may adjourn from time to time and compel the attendance of the absent members under such penalty as it may provide.

Members Disqualified from Holding Other Offices.

Section 53. No member of the common council shall hold any other office under the city government, or be eligible to any appointive office in the city during the term for which he is elected.

Power to Make Rules.

Section 54. The common council may determine the rules of its proceedings not inconsistent with the laws of this state and this charter, and punish its members for disorderly behaviour.

Resolutions, Etc., Inoperative Until Passed. Journal.

Section 55. No resolution, order or ordinance shall be valid or operative to bind the city until it shall have passed the common council. The common council shall keep a journal and in all cases where the yeas and nays are required to be taken, they shall be entered on the journal.

Ordinances and Resolutions—How Passed

Section 56. All ordinances and resolutions, unless otherwise provided in

this charter, shall be passed by an affirmative vote of a majority of the members of the common council, by yeas and nays, and ordinances shall be published in the official paper before the same shall be in force. The proof of such publication by the affidavit of the foreman, or one of the publishers of such newspaper, with a printed copy of the ordinance or resolution annexed thereto, or any other competent proof of such publication shall be prima facie evidence of the legal passage, enactment, publication and promulgation of such ordinance or resolution in any court in this state.

All ordinances shall be recorded by the city clerk in books to be provided for that purpose. In the publication of resolutions that may be included in the publication of the proceedings of the council, such resolutions shall be printed with the date of their approval without appending in such publication the signature to such resolution.

Municipal Court to Take Judicial Notice

Section 57. In all notices, prosecutions and proceedings of every kind before the municipal court of or any justice court in this city, such court shall take judicial notice of all ordinances of the city, and it shall not be necessary to plead or prove such ordinance in such court.

Presentation to Mayor for Approval.

Section 58. Every order, resolution, or ordinance which shall pass the common council in conformity to its rules, shall, before it becomes operative and not sooner than twenty-four (24) hours after its passage, be presented to the mayor of the city for his approval or rejection. If he approves thereof he shall sign and deposit the same in the office of the city clerk for preservation, and notify the common council of the fact; but if not approved he shall return it, with his objections, to the common council, and such objections shall thereupon be entered at large upon the journal thereof, and the common council shall then proceed to reconsider the same. If after such reconsideration it be approved and

passed by a two-thirds (2-3) vote of the members of the common council, it shall become operative notwithstanding the objections of said mayor; but in all such cases the votes shall be determined by yeas and nays taken immediately without discussion, and the names of the persons voting for or against said matter shall be entered on the journals of the common council.

If any such order, resolution or ordinance, shall not be returned by the mayor with his signature to the clerk's office within four (4) days after it shall have been presented to him, or shall not be returned to the common council as aforesaid, or to the clerk, with the objections of the mayor, the same shall become operative in like manner as if he had signed and approved the same.

Style of Ordinance.

Section 59. The style of all ordinances shall be "The Common Council of the city of Duluth do ordain as follows:"

No ordinance except the general appropriation, shall contain more than one subject, which shall be expressed in its title, nor shall any ordinance be amended after its introduction so as to change its original purpose.

Ordinances—How Passed.

Section 60. No ordinance shall be introduced, except at a regular meeting, at which meeting it shall have its first reading. Its second reading shall be had at a subsequent regular meeting or adjourned regular meeting, occurring not less than one (1) week after its first reading. No vote of the common council shall be reconsidered at a subsequent meeting other than the next regular meeting, nor at all unless at such meeting as many members of the common council vote in favor of such reconsideration as it takes of affirmative votes to pass such ordinance.

Appropriation of Money. Award of Contracts.

Section 61. Every ordinance, order or resolution appropriating money or cre-

ating any liability, awarding or approving of any contract for the payment of money, ordering any condemnation of private property or the making of any local improvements, shall require a two-thirds (2-3) vote of all the members of the common council.

Provided, that the pay roll of city officers and employes whose salary or compensation has been fixed by law or resolution, and the pay roll of employes and laborers in any department of the city government shall only require a majority vote of the members of the common council present.

Members Present Who Fail to Vote.

Section 62. Any member of the common council who, being present when his name is called, fails to vote upon any then pending proposition, unless excused by the common council, shall be counted as having voted in the negative on said pending proposition.

President to Sign Journal.

Section 63. It is hereby made the duty of the president of the common council to sign the clerk's record of the proceedings of each meeting of the same when said record has been corrected and approved and is presented to the president for his signature, by the clerk.

Specific Powers.

Section 64. The common council, except as by this charter otherwise provided, shall have the management and control of the finances and of all the property of the city; and shall also have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify and amend and repeal all such ordinances, rules and by-laws for the enhancement of the general welfare, for the government and good order of the city, for the protection of the public health, comfort and safety, for the suppression of vice and intemperance, and for the prevention of crime as it shall deem expedient. It shall have the power to establish and maintain city prisons and watch houses for the imprisonment, custody

and safe keeping of all persons arrested for or charged with any offense whatever in any way cognizable before the municipal court or any justice court in said city; to make all rules and regulations for the government and management of such, prisons and watch houses, to appoint keepers and other officers for the same, and prescribe their duties and fix their compensation; and the keepers of said prison and watch houses shall have and possess all the powers and authority of jailors at common law or by the laws of this state. The common council shall have full power and authority to declare and impose penalties and punishment, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance passed or ordained by them; and all such ordinances are hereby declared to be and to have the force of law. Provided, that they be not repugnant to the constitution and laws of the United States and of this state. And for those purposes the common council shall have authority by ordinance or resolution:

First.—To regulate the use of and prevent and remove encroachments on and over streets, alleys, avenues and public grounds and public places, and to prevent injury to the same and to regulate the construction of coal holes and hatchways and coverings and guards therefor in sidewalks, or to prohibit the same.

Second.—To regulate and prevent throwing or depositing of ashes, offal, dirt, garbage, or any offensive matter, or of paper in or upon any street, alley or public ground or place and to compel the owner or occupant of any premises, to keep the sidewalks along or in front of the same free from snow, ice or other obstruction.

Third.—To regulate openings and excavations in streets, alleys and public grounds, for the laying of gas, electric conductors, water mains and pipes, or for any other purposes, and the building of sewers, tunnels and drains, and to regulate the construction and use of all structures and conduits underneath the streets, alleys and sidewalks.

Fourth.—To provide for and regu-

late cross-walks, curbs and gutters.

Fifth.—To regulate and prevent the use of streets, sidewalks and public grounds for signs, sign posts, awnings, awning posts, telegraph, telephone and electric poles, horse troughs, racks and the posting and distributing of handbills and advertisements; to prevent the encumbering of the streets with vehicles, lumber, boxes or any other thing or material; to remove and abate any nuisance, obstruction and encroachment upon the walks, streets, alleys and public grounds; to provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit the same in any portion of the city, and shall prohibit the piling of snow or other encumbrance upon any street by persons owning or operating any street railway along or across the same. *

Sixth.—To regulate, control and prohibit the placing of poles and the suspending of wires along or across the streets and alleys, and to require any and all wires within prescribed limits, or throughout the city, to be placed as it may designate, beneath the surface of the street or sidewalk, and to require any poles already erected or wires already suspended to be removed, and the wires likewise placed in conduits beneath the surface of the street; and to compel any or all such wires, pipes and other constructions and conduits to be placed in a common area beneath the surface, upon such terms as it may designate.

Seventh.—To regulate and prohibit the exhibition or carrying or distributing, or throwing of banners, placards, advertisements, and handbills in or upon the streets, public grounds and sidewalks.

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

Ninth.—To regulate and prohibit traffic and sales upon the streets, sidewalks or public places.

Tenth.—To regulate the speed of horses and other animals, vehicles, street cars and locomotives, upon the streets and within the limits of the city, and to compel persons to fasten

their horses or other animals attached to vehicles or otherwise while standing in the streets; to regulate the use of bicycles and other similar vehicles on streets and sidewalks, and to compel persons using the same to carry a lamp at night, and in general to require persons using the same to so use them as not to endanger the safety of other persons or property; to prevent the riding or driving of any animal upon a sidewalk or other damage to sidewalks or private property.

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

Twelfth.—To name and change the names of the streets, avenues, alleys and other public places.

Thirteenth.—To regulate the use of all bridges, viaducts, tunnels, drains, sewers and cess-pools within the city, and to prohibit the use or maintenance of cess pools and privies in such portions of the city as it may designate, and to compel sewer connections in such portions, and to make the same, and to assess the cost thereof on the property so connected with the sewer.

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

Fifteenth.—To prevent and regulate or prohibit the locating, construction and laying of street railway tracks in, under and over any street, alley or public place.

Sixteenth.—To provide for and change the location, grade and crossing of any railroad, and to compel railroad companies to lower and bridge over their tracks or to construct viaducts over the same, and to fence their respective rights of ways or any portion of the same, and construct cattle guards and keep the same in repair within the limits of the city. In case any railroad company fails to comply with any such ordinance, it

shall be liable for all damages to the owner of any cattle, horses or domestic animals, which he may sustain by reason of injuries thereto while on the tracks of such railroad company, in like manner and extent as under the General Laws of the state, relative to the fencing of railroads; and actions to recover such damages may be instituted before any justice of the peace or other court of competent jurisdiction.

Seventeenth.—To require railroad companies to keep flagmen and erect and maintain gates at railroad crossings of streets.

Eighteenth.—To regulate or prohibit the whistling of locomotives, tugs, boats or factories, and the discharge of steam, cinders, sparks and dense smoke therefrom, and to designate the kind of coal any yard or switch engine may consume while operating within the limits of the city.

Nineteenth.—To compel railroad companies to raise or lower their tracks to conform to any grade which may be established in said city, and to keep such tracks on a level with the street surface and to compel the planking of such tracks by such railroad company so that they may be crossed at any place on said street, alley or highway.

Twentieth.—To compel and require railroad companies to make and keep open and in repair, ditches, drains, sewers, and culverts along and under railroad tracks, so that filthy or stagnant water cannot stand on their grounds or right of way, and so that the natural drainage of adjacent property shall not be impeded.

Twenty-first.—To restrain the pollution of the waters of any creek, pond, lake or water course within or adjacent to the city; to prevent the dumping of refuse or other matter therein and to provide for the cleansing and purification of water, water-courses and canals, and the drainage and filling of ponds or pools on private property whenever necessary to prevent or abate nuisances, and to compel the owner or occupant of any building or grounds to remove from the premises owned or occupied by him all such offensive substances as the common council or commissioner of health may

direct, and upon his default to authorize the removal or destruction thereof by some officer of the city.

Twenty-second.—To compel the owner of low ground where water is liable to collect and become stagnant, to fill or drain such low places, and upon his default to authorize such drainage or filling.

Twenty-third.—To regulate the use, and maintain general supervision and control over navigable waters within, upon and adjacent to the city limits, to regulate the use of public and private docks, landings, wharves, and levees in the city, to establish, alter and maintain docks, dock-lines, landings and levees; to regulate and control the anchorage, moorage and landing of all water craft and their cargoes within the city; to license and regulate wharf boats, tugs and other boats used about the harbors or within the jurisdiction of the city; and to fix the rates of wharfage and dockage; and to collect wharfage and dockage from all boats, rafts or other craft landing at or using any public landing place, wharf, dock or levee within the city. To restrain, regulate and control the cutting of ice in waters in or adjacent to the city.

Twenty-fourth.—To make regulations in regard to the use of steamers, towing of vessels, opening and passing of bridges; to appoint harbor masters and define their duties; and to prevent and prohibit the removal of sand and other material from or near any levee, embankment or boundary line of public waters.

Twenty-fifth.—To fix the amount, terms and manner of issuing licenses not inconsistent with law, provided that no license shall be issued for a longer time than one (1) year, nor until paid for.

Twenty-sixth.—To license and regulate, or to prohibit and suppress billiards, pool and pigeon tables, pin alleys, bowling alleys, shooting galleries, taverns and victualling houses.

Twenty-seventh.—To license and regulate gift, fire, auction or bankrupt sales, and to license and to regulate porters, runners and agents and solicitors for stages, cars, vessels and public houses.

Twenty-eighth.—To license and regulate the exhibitions of common showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concert halls, theatrical performances, skating rinks, and all places of amusement and museums, for entrance into which money is charged.

Twenty-ninth.—To license and regulate insurance offices and agencies, auctioneers, pawnbrokers, second-hand dealers and junk dealers, and to compel all such persons to keep such records of their transactions as it may direct and make report thereof; and to regulate the time, place and manner of holding public auction or vendues.

Thirtieth.—To license, restrain and regulate keepers of intelligence or employment offices, and all persons doing the business of seeking employment for or furnishing employes to others, and to require such persons to keep such records as it may direct, and make report thereof, and to give bond conditioned that they shall carry on their business honestly and without fraud or misrepresentation, and to punish unfair dealings by said persons in their said business.

Thirty-first.—To license and regulate or prohibit fortune tellers, clairvoyants, astrologists, massage doctors, street hawkers, venders and public criers.

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

Thirty-third.—To license and regulate all peddlers, book agents, canvassers, newsboys, bootblacks and chimney sweeps doing business in the city.

Thirty-fourth.—To license and regulate the sale of spirituous, vinous, fermented, malt or other liquors; provided, however, that in no case shall a license be granted to any person or persons to vend, deal in or dispose of any such liquors within a distance of

three hundred (300) feet of any public school.

Thirty-fifth.—To license and regulate distilleries and breweries.

Thirty-six.—To license and regulate butchers' stalls and shops, and vendors of and stands for the sale of game, poultry, meat, fish, fruits and perishable provisions, and all other persons who may deal in the same, whether at wholesale or retail.

Thirty-seventh.—To license and regulate plumbers, and to regulate sewer and water connections of all kinds, and the laying of branch sewer and water pipes, and in general to regulate plumbing and to provide for the removal of unsanitary plumbing and to compel the same to be kept in a sanitary condition.

Thirty-eighth.—To license, regulate and control or prohibit the carrying of concealed weapons, and to provide for the confiscation of the same.

Thirty-ninth.—To license and regulate the keeping of dogs, and to prevent the same from running at large, and to authorize and enforce the destruction of dangerous or vicious dogs, or dogs running at large, in a summary manner.

Fortieth.—To regulate or prohibit the storage, receipt, transportation, dealing in and use of gunpowder, dry pitch, rosin, coal oil, benzine, naphtha, gasoline, turpentine, gun cotton, nitroglycerine, and any products thereof, and other combustibles or explosive materials within the city, or within one (1) mile from the limits thereof, and of lights in stables, shops and other places and the building of bonfires; and to regulate and restrain the use of fire crackers, torpedoes, roman candles, skyrockets and other fireworks, and of fire arms.

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

Forty-second.—To restrain and punish vagrants, mendicants, street beggars, prostitutes, and to regulate or prevent bathing or swimming in waters within the city limits, and to prevent and punish open and notorious drunkenness, fighting, assaults, batteries and disorderly conduct and obscen-

ity in the city; and to prohibit within the city the circulation, sale or exhibition of libelous, obscene and immoral publications, prints, pictures, advertisements and illustrations, and any publications, either of printed matter or by sign pictures, effigy or otherwise, naturally tending to provoke a breach of the peace or to impair the morals of the community.

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

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

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

Forty-sixth.—To establish and regulate markets and market houses.

Forty-seventh.—To regulate the making and sale of bread and prescribe the weight and quality of the bread in the loaf and provide for the seizure and forfeiture of bread baked contrary to the regulations established by the common council.

Forty-eighth.—To provide for and regulate the inspection of meats, poultry, fish, game, butter, cheese, lard, eggs, vegetables, flour, meat, milk, fruits, whiskey and other liquors and provisions, and to provide for the taking and summarily destroying of any such provisions which are unsound, spoiled or unwholesome; and to regulate and prevent the bringing into the city, having or keeping such unsound, spoiled

or unwholesome provisions, or any unsound or putrid beef, pork, fish, hides, skins or other substances, and to inspect and regulate dairies and dairy products, and to regulate the sale of milk within the city.

Forty-ninth.—To provide for and regulate the place and manner of the weighing of hay and straw and selling the same; and measuring and selling firewood, coal and lime; to provide for the inspection of lumber and building materials and to regulate the measuring and selling thereof.

Fiftieth.—To provide for the inspection and sealing of weights and measures, and to enforce the keeping and use by vendors, of proper weights and measures, duly tested and sealed, and to provide for the term, appointment and compensation of a city sealer of weights and measures, and to provide punishments for the use of false weights and measures.

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

Fifty-second.—To prescribe the limits within which wooden buildings shall not be erected, nor placed nor repaired, and to direct that all and any buildings within such fire limits, when damaged by fire, decay or otherwise, to the extent of fifty (50) per cent of their value, shall be torn down and removed, and to prescribe the manner of ascertaining such percentage, and to compel the owners

of buildings or other structures, which have been destroyed or partially destroyed, or have become dangerous by fire or otherwise, to take down the same or any part thereof, and in case of refusal or neglect of said owner to so take down the same when ordered by the common council, then to cause the same to be so taken down, and to provide by ordinance for the punishment of such refusal or neglect.

Fifty-third.—To require the owners or lessees of buildings or structures now or hereafter built in the city, to place thereon such fire escapes and appliances for protection against or for extinguishing of fires, as it may direct.

Fifty-fourth.—To prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes and ovens used in or about any house, building or manufactory; to regulate the carrying on of manufactories liable to cause fires; to prevent the depositing of ashes or accumulation of shavings, rubbish or other combustible material in unsafe places, and to make provision to guard against fire.

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

Fifty-sixth.—To declare the emission of soot or dense smoke from chimneys, stacks, locomotives and other places within the limits of the city, a nuisance, and to prohibit the emission of such smoke or soot in any portion of or through the city.

Fifty-seventh.—To regulate the construction of chimneys and smoke stacks, and to prohibit the emission of sparks and cinders from chimneys, smoke stacks, or other source or place, and to declare the emission of sparks and cinders a nuisance.

Fifty-eighth.—To abate nuisances and to impose fines upon parties who may create, continue or suffer nuisances to exist.

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

Sixtieth.—To regulate or prevent the burial of the dead within the city, and

to regulate and determine the manner in which bodies which have been placed in a vault or tomb or other place for the purpose of burial, may be removed; and to regulate and control the location of cemeteries and crematories, and to cause the removal of bodies interred contrary to law.

Sixty-first.—To regulate the location, construction and management of stock yards, slaughter houses, packing houses, renderies, tallow chandleries, storing places for hides, bone or glue houses, gas works, soap factories, dye houses and tanneries within the limits of the city, or within a distance of one (1) mile outside of the limits thereof.

Sixty-second.—To regulate the location, construction and use of breweries, distilleries, carriage houses, stables, livery stables, blacksmith shops and foundries within the limits of the city.

Sixty-third.—To prevent offensive or unwholesome business or establishments within the city, or within one (1) mile of the limits of the city.

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

Sixty-fifth.—To regulate the location of lumber yards and places for piling timber, wood and other combustible material, and to require any person maintaining any lumber, shingle or lath piles or mill wood yards in the city, to remove the same when they become dangerous to buildings or other property near the same.

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

Sixty-seventh.—To prevent or regulate the playing of games or any other amusement on the streets or sidewalks.

Sixty-eighth.—To require and regulate the removal or destruction of swill, offal, garbage, ashes, street sweepings, barnyard litter, manure, rubbish, yard cleanings, and the contents of privy vaults, cess pools and sinks, decaying animal matter and

dead animals, or any other vile or unhealthy material.

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

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

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

Seventy-second.—To regulate lodging houses and tenement houses and to prevent the over-crowding of the same; and to require the same to be kept in proper sanitary condition.

Seventy-third.—To prohibit and punish cruelty to animals and to require the places where such animals are kept to be maintained in healthful condition.

Seventy-fourth.—To regulate the employment of children on the public streets and other public places.

Seventy-fifth.—To compel the owner or owners of vacant property within the city limits, to keep the same clear of any brush or other material or substance liable to communicate fire to adjoining property, and in case the owner or owners of such property shall neglect or refuse to remove the same within ten (10) days after being notified so to do by the common council, either personally or by one (1) publication

in the official newspaper of the city, said common council shall have authority to have the same done and assess the cost thereof against the property.

Seventy-sixth.—To direct and regulate the planting and preservation of ornamental trees in the public grounds and streets of the city.

Seventy-seventh.—To provide for the revocation of licenses.

Seventy-eighth.—To select a bank, banking house or trust company in the city of New York to act as fiscal agent for the city of Duluth in said city.

Seventy-ninth.—To regulate and require licenses to be obtained for the pursuit and prosecution of such occupations or kinds of business, not in this chapter expressly referred to and to provide for such occupations as in the opinion of the common council may require regulation.

Eightieth.—To provide for the lighting of the city.

Eighty-first.—To provide for and regulate the construction of bicycle paths upon any street, alley or public place.

Eighty-second.—To establish and maintain a municipal employment office under suitable rules and regulations.

Eighty-third.—To provide for the investigation of the origin and cause of fires, and to compel the attendance of witnesses and the production and giving of evidence upon such investigation.

Eighty-fourth.—To regulate and control in a manner not contrary to any specific provisions on the subject contained in this charter, the exercise by any person or corporation, of any public franchise or privilege which, by the terms of the grant thereof is to be exercised within the corporate limits of the city of Duluth, whether such franchise or privilege has been granted by said city or by or under the state of Minnesota or any other authority.

Eighty-fifth.—To provide for and regulate the payment, by officers and employees of the city of their just debts incurred while in the employ of the city, out of the salary or wages due them from the city and for that purpose to provide among other methods, that the city shall be subject to gar-

nishment in respect to such salary or wages for such debts.

Assessments.

Section 65. Whenever any owner or occupant of any property shall fail to remove any building or buildings or part of buildings which have been injured by fire, as provided for in the fifty-second of the above powers, then and in that case the common council may proceed itself to cause to be removed such building or part of building and to assess the expense of such removal against the property from which such removal takes place.

Such assessment may be for the full amount of the expense of such removal, and before making the same the common council shall require the city clerk to give notice by publication in the official newspaper of the city at least once a week for two (2) successive weeks, of its intention to make such assessment upon such property at a meeting of the common council, to be specified in the notice, and at said meeting or at any subsequent meeting to which said matter may be adjourned, the common council shall hear all interested parties and shall then, or at any subsequent meeting, proceed to make an assessment against such property and to adopt proper assessment roll of the same, which shall be certified and returned to the comptroller to collect the amount of said assessment in the same manner as other city assessments are by him collected; or the common council shall adopt any appropriate proceedings provided for in the chapter on local improvements and assessments in this charter, for the purpose of making such assessments. The common council may provide by special resolution for such removal in any particular case.

Power to Provide Punishment for Violation of Ordinances.

Section 66. The common council shall also have the power to prescribe in such ordinances the punishment for violating the same, by subjecting the offender to pay a fine not to exceed one hundred dollars (\$100) or to be confined and kept at hard labor or

upon the public works of the city, or in any county jail, or in any place of confinement maintained by the city, for a time not to exceed ninety (90) days.

Railroad Company Not Relieved.

Section 67. Nothing contained in this title shall relieve any railroad company from any common law contractual or other legal obligation.

City Hall, Library Building, Etc.

Section 68. By a three-fourths (¾) vote of the members thereof, the common council by resolution shall have power to erect, provide for and improve a city hall, library building, police stations, fire stations, public docks or wharves, morgues, sewer stations and plants for the destruction of garbage, whether within or without the city limits, and to acquire by purchase, gift or condemnation, lands for sites for such buildings. Provided, that before the council shall be authorized to contract for any such improvement, the same must have been specifically provided for by previous tax estimate or levy.

Jurisdiction of City.

Section 69. The jurisdiction of the city for all municipal purposes shall extend over any property within the county of St. Louis; and the jurisdiction of the city for the suppression of diseases and abatement of public nuisances, and the suppression of any business contrary to the regulations of the common council, shall extend for a distance of one (1) mile beyond the limits thereof.

Suits for Nuisances Not Barred, Certain Nuisances Specified.

Section 70. The powers conferred upon the common council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind within the limits of the city wherein more than twenty-five pounds of gun-powder or more than five barrels of forty-two gallons

each (or such greater or less quantity as the common council may direct by ordinance) of petroleum, kerosene, naphtha, or other inflammable or explosive oils or substances are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses and places where spirituous, vinous, fermented or malt liquors are sold without license within the limits of the city are hereby declared and shall be deemed public or common nuisances.

Common Council to Audit Accounts.

Section 71. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, judges and clerks of the municipal court, and all officers and agents of the city, at any time that they deem proper and shall do so at the end of each fiscal year, and at the end of their term. And the common council shall require each and every officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the common council in the discharge of his duties in pursuance of this section, or shall neglect or refuse to tender his accounts, or present his books and vouchers to the common council, his refusal or neglect shall be cause for removal. And the common council shall order actions against any such officer or agent of the city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

Common Council to Have Control of Streets.

Section 72. The common council shall have the care, supervision and control of all public highways, bridges, streets, lanes, alleys, public squares and grounds, wharves and sewers, and all other public improvements and public property within the limits of the city, and shall cause all streets which may have been opened and graded under the authority of the city, or with its assent, to be kept open and in repair

and free from nuisance. The city shall be exempt from all liability for damages caused either to persons or property by railroads, by reason of the operation thereof, along, across, under, over or upon any public highway, bridge, street, lane alley or other public way within the limits of the city.

Vacation of Streets.

Section 73. The common council of the city shall have the sole and exclusive power to vacate or discontinue streets, alleys and highways, other than parkways, within the city; and also all county, territorial and state roads within the city, whether actually traveled or used at the date of the petition for such vacation or not. No such vacation or discontinuance shall be granted or ordered by the common council except upon petition of a majority of the owners owning a majority of the property upon the portion of the line of such street, avenue, alley or highway proposed to be vacated, together with the distance of three hundred (300) feet in each direction from the end of such portion so proposed to be vacated; and a corporation whether domestic or foreign, may, when interested, join in and verify such petition by any officer thereof, and be counted as a resident for the purpose of this section. Each petition provided for in this section shall state the facts and reasons for such vacation, accompanied by a plat of the ground, and shall be verified by the oath of one of the petitioners. The common council when the petition is presented shall thereupon if it deem it expedient that the matter shall be proceeded with, order the petition to be filed of record with the city clerk, who shall give notice by publication in the official paper of the city for four (4) weeks, at least once a week, to the effect that such petition has been filed, as aforesaid, and stating in brief its object, and that such petition will be heard and considered by the common council or a committee by it appointed, on a certain day and place therein specified, not less than ten (10) days from the expiration of said publication. Said common coun-

cil or such committee as may be appointed for the purpose, at the time and place appointed, shall investigate and consider the said matter, and shall hear the testimony and evidence on the part of the parties interested. The common council after hearing the same or upon the report of the committee, may, by resolution, passed by a three-fourths (¾) vote of all of the members thereof, declare such streets, alleys, highways or roads vacated, which resolution if approved by the mayor, or passed over his veto, shall go into effect in the same manner as other resolutions after a transcript thereof and of said plat duly certified by the city clerk, has been filed for record and duly recorded in the office of the register of deeds of St. Louis county.

The common council may, by resolution, in any case, provide that no such vacation shall be valid until the value of the premises so vacated shall have been deposited in the city treasury, which value shall be fixed by resolution of the common council, by a three-fourths (¾) vote of all the members thereof, and shall in no case be less than a proportionate average value of the abutting property, according to the last previous assessment for taxation.

Provided, that vacations and discontinuances of such county territorial or state roads may be granted upon the petition of a majority of the owners of property through which the same or the portions thereof sought to be vacated exists, when such owners shall have platted the same and shall have provided, in lieu of such roads sufficient streets, in the opinion of the city engineer and of the common council, of which fact the approval of said commission and the acceptance of such plat and the resolution of vacation shall, when recorded, be conclusive evidence.

Canvass of Votes.

Section 74. The common council shall have the power to, and shall canvass the returns of votes at all city elections and declare the result thereof, and direct certificates of election to be issued by the city clerk to the person so declared to be elected.

New Offices Not to Be Created.

Section 75. The common council of the city of Duluth shall have no power or authority to create any new or salaried office not provided for by this charter; but nothing in this provision shall prevent the city and its officers from employing such servants and agents from day to day and from month to month as shall be authorized by the common council, by resolution.

Citizens Not to Be Relieved From Taxes, Etc.

Section 76. The common council shall not have the power or authority to relieve any citizen from the payment of any lawful tax, assessment, fine or license, or to exempt him from any burden imposed upon him by law or ordinance, or ordain the payment of any demand not authorized and audited according to law, except by a two-thirds (2-3) vote thereof.

No Power to Authorize Compromises.

Section 77. The common council shall not have the power or authority, except by a resolution adopted by a vote of two-thirds (2-3) of all the members elect of such council, to ordain or authorize any compromise of any disputed demand or any allowance thereof or therein.

Damages for Alleged Injuries.

Section 78. The common council shall not have the power to ordain or authorize the payment of any damages claimed for alleged injuries to persons or property except by a resolution adopted by a vote of three-fourths (¾) of the common council.

Solicitation of Appointments Prohibited.

Section 79. Save as he is authorized so to do by law, no member of the common council shall demand, request or solicit any department, officer or employe of the city to engage or hire any person to work for the city or to

place any person upon the pay roll of the city; and any member of the common council so demanding, requesting or soliciting, shall be guilty of a misdemeanor.

Appeal to District Court From Action of Council.

Section 80. Whenever the common council of the city of Duluth shall refuse to pay the claim of any person against the city for anything excepting the salary or wages of an employe or officer, such person may appeal from such decision of the common council to the district court of St. Louis county, Minnesota, by causing a written notice of such appeal to be filed in the office of the clerk of said court, after having served such notice on the mayor and comptroller of said city; such service and filing to be made within thirty (30) days after the common council has rejected or refused to pay such claim, and when any claim of any person excepting the claim of an employe or officer of the city for wages or salary, is allowed and ordered to be paid in whole or in part by the common council and such allowance or a resolution ordering the payment thereof is approved by the mayor of said city, no order shall be issued in payment of such claim or any part thereof until the expiration of three (3) days from the approval of such resolution by the mayor of the city of Duluth; and the city attorney of the city may in any case, and if the amount so ordered to be paid exceeds twenty-five dollars (\$25) he shall, upon the request of seven tax payers of the city, on behalf of and in the name of said city, appeal from the decision of the mayor and common council of the said city to the district court of St. Louis county, Minnesota, by causing a written notice of such appeal to be filed in the office of the said clerk of said court after serving the same on said mayor and comptroller. Such filing shall be made in all cases within thirty (30) days after the date of the resolution appealed from.

And after the taking of such an appeal, no order shall be issued in payment of any part of said claim until the judgment of the district court in

said proceedings shall be certified and filed in the office of the city clerk. When the notice of appeal is filed as hereinafter set forth, the district court shall have jurisdiction of the parties and of the subject matter of the proceedings and may compel a return to be made in the same manner as in the case of appeal from a judgment by a justice of the peace.

Upon such an appeal being taken as provided hereinbefore, the mayor shall notify the city clerk, who shall without any fee or charge for such service, within ten (10) days thereafter, file in the office of the clerk of the district court of St. Louis county, aforesaid, a certified copy of the claim, and a transcript from the record in the office of said city clerk, of the action of the common council and mayor thereon, with a copy of the notice of appeal and the date of the service thereof on the mayor. In the case of an appeal by a claimant, the city clerk shall immediately notify the city attorney thereof. The proceeding shall be put upon the trial calendar among the issues of fact, for trial at the next general term of the district court in the county of St. Louis, holden after eight (8) days from the date of the appeal, and on or before the second (2nd) day of such term the court shall direct pleadings to be made up as in civil actions, and thereupon the proceedings shall be tried; all questions of law arising in the case being summarily heard and determined upon the same pleadings, but issues of fact shall be tried as other issues of fact are tried

in the same court, and judgment rendered and approved as in civil actions, but no executions shall issue thereon except for the collection of a counter-claim or the claim of costs and disbursements, in case of a judgment thereof against a claimant.

An appeal from the judgment of the district court may be taken to the supreme court, as in civil actions, within thirty (30) days after the actual entry of the judgment; if no appeal is taken within that time, a certified copy of the judgment shall be filed in the office of the city clerk and if an appeal is taken to the supreme court, the determination of that court shall be certified to the district court and judgment entered in accordance therewith, and that judgment certified to and filed in the office of the city clerk. In all of which cases after a certified copy of the judgment is filed in the office of the city clerk; orders shall be drawn on the city treasurer in payment of any judgment in favor of the claimant; and execution may issue out of the district court for the collection of any costs against a claimant; provided, that in any case where costs are awarded against a claimant, and there is an allowance on the claim in his favor, the amount of such costs shall be deducted from such allowance; and in any case of an appeal the city may, in the district court interpose, as a counter-claim, any demand which the city has against such claimant, and have execution for the collection of any judgment in its favor.

Chapter VII.

Non-Elective Officers, Boards and Employes.

Officers and Boards to be Appointed by the Mayor.

Section 81. The following officers and members of boards shall, after the

adoption of this charter, be appointed by the mayor. On the second (2nd) Tuesday in March or as soon thereafter as may be, in each year, to serve for a term of three (3) years—a member

of the board of public works; and one (1) member of the board of fire commissioners to serve for a term of three (3) years; on the second (2nd) Tuesday in March, or as soon thereafter as may be, in every year, to serve for a term of five (5) years—one (1) member of the board of water and light commissioners, one (1) member of the board of civil service commissioners; on the first (1st) Tuesday in September of each even numbered year, to serve for two (2) years—a city assessor.

The following officers and members of boards shall, after the adoption of this charter, be appointed by the mayor with the advice and consent of the common council: On the second (2nd) Tuesday in March in each even numbered year, to serve for a term of two (2) years—a city attorney, a commissioner of health, a city engineer, and a building inspector; on the first (1st) Tuesday in May in each year to serve for three (3) years—three (3) members of the library board.

The following officers shall be appointed by the mayor with the consent of the judges of the district court of the eleventh judicial district; on the second (2nd) Tuesday in March in each year—one (1) member of the board of park commissioners.

Appointments Not Mentioned in This Charter.

Section 82. Where no provision is made for the appointment of any officer or member of a board mentioned in this charter, such appointment shall be made by the mayor by and with the advice and consent of the common council; and where no provision is made by section fifteen (15) for filling the vacancy in any office created by this charter, such vacancy shall be filled in the same manner as the original appointment was made.

Common Council to Elect City Clerk.

Section 83. On the second (2nd) Tuesday in March of each year, the common council shall elect by ballot, to serve for one year, a city clerk.

Qualifications of Officers and Members of Boards Appointed by the Mayor or Common Council.

Section 84. The city attorney shall be learned in the law. The building inspector shall be a practical builder, acquainted with all the details of the construction of buildings. The commissioner of health shall be a physician, duly licensed to practice as such, and the city engineer shall be a competent civil engineer.

Officers and Members of Boards Appointed by the Common Council or the Mayor—How Removed.

Section 85. All officers and members of boards appointed by the mayor or common council, may be removed as is provided by sections eleven (11) and twelve (12) of this charter, in the case of elective officers.

Appointment of Subordinate Employees.

Section 86. The officers and boards mentioned in this chapter shall, subject to the civil service and other provisions of this charter, and the rules of the civil service commission, appoint and may at their pleasure remove, discharge or suspend their assistants and such subordinate employees in their respective departments as the common council or the provisions of this charter may authorize them to employ, and may, subject to the provisions hereof, prescribe their duties. The secretary of the board of civil service commissioners also shall be secretary of the health commissioner, and shall be appointed by the civil service commissioners.

Officers Under Former Charter to Serve Out Their Terms.

Section 87. The city attorney, city assessor, city engineer and building inspector appointed under the former charter of the city of Duluth who are in office at the time this charter is adopted, shall serve until their successors are appointed and qualified under the terms of this charter. The health officer appointed under the said

former charter of the city of Duluth and in office at the time this charter goes into effect, shall act as commissioner of health until a commissioner of health is appointed under the terms of this charter and has qualified. The members of the board of fire commissioners, the board of park commissioners, the library board, and of the board of public works, appointed under the former charter of the city of Duluth who are in office when this charter goes into effect shall serve out their respective terms under the former charter. The city clerk who is in office when this charter goes into effect shall serve until his successor

is elected by the common council as herein provided, and has qualified. The member of the board of public works who is appointed on the second (2nd) Tuesday in March, 1900, shall go into office upon the expiration of the term of that member of the board of public works under the former charter of the city of Duluth whose term expires in the year 1900 under the provisions of said former charter.

Boards—How Constituted.

Section 88. The members of the various boards mentioned in this chapter, shall constitute said boards.

Chapter VIII.

City Attorney.

Duties.

Section 89. The city attorney shall be the legal advisor of the city and of all the boards and departments thereof, and shall perform all services incident to that office. He shall appear in and conduct all civil suits, prosecutions and proceedings in which the city or any board or department thereof shall be directly or indirectly interested and when necessary take charge of and conduct all prosecutions for the violation of all ordinances or resolutions of the city or any board or department thereof, and for the violation of any of the provisions of this charter.

Opinions and Other Services.

Section 90. The city attorney shall when so requested, furnish a written opinion upon any subject submitted to him by the common council or any committee thereof, or by the mayor or any board or head of a department of the city in respect to their official duties or their municipal affairs. He shall personally or by an assistant, attend all meetings of the common

council and of such committees of such council or such boards of said city as shall request his attendance.

To Notify Council.

Section 91. The city attorney shall notify the common council of the result of all actions in which the city is a party, or in which it is interested, and he shall keep a registry of files of all actions, suits and proceedings under his charge, in which the city is interested, and shall also keep and bind the briefs used in cases wherein he appears, and copies of all official communications and all opinions given by him to any officer, department or board. He shall deliver all property of whatever description in his possession belonging to the city or to the office, to his successor in office, who shall give him duplicate receipts therefor, one of which he shall file with the comptroller.

Assistants.

Section 92. There shall be an assistant city attorney who, in the absence

or disability of the city attorney shall have the same powers and duties as are herein prescribed for the city attorney; and he shall in general render the city attorney assistance in the discharge of the duties of his office. The common council may by resolution, passed by a two-thirds (2-3) vote, authorize the employment of additional counsel to assist the city attorney in any legal business of the city, but no such resolution shall be valid unless it specifies the work for which such assistant counsel is engaged and his compensation, in advance, for doing such work.

Approval of Contracts.

Section 93. The city attorney shall prepare all contracts, bonds and other instruments in writing, in which the city or any board or department thereof, shall be concerned, and endorse

thereon his written approval as to the form, correctness and validity thereof. And no such contract shall be valid until he has endorsed thereon such approval.

Provided, however, that the approval by the city attorney of the general form of warrants, bonds, coupons and similar obligations shall be sufficient without his approval of each separate obligation.

Conduct of Suits Against Employees.

Section 94. The city attorney shall, when directed so to do, by resolution of the common council, appear in and conduct the defense in any action, prosecution or proceeding against any officer or employe of the city, or any board or department thereof, on account of any act done by him while engaged in the performance of his official duties.

Chapter IX.

Health Department.

To Have Powers of Policemen.

Section 95. The health commissioner and his subordinates shall have the power of policemen in and about the performance of their official duties relative to the public health.

To Give Bond.

Section 96. The health commissioner, before entering upon the duties of his office shall execute a bond to the city in the sum of three thousand dollars (\$3000).

To Enforce Laws.

Section 97. The commissioner of health shall enforce the laws of the state, the provisions of this charter, and ordinances and regulations of the city relative to the public health, and

shall abate all nuisances injurious thereto, and prevent or exterminate contagious or infectious diseases among animals; visit all quarantines, hospitals and morgues, maintained by or located in the city, and all cemeteries, crematories, vaults and burial places maintained or regulated by the city, and shall exercise a general supervision over the sanitary condition of the city.

Reports of Vital Statistics.

Section 98. Reports of all births shall be made to the commissioner of health by the physician in attendance, and of all deaths and of all cases of typhoid fever and of contagious and infectious diseases as enumerated in section 103, and he shall file the same and keep a record thereof; and no human body shall be buried or deposited in any cem-

etry or vault in the city, or be removed therefrom, or otherwise disposed of, without the permit of the commissioner of health; but no charge shall be made for any such permit, which shall be issued in accordance with the general regulations to be made by the commissioner.

Professional Advice.

Section 99. The commissioner of health shall give to the mayor or other city authorities, all such professional advice and information as they may require with a view to the preservation of the public health, and whenever he shall hear of the existence of any malignant, contagious or pestilential disease, he shall investigate the same and adopt measures to arrest its progress.

Right to Enter Buildings.

Section 100. And for the purpose of carrying out the foregoing requirements, he shall be permitted at all times, from the rising to the setting of the sun, to enter into any house, store, stable or other building, and to cause the floors to be raised, if he shall deem it necessary, in order to a thorough examination of cellars, vaults, sinks or drains; and to cause all privies to be cleaned and kept in good condition and to cause all dead animals, or other nuisances or unwholesome things to be burned or removed or disposed of, as the commissioner of health may direct.

To Serve Notices to Abate Nuisance.

Section 101. In order to the carrying out the provisions of the foregoing sections, it shall be the duty of the commissioner of health to serve notice in writing upon the owner, occupant or agent of any lot, building or premises, in or upon which any nuisance may be found, or who may be the owner of such premises or shall have caused such nuisances, requiring him to abate the same within reasonable time, and such notice may be given or served by any officer who may be directed or deputized to give or mail the same.

To Make a Circuit of Observations.

Section 102. It shall be the duty of the commissioner of health to make a circuit of observations to every part of the city and its environs, where from its conditions or from any collateral circumstances the causes of disease are present, and in all cases where he may discover the existence of any agent, the presence of which will prove dangerous to the health of the city, and there is no ordinance competent to the correction of the evil, he shall immediately report the same to the common council, accompanied with his opinion of the necessity of extraordinary or particular action.

To Select Sites for Quarantine Stations.

Section 103. The commissioner of health, by and with the approval of the common council, may select, purchase, lease and establish such sites, places and boundaries for quarantine stations and purposes, and with the approval of said common council, may from time to time erect such buildings and hospitals upon such sites and places, and so keep the same in repair, as in his judgment may be deemed necessary.

To Provide Books for Keeping a Record.

Section 104. It shall be the duty of the commissioner of health to provide the necessary books for keeping a record of all transactions of said department, including the proper registration of births and deaths, and such other statistical information necessary for efficient working of said department.

Penalties For Violation of Regulations.

Section 105. Any person who shall violate any clause, provision, requirement, duty or regulation of this title, or any rule or regulation of the said commissioner of health, or physician or health officer in the discharge of his duty, or in charge of any quaran-

time in the lawful exercise of the powers in this chapter conferred, or any person who shall fail or neglect to comply with any such clause, provision, requirement, duty or order, or who shall interfere with or in any manner hinder any peace officer or agent of the department of health of the city, in the discharge of his duty as herein provided, shall, upon conviction, be subject to a fine not to exceed one hundred dollars (\$100) nor less than ten dollars (\$10) or to imprisonment for a term not to exceed ninety (90) days for each offense, together with the cost of prosecution, and the said commissioner may require the police force of the city to execute any of the orders referred to in this chapter, and it shall be the duty of such police force to execute the orders of the said commissioner of health.

To Require Reports.

Section 106. Said commissioner is authorized to require reports and information of such nature, and of such facts, and generally of such nature and extent as may seem proper to the commissioner and relating to the safety of life and the promotion of health from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools, and from the managers and principals and officers thereof; and from all other institutions, their officers and managers, and from the proprietors, managers, lessees and occupants of all theaters and other places of public resort or amusement in said district, and it is hereby made the duty of the officers of institutions and persons so called on or referred to, to promptly give such reports verbally or in writing, as may be required by said commissioner.

To Visit and Examine the Sick.

Section 107. It shall be the further duty of the commissioner of health to visit and examine, or cause to be visited and examined, all sick persons who shall be reported to him, as laboring under any yellow fever, ship fever, small-pox, cholera, and cause all such infected persons to be removed to the

cholera, small-pox or other hospital, or to some other place as he may think proper, not exceeding three (3) miles from said city, and cause them to be provided with suitable nurses and medical attendance, at their own expense, if they are able to pay for the same, but if not, then at the expense of the city.

To Post Notices of Contagious Diseases.

Section 108. It shall be the further duty of the commissioner of health to cause a notice, printed or written, in large letters, to be placed upon or near any house in which any person may be affected or sick with small-pox, diphtheria, cholera, yellow fever, scarlet fever or other violently contagious disease upon which shall be printed or written the name of such disease, and no person shall deface, alter, mutilate, destroy or tear down such notice, without permission of the commissioner of health.

To Have Charge of Small-pox Hospital.

Section 109. The commissioner of health shall have charge of the small-pox hospital and shall have power to employ such assistants and nurses as he may deem necessary; and it shall be his duty to see that the said hospital is supplied with suitable furniture, nourishment, fuel and medicines, and that persons dying therein, or in any other place under the charge of the city, are decently and promptly buried, and if necessary at the expense of the city.

To Take Measures Against Pestilence.

Section 110. In case of pestilence or epidemic disease, or of danger from anticipated or impending pestilence or epidemic disease, it shall be the duty of the commissioner of health to take such measures for the preservation of the public health as the public safety and health demand.

To Cause Premises to Be Disinfected.

Section 111. He shall have the power to cause any house or premises to be cleansed, disinfected or closed to visitors, and prevent persons from resorting thereto while any person is laboring under any of the diseases enumerated in section 108. He may by an order in writing direct any nuisance to be abated, or unwholesome matter or substance, dirt or filth, to be removed from any house or premises, and may prescribe the time and mode of doing so, and take any other measures he may deem necessary and proper to prevent the spread of any infectious pestilential or epidemic diseases.

To Require Boats to Stop at Quarantine.

Section 112. Said commissioner whenever, on account of the existence of any epidemic or contagious disease he shall think proper, may, by proclamation, to be approved by resolution of the common council, require all boats, vessels, railroad cars or other conveyances bound for this city, before the same shall land or stop at any wharf, depot or landing or stopping place therein, to touch or stop at any of the places or boundaries designated for quarantine purposes, and to leave all such sick or diseased persons, with their stores and baggage, as in the opinion of the officers of his department stationed at such quarantine places or boundaries, shall, on account of the existence of such disease, endanger the health of the city.

To Send Quarantine Regulations to Other Cities.

Section 113. Whenever it shall be deemed necessary to issue such proclamation, it shall be the duty of the commissioner to send the same, together with the substance of the regulations for quarantine and the period for which the same shall be in force, unless sooner revoked, to such cities and places as by him may be deemed proper.

To Station Physicians at Quarantine.

Section 114. He shall also cause to be stationed at such quarantine places as he may deem advisable, one (1) or more physicians or health officers, whose duty it shall be to go on board and examine all boats, vessels, cars or other public conveyances as aforesaid required to touch or stop at such quarantine respectively, and then and there determine what persons, if any, shall stop at such quarantine; and it shall be the duty of all persons conducting or in charge of any such vessel, boat, car or public conveyance, to aid and assist any such physician or health officer in the exercise of such duties.

Physicians to Attend to Sick at Quarantine.

Section 115. Said physician or health officer shall attend to all sick persons who may be landed or placed in quarantine, and provide medicines and necessaries for their use, and shall have general supervision of such quarantines, and compel persons therein to purify their bodies, clothes and baggage, and shall keep correct accounts of all expenditures and wages, which shall be allowed and paid by order of said commissioner.

Quarantine Physicians to Give Permits.

Section 116. Whenever such officer or physician in charge of any quarantine shall, upon examination, be satisfied that there is no longer occasion for detention of any boat, vessel, car or conveyance at such quarantine, and such boat, vessel, car or conveyance shall have been thoroughly cleansed, and such persons as aforesaid, landed and placed in the care of such physician or officer, such physician or officer shall give such vessel, boat, car or conveyance a permit signed by him, to enter the city, which shall be authority for the entry of said boat, vessel, car or conveyance and the said officers respectively, shall discharge all

persons in quarantine by their certificates for that purpose, whenever such persons are free of disease and their baggage and effects properly purified; provided, however, that the commissioner in his discretion, by proclamation for that purpose, may, during the prevalence of cholera, ship fever or other contagious or infectious disease, forbid the admission into the city of emigrants or others peculiarly liable to such disease, detained in any such quarantines or stations, until in his opinion, the health of the city shall justify the same.

To Keep Police Force at Quarantine.

Section 117. It shall be the duty of the said commissioner, whenever by him it shall be deemed necessary, to keep at the quarantine station or stations, a sufficient police force, whose duty it shall be to enforce all regulations by said commissioner established in pursuance of the provisions of this charter and to arrest all persons violating said regulations or committing any breach of the peace at such quarantine, and bring such person or persons before any court having jurisdiction, for trial.

Stopping at Quarantine to be Enforced.

Section 118. In case any boat, vessel, car or public conveyance shall leave any quarantine station or boundary without a permit as aforesaid, or shall fail to stop at the same when so required by proclamation, or whenever the person in charge thereof, or any person under his command, shall fail or refuse to obey any regulation or command of the said commissioner of health, physician or person in charge of any quarantine station or place, or any provision or requirement of this charter, said commissioner shall have the power, and it is hereby made his duty if in his opinion the health of the city requires it, to send sufficient police force to such boat, vessel, car or public conveyance, and remove the same with the crew and passengers on board, to be landed, or stopped, or conveyed to the quarantine station or place, and there to re-

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

To Make Rules for Quarantine.

Section 119. The commissioner shall make such rules and regulations for the government of the quarantine as from time to time he shall deem necessary, and the physician or health officer in charge of any quarantine station or place shall have the power to enforce such regulations; and it shall be the duty of all persons in quarantine, and all agents, officers, policemen and others employed by the city in and about said quarantine stations or places, to carry out and obey the same.

Appointment and Compensation of Quarantine Physicians and Other Agents.

Section 120. The commissioner by and with the approval of the common council, may appoint one (1) or more competent physicians as quarantine physicians, who shall preside at such quarantine stations as the commissioner or health officer shall designate, and attend to all the duties imposed by this chapter or by the regulations of the commissioner; and who shall receive, each, for actual services rendered, and for such time as such services shall be actually required, not less than five dollars (\$5.00) nor more than ten dollars (\$10.00) per day, to be allowed by the commissioner; the commissioner may also employ such agents, servants, nurses, or temporary medical assistants for the purpose of carrying into effect the object and intent of this chapter, as in his judgment shall from time to time be necessary, or authorize the employment thereof by the physicians or health officers in charge of any quarantine or station.

There shall at all times be, under the authority of the commissioner of health, an officer who shall be known as plumbing inspector, who shall not be, directly or indirectly, interested in any plumbing establishment; he shall be appointed in the same manner as the other agents and assistants of the commissioner are appointed, but he shall be a skilled plumber, and it shall be his duty to enforce all the laws of the state, the provisions of this charter and the provisions of the ordinances of the city in regard to plumbing and the inspection of plumbing, and he shall at all times have the right to examine any plumbing in the city, and for that purpose to enter any house therein during the day time.

Expenses of Quarantine.

Section 121. All expenses of quarantine are to be audited by the commissioner, and are to be paid out of the fund set apart for health purposes; or, in case of necessity, out of the general fund of the city, provided, that when able, the person taken in such quarantine stations, and receiving the aid and care afforded thereby, shall pay a sum of money sufficient to meet all expenses, labor and care incurred in his behalf, which said money shall be faithfully kept, reported and accounted for by the physician, health officer or other person in charge of said quarantine or station, to the commissioner; and all other expenses incurred by reason of this chapter, or of the regulation of the commissioner, shall be paid out of the fund set apart for health purposes or when necessary, out of the general fund of the city; but nothing in this section shall be so construed as to prevent the city, under any state legislation, from obtaining reimbursement for the expenses provided herein, from the county of St. Louis.

Cases of Infectious Diseases Not to be Imported.

Section 122. No person, master or captain, or conductor, in charge of any boat, vessel, railroad car or public conveyance, shall knowingly bring into the city any person or persons diseased of cholera, small pox, ship fever or

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

Vaccine Virus.

Section 123. The commissioner of health shall always have on hand as far as practicable, a sufficient quantity of vaccine virus; and he shall vaccinate and revaccinate, without charge, all persons who may apply to him, who are unable to pay for such service, and shall give certificates of vaccination to children who have been successfully vaccinated.

Penalties for Violation of Regulations.

Section 124. Any person who shall violate any provision or requirement of this chapter, or regulation of the said commissioner of health, made pursuant to this chapter, in reference to quarantine, or any person who shall fail or neglect to comply with any such provision or requirement or regulation or who shall interfere with or in any manner resist any peace officer or agent of the department of health of the city in the discharge of his duty, shall, upon conviction, be guilty of a misdemeanor and be subject to a fine

not to exceed one hundred dollars (\$100) for each offense, or to imprisonment for a term not to exceed ninety (90) days.

Registry of Births and Deaths.

Section 125. Every physician, midwife, or other person who may professionally assist or advise at any birth, shall make and keep a registry of every such birth, and therein enter the time and place, ward, and street of such birth, and the sex and color of the child born, and the name, and residence of each of the parents, as far as the foregoing facts can be ascertained; and the physician who has attended any person at a last illness or has been present in a professional capac-

ity at the death of any person, shall make and preserve a registry of such death, stating the cause thereof, and specifying the date, hour, place and street of such death.

Proper blanks for the above shall be furnished by the department of health.

Registry of Births to be Presented to Commissioner.

Section 126. Within five (5) days after any birth, and within thirty-six (36) hours after any death, any person required by section 125, to keep a registry thereof, shall make a written report to the commissioner of health of all of the facts contained in such registry.

Chapter X.

Board of Public Works.

Appointment, Terms of Office, and Qualifications of Board. Election of President.

Section 127. The board of public works shall be composed of three (3) persons who shall be citizens and free holders of the city of Duluth, each of whom shall hold his office for a term of three (3) years or until his successor is appointed and qualified. Each member of said board shall devote such time to his official duties as shall be necessary to the faithful performance of the same, and for any failure so to do and for any other cause deemed sufficient, may be removed from office in the manner provided in sections 11 and 12 of this charter. The members of said board shall give bond to the city in such sum as the common council may from time to time determine for the faithful discharge of their duties. The said board shall annually at its first meeting after the second (2nd) Tuesday in March, elect one of its own members president thereof. All va-

cancies in said board, whether by expiration of term of service or otherwise shall be filled by appointment by the mayor

Clerk and Assistants.

Section 128. The board of public works shall be entitled to one clerk and such other assistants as may be necessary from time to time to enable them to perform their official duties under this charter. The said clerk shall be appointed for such time as may be fixed by said board. The said board of public works shall have an office in some convenient place in the city provided by the common council, and they shall have and use a seal on all official papers executed by them which requires their signature to the same. The said clerk and assistants shall be subject to the orders and under the control of said board of public works and subject to the civil service provisions of this charter may be discharged by said

board at any time and the vacancies filled, if needed, by said board.

General Powers of Board.

Section 129. The board of public works shall have the supervision and control of all work of maintaining and repairing the streets, alleys, avenues, bridges, wharves, docks, culverts, sewers, tunnels, sub-ways, sidewalks, public buildings, public grounds and water courses, including the sprinkling of streets and the cleaning of streets, alleys, sewers, sidewalks, and public ground within the city and no person shall make any connection with any sewer or public drain without the consent of said board, and under such general rules and regulations as the board shall adopt. Said board shall also have, under the direction of the common council, the general supervision and control of the erection and removal of telegraph and telephone poles, and lamp posts, and electric lights within the city.

Said board shall also approve all estimates made by the city engineer upon any public improvement before any payment shall be made thereon;

Provided that nothing in this chapter contained shall be so construed as to give the board of public works any control over grounds, buildings or property, control of which is by the express terms of this charter granted to the board of park commissioners, water and light board or library board.

Members and Employes Not to be Interested in Contracts.

Section 130. No member of said board nor clerk nor employe thereof shall be interested, directly or indirectly in any contracts entered into by said board, or any other department or official of the city, nor shall they be interested, directly or indirectly, in the purchase of any material to be used by or for the city in any of its public work.

Power to Remove Dangerous Structures.

Section 131. The board of public works shall have the power to remove or cause to be removed or torn down,

all buildings, walls or other structures that may be liable to fall so as to endanger life or property, and for that purpose may enter upon and take possession of any premises upon which is located such dangerous building, wall or structure. Whenever in the opinion of said board the public safety demands the tearing down or removing of any building, wall or structure, said board shall request of the building inspector and city engineer that they examine such dangerous building, wall or structure, and report to said board in writing, their decision as to the necessity of such tearing down or removal, and it is hereby made the duty of the building inspector and city engineer in all such cases, to make such examination and report, and in case the said building inspector and engineer cannot agree upon the question of the necessity of such tearing down or removal, then the said board of public works may appoint some disinterested architect, at the expense of the city, to confer with the building inspector and engineer upon the question of such tearing down or removal and the decision of any two of said conferees shall be final. Upon the filing with the said board of public works by said building inspector and engineer or the majority of said conferees of a report declaring the necessity of the tearing down or removal of any such building, wall or structure, the said board shall notify the owner of such building, wall or structure, or his agent, if to be found in the City of Duluth, to at once proceed to such removal or tearing down and in case the owner or agent of such building, wall or structure, does the work of tearing down or removing the same, such work shall be done in the manner directed and under the supervision of said board of public works. In case the owner or agent of such dangerous building, wall or structure cannot be found in the City of Duluth, or in case such owner or agent shall after being so notified by the board of public works neglect for the space of twenty-four hours to comply with the requirements of such notice, then the board of public works may itself cause the work of such tearing down or removal to be done.

In all cases where the board of public works shall tear down or remove any dangerous building, wall or structure they shall report the cost thereof to the common council which body may order the payment of the bills for such work, and the common council is hereby authorized in all such cases to charge the cost of such work to the owner of such building, wall or structure so removed or torn down, and to collect such costs, from such owner, in a civil action, in the name of the city. In case of the incurring of any expense on the part of the city in the tearing down or removing of any such building, wall or structure, and the failure of the owner to pay such expense upon demand, the common council may cause an assessment to be levied against the real estate of any such owner upon which such building wall or structure stood prior to its tearing down or removal, to cover such cost or expense. In the same manner and with like effect as is provided in this charter for assessments for local improvements.

Power to Remove Obstructions from Streets.

Section 132. Said board shall have the power to cause all side walks, railings, streets and alleys to be kept in a safe condition and whenever in the opinion of said board there are unnecessary obstructions on any of the streets, avenues, alleys or public grounds of said city, caused by any corporation or individual, it shall be the duty of said board to give notice for the immediate removal of such obstruction, and to order such individual or corporation to place said street, avenue, alley or public ground in as good condition as the same was previous to said obstruction, and in case the parties so notified neglect or refuse for an unreasonable time after such notice, to comply with the requirements thereof, then it shall be lawful for said board of public works to cause such obstruction to be removed, and the City of Duluth is hereby authorized to sue for the expense necessarily incurred in such removal or to deduct the same from any money that may be

due or that is to become due from said city to the person or corporation so disregarding said notice, and to recover the same in a civil action.

Excavations Not to be Made Without Permission of the Board.

Section 133. No person shall occupy or obstruct or excavate in any street, avenue or alley in the city without a written permit from the board of public works, said permit to be given under such rules and regulations as said board may adopt.

Power to Let Contracts for Repairing, Sprinkling of Streets, Etc.

Section 134. The board of public works is hereby authorized to advertise from time to time for proposals for doing the work of sprinkling, cleaning, repairing, or repaving any of the streets of said city, or for repairing or rebuilding any of the sewers, tunnels, sub-ways, gutters, buildings, side-walks, cross walks, bridges, wharves, or docks, and for this purpose they may receive proposals and they shall let the work to the lowest responsible bidder who shall give adequate security for the performance of his work; Provided, that they may reject any or all proposals so made, and provided further, that no such contract entered into by the board of public works shall be effectual without the approval of the city engineer and of the common council. If in their opinion, the interests of the city require they may employ laborers to clean and work upon the streets by the day or month, as they may deem best.

Work to be Reported to the Common Council for Authority of Common Council to Pay for the Same.

Section 135. All work done under the supervision of the board of public works shall be reported to the common council from time to time, and no money shall be paid out of the treasury on account of work so done until the common council shall have instructed the city clerk to draw his warrant therefor.

Power of Board to Employ Special Skill.

Section 136. When the construction of any building or work by the said board of public works shall require peculiar skill not possessed by the city

engineer or some other officer of the city, the common council may, by resolution, authorize the board of public works to employ a competent person to superintend the same at a compensation not exceeding a sum to be stated in said resolution.

Chapter XI.

City Assessor.

Bond of Assessor.

Section 137. The city assessor shall, before entering upon his duties, give to the city a bond in the penal sum of five thousand dollars (\$5,000.)

Deputies and Clerks.

Section 138. The assessor shall appoint such deputies and clerks as may be required to enable him to properly do his work, each of whom shall be a qualified elector of the city for whose acts he shall be responsible. Each deputy and clerk shall act under the direction of the city assessor, and may be assigned by him such district or portion of the city or such other duties as such assessor may deem expedient. The deputy assessor shall deposit with the city assessor such bonds, with such sureties as he may require, and approved by him, in a sum not less than five hundred dollars (\$500). It shall be the duty of the city assessor to discharge such of his employes, from time time as the work proceeds, as are not indispensable.

Duties of City Assessor and His Deputies.

Section 139. The city assessor and his deputies, so far as authorized, and assigned by him, shall perform all the duties required by the General Laws of this state, and have all the powers, rights, and privileges allowed by the same respecting the listing of property for taxation; and notices may be

signed and given, and other acts relating to the duties of such office, done, by any such deputy assessor in the name of the city assessor.

Preparation for Assessment.

Section 140. The city assessor shall also make full preparation, and do whatever he can towards the making of his lists beforehand, and the county auditor shall deliver to him his assessment books, blanks, and other papers in season to enable him to do so; and he shall be allowed until the fourth (4th) Monday in June to revise his lists correct and equalize his appraisals, and make out and complete the assessment of the city, making in the manner prescribed by the General Laws of the state, returns which shall be certified and subscribed in each case by the city assessor who shall keep in his office a record of his lists, assessments and other proceedings in suitable books to be provided by the city.

Board of Equalization.

Section 141. The mayor, who shall be chairman, the comptroller and the city assessor, shall constitute a board of equalization, who shall be sworn according to law as such board and shall meet at the city hall, on the fourth (4th) Monday in June of each year and shall continue in session until the Friday next preceding the first (1st) Monday in July, to review, amend and equalize the work of the city as-

essor, pursuant to the General Laws of the state.

Records of Proceedings—Session and Powers.

Section 142. Said board shall elect one of its members as secretary, who shall keep a record of its proceedings; and it is hereby vested with all the powers which are or may be vested in the county boards of equalization under the General Laws of the state, but shall not be restricted by any limitations in respect to reducing the aggregate sum of real or personal property as returned by the city assessor.

Who May Appear Before Board.

Section 143. Every person aggrieved

by any assessment shall have the right to appear in person or by attorney before such board and present his grievance for its consideration.

Revision and Certification of Assessment Rolls.

Section 144. The city assessor shall revise his assessment rolls in accordance with the decisions of said board, and after the same shall have been certified by the mayor and secretary of said board, shall transmit to the county auditor such revised assessment rolls not later than the first (1st) Monday in July, and unless otherwise provided, the assessor shall proceed under the general law.

Chapter XII.

City Engineer.

General Duties of City Engineer.

Section 145. The city engineer shall be the chief of the engineering department of the city, and shall have general charge of all the engineering work required by the city or any of the departments thereof; he shall also have supervision and control of all the work of improving and constructing streets, alleys, public grounds, sewers, tunnels, sub-ways, public drains, bridges, wharves, docks, sidewalks and other public improvements of the city, including the supervision and control of the erection of public buildings. He shall prepare plans and specifications for local improvements and shall perform all civil engineering officially required by the board of public works, by the board of park commissioners or any other department of the city. He shall keep a full official record of all work done in his office, or under his supervision, which records shall belong to the city.

Appointment of Assistants and Employees.

Section 146. The city engineer may appoint such assistants and subordinate employees in his department as he deems necessary.

City Engineer to Establish Sewers.

Section 147. The city engineer shall establish a system of sewers for the entire city and cause the same to be designated upon the plans showing the streets, avenues and alleys through which the same are to be constructed, but such system shall not, unless authorized by resolution of the common council, conflict with or change the sewers that are already in operation in the city.

City Engineer to Establish Grades.

Section 148. The city engineer shall subject to the approval of the com-

mon council establish a system of grades for all streets, avenues and alleys within the city for which grades have not heretofore been established and the grade of any street, avenue or alley once established, either before or after the adoption of this charter shall not be changed, except upon the recommendation of the engineer and the approval of such recommendation by resolution of the common council adopted by two-thirds (2-3) vote of all the members elected thereto.

Surveys and Documents to be the Property of the City.

Section 149. All surveys, minutes, field notes, profiles, plans, drawings and estimates made by the city engi-

neer or any of his assistants for the city shall be the property of said city and shall be carefully preserved in the office of the engineer and be public records of the city. All deeds of conveyance to the city shall, after being recorded in the proper office be filed in the office of the city engineer.

Records of Surveys, Prima facie Evidence.

Section 150. Records of surveys as set forth in the preceding section made by the city engineer or his assistants, shall be prima facie evidence in any court of justice of the correctness of the statements therein contained.

Chapter XIII.

Building Inspector.

Duties.

Section 151. The building inspector shall perform all the duties prescribed by the common council relating to his office. He shall enforce or cause to be enforced the laws of the state and the ordinances of the city relating to the construction and inspection of buildings and structures, and the inspection of gas, water and electric meters for water and light not furnished by the City of Duluth and of elevators in all buildings and structures, within the city. The building inspector and his subordinates shall have the right to enter into any unfinished and unoccupied public or private building or structure at any time between the ris-

ing and setting of the sun, in the discharge of the duties of his office.

To Have the Power of Policemen.

Section 152. The common council may confer upon the building inspector and upon any one or more of his subordinates the power of policemen in and about the discharge of their official duties.

Bond of Building Inspector.

Section 153. Before entering upon the discharge of the duties of his office the building inspector shall execute to the city a bond in the sum of two thousand dollars (\$2000.)

Chapter XIV.

Water and Light Commissioners.

President and Vice-President of Board.

Section 154. The board of water and light commissioners shall elect annually one (1) of their number to be president of the board, and one (1) of their number to be vice-president, and may make by-laws and regulations for their government not inconsistent herewith.

Bonds of Employees.

Section 155. The board may require from the persons employed by them, bonds for the faithful performance of their duties. The amount of such bonds shall be fixed by the board, provided, however, that the manager of the board give a bond which shall be in the sum of at least ten thousand dollars. (\$10,000.)

Employees.

Section 156. The board of water and light commissioners shall have power to employ a manager, superintendent, clerks, engineers, surveyors, and such other persons as in their opinion may be necessary to enable them to perform their duties under this charter, and to specify the duties of such persons so employed and to fix their compensation. They may enter upon any land or water for the purpose of making surveys and examinations of the same. They may prosecute any action in the name of the city against any person or persons for the use of water, or for the breach of any contract, or for any injury, for trespass or nuisance done or caused to be done to the water courses or sources of supply, pipes, machinery or any other apparatus belonging to or connected with any part of the works, or for any improper use or waste of the water.

Extensions.

Section 157. The board of water and light commissioners may, from time to time, for the purpose of furnishing a full supply of water to the inhabitants of the city, extend any existing water works, or make new lines or works, and as it shall from time to time so make or extend said works or make new lines or works, it may draw from any lake, river or creek or stream by means of pipes, ditches, drains, conduits, aqueducts or other means of conducting water, so as to connect said lakes or creeks with its said works, and may erect and construct dams, bulkheads, gates, cribs, and other needed structures and means for controlling of water and its protection, and in general do any other act necessary or convenient for accomplishing the purposes contemplated by this chapter.

Eminent Domain.

Section 158. Whenever at any time said board shall propose to extend its works so as to connect with any of said lakes or creeks, or to divert the water of any stream, creek or body of water it shall proceed as follows: Said board shall cause to be made a survey of the line along which it shall so propose to extend its said works, and of all lands or other property to be effected by flowage, drainage or otherwise, and for that purpose it may, by its officers and agents, enter upon any lands doing no unnecessary damage therein. After such survey shall have been made and such line located it shall report the same to the common council which may proceed to condemn the same as in this charter provided.

Penalty for Willful Injury to Works.

Section 159. Any person who shall wilfully and without authority from said board, break, remove or damage any crib, dam, bulkhead, gate, gate-house, conduit, air-vent, air-box, air-box cover, main, pipe or culvert, or fill or partially fill up any excavation or raise or open any gate, break down or force open any doors of said works, constructed and maintained for the purposes specified in this chapter, shall on conviction thereof be punished by imprisonment in the state prison for the term of not more than five (5) years or by imprisonment in the county jail for a term not to exceed two (2) years or by a fine of not more than one thousand dollars (\$1000) or both such fine and imprisonment.

Unauthorized Use of Water.

Section 160. Any person who shall, without authority from the board, lay any main or service pipe, or take water therefrom or open or shut any surface-cock or fire hydrant, or remove or unscrew, wholly or partially, the cap from such fire hydrant, or enter or form any connection with, or turn water into any tunnel excavated or used by the board for the purpose of laying its pipe, or who being authorized by said board to take water from any main service pipe into any specified building or upon any specified premises, or to be used for any specified purpose, shall, without authority from said board, use such water for any other than a specified purpose, or permit any other person to use the same for any other than such specified purpose, or to take the same out of such building or premises, and such other person so using or taking such water, and any person who without lawful authority shall dig or excavate within six (6) feet of any main pipe, gate, hydrant or blow-off of said works, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment in the county jail for a term of not more than three (3) months.

Malicious Interference With Water.

Section 161. If any person or per-

sons shall maliciously or wilfully divert the water, or any portion thereof, from said works, or shall corrupt or render the same impure, or shall destroy or injure any canal, aqueduct, pipe, conduit, machinery or other property used or required for procuring or distributing the water, such person or persons and their aiders or abettors, shall forfeit to the said board, to be recovered in a civil action, treble the amount of damages (besides costs of suits) which shall appear on trial to have been sustained; and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one (1) year or both, at the discretion of the court.

Right of Board to Use Ground.

Section 162. The board in behalf of the city, and all persons acting under its authority, shall have the right to use the grounds or soil under any road, railroad, highway, street, lane, alley or court, for the purpose of constructing, enlarging, improving or repairing the works contemplated by this charter, on condition that it shall cause the surface of such road, railroad, highway, street, lane, alley or court, to be restored to its original state, and all damages done thereto to be repaired.

Regulation of Distribution, or Price of Water.

Section 163. The board shall regulate the distribution and use of the water in all places and for all purposes where the same shall be required for either public or private use, and fix the price and rates therefor; provided, however, that in case of hydrants for the extinguishment of fires and public fountains and watering places, the board shall fix and locate the same as the common council may direct.

City to Pay For Water.

Section 164. The city shall pay out of the water and light funds to the account of the board, at the price and rates so fixed by the board, for all

water furnished and supplied in the city for public fire hydrants, for the extinguishing of fires, for water used at public fountains and watering places, for water furnished and supplied to any of the boards or departments of the city, as the same are or may be hereinafter established, and all other water supplied to or used or consumed by the city. The board shall keep separate accounts with each of the other boards and departments, of all water furnished and consumed by each of the respective boards and departments. And the board is hereby authorized and required to restrain and prevent any and all wastage of water and to that end, may, when in its judgment necessary, turn off the water or take such other action as in its judgment may be proper.

Payment in Advance Required.

Section 165. The board shall have full power and authority to require payment in advance for the use of water furnished by them in or upon any building, place or premises, and in case prompt payment for the same shall not be made, then they may shut off the water from such building, place or premises, and shall not be compelled again to supply said building, place or premises, with water until all arrears, with interest thereon, together with the costs and expense of turning said water off and on, shall be fully paid.

By-Laws and Ordinances.

Section 166. The board of water and light commissioners are hereby vested with full power to make and enforce such by-laws, regulations and ordinances as may be necessary to carry into effect the object and intent of this chapter, and shall cause all such by-laws, regulations and ordinances to be entered in a book to be kept for that purpose and signed by the president and manager, which, when so entered and signed, shall be evidence in any court of justice.

Manager and Secretary.

Section 167. The board of water and

light commissioners shall elect some suitable person as manager, whose duty it shall be, under the direction of the board, to collect and receive and pay upon the following day into the city treasury, all moneys due on account of the operations of the water works, except as hereinafter provided, provided that the total of such moneys in his possession exceeds two hundred dollars (\$200).

He shall keep a set of books in his office which shall contain a full and complete statement of the condition and operation of the water works, of all moneys received and paid out by order of the board, and all debts due and owing to the board for any cause whatever, together with an accurate account of all the expenses of the board, which books shall at all times be subject to the inspection of the comptroller. At the beginning of each and every month the manager shall present to the board upon carefully prepared vouchers, all bills for labor and materials previously obtained or purchased by the board and not yet paid for, which after being examined and certified to by a committee of the board, previously appointed for that purpose, and approved by the board, shall be delivered to the comptroller and by him countersigned and presented to the common council at its next regular meeting, and the common council upon such presentation, shall immediately order payment or reject the same.

In case of inability from any cause to perform his duties as manager, the board may designate some other official to perform the same during such inability.

Duties of Treasurer.

Section 168. The city treasurer shall be the treasurer of the board, and it is made the duty of the treasurer of the board, to receive all moneys which may be paid to said treasurer, on account of the board of water and light commissioners from the sale of bonds or water taxes or from any source whatever; and all moneys so received shall be retained by the treasurer and paid out only upon the orders of the board, signed by the president and

manager thereof, and countersigned by the comptroller. The treasurer shall keep a detailed account thereof in such manner as to show at all times the exact financial condition of the board.

Duties of Comptroller.

Section 169. The city comptroller shall be the comptroller of the board, and as such shall keep regular books of account, in which all moneys received or paid out for or on account of the board, shall be entered. He shall countersign all bills and accounts allowed by the board, and other evidences of indebtedness of the board showing the amount received from all the different sources of revenue, and the amount disbursed under the direction of the board.

The comptroller shall, on the 15th day of each month return to the manager of the board, all bills and accounts received from the board for the month next preceding.

Books to Be Opened For Examination.

Section 170. The books of the board shall be open to examination of any person or persons appointed for that purpose or to the comptroller of the city. The board shall also on the first (1st) day of January and the first (1st) day of July of each year, make a report to the common council of the city of the condition of the works under their charge, and of the receipts and expenditures on account of the same.

Contracts To Be in Writing.

Section 171. All contracts for materials, or for the construction of any part of said work which shall involve an expenditure of the sum of three hundred dollars (\$300) or more, shall be in writing and in duplicate, and one (1) of which shall be filed with the comptroller, the other with the manager of the board, provided that in the event of an extraordinary and sudden injury to said works, whereby great damage might ensue by reason of any delay, the board may cause the dam-

age or break to be repaired without contract, and in such manner as the commissioners may deem for the best interests of the city.

The board may, in addition to the above, purchase and sell such materials or articles as may be deemed by them necessary to the satisfactory service of the several interests under its jurisdiction, such as gas stoves, gas lamps, water meters, and such other instruments and appliances as may be necessary to promote the business of the department, keeping separate accounts thereof.

Willful Omission From Water Rates.

Section 172. It is hereby declared to be punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail not exceeding one (1) year) or both, at the discretion of the court, for the board knowingly to omit the property of any person from assessments for water rates, or neglect or refuse to collect the same, or to discriminate in favor of or against any person in regard thereto; provided, however, when meters are employed for the purpose of showing the amount on hand, the water rent shall be collected monthly.

Engineer to Furnish Profile.

Section 173. Whenever the board shall determine to lay new mains, set hydrants, re-lay mains or re-set hydrants on any of the streets of the city, the board shall make application to the city engineer, whose duty it shall be, without unnecessary delay, to furnish the water commissioners with a profile of the streets with the grade lines thereon and to set stakes of grades and lines of streets and sidewalks when required. Before the board of public works of said city shall report in favor of a change of grade on any street on which the mains of said board of water and light commissioners are laid, it shall notify said board of water and light commissioners of the contemplated change, and it is hereby made the duty of said board of water and light commissioners, upon being so notified, to report to the board of public works the damage, if any,

that will be incurred by said board of water and light commissioners by said change of grade, which damage shall be taken into consideration as part of the cost of said improvement.

Rights of Way Paramount.

Section 174. In all cases where rights of way and easements have been or may be hereafter acquired, either by purchase of title or by condemnation, for the laying of any conduits, supply mains, or other appliances or works for supplying water as contemplated in this charter, such rights of way and easements shall be paramount, and neither the city or other corporation or person shall enter thereon, use or occupy the same for any other purpose than said purpose for which said right of way or easement was or may be acquired, except with the consent of the board.

City Liable for Acts of Board.

Section 175. Any and all causes of action, either at law or in equity which may exist or occur by reason of any act or omission by or on the part of the board of water and light commissioners, or of any and all of its servants, agents, employes, or otherwise, shall be brought and maintained by such claimant or claimants against the city; judgments recovered against the city therefor shall be paid out of any moneys in the hands of the city treasurer belonging to the board.

Board of Water and Light Commissioners to Control Other Plants.

Section 176. The board of water and light commissioners shall have the same control and authority over any plant acquired by the city for public services, of whatever nature such plant may be and however it may be acquired, either by purchase or erection, that they have over the water supply of the city, and shall have the right to employ and discharge employes subject to the general provisions of the charter in regard to such discharge or employment; to extend or repair such plant; to use for such purposes the ground or soil under any road,

railroad, highway, street, lane, alley or court of said city; to regulate the use of the service furnished by any such plant; to fix the price and rates therefor; to require payment in advance therefor and to enforce the same by depriving any party, who refuses to make payment therefor, of any such public service until such payment is made; to make and enforce such by-laws, regulations and ordinances as may be necessary to carry into effect said powers or the object and intent of this chapter in regard to any such public service; collect and pay over to the city any money due on account of said services, and to provide for other rules for the proper officers and employes for the discharge and regulations of such services in like manner as is provided by this chapter in the case of the water department.

Among the public works which shall be so under the control and regulation of the water department, shall be any plant for providing telephone service, water and light from any source, or gas, to the inhabitants of the city, or any part thereof; but the enumeration herein contained shall not be held to restrict the power of said board of water and light commissioners, but the same shall extend generally to any plant acquired by the city as aforesaid, and that furnishes to the inhabitants therein public services and all provisions herein contained, in regard to the water department, and the regulations of the power of the board of water and light commissioners in connection with such department, shall extend to any other public service so managed, as aforesaid, by the board of water and light commissioners, and each such public service shall be considered a separate department, subject to the control of the board of water and light commissioners and subject to the same regulations herein contained with reference to the water department.

Extension of Water Pipes—When Made.

Section 177. Extensions of the water pipes of the city shall not be made, except when ordered by the board of water and light commissioners and

by a resolution of the common council.

Assessment For Water Tax.

Section 178. The common council shall levy a tax of not less than one-half ($\frac{1}{2}$) of one (1) mill or more than one and one-half ($1\frac{1}{2}$) mills on the dollar annually on the assessed valuation of all the taxable property to be paid into the city treasury, to the account

of the board of water and light commissioners for the purpose of reducing the water rates to consumers; such tax to be levied and collected in like manner with other general taxes of the city.

Provided, that this section shall not in any manner limit or qualify the provisions of any other section contained in this charter authorizing or requiring taxes to be levied by the common council.

Chapter XV.

Commissioners of Civil Service.

Commissioners Not To Be of the Same Party.

Section 179. Of the civil service commissioners not more than three shall at any time be of the same political party.

Employes.

Section 180. Said commissioners may employ a secretary and in addition such examiners and other subordinates as the common council may authorize. The secretary shall also act as the secretary of the board of health.

Regulations and Who Are in Classified Service.

Section 181. Said commissioners shall prescribe, amend and enforce regulations for appointment to and promotion in the civil service of the city; and for classification and examination therein; but such regulations or amendments shall not go into effect without first receiving the approval of the mayor. All appointments in any department of the city government as herein expressly provided shall be made solely on the ground of merit and fitness, ascertained by competitive ex-

amination open to the public, and without any reference to the manner in which such appointee shall have acted or voted in politics or to the political party with which he is connected. Such examinations shall be under the sole control of the civil service commissioners herein provided for, and shall not be regulated or under the supervision of any other city officials, and in particular shall not be under the control, regulation or supervision of the city officials making the appointment in question. The merit and fitness on the part of such appointee shall be ascertained by one examination and not by separate examinations; and in case of the removal of any official or employee who is not exempt from examination, a statement in writing of the reasons for such removal shall be immediately filed by the official making such removal, with the mayor of the city, which statement shall be open to public inspection. The failure to file said statement within five (5) days after such removal shall operate to reinstate the official or employee. Any employe in office when the civil service commission is appointed may be continued in office, or may be without examination appointed to any corresponding office under the new city charter.

Who to Constitute Classified Civil Service.

Section 182. The following officers and employes, and none others, shall constitute the classified civil service of the city of Duluth:

1. All members of the police and fire departments, excepting the chief of police and the chief engineer of the fire department.

2. All persons employed in any office or department of the city, in clerical or office work, excepting the following: First:—The secretaries whose appointment is specifically provided for in this charter. Second:—Deputy assessors. Third:—The chief librarian of the city library. Fourth:—Any employe in any office of the city a part of whose duty it shall be to handle money. Fifth:—The assistant city attorney. Sixth:—Any officers elected by the people or appointed by the common council, or whose appointment is provided for in section 81 of this charter. Seventh:—Election inspectors, clerks of election, special policemen and detectives.

What Regulations Shall Include.

Section 183. The regulations made by the commissioners of civil service shall among other things, provide:

First:—For the classification of the offices, places and employments in the civil service of the city.

Second:—For examinations to ascertain the fitness of applicants for appointment to the civil service of the city.

All such examinations shall be public. No question in any examination under such rules shall relate to political or religious opinions or affiliations. The examinations shall be practical in their character and relate to those matters which fairly test the relative capacity and fitness of the persons examined to discharge the duties of the position to which they seek to be appointed. Such examinations, shall be open, competitive examinations, except where, after due efforts by previous public advertisement or other effort in case of extraordinary emergency, competition is found not to be practicable.

Third:—For the filling of vacancies in the offices, places and employments in the public service which are subject to competitive examination by selection from among those graded highest as the result of such examination.

Fourth:—For a period of probation before an appointment for employment is made permanent.

Fifth:—For promotion in office on the basis of ascertained merit and seniority in service, and upon such examination as may be for the good of the public service.

Persons in Official Service to Comply With Regulations.

Section 184. It shall be the duty of all persons in the official service of the city to conform to and comply with said regulations and any modification thereof made pursuant to the authority of this chapter, and to aid and facilitate in reasonable and proper ways the enforcement of said regulations and rules and any modification thereof, and the holding of all examinations which may be required under the authority of this chapter or said rules.

Applicants to be Subject to Examinations.

Section 185. All applicants for offices, places or employment in the civil service of the city of Duluth, shall be subject to examination under and in accordance with the rules so made by said commissioners.

Officers to Aid Board.

Section 186. All officers of the city shall aid said board in all proper ways in carrying out the provisions of this chapter, and at any place where examinations are to be held, shall allow the reasonable use of the public buildings for holding such examinations. The mayor of the city shall cause suitable rooms to be provided for said board at the expense of the city, and a sufficient sum of money shall be appropriated each year by the city to carry out the provisions of this chapter.

Interference With, and Fraud in, Examinations.

Section 187. No person or officer shall wilfully or corruptly by himself or in co-operation with one or more other persons, defeat, deceive or obstruct any person in respect to his or her right of examination, or corruptly or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or wilfully or corruptly make any false representations concerning the same, or concerning the person examined, or wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, employed or promoted.

No Allowances For Services if Appointment Violates Statute.

Section 188. No accounting or auditing officer shall allow the claim for services of any person employed in the public service in violation of the provisions of this chapter.

Method of Appointment After Examination.

Section 189. The board of civil service commissioners shall always keep in their possession a list of all persons who have passed examinations for appointment in any department. When an appointment is to be made, the appointing officer, officers or board shall make written requisition in duplicate upon the board of civil service commissioners, on forms to be prescribed by the rules of the board, for names of persons eligible to appointment. The board shall thereupon certify a list of names to the appointing officer, officers or board, and from such list the appointment shall be made. Such list shall be made up (First) of the names of any honorably discharged veterans of the army or navy of the United States who have served during the late civil war, and whose names shall be on said lists of eligibles. (Second) of the persons who stand highest on such list of eligibles with reference to the examinations had for filling the same, and of the same

class there shall always be certified at least three names more than the number of appointments required to be made, provided, that if any of the veterans so certified shall be entitled to certification on account of their standings in the examinations, the number certified on account of standing, need only be three (3) more than the number of appointments so required to be made inclusive of such veterans. No name shall be placed upon any certified list except the names of persons who have been residents of Duluth for at least six (6) months prior to the examinations held for filling such list.

Such honorably discharged soldier or sailor so certified shall be entitled to such preference in appointment and promotion as is secured to them by the terms of the general laws of this state. The board of civil service commissioners shall by their rules, provide what grade in such examination shall be necessary to entitle any person to a position on said list and said board shall also fix by its rules, the number of examinations and the time during which names once placed on the eligible list shall remain there. The board shall not certify the name of any person for appointment who is disqualified by reason of a physical infirmity or age in the judgment of the board for such appointment.

Report to Comptroller.

Section 190. Said commission shall, immediately after it has established the classified civil service of the city, deliver to the comptroller a certified copy of such classification and of such list. It shall thereafter certify to said comptroller all appointments to offices or positions in the classified civil service of the city and all vacancies occurring therein, whether by dismissal, resignation or death, and shall make such certification forthwith after such appointments or vacancies occur.

Duty of Comptroller.

Section 191. After a certified copy of the classification and the first civil service list has been delivered to the comptroller, the comptroller shall not

approve of the payment of salary, wages or compensation to any person occupying an office or position in said classified civil service, for service in said office or position, unless such person appears upon said first civil service list or his appointment has been certified by said commission to said comptroller; nor shall said comptroller approve of the payment of any such salary, wages or compensation for services rendered after said commission shall notify him that such office or position is vacant.

Penalty.

Section 192. If the comptroller shall, knowingly, approve or allow any claim for salary, wages or compensation, to any person for services in an office or position in the classified civil service of the city who is not entitled to such office, position, salary, wages or compensation, under and according to the provisions of this chapter, and of the rules of the civil service commission, then such comptroller and his bondsmen shall be liable to the city for the amount of the salary, wages or compensation so approved or allowed.

Emergencies.

Section 193. In order to prevent stopping of public business, or to meet extraordinary emergencies, the head of any department, board or office, may, with the approval of the mayor, make temporary appointments of persons not upon said examination register and forthwith notify said commission of the same, which appointments shall remain in force not exceeding twenty (20) days and only until regular appointments under the provisions of this chapter can be made.

Provided, that no such temporary

appointments shall be made until the examination register shall have been exhausted.

General Penalty.

Section 194. Any person who shall wilfully or through culpable neglect violate any provisions of this chapter or any rule promulgated in accordance with the provisions thereof, shall be punished by a fine of not less than fifty dollars (\$50) and not exceeding one thousand dollars (\$1000) or by imprisonment in the county jail for a term not exceeding six (6) months or by both such fine and imprisonment in the discretion of the court.

Forfeiture of Office.

Section 195. If any person shall be convicted under the next preceding section, any office or employment held by him under the government of the city of Duluth shall by force of such conviction be rendered vacant and such person shall be incapable of holding such office or employment, except in case of an elective office, for a period of five (5) years from the date of such conviction.

Notice of Examination.

Section 196. Notice of the time and place and general scope of every examination shall be given by the board by three (3) publications two (2) weeks preceding such examination, in the official paper of the city, and such notice shall also be posted by said board in a conspicuous place in their office two (2) weeks before such examination. Such further notice of examination may be given as the board shall prescribe.

Chapter XVI.

Park Commissioners.

To Elect President, Vice-President and Secretary.

Section 197. The board of park commissioners shall elect at its first (1st) regular meeting after the second (2nd) Tuesday in March, in each year, from the members of the said board, a president and vice-president. It shall also appoint a secretary and such other employes as it shall deem necessary.

Duties of Secretary.

Section 198. The secretary shall keep an accurate account of the proceedings of the board, and perform such other duties as may be required by the board for the proper conduct of the business of the department.

Report of Secretary.

Section 199. The secretary shall submit to said board at its first regular meeting in February in each year, a detailed report of the transactions of the board for the year preceding January first (1st) of that year, and of such other information as may be deemed necessary for the conduct of its business.

Rules of Board—Quorum.

Section 200. The said board may adopt rules governing its meetings and proceedings, and determining the duties of its officers and employes. A majority of said board shall constitute a quorum, but a less number may adjourn a meeting from time to time.

Authorities and Duties of Board.

Section 201. The board shall have exclusive authority, and it shall be its duty, to plan, lay out, establish and maintain, a system of public parks and park-ways for said city; to alter

and extend the same from time to time; to designate the grounds to be appropriated and acquired for such purpose; to have the general and exclusive management, control and care of all parks and park-ways; to plan, lay out and make all improvements thereof, and subject to the general rules and regulations of this charter, to employ, dismiss and fix the compensation of all such employes as the board may deem necessary to employ in the maintenance and improvement of said parks and park-ways.

Power to Spend Money.

Section 202. The board of park commissioners shall have the power to spend any moneys in the park fund in order to carry out and perform any of the powers and duties conferred upon them by this chapter, but they shall make no contracts and incur no debt in excess of such fund without the authority of the common council, except that in case of emergency, out of the general fund where there is no money in the park fund available for such purpose, they may make such expenditures as may be necessary to repair injuries to the parks, park-ways or boulevard from storms or other causes. The common council shall, at the time the levy is made in each year, fix a maximum of such expenditures from the general fund, and whenever such expenditures from the general fund are made, the action of the board of park commissioners shall be communicated to the first meeting of the common council thereafter, and the common council may prohibit any further such expenditure.

Superintendent.

Section 203. The board of park commissioners may in its discretion appoint a superintendent of parks, who shall

not be a member of the board, or it may combine such office with that of secretary.

Duties of Superintendent.

Section 204. Such superintendent of parks shall, under the direction of the board of park commissioners, have general supervision of all work and improvements of any public park, park-way, or boulevard, in the city, and shall see that all ordinances and rules relating to the government of such public parks, park-ways and boulevards are properly enforced.

Park Fund.

Section 205. All expenditures of said board of park commissioners, payment of which is not herein otherwise provided for, shall be paid from the park fund, and all moneys received by said board from any source, shall, where not herein otherwise directed, be paid into the city treasury to the credit of said fund.

Expenditures.

Section 206. All expenditures under this chapter shall be ordered and allowed by said board of park commissioners, and shall be paid by the city treasurer only upon orders of said board, signed by its president or vice president, attested by its secretary and countersigned by the comptroller.

Contracts.

Section 207. Said board shall have authority to make all contracts on behalf of the city authorized by this chapter, and the same shall be signed for the city by the president or vice-president, and attested by the secretary of said board.

Acquirement of Real Estate.

Section 208. The board of park commissioners shall have power to recommend to the common council of the city the acquirement by gift, purchase or condemnation, of real estate for public parks and park-ways.

Waters.

Section 209. Whenever title shall have been acquired by the city, for park purposes, to land constituting the shore of any stream, lake or pond of water, said board may, in all things, regulate and govern the use of such waters to the same extent as if it were the riparian owner.

Land Acquired for Park Purposes.

Section 210. The lands which may have been, or may hereafter be designated and obtained for park purposes, shall not be alienated, or diverted for, or to, other uses, and shall remain forever parks and park-ways for the use and enjoyment of all the inhabitants of the city, and shall be at all times subject to the exclusive jurisdiction and control of said board, save as herein otherwise provided.

Ordinances.

Section 211. Said board of park commissioners may adopt and enforce rules to secure the quiet, orderly and suitable use and enjoyment of said public parks and park-ways by the people, and to prevent the use of unsuitable vehicles therein or thereon; and the common council shall provide ordinances to compel the observance of such rules and fix penalties for their violation, which ordinances shall take effect from and after the publication thereof in the official newspaper of the city; all fines collected for the violation of such ordinances shall on the first (1st) Monday of each month be credited by the treasurer of the city to the park fund.

All rules, regulations and ordinances of the present board of park commissioners shall be and remain in full force and effect until the same shall be repealed.

Park Policemen.

Section 212. The mayor of the city shall upon the request of the board of park commissioners appoint such number of park policemen as the common council may authorize, and such policemen shall be under the control and

direction of the board, and be paid out of the park fund. The policemen so appointed shall possess all the common law and statutory power of constables, and any warrant for search or arrest issued by any magistrate or court of record in the county may be executed by such policemen in any part of St. Louis county.

Street Improvements and Embellishments.

Section 213. The common council may authorize the board of park commissioners to enter upon any public street or streets, of the city, and improve and embellish the same, and to plant, care for and protect any shrubbery, trees, grass plats and other embellishments thereon and generally to treat and care for any such street or part thereof as a park-way.

Planting of Trees.

Section 214. On the written application of one-third (1-3) of the owners of real property abutting on the streets within the limits of the proposed improvement, as the names of such owners appear on the transfer books in the office of the county auditor, at the time said petition is presented to said commissioners, the board of park commissioners may cause trees to be planted along any public street of the city that shall have been designated by the common council as one upon which the said board would have the right to enter for such purpose.

The board of park commissioners may for that purpose, use trees grown by it for such uses or it may purchase the same on such terms and in such manner as it may deem to be for the city's best interests.

The board may employ labor in the setting out of trees along the public streets, or it may in its discretion let such tree planting by contract to the lowest responsible bidder, which said bidding shall be on specifications prepared by said board and on notice in the official newspaper by not more than two (2) publications given at least ten (10) days prior to the receipt of such bids; the right being reserved to the said board to reject any and all bids.

Power to Lay Water Mains and Sewers.

Section 215. The common council shall have the same power and jurisdiction in respect to laying water mains and sewers along and across the park-ways in said city as it has in respect to laying the same along the public streets, and the same proceedings in levying and collecting special assessments for such along such streets shall apply to levying and collecting the same when laid along any park-way or boulevard.

The board of park commissioners may on behalf of the city, accept by gift, or devise, any land or lands outside the corporate limits of the city for park or park-way purposes and shall possess the same power and jurisdiction over such parks and park-ways as if they were located within the limits of the city.

Sale of Intoxicating Liquors.

Section 216. It shall be unlawful for any municipal authority, state, county, town or city, or any officer thereof, to license or permit the sale of intoxicating liquors within four hundred (400) feet of any park or park-way belonging to said city.

It shall be unlawful for any person to offer or keep for sale any intoxicating liquor within said limits and for the violation in any manner of the provisions of this section with respect to intoxicating liquors the offender, upon conviction in any court of competent jurisdiction therefor, for each and every such offense shall be sentenced to pay a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), and upon default in the payment of such fine shall be confined in the city jail for a term of imprisonment not exceeding sixty (60) days or until such fine is paid.

Right to Uncollected Taxes.

Section 217. When this charter becomes operative upon the city, the right of all uncollected taxes and special assessments for park and park-way purposes shall be and remain in the city exclusively for the purposes for which they were levied.

Chapter XVII.

Fire Department.

President, Vice President and Secretary.

Section 218. The board of fire commissioners shall annually elect from their members a president and vice president, and shall have the power to establish by-laws, rules and regulations for the government of the fire department. Said board may also elect a secretary to keep the minutes and books of said board, and to perform such other duties as may from time to time be required of him by them.

Chief Engineer.

Section 219. Said board shall appoint a chief engineer, who shall hold his position at the pleasure of the board.

Duties of Chief Engineer.

Section 220. The chief engineer under direction of the board, shall have the custody and general superintendence of the fire department engines and engine houses, hooks and ladders, hose and hoses, public cisterns and other property and conveniences for the extinguishment and prevention of fire; and it shall be his duty to see that the same are kept in order, and to see that the rules and regulations and ordinances relative to the fire department and to the prevention and extinguishment of fires are duly executed; and to make detailed and particular report of the state of the department and conduct of the members thereof, and such other matters as may be required by the rules and regulations of the board.

Assistant Engineers, Fire Wardens, Firemen, Etc.

Section 221. The board may provide for the appointment of one or more assistant engineers, and for one or

more fire wardens, and shall provide for the appointment of a proper number of firemen, and such number of hook and ladder men and hose men as it may deem necessary.

Board to Make Rules of Discipline.

Section 222. The board shall prescribe rules for the regulation of the fire department and the punishment and discipline of its members, and may provide for the summary suspension without pay or reduction in rank of any member of the department except the chief engineer for any misconduct, inefficiency or insubordination.

Board to Prescribe Duties and Require Reports.

Section 223. The board shall prescribe the duties of the chief engineer and other members of the fire department, and may vest in them such powers as shall be deemed necessary to preserve property from being stolen and to extinguish and prevent fires, but in no case shall any member of the board direct the chief engineer or assistants during any fire; and they shall require reports, from the chief engineer and other officers in charge of the department, of all fires, fire alarms, losses and insurance on all property destroyed, and keep proper record thereof.

Enforcement of Order at Fires.

Section 224. The common council may by ordinance provide for the removal and keeping away from fires, of all idle, disorderly or suspicious persons, and may confer powers for that purpose upon the engineer, fire wardens, and other officers of the city; and it shall also be competent for the common council to provide for the sending of

any steam fire engines, with hose and apparatus, to the relief of any other community.

Purchase of Materials.

Section 225. The board of fire commissioners shall have the power to establish and maintain an efficient system of fire alarm, telegraphic and telephone apparatus, and to purchase such fire engines and other fire apparatus and means of fire protection as may be necessary to secure the highest efficiency of the department; and may with the approval of the common council, expressed by resolution, sell or dispose of such property and shall pay over to the city treasurer all moneys that may come to their hands. The said board of fire commissioners shall, subject to the general provisions of this charter, provide for the complete equipment of the several companies with horses, engines, vehicles and other apparatus and obtain all supplies for said department. The board of fire commissioners in order to perform its duties and exercise its powers conferred by this chapter, may make such expenditures of money as it sees fit, but shall in no case expend any moneys not already in the hands of the city in the fund created to maintain the fire department of the city, nor shall they create any debt which shall be binding upon the city, without the consent of the common council nor in excess of the amount in said fund.

Erection of Fire Stations and Engine Houses.

Section 226. When the erection of fire stations or engine houses or the purchase of sites therefor, is authorized by the common council, all such purchases and erection shall be made by and under the direction of the board of fire commissioners; provided, that the common council shall authorize the purchase or condemnation for such purposes, of such sites only as the said board shall recommend, and all contracts for such construction shall be let by the board of fire commissioners, subject to the approval of the common council.

Allowance of Pay to Injured Firemen.

Section 227. The board may provide for the allowance to firemen injured in actual service in the department and rendered incapable of performing the duties of firemen, full or half pay for a period not to exceed twelve (12) months, but not exceeding in any case the period of disability.

Buildings Injured to be Pulled Down.

Section 228. Whenever any building of the city shall be on fire it shall be the duty of, and lawful for the chief engineer to order and direct such or any other building in the vicinity, which he may deem hazardous and likely to communicate fire, or any part of such building to be pulled down or destroyed.

Bills to be Audited and Allowed.

Section 229. The comptroller of the city shall examine all bills incurred by said board, and if found correct and authorized, shall audit the same; and, when audited and allowed and otherwise duly authorized to be paid, the same shall be paid by the city treasurer upon the warrant of the president of said board, countersigned by said comptroller.

Reports.

Section 230. The said board of fire commissioners shall, when required by the common council, report to them the condition of the department; and on or before the first (1st) Tuesday of July in each year, shall report in detail to said common council the receipts and expenditures of said department, with other matters pertaining thereto of public interest including a complete inventory of all the property under their charge, and said report shall also exhibit a particular statement of all fire alarms and fires which have occurred in said city during the preceding year, together with the cause

of all such fires as the same shall have been ascertained. It shall also exhibit a particular statement of all the losses caused by such fires, and insurance. It shall also show the amount of hose which shall have been used, the sources whence the supply of water was derived, the number and names of all companies under their direction, the names of all members and officers of such companies, and names of all persons in the employ of said board, and the compensation paid to them, and a statement of all expenses incurred under the direction of said board during the year; and shall set forth such other information relating to the fire department as to the board shall seem important.

Itemized Statement.

Section 231. The board of fire commissioners shall, also, annually, on or before the first (1st) Tuesday of July in each year, prepare and transmit to the common council of said city an itemized statement of the requirements and estimated cost of operating said fire department for the ensuing fiscal year.

Appointment of Electrician.

Section 222. The board of fire commissioners shall appoint a skilled electrician who shall have charge of all electrical apparatus of every kind, sort and description belonging to or operated by the city in connection either with the police or fire departments. It shall be the duty of the electrician, who shall be known as the city electrician, to see that such electrical apparatus is in proper order, and to recommend from time to time such purchases or changes in said system as he may deem proper, to the board of fire commissioners. He shall appoint, subject to the civil service provisions of this charter and such regulations as may be established by the board of fire commissioners, such subordinate help as may be necessary in his department. He shall also have charge and control of the operation of such electrical apparatus.

All questions regarding matters of an electrical nature coming before the common council, or the fire commissioners or any department of the city government, shall be referred to the city electrician for an opinion, and he shall give such opinion.

Chapter XVIII.

Library Board.

Power to Maintain Libraries.

Section 223. The common council shall have the power and authority to establish and maintain within the city, public libraries, reading rooms, galleries of art, and museums for the use and benefit of the inhabitants thereof, and for such purpose may levy a tax not to exceed one-half ($\frac{1}{2}$) of one (1) mill on the dollar annually on the assessed valuation of all the taxable property in the city, such tax to be levied and collected in like manner with other general taxes of the city.

Manage and Control Funds.

Section 224. The library board shall be a department of the city government and shall have the exclusive management and control of the expenditure of all moneys collected and received on account of the library fund from taxation or otherwise. No money shall be paid out of such fund except upon warrants from said board, accompanied by properly authenticated vouchers.

To Have Custody of Library Building.

Section 225. Such board shall also

have exclusive control and supervision of the construction of any library building, as well as the control, care and custody of all grounds, rooms or buildings held, leased, constructed or set apart for such purposes, and the books, papers and other personal property there placed and kept; shall have the power to lease, and provide appropriate rooms for the use of said library; shall have the power to appoint a suitable librarian and necessary assistants. Said board shall have power, when authorized by the common council, to purchase grounds and erect thereon a suitable building for the use of said library.

President, Vice President and Secretary.

Section 236. On the first (1st) Monday in June of each year, the members of said board shall meet and elect a president and vice president from their own number, and a secretary.

Orders for the Payment of Money.

Section 237. All orders for the payment of money for this department shall be authorized and allowed by said board by a majority vote of all its members, taken by yeas and nays, and entered upon the record of its proceedings, and shall be signed by the president and attested by the secretary. Such orders shall, before they are paid, be examined and countersigned by the comptroller, and thereupon, and not otherwise, paid by the city treasurer. Such orders shall be made payable to the order of the payee therein named, and shall not be paid without his endorsement.

Report.

Section 238. Said board shall make, on or before the second (2nd) Saturday of January in each year, an annual report to the common council stating the conditions of their trust on the first (1st) day of January of that year; the various sums of money received from the library fund and other sources, and how such moneys have been expended and for what purposes; the number of books and periodicals on

hand; the number added by purchase, gift or otherwise during the year; the number lost or missing; the number of persons attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information and suggestions as they may deem of general interest.

Libraries and Reading Rooms Free.

Section 239. Every library and reading room, or either of them, established under this charter, shall be forever free to the use of the inhabitants of the city, where located, always subject to such reasonable rules and regulations as the library board may adopt; and said board may exclude from the use of said library and reading room, or either of them, any and all persons who shall wilfully violate such rules.

Ordinances.

Section 240. The common council shall have power to pass ordinances imposing penalties for the punishment of persons committing injury upon such library or other property.

Donations and Bequests.

Section 241. Any persons desiring to make donations or bequests of money, personal property or real estate for the benefit of such library, shall have the right to vest the title to the money, property or real estate so donated, in the city, to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the city shall be held and considered to be a special trustee, such trust to be managed and administered through and by the library board as a department thereof.

Transfer of Libraries Now Existing.

Section 242. Any library already existing or hereafter established in the

city, may be transferred by any society or association, or individual owning the same, to such city, on such terms, not inconsistent with this charter, as may be agreed upon with said board; and of such property the city shall be held and considered to be a special trustee; such trust to be managed and administered through and by the library board as a department thereof, provided also, that the city may establish one or more reading rooms, in different parts of the city, in pursuance of the provisions of this chapter.

Association with Independent Societies.

Section 243. Said library board may enter into association with any independent society, or organization owning libraries or museums, or existing for purposes intended to those contemplated in this charter, upon such terms and conditions as shall best promote the object for which said board is created.

Property Now Belonging to Library Board.

Section 244. Any and all property, whether real or personal, of whatever nature, including all uncollected taxes, the title to which is vested in the existing library board of the city at the time this charter becomes fully operative upon the city, shall then forthwith become and be vested in the city, as the corporate successor of such board, with the same rights and subject to the same obligations and burdens, to be managed and cared for, however, by the library board created by this charter. And in all cases where such previously existing library board shall at that time be charged with any special trust, the city shall be and is hereby substituted and appointed special trustee for such person in place thereof, such trust, however, to be managed and executed by and through the library board hereby created as an administrative department of the city. And all rights and obligations existing at that time against said former library board shall be enforceable against the city.

Chapter XIX.

City Clerk.

To Have Custody of Corporate Seal and Papers.

Section 245. The city clerk shall have the custody of the corporate seal of the city, and all papers and records thereof, except as by law otherwise provided.

To Copy Records of Meetings and Attend Same.

Section 246. It shall be the duty of the city clerk to keep complete record of the proceedings of all meetings of the common council and for that pur-

pose to attend, either in person or by deputy, all such meetings.

Copies of Papers and Transcripts of Records.

Section 247. Copies of all papers and transcripts thereof from the records of the common council, certified by him under the corporate seal, shall be received in evidence in all courts, the same as though the originals thereof were produced by the city clerk at the trial, and he shall receive for certified copies of papers and instruments the same fees as are allowed by law to

the clerk of the district court of St. Louis county for like services. But nothing in this charter shall preclude said clerk in any case, from being brought into court in person or from being required to produce documents under subpoena duces tecum.

To Draw and Sign Orders on the Treasurer.

Section 248. He shall draw and sign all orders on the treasurer as directed by the common council except as otherwise in this charter provided, and shall keep a full and accurate account of the orders so drawn by him in books provided for that purpose, and shall attest the signature of the mayor to all contracts, and affix the seal of the city thereto, and deliver the same to the comptroller. He shall perform all other services required of clerks in cities and townships by the General Laws of the State of Minnesota.

To Turn Fees Into City Treasury.

Section 249. All fees received by him shall be paid into the city treasury each month with an itemized account thereof.

To Have Supervision of Printing.

Section 250. The city clerk shall have

supervision of all printing and official publications ordered by the common council, and it shall be his duty to cause to be published in the official paper the minutes of all the proceedings of the common council as soon after each meeting as practicable and also to cause to be published in said paper all ordinances as soon as practicable after their final passage.

Assistants.

Section 251. The city clerk shall have the power when authorized by resolutions of the common council, to appoint a deputy city clerk, who shall have authority under the direction of the city clerk or in the absence or disability of the city clerk, or in case of a press of business, to perform all the duties and to exercise all the powers of the city clerk. When so authorized, the city clerk may select such other assistants as may be necessary in his office.

Bond.

Section 252. The city clerk, before entering upon the duties of his office, shall execute a bond to the city in the sum of five thousand dollars (\$5,000) conditioned for the faithful performance of the duties of his office. Such bond shall be subject to the approval of the common council.

Chapter XX.

Police Department.

Mayor Head of Police Department. Of What to Consist. Appointment and Removal.

Section 253. There shall be in the city of Duluth a police department, of which the mayor shall have control and supervision, and be the chief executive officer and head, and which shall consist of a chief of police and

such other officers, police matrons, patrolmen, detectives and employes as may from time to time be authorized by the common council.

Such chief of police and, subject to the civil service provisions of this charter, all other officers, police matrons, patrolmen, detectives and employes so authorized, shall be appoint-

ed and may be removed by the mayor at his pleasure.

Who is Eligible.

Section 254. No person shall be eligible to appointment in the police department who is not a citizen of the United States and able to read and write the English language, and who shall not have been a resident of the city for at least three (3) years immediately preceding his appointment.

Temporary Police Officers.

Section 255. On occasions of large public gatherings or in case of riot, unlawful assemblage or disturbance, requiring additional police force, the mayor may appoint temporary police officers at a compensation of two and one-half dollars (\$2.50) a day, but such temporary appointment shall not continue in force for more than one (1) week without the consent of the common council.

Special Policemen.

Section 256. The mayor may likewise at the request of persons, firms, corporations, societies or organizations requiring special police protection, appoint special policemen who shall serve without expense to the city, and possess police power to preserve the peace, protect property and make arrests for crime at such places and within such limits as may be designated by the mayor; but such special policemen shall not exercise any official authority nor wear any badge of office outside of the limits so designated, except that in the event of an arrest made by a special policeman he may wear such badge while taking the person so arrested to the nearest police station.

Cause of Removal to be Published.

Section 257. The mayor shall within twenty-four (24) hours after removing any person from office in the police department, file in his office a statement of the cause of such removal, which statement shall always be open to public inspection.

Powers of Police Officers.

Section 258. The chief of police and all regular and temporary police officers shall possess the powers of constables at common law, and under the statutes of this state, and in addition thereto shall have the power to serve and execute any warrant, summons, commitment, writ, subpoena and process issued out of the municipal court or any justice court of the city, and shall have authority to pursue and arrest in the city or in any part of the state beyond the limits of the city, any person charged with, or who has committed any violation of any ordinance of the city, or any other offense or crime within the limits of the city. Provided, that no such officer shall have power to arrest without a warrant, except in cases in which arrests without a warrant are authorized by the General Statutes of the state; and the violation of any city ordinance shall be deemed a public offense.

Mayor and Chief of Police to Make Rules.

Section 259. The mayor and chief of police are authorized and required to make all needful rules and regulations not inconsistent with this charter, the laws of the state, or the ordinances of the city, for the government and control of the police department, and with a view to making said department, and all the officers and agents appointed under it, efficient, vigilant, prompt and useful to the city. All rules and regulations made in pursuance hereof shall be in writing, signed by the aforesaid officers, and shall be filed in the office of the city clerk, and shall be binding upon all the persons connected with this department. A book containing this chapter, and such provisions of this charter, ordinances and regulations relating to the police department as may be adopted, shall be printed in legible type, and securely bound with leather; the chief of police shall deliver one of said books to each member of the department, who shall always have the same in his possession.

Gratuities and Rewards Prohibited.

Section 260. Any member of the po-

lice department who shall accept from any person while in his custody, or after he shall have been discharged, or from any of his friends, or any other person, any gratuity or reward, or any description of intoxicating drink, or who shall receive from any person, without the written permission of the mayor, any reward for the arrest of any thief, or recovery of any goods or money, or compensation for damages sustained in the discharge of his duties, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not to exceed one hundred dollars (\$100) or imprisonment not to exceed ninety (90) days.

Police Officers to be Conservators of the Peace.

Section 261. The mayor, or acting mayor, the chief of police, the captains of police, the sheriff of the county, and all police officers shall be conservators of the peace, and may command the peace and suppress in a summary manner all riotous or disorderly behaviour or proceedings within the city limits, and for such purpose may require the assistance of all bystanders, and if need be, of all citizens; and in suppressing any riotous and disorderly behavior or proceedings, the supreme authority to command or direct shall reside in the senior or superior officer present, in the order in this section, above named.

Penalty for Refusing to Assist in Preserving the Peace.

Section 262. If any bystander or citizen shall refuse to aid in preserving the peace, or in suppressing riotous or disorderly behavior or proceedings, when thereto required as provided in the preceding section, he shall be

guilty of a misdemeanor and be punished by a fine of not more than fifty dollars (\$50) or imprisonment of not more than thirty (30) days.

Penalty for Falsely Assuming to Act as Police Officer.

Section 263. If any person shall, without lawful authority, assume to act as a police officer of the city, or falsely pretend to be authorized so to act, or wear a badge of a police officer within the city, he shall be liable to a fine not exceeding one hundred dollars (\$100) or to imprisonment for a term not exceeding ninety (90) days.

Penalty for Failing to Assist In, or Obstruction of Arrests.

Section 264. If any person shall willfully refuse or neglect to assist the chief of police or any policeman in making a lawful arrest, when requested by such chief or policeman so to do, or shall willfully resist, impede or obstruct such chief or policeman in making or attempting to make a lawful arrest, or in the performance of any other official duty, such person so offending shall be liable to a fine not to exceed one hundred dollars (\$100) or to imprisonment for a term not exceeding ninety (90) days.

Compensation to be Fixed by Common Council.

Section 265. Except as otherwise herein provided, the compensation of the chief of police, the officers, patrolmen, detectives and other employes of the police department, shall be fixed for the ensuing year by the common council, by resolution passed on the first (1st) day of November, or as soon thereafter as may be.

Chapter XXI.

General Provisions as to Contracts.

Contractor to Give Bond. Terms of Bond.

Section 266. Before any contract whatever for the doing of any work or labor, or furnishing any skill or material to the city for the erection, construction, repair or alteration, of any bridge, public building or other public structure, work or improvement or in the making of any public improvement whatever, shall be valid for any purpose, the contractor therefor shall enter into a bond with the city (or make the deposit herein provided for), for the use and benefit of the city and of all other persons who may perform any work or labor or furnish any skill or material in the execution of such contract, conditioned to pay as they become due all just claims for all work and labor performed, and all skill and material furnished in the execution of such contract, and also to save the city harmless from any cost, charge or expense, that may accrue on account of the doing of the work specified in such contract, and also to complete such contract according to its terms, and to comply with all the requirements of law, which bond shall be in an amount not less than one-half the contract price agreed to be paid for the performance of such contract. The common council may, however, by resolution, demand a larger sum.

Bonds of Contractors, How Executed, Approved and Filed.

Section 267. Every bond shall be duly signed and acknowledged by the contractor and surety or sureties as hereinafter provided. All bonds shall be prepared by the city attorney, approved by the mayor and filed with the contract in the office of the comptroller and shall be open to the inspection of the public.

—Deposit in Lieu of Bond.

Section 268. In lieu of the bond in section 266 provided for the contractor may at the time of entering into the contract, deposit with the city treasurer fifteen per cent of the contract price or such larger sum as may be required by the city. When such deposit is made, it shall stand as security for the city, and all persons who may perform any contract or labor or furnish any skill or material in the execution of such contract, and shall be deemed to be held subject to the condition required to be inserted in the said bond.

Corporations May be Sureties. When.

Section 269. Any company organized under chapter one hundred and seven (107) of the general laws of Minnesota, for 1883, entitled, "An Act to authorize the organization and incorporation of annuity, safe deposit and trust companies," as the same may be amended, or any company referred to in complying with the provisions of chapter forty-two (42) of the general laws of Minnesota for 1893, entitled, "An Act relative to recognizances, stipulations, bonds, obligations, and undertakings and to allow corporations to be accepted as surety thereon," as the same may be amended, may become sole surety on any bond required by this chapter, and such security shall in all cases be required, except when otherwise ordered by resolution of the common council, passed by two-thirds (2-3) majority.

Who May Maintain Action on Bond.

Section 270. Whoever shall perform or cause to be performed any work or labor or furnish or cause to be furnished any skill or material, including the any work,

labor, skill or material furnished in the repair of any tool or machine and including the use of any tool or machine, or material furnished particularly for the performance or execution of any contract mentioned in this chapter, and used therefor at the request of the contractor, his agents, executors, administrators or assigns, or at the request of any sub-contractor, his agents, executors, administrators or assigns, or at the request of the city, or its duly authorized agents in case the city shall have determined such contract and shall have completed the same at the cost of such contractor or sub-contractor, shall be deemed to be a party in interest under said bond, and may maintain an action thereon in his own name without joining the city as plaintiff, for the reasonable value or agreed price, as the case may be of the work or labor performed or skill or material or tool or machine furnished in the performance of such contract, or of any work, labor, skill or material furnished in the repair of any tool or machine furnished and used in the performance of any such contract.

Procedure in Actions on Contracts.

Section 271. Such action may be brought by any party authorized as hereinbefore set forth to maintain the same whenever his claims are not paid as the same become due. At the time of bringing such suit the plaintiff therein shall serve a copy of his complaint upon the mayor and city clerk, and judgment shall not be entered in such action until thirty (30) days after the service of said complaint upon the mayor and city clerk. The city shall be deemed to be a party in interest under such bond, and may maintain an action thereon.

Who May Maintain An Action When a Deposit is Made.

Section 272. Whenever a deposit is made in lieu of the bond as hereinbefore provided for, any person who has performed or caused to be performed, any work, labor or skill or caused to be furnished any material in the repair of any tool or machine and including

the use of any tool or machine or material furnished particularly for the performance or execution of such contract, and used therefor at the request of the contractor, his agents, executors, administrators or assigns, or at the request of any sub-contractor, his agents, executors, administrators or assigns, or at the request of the city or its duly authorized agents in case the city shall have determined such contract and shall have completed the same at the cost of such contractor or sub-contractor, shall be deemed to be interested in the funds so deposited.

Procedure in Action Where Deposit is Made.

Section 273. Any such person may maintain an action in his own name against the contractor for the reasonable value or agreed price as the case may be, of the work or labor performed or skill or material or tool or machine furnished in the performance of such contract, or of any work, labor, skill or material furnished in the repair of any tool or machine, or of any tool or machine or material furnished and used in the performance of such contract. Such action may be brought by any party authorized as hereinbefore set forth to maintain same, whenever his claims are not paid as the same become due. At the time of bringing such action, plaintiff therein shall serve a copy of his complaint upon the mayor and city clerk and judgment shall not be entered in such action until thirty (30) days after the service of said complaint upon the mayor and clerk. The complaint in such action shall set up the contract with the city, the deposit of the fund with the treasurer and the facts showing the right of the plaintiff to participate in such fund. After the commencement of any action as above provided and before the trial thereof, any person having a cause of action and entitled to claim payment out of such fund, may on petition setting up facts showing his right to participate in such fund in the same manner required in the complaint brought by the original party, be made a party to such action, and in said action the court shall adjudicate and determine the rights of all

parties appearing therein. If the amount on deposit shall not be sufficient to discharge all such claims in full after all claims of the city against such fund have been deducted, the amount shall be distributed pro rata in discharge of claims of the parties to said action. Whenever two or more such actions are pending the court shall on petition of a party to any of them consolidate such actions and shall adjudicate and determine the rights of all the parties therein. The claim of the city on any fund deposited as herein provided shall always be superior and paramount to any other claim and shall be satisfied in full, before any other claim shall be paid. A sub-contractor within the meaning of this chapter shall be deemed to be any person who enters into a specific contract with the original contractor to perform all or any part of the work required to be done under the original contract.

New Sureties of Deposit. When May be Required.

Section 274. Whenever in the judgment of the mayor a deposit by any contractor as herein provided for is no longer sufficient or any surety on the contractor's bond has become insolvent or for any cause is no longer a proper or sufficient surety, he may require the contractor to make such further deposit or furnish such new or additional bond as he may designate, within ten (10) days after notice to that effect, and thereupon, if so ordered by the mayor all work on such contract shall cease until such further deposit or new or additional bond as the case may be shall be furnished as required; and if such additional deposit or new or additional bond shall not be furnished as and within the time required therefor, the common council may at its option by resolution determine such contract and thereupon the city, through its proper authorities may complete the same as the agent, and at the expense of such contractor or may proceed to re-let such contract, and the contractor and his surety in case a bond is given, and the deposit in case one is made shall be liable for the expense of completing such contract.

Action on Bond, or Where Deposit is Given, Limitation.

Section 275. No action shall be maintained on any contractor's bond unless the claimant within ninety (90) days after performing the last item of labor or furnishing the last item of skill or material, shall serve upon the principal and surety or sureties in the said contractor's bond a written notice specifying the nature and amount of claimant's claim and the date of furnishing the last item of said work, skill or material, and unless said action shall be commenced within one (1) year after furnishing the last item of work, skill or material; nor shall any claim be maintained against any fund deposited by a contractor to secure the performance of his contract as herein provided, unless the claimant within ninety (90) days after performing the last item of labor or furnishing the last item of skill or material, shall serve upon the contractor and comptroller a written notice specifying the nature and amount of his said claim, and the date of furnishing the last item of said work, skill or material, nor unless said action shall be commenced within three (3) months after furnishing the last item of work, skill or material. The comptroller shall receive and file all notices so served. The fund deposited by any contractor as herein provided shall not be returned to him until the time for filing notices of claims against such fund has expired; nor until the time for bringing an action to subject such fund to the payment of claims has elapsed. Written releases of claims may be filed with the comptroller at any time. The provisions of this section with reference to actions, shall not apply to the city.

Affidavit That Claims are Paid to be Filed Before Estimates are Allowed.

Section 276. Before any contractor or his personal representatives shall receive any estimates on any contract on which a bond or deposit is required as provided in this chapter, said contractor or his personal representatives shall make and file with the

comptroller an affidavit that all claims for all work and labor to date, on the work for which an estimate is asked have been fully paid.

Contracts Not to be Assigned or Transferred.

Section 277. No contract on which a bond or deposit is required as provided in this charter shall be assigned or transferred in any manner and any assignment or transfer thereof, except by operation of law shall fully end and determine such contract and shall make the same null and void as to any further performance thereof by the contractor or his assigns, without any act on the part of the city; and the city through its proper authorities shall at once proceed to relet such contract, or may at its discretion proceed to complete the same as the agent and at the expense of such contractor and his sureties.

Sureties and Deposits Not to be Released.

Section 278. No assignment, transfer, abandonment or surrender either voluntary or otherwise of any such contract shall operate to release the principal or sureties on such bond, and no such assignment, transfer, abandonment or surrender shall ever avail as a defense to any action upon such bond in any court; nor shall the common council or any officer of any board of the city have any power to release or cancel such bonds or release any person from obligations thereunder or to release any deposit until all claims under the provisions of this chapter in such bonds or deposits are fully paid, or in case of claims other than those of the city released.

Suit on Bond Where City Completes Contract.

Section 279. If any such contract shall for any reason become ended or void and the city shall complete the same as in this chapter provided, and if the cost of so completing such contract shall exceed the amount unpaid by the city upon such contract at the

time the same became ended or void, in such case it shall be the duty of the city attorney to at once commence or cause to be commenced an action in the name of the city against such contractor and his sureties, in case a bond is given for the recovery of the difference in amount between the cost of so completing such contract and the amount unpaid by said city upon such contract at the time the same became ended or void.

Contracts to be Let to the Lowest Responsible Bidder.

Section 280. All contracts required to be let for work to be done for the city or for the purchase of material or property of any kind for the public use thereof not otherwise provided for in this charter in which the value of such work or the price or value of such property or material shall exceed the sum of two hundred dollars (\$200.00) shall be let to the lowest responsible bidder, reserving the right to reject any or all bids. In such case notice shall be given of not less than six (6) days of the time and place of letting such contract by two publications in the official paper, which notice shall substantially describe the work to be done or the material or property to be purchased and such other particulars as may be necessary and shall designate the time and place when and where sealed bids shall be received therefor. The said sealed bids or proposals shall be publicly opened and considered at the time and place designated in such notice, and when any such bid is accepted a written contract in accordance therewith shall be drafted by the city attorney and executed by the proper parties thereto. Each bid for said contract shall be accompanied by a check for ten per cent of the amount of the bid certified by some bank authorized to do business in the state of Minnesota, and any bid not accompanied by such check shall be absolutely void and shall not be considered. Such check shall be payable to the order of the treasurer of the city of Duluth. In case such bid is accepted and the bidder neglects or refuses to enter into the proposed contract with the city his check shall be forfeited absolutely to the city as

liquidated damages. This section shall not apply to the purchase of books by the library board for the public library of the city.

In case of sprinkling contracts the common council by resolution may dis-

pense with the above requirement that bidders furnish a check or may reduce the amount of such check or provide for the giving of a bond in lieu of such check. If a bid is rejected the check shall be returned to the bidder.

Chapter XXII.

City Finances.

Debt Not to be Increased or Credit Loaned.

Section 281. The debt of the city shall not be increased, nor shall any new bonds of the city be issued, except as provided herein, nor shall the city loan its credit, become a stockholder, or make, except as herein provided, contributions or donations to any person, company or corporation.

Provisions to be Made to Pay Bonds.

Section 282. The common council are authorized to provide by taxation, for the prompt payment of interest and for a sinking fund for the purpose of meeting bonds of the city at maturity, whether heretofore or hereafter issued.

Money—How Paid Out—City Orders.

Section 283. All moneys belonging to the city except as otherwise provided in this charter, shall be under the control of the common council, and shall be paid out only upon the order of the mayor and clerk, countersigned by the comptroller, duly authorized by virtue of a resolution of the common council, by an affirmative vote of two-thirds (2-3) of the whole number of the common council. Every order drawn upon the treasurer shall designate the specific purpose for which it is drawn, and the specific fund upon and shall be payable only out of such fund belonging to the city as is named in the resolution providing for its payment. Each order shall be payable to the order of the person in whose favor it

is drawn and it may be transferred by endorsement; no order on any specific fund shall be drawn or issued until there is money sufficient to the credit of such fund to pay the same, together with the orders issued since the adoption of this charter, that may then be outstanding against such fund; and the comptroller is prohibited from countersigning any such order until there shall be sufficient money, as aforesaid, in the treasury applicable thereto, to meet such order, together with the orders which may then be outstanding.

There shall be written or printed in full on each order the name of the fund or department to which it is applicable, and the orders of different departments so far as practicable shall be of different color and design.

Property Subject to Taxation.

Section 284. All property in the city of Duluth taxable under the laws of the state, shall be subject to taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed as provided for by law and this charter.

There shall be maintained in the city treasury the following funds, and the common council by a three-fourths (3-4) vote of the authorized membership thereof, may levy an annual tax upon all taxable property in said city for the support of such funds and the purposes following, that is to say:

First. An interest fund for which there shall be levied a sum sufficient

to provide for the payment of the interest to become due during the next fiscal year, upon the bonds and debts of the city. Out of such fund interest only shall be paid.

Second. A sinking fund to provide for the payment when due, of any bonds or any other funded debt which the city may be obligated to pay. For the maintenance of this fund shall be levied an annual tax of at least one (1) mill on the dollar of the assessed valuation of all taxable property in the city. This fund shall be applied only to the payment of the principal of bonds for the payment of which the city is obligated, when the same shall become due. All amounts of taxes collected to pay the interest on bonds and debts of the city, in excess of the amount of such interest, if any such excess there be, and all revenues of the city not otherwise appropriated, shall be paid into said sinking fund, the money of which shall be invested as hereinafter provided.

Third. A fire department fund to provide for the maintenance of the fire department.

Fourth. A police department fund, to provide for the maintenance of the police department, and the care and support of prisoners in its custody.

Fifth. A light fund to provide for the lighting of said city and the public buildings thereof, whether the same be done by the board of water and light commissioners or by private individuals or corporations, but the council shall have no power to levy a tax in any year for said fund in excess of one (1) mill on the dollar of all taxable property in the city of Duluth.

Sixth. A water fund to provide for the payment by the city of its bills and expenditures for water, whether the same be furnished by a department of the city or by private individuals or corporations.

Seventh. A public works fund, to provide for the support of the department of the building inspector, the department of public works, the engineering department, and for cleaning and repairing streets, sewers, sidewalks, cross-walks and bridges.

Eighth. A health department fund, to provide for the support of the health department.

Ninth. A municipal court fund to

provide for the support of the municipal court.

Tenth. A salary fund, to provide for the payment of the salaries of each officer of the city of Duluth and of clerk hire not otherwise herein provided, but which may be authorized

Eleventh. A printing and supply fund, to provide for printing and supplies for all departments of the city, not provided for by any other fund mentioned in this chapter.

Twelfth. A library fund, to provide for the support of the public library. There shall be paid into this fund all moneys derived from the sale or other disposition of any property of the city under the control of the library board, and the proceeds of all gifts made to said library board.

Thirteenth. A park fund, to provide for the purchase and maintenance of public parks. There shall be paid into the park fund all moneys derived from the sale of any park property of the city, and the proceeds of all special assessments or benefits assessed or levied on account of the acquisition, opening, laying out, extending or improving of any park, parkway or boulevard, and for the planting of trees on streets and public places in the city.

There shall be paid out of said fund all salaries and expenses incurred by said board on account of parks, parkways or boulevards and in the operation and maintenance of the park system of the city, and also the cost of acquiring, opening, laying out, extending and improving any park, park way or boulevard, or planting trees in said city.

In connection with said fund the city treasurer shall keep a separate account of all moneys derived from the sale or disposition of any park property of the city, and of all proceeds of the sale of bonds issued by said city for park purposes, and of all taxes or assessments levied or collected for the specific purpose of acquiring, opening, laying out or extending parks, parkways or boulevards, or planting trees in said city; and no part of the moneys in said separate account shall be used in said separate account for the current expenses or paid out for the current expenses of the park board.

Fourteenth. A water and light plant fund, to provide for the support and

maintenance of any plant owned, or operated by the city for furnishing to the city or its inhabitants, water or light, and to provide for the payment of the interest on any bonds which may be a lien upon such plants or either of them. There shall also be paid into this fund all moneys derived from the sale of any property acquired for or used in connection with the water or light plant of the city, and the proceeds of all special assessments levied on account of or in connection with such water and light plants or either of them; and also such amounts as may from time to time be realized from the sale of bonds, issued on account of said water and light plants, or either of them, and also moneys received from the operation of said plants, or either of them, including water rates, rentals and penalties.

The city treasurer shall keep a separate account of the proceeds of the sale of bonds issued by the city for the construction, extension or purchase of a water or light plant, or both, and no part of the moneys in said separate account shall be used in the maintenance, operation or repair of either of the said plants.

There shall be paid out of this fund the cost of the purchase, construction, extension, operation, maintenance and repair of said water plant and said light plant, and the interest upon all bonds which may be a lien upon such plants or either of them. Should there be any accumulation of moneys in this fund beyond the needs thereof, the common council may, by resolution, direct such accumulation or any part thereof, to be paid and transferred to the sinking fund of the city.

Fifteenth. A permanent improvement fund, for the purpose of paying the cost of all real property, and all rights therein, and all improvements thereon, which the city shall acquire for its various purposes, and the payment for which is not otherwise provided for out of other funds, and also for the purpose of paying such portions of the expenses of local improvements as shall devolve upon the said city. There shall also be paid into this fund all moneys received from the sale of any permanent improvements or property of the city, not otherwise disposed of under this charter, and also such amounts as may from time

to time be realized from the sale of bonds issued on account of this fund.

Sixteenth. A general fund, to provide for all current and incidental expenses of, and judgments against, the city not otherwise provided for, and such other disbursements as may be authorized by law. There shall also be paid into this fund all moneys received from any other source, save when received for a specific use and purpose.

In making up the tax estimates for any fiscal year of the amount estimated to be necessary for the support of the fire department and of the police department and for the salaries to be paid to city officers and clerk hire, and of the municipal court fund, the same being funds third (3rd), fourth (4th), ninth (9th) and tenth (10th) of this section, the maximum amount estimated to be necessary for each of said purposes shall be stated and the maximum amount which is estimated can be drawn from the general fund, for the purposes mentioned in said four (4) sub-divisions shall also be stated, and there shall be put into said tax estimate for each of said four (4) special funds to be raised by a levy, so much only as is necessary for such purposes respectively, after the amount which can be drawn from the general fund is deducted from the full amount estimated for such special fund, and said general fund may be drawn upon, the common council consenting thereto, for the purposes of each of said four (4) special funds, to the extent in the aggregate specified in said tax estimate.

The common council may provide by ordinance, that any assessment or assessments due the city at the time this charter goes into effect, or any lien on real estate acquired by virtue of any assessment sale prior to the passage of this charter, may be credited or transferred to the sinking fund, and when so credited or transferred all money realized from such assessments, liens or real estate, shall be paid into said fund.

Seventeenth. There shall also be a permanent improvement revolving fund, which shall not be supported by taxation. There shall be paid into the permanent improvement revolving fund, moneys received from all special assessments assessed and levied under

this charter for local improvements under the provisions of sub-chapter two (2) of chapter twenty-three (23) of said charter, and also such amounts as may be realized by the sale of the one hundred thousand dollars (\$100,000) worth of certificates or bonds authorized herein. In connection with said fund the treasurer shall keep a separate account of each assessment levied, and of each issue of bonds, the proceeds of which go into said fund.

Should there at any time be an accumulation of money in said fund greater than the probable demand upon said fund during the two (2) years next following, then the common council shall report such fact to the board of sinking fund commissioners, who shall, as soon as practicable, invest said accumulation substantially in the same manner that the moneys of said sinking fund are to be invested; or the common council may, by resolution, transfer such accumulation or any part thereof to the sinking fund of the city.

Moneys (1) in the city treasury to the city of Duluth at the time this charter goes into effect, (2) collected or to be collected from any taxes levied before this charter goes into effect, shall so far as practicable be divided among the several funds thereby established, and where such subdivision is not practicable, shall be kept in the general fund. The common council by resolution shall provide for such subdivision in accordance with the directions herein contained.

Where, prior to the time that this charter goes into effect, an assessment has been levied to cover the cost of a local improvement, which improvement has not, at said time, been paid for, the proceeds of such assessment shall be paid into the permanent improvement revolving fund, and the cost of said improvement shall be paid out of said fund.

The aggregate amount levied by the common council, in any one year, for said funds numbered fourth (4th) to sixteenth (16th) inclusive, shall not exceed three hundred and twenty thousand dollars (\$320,000) nor shall it exceed eleven (11) mills of the assessed valuation of all taxable property in said city; a levy in excess of either

of these limitations shall be void as to such excess.

From the general fund the common council may in every year and by a resolution, appropriate a sum not to exceed two hundred dollars (\$200) for contingent expenses incurred or to be incurred by the mayor in the detection of crime and prevention thereof, in the city, and also a sum not to exceed one thousand dollars (\$1,000) for the support of any benevolent or charitable object in the city of Duluth.

Sinking Fund and Investment Thereof.

Section 285. The mayor, the comptroller, the treasurer and the city attorney shall ex officio, constitute the sinking fund commissioners of the city, and the common council shall by ordinance define such as are their duties as are not herein prescribed.

The said commissioners shall have charge of the sinking fund and shall by and with the consent of the common council invest the same in bonds of the city of Duluth or other obligations of the city of Duluth issued under section 286 of this charter or in such other bonds as are permitted for the investment of the permanent school fund of the state of Minnesota, or in bonds of any city in the state of Minnesota having a population of five thousand (5,000) or more inhabitants, or in any county or school bonds in the state of Minnesota.

In case of investment of bonds or other obligations, of the city of Duluth, the same shall not be cancelled but shall be held in the sinking fund and the interest thereon shall be paid over and applied to the increasing of such sinking fund.

Whenever the principal of any of the bonds of the city shall become due, the said commissioners shall, by and with the consent of the common council, dispose of such of the bonds belonging to said fund, as with the money on hand belonging to the same, shall be necessary to pay such maturing bonds; and said commissioners, by and with the consent of the common council, may dispose of any of the bonds belonging to said fund, at such other times as the said commissioners and said common council may deem for the best interest of said fund.

Whenever the amount of such sinking fund, together with the interest or revenues therefrom, computed to the time of maturity of the bonds of the city, is sufficient to pay all of said bonds at maturity thereof, the levy of one (1) mill hereinbefore provided for may be omitted; but in case, by reason of decrease of interest, or depreciation of investment, or for any other cause, the said fund shall, in the judgment of the common council, be insufficient to pay said bonds at maturity, the said one (1) mill tax shall be resumed.

The said commissioners shall make a detailed report to the common council at its first (1st) meeting in July of each year and at such other times as the common council may require; and in such report the said commissioners shall state the condition of said sinking fund and the nature and amount and value of each of the securities thereto belonging, with a full description of each of said securities.

In case the common council or said commissioners, or any other city officer, shall fail or neglect to conform to any of the provisions of this charter relating to said sinking fund, any tax payer of the city, or any owner of any of the bonds of said city, shall have the right to maintain in a court of competent jurisdiction, a proper action or proceeding to enforce compliance therewith.

The substantial maintenance of the provisions of this charter relating to said sinking fund, for the payment of the principal and interest of the bonds of said city, is hereby declared to be a part of the contract with the holder of any bonds of the city and shall be kept inviolate.

Whenever at the maturity of any bonds of said city the said sinking fund shall not have moneys sufficient to pay the bonds so maturing, and whenever the common council shall deem it advisable and for the best interests of the city, to take up any outstanding bonds of the city not due, the common council may issue bonds of the city to run not exceeding thirty (30) years on such terms as to place of payment and rate of interest as may be deemed advisable in such amount as may be necessary to meet such deficiency, or to take up and refund such bonds not due; provided that the re-

funding bonds, other than those issued to meet such deficiency, shall in no case draw a higher rate of interest than the bonds so taken up.

Power of City to Borrow or Increase Debt.

Section 286. The city of Duluth may issue bonds by ordinance as follows:

First. To pay the floating indebtedness of the city existing at the time this charter goes into effect. Such bonds shall be issued solely for the purpose of paying, and they may be issued in sufficient quantities to pay such floating indebtedness.

Second. For the purpose of constructing, regulating, maintaining, or extending or improving suitable water and light plants or either of such plants, or for the purpose of purchasing, maintaining, extending and improving any water and light plants or either of such plants already in existence in the city, or for the purpose of acquiring or paying for any real estate or other property needed in connection with such water or light plants or either of them for the maintenance and purity of the water supply or otherwise.

Third. Such additional bonds as may be necessary to extend, enlarge or improve such water and light plants or either of such plants. The bonds mentioned in the above sub-divisions one (1), two (2) and three (3) shall be authorized, issued, negotiated and sold in the same manner as other city bonds, and those in sub-divisions two (2) and three (3) shall be a first lien upon all water and light plants and structures of every kind, if issued for both, or if for only one then upon the appliances and structures thereof and all property acquired or used in connection therewith, owned or purchased by the city, and the proceeds of said bonds shall not be expended for any other purpose than that for which they are issued.

Fourth. The city of Duluth may by ordinance, borrow money and issue bonds, notes, certificates and other evidences of indebtedness to pay, fund or refund any city debts, floating, bonded or of any kind existing at the time this charter goes into effect, or created thereafter at any time, in any manner,

by said charter expressly authorized.

Fifth. The city of Duluth may by ordinance borrow money and issue bonds, notes and certificates of indebtedness, or other evidences of indebtedness to pay, fund or refund any special improvement certificates, or any bonds, notes, certificates of indebtedness, orders or obligations issued prior to March 10th, 1899, or thereafter at any time or in any manner by this charter expressly authorized. The city of Duluth may, by ordinance, borrow money and issue notes, certificates or other evidences of indebtedness in anticipation of any taxes or assessments levied upon any portion of the taxable property prior to the time this charter goes into effect, whether or not any proceeding shall have been taken to enforce the payment thereof. The ordinance mentioned in the above mentioned sub-divisions one (1) to five (5) inclusive, shall prescribe the form and term of such bond, notes, certificates and evidences of indebtedness. The city of Duluth shall have authority in such ordinance to provide that the same shall be general obligations of the city, or that they shall not be general obligations of the city, but shall be payable out of any specified taxes, assessments, funds or liens held by the city, property, or may limit the city's liability thereon in any other manner, or may provide that the city shall guarantee payment of the same. Provided, that bonds issued under sub-divisions one (1), two (2) and three (3) above mentioned, shall be always general obligations of the city, and without prejudice to the powers hereinbefore granted; the city of Duluth shall have authority by ordinance, to assign any property acquired by the city under any proceeding to enforce special assessments for local improvements, whether such proceeding has been had prior to the time this charter goes into effect or shall be had thereafter, or any lien or right of action held by the city on account of or arising out of any such assessment as security for the payment of any bonds, notes, certificates of indebtedness or other evidences of indebtedness mentioned in this section, or to provide that such bonds, notes, certificates of indebtedness, or other evidences of indebtedness mentioned herein may be

collected out of any such property, liens or rights of action.

The city of Duluth shall also have authority, by ordinance, to provide for the issue of bonds not exceeding one hundred thousand dollars (\$100,000) in amount for the purpose of a revolving fund as mentioned in the chapter of this charter providing for special assessments for local improvements. No bonds excepting bonds for refunding indebtedness shall be issued for any purpose, to an amount exceeding one hundred thousand dollars (\$100,000) until the proposition to issue said bonds has been approved by a majority of the legal voters of the city voting at a general or special election.

Whenever the common council passes any ordinance to issue bonds in pursuance of the provisions of this section, such ordinance shall provide for the submission to the legal voters of the city at some general city election or at some special election to be called by the common council for that purpose, the proposition of issuing said bonds to an amount deemed by said common council advisable. Any such election shall be called, if a special election, and whether special or general, shall be conducted in the same manner and with the same formalities as special and general elections are respectively conducted under the terms of the general laws of this state. The ballot to be voted at such election shall read substantially as follows:

Shall bonds be issued by the city of Duluth under the provisions of section 286 of the charter of said city to the amount of (here state amount) for the purpose of (here state purpose).

The debt of the city of Duluth shall not be increased beyond five (5) per cent of the total value of the taxable property of the city according to the last preceding assessments for the purpose of taxation, nor shall any bonds be issued while the debt of the city remains in excess of five (5) per cent of the total value of the taxable property of the city according to the last preceding assessments for purposes of taxation, except for the purposes mentioned in sub-divisions one (1), two (2) and three (3) above set forth, for the paying of the maturing bonds of the city, or by the issue of bonds for the permanent improvement

existing fund heretofore provided for in this chapter.

Bonds, notes, certificates and other evidences of indebtedness and obligations of the city of Duluth authorized by this section shall in no event bear a greater rate of interest than six (6) per cent per annum. And if they run for over five (5) years shall not bear a greater rate of interest than five (5) per cent per annum, and shall in no event be sold for less than the par value thereof, and shall be sold in accordance with the provisions of chapter 355 of the general statutes of Minnesota of the year 1897, sections 1 and 2.

Levy—When Made.

Section 287. The levy shall be made by the common council on or before the tenth (10th) day of October of each year, and the same shall be entered upon the tax duplicates for the county, and collected with the county and state taxes.

Separate Account to be Kept For Each Fund.

Section 288. The comptroller and treasurer shall each forthwith, as soon as the tax estimate is made in any year, open and keep in his book separate and distinct accounts for each of the several divisions of taxes shown in the tax estimate of the then current year; and in making any tax estimates for expenditures and in making any levy, the common council shall itemize the same, so as to show separately the amount to be collected from taxes for each fund, as said funds are designated in section 284.

And it shall be the duty of the treasurer to keep in his books a complete, accurate and separate account of each and all of the separate funds embraced in sub-division numbered one (1) to seventeen (17) inclusive of section 284 above, which shall clearly and accurately show at all times the amount of money received by him for the credit of each of such accounts, and whence received, and the amount of money paid out by him on account thereof, and to whom and for what purpose paid out.

Said treasurer shall also keep a separate and distinct account for moneys

received or to be received for each local improvement, for which an assessment is made, and when any money is collected by him from the county treasurer, or any other source, on account of any such assessment, it shall be the duty of the treasurer to credit the sum to its separate assessment account. Whenever the county treasurer shall pay over to the city treasurer any taxes belonging to the city and collected under any levy and whenever any money is received by the city treasurer from the sale of any certificates of indebtedness disposed of in anticipation of a collection of a tax based on a tax estimate, the city treasurer shall credit each of the respective funds and accounts with its proportionate amount of receipts according to the tax estimate of the fiscal year for which such estimate is made. The money collected on account of assessments shall not be paid out by the treasurer except in payment for assessment work. The money received from the sale of certificates of indebtedness based on a tax estimate and the money received from the county treasurer on a tax levy based on such estimate, shall be used and applied only to defray the expenditures together with the arrearages due and unpaid for the specific object or objects for which said estimate was made and said taxes were levied.

After the accounts are opened in the books as hereinbefore provided, any moneys thereafter received by the city from the collection of taxes delinquent, shall be forthwith distributed to the funds provided for herein, so far as such funds correspond to the funds named in the particular tax levy on which said delinquent taxes are collected. And so far as they do not correspond, the delinquent taxes collected shall be credited to the account of the general fund. The surplus of any year's receipts over expenditures in any particular fund may be carried forward to the same fund of the succeeding year.

County Treasurer to Keep Accounts.

Section 289. It is hereby made the duty of the county treasurer of St. Louis county, in the collection of taxes, to keep his accounts or books so as to

show at all times the amount of money received or collected for the city, specifying all such taxes by the respective years for which they were levied, and the respective portions, thereof which are for interest and penalties.

County Auditor—When to Make Settlements.

Section 290. It is hereby made the duty of the county auditor of St. Louis county, quarterly, as provided in the general statutes of Minnesota, to draw his warrant upon the county treasurer in favor of the city treasurer, for all money in the county treasury for taxes belonging to the city, and another warrant for all money, if any, collected on account of local assessments belonging to the city, and upon presentation of the same to the county treasurer of St. Louis county, he shall pay the same respectively out of the moneys received and collected by him for the city, and, if any, for the local assessments.

Said auditor shall at the same time transmit to the city treasurer and comptroller a statement showing the separate amount so paid over on account of each separate local improvement.

Comptroller to Designate Funds From Which Claims, etc., Are to be Paid.

Section 291. It shall be the duty of the comptroller of the city in auditing and adjusting claims and accounts, as herein provided, to designate and specify upon each claim, demand and account so audited and adjusted, the particular fund or account, as said fund or account is shown by the last tax estimate, and the tax levy based thereon, when made, out of which the same shall be paid; and no claim, demand or account shall be audited or adjusted by him, or reported to the common council, until there shall be sufficient money in the treasury to the credit of the particular fund or account, out of which the same is payable, to pay the same as well as other unpaid claims before that time audited and allowed against said fund.

City Clerk to Enforce Designation of Funds and Designate Same Upon Orders.

Section 292. The city clerk shall not prepare or sign any order on the treasury unless the requirements of section 291 as to the designation of the fund or account have been complied with by the comptroller, and in drawing each order the clerk shall designate thereon the particular fund designated upon the claims by the comptroller, and the comptroller shall not countersign such orders unless the same shall be drawn upon the particular fund by him designated therefor, when said claim, demand or account was audited and adjusted by him as aforesaid.

Claims Not to be Allowed Unless Money in the Treasury.

Section 293. The common council shall have no power or authority to allow or authorize the payment of any claim or demand or to authorize the appropriation of any money unless sufficient money out of which to satisfy said claim, appropriation or demand, and applicable thereto, is actually in the treasury of the city; provided, however, that this provision shall not apply to a contract for the satisfaction of which a local assessment is to be made.

Appropriation of Money for Contract Invalid, Unless Fund is Specified.

Section 294. No ordinance, order or resolution of the common council appropriating money or requiring the payment or expenditure of money by the city, and no contract requiring the payment of money by the city, shall be operative or valid unless there is specified therein the particular fund out of which the same is to be paid.

Limit on Power to Create Indebtedness.

Section 295. Whenever the expense and obligations incurred, chargeable to any particular fund or department of the city, in any fiscal year are sufficient in the aggregate to absorb eighty (80) per cent of the entire amount embraced in the tax schedule

for that year, together with eighty (80) per cent of the amount estimated, in the apportionment of the current year to be received by said fund from other sources including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of the city shall have any power, and no power shall exist, to create any additional indebtedness (save as the remaining twenty (20) per cent of said tax levy or estimate is collected) which shall be a charge against any particular fund or department, or which shall be in any manner a valid claim against the city, but said additional indebtedness or obligation attempted to be created shall be a personal claim against the officer or the members of the municipal board or body voting for or attempting to create the same.

Comptroller to Make Monthly Reports.

Section 296. It is hereby made the duty of the comptroller to communicate to the common council, in writing, at each of its first regular monthly meetings, a statement showing:

First. The amount of cash on hand in the treasury belonging to each fund or department of the city, on the first of the then current month, as said funds or departments are specified in the last tax estimate, and in section 284 of this chapter.

Second. The amount designated in said estimate for each of said departments.

Third. The amount of said estimate for each department, paid out or appropriated at the date of such statement.

City Clerk to Designate Act, Ordinance, etc., Under Which Order is Drawn.

Section 297. The city clerk shall, before he shall sign any order on the treasury of the city for the payment of any salary or compensation for services rendered or material furnished the city, designate therein the legislative act and the section thereof, or the order, resolution or ordinance of the common council (by giving the date and the passage thereof) under the authority of which said order is drawn.

Officers to Certify Names of Clerks and Assistants.

Section 298. Any officer of the city who, under any law of this state, is entitled to any sum or amount for clerk hire, or who is entitled to any clerk or assistant in the performance of his official duty, shall, in writing, certify to the comptroller and the city clerk the name of such clerk or assistant, the date of his appointment, and the amount of compensation he is to receive, and whenever said clerk or assistant named in said certificate ceases to act as such, said officer shall forthwith certify the same to said comptroller and said city clerk, and all orders drawn and payments made for services rendered by any clerk or assistant of any officer of the city, shall be drawn in favor of, and be paid to the clerk or assistant performing the services, and not in favor of the officer employing such clerk or assistant.

Debt Not to be Created Without Authority of Common Council.

Section 299. Neither of the departments respectively of the city nor any officer thereof, except the library board, water and light board and park board, shall have any power or authority to make any contract or to create any debt against the city, before the common council of the city shall have authorized the same, two-thirds (2-3) of the members thereof voting therefor; and no committee of the common council or officer thereof shall allow or approve any claim in favor of any person or corporation, for any purpose whatever attempted to be created, as aforesaid, unless the creating of such claim or the incurring of such indebtedness shall have been previously authorized by the common council.

Requisitions to be Itemized.

Section 300. Each requisition of the common council for authority to purchase supplies or create any indebtedness against the city, shall, save as in this chapter provided, be itemized.

Comptroller to Report Estimates.

Section 301. It shall be the duty of the city comptroller not later than the

month of August of each and every year, to report to the common council and also to the conference committee, an estimate of the expenses of the city for the then next succeeding fiscal year, and likewise the revenue necessary to be raised for such year. The said estimate shall be itemized so as to clearly show the amount necessary to be raised for each of the purposes necessary to carry on the business and financial affairs of the city as these purposes are set forth in section 284 of this chapter; and said estimate shall also show the probable amount the city shall receive during the fiscal year next succeeding from the different sources named in sub-division sixteen (16) of said section.

Conference Committee to Make Out Itemized Statement.

Section 302. It shall be the duty of the conference committee provided for by this charter, in the month of September of each year, to make out an itemized statement showing the amount of money which, in its opinion, will be needed for the use of each department of the city during the then succeeding year, and to designate the same by resolution, and the same shall be reported and recommended by the conference committee not later than September twentieth (20) next following said designation to the common council and said common council shall thereupon, not later than the month of October next following, declare by resolution, the amount in dollars that must be levied for each department of the city for the then fiscal year for carrying on the business of the city for said year. The conference committee having made its itemized statement, the gross amount thereof may be decreased, but not increased by the common council.

Tax Levy—How Made.

Section 303. As soon as the common council shall designate in any year the amount of money to be raised by taxation as herein provided, said common council shall transmit or cause to be transmitted to the county auditor of St. Louis county, its actions and designation, and thereafter, and on or before the tenth day of October next following, said common council shall

make a tax levy of said amount and said tax levy shall be entered as by law prescribed, upon the tax duplicates of the county at the time said duplicates are made up and collected in like manner as state and county taxes are collected.

Levy to be Itemized.

Section 304. In making said estimate and said levy, the portions of said annual estimate and levy shall, as far as practicable, be itemized.

Tax Certificates.

Section 305. As soon as said designation or estimate for any particular year is transmitted to the county auditor of St. Louis county, as aforesaid, the common council by ordinance, first directing the same (two-thirds (2-3) of the members thereof voting therefor) may issue and sell or cause to be issued and sold, from time to time, as money is needed, certificates of indebtedness in anticipation of the collection of taxes for any special fund named in said tax estimate, for the purpose of raising moneys for such special fund; but no power shall exist to issue certificates for any of said separate funds exceeding eighty (80) per cent of the amount named in said tax estimate, to be collected for the use and benefit of said fund, and said certificate may be issued, as aforesaid, and renewed from time to time, if necessary, but no certificate shall be issued to become due and payable later than December 31st, of the year succeeding the year in which said tax estimate, reported to the auditor, as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest, and shall not draw a greater rate of interest than six (6) per cent per annum.

Each certificate shall state upon its face for which of said separate funds the proceeds of said certificates shall be used, the whole amount embraced in said tax estimate for that particular purpose, and they shall be numbered consecutively and be of the denomination of one hundred dollars (\$100) or a multiple thereof, but not exceeding one thousand dollars (\$1,000) each, and may have interest coupons attached, and be otherwise of such

forms and terms, and, with the coupons, be made payable at such place, as will best aid in their negotiation; and the proceeds of the tax assessed and collected as aforesaid, on account of said fund, and the faith and credit of the city, are irrevocably pledged for the redemption of the certificates so issued.

Money Not to be Diverted From Fund to Which it Belongs.

Section 306. No money belonging to any separate fund shall be borrowed or diverted for the use of any other fund or for any other purpose, except as herein provided, and neither the common council nor any officer, board or department of the city, shall have any power to authorize the city treasurer to divert any of said separate funds or money from the specific purpose for which the same were estimated, levied, collected and credited as aforesaid; or to borrow or transfer any balance or portion of one of the said funds to the credit of another fund, except that in case there is at any time a surplus of cash to the credit of any separate fund, three-fourths (3-4) of the members of the common council may by resolution authorize said surplus cash to be invested temporarily in the purchase of the certificates of any other fund.

Provided however, that whenever in the opinion of the common council it becomes necessary so to do, and said council shall by resolution passed by a vote of three-fourths (3-4) of the members thereof, authorized the same, any of the funds of the city except funds collected on account of special assessments, may be transferred to the account and fund designated for the payment of the principal and interest of the bonded indebtedness of the city.

Conference Committee—How Constituted.

Section 307. It is hereby made the duty of the mayor, president of the common council, president of the board of water and light commissioners, the president of the board of fire commissioners, the president of the board of public works, the city comp-

troller, the city treasurer, the city engineer and the president of the park board of the city to meet for conference and consultation relative to the welfare and financial affairs of the city as hereinafter provided.

The city clerk shall be the clerk of said conference committee, and keep a correct and full record of its proceedings, and he shall file and carefully preserve in his office the reports of the members of said committee, made and furnished as herein provided. The city attorney shall attend the meeting of said committee, and aid it, as he may from time to time be requested, in its conference and investigations.

Conference Committee—Place and Time of Meeting.

Section 308. Said conference committee shall hold its meetings at the council chamber of the city, and meet as often as once each month, and all its meetings, proceedings and records shall be public, and its regular meeting shall be held at two (2) o'clock in the afternoon on the first Saturday after the fifteenth (15) of each month. But said conference committee may change by resolution the hour but not the day of its monthly meetings. At the first meeting in January of each year it shall also elect a chairman, who shall serve for one (1) year and until his successor is elected, and it may make and adopt such rules and by-laws for its government, not in conflict with this charter and the laws of this state as it may deem advisable. Provided that in case the chairman so elected shall from any cause cease to be a member of said conference committee during the year, the committee shall elect a chairman who shall serve until the next regular election of chairman.

Conference Committee—Penalty for Failure to Attend.

Section 309. Any member of said committee who is absent from its meetings for two (2) consecutive sessions, unless excused by the committee or who shall fail for two (2) consecutive sessions to present or cause to be presented the monthly report herein directed, shall thereby be held without

other act or proceeding, to have resigned his office and the duties thereof, and his successor shall be appointed as prescribed by law in case of resignation.

Said committee shall have no power, and no power shall exist to excuse any officer from submitting the monthly report herein prescribed and directed.

Conference Committee—Duties and Report of Members.

Section 310. It shall be the duty of the members of the committee at said monthly meetings to consult and advise together relative to the care, supervision and economical management of each and all of the affairs, duties and expenses of each department of the city, and to that end, and in aid thereof, it shall be the duty of each member of said committee to report in writing under oath to said committee at the first (1st) meeting relative to the work of his department, and especially as follows:

The president of the common council shall report the amount of the expenditures made, or indebtedness incurred by the council, at the date of such report, for the then fiscal year as follows:

First. For work ordered, requiring an assessment to be made.

Second. For lighting said city, including a synopsis of any contract then in force for lighting said city entered into prior to the beginning of the current year.

Third. For the city hall.

Fourth. For all other purposes (disbursements for the expenses of the different boards excepted) and stating under this head the special fund in the tax estimate or tax levy which will be or has been drawn upon to meet such expenditures.

Fifth. The amount included in the last tax estimate upon which the common council can draw to satisfy its disbursements.

Sixth. The source outside of said tax estimate from which it is reasonable to expect funds will be received to be expended by the common council and the amount it is reasonable to expect will be received from each of said sources during the then fiscal year.

At each subsequent meeting he shall report:

First. The amount of expenditures authorized or made by said common council under each of the foregoing heads, stating the same separately, since his last report.

Second. The amount expended by the council (board expenses excepted) during the fiscal year, to date of said report.

Third. The amount included in the last tax estimate upon which the common council can draw to satisfy its disbursements.

Fourth. The source outside of said tax estimate from which it is reasonable to expect funds will be received to be expended by the council and the amount it is reasonable to expect will be received from each of said sources during the then fiscal year.

It shall be the duty of the president of the board of water and light commissioners to report, as aforesaid at said first (1st) meeting, the amount of the expenditures made or indebtedness incurred by his said board at the date of such report for the then current fiscal year by stating:

First. The amount of contracts let and of purchases made for material and supplies.

Second. The amount of the expense incurred for labor.

Third. The amount of expenses incurred and contracts made for all other purposes, and a synopsis of any contract (water bonds excepted) then in force, calling for payment of money and made prior to the then fiscal year.

At each subsequent meeting he shall report:

First. The amount of expenditures authorized or made under each of the foregoing heads, stated separately, since the last report of said officer.

Second. The amount of moneys collected by his board from the beginning of the then current fiscal year, and the amount of moneys received since the last report of said officer.

Third. The number of employes at the date of his report, working on a fixed salary, in the service of his board, and the monthly or annual salary agreed to be paid to each.

The president of the board of fire commissioners shall report as aforesaid at said first (1st) meeting, the amount of the expenditures made or incurred by his board at the date of such re-

port for the then current fiscal year by stating:

First. The amount of contracts let and of purchases made for material and supplies.

Second. The amount of expenses incurred for labor (salary of regular employes excepted).

Third. The amount paid out during the then current year as salary to regular employes.

Fourth. The amount of expenses incurred and contracts made for all other purposes.

Fifth. The amount included in the last tax estimate for his department.

At each subsequent meeting he shall report:

First. The amount of expenses authorized or made under each of the foregoing heads stated separately, since the last report of said officer.

Second. The number of employes engaged in the service of his board, on a fixed salary, since the date of his last report.

Third. The monthly payroll of his board for all of its fixed employes.

Fourth. The amount included in the last tax estimate for his department.

The city engineer shall report as aforesaid at said first (1st) meeting the amount of expenditures made or incurred by said engineering department of the city, at the date of such report for the then current fiscal year, by stating:

First. The amount of contracts let and of purchases made for material and supplies.

Second. The whole amount of expenses incurred for the street and sewer force, stating separately the amount expended or indebtedness incurred in each ward or district.

Third. The amount of expenses incurred for all other labor and services.

Fourth. The amount of expenses incurred and contracts made for all other purposes.

Fifth. The amount included in the last tax estimate for his department.

Sixth. The number of employes engaged in the service of his department during the period since the date of the last report of said officer (street and sewer force excepted).

Seventh. The whole number of persons employed on the street force since the date of his last report, stating sep-

arately the number in each ward or district.

Eighth. The number of persons employed on the sewer force.

At each subsequent meeting he shall report:

First. The amount of expenses authorized or made in each department under each of the foregoing heads, stated separately, since the last report of said officer.

Second. The amount included in the last tax estimate for his department.

Third. The number of employes engaged in the service of his department during the period since the date of the last report of said officer (street and sewer force excepted).

Fourth. The whole number of persons employed on the street force since the date of his last report, stating separately the number in each ward or district.

Fifth. The whole number of persons employed on the sewer force since the date of his last report.

The president of the board of public works shall report, as aforesaid, at said first (1st) meeting the amount of expenditures made or incurred for public works at the date of such report for the then current fiscal year by stating:

First. The amount of contracts let for which an assessment is to be made, stating each contract separately.

Second. The amount of the monthly payroll of his department.

Third. The amount of expenses incurred and contracts made for all other purposes.

Fourth. The amount included in the last tax estimate for his department.

At each subsequent meeting said officer shall report:

First. The amount of expenditures authorized or made, under each of the foregoing heads, stated separately, since the last report of said officer.

Second. The amount of moneys received by his department, or any employe thereof, for any purpose connected with the work of his department since the beginning of said current fiscal year, and the amount of moneys collected since the last report of said officer.

Third. The number of employes engaged in the service of his department during the period since the date of the

last report of said officer, and the name of each, and the amount paid, or agreed to be paid to each.

Fourth. The amount included in the last tax estimate in his department.

It is the duty of the president of the library board to report, as aforesaid, at the first (1st) meeting, the amount of expenditures made or indebtedness incurred by his said board at the date of such report for the then current fiscal year, by stating:

First. The amount expended for rents and light.

Second. The amount expended for insurance.

Third. The amount expended for furniture and fixtures.

Fourth. The amount of the monthly payroll of all employes of his board.

Fifth. The amount expended for books, periodicals and papers.

Sixth. The amount of expenses incurred and contracts made for all other purposes.

Seventh. The amount included in the last tax estimate for his department and the receipts by his board from all other sources.

At each subsequent meeting he shall report:

First. The amount of expenses authorized or made under each of the foregoing heads, stated separately, since the last report of said officer.

Second. The number of employes engaged in the service of his board on a fixed salary, since the date of his last report.

Third. The monthly pay roll of his board for all of its fixed employes.

Fourth. The amount included in the last tax estimate for his department.

It shall be the duty of the president of the park board to report, as aforesaid, at said first (1st) meeting, the amount of expenditures made or indebtedness incurred by his said board at the date of such report for the then current fiscal year, by stating:

First. The amount of property acquired by said board during such fiscal year.

Second. The amount of contracts let, for which an assessment is to be made, stating each contract separately.

Third. The amount of the monthly pay roll of his department.

Fourth. The amount of expenses incurred and contracts made for all other purposes.

Fifth. The amount included in the last tax estimate for his department.

Sixth. The amount received by said board from all other sources during the then current fiscal year.

At each subsequent meeting said officer shall report:

First. The amount of expenditures authorized or made, under each of the foregoing heads, stated separately, since the last report of said officer.

Second. The amount of moneys received by his department, or any employe thereof, for any purpose connected with the work of his department since the beginning of said current fiscal year, and the amount of moneys collected since the last report of said officer.

Third. The number of employes engaged in the service of his department during the period since the date of the last report of said officer, and the name of each and the amount paid, or agreed to be paid to each.

Fourth. The amount included in the last tax estimate for his department.

Fifth. The amount received by said board from all other sources than taxes during the preceding month.

The city comptroller at each meeting shall report as aforesaid:

First. The whole amount of indebtedness (outside of its bonded indebtedness) of the city audited by said comptroller during the then fiscal year.

Second. The whole amount of indebtedness of the city outstanding, created by the common council (outside of the bonded indebtedness of said city), audited or allowed by the city comptroller.

Third. The whole amount of the paid indebtedness of the city audited by the city comptroller since his last monthly report.

Fourth. The whole amount of money belonging to the city in any banks of the city, stating the amount in each bank and the amount of cash on hand belonging to each separate fund named in the last tax estimate.

Fifth. The aggregate amount of the local assessments theretofore made, the money for which has not, prior to said report, been received by the city treasurer, and shall also specify separately

the amount remaining uncollected on each assessment roll.

Sixth. The aggregate amount of the claims, demands and contracts of the city in the possession or control of said comptroller waiting to be approved, audited and countersigned by him.

Seventh. The city comptroller shall attach to his first report made under this charter, a copy of the last tax estimate and levy, and as soon and as often as a new levy is made he shall report to said committee a copy of such new levy.

Eighth. The city comptroller shall report at each meeting the amount of taxes received since his last preceding report to such committee, specifying items thereof according to the years for which they were levied, stating separately from such taxes the aggregate interest or penalties for each year; and also a statement of his distributions of each of such items among the various funds, showing the amounts credited to each; also the amount of money received on the several local improvements since such last report.

Ninth. The amount of money to the credit of each fund and to the unpaid balance of contracts or other obligations entered into by and chargeable against each of the same.

The city treasurer shall report:

First. The aggregate amount of money received by him during the then fiscal year, from each of the following sources, stated separately:

1. From the county treasurer.
2. From liquor licenses.
3. From all other licenses.
4. From the clerk of the municipal court.
5. From all other sources (exclusive of local assessments).

Second. The aggregate amount of money paid out by him during the then fiscal year (exclusive of local assessments) on account of each separate fund, stating the amount for each fund separately, as those funds are specified in the last estimate and tax levy.

Third. The amount of cash received on each local improvement and the amount paid out by him on account of such improvements respectively.

Fourth. The name of each employe of the city, or any department thereof,

other than day laborers, paid by said treasurer, and the amount of salary or compensation received per month or per annum by each of said employes, and in case the amount of such compensation is fixed by statute, he shall so state opposite the name of such employe; and in case the compensation of any one of said employes named in said list is fixed by any body or authority of the city government, he shall so state opposite the name of such employe.

The mayor of the city shall report:

First: The number of policemen in the employ of the city, in all grades and departments.

Second. The aggregate amount of city warrants of all kinds and character signed by him during the then fiscal year (exclusive of warrants for paying the principal and interest on bonded debt), and in making said report he shall state the amount of said warrants signed to pay salaries and the amount signed to pay other purposes, separately, as those purposes are stated separately in the last tax estimate.

Reports—To What Time Complete.

Section 311. All reports provided for by this chapter shall be complete up to the first of the month in which the meeting of the conference committee is held, at which such report is rendered.

Conference Committee May Require Information Under Oath.

Section 312. Said conference committee shall have power and authority at any meeting, by resolution, to require any officer or employe to furnish under oath, any additional report or information said committee may desire, relating to the business of said city, and it shall be the duty of such officer or employe, when so requested, to furnish the information called for, and in the manner, from the date and within the time specified in such resolution.

Order of Business of Conference Committee.

Section 313. The order of business of said conference committee at its meetings shall be as follows;

First. Calling the roll.

Second. Reading the minutes of the last meeting.

Third. Reading the reports herein prescribed.

Fourth. Such other order of business as the conference committee may direct in aid of the purpose of its work.

Conference Committee May Warn Officers, Etc., of Excessive Expenditures.

Section 314. Whenever, in the opinion of said conference committee, any officer, board or department of the city is not observing economical management in his or its official business, and has, in the opinion of said committee, during the then fiscal year, made or incurred such amount of expenses that said officer or said department will not be able to go through the then fiscal year without overdrawing the amount of money named in the tax estimate, or in the tax for his or its department, with the amount collected or collectable and applicable thereto, then said conference committee shall immediately, by resolution, so advise said officer or department and thereafter said officer or department shall have no power or authority to create any additional indebtedness or expense, save after the approval of

four-fifths (4-5) of said committee, which approval shall be evidenced by a resolution adopted at a meeting of said committee and entered upon its records. Said resolution of approval shall not be construed as granting any officer, board or department of the city any power or authority not granted by existing laws.

Conference Committee May Give Advice.

Section 315. Said committee is also authorized and directed from time to time to give any officer or board of the city such caution and advice as, in its opinion, the welfare and economical management of the affairs of said city demand.

Reports of Committee to be Printed.

Section 316. Within thirty (30) days after the first meeting of said committee, the said first reports herein provided for shall be printed by the clerk for the use of the members of said committee and the common council and such reports made thereafter shall be printed as said committee may direct, and the city clerk shall not permit said original reports, or any of them, to be taken from his custody or office.

Chapter XXIII.

Eminent Domain, Local Improvements, Assessments.

SUB-CHAPTER I.

Eminent Domain.

EMINENT DOMAIN. PART ONE.

Grant of Power—City May Acquire Property.

Section 317. The city of Duluth is

hereby empowered to acquire by proceedings in condemnation any property, corporeal or incorporeal, wheresoever situated, which may be needed by said city for any public use or purpose.

The use of property in any of the following ways, or the acquisition of property for any of the following purposes, is hereby declared to be a public use or purpose, to-wit: For the purpose of the erection or improvement of any public building; for the purpose of any public improvement incident to the operation of any department; for the purpose of opening, widening, laying out, extending, altering or straightening any street, avenue, alley, highway, levee, lane, public square, or public place; for the purpose of securing lands for parks, park-ways, or boulevards; for the purpose of acquiring the right to raise, lower, divert or change the course of any stream or body of water, ditch or drain, or for the purpose of making a ditch or drain or to secure the land necessary for such purposes; for the purpose of acquiring an easement in land over, across or under the property of another, for streets, bridges, approaches, culverts, canals, ditches, sewers, conduits, mains, tunnels, or for other purposes; for the purpose of acquiring an easement in land for the construction of slopes or retaining walls for cuts and fills upon real property abutting upon any public way, street, levee, lane, alley, highway, public square, boulevard, park or park-way or public place; for the purpose of acquiring right to take or divert from any lake, stream, dam, pond, reservoir, or any other waters, any and all water necessary or convenient for the use of said city and the inhabitants thereof, and for the purpose of acquiring an easement in land or water or both, for the construction and maintenance thereon or therein of the dams, cribs and intake pipes and other structures or machinery necessary or appropriate for such taking or diversion of water; for the purpose of supplying said city, or the inhabitants thereof, with water or light, or for the purpose of acquiring property that may be needed for the protection of the purity of the water supply of the city; for the purpose of supplying said city or the inhabitants thereof with telephone service; for the purpose of supplying said city or the inhabitants thereof with street railway transportation; for the purpose of abating nuisances; for the

purpose of draining swamps, marshes or ponds and filling the same.

The foregoing enumeration shall not be construed as in any wise limiting the uses or purposes for which the city of Duluth may acquire property by condemnation proceedings.

Necessity of Taking to be Declared by Resolution. Preliminary Proceedings in Condemnation.

Section 318. The necessity for the taking of any property by the city of Duluth shall be determined by the common council, and shall be declared by resolution of the common council, which resolution shall in a general way, describe the property so needed, and order its condemnation. After such resolution is introduced, the city clerk shall publish a notice once a week for two successive weeks in the official paper, stating that such a resolution is pending before the common council, and describing in a general way the property proposed to be so taken, and stating at what time and place any person will be heard by the common council, concerning the taking of such property, and it shall be the duty of the common council at such time and place to hear any persons who may wish to be heard concerning such taking.

City May Acquire Property Already Dedicated to Public Use.

Section 319. The fact that property so needed by the city of Duluth has been acquired by the owner under eminent domain, or is already devoted to a public use, will not prevent its acquisition by the city of Duluth.

Property May Be Acquired Otherwise Than Under Eminent Domain.

Section 320. The city of Duluth may acquire any property by purchase, gift, devise or otherwise, upon the conditions in this charter contained.

PART TWO.

Procedure Where There May Be An Assessment For Benefits.

Common Council to Determine Nature and Extent of Improvements.

Section 321. When the common council shall by resolution, declare that it is necessary to take, damage, injure or destroy any property, or property devoted to a public use in order to lay out, open, widen, extend, alter or straighten any street, avenue, alley, highway, levee, lane, public square or public place; or to acquire land for any park, park-way or boulevard, or to raise, lower, divert or change the course of any stream or body of water, ditch or drain; or to make a ditch or drain; or to acquire an easement in land, in, over, across or under the property of another, for streets, bridges, approaches, canals, culverts, ditches, sewers, conduits, mains, tunnels or for other purposes; or to acquire an easement in any land for the construction of slopes or retaining walls for cuts and fills upon real property abutting upon any street, levee, lane, alley, highway, park, park-way, boulevard or public place; or to abate nuisances, or to drain swamps, marshes and ponds, or to fill the same, it shall determine by resolution in a general way, the nature and extent of the proposed improvement.

The City Engineer to be Notified and to Make Plat. What Plat Shall Show.

Section 322. The common council shall thereupon notify the city engineer of such determination; and thereupon it shall be the duty of the engineer to make and present to the common council a plat and survey of such proposed improvement, showing the nature, course and extent of same, and the property necessary to be taken, damaged, injured or destroyed therefor, together with the name of the owner or owners of each parcel of such property,

as the same appears by the records of the register of deeds of the county in which such property is situate at the date of said preliminary resolution of the common council, together with such other statements as may be, in the opinion of the engineer, proper to explain such survey and the nature and extent of such proposed improvements. Such plat and survey shall show approximately the amount of land belonging to each owner, which is to be taken, damaged, injured or destroyed; and the common council may cause such plat or survey to be modified, amended or changed.

Common Council to Adopt Plat and Order Improvement.

Section 323. When such plat and survey shall finally describe the proposed improvement to the satisfaction of the common council, they shall by resolution, adopt the same and order the making of the improvement therein described and direct the board of public works how much, if any, of the benefits resulting to real estate from such proposed improvement it shall assess upon such real estate, which plat and survey, with a duly certified copy of such resolution, shall be forthwith transmitted by the clerk to the board of public works and by it filed in its office.

City of Duluth May Make Assessments for Improvements.

Section 324. The city of Duluth is hereby authorized and empowered, except as hereinafter specified, to levy assessments upon any property benefited by any improvement described in section 321 to the amount of such benefit, without regard to the cash valuation of such property.

Limitations on Right of Assessment.

Section 325. Except in case of an improvement to abate a nuisance, no real estate shall be assessed for benefits resulting from the taking or injuring of property unless the owners of at least one-third (1-3) of the real estate to be assessed therefor, according to the records in the office of the register of deeds of St. Louis county at the time

of the preliminary order of the common council, shall have petitioned the common council therefor in writing. In case of condemnation of lands for parks, park-ways or boulevards, at least one-half (½) the total damages and expenses thereof shall be a general charge on the city and payable out of the park fund; in all cases where the total damages and expenses of taking or injuring real estate for any improvement shall not exceed two hundred dollars (\$200), the same shall be a general charge upon the city and payable out of the appropriate fund, and if there be no such fund, then out of the general fund. Two or more of the improvements described in section 321 may be combined in one proceeding if deemed best, and so ordered by the council.

Board of Public Works to Report on Petitioners.

Section 326. When the council shall order the making of any improvement described in section 321 and requiring the taking, damaging, injuring or destroying of any real property or interest therein, a copy of the resolution making such order shall be forthwith filed in the office of the board of public works and the said board shall, as soon as practicable, after a copy of said resolution is filed in its office, if it be ordered thereby to assess upon any real estate the benefits resulting from such improvement, report to said common council whether the required proportion of property owners have petitioned for such improvement, and shall describe therein the property owned by each of such petitioners; and such report shall be prima facie evidence of the facts therein stated.

Board of Public Works to Assess Real Estate.

Section 327. The said board shall, as soon as practicable, proceed to view the premises proposed to be taken or injured and ascertain and award the amount of damages and compensation to be paid for the property, which is to be taken or injured by such improvement, and at the same time to assess the amount of such damages and compensation, together with the

cost of the proceedings, so far as the same are assessable or can be assessed, upon the real estate deemed by it benefitted by such improvement in proportion to the benefits resulting therefrom to each parcel of such real estate, without regard to the cash valuation thereof. ~~z~~

Board of Public Works to Give and Serve Notices.

Section 328. Said board of public works shall give fifteen (15) days notice by one (1) publication in the official paper of the city, of the time and place when it will make said award and assessment, or said award as the case may be, in which notice it shall describe the land to be condemned by general description, and shall specify what such assessment, if any, is to be for, and in a general way what property will be assessed therefor. It shall cause a copy of such notice to be served in the same manner in which a summons is served in a civil action upon all parties interested in the land to be condemned as shown by the records in the office of the register of deeds of the county in which the land is situated, who can be found in St. Louis county, and also upon all persons occupying any parcel of said lands or any part thereof, and it shall mail with postage pre-paid a copy of such notice to all non-residents of St. Louis county so appearing to be interested in said land, addressed to the last known post-office address of such non-resident, and if such address is unknown to said board, such notice shall be addressed to such parties at Duluth, Minnesota.

Proof of the service of such notice and proof of the mailing of the same, shall be made by the affidavit of the party serving or mailing the same, and shall state the time, place and manner of serving the same, and the time and manner of mailing the same, and how each notice so mailed was addressed, and such affidavits shall be filed and preserved in the office of said board of public works.

Failure to Serve or Mail Notices. Effect.

Section 329. Failure to serve or mail such notices or any of them, shall in no wise affect the validity of said con-

demnation proceedings, but such failure, if willful, shall be ground for the removal from office of the members of said board, and upon proof thereof it shall be the duty of said common council to forthwith remove them from office and upon such removal they shall not be eligible to reappointment.

Hearing.

Section 330. All parties interested in any property so to be condemned or in any real estate to be assessed for such improvement, may be present and heard and adduce evidence, as may the city attorney, before said board at said hearing. If at the hearing additional property to that described in the notice shall be included in the assessment of benefits, or part of the property excluded therefrom no new notice shall be necessary.

Board of Public Works to View Premises and Take Evidence.

Section 331. The said board of public works shall view the premises to be condemned, and receive any legal evidence that may be offered for the purpose of proving the true value thereof, or the damages that will be sustained, or the benefits that will be conferred (if such benefits are assessable) by reason of the contemplated improvement, and said board for this purpose is hereby authorized to administer oaths to all witnesses produced before it, and it may adjourn the meeting from time to time and from place to place until such assessment is completed; and said board shall have authority to send for persons and papers, and to compel the attendance of witnesses, and shall have authority to issue subpoenas under its seal.

Board of Public Works to Make Appraisal of Damages.

Section 332. After viewing the premises and taking the evidence offered, said board shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid for each parcel or piece of property taken or injured by such improvement, but if the remainder of

any parcel or piece of property of which a part only is to be taken or damaged, shall be benefitted by such improvement, then the board in considering and awarding such compensation or damages, shall consider, determine and offset the proportionate benefits which shall accrue to the remainder of such parcel not so taken and belonging to the same owner as does the part taken, and shall award only the excess, if any, of the compensation or damages over and above the benefits, and in case such benefits are in excess of the compensation or damages, the board shall, if any benefits are assessable for such improvement, assess such remainder of said parcel for benefits in the proportion that such excess of benefits bears to the benefits accruing to other property assessed for such improvement. If the damages to the property be greater than the benefits assessed, or if the benefits be greater than the damages, the said board shall in either case, strike a balance and carry the difference to another column, so that the assessment roll shall show what balance is receivable or payable and such balance only shall, in any case be collectible or payable.

Appraisal Where There Are Buildings on the Land.

Section 333. In case there are buildings or improvements upon any land proposed to be taken in such proceedings, the award shall be for the damages to the land and improvements separately.

The value of such building or improvements, or the part thereof necessary to be taken, to the owner in case of removal, shall also be determined by said board, and notice of such determination shall be given by it to the owner when known, if a resident of the city, or left at his usual place of residence or abode with some person of suitable age and discretion then resident therein.

If the owner is not known, or is a non-resident of the city, ten days notice by one (1) publication to all persons interested, shall be given in the official paper of the city.

Such owner may at any time, within ten days after such notice, notify in writing the said board of his election to take such building or improvement or such part thereof at its appraisal of its value in case of removal and in such case the amount of such appraisal shall be deducted by the board from the estimated damages for the building or improvement, and the owner shall have such reasonable time for the removal of such building, after the confirmation of the assessment, as the board may allow.

If the owner shall refuse to take the building or improvement at such appraisal or fail to give notice of his election as aforesaid, within the time prescribed, then no deduction shall be made from the estimated damages aforesaid, and the said board shall, after the confirmation of the assessment and after the money is ready in the hands of the treasurer to be paid over to the owner for his damages, proceed to sell such building or improvement, or part thereof, at public auction for cash, giving ten (10) days notice of sale by one (1) publication in the official paper of the city, and cause such building or improvement or part thereof, to be forthwith removed. The proceeds of such sale shall be forthwith paid into the city treasury to the credit of the fund chargeable with such improvement.

Damages, Etc., to be Assessed Upon Real Estate Benefitted.

Section 334. Having ascertained the damages and expenses of such improvement as aforesaid, the said board of public works shall thereupon apportion and assess the same, together with the costs of the proceedings upon real estate and property, if any be assessable therefor, by it deemed benefitted by such improvement in proportion to such benefits, but in no case shall the amount of such assessment exceed the actual benefit to the lot or parcel so assessed.

Assessment Roll. What to Contain.

Section 335. The assessment roll shall contain a brief description of each tract or parcel of property taken, in-

jured or assessed, the name or names of the owners thereof, so far as known to said board, and if unknown shall so state, and the amount of damages awarded and benefits, if any, assessed against each parcel of property. The assessment roll shall be footed up and shall show both the total damages awarded and the total benefits assessed, if any. If the whole amount of such compensation and damages awarded, together with the costs of the proceedings, shall exceed the actual benefit to the property subject to assessment, the board shall so state on such assessment roll, and shall specify the amount of such excess. The board shall also note on the assessment roll the total amount included in the assessment to cover the expenses of the proceedings.

Notice of Completion of Assessment Roll. How Given.

Section 336. When completed, said board of public works, shall cause to be given ten (10) days notice by one (1) publication in the official paper of the city, to the effect that such assessment has been completed, and that at a time and place therein specified said board will attend for the purpose of hearing objections, and that all such objections must be filed in writing with said board at least one (1) day prior to said time above specified, and that unless sufficient cause is shown to the contrary the same will be confirmed. Said notice shall contain a copy of the assessment roll as completed.

Objections. How Made.

Section 337. All objections shall be in writing and filed with the said board at least one (1) day prior to the time specified in said notice.

Provided, however, that said board may, in its discretion allow any party interested who has accidentally or inadvertently omitted to file his objections as aforesaid, to do so at the time fixed for the hearing of said objections named in said notice.

Adjournment of Proceedings.

Section 338. Should the said board

not be present at the time and place appointed, the said proceeding may be adjourned by the clerk of said board to such other convenient time and place as may be deemed expedient.

New Notice May be Given.

Section 339. Nothing herein contained shall preclude the said board from causing a new notice as aforesaid, to be given, specifying a time and place at which it will attend for the purpose of hearing objections to said assessment, and for confirmation thereof in the manner as before required, in case the previous notice shall be found imperfect, or in case of the absence of said board or for any other reason which shall be satisfactory to said board for so doing.

Board of Public Works to Have Power to Adjourn Hearing and Revise Assessment.

Section 340. The said board shall have the power to adjourn such hearing from time to time, and shall have the power in its discretion, to revise and correct the said assessment, and to confirm or set aside the same and proceed to make an assessment de novo, without any further order from the common council. The said assessment when confirmed, shall be corrected to conform to such confirmation and shall be final and conclusive upon all parties interested therein, not appealing therefrom.

Procedure After Confirmation of Assessment.

Section 341. When said assessment is so confirmed, it, together with all affidavits of publication or service of notices connected therewith, shall be entered in a book kept for that purpose by the board of public works, and a copy of such assessment roll shall be made and certified by said board and delivered to the comptroller, who shall countersign the same, and thereupon said assessment shall be by the comptroller, entered in a book kept for that purpose, and thereafter as often and whenever said comptroller shall be

advised that the amount assessed against any parcel of land therein described has been paid, to the city treasurer, he shall forthwith mark opposite such parcel "paid." As soon as said assessment roll is delivered to the comptroller, he shall insert forthwith in the official paper, for three (3) consecutive weeks, a notice briefly describing the improvement for which the assessment is made and stating that the assessment is payable at the city treasurer's office, and that it bears interest at six (6) per cent per annum until delinquent, and said assessments, for benefits shall be collected as hereinafter provided in section 334 in the case of other assessments.

Re-Assessment.

Section 342. If said assessment shall be set aside by said board as aforesaid, or by the court, for any cause jurisdictional or otherwise, the said board shall proceed de novo, without any further order from the common council, to make other or new assessment, and it shall proceed in like manner and give like notice as herein required, in relation to the first (1st) assessment, and all parties in interest shall have like rights, and the said board shall perform like duties and have like powers in relation to any subsequent determination, as are hereby given in relation to the first assessment.

Provided, however, that if the damages or benefits assessed as to any parcel or parcels of land shall not be appealed from, or shall not have been set aside by the court, the said board in any subsequent assessments or re-assessments, may omit the pieces or parcels of land as to which the first (1st) assessment shall not have been set aside or not appealed from, or on which said assessment shall have been paid; and as often as an assessment or re-assessment against any piece or parcel of real estate assessed for any local improvement is set aside, the same shall be re-assessed until said property shall have paid its proper proportionate share of benefits accruing from said improvement.

Provided, further, that no second or further assessment for benefits can be

made against any parcel of land which the court shall adjudge is not benefitted by the improvement for which the assessment was attempted to be made, or which the court shall adjudge is not subject to assessment.

Notice of Confirmation of Assessment

Section 343. As soon as practicable, after an assessment of damages and benefits has been confirmed and entered the said board shall cause a brief notice by one (1) publication of the fact of such confirmation and entry, to be published in the official paper of the city.

Appeal to the District Court.

Section 344. Any party interested in any property taken or damaged in these proceedings, or the city, may appeal to the district court for the county in which such property is situate, from an award or assessment of damages, in the same manner and with results of the appeal provided for by section 330, and the following sections of this chapter. Thereupon the board of public works shall forthwith transmit to the clerk of such court a duly certified copy of all papers and records in its office pertaining to such proceedings, and if more than one appeal be taken it shall not be necessary for said board to send up more than one copy.

PART THREE.

Procedure Where There Can Be No Assessment For Benefits.

Preliminary Procedure of the Common Council.

Section 345. When the common council shall by resolution, declare that it is necessary for the city of Duluth to acquire any real or personal property for any public use or purpose, other than those set forth in section 321

of this chapter, it shall describe such property as nearly as may be convenient in such resolution, and state the use to which it is proposed to devote such property, and direct the city attorney to take the appropriate proceedings in the proper course, for the condemnation of the same, and if such property be in whole or in part real estate or an interest therein, direct the city engineer to make and present to the common council such plat and survey of said real estate as will show the property necessary to be taken or injured and the owner of each parcel thereof, according to the records in the office of the register of deeds, and to accompany such plat and survey with such report as will fully explain the situation of such property, and such report may contain any other pertinent statements which the engineer deems best to make. The common council may cause such plat and survey to be modified or amended as it may deem proper, and when satisfied with said plat and survey it may adopt the same and direct such plat and resolution to be filed in the office of the register of deeds of the county in which said land is situated. Such plat and resolution when so filed, shall operate as notice of the pendency of an action by the city against each piece or parcel of land therein described for the condemnation thereof.

Application to the District Court and Notice Thereof.

Section 346. The city attorney shall thereupon apply to the district court in and for St. Louis county for the appointment of three commissioners to appraise the property so to be taken, and the damage for such taking. He shall give a notice of such application in which he shall specify the time and place of the application, and in a general way describe the property proposed to be taken and shall name the owners of such property so far as known to him, but failure to name all or any of the owners correctly, shall in no wise affect the proceedings. Such notice shall be served by one publication of the same in the official paper of the city at least twenty (20) days

before the date fixed for such application. If the property to be taken is real estate, a copy of such notice shall, at least twenty (20) days before the date fixed for such application, be served upon any person or corporation in possession of any parcel therein described, and upon each person or corporation who appears by the records in the office of the register of deeds to be interested in any of said parcels, and who can be found in the county of St. Louis in the same manner as a summons is served in a civil action.

If the property to be taken is personal property a copy of such notice shall be served in the manner and at the time aforesaid upon any person or corporation in possession of such personal property, or exercising any rights thereunder if the property be a franchise, within the same time, a copy of such notice shall be filed in the office of the city clerk; such filing of such copy shall operate as notice to all the world of the pendency of the action for the condemnation of the personal property described therein.

Commissioners to be Appointed.

Section 347. At the time and place named in said notice, or at a duly adjourned time and place, upon proof of the publication and service of said notice as aforesaid, the court shall appoint three (3) commissioners all of whom shall be freeholders and electors of St. Louis county, who shall have cognizance of all cases named in such application and shall have power to appraise the value of all property therein described, and the damages for the taking of the same. The city attorney shall forthwith by written notice, notify said commissioners personally of their appointment, and request them to attend at his office on or before a day fixed by him, not less than two (2) days after the service of such notice, to qualify, and enter upon their duties, and if any commissioner shall refuse or neglect to attend as aforesaid, the mayor of the city shall, in writing, appoint one or more commissioners in the stead of such absentees and shall file such appointment with the clerk of the court, which appointed

the original commissioners. Said commissioners shall thereupon and before entering upon the duties of their office, severally take and subscribe an oath to the effect that they are freeholders and electors of St. Louis county, and in no wise interested in any property to be effected by said proceedings, and that they will faithfully perform their duty as such commissioners without partiality, and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of said court.

Commissioners to Give Notice, Notice to be Served.

Section 348. The commissioners shall thereupon give at least twenty (20) days notice by one publication in the official paper of the city, of the time and place where they will attend to make an assessment of damages in said proceedings. Such meeting may be adjourned from time to time without further publication of notice.

It shall be the duty of the city attorney to serve a copy of such notice at least four (4) days before the date named in such notice, upon all persons or corporations over whom the court shall acquire jurisdiction and who shall serve notice upon the city attorney of their appearance in such proceedings. Such notice shall be served in the manner provided by statute for the service of notices and other papers in civil actions and may be made upon the party or his attorney.

Commissioners to Make Appraisal.

Section 349. At the time and place named in said notice, or an adjourned time and place, the said commissioners, or a majority of them, after viewing the property, if tangible, and hearing the evidence offered, shall make true and impartial appraisement and award of compensation and damage to be paid for each tract or parcel of land, each article of personal property, each franchise, obligation, property-right or other thing of value to be taken, damaged or interfered with. Such report shall be in writing, signed by the commissioners or a ma-

jointly of them, and filed with the clerk of the court as soon as completed.

Notice of Filing of Report of Commissioners.

Section 350. Upon the filing of such report, the commissioners shall give notice thereof, by one (1) publication in the official paper of said city. Such published report shall contain a description of the several parcels of land, articles of personal property, franchises, obligations, property-rights and things of value taken or damaged for such public use, and the respective awards therefor.

A copy of such notice shall within ten (10) days thereafter, be served upon the city attorney in the manner provided in section 348 upon all parties who may have appeared in said proceedings.

Appeal to the District Court.

Section 351. Any person or corporation interested in any property described in said report, or the city of Duluth, may appeal from any award therein made, at any time within thirty (30) days after the publication of said notice, by filing with the clerk of the district court which appointed said commissioners, notice of appeal, signed by the party or his attorney, taking the same, and describing the property in which he is interested, and the award to which he objects. An appeal made from any award shall in no wise affect awards not appealed from.

The clerk shall enter the appeal as an action in such court; there shall be no pleadings therein and such appeal should be tried as other causes, originally commenced in said court, are tried and judgment rendered therein. From such determination an appeal may be taken to the supreme court of the state.

Compensation of Commissioners.

Section 352. After said commissioners shall file said report and publish said notice thereof as aforesaid, the court shall allow the commissioners such reasonable compensation for their ser-

vices as it shall deem just, which shall be paid by the city of Duluth.

Effect of Award.

Section 353. Whenever an award of damages shall be made or confirmed and not appealed from, in any proceedings for the taking of property under this chapter, or whenever the court shall render final judgment in any appeal from any such award or from the confirmation of any such award, the rights of all parties shall be finally fixed and determined thereby, and the same shall constitute a lawful and sufficient condemnation and appropriation to the public use of the land, article, obligation, franchise, property-right or thing of value for which damages are so awarded and every right, title and interest therein and thereto, and every lien thereon shall be thereby divested, and the city shall become vested with the title to and become the owner of, the property taken and condemned, absolutely for all purposes for which the city may ever use the same, except that as to lands and rights taken for street, alley and highway purposes the city shall acquire only an easement therein for such purposes; and the city shall be bound to and shall within one year of such final determination, pay the amount of such award with interest thereon, at the rate of five (5) per cent per annum from the date of the final award or confirmation thereof or judgment of court, as the case may be; and if not so paid, judgment therefor may be had against the city. In case there shall be any doubt as to who is entitled to such compensation or damages, or any part thereof, as may be awarded, the amount so awarded and in doubt or dispute, shall be by the common council appropriated and set apart in the city treasury for whoever shall establish his right thereto by some judicial proceeding. Before payment of any such award the owner of such property or the claimant of the award, shall furnish satisfactory evidence of his right to such award.

City May Abandon Proceedings.

Section 354. The city of Duluth may

by resolution of the common council at any time before the confirmation by the board of public works of any award of damages made by it, or within twenty (20) days after any commissioners appointed by the court hereunder shall file their report with the clerk of said court, or in case of an appeal within twenty (20) days after final determination thereof, abandon such proceedings, and shall thereupon pay the costs thereof.

Description of Property Taken to be Recorded.

Section 355. Upon the completion of any proceedings under this chapter, for the acquisition of any property by the city of Duluth, the board of

public works shall cause an accurate description of the property so taken to be prepared, together with a statement of the amount of damages, if any, awarded and paid, or to be paid, to each former owner thereof, and shall sign and acknowledge the same and cause the same to be recorded in the office of the register of deeds of the county in which such property is situate, and it is hereby made the duty of such register of deeds, upon being paid his statutory fees, to record such statement in some appropriate book in his office. Such record or duly certified copy thereof shall be prima facie evidence that the city of Duluth is the owner of the property described therein by good and perfect title.

SUB-CHAPTER II.

Local Improvements and Assessments.

PART ONE.

GRANT OF POWER.

Improvements, the Expense of Which May Be Defrayed By Assessment.

Section 356. The city of Duluth is hereby authorized to fill, grade, level, pave, re-pave, curb, wall, bridge, gravel, macadamize, sprinkle, plank, or sweep any street, avenue, lane, alley or highway; and keep the same in repair; also to fill, grade, improve, protect and ornament any public park, square or ground; also to construct, improve and ornament park-ways, boulevards and grass plats; also to plant and protect shade or ornamental trees along its streets and avenues; also to construct, lay, re-lay and repair sidewalks, retaining walls, gutters, sewers, drains

and pipes for surface water and private drains, in, over or under any street, lane, alley or highway; also to abate nuisances; also to drain marshes or swamps and low grounds within the city when they constitute a nuisance; and the whole or any part of the expense of any such improvement may be, subject to the provisions hereinafter contained, defrayed by an assessment upon the real estate benefitted thereby, in proportion to such benefits, without regard to cash valuation, to be determined and levied in the manner hereinafter provided.

Park Fund to Bear One-Half of the Expense of Improving Parks, Etc.

Section 357. At least one-half (½) of the expense of in anywise improving any public park, square or ground, or constructing, improving or ornamenting boulevards, park-ways or grass plats, or planting or protecting shade or ornamental trees along streets or avenues, shall be paid out of the park fund of the city.

**Property Owners Must Petition--
When.**

Section 358. The city shall have no power to assess upon any real estate any part of the expense of in any-wise improving any street, alley or highway (except sprinkling or sweeping the same) unless twenty-five (25) per cent of the owners owning at least twenty-five (25) per cent of the real estate to be assessed therefor, shall first petition the common council for such improvement. Nor shall the city have any power to assess upon any real estate for any part of the expense of constructing any sewer or drain or pipe for surface water or private drain unless ten (10) per cent of the owners owning at least ten (10) per cent of the real estate to be assessed therefor shall first petition the common council for such improvement.

**Amounts Assessable Against Public
or Exempt Property.**

Section 359. The amounts which would otherwise be assessable against public property or property exempt from assessment for local improvements shall be paid out of the general fund of the city.

**Two or More Improvements at the
Same Time.**

Section 360. Two or more of said improvements, or either or any of them, upon one or more streets, may be done at the same time, under one order, and may in that case be included in one contract.

**Sewer and Water Pipes May be In-
cluded in Contract And Assess-
ment.**

Section 361. The common council may when any contract is let for paving, grading, gravelling or macadamizing any street, lane, alley or highway within the city, include in such contract the laying of sewer pipes or water pipes to the curb, and the cost of the same may be assessed against the lots or parcels for which said sewer pipes or water pipes are laid as part of or in connection with the assessment for such improvement.

**Procedure Where Two Improve-
ments Are Made at the Same Time.**

Section 362. If two or more improvements are included in one contract, the expense of each improvement shall be separately apportioned and assessed upon the lots and parcels of land benefitted by such improvement, in proportion to such benefits, but such two or more improvements may be included in one assessment proceeding.

PART TWO.**Procedure for Making Assessments.****Application and Petitions For Im-
provements.**

Section 363. All applications, petitions or propositions for any improvement or improvements authorized in section 356 of this charter, shall be made to or emanate from the common council, and shall be referred to the board of public works by said common council except in case of street sprinkling or street sweeping. Any such application or petition made to the common council shall be in writing, and if made by owners of property liable to be assessed therefor, shall state the place of residence of each signer and shall specify the real estate owned by each signer which he believes will be benefitted by the improvement petitioned for, and such petition shall be verified by the oath of each signer and shall be prima facie evidence of its own genuineness and of each fact therein stated. Such petition, application or proposition shall be preserved in the office of the board of public works.

**Board of Public Works to Investi-
gate Improvement and Petition
and Report the Same.**

Section 364. Upon such reference said board shall investigate the proposed improvement and the cost of

the same, and whether the requisite number of owners of property to be assessed therefor have petitioned therefor, and if said board shall determine that such improvement or modification thereof is necessary and proper, it shall report said determination to the common council, together with an estimate of the cost of the improvement so recommended by it and a plan or profile of the same and a form of order directing the work to be done.

What Report Shall Contain.

Section 365. In said report the board of public works shall inform said common council whether the percentage of owners required by section 358 have petitioned for such improvement and whether property can be found which would be benefitted thereby to the amount of so much of the cost as can be assessed against property benefitted thereby.

**When Common Council May Order
Improvement.**

Section 366. In case said board of public works shall report in favor of said improvement or a modification thereof, and that the same is necessary and proper, the common council may, in its discretion, subject to the provisions of section 358 hereof, by a resolution passed by a two-thirds (2-3) vote of the members elect of said council, order the doing of said work, or the making of said public improvement as aforesaid.

**The Board of Public Works May
Recommend Modifications.**

Section 367. It shall be competent for the board of public works when an improvement is referred to it for investigation and report, to recommend any modification thereof and it may include in its recommendations the making of other improvements in connection therewith.

**Common Council May Modify Im-
provements.**

Section 368. The report of the board of public works shall be advisory to the

common council, and they may in their final order modify the character of the improvement referred to said board or recommended by it.

**City Clerk to Transmit Order to
Board of Public Works.**

Section 369. Whenever an order shall be finally passed by the common council of the city as hereinbefore provided, for filling, grading, levelling, paving, re-paving, curbing, walling, bridging, gravelling, macadamizing or planking any street, levee, lane, alley, or highway, or for filling, grading, protecting, improving or ornamenting any public square or ground or for constructing, improving or ornamenting any boulevard, park-way or grass plat, or for planting and protecting shade or ornamental trees, or for constructing, retaining walls, gutters, sewers, drains and pipes for surface water and private drains, draining swamps, marshes and ponds and pools of stagnant water, and to fill the same, the city clerk shall transmit a copy of such order of said common council to the said board of public works.

Nuisances.

Section 370. The final order of the common council ordering the abatement of nuisances, draining swamps, marshes and ponds, and pools of stagnant water, or the filling of the same, shall be a sufficient determination that a nuisance exists and that the pools or ponds of water are stagnant.

**When Work is To Be Done By Day
Labor and When By Contract.**

Section 371. In all cases where the majority in number and amount of the owners of the real estate to be assessed for any improvement described in section 356 of this chapter, shall by written petition request the common council to cause such improvement to be done by day labor employed by the city, it shall be so done under the supervision of the city engineer. A decision of the common council that such majority has not so petitioned for such improvement to be made by day labor, shall be final and conclusive. In all

other cases such improvement shall be made by contract. In the order for such improvement the common council shall instruct the board whether it is to cause said improvement to be made by contract or by the employment of labor and the purchase of materials under the charge of the city engineer.

Board of Public Works to Let Contract and Make Assessment.

Section 372. When said board shall be ordered by the common council to make any improvements described in section 356 of this chapter, it shall if the same is ordered to be done by contract, cause the work described in said order to be let and done by contract, as hereinafter provided.

Said board shall proceed without delay to assess so much of the amount necessary to defray the cost of such improvement, as is assessable, including the expense of making such assessments, as nearly as it can ascertain the same, on the property benefitted thereby, in proportion as nearly as may be to the benefits resulting thereto, but in no case in excess of such benefits. In making such assessment roll the board shall describe each parcel of property assessed, and the amount assessed against the same, and shall state the name of the owner thereof so far as known to said board. No mistake in or omission of such owner's name shall in anywise affect such assessment.

Assessments Against Railways or Street Railway.

Section 373. When in any case any portion of the cost and expense of making any improvement mentioned in section 356 shall by virtue of any valid law or ordinance, or by virtue of any valid contract, be chargeable upon any railway or street railway company, the amount so chargeable may be assessed upon such railway company, and the balance only upon the real estate benefitted thereby; and the city may collect the amount so assessed upon said railway company by distress and sale of personal property, in the manner provided for by the

general laws of this state, in the case of taxes levied upon personal property, or by suit brought to enforce the collection of said assessment as an indebtedness; provided, however, that any real estate belonging to such railway company and subject to assessment and deemed benefitted by the said improvement shall be assessed as in other cases.

Notice to be Given Before Making Assessment.

Section 374. Before proceeding to make an assessment for any improvement mentioned in section 356 said board shall give ten (10) days notice by one (1) publication in the official paper of the city, of the time and place when and where it will attend for the purpose of making such assessment, in which notice it shall specify what such assessment is to be for, and the amount to be assessed. The said board shall also give at least four (4) days personal notice to the same effect to all property owners interested or their agents resident in the city if known to said board and found.

The personal notice required by this section may be made by depositing in the post-office a postal card addressed to the property owners to be assessed, or their agents residing in the city, at least four (4) days prior to the making of an assessment, upon which card shall be either printed or written substantially the notice above specified; but failure to give such personal notice shall in no wise affect the validity of said assessment or of any of the proceedings.

The willful omission by the board of public works to give such personal notice, shall be grounds for the removal of the members thereof, and upon proof thereof they shall be removed by the common council and be disqualified for re-appointment. Failure to mail such notice shall be prima facie evidence of willful omission to mail the same.

Hearing Before Making Assessment.

Section 375. All persons interested in any such assessment shall have the

right to be present and be heard, either in person or by counsel, and the said board may receive any legal evidence and may adjourn the hearing if necessary, from time to time and place to place.

Notice of Hearing of Objections After Making Assessment.

Section 376. When the said board shall have completed such assessment, it shall cause like notice to be given of the time and place at which it will attend for the hearing of objections and for the confirmation of such assessments, as hereinbefore required in relation to assessments for the condemnation of real estate; and objections shall be made in like manner, and under the same regulations and conditions, and all parties in interest shall have like rights, and the said board shall perform like duties and have like power in relation to such assessments as are herein given in relation to assessments for the condemnation of real estate.

Assessment Final and Conclusive.

Section 377. When said assessment is confirmed it shall be final and conclusive upon all parties not appealing therefrom.

Assessment to be Entered in Book and Copy Delivered to Comptroller. Procedure of Comptroller.

Section 378. Said assessment shall be entered by the board of public works in a book kept for that purpose, and within thirty (30) days after confirmation a copy of said assessment roll shall be made and certified by the board and delivered to the comptroller, who shall countersign the same and thereupon said assessment shall be by the comptroller, entered in a book kept for that purpose, and thereafter, as often as, and whenever said comptroller shall be advised that the amount assessed against any parcel of land therein described has been paid to the city treasurer, he shall forthwith in such book mark, opposite such parcel "Paid on the day of" As soon as said

assessment roll is delivered to the comptroller, he shall insert forthwith in the official paper, once a week for two (2) consecutive weeks, a notice briefly describing the improvement for which the assessment is made, and state that the assessment is payable in the city treasurer's office, and that it bears interest at six (6) per cent. And such assessment shall bear interest at such rate from the day that the assessment roll is delivered to the comptroller.

Notice of Confirmation.

Section 379. When any assessment of benefits has finally been confirmed by the board of public works it shall forthwith cause a brief notice, by one (1) publication, of the fact of such confirmation and entry, to be published in the official paper of the city.

Appeal to District Court.

Section 380. Any party interested in any property assessed under this chapter, for benefits resulting from any improvement, may appeal from such assessment to the district court of St. Louis county, within thirty (30) days after the publication of the notice provided for in the last preceding section or in section 343 of sub-chapter one (1) of this chapter, and such appeal is hereby declared to be exclusive way in which said assessment can be in any wise reviewed, modified or annulled.

Appeal, How Made. Procedure on Appeal.

Section 381. Said appeal shall be made by filing a written notice with the board of public works stating that appellant appeals to the said district court from said assessment and containing a description of the property of said appellant so assessed and the objection of said appellant to such assessment, and by filing with the clerk of said court within ten (10) days thereafter a copy of said notice of appeal. In case of an appeal, it shall be the duty of the board of public works forthwith to prepare and deliver to the appellant a copy of the assess-

ment roll as confirmed; it shall be necessary to include in such copy only those pages of said roll which are pertinent to the property involved in such appeal, which copy shall within fifteen (15) days after the taking of such appeal be filed by the appellant in the office of the clerk of the court, to which such appeal shall be taken. The district court may for good cause, shown, grant further time for filing such certified copy, or may when necessary, require a further return to be made. The cause shall be entered by such clerk in the name of the person taking such appeal against the city as an "appeal from assessments" and it may be brought on for hearing by either party, and shall have the preference in order of trial over all civil cases pending in said court.

Procedure in District Court on Appeal.

Section 382. Such appeal shall be tried by the court without a jury at general or special term, without pleadings other than as above stated. Upon such trial the appellant can make no other objections to said assessment than those stated in his notice of appeal, but the court may, in its discretion, permit such notice to be amended in this respect at any time. The court shall hear such competent evidence as may be offered by either party, and may revise, correct, amend, reduce or confirm the assessment appealed from, or may order a new assessment to be made as to the property concerning which such appeal is taken, and in that event shall direct the board how to make such new assessment so as to avoid the errors complained of.

The court shall not dismiss the appeal, nor confirm or annul the assessment, on the ground that only a portion of the assessment roll has been returned; but either party may introduce the whole of said roll in evidence, and the same shall in all cases, whether on said appeal or otherwise, and in all courts be prima facie evidence of the validity of all proceedings up to and including the confirmation of the assessment.

Disbursements, but no costs may, in the discretion of the court, be allowed upon such appeal as in other civil

cases, but the judgment entered therefor against said city shall be a separate judgment and paid out of the general fund of said city. From the determination of said appeal by the district court, either party may appeal to the supreme court of the state.

Re-Assessment.

Section 383. If said assessment shall be set aside by the court for any cause, jurisdictional or otherwise, the said board shall proceed de novo, without any further order from the common council, to make another or new assessment, and it shall proceed in like manner and give like notice, as herein required, in relation to the first (1st) assessment, and all parties in interest shall have like rights and the said board shall perform like duties and have like powers in relation to any subsequent determination, as are hereby given in relation to the first (1st) assessment.

Provided, however, that if the benefits assessed as to any parcel or parcels of land shall not be appealed from or shall not have been set aside by the court, the said board, in any subsequent assessments or reassessments, may omit the pieces or parcels of land as to which the first (1st) assessment shall not have been set aside or not appealed from or on which said assessment shall have been paid; and as often as an assessment or reassessment against any piece or parcel of real estate assessed for any local improvement is set aside, the same shall be reassessed until said property shall have paid its proper proportionate share of benefits accruing from said improvement. Provided, further, that no re-assessment shall be made where the court shall have determined that the property is not benefited by said improvement or is not assessable therefor.

Assessments to be Certified to the County Auditor.

Section 384. Within five (5) days after the expiration of the thirty (30) days allowed for appeal, by the terms of section 380 and the following sections, the city comptroller shall make

out and submit to the common council a statement, in writing, showing the amount of the delinquent assessments, and a description of the lots or parcels of land against which the same are assessed, and thereupon the common council may, by resolution, order the city comptroller to make up and file in the office of the county auditor of St. Louis county, a certified statement of the amount of such assessment, containing a description of the lands affected by the assessment, and after said certified statement is so filed in the office of the auditor of St. Louis county, it shall be the duty of said auditor to carry the said assessment upon his roll against the different parcels of land therein mentioned, and the same for each year ending October fifteenth (15th), shall be carried in to 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 under and in accordance with the provisions of the General Laws of this State; and the assessments before paid to the county treasurer shall be cancelled and paid over by him, to the city comptroller, at the time provided in this charter for the settlement of his accounts. Any owner or party interested in any piece or parcel of land against which there is an assessment may pay the whole amount therefor at any time before the roll is placed in the hands of the county treasurer to collect the same, to the city treasurer and receive his receipt for the same, and countersigned by the city comptroller which shall be sufficient

authority upon presentation to the auditor, for him to mark the tax "paid" upon his roll, or upon a certified statement filed with him by the city comptroller; but after the tax roll has been delivered to the county treasurer for collection, the said tax must be paid to him, subject to the penalties allowed by law.

Assessments to be a Lien on Property. When.

Section 385. From and after the time when the assessment roll is entered and a copy delivered to the city comptroller, as provided in section 341, the assessments therein contained shall be a lien on all property affected thereby.

Deduction to be Allowed for Prompt Payment.

Section 386. A deduction of ten (10) per cent, shall be allowed on all assessments paid before the lapse of time of the appeal, hereinbefore provided for.

Collection of Assessments Levied Before This Charter Goes Into Effect.

Section 387. All assessments made by the City of Duluth prior to the time this charter goes into effect shall be collected and the lien thereof enforced in the same manner and under the same provisions of law that they would have been collected and the lien thereof enforced if this charter had not been adopted.

SUB-CHAPTER III.

Making of Improvements, Sidewalks, Street Sprinkling.

PART ONE.

MAKING OF IMPROVEMENTS.

Provisions of Chapter Twenty-One to Apply.

Section 388. Except as herein otherwise provided the provisions of Chapter XXI shall apply to contracts mentioned in this chapter in like manner as to other contracts of the city.

Plans, Profiles and Specifications to be Made.

Section 389. Whenever any public improvement shall be ordered to be let for which an assessment is to be made as aforesaid, the board of public works shall cause a plan or profile of the work proposed, together with specifications for the doing of the same, to be prepared by the city engineer which shall be deposited with the board and kept by it at all times open for the public inspection. If the revolving improvement fund shall contain sufficient funds to pay the estimate cost of the proposed improvement in addition to the cost of all other improvements then under construction or contract, but not otherwise, the board of public works shall, after the making and filing of said plans, profiles and specifications, cause proposals for doing such work to be advertised for in the official paper of the city.

Bids.

Section 390. The bids for doing such work shall be directed to the board of

public works and shall be sealed in such manner that they cannot be opened without detection.

Bids to be Opened.

Section 391. Said bids shall be publicly opened by said board at the time specified in the notice inviting proposals.

Bids to be Let to the Lowest Bidder.

Section 392. All contracts shall be awarded to the lowest reliable and responsible bidder complying with the foregoing requirements. Provided however, that said board may reject any bid which it shall deem unreasonable and unreliable, and the said board in determining the reliability of a bid, shall consider the question of the responsibility of the bidder, and his ability to perform his contract without any reference to the responsibility of the sureties of his bond; provided that in case the board shall deem all such bids unreasonable, it may readvertise for proposals; provided further, that said board shall reject all bids for contract work made by any person or persons who shall have defaulted in any contract awarded by the city except as to time, or who shall have refused to enter into a contract after the same shall have been awarded to him or them. Provided further, that no contract shall be awarded except with the approval of the common council by a two-thirds (2-3) vote of the members thereof.

City Cannot be Obligated Beyond the Permanent Improvement Fund.

Section 393. In case of any improvement for the cost of which, in whole

or in part, an assessment may be made, neither the common council nor any officer of the city shall have power to obligate the city under any circumstances, to pay on account of such improvement any sum or sums in the aggregate in excess of the amount of the difference between the cash then in the permanent improvement revolving fund, together with such sum or sums as may be payable out of some other fund and made applicable by this charter toward the cost in part of such improvement, and the aggregate estimated cost of all other local improvements then under contract and construction but this shall not apply to street sprinkling, street sweeping or building sidewalks.

Right to Suspend the Work to be Reserved.

Section 394. The right shall be reserved in said contract, to the city engineer with the consent of the board of public works, in case of improper construction, to suspend the work at any time or to order the entire reconstruction of the same if improperly done.

Estimates.

Section 395. In the course of the proper performance of a contract, the board of public works may from time to time not oftener than once a month, as the work progresses, allow to the contractor estimates of the amount already earned less fifteen (15) per cent thereof, which, when ordered paid by the common council, shall entitle said contractor to receive the amount so allowed out of the money applicable to the payment of such work. When the whole work has been completed by such contractor, to the satisfaction of the board of public works and city engineer, the balance due may be audited and allowed by the common council, on a final estimate by the board and shall be payable out of the moneys applicable to the payment of such work.

Repairs to be Provided for in Street Paving Contracts.

Section 396. In case of contracts for

paving streets, the contract may provide that the city shall reserve upon the completion of the work such sum and upon such conditions and for such length of time as the specifications shall specify, for the keeping of said pavements in repair, and the cost of so keeping such pavements in repair shall be assessed as a part of the cost of such improvements.

Board of Public Works to Complete Work.

Section 397. If in the opinion of the board of public works any work under contract does not progress each month so as to insure its completion within the time named in the contract, the board of public works and the city engineer, shall have power to furnish and use men and materials to complete the work and charge the expense thereof to the contractor, and the same shall be deducted from any moneys due or to become due such contractor, or may be collected from him or the sureties on his bond in a suit by the city.

Work Done in Pursuance of Section 371.

Section 398. In all cases in which the common council shall direct the board of public works to cause any improvement for the cost of which in whole or in part an assessment may be made, to be made by employing the necessary labor and purchasing the necessary material, under the supervision of the city engineer, such order shall not become effective, nor shall said board have power to do any such work, until there shall have been paid into the city treasury on account of assessments for such improvement or on account of the sale of the improvement certificates issued in anticipation of such assessment or both, a sum which will equal the estimated cost of so much of the improvement as is assessable, upon real estate, but this shall not apply to street sprinkling, street sweeping or building sidewalks.

Property Owners May Construct Streets.

Section 399. Property owners shall be allowed to construct streets and

other public improvements upon or through their own property, at their own expense, in such cases and upon such terms and under such regulations as the common council may prescribe from time to time by ordinance.

PART II.

SIDEWALKS.

Annual Invitations for Bids for Sidewalks.

Section 400. It is hereby made the duty of the board of public works of the city, annually to cause invitations to be published in the official paper of said city, in the same manner and for the same length of time as in the case of other public improvements, for proposals for the construction, repair and relaying of such sidewalks as may be ordered built, repaired or relayed by the common council, between the first day of April and the first day of November of each year.

Provided, however, that the board of public works, whenever in its opinion the public interests shall be subserved thereby, may in like manner invite proposals for bids and may let separate contracts for the construction, repair and relaying of wooden sidewalks, and also one or more contracts for the construction, repair and relaying of sidewalks of stone, brick, cement, asphalt, composition or other permanent material.

Plans and Specifications.

Section 401. General plans and specifications applicable to all sidewalks that may be ordered built, repaired or relaid during the year by said common council, shall be made and filed with the board of public works.

Contract to the Lowest Bidder.

Section 402. The contract shall be

made with the lowest responsible bidder as in the case of other local improvements. Provided, that the question of what constitutes the lowest reliable and responsible bidder must be determined by said board of public works, independent and exclusive of the bond required by this charter.

Sidewalks Constructed When Examination by Engineer.

Section 403. Whenever the common council shall order the construction of any such sidewalk, a copy of such order shall be transmitted to the board of public works, whose duty it shall be, through the engineer, to transmit the same to the contractor, who shall forthwith cause such sidewalk to be constructed, relaid or repaired as the case may be; and it shall be the duty of the city engineer, within five (5) days after having been notified by said contractor of the construction, repair or relaying of said sidewalks, to examine the same; and if they shall be found to be constructed, repaired or relaid in accordance with the contract, said engineer shall so report to the board of public works who shall thereupon cause an assessment to be made therefor as hereinafter provided.

Notice of Making Assessment.

Section 404. The said board of public works shall give ten (10) days notice by three (3) publications in the official paper of the city to the effect that at a certain time and place, it will proceed to make an assessment for constructing, relaying or repairing said sidewalks. Said notice shall briefly describe the location and nature of said improvements by streets.

Assessments, How Often May be Made.

Section 405. The board of public works is authorized to make an assessment for such construction, relaying or repairing as frequently as once a month, and may include in such assessment all sidewalks laid and reported to it by the engineer up to the time of the giving of said notice for said assessment.

Assessments, To What Amount and on What Property.

Section 406. The board shall assess the amounts, as nearly as it can ascertain the same, which will be required to defray the costs of such improvements, including the necessary expense of making and collecting such assessment, upon the real estate or lots of land benefited by said improvement to the amount of such benefit.

Notice of Confirmation of Assessment.

Section 407. When said assessment is completed, said board shall give ten (10) days notice by three (3) publications in the official paper of the city, to the effect that at a time and place therein specified, said assessment will be confirmed unless sufficient cause is shown to the contrary, and that objections must be filed one (1) day before the time specified in said notice with the said board. Such objections shall be made and filed in the same manner, and the said board shall proceed in the hearing thereof, and shall have the same power to revise, correct, confirm or set aside such assessment, or to proceed de novo as in the case of other assessments.

Assessment Final and Conclusive.

Section 408. Said assessment when confirmed shall be final and conclusive, unless appealed therefrom as herein provided, and shall be collected and enforced in the same manner as other assessments made under this charter.

Board May Complete or Relet Contract.

Section 409. Whenever the said contractor shall fail to build, repair or relay any sidewalk within the time designated by said board or in any other respect fail to comply with the terms of said contract, the said board shall have power to furnish and use men and material to complete the work and charge the expense to the contractor, and the same shall be deducted from any money due or to become due such contractor, or may be collected from

him or his sureties by suit, or said board may advertise for bids for the completion of the uncompleted part of said contract under an order from the common council therefor, and let a contract in the same manner as hereinbefore provided in case of the original contract. The decision of said board that said contractor has failed to comply with said contract shall be final and conclusive as between said contractor and the city, and the defaulting contractor and his sureties shall be liable to the city for all damages resulting from such failure to perform his contract.

Estimates on Contract.

Section 410. In case the contractor shall properly perform his contract, the said board may, from time to time, not oftener than once a month, as the work progresses, allow the contractor estimates of the amount already earned less fifteen (15) per cent thereof, which may be paid out of the moneys applicable to such work when so ordered by the common council.

Property Owner to Build His Own Sidewalk.

Section 411. Nothing in the foregoing provisions shall be construed to prevent any property owner from constructing his or her own sidewalk under the authority and direction of the city engineer, if said sidewalk shall be constructed within thirty (30) days after a sidewalk has been ordered in front of the property by the common council.

Sidewalk May Be Built by Day Labor.

Section 412. Nothing herein contained shall preclude the common council from directing the city engineer to build sidewalks by employing the necessary labor and purchasing the necessary materials, and every contract for the construction of sidewalks, shall reserve this right, and this section is such a reservation.

PART THREE.

STREET SPRINKLING.

Sprinkling Districts.

Section 413. The common council shall direct the board of public works to divide the city into sprinkling districts without reference to ward lines. Said districts shall be designated by numbers as follows, to-wit: Sprinkling district number one (1); sprinkling district number two (2); sprinkling district number three (3), etc.

Proposals to be Advertised.

Section 414. Whenever ordered by the common council, the board of public works shall cause proposals to be advertised for in the official paper of the city, in the same manner and for the same length of time as in the case of other public improvements for the sprinkling of streets, avenues, levees, lanes, alleys, parks or other public grounds or any part thereof, in each and all of said sprinkling districts which may be ordered sprinkled by the common council in such year.

Plans and Specifications.

Sections 415. General plans and specifications applicable to all sprinkling that may be ordered done in each of said districts, during the year by the common council shall be made and filed with the board of public works at least ten (10) days before the day named for the receipt of said bids by the board of public works.

Contracts, How Let.

Section 416. The sprinkling shall be let and contracts made therefor, and in the same manner as provided for in the case of local improvements.

Time Covered by Street Sprinkling Contracts, How Awarded.

Section 417. Contracts for sprinkling shall be let to cover all the sprinkling

required for the calendar year. No contract shall be awarded except with the approval of two-thirds (2-3) of the members of the common council.

Common Council May Order Sprinkling. When.

Section 418. The common council may order sprinkling to be done whenever and wherever it deems the public interest for sanitary or other cause requires, without reference to the board of public works or a report on the necessity or propriety thereof.

Procedure After Sprinkling is Ordered to be Done.

Section 419. Whenever said common council shall order any sprinkling to be done, a copy of such order shall be transmitted to the board of public works, whose duty it shall be forthwith to cause the sprinkling contractor to be notified thereof and such sprinkling to be done; and it shall be the duty of the city engineer to cause said sprinkling to be duly inspected and to be done in accordance with the contract and report the fact to the board of public works, who shall cause an assessment to be made for said sprinkling in the manner hereinafter provided.

Notice of Assessment for Sprinkling.

Section 420. On the first day of October of each year, or as soon thereafter as practicable, the said board shall give at least ten (10) days notice by one (1) publication in the official paper of the city, to the effect that at a certain time and place it will attend to make an assessment for sprinkling. Said notice shall briefly describe the location of the streets sprinkled, by streets and districts.

Assessments—On What Property Made.

Section 421. The said board shall assess the amount as nearly as it can ascertain the same, which will be required to defray the cost of such

sprinkling, including the expense of assessment, upon the real estate benefited by such improvement, to the amount of such benefit.

Notice of Confirmation of Assessments.

Section 422. When said assessment is completed, the said board shall give ten (10) days notice by one (1) publication in the official paper of the city, to the effect that at a time and place therein specified said assessment will be confirmed unless cause is shown to the contrary, and that objections must be filed at least one (1) day before such time, with the board; such objections shall be made and filed in the same manner, and said board shall proceed in hearing the same, and shall have the same power to revise, correct, confirm or set aside such assessment, and proceed de novo, as in the case of other assessments for local improvements.

Assessment Final and Conclusive.

Section 423. Said assessment when confirmed shall be final and conclusive unless appealed from as provided in section 380, and the following sections and shall be collected and enforced

as other assessments made under this charter. In case of an appeal, said appeal shall not delay or affect the collection of the assessment, except as to the property appealed from.

Right of City in Case of Default of Contractor.

Section 424. In case the contractor should in any wise fail to perform his contract, the board is hereby empowered to do every act relative to such contract and contractor as it is in the case of a similar default in case of a contractor for the construction of a sidewalk, with like result to such contractor and his sureties.

Sprinkling by Day Labor.

Section 425. Nothing herein contained shall preclude the common council from directing the board of public works as soon as any such contract is allowed, or as soon thereafter as practicable, to sprinkle any street, highway or public place by employing the necessary labor and purchasing the necessary tools and material, and every contract for street sprinkling shall reserve this right, and this section is such a reservation.

Chapter XXIV.

Actions and Evidence.

Limitations on Actions Against the City for Certain Injuries. Notice in Writing to City.

Section 426. No action shall be maintained against the city on account of any injuries received in any manner whatever to persons or property by means of any defect in the conditions of any bridge, street, sidewalk or thoroughfare, unless such action shall be commenced within one year from

the receiving or happening of the injury, nor unless notice shall have been given in writing to the mayor or to the city clerk within thirty (30) days of the receiving or occurrence of said injury, stating the time when, and the place where the same was received or suffered, and that the person injured will claim damages of the city for such injury; but the notice shall not be required when the person in-

jured shall in consequence thereof be bereft of reason.

Adverse Possession Not to Run Against the City.

Section 427. No right, title, estate, or easement of the city in or to any property shall be lost by any adverse possession or occupancy, and no statute of limitations shall run or operate as against the city in favor of any person or persons occupying any of the public or platted streets or public or platted ground, parks, park-ways or boulevards of the city, whether any such streets, or grounds or any such property shall be improved or not.

Responsibility for Obstructions, Etc., in Streets.

Section 428. If any person or company shall place or leave any obstruction or make any excavation or opening, or cause any defect in any street, road, alley, public ground or sidewalk in the city, or leave any obstruction, excavation or opening or defect unguarded or without proper protection, such person or company shall be liable to any person injured in person or property without his fault, because of any such obstruction, excavation, opening or defect. And in case any judgment shall be recovered in any action against the city for any injury caused by such obstruction, excavation, opening or defect, the city shall have the right to recover the amount of any such judgment from the person or company placing or leaving such obstruction, making such excavation or opening or causing such defect.

Process Against the City. How Served.

Section 429. Service of summons, process or notice in any action or proceeding against the city may be had by leaving a copy thereof with the mayor or city clerk.

Inhabitants or Tax Payers of City Not Disqualified.

Section 430. No judge, justice of the peace, or juror shall be incompetent or disqualified to act as such by rea-

son of his being an inhabitant or taxpayer of the city, in any action or proceeding in which the city shall be a party in interest.

Security Not Required of City in Appeal.

Section 431. The city shall not be required in taking an appeal or in suing out any writ or process, in or about any action or proceeding, to enter into any bond or undertaking, or to give any security whatever. Any stay allowed by law, or ordered by the court, in favor of the city shall take effect without the giving of any such bond or security.

Judgments Against the City.

Section 432. Whenever any final judgment shall be rendered against the city, said judgment shall be paid or enforced in the manner provided by the general laws of the state for the payment and enforcement of judgments against cities.

Warrants.

Section 433. In all prosecutions for the violations of the laws of the state the provisions of this charter, or the ordinances of the city, the first process shall be by warrant; provided, that no warrant shall be necessary in the case of the arrest of any person while in the act of violating any such law, provision of charter or ordinance of the city; and the person or persons so arrested shall be proceeded against, bound over, tried, convicted, and published or discharged in the same manner as if the arrest had been made by warrant.

Affidavits of Publication of Ordinances or Resolutions.

Section 434. The proprietor of the official paper shall, immediately after the publication of any notice, ordinance or resolution, or proceeding of the common council, or of any other matter which is required by any provision of this charter, file with the city clerk a copy of such publication,

with his affidavit or that of his foreman, of its due publication; and such affidavit shall be prima facie evidence of the publication, and no amount or claim for any publication whatever, shall be allowed or adjusted by the comptroller until such affidavit shall have been filed with the city clerk and until the city clerk shall have certified that fact to the comptroller.

Bonds to be Filed With Clerk.

Section 435. All official bonds running to the city, except the bond of the city clerk, which shall be filed with the comptroller, shall be filed with the city clerk, and shall be open to the inspection of the public and copies thereof when certified by said clerk to be a true copy of the original on file in his office shall be received in evidence in any court in like manner and with like effect as the original.

Verification of Claims.

Section 436. Before any account, claim or demand against the city for any work, labor, services, skill, property or material, for which the city shall be liable, shall be audited or allowed by any board, person or persons authorized by this charter to audit or allow the same, the person in whose favor such account, claim or demand shall be, or his agent having personal knowledge of the facts shall reduce the same to writing in items and shall verify the same on oath to the effect that such account, claim or demand, is just and true; that the money therein charged was actually paid for the property or material therein charged

was actually delivered or used for the purpose therein stated, and was of the value therein charged, and that the work, labor, services or skill therein charged were actually performed, rendered or furnished, and were of the value therein charged; and that no part of such claim, account or demand has been paid except as therein credited. Provided, that the provisions of this section shall not apply to any claim or demand for the salary of any city official or for the salary of any assistant, subordinate or employe duly appointed to serve for a stated or definite period under any department of the city government, or for the fees of any juror or witness or for any claim or demand of any contractor under any contract by him secured by bond to the city as provided in this charter, or of any administrator or executor in behalf of the estate of a deceased person.

Penalty for Auditing or Allowing Unverified Claims.

Section 437. Any member of any board or any person or persons authorized by this charter to audit or allow any account, claim or demand against the city or any department thereof, who shall audit or allow any such account, claim or demand which does not conform to the requirement of the preceding section, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or by imprisonment in the county jail for a period of not less than six (6) months, or by both such fine and imprisonment.

Chapter XXV.

City Plats.

Who Shall Constitute Plat Commission.

Section 438. The city engineer, the city assessor and the president of the board of public works, ex-officio, constitute a plat commission of the city. The engineer shall be chairman and he shall see that proper records are kept of the proceedings of the commission. Such records shall be kept in the office of the city engineer.

Examination of Ground Covered by Plats—Approval of Plats.

Section 439. Before the plat or map of any addition, rearrangement, subdivision or any other plan of platting any territory within the city shall be approved, said commission may, if deemed necessary, examine the ground or territory covered by such plat or map, or may require the city engineer to cause such examination to be made; and it is hereby made the duty of said city engineer to make such examination and carry out the requirements of said commission, and report his observations and recommendations thereon to them; and if, in the judgment of said commission or a majority of them such plat or map dedicates streets, alleys, or highways to public use, and the same are suitably laid out and correspond, so far as practicable with the streets, alleys and highways of any adjoining plat in the city, said commissioners may approve the same. Thereupon the same shall be presented to the common council for acceptance, and no plat of any land laid out and platted or of land covered by any replatting shall be filed or recorded until the approval thereof is had and endorsed upon such plats and signed by said commissioners or a majority of them and the date of acceptance by the common council certified thereon by the city clerk.

Plats, How Drawn, Endorsed and Filed.

Section 440. All plats presented to said plat commissioners, for approval by said commission, must be drawn in quadruplicate on good and substantial canvass backed paper, and shall be of uniform size, that is twenty-two (22) inches in width and thirty (30) inches in length. If said plat shall be approved by said commission they shall endorse their approval on one of said plats or maps, and certify to each of the other three (3) as a true copy of the one approved and accepted by them. Said plats shall be presented to the register of deeds of St. Louis county for record, and when so presented the plat endorsed as approved by the plat commission, shall by such register of deeds be filed of record as the original plat. Each of the other three shall be certified by the said register of deeds as a true copy of the original plat. Only the plat or map filed as the original shall be open to inspection by the register of deeds or one of his deputies. One of the certified copies shall be filed in said register's office, and shall be open to the inspection of the public during business hours; one shall be filed in the office of the city assessor for use in that office, and the other copy shall be retained by the city engineer and filed in his office. The originals as well as copies, shall from time to time be bound in separate books in good and substantial binding, whenever a sufficient number of plats or maps have accumulated in the engineer's, the assessor's and the register of deed's office to make a book.

Pre-requisites to Approval and Filing of Plats.

Section 441. No plat or map shall be approved by the plat commission un-

less presented in quadruplicate as aforesaid, nor shall said register of deeds file for record any such plat or map unless executed according to the provisions of this chapter, nor unless three (3) true copies thereof shall be presented with the original map or plat as aforesaid; and said map or plat shall not be approved by said plat commission unless the certificate of the engineer or surveyor making the same, shall state that at the corners of each and every block a stone or iron monument not less than fifteen (15) inches in length, and one and one-half (1½) inches in diameter, has been placed; that the monuments as shown on the plat have been correctly placed; that the boundary lines of the lands platted, the blocks and lots are correctly shown on the plat; that the width and length of all lots, streets, alleys, highways and public grounds are as given on the plat, which certificate shall be endorsed on the plat, and shall form a part of the records.

Requirements as to What Shall be Shown on Plats.

Section 442. On all maps or plats having curved lines of streets, avenues, parks, blocks, lots or parcels of land, the radius courses and distances of each must be distinctly shown by letters and figures; also the boundary of the lands so platted shall be shown by a red dotted line, and in case of the platting or rearrangements of subdivisions of lots and blocks, the original platting and description of the same shall be shown on the plat or map of such rearrangement or sub-division by faint lines, letters or figures.

Abstract of Title to be Submitted.

Section 443. In all cases of plats or maps presented for approval, whereupon streets, alleys, parks, boulevards or avenues or any of them are dedicated to the public, the owner, agent or person presenting the same, shall submit to the plat commission with said plat, an abstract of title of the land so platted, and if it shall appear that any mortgage or other lien exists on said land, the approval of the commission shall be withheld until a re-

lease of said mortgage or other lien is properly made, so far as the same may relate to any streets, alleys, parks, boulevards or avenues so dedicated to the public, and it is hereby made the duty of the register of deeds of said county to notify in writing the plat commission of all plats or maps that are filed for record in his office. Said abstract of title shall be returned to the owner thereof.

Further Requirements as to Contents of Plats.

Section 444. The plat shall particularly describe and set forth all the streets, alleys, ways, public grounds, blocks and lots, giving the names, width, courses, boundaries and extent of all such streets, alleys, ways and public grounds. All the blocks and lots shall be numbered in progressive numbers or by the squares in which they are situated; and the precise length and width of lots shall be stated in the plats, together with any streets, alleys, ways or public grounds which border or divide the same.

Plat, How Executed.

Section 445. The plat shall be subscribed by the owner of the land described in the plat, in presence of two witnesses, and the owner so signing the plat shall acknowledge the same before some person authorized to take acknowledgment of deeds. A certificate of such acknowledgement shall by the officer taking the same be endorsed upon the plat and shall form a part of the record.

City Engineer to File Plats or Maps—Payment of Fees.

Section 446. All plats or maps which have been accepted by the common council shall, after such acceptance has been duly published in the official proceedings of said council be delivered by the city clerk to the city engineer, who shall see that the same are filed in the office of the register of deeds as hereinbefore provided. Provided the owner, or owners of said plat or map, shall first pay to the city engineer all fees and costs incurred in filing the same for record, and in no

case shall the said city engineer give up possession of said plats or maps to any person, but shall, as soon as said costs and fees are received by him, at once convey said plats or maps to the office of the register of deeds and file the same as hereinbefore provided.

Fee Simple, Vested in the City by Dedication—Effect of Vacation.

Section 447. When said plat is made out, certified, acknowledged, witnessed and recorded as required by this chapter, every dedication or grant to the public or to the city of Duluth, marked or noted as such on said plat, shall be deemed in law and in equity a sufficient conveyance to vest in the city of Duluth the fee simple of all such parcels of land as are therein expressed, and shall be considered to all intents and purposes a general warranty against such donors, their heirs or representatives to said donees or grantees, for their use for the uses

and purposes therein named, expressed and intended and for no other use or purpose whatever; and the land intended to be streets, alleys, ways, commons or other public uses shall belong to the city in trust for the uses and purposes set forth and expressed or intended. But if a tract dedicated to a public use is vacated, said fee simple estate therein shall revert to the donor or dedicator, his heirs and assigns.

How Plat May be Vacated.

Section 448. Such plat or any portion thereof may be vacated in the manner provided by law.

Donations to the City.

Section 449. All donations of land to the city for public streets, roads, alleys or other purposes shall be platted and go through the same course as above provided for other plats.

Chapter XXVI.

Municipal Ownership.

Authority of Council.

Section 450. The city of Duluth shall have the power and authority to acquire by purchase or condemnation, or to construct markets and market houses, ferries, docks and warehouses, sub-ways and conduits, and a plant or plants for furnishing to the city and its inhabitants transportation, water, light, heat, power or telephone or telegraph service and to acquire all property, real or personal, necessary therefor, and to maintain and operate the same.

Ascertainment of Cost.

Section 451. Before acquiring any property for the purpose mentioned

in the above section the common council shall determine by a preliminary resolution the necessity or propriety of acquiring the particular property for the use of the city, but before any such resolution is passed by the council, the cost of acquiring such property or of establishing the particular plant or public service shall be ascertained, by an estimate furnished by the city engineer as to the probable cost of erecting the new plant or acquiring an existing plant by purchase or condemnation proceedings. The estimated cost, so ascertained, shall be published in the official paper of the city once a week for six successive weeks, before the common council shall take final action by ordinance as in section 454, pro-

vided, and such costs so determined shall be included in such ordinance, as submitted to a vote of the people as in this chapter provided.

Provisional Agreement and Bond.

Section 452. The common council shall have authority to enter into a provisional agreement for the acquisition of property, by purchase or condemnation for the erection, construction and maintenance of a plant or plants for any of the purposes mentioned in section 450 but such provisional agreement shall not be adopted by the common council until all the terms and conditions thereof have been published in the same manner as provided in section 451 and its adoption by the common council shall be subject to the ratification thereof by a vote of the people as hereinafter provided. Before such provisional agreement is submitted to a vote of the people, a good and sufficient bond to be approved by the common council may be executed to the city from the party thus agreeing to contract with the city, conditioned for the fulfillment of such provisional contract in case it is ratified by the people.

New Estimates.

Section 453. If, for any reason, any change is made in the estimate as first published, such new estimate shall be published in the same manner as provided in section 451 before the common council takes final action by ordinance.

Submission to the People.

Section 454. After such publication is had, the common council may take final action by ordinance, determining to acquire or construct the particular property or plant for any of the purposes mentioned in section 450 in one of the methods hereinbefore specified; provided, however, that before such ordinance shall be binding upon the city it shall be submitted to a vote of the people for ratification or rejection at a general city election, or a special election called for that purpose held not less than

two (2) months after the passing of such ordinance. No ordinance so submitted to a vote of the people shall embrace more than one of the purposes enumerated in section 450 but several ordinances may be submitted separately at any one election. If an issue of bonds by the city shall be necessary to carry out any proposition so submitted the question of the issuance of such bonds and the amount thereof may be submitted, as a part of the proposition. A majority vote of the people voting thereon shall be necessary to ratify such ordinance, except in a case of a purchase otherwise than through condemnation proceedings, in which case a four-sevenths (4-7) vote shall be necessary.

Proceedings After Ratification.

Section 455. In all cases other than those in which a provisional agreement has been made the ordinance of the common council, if ratified by the people, shall be carried into effect in the following manner:

(a) If a new plant is to be constructed the common council shall proceed to cause the same to be constructed in accordance with the regulations as to contracts in this charter.

(b) In case it is proposed to acquire an existing plant, and the city, before the submission of the ordinance has not been able to enter into a provisional agreement with the owner or owners thereof, then said city in the exercise of its right of eminent domain, may proceed to condemn all such property, rights and privileges connected with such existing plant, according to the method of condemnation prescribed in chapter twenty-three (23) of this charter, for the condemnation of property mentioned in part three (3) of sub-chapter one of said charter.

Limitation of Cost.

Section 456. Where a provisional agreement has been made and ratified by vote of the people, the common council shall not expend for the purpose set forth in such agreement, a sum in excess of the sum therein named.

Sales, and Leases.

Section 457. No municipal service plant, owned by the city, whether acquired prior to the adoption of this charter or thereafter, shall be sold, leased or otherwise disposed of by the city, unless the full terms of the proposition of said sale or other disposition thereof, together with the price to

be paid therefor, shall have been published in the official paper of said city once a week for six (6) successive weeks, before final action of the common council, and submitted to a vote of the people for ratification or rejection at the next city election, and ratified by at least two-thirds (2-3) of the vote of all the people voting thereon.

Chapter XXVII.

Municipal Franchises.

Definitions.

Section 458. The word "franchise" as used in this chapter, shall be construed to mean any special privilege granted for the purpose of profit, to any person, co-partnership or corporation in, over, upon or under any of the streets, alleys or public places of the city of Duluth, whether such privilege has been granted by the city of Duluth or by and under the state of Minnesota. The term "public service corporation or person" as used in this charter, shall be construed to mean any person or corporation exercising any franchise within the city of Duluth.

Provided, that the word franchise as used in this charter, shall not be construed to apply to a special privilege granted to a person, co-partnership or corporation for the purpose of carrying on a steam railroad between the city of Duluth and any other place, for the purpose of profit.

Power of Common Council.

Section 459. The common council may, by ordinance, adopted by the affirmative vote of two-thirds (2-3) of all its members, grant rights in, over, upon or under any street, alley or public place, for the purpose of constructing or operating street railways,

or for telephoning or telegraphing or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the city, or its inhabitants, or any portion thereof, water, light or heat, or for any other purpose, but subject always to the limitations and conditions in this chapter prescribed.

Limitation of Franchises.

Section 460. No perpetual franchise shall ever be granted, nor shall any franchise be granted where a petition is filed with the city clerk within thirty (30) days after the publication of the ordinance granting the same (which petition shall be signed by not less than three (3) per cent of the qualified voters of the city, as shown by the votes at the last preceding general city or state election), asking for submission of the question of granting such franchise to a popular vote, until such question shall be so submitted at a general city election or a special election called for that purpose. It shall be a feature of every franchise so granted that the maximum price for the service or charge shall be stated in the grant thereof; and no franchise shall be granted for a longer period than twenty-five (25) years. No ordinance granting any franchise shall take effect until thirty (30) days after the publication thereof,

Contents and Publication of Franchise Ordinances.

Section 461. Every ordinance by which the common council shall propose to grant any franchise shall contain all the terms and conditions of the franchise to be granted, and shall be published verbatim in the official paper of the city at least once a week for four (4) successive weeks before taking effect.

Regulation of Franchises.

Section 462. The city of Duluth shall have the right and power to regulate and control, from time to time, the exercise by any person or corporation, of any franchise, whether such franchise has been granted by the city of Duluth or by and under the state of Minnesota, and the exercise of such power of regulating and controlling shall be vested in the common council. Said common council may, from time to time, enact resolutions and ordinances in relation thereto, except as is otherwise in this charter provided.

Reports.

Section 463. Every corporation or person exercising any franchise in the city of Duluth, shall file, annually, on the first Monday in February of each year, in the office of the comptroller, a sworn statement, subscribed and sworn to by at least two (2) officers of such corporation, or by the individual in control, in case such franchise is exercised by a person or co-partnership, setting forth in detail for the preceding calendar year the then actual cost of the plant or business operated by such corporation or person, the actual incumbrances, debts and obligations thereon, if any, the amount of stock issued and to whom issued, and the consideration thereof, the gross earnings, the expenses and nature thereof, and the net income after deducting all proper costs and expenses, the names and residences and the amount of stock of all stockholders of such public service corporation; if any bonds have been redeemed and not cancelled, that fact shall also be stated. Said statement so filed shall be open to

public inspection during the business hours of said office. Every such corporation or person who fails to comply with the provisions of this section shall be liable to the city of Duluth in the sum of one hundred dollars (\$100) for each day of such failure, to be recovered in civil action in any court of competent jurisdiction, and at the end of sixty (60) days, if such default shall continue, shall forfeit all such franchises.

Regulation of Rates.

Section 464. The city shall have the power to regulate and control in the manner hereinafter prescribed, the maximum price to be charged by any corporation or person exercising any franchise in the city for the service rendered by it to the city, and to any other person or corporation, but such price shall be fair and reasonable to such public service corporation or person, and to the public.

Proceedings to Fix Rates.

Section 465. The mayor or the common council may, and upon the written petition of five hundred (500) voters of the city, shall make and file with the city clerk a complaint, setting forth and alleging that the tariff of rates, fares, charges, or parts thereof, of any such corporation hereinbefore mentioned, are in any respect unequal or unreasonable. The common council shall forthwith forward a copy of such complaint to the person or corporation complained of and such person or corporation shall, within twenty (20) days, make answer thereto, and if such person or corporation refuses to comply with the demands of the complaint, then said common council shall, within fifty (50) days after the filing of such complaint, appoint three (3) disinterested persons as a commission to investigate and report upon the question of rates and charges so complained of. Said commissioners shall be residents of the city of Duluth and shall have resided therein at least five (5) years next preceding the date of their appointment.

Qualification of Commissioners.

Section 466. No person shall be eligible to act as such commissioner who is in the employ of any public service corporation or person in the city of Duluth, or holding any official relation to any public service corporation or person, or who is either a competitor of the public service corporation complained of, or in the employ of such competitor, or has sustained such relation at any time within a year preceding the filing of the complaint, or who is in any manner interested in any stock, bonds or other property of such public service corporation in the city of Duluth or that of a competitor. The persons appointed as such commissioners shall, within ten (10) days after their appointment, in writing, signify their qualification and acceptance or refusal to serve as the case may be. In case of vacancy, because of failure or inability to qualify and serve, the common council shall proceed to at once fill such vacancy.

Commissioner's Oath.

Section 467. Each of the commissioners, before entering upon the duties of his office, shall make, subscribe and file with the city clerk, an oath to the effect that he will faithfully discharge the duties of his office, as a member of such commission, according to the best of his ability, and also that he is not in the employ of, or holding any official relation to, any public service corporation or person in the city of Duluth, and that he is not a competitor of, or in the employ of any competitor of the public service corporation or person complained of, and that he has not been at any time during the year previous to his appointment as such commissioner, and is not holding any official relation to the public service corporation complained of, nor in any manner interested in any stock, bonds or other property of the party complained of, or of any competitor.

Compensation and Meetings.

Section 468. The common council, at the time of the appointment of such

commissioners, shall designate the time and place where said commissioners shall meet, and shall fix the rate of compensation of the commissioners, and designate the time within which said commission shall make its report.

Proceedings of Commissioners.

Section 469. Such commission, for the purpose of investigations, shall have the power to require the attendance of witnesses and the production of all books, papers, contracts, agreements and documents that relate or bear upon the matters set forth in the complaint, and to that end may invoke the aid of the courts, requiring the attendance of witnesses and the production of books, papers and documents. Any member of said commission shall have power to swear witnesses. All the evidence taken by the commissioners shall be reduced to writing and certified to by such commission. The city attorney shall be present and aid the commission in the investigation. The party complained of may also appear by counsel. After due consideration of all the evidence produced at such hearing or hearings, the commission shall make its report in writing to the common council, setting forth its conclusions of fact touching the subject complained of, and whether such fares, charges or rates complained of are unequal and unreasonable, and if such commission should find that such charges, fares or rates are unreasonable or unequal then wherein they are unequal and unreasonable, and shall complete the report with a finding as to what rates, charges and fares would, under all the circumstances, be fair and reasonable, and fix such charges, fares and rates as the case may be. Said report and a transcript of all the evidence, certified to by the commissioners, shall be filed with the city clerk.

Scope of Investigation.

Section 470. Said commission shall determine: First, what it would cost to duplicate the entire plant and equipment of the particular public service under consideration; second, what is a reasonable income on such cost;

third, what amount of income will the maximum rate by the commission produce. Said commission shall also determine what the entire plant has cost, and the cost of its franchise, if anything was paid therefor, and the depreciation of the plant, and shall determine and report such other facts as they may deem pertinent to the question under consideration.

Proceedings by Common Council.

Section 471. Any citizen, person or corporation of the city directly interested in the rates, fares and charges so fixed by said commission in its report, may within twenty (20) days after the filing of such report file written objections to the action of the commission, specifying the particular ground of his objections, and such objection shall be read at the first regular meeting of the common council held next after the filing of such objections, and said common council shall proceed to consider such objections at the meeting of said common council held next after said reading and may refer the report of the commission, together with the objections, to some special committee. The common council shall, within forty (40) days after the filing of said report, consider the same, and all objections filed, and may by resolution confirm the report of the commission. If the report of said commission is confirmed by the common council, the commissioners shall thereby be discharged from further duty, and thereby the action of the common council shall stand as final and conclusive upon all the parties interested except as hereinafter provided.

Appeals.

Section 472. In case the common council confirms the action of the commission, the party filing objections or any party directly interested shall have the right to appeal from such resolution of confirmation to the district court of St. Louis county at any time within twenty (20) days after such confirmation. Such appeal shall be made by serving written notice thereof upon the city clerk, which no-

tice shall specify the proceedings and refer to the objections filed, as aforesaid, and also by delivering a bond to the city of Duluth, executed by the appellant and one or more sureties, who shall be freeholders of said city, and shall justify in the penal sum of five hundred dollars (\$500) conditioned to prosecute the appeal with effect, and to pay all costs that may be awarded against the appellant in the event that the action of the common council is sustained, which bond shall be approved by one of the judges of the district court and filed with the city clerk. Thereupon said city clerk shall within ten (10) days, transmit to the clerk of the district court all the appeal papers and evidence reported by said commission together with a certified copy of the complaint upon which the proceedings were instituted and the answer thereto, and the report of the commissioners as confirmed by the common council, and the resolution of the common council confirming the same, and the objections filed as aforesaid. Such appeal may be brought on for hearing on eight (8) days' notice at any general or special term of said court, and shall have precedence of other civil cases. Appeal from the action of the district court may be taken in the same manner as appeals in civil actions.

Prima Facie Evidence.

Section 473. The tariff of rates, fares and charges so fixed by the commission and confirmed by the common council, shall be deemed and taken by the courts as prima facie evidence that the tariff of rates, fares and charges so named is just and reasonable.

Judgment of Court.

Section 474. Upon appeal the court may examine the evidence transmitted to it, and shall determine whether the rates, fares and charges as fixed are reasonable and may fix the rates, fares and charges or it may affirm, modify or reverse the report of the commission as confirmed by the common council, in whole or in part, as justice may require. In case any report is modified as aforesaid

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the report so modified shall for all purposes stand in place of the original report and have the same force and effect throughout the city of Duluth as the action of said commission confirmed by the common council.

Effect of Proceedings.

Section 475. The rates as fixed by the commission or their resolution or confirmation or as fixed by the court on appeal, shall be binding upon all the parties for a period of three (3) years. At the end of the period for which the rates have been fixed, a new commission may, in like manner be appointed. In the event of a reversal of the action of the common council by the court, a new commission may be appointed in the same manner as the first one.

Further Privileges.

Section 476. The city shall not extend or grant any additional or further favor or privilege of any kind to any person or corporation now or hereafter holding any franchise from the city, for a longer term than five (5) years, nor unless such person or corporation shall in writing agree to pay to the city annually a percentage, to be fixed by the common council, of the annual gross earnings; performance of which contract shall be a condition subsequent to such grant. No extension or modification of any franchise granted under the provisions of this charter shall be valid unless the same is made and approved by the people in the manner in which the original making or approval by the people, of franchises is required to be done by section 460.

Chapter XXVIII.

Salaries and Bonds.

Salaried Officers.

Section 477. The following officers of the city shall receive each year salaries as follows:

The mayor, two thousand five hundred dollars (\$2500.00); comptroller, two thousand dollars (\$2000.00); treasurer two thousand four hundred dollars (\$2400.00); aldermen three hundred dollars (\$300) each; city clerk one thousand eight hundred dollars (\$1800.00); city attorney three thousand dollars (\$3000.00) and the fees provided in the municipal court act; assistant city attorney one thousand five hundred dollars (\$1500.00); city engineer two thousand seven hundred dollars (\$2700.00); board of public works one thousand dollars (\$1000.00) each; commissioner of health one thousand two hundred dollars (\$1200.00); city assessor one thousand eight hundred dollars (\$1800.00); building inspector one thousand four hun-

dred dollars (\$1400.00); board of fire commissioners two hundred dollars (\$200.00) each; secretary of board of civil service commissioners (who shall be ex-officio secretary of the health commissioner) one thousand two hundred dollars (\$1200.00); mayor's private secretary six hundred dollars (\$600.00); secretary of the board of fire commissioners six hundred dollars (\$600.00). The secretary of the board of park commissioners will receive a compensation to be annually fixed by the board on April first (1st) and not to exceed the sum of six hundred dollars (\$600.00).

Unsalared Officers.

Section 478. Members of water and light board of the civil service board, of the board of fire commissioners, of the library board and of the park board

shall receive no compensation for their services, but shall be paid all actual and necessary expenses incurred in performing their official duties.

Salaries Fixed By Common Council.

Section 479. Wherever no special provision is made in this charter for fixing the salary of any officer or employe of the city, the common council by a two-thirds (2-3) vote of all the members thereof, shall provide for the payment of salaries either by fixing the same annually or by delegating the power of fixing the same to the heads of the several departments to which such officers or employes belong.

Monthly Payments.

Section 480. The salaries of all officers of the city shall be paid in equal payments on the first of every month, or as soon thereafter as practicable.

Increase or Diminution.

Section 481. The salaries of the officers of the city shall not be increased or diminished during the term for which any such officer shall have been elected or appointed, nor during the period intervening between the election or appointment of any such officer and the commencement of his term of service. All officers appointed or elected under the former charter of the city of Duluth who by the terms of this charter continue to act as officers after this charter goes into effect, shall receive the compensation herein provided for such officer.

Fees, Emoluments and Gifts.

Section 482. No officer or member of any board, or employe of the city of Duluth shall, directly or indirectly, in or about the performance of his office or position, receive any gift, commission, gratuity or reward or other valuable thing whatever, except his salary; nor shall any such officer or member of any board or employe of the city of Duluth receive any pass, free transportation or other free services, gift or gratuity from any person, co-part-

nership or corporation holding a franchise from the city of Duluth, except as is expressly permitted by this charter; and every such officer and member shall, except as aforesaid, account for any pay over to the treasurer at the end of each month all fees, moneys and emoluments received by him during the previous month by reason of his office.

Provided, that nothing in this section contained shall be construed to prevent the street railway companies in the city from carrying free on their lines of road, policemen and firemen, while in the discharge of their official duties.

Witness Fees.

Section 483. No salaried, elective or appointive officer of the city of Duluth, except members of the common council, who shall be called as a witness to give testimony in any criminal action or proceeding before the municipal court of the city of Duluth, the district court of St. Louis county, or in any proceeding of the probate court of St. Louis county, or before the grand jury of said county, or before the coroner's jury thereof, or in any investigation under this charter, shall receive any fee or compensation whatever for so appearing or testifying, provided, however, that the compensation paid by said city to said officer or such employe for such service shall not be reduced by reason of his absence from work while attending as such witness.

Bonds.

Section 484. The common council may require bonds from any official or employe of the city in those cases where a bond is not required by the terms of this charter, and may fix the amount of the bond so required by it, and make any regulations it may deem proper in regard to the sureties thereon.

Corporate Sureties.

Section 485. The sureties on all bonds required from officers by the terms of this charter, shall be corporations

authorized under the general laws of this state, to do business in this state, and to give such bonds, but such bonds shall be approved by the common council and upon approval the city shall pay the premium of all such bonds.

Compensation of Subordinate Employees.

Section 486. The aggregate compensation of the assistants and subordinate employes of each department or under each officer mentioned in this chapter, shall be fixed for the ensuing year by the common council, by resolution, passed on the first of Novem-

ber or as soon thereafter as may be, by a two-thirds (2-3) vote of the members thereof.

The common council shall fix the salaries and compensation in detail of the members of the fire and police departments, by resolution, at the same time. In all other cases the various boards and officers shall regulate in detail the compensation of such assistants and subordinate employes, but except in those cases where such officers or members of boards themselves serve without compensation, the consent of the common council must be obtained to the action of such officer or board so fixing such compensation.

Chapter XXIX.

Courts.

Justice of the Peace for West Duluth.

Section 487. The voters of all that part of the city of Duluth west of thirty-third avenue west, prolonged to the city limits, shall at the first regular city election held after the adoption of this charter, and biennially thereafter, choose one of their number as a justice of the peace, who shall maintain an office within the territory from which he is so elected.

Term of Office.

Section 488. At its first regular meeting after the adoption of this charter, or as soon thereafter as practicable,

the common council of the city of Duluth shall by vote of its members appoint some citizen and voter of that portion of the city west of thirty-third avenue west as a justice of the peace who shall hold his office until the next regular city election and until his successor is elected and qualified. The term of office of any justice of the peace elected under the provisions of this chapter shall be two (2) years, and until his successor is elected and qualified. Such justice of the peace so elected or appointed, as provided in this chapter, shall, during his term of office, have and exercise all the authority and power conferred upon justices of the peace by the general statutes of this state.

Chapter XXX.

Public Printing.

Official Paper.

Section 489. The conference committee at its annual meeting in the month of March in each year shall prepare specifications calling for bids for the publication of the proceedings of the common council and for the publication of all other matter required by this charter to be published in the official newspaper of the city. Said specifications shall also prescribe the maximum compensation to be paid said paper, and the character of such paper, whether daily or weekly, and any other matter which it may seem desirable to the conference committee to include in such specifications; but no paper shall be excluded from bidding on account of the time during which it has been published; provided, it has been published for six months preceding the time of calling for such bids.

After the preparation of such speci-

cations the same shall be submitted to the common council for approval. The common council may approve or modify the same, but shall not raise the maximum rate of compensation over that fixed by the conference committee. After the common council shall have confirmed the specifications as fixed by the conference committee, either in their original or modified form, the contract shall be let to the lowest bidder, in accordance with the provisions of chapter twenty-two (22) of this charter entitled "General Provisions Concerning Contracts."

Such specifications shall provide for letting such printing to a daily paper, and in case no daily paper bids therefor, then to a weekly paper. The official paper of the city at the time this charter goes into effect shall continue to be the official paper until a new one is designated as herein provided.

Chapter XXXI.

Miscellaneous.

Elective Officers to Serve Out Terms.

Section 490. The mayor, city comptroller and city treasurer elected under the former charter of the city of Duluth, shall be the mayor, comptroller and city treasurer under this charter until the expiration of their terms under the former charter. The members of the common council elected under the former charter of the city of Duluth, shall constitute the common council until the expiration of their

terms and until their successors are elected and qualified.

Unfinished Assessments and Proceedings.

Section 491. The common council shall, by resolution, provide for the making of assessments in all cases where improvements have been made before this charter goes into effect, and no assessment levied therefor; for the collection of all assessments levied

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DULUTH CITY CHARTER.

under the charter and the completion of the assessment partially levied under the same, insofar as no provision is made therefor in this charter, and in general for the completion of any proceedings commenced under the former charter of the city of Duluth.

Transfer to Successor.

Section 492. Each officer and employe of the city or of any department or board thereof, in office or position at the time this charter goes into effect, whose office or position is by this charter abolished, or whose functions and duties are by this charter conferred upon an officer or officers to be appointed under this charter, shall turn over to the proper officers appointed under this charter, all property, books, and papers in his hands or under his control belonging to the city or any board or department thereof, as soon as such officer or officers under this charter are appointed and have qualified.

Warrants in Prosecution.

Section 493. In all prosecutions for any violation of this charter or any ordinance or regulation of the city or of any board, the first process shall be by a warrant; provided, that no warrant shall be necessary in the case of the arrest of any person or persons while in the act of committing any such violation, but the person or persons so arrested may be proceeded against, tried, convicted, punished or discharged, in the same manner as if the arrest had been made by warrant.

Punishment of Offenses.

Section 494. Every act or omission to act, which, under this charter or the ordinances and regulations of the city, of any board thereof, is or shall be, made a misdemeanor, or subject to punishment, shall be, if the punishment is not otherwise prescribed, punishable by imprisonment for not more than three (3) months, or by fine of not more than one hundred dollars (\$100).

Punishment for Vagrancy.

Section 495. The judge of the municipal court of the city of Duluth, shall have power to commit for vagrancy any person to the city prison or county jail, or to order any such person to work on the public improvements of the city for a term not exceeding ninety (90) days, and the city may use the St. Louis county jail as a city work house.

Arraignments.

Section 496. Any police officer having in his custody any person arrested upon any charge, except felony, and any officer in control of any police station of the city, wherein any person that has been so arrested is detained, shall take such person before the municipal court of the city of Duluth for arraignment at the next session of the court after such arrest, or after such person came into his custody, unless one of the judges of said court shall give written consent that such arraignment may be delayed to some later session thereof, to be designated in said written consent. It shall be the duty of the chief of police of the city of Duluth to see that this provision is strictly complied with.

Any officer violating the provisions of this section shall be guilty of a misdemeanor.

Solicitations.

Section 497. No person shall solicit any officer or employe of the city for money, work or other contributions for political purposes, and any person violating this provision shall be guilty of a misdemeanor.

Inspection of Records.

Section 498. All records, books and papers pertaining to the business of the city or any board or department thereof, shall be public and open to the inspection of any citizen of the city at all reasonable times and places.

RE-INDEXED
MAY 12 1921

Mayor's Office
Duluth.

Dec. 31, 1900.

To the Hon. Secretary of State,
Saint Paul, Minn.

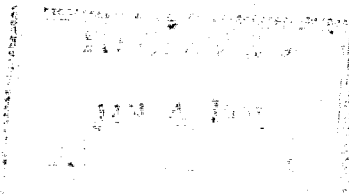
Dear Sir :

I hand you herewith certificate of amendment to the City Charter of the City of Duluth, to be filed in your office as supplemental to the originally certified copy of said Charter.

Yours respectfully,

T. W. Huggs
Mayor.

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"By adding to section numbered sixty-four (64) thereof the following: Eighty-sixth: To provide by contract or otherwise for the operation of a free or toll ferry across the ship canal in the city of Duluth from Minnesota Point to the main land adjacent thereto."

State of Minnesota)
County of St. Louis) s.s.

CITY OF DULUTH.

I, T.W.Hugo, Mayor of the City of Duluth in St.Louis County, Minnesota, do hereby certify that the annexed and foregoing amendment to the Charter of the City of Duluth was returned to the Mayor of the City of Duluth by the Charter Commission duly appointed by the Judges of the District Court for the Eleventh ~~XXXXXXXX~~ Judicial District in the State of Minnesota, under authority of Chapter 351 of the Laws of Minnesota for 1899, as a proposed amendment to the Charter of the City of Duluth, to be submitted to the qualified voters of said City of Duluth at the next election thereof. That said amendment was under the provisions of said Chapter 351 of the General Laws of 1899, duly submitted to the qualified voters of said City at the next election thereof, which was held on November 6th., A.D.1900, and was duly ratified and accepted by more than three-fifths of the qualified voters of said City voting at such election. ~~XXXXXXXXXXXXXXXXXXXX~~

In Witness Whereof, I have signed this certificate and caused it to be authenticated by the corporate seal of the City of Duluth, in triplicate, this 31st.. day of December, A.D.1900..

T.W.Hugo
Mayor of the City of Duluth.

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RE-INDEXED
MAY 12 1921

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~~Handwritten scribble~~

STATE OF MINNESOTA,
DEPT. OF STATE

Filed for Record in Secretary
Office on JAN 4 1901 day

Alvord
Secretary

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