

be actually occupied by interred bodies, shall not be so sold until such city shall have arranged for the interment of such bodies, and shall have caused their removal.

Forfeitures  
and license  
moneys.

SECTION 30. All forfeitures and expenditures accruing to the city, for any violation of this act, or of any of the ordinances, by-laws, rules, and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become a part of the general fund, except as otherwise provided in this act.

Public act.

SECTION 31. This act is hereby declared to be a public act, and shall be liberally construed in all courts of this state.

SECTION 32. This act shall take effect and be in force from and after its passage and publication in the official state paper, without other publication mentioned in chapter 20 of the revised statutes of Wisconsin.

Approved March 30, 1891.

No. 591, A.]

[Published April 2, 1891.]

## CHAPTER 124.

AN ACT to revise, consolidate and amend chapter 152, of the laws of 1889, entitled, "An act to incorporate the city of Superior."

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

### CHAPTER I.

Corporate  
name and  
powers.

SECTION 1. All the territory hereinafter described lying and being within the county of Douglas, in the state of Wisconsin, shall be and remain a city by the name of Superior, and the people now residing therein, and all those who may hereafter become residents of said territory, shall be a municipal corporation by the name of Superior, and they shall have the general powers usually possessed by municipal corporations at

common law, and also the powers hereinafter specially granted, and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded with, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure. The corporate authority of the city shall be vested in one principal officer, styled the mayor, in one board, which shall be known as and styled, the common council of Superior, consisting of two aldermen from each ward, together with such other officers as may be created by this act.

## CHAPTER II.

SECTION 2. The following described territory shall constitute and be the city of Superior: City boundaries. Beginning at the southeast corner of section one, in township forty-eight north, of range thirteen west, in the county of Douglas and state of Wisconsin; running thence west on the section line to the southwest corner of section six, in township forty-eight north, of range fourteen west; thence running north along the township line to the intersection of said line with the state line between the states of Wisconsin and Minnesota; thence following said state line down the river St. Louis and through St. Louis Bay, and through the bay of Superior to the mouth of the St. Louis river, between Minnesota and Wisconsin points; and thence easterly to the meander line on the northermost point of said Wisconsin point; thence along said meander line on Lake Superior and following the shore line of said lake southeasterly and easterly to the section line on the east side of section thirty-six in township forty-nine north, of range thirteen west, and thence south to the place of beginning.

SECTION 3. The city shall be divided into seven Ward boundaries. wards, and the boundaries of the same shall be as follows: The First ward shall contain all of First ward. the territory described as follows: All of fractional township forty-nine north, of range thirteen west, except all that part of section nineteen in said town and range which lies north and west

of Hollinshead avenue; also sections one, two, three, four, five and six of township forty-eight north, of range thirteen west; also the southeast quarter of section twenty-five, and all that part of the northeast quarter of said section twenty-five, and all that part of the southwest quarter of section twenty-five in township forty-nine, of range fourteen, lying east of Hollinshead avenue; also the northeast quarter of section thirty-six, and all that part of the northwest quarter of section thirty-six in township forty-nine, range fourteen, lying north and east of Twenty-ninth street.

**Second ward.** The Second ward shall contain all of the territory described as follows: Fractional sections thirteen and twenty-four; all that part of section twenty-five lying north and west of Hollinshead avenue; all that part of section thirty-six lying south and west of West Twenty-ninth street; the south half of section thirty-six; all of sections twenty-six and thirty-five; all in township forty-nine north, of range fourteen west; also sections one and two, in township forty-eight north, of range fourteen west; and all that part of section nineteen in township forty-nine north, of range thirteen west, lying north and west of Hollinshead avenue, and also commencing at the northeasterly corner of the Fifth ward hereinafter described; thence running southeasterly on the state line to an intersection of the center line of Hollinshead avenue produced; thence southwesterly on said Hollinshead avenue, produced; to the shore of the bay of Superior.

**Third ward.** The Third ward shall contain all of the territory described as follows: All of the territory embraced in Connor's Point, according to the recorded plat thereof, and also the territory embraced in lots one and two of section eleven, township forty-nine north, of range fourteen west.

**Fourth ward.** The Fourth ward shall contain all of the territory described as follows: All of fractional section ten, not including that portion of said section ten embraced in the Third ward above described as a part of Connor's Point; also the north half of sections fifteen and sixteen; all in township forty-nine north, of range fourteen.

**Fifth ward.** The Fifth ward shall contain all of the territory described as follows: All that portion of section eleven not included in the Third ward above described; also all of section fourteen, and that por-

tion of bay frontage on Superior Bay described as follows: Beginning at a point in the main channel of Superior Bay, where the southeasterly line of lot number one, Connor's Point, according to the recorded plat thereof, produced, intersects said channel; thence running southwesterly along said line to where the same intersects the shore line of section fourteen; thence at an angle, and southeasterly, along the shore line of said section fourteen, to a point where the same intersects the section line between sections thirteen and fourteen; thence at an angle and on a line northeasterly and parallel with the southeasterly line of said lot one, Conner's Point, to a point where said line intersects the main channel in Superior Bay; thence at an angle and northwesterly to the place of beginning. Also all of section number twenty-three. Sixth ward.

The south half of sections fifteen and sixteen; also all that part of section seventeen lying east of the channel of St. Louis river and included between Winter and Belknap streets produced. Seventh ward.  
 The Seventh ward shall contain all the territory described as follows: Beginning at the northeast corner of section twenty-two in township forty-nine north, of range fourteen west; thence westerly along the section line between sections fifteen and twenty-two, and between sections sixteen and twenty-one, to a point where said section line produced westerly intersects the state line between the state of Minnesota and the state of Wisconsin; thence southerly and westerly along said state line to a point where the same intersects the westerly line of section number thirty-one, in said township forty-nine north, of range fourteen west; thence southerly along said westerly line of section thirty-one produced to the southwest corner of section six, in township forty-eight north, of range fourteen west; thence easterly along the south line of sections six, five, four and three to the southeast corner of section three; thence northerly along the east line of said section three produced in township forty-eight north, of range fourteen west, to the place of beginning.

## CHAPTER III.

## ANNEXATION OF TERRITORY.

**Annexation of adjacent territory.** SECTION 4. Territory lying adjacent and contiguous to the city may be annexed thereto in the manner hereafter set forth.

**Petition for annexation.** SECTION 5. The owners of any forty acre parcel or governmental lot, or of a less area of land, may present a petition to the city council asking for annexation, and if electors reside upon said land said petition shall also be signed by at least three-fourths of the electors.

**Council may take final action upon petition, when.** SECTION 6. At any regular meeting of the common council after the filing of said petition with the city clerk, an ordinance may be introduced providing for the annexation of such territory to the city. Final action on said ordinance shall not be taken except at a regular meeting of the council, and not earlier than thirty days after the same is introduced; and in the meantime the same shall be published, at least once in each week for four successive weeks, in the official newspaper of the city.

**Vote on adoption of ordinance for annexation, how taken.** SECTION 7. A vote of three-fourths of all the members of the council-elect in favor of said ordinance, taken by ayes and noes, and recorded, shall be necessary for its adoption.

**Adoption of ordinance to annex territory.** SECTION 8. The adoption of said ordinance shall operate to annex such territory to the city, and the ward or wards designated therein. The validity of the proceedings annexing such territory, shall not be called in question collaterally in any of the courts of this state; nor shall the validity of such proceedings be called in question in any other manner, in the courts of this state, unless the action or proceeding therefor be commenced within ninety days after such ordinance is adopted.

**Validity of, not to be questioned.**

## CHAPTER IV.

## OFFICERS — THEIR ELECTION, APPOINTMENT, QUALIFICATIONS, COMPENSATION, VACANCIES.

**Officers, enumeration of.** SECTION 9. The officers of the city shall be the mayor and two aldermen from each ward, consti-

tuting the common council, a treasurer, clerk, comptroller, attorney, statistician, engineer, marshal, one justice of the peace and one supervisor from each ward, two constables, a health commissioner, who shall be a licensed physician, a sealer of weights and measures, a chief of the fire department, three commissioners of public works, constituting the board of public works, three assessors, constituting the board of assessors, a board of school commissioners, a board of health, and such other officers as the common council may deem necessary.

SECTION 10. The annual municipal election shall be held on the first Tuesday in April of each year, at such place or places in each election precinct as the common council have designated or shall hereafter designate. The polls of such election shall be opened at 8 o'clock in the forenoon and closed at 5 o'clock in the afternoon; ten days previous notice of the time and place of such election and of the officers to be elected, shall be given by the city clerk by publication in the official newspaper of the city, and by posting a written or printed notice in a public place in each ward. In all other respects such election shall be conducted as is prescribed by the general law of the state; provided, however, that the failure to give such notice shall in no way invalidate said election. Each ward shall constitute one election district; but the council shall, when they shall deem it more convenient for the electors, at any general election or special election, by ordinance, divide any ward into two or more election districts, specifying the boundaries of such districts and the place or places where the polls shall be held therein; such ordinance shall be published in the official paper at least four weeks prior to the succeeding election, and a copy thereof shall be posted up in at least five of the most public places in such ward for the same length of time. Within five days after the passage of such ordinance, the city clerk shall file a certified copy thereof with the county clerk, and such ordinance shall continue in full force and effect as to all succeeding elections unless rescinded by the common council of the city.

Annual municipal election, when and how held.

SECTION 11. The mayor, treasurer, comptroller, supervisors, aldermen, constables and justices of

Elective officers. Appointive officers, how chosen.

the peace shall be elected by the people. The other officers shall be appointed by the mayor and confirmed by a majority of all the members of the common council-elect voting in favor of such confirmation, except watchmen, policemen and firemen, who shall take their appointments direct from the mayor without confirmation; provided, however, that the commissioners of public works and the assessors shall be appointed as provided by chapters IX and XII respectively, of this act. Justices of the peace, and aldermen shall be elected for two years. At each annual election there shall be elected in each ward one alderman for the term of two years. All other officers shall be elected for one year.

**Eligibility to office.**

**SECTION 12.** No person shall be eligible to an office created by the provisions of this act, who is not at the time of his election a citizen of the United States and of this state, and a resident elector of the city; nor shall any person be eligible to any ward office, unless he shall be at the time a resident elector of the ward in which such office exists.

**Term of officers; when to commence.**

**SECTION 13.** The term of officers elected or appointed under the provisions of this act, shall commence on the Monday preceding the third Tuesday of April, and shall hold their offices for one, two or three years respectively, as herein provided, and until their respective successors are elected or appointed and qualified.

**Election to be by ballot; plurality of votes to constitute election.**

**SECTION 14.** All elections shall be by ballot, and a plurality of votes cast shall constitute an election. When two or more candidates for an office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as such common council shall direct.

**Salaries, when and how fixed.**

**SECTION 15.** The treasurer, clerk, comptroller, attorney, and all other city officers except the mayor, supervisors, aldermen, school commissioners, justices of the peace and constables, shall be paid a salary, which shall be fixed annually. The common council, in the month of March, shall fix the amount of salary which shall be received by every city officer entitled to a salary, who may be elected or appointed in the city during the ensuing year, which salary shall not be increased or di-

minated during the term of office of which said officer may be elected or appointed; provided, however, that the salaries of the first officers, who shall act hereunder, may be fixed by the common council at its first regular or any subsequent meeting thereof, after their election. The salary shall be paid out of the city treasury monthly, at the end of each month.

SECTION 16. When any officer elected or appointed, shall remove from the city, or when any officer elected or appointed in or for any ward of the city shall remove from such ward, or when any such officer shall refuse or neglect for ten days after official notification of his election or appointment, to qualify and enter upon the discharge of the duties of his office, the office shall be deemed vacant; and whenever a vacancy shall occur in any office except that of mayor, the same proceedings shall be had to fill such vacancies as are provided for in the case of an appointment.

Office deemed vacant, when.

SECTION 17. Special elections for any purpose shall be held and conducted by the inspectors and clerks of election of the several election precincts in the same manner, and the returns thereof shall be made in the same form and manner as of the general municipal elections, and within such time as prescribed by law.

Special elections, how held.

SECTION 18. Every person appointed to fill a vacancy, shall hold his office and discharge the duties thereof for the unexpired term.

Vacancies to be filled for unexpired term.

SECTION 19. Every person elected or appointed to any office shall, before he enters upon the discharge of the duties thereof, take and subscribe the oath of office provided for by the constitution, and file the same with the city clerk within ten days after notice of his election; and in case of his failure to file the same within the time indicated the office shall be deemed vacant.

Officers to take and file oath of office before entering upon their duties.

SECTION 20. The treasurer, comptroller, commissioners of public works, justices of the peace, constables and such other officers as the common council may direct, shall, before entering upon the discharge of the duties of their respective offices, execute and deliver to the city a bond in such sum as the common council, at a meeting held in the month of March, may determine, with two or more sureties, conditioned for the faithful discharge of the duties of their respective offices;

Official bonds, who to give. Same, how approved.

and with such other conditions as the common council may prescribe. The common council may at any time require new and additional bonds of any city officer. All bonds must be approved by the mayor, and when so approved they shall be filed in the office of the city clerk, within ten days after the officer executing the same shall have been notified of his election; and when so approved and filed shall be recorded by the city clerk in a book to be kept for that purpose; such clerk shall annex to each record a certificate that the same is a true copy of the original, and such record shall be *prima facie* evidence of the contents of such bond; and in the absence of the original may be used as evidence in all courts of this state. Justices of the peace and constables shall give a bond as required by statute.

Removal of officers, who may be and how.

SECTION 21. Every officer elected or appointed to any office, except watchmen, policemen and firemen, may be removed from such office by a vote of three-fourths of all the members of the common council; but no such officer, except watchmen, policemen and firemen, shall be removed without cause, nor unless charges are preferred against him and an opportunity given him to be heard in his own defense. The common council shall have power to compel the attendance of witnesses and the production of papers when necessary for purpose of such trial, and shall proceed within ten days to hear and determine the case upon the merits thereof. The mayor may suspend any officer against whom charges have been preferred, until the disposition of the same.

## CHAPTER V.

### OFFICERS—THEIR POWERS AND DUTIES.

Mayor, his powers and duties.

SECTION 22. The mayor shall be the chief executive officer, the head of the fire department and the chief of police of the city. He shall take care that the laws of the state and the ordinances of the city are observed and enforced, and that all of the officers of the city discharge their respective duties. He shall from time to time give the common council such information

and recommend such measures as he may deem advantageous to the city. When present, he shall preside at the meetings of the common council; he shall sign all agreements, contracts, licenses, and permits granted by such common council, and approve or otherwise act upon all claims allowed by such council; he shall appoint all watchmen, firemen and policemen, and may remove, suspend or reinstate any watchman, fireman or policeman in his discretion; provided, however, that the city marshal or the chief of police shall be removable only by the common council, in the manner provided for the removal of other officers, and the mayor may, in case of a riot, or other disturbance, appoint as many special policemen as may be necessary. He shall have and possess the veto power. Should he refuse to approve any ordinance, rule, regulation, claim or resolution appropriating money, or creating a debt or liability, he shall communicate his objections in writing to the common council within six days (Sundays and legal holidays excepted), after such ordinance, rule, regulation, claim or resolution is submitted to him for his approval. If, upon the return of such veto message of such ordinance, rule, regulation, claim or resolution, three-fourths of all the members of the common council-elect vote for the passage of such ordinance, rule, regulation, claim or resolution, the same shall be considered legally passed, notwithstanding the objections of the mayor.

SECTION 23. The common council, at its first meeting after organization in each year, or as soon thereafter as may be, shall choose from its number a president; and in the absence of the mayor the said president shall preside at all the meetings of the common council; and during the absence or inability of the mayor to discharge the duties of his office, the president shall exercise all the power and discharge all the duties of the mayor. The president, while presiding at meetings of the common council or performing the duties of the mayor, shall be styled "acting mayor," and any act performed by him in such capacity shall have the same force and effect as if performed by the mayor; but the president of the common council as acting mayor shall have no authority to sign or approve any ordinance,

President of  
the council,  
his powers and  
duties.

rule, regulation, claim, resolution, warrant or other proceeding whatever, which the mayor has refused to sign and communicated such refusal to the common council. In case of a vacancy in the office of mayor the powers and duties of the office shall devolve upon the president of the common council for the residue of the term. The council may at any time fill a vacancy in the office of president

City clerk, how appointed; his powers and duties.

SECTION 24. The city clerk shall be appointed by the mayor and confirmed by the common council and shall hold his office for a term of one year. He shall have the care and custody of the corporate seal and all papers and records of the city. It shall be his duty to attend all meetings of the common council, and to keep a full record of their proceedings; to record all ordinances, resolutions and bonds in books to be kept for that purpose; to keep a record of all licenses granted, and draw and sign all orders upon the treasury, except as otherwise herein provided, in pursuance of an order or resolution of the common council, and shall keep a full and correct account thereof in books provided for that purpose. He shall have and possess the power and authority and perform such duties as clerks of cities and villages may be required to perform under the general laws of the state. He shall keep an accurate account with the treasurer and shall charge him with all tax lists presented to him for collection, and all sums of money paid into the treasury. He shall be *ex-officio* secretary of the board of public works. Within thirty days after the close of each fiscal year he shall make and cause to be published in the official papers of the city, a financial statement showing the receipts and disbursements on account of each fund during the last preceding financial year. Copies of any and all books, papers, documents or instruments duly filed and kept in his office, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be evidence in all courts and places, in like manner and with the same force and effect as if the originals were produced. He shall also have power to administer oaths and affirmations authorized to be taken by and under the laws of the state; and shall perform such other duties as may

be required of him by the common council or by law. Every such clerk shall appoint a deputy, in writing under his hand, and shall file the appointment in his office. Such appointment shall be revocable at pleasure, and in case of any vacancy in the office of deputy clerk the clerk may fill such vacancy by appointing another deputy. The deputy clerk shall aid in the performance of the duties of the clerk, under his direction, and in case of his absence or disability, or of a vacancy in his office, shall perform all the duties of such clerk during such absence, or until such vacancy shall be filled; and every such clerk and his sureties shall be liable upon his official bond for the acts of his deputy.

SECTION 25. The city attorney shall conduct all the law business of the city and of departments thereof, and all other law business in which the city shall be interested; he shall, when requested, furnish written opinions upon subjects submitted to him in writing by the mayor or common council or any of its committees or any other department of the municipal government, and these opinions shall be filed with the city clerk and recorded in a book to be kept for that purpose. He shall keep a docket of all the cases to which the city may be a party in any court of record, in which shall be briefly entered all steps taken in each case, which shall at all reasonable hours be open to the inspection of any of the officers or electors of such city. It shall also be the duty of the city attorney to draft all ordinances, resolutions, bonds, contracts, leases, conveyances and such other instruments in writing as may be required by the officers of the city; to examine and inspect tax and assessment rolls, and all other proceedings in reference to the levying and collection of taxes and assessments, and to perform such other duties as may be prescribed by law and the ordinances of the city. He shall have authority to appoint, with the approval of the common council, an assistant, who shall have power to do all the acts required by law of the city attorney; provided, that the city attorney shall be responsible to the city for the acts of such assistant.

City attorney,  
his powers and  
duties.

SECTION 26. The city treasurer shall collect all taxes, receive all moneys belonging to the city,

City treasurer,  
his powers and  
duties.

keep an accurate account of the same in suitable books prepared for that purpose, and shall pay over the money in his hands according to law. He shall promptly pay the interest and principal of all bonds when due. He shall, in a business-like manner, and as this charter and the common council shall direct, keep a detailed account of the moneys received and disbursed by him; his books shall be at all reasonable times open to inspection by any voter of the city, or tax-payer. He shall make a report to the common council each month, and as much oftener as required, which report shall embrace a statement of the receipts and disbursements in his office; and ten days preceding each annual election, he shall make out and file in the city clerk's office a full and minute report of all the moneys received and disbursed by him; of all tax certificates, bonds, vouchers and other effects of pecuniary value in his possession, and of all other transactions relating to his office, necessary to show the actual financial condition of the city; which report shall embrace all the transactions of his office from the date of the like report of his predecessor to the date of the report required to be made out by him. He shall keep an accurate account of each of the separate funds in his custody. He shall receive no fees or *per diem* or other compensation for his services except the salary fixed by the common council prior to his election. Except as herein and otherwise provided, he shall have and possess the powers and authority to perform such duties as treasurers in villages and towns are required to perform under the general laws of the state. The city treasurer shall appoint a deputy, in writing, and shall file such appointment in the office of the city clerk, and such deputy treasurer shall aid in the performance of the duties of the treasurer, under his direction, and in case of his absence or disability, or of a vacancy in his office, shall perform all the duties of such treasurer during such absence, or until such vacancy shall be filled; and every such treasurer and his sureties shall be liable upon his official bond for the acts of his deputy. The treasurer may at any time fill a vacancy in the office of deputy treasurer.

SECTION 27. The city comptroller shall, on or before the first day of October of each year, file

with the city clerk, a detailed statement of the expenses of the city during the fiscal year, and such statement shall also contain a statement of the estimated expenses of the ensuing fiscal year, as provided in section 102 of chapter XII of this act, entitled "Assessment and Collection of Taxes," and the income of the city for that year from sources other than taxation. He shall countersign all contracts made with the city, if the necessary funds shall have been provided to pay the liabilities that may be incurred against the city under such contracts, and no such contract shall be valid until so countersigned. He shall make and deliver to the city clerk a list of all certificates for the payment of which special taxes are to be levied in each year, in time for the same to be inserted in the tax roll, in the form of a schedule of special taxes, and shall certify the correctness of the same; and such certified schedule shall be *prima facie* evidence of the legality and regularity of the special taxes levied in pursuance thereof; but no irregularity in the making of such list, shall invalidate such special tax. He shall report monthly, and oftener if required, to the common council, in writing, the condition of the several funds of the city and of the condition of all outstanding contracts and claims which may be payable out of each fund. He shall examine and countersign all general and improvement bonds, all checks issued by the treasurer and all city orders, before the same shall be valid, but shall not countersign such orders before the money is in the treasury to pay the same. He shall examine all claims presented against the city, whether founded on contract or otherwise, and determine as to each claim, whether the same is properly itemized and sworn to, if on contract, whether the items charged are correct, whether such claim was incurred by proper authority, and generally determine the justness and correctness of such claim. For the above purposes he shall have power to swear witnesses and take testimony. If he does not find any objection to the claim, he shall mark his approval thereon; if he disapproves, or approves in part and disapproves in part, he shall report his reason therefor, and in all cases he shall report the evidence taken

City comptroller, his powers and duties. Annual report, when made, what to contain.

by him. No claim shall be considered by the council or reported to a committee till it shall have been thus examined and reported upon by the comptroller. He shall examine each month, or oftener if required by the council, the treasurer's account as reported by him or kept by such treasurer, and report as to the correctness of the same, and also any violation by the treasurer of his duties in the manner of keeping accounts or disbursing moneys. The comptroller shall procure a "claim book," at the expense of the city, in which all claims against the city shall be entered as fast as the same are filed. Said claim book shall be provided with an index, and shall be in such form as to provide for the entry of the name of the claimant, number of claim, when filed, amount claimed, date of report of the comptroller, whether approved or for how much, date of allowance or disallowance by the council, amount allowed, date of the order issued to pay the same, number of such order and the date of cancellation of the same. The comptroller shall keep a record of all bonds issued, whether general or improvement, in suitable books to be provided for that purpose. He shall also perform such other duties as are required of him by law or the provisions of this act, and shall make such examinations as to the official conduct of the officers of the city not herein specifically provided for, as may be from time to time required of him by the common council. The comptroller shall appoint a deputy, in writing, under his hand, and shall file the appointment in the office of the city clerk. Such appointment shall be revocable at pleasure, and in case of any vacancy in the office of deputy comptroller the comptroller may fill such vacancy by appointing another deputy. The deputy comptroller shall aid in the performance of the duties of the comptroller, under his direction, and in case of his absence or disability, or of a vacancy in his office, shall perform all the duties of such comptroller, during such absence, or until such vacancy shall be filled; and every such comptroller and his sureties shall be liable upon his official bond for the acts of his deputy.

Deputy comptroller, how appointed; his powers and duties.

**SECTION 28.** The statistician shall compile and present to the common council, on or before the first Tuesday in January in each year, a report

covering the commercial and industrial conditions and transactions of the business establishments of the city, and shall include therein comparative statistics of the growth of the city from the year 1886 up to the date of such report. Such statistics shall include, as far as possible to obtain the same, a statement of the number of vessels arriving at and departing from the port of Superior, with their respective freight tonnage or number of passengers carried; the volume of business transacted by the postoffice or postoffices therein; the capital, exchanges and deposits of the banks therein; the amount of money expended in public and private improvements, and the character of such improvements; the volume of receipts and shipments of grain in bushels, of coal and ores in tons, and of general merchandise in pounds or tons; the number of real estate transfers and the total of the considerations for the same as shown by the records in the office of the register of deeds of Douglas county; the population and vote of each ward of the city and of each town in Douglas county; the assessed valuation of real and personal property in each ward of the city, and of Douglas county for each year; the number of industries or business houses in operation in the city, and the number of men and women employed therein, with the average wages or salaries paid the same; the number of new business houses established each year, with the number of hands and amount of capital employed by each; the number of railroads doing business in the city, with the amount of their respective miles of railway operated, and the number of persons employed thereon, together with such other facts in connection with the material development of the city and Douglas county as he may see fit to incorporate in such report. He shall perform such other duties in promotion of the general welfare of the city as the mayor or common council may direct. When directed by the council he shall cause said report to be printed for general distribution.

Statistician,  
annual report  
of, when to be  
made and  
what to con-  
tain.

**SECTION 29.** The common council, at its first meeting, or as soon thereafter as may be, shall designate some newspaper of the city, in which shall be published all ordinances, notices and other proceedings required by law to be published,

Council to  
designate  
official news-  
paper and fix  
rates.

and said common council shall have power and authority to establish by ordinance such rates for such printing and publishing as to them may seem just and proper; provided, that the price of such printing shall not exceed the legal rate for like work as the same now is or hereafter may be established by law.

Affidavit of printer to be filed with clerk; conclusive evidence when.

SECTION 30. When any ordinance, notice, resolution or other proceedings shall have been published, a copy of such publication, together with the affidavit of the printer or his foreman, stating the length of time the same has been published, shall be filed with the city clerk, and such affidavit shall be conclusive evidence of the publication of such ordinance, notice, resolution or other proceedings, and the bill for such publication shall not be audited until such affidavit is so filed.

Duties of other officers.

SECTION 31. All other officers elected or appointed under and by virtue of the authority of this act shall perform such duties as are required to be performed by like officers under the general laws of the state, and also such as are prescribed by the common council.

## CHAPTER VI.

### THE COMMON COUNCIL AND ITS POWERS.

Common council; how constituted.

SECTION 32. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The mayor and common council of the city of Superior do ordain as follows:"

Meetings of council.

SECTION 33. The common council shall hold its first meeting in each year on the third Tuesday of April, and shall thereafter hold a regular meeting on the first Tuesday of each month, and at such other times as the council may direct. The mayor may call a special meeting by a written notice to each of the members, to be served personally or left at their several places of abode at least six hours prior to the time for such meeting.

General rules and regulations governing council.

SECTION 34. The common council shall determine the rules of its own proceedings. A majority of all the members-elect shall constitute a quorum for the transaction of business, but a

smaller number may adjourn; their sessions shall be open to the public; the ayes and noes may be required by any member; and on the adoption of any ordinance or resolution assessing or levying taxes, or for the appropriation or disbursement of money, or creating any liability or charge against the city or any fund thereof, the votes shall be taken by ayes and noes, and every such vote shall be entered at length upon the journal. The common council shall be the judges of the election and the qualification of its members; may punish its members or other persons present by fine for disorderly behavior; may compel the attendance of its members upon its meetings, and employ the police of the city for that purpose; and may fine, or, by a vote of three-fourths of all the members-elect, expel any member for neglect of duty as such member, or for absence without leave for more than four consecutive regular monthly meetings of the council. At all confirmations by the city council the vote shall be taken *viva voce*, and such vote shall be recorded by the clerk in the journal; a concurrence of a majority of all the members of the council present shall be necessary to a confirmation.

SECTION 35. The common council shall have the management and control of the finances and all of the property of the city, except as herein otherwise provided, and shall likewise in addition to all other powers herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such rules, by-laws and regulations for the government and good order of the city, for the benefit of the trade and commerce of the city, and health of the inhabitants thereof, for the prevention of crime, and for carrying into effect the powers vested in said council, as they shall deem expedient. Such council shall have power to declare and impose penalties and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, by-laws or regulations; and such ordinances, rules, by-laws and regulations are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution of the United States or of this state or of the laws thereof; and for the aforesaid purposes

Council to have control of finances and property of city; general powers enumerated.

such common council shall have authority by ordinance, resolution, by laws or regulations:—

**Grant Licenses.**

1st. To license, regulate or prohibit the exhibition of common showmen and shows of all kinds, and the exhibition of caravans, circuses and theatrical performances; and also to license and regulate billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of the same under the ordinances of the city and the laws of the state; and may grant licenses for and regulate groceries, tavern keepers, keepers of ordinaries, saloons, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in or vending spirituous, vinous or fermented liquors, shall not be less than five hundred dollars, any general law to the contrary notwithstanding, except druggists' licenses, which shall be fifty dollars, unless fixed by general law, and that all such licenses hereafter granted shall run from the first day of May in each year. All licenses hereafter granted shall expire on the first day of May after the same are so granted, and if any license is granted after the first day of May in any year, the full amount prescribed for a term of one year shall be paid. No license shall be transferred or money paid therefor be refunded, except by a vote in favor of the same of three-fourths of all the members of the common council elect; provided further, that where an application for a license shall once be denied, the council shall not have authority till after the succeeding first day of May to receive, consider or grant any license for dealing in or vending spirituous, vinous or fermented liquors by the same person when denied on account of the person, or on the lot mentioned in the first application, if such denial is on account of the location. No license shall be granted except by a three-fourths vote of all the members of the common council elect; and the person to whom such license is granted shall give a bond in such form, in such sum, and with such conditions as the common council may determine, with two or more sureties, and no person shall sign more

than one bond as principal or two bonds as surety.

2nd. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices. Suppress gambling.

3rd. To license, regulate, suppress or prohibit concerts or other musical entertainments by itinerant persons or companies, exhibitions of natural or artificial curiosities, and all other exhibitions and amusements. Regulate concerts and exhibitions.

4th. To prevent and suppress riots, noise, disturbance or disorderly assemblages, and suppress and restrain disorderly houses and houses of ill-fame. Prevent riots.

5th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse the same from time to time, or remove or abate the same, as it may be deemed necessary for the health, comfort and convenience of the inhabitants of the city. Compel cleanliness.

6th. To direct the management of, and to regulate breweries, tanneries and packing houses, and to direct the location, management and construction of, and regulate, license, restrain, abate or prohibit within the city, and within a distance of four miles therefrom, distilleries, slaughtering establishments, glue factories, establishments for cleaning or rendering lard, tallow, offal and such other substances as can or may be rendered, and all establishments or places where any nauseous, offensive or unwholesome business may be carried on, or from which any unwholesome odor may emanate. Regulate breweries.

7th. To direct the location and management of public markets. Locate public markets.

8th. To regulate and restrain butchers, and the sale of game, poultry, meat, vegetables, fish, butter, fruit, milk and other provisions, and to cause the seizure and destruction, or other disposition of tainted or unwholesome meat, butter, vegetables, fruit or provisions. Regulate butchers.

9th. To direct or prohibit the location and management of houses for the storing of gunpowder and other dangerous and combustible materials. Direct storing of combustibles.

Regulate  
keeping of  
combustibles.

10th. To regulate and restrain the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns, stables, factories, out-houses and lumber yards.

Restrain  
shooting.

11th. To regulate or prohibit the shooting of firearms and crackers, and the exhibition or use of any fireworks, at any time or in any manner which may be considered by the council dangerous to the city or to any property therein, or annoying to the citizens thereof.

Prevent  
encumbering  
of streets.

12th. To prohibit the encumbering of the streets, sidewalks, lanes, alleys, public grounds, wharves and docks with carriages, carts, wagons, sleighs, sleds, wheelbarrows, boxes, lumber firewood, timber, posts, signs, awnings or any substance or material, or in any manner whatsoever.

Prohibit  
horse racing.

13th. To prohibit horse racing and immoderate riding or driving in the streets.

Punish abuse  
of animals.

14th. To prohibit and punish the abuse of animals.

Compel the  
securing of  
teams.

15th. To compel persons to fasten their horses, oxen or other animals attached to vehicles or otherwise, while standing or remaining in any street, alley or public grounds.

Bathing.

16th. To regulate and determine the times and places of bathing and swimming, and to prevent any indecent or obscene exposure or conduct.

Punish  
vagrants.

17th. To restrain and punish vagrants, tramps, mendicants, street beggars, lewd persons and prostitutes; and to restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Prohibit run-  
ning at large  
of dogs.

18th. To prohibit the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to ordinance.

License dogs.

19th. To provide for licensing the keeping of dogs at a rate of not less than one dollar nor more than ten dollars a year for each dog; and to provide for a badge or token to be carried by each licensed dog; and for the secure muzzling of such licensed dogs.

Regulate hack-  
men.

20th. To license and regulate all hackmen, draymen, cartmen, porters, omnibus drivers, cab-

men and carmen, and to prescribe their compensation and to establish and change from time to time stands for hacks and other public vehicles.

21st. To prohibit and regulate the rolling of hoops, flying of kites, playing of ball or other amusements or practices having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses.

Prohibit ball playing.

22d. To regulate, control and prohibit the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the inhabitants of the city; and also to make regulations to prevent the introduction of contagious diseases into the city, or the spread of the same therein; to make quarantine laws or regulations, and to enforce the same within the city, and not to exceed five miles beyond the city limits.

Prevent contagion.

23d. To aid and establish hospitals, and to provide for their regulation and support, and to regulate all private hospitals.

Establish hospitals.

24th. To do all acts and to make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease.

Preserve public health.

25th. To regulate the burial of the dead and the registration of births and deaths; to purchase and hold grounds for cemeteries, within or without the city limits, and to exercise jurisdiction and control over the same; and to direct the returning and keeping the bills of mortality, and to impose penalties on physicians, sextons and others for any default in the premises.

Regulate burial of dead.

26th. To regulate, restrain or prohibit the running at large of cattle, horses, mules, swine, sheep or other animals, and to authorize the distraining, impounding and sale of the same, for the penalty incurred and the cost of proceedings; and also to impose penalties on the owners of any such animals for a violation of any such ordinances.

Regulate running at large of cattle.

27th. To regulate the holding of public auctions.

Regulate auctions.

28th. To prescribe and regulate the location and construction of sewers for the city.

Construct sewers.

29th. To locate, purchase sites and let contracts for the erection and construction of public buildings; to acquire by gift, grant, devise, donation, purchase or condemnation, lands for parks

Purchase sites.

or any other public purposes, and to sell, dispose of or convey the same, also to take by gift or devise money or any other valuable thing, for the use of the city.

**Lay out streets.**

30th. To lay out, make, open and keep in repair, alter or discontinue any highways, streets, lanes and alleys, cemeteries or public places, and to keep them free from obstructions, and to protect them from injury.

**Establish grades.**

31st. To establish and alter the grade of streets, and to regulate the manner of using the streets and pavements; also to protect the same from injury by vehicles or from other causes.

**Name streets.**

32d. To name or change the name of any street, park, cemetery or public grounds.

**Establish public grounds.**

33d. To make, establish and maintain public grounds, cemeteries, pumps, wells, cisterns and reservoirs, and to provide for the purchase, construction, maintenance and operation of water works for the supply of water to the inhabitants of the city, and to supply the city with water for fire protection and other purposes; and to secure the erection of water works the city may, by contract or ordinance, grant to any person, persons, company or corporation, the right and privilege to build and own such water works, and to maintain, operate and regulate the same; and in doing so, to use the streets, alleys, bridges and public grounds of the city in laying and maintaining the necessary pipe lines and hydrants for such term of years and on such conditions as may be prescribed by such ordinance or contract; and may also by contract or ordinance, provide for supplying from such water works, the city with water for fire protection and for other purposes, and also the inhabitants thereof with water for such term of years, for such price, in such manner, and subject to such limitations, as may be fixed by said contract or ordinance.

**Provide for street lighting.**

34th. To provide for lighting the streets, public grounds and buildings with gas or otherwise, and for such purpose to contract, by ordinance or otherwise, with any person, persons, company or corporation, for a term not exceeding ten years at any one time, at such price, on such terms and subject to such limitations as may be prescribed by such ordinance or contract.

35th. To establish and regulate boards of health, and define their powers and duties.

Establish boards of health.

36th. To provide for the abatement or removal of nuisances, under the ordinances or at common law, and the punishment of the authors thereof, or persons continuing the same: by penalties, fine or imprisonment; and to define and declare what shall be deemed nuisances; but nothing in this act shall be construed to oust any court of jurisdiction to enjoin or to direct the abatement and removal of nuisances in the streets, or any other part of the city, or within its jurisdiction, by indictment or otherwise.

Abate nuisances.

37th. To prohibit any person from bringing, depositing or having within the limits of the city, any putrid carcass or otherwise unwholesome substance, and to require the removal or destruction of the same by any person who shall have upon or near his premises any such substances, or any putrid or unsound beef, pork, fish or hides, and on his default, to authorize the removal or destruction thereof by some officer or officers of the city, at the expense of such person or persons.

Prohibit bringing putrid carcasses, etc., within city.

38th. To regulate or prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, performances and devices tending to the collection of persons on the streets or sidewalks, by auctioneers or others for the purpose of business, amusement or otherwise.

Regulate ringing of bells.

39th. To regulate or prohibit the use of steam whistles within the limits of the city.

Regulate use of steam whistles.

40th. To provide for sprinkling the streets at the cost of the city, or of the lots or parts of lots fronting thereon.

Provide for street sprinkling.

41st. To compel the owners or occupants of buildings or grounds to remove rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lots owned or occupied by them, all such substances as the board of health shall direct; and, on their default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant; and to prohibit any person or persons from depositing any dirt, ashes or rubbish on any street, alley or public ground.

Compel removal of rubbish.

- Protect sidewalks.** 42d. To prohibit all persons from riding or driving any horse, ox, mule, cattle or other animal on the sidewalk in said city, or in any way doing damage to such sidewalks.
- Regulate sale of bread.** 43d. To regulate the sale of bread within the city, and prescribe the size and weight of bread in the loaf and the quality of the same, and to provide for the seizure and forfeiture of bread baked contrary to such regulations.
- Require sealing of weights.** 44th. To require every merchant, retailer, trader and dealer in merchandise or property of any description which is sold by weight or measure, to cause his weights and measures to be sealed by the sealer and to be subject to his inspection, and to provide for the punishment of persons using false weights and measures. The standard of such weights and measures shall be conformable to those established by law in this state.
- Regulate weighing and sale of hay.** 45th. To regulate the weighing and sale of hay; to designate the places for harvesting ice, and to restrain and prohibit the sale of such ice as is impure; to regulate the measuring and sale of wood, and the weighing and sale of coal and lime.
- License auctioneers.** 46th. To license, regulate and restrain auctioneers, distillers, brewers and pawnbrokers, and keepers or proprietors of junkshops and places for the sale and purchase of second-hand goods, wares and merchandise.
- Restrain hawkers and peddlers.** 47th. To license, regulate and restrain hawkers, peddlers, book agents, subscription agents and runners or solicitors for steamboats, vessels, cars, railroads, stages, public houses and other establishments, and other runners or solicitors for mercantile houses from other cities or towns for the sale of goods, wares and merchandise by sample order or otherwise; and keepers or proprietors of gift book stores, gift concerts and other gift enterprises; to fix and regulate the amount for licenses under this subdivision; to prescribe the time for which such licenses shall be granted; to provide and enforce penalties for carrying on either of said trades, kinds of business or employments without license, and to regulate the manner in which they shall be carried on.
- Regulate location of lumber yards.** 48th. To regulate or prohibit the keeping of any lumber yard, and the placing, piling, selling

of lumber, timber, wood or other combustible material within the fire limits of said city.

49th. To provide for the inspection and regulation of stationary and portable steam engines and boilers.

Provide for steam inspection.

50th. To provide for the appointment of inspectors, weighers and gaugers, and to regulate their duties and to prescribe their fees.

Appoint inspectors.

51st. To regulate the use of locomotive engines and railroad cars within the city, to direct and control the location of railroad tracks within the streets, to regulate the speed of railway trains within the city, and to require railroad companies to construct and maintain at their own expense, such bridges, gates, viaducts, tunnels, approaches or other conveniences at all public crossings of streets now laid out, or which may be hereafter laid out, as may be necessary; also to regulate the running of street railway cars, the laying down of tracks for the same, the transportation of passengers and the fare to be paid, and the kind of rails and power to be used.

Regulate use of locomotives.

52d. To provide for the number of firemen, watchmen and policemen, and to regulate and prescribe, by ordinance, their duties.

Regulate firemen and policemen.

53d. To compel the owners of all houses, stores and other buildings to number the same in such manner as the common council may from time to time prescribe.

Compel numbering of houses.

54th. To declare the weed commonly called the Canada thistle, and other noxious plants and weeds in the city a public nuisance, and provide for the abatement of the same, as the city is authorized by law to abate other nuisances.

Provide for destruction of noxious weeds.

55th. To direct and regulate the planting and preserving of trees in the streets and public grounds.

Regulate planting of trees.

56th. To provide for the construction, improvement and preservation of any harbor within or of the city; to appoint a harbor master and define his duties; to establish dock lines, construct piers, wharves, docks, slips and channels, and to prescribe and control the prices to be charged for the use thereof; to prevent any use of the same, or of such part of any lake, bay, river, stream, spring, pond, slip, slough or pocket as is within the city, or any action in relation thereto, inconsistent with or detrimental

Improve harbors.

to the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prohibit and punish the casting or depositing therein of any earth, dead animals, ashes or other substances; to prohibit and remove all obstructions therein and to punish the authors thereof; to regulate and prescribe the mode and speed of vessels, crafts and rafts entering, leaving and navigating the harbor, of coming to and departing from the landings in the city; and the disposition of the sails, yards, anchors and appurtenances thereto, while entering, leaving or abiding in the harbor and to regulate and prescribe by such ordinances, or through their authorized officer, such location of every canal boat, steamboat, or other craft afloat, and such changes of situation in and use of the harbor as may be necessary to promote order therein, and the safety and equal convenience, as near as may be, of all such vessels, boats, crafts, floats and rafts; and to impose penalties not exceeding one thousand dollars for any offense against such ordinance; and by such ordinance to charge such penalties, together with such expenses as may be incurred by the city in enforcing this section, upon the steamboat, canal boat or other vessel, craft, float or raft.

Erect bridges  
and viaducts.

57th. To erect and construct, or to permit, cause or procure to be erected and constructed, floats, pivots, culverts, viaducts, bridges or draw-bridges over the navigable or other waters within the jurisdiction of the city, and to keep the same in repair, and regulate the use thereof. All draw-bridges shall have draws of suitable width, when necessary, for the purposes of navigation; but the city shall have no authority or power to erect or construct, or permit or procure to be constructed, any bridge or bridges over the bay of Superior, the bay of St. Louis, or any part of the St. Louis river which constitutes the boundary between the state of Wisconsin and the state of Minnesota.

Lease wharfing  
privileges.

58th. To lease the wharfing privileges of the city upon such terms and conditions as may be usual in the leasing of other real estate, reserving such rent as may be agreed upon, and employing such remedies in case of non-performance of any covenants as are given by law in other cases; but

no buildings shall be erected thereon except as especially authorized by the council. The owner or owners of the adjoining lot or lots shall in all cases have preference in leasing such property, and a free passage over the same for all persons, with their baggage, freight or vehicles, may be reserved in such lease.

59th. To authorize the taking up and to provide for the safe keeping and education, for such periods of time as may be deemed expedient, of all children who are destitute of proper paternal care, and growing up in mendicancy, ignorance, idleness and vice.

Educate destitute children.

60th. To authorize the arrest, fine and imprisonment of vagrants, tramps or persons, who not having visible means to maintain themselves, are without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, houses of ill-fame, houses of bad repute, gambling houses, railroad depots, railroad cars, boats or fire-engine houses, or who shall be found trespassing in the night time upon the private premises of others, or begging or placing themselves in the streets or other thoroughfares or public places to beg or receive alms; also keepers, exhibitors or visitors at any gambling table, gaming house, house of fortune telling, or place of cock fighting, or prize fighting, and all persons who go about for the purpose of gaming, or who shall have in their possession any article or thing used for obtaining money under false pretenses, or who shall disturb any place where public or private schools are held either on week day or Sabbath, or places where religious worship is held.

Punish vagrants.

61st. To prohibit the carrying of concealed weapons, and to provide for the confiscation or sale of such weapons.

Prohibit carrying of weapons.

62d. To control and regulate the construction of buildings, chimneys and smokestacks, and to prohibit the erection or making of an insecure or unsafe building, stack, wall or chimney in the city, and to declare them or old buildings or structures to be nuisances, and to provide for their summary abatement, and to provide for the summary removal of all standing walls and stacks of buildings injured by fire which may be declared dangerous by the common council.

Regulate construction of buildings.

Provide for speedy egress from public halls.

63d. To regulate or prohibit the use of any hall, theater, opera house, church, school house or building of any kind whatsoever, to be used for the assemblage of people, unless the same is provided with ample means for the safe and speedy egress of the persons therein assembled in case of alarm.

Improve water front.

64th. To improve such portions of any lake, bay, slough or river as is within the city, and to establish the shore lines thereof.

Change ward boundaries.

65th. To change the boundaries of any ward or wards by annexing or detaching territory, and to increase or diminish the number of wards and create additional wards; provided, that any such changes shall be made only during the month of March, after two weeks' notice by publication in the official newspaper of the city, and by an affirmative vote of three-fourths of all the members of the city council-elect.

Establish public libraries.

66th. To establish and maintain one or more public libraries; which, besides books, periodicals newspapers, *et cetera*, may contain cabinets and exhibits of minerals and the natural product of the earth.

Provide for enforcement of fines.

67th. To provide for the enforcement of the payment of fines and costs by imprisonment in the county jail of Douglas county at hard labor.

Ordinance book, city clerk to keep, what to contain.

SECTION 36. The city clerk shall keep a book to be known as an "Ordinance Book," in which he shall enter at length, in a plain and distinct handwriting, every ordinance adopted by the common council immediately after its passage, and shall append thereto a note giving the date of its passage and the page of the journal containing the record of the final vote upon its passage, and also the name of the newspaper in which said ordinance was published, and the date of such publication, together with proof of publication; the ordinance may be approved by the certificate of the clerk, under the seal of the city, and when printed or published in pamphlet form, and purporting to be published by the authority of the city, shall be read and received in all courts and places as evidence of their adoption.

Ordinances, how adopted. Publication of.

SECTION 37. Laws, ordinances, regulations and by-laws, shall be adopted by an affirmative vote of a majority of all the members of the common council present, and shall within fifteen days

after their passage, be published in the official paper or papers of said city before the same shall be in force.

SECTION 38. The common council shall examine and adjust the accounts of the clerk, treasurer and all other officers or agents of the city, or cause the same to be done after the same shall have been audited by the comptroller.

Council to examine and adjust accounts of officers.

## CHAPTER VII.

### ACTIONS, APPEALS, BONDS, SURETIES.

SECTION 39. All actions brought to recover any penalty or forfeiture or for the punishment of any offender for violation of the ordinances or by-laws of the city, shall be brought in the corporate name of the city.

Actions to be brought in corporate name.

SECTION 40. In case of conviction in actions brought or prosecuted to recover a penalty under any of the provisions of this act, or to recover a penalty or forfeiture, or to impose a punishment for a violation of any of the ordinances, regulations or by-laws of the city, the court shall enter judgment for such fine, penalty or forfeiture, together with the costs of prosecution against the defendant; and shall also enter judgment that such defendant be imprisoned in the county jail or house of correction until such judgment be paid, not exceeding, however, the term of six months; and shall forthwith commit the defendant accordingly. In case the defendant is adjudged to be punished by imprisonment, the court shall also render judgment that such defendant pay the costs of prosecution; and that he be held in imprisonment until such costs are paid, but the court shall limit such additional term of imprisonment in its discretion, in no case, however, to exceed six months.

Judgment upon conviction for violations of ordinances.

SECTION 41. Any person aggrieved by the judgment of the court, imposing a fine, penalty or forfeiture, or a term of imprisonment, may appeal from such judgment to the circuit court of Douglas county in the same manner in which offenders may under the general law appeal from the judgments of justices of the peace, in actions where the state is a party plaintiff; pro-

Appeals to circuit court.

vided, that this section shall not apply to appeals from the municipal court, where by law an appeal may be taken directly to the supreme court.

Disallowed claim not to be reconsidered.

SECTION 42. In case any person shall present his claim or demand against the city, and the common council shall disallow such claim in whole or in part, the common council shall not again consider or allow such claim or demand.

No action to be brought against city until claim has been presented to council.

SECTION 43. No action shall be maintained by any person against the city, upon any claim or demand until such person shall have first presented his claim or demand to the common council for allowance, and the same shall have been disallowed in whole or in part. Provided, that the failure of such common council to pass upon such claim within sixty days after presentation of such claim shall be deemed a disallowance thereof.

Determination of council to be final.

SECTION 44. The determination of the common council disallowing in whole or in part any claim, shall be final and conclusive, and a bar to any action in any court, founded on such claim, unless an appeal be taken from the decision of such common council as in this act provided.

Appeal upon disallowed claim, how taken.

SECTION 45. Whenever any claim against the city shall be disallowed in whole or in part by the common council, such person may appeal from the decision of the common council, disallowing said claim, to the circuit court of the county of Douglas, by causing a written notice of such appeal to be served on the clerk of the city within twenty days after the making of the decision disallowing such claim; and by executing a bond to the city, in the sum of one hundred and fifty dollars, with two sureties to be approved by the city clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the appellant in the circuit court. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the common council with its decisions thereon, and shall transmit the same, together with all the papers in the case, to the clerk of the circuit court of said county. Such appeal shall be an action, entered, tried and determined in the same

Notice of appeal upon disallowance of claim to be served on clerk.

manner as actions originally commenced in said court. Provided, however, that whenever an appeal is taken from the allowance made by the common council, upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by the common council, exclusive of interest upon such allowance, the appellant shall pay the costs of appeal, which shall be deducted from the amount of recovery; and when the amount of cost exceeds the amount recovered, judgment shall be rendered against the appellant for the amount of such excess.

## CHAPTER VIII.

### FIRE DEPARTMENT.

**SECTION 46.** It shall be competent for the common council to provide by ordinance for the organization and management of volunteer fire companies, and to appropriate from the general fund such sums as shall be deemed requisite for the aid of such companies in procuring apparatus and outfit, and maintaining and housing the same, and to provide by ordinance for the appointment of a chief, to fix his term of office, designate his authority, and to provide suitable penalties for the violation of any of the provisions of the ordinances passed under this section.

Council may provide for the organization of volunteer fire companies.

**SECTION 47.** It shall be competent for the common council to fix and designate fire limits within which no buildings having wooden outside walls shall be constructed or repaired so as to increase their value beyond the percentage to be fixed in the ordinance, and the council may, by ordinance, prescribe special fire limits within the general fire limits, within which special fire limits they may require such building material to be used, and such additional precautions to be observed, both in the construction of new buildings and the repairing and maintenance of existing buildings as they may from time to time designate, for the prevention of fires and the spread and communication thereof; and to provide any proper remedy for the enforcement of such ordinances as may be passed in relation to fire limits or any particular provision thereof; and to that

Fire limits. Special fire limits within general.

end they may provide for the appointment of a building inspector, designate his authority, fix his term of office and provide for his compensation, but the common council shall possess no power to contract or diminish the fire limits once established.

Paid fire department, council to control.

SECTION 48. It shall be competent for the common council to provide by ordinance for the establishment or continuance of a paid fire department to be under the control of the city government, except as elsewhere provided in this charter, and maintain it at the sole expense of the city; to provide for the appointment of the chief of the fire department, and for as many assistants as may be deemed necessary, and to fix their salaries and to provide for the compensation of as many firemen as shall from time to time be necessary.

Purchase of fire engines and apparatus.

SECTION 49. It shall be competent for the common council to provide for the purchase and maintenance of all necessary fire-engines, apparatus, horses and outfit for the extinguishing or prevention of fires, for the construction and maintenance of all necessary engine-houses and fire-stations, fire-alarms, fire-signals, telegraph or telephones, and for the use of all known means of extinguishing and preventing fires. And the common council may appropriate the necessary sums for carrying the foregoing provisions into effect.

Fire account, city treasurer to keep.

SECTION 50. In case of a paid fire department the city treasurer shall keep a separate account with the general fund, to be called the fire account, in which shall be entered all disbursements for or on account of the fire department, and all appropriations made, and all taxes collected for its use.

Relief fund for firemen.

SECTION 51. The common council may establish a fund for the relief of firemen injured in the discharge of their duties, and for the relief of the families of firemen, who may lose their lives in the discharge of their duties, or in consequence thereof, and may provide for the management and distribution of such fund or the proceeds thereof, and may require all active firemen to contribute not to exceed two *per cent.* of their wages to said fund.

## CHAPTER IX.

## THE BOARD OF PUBLIC WORKS.

**SECTION 52.** There shall be a department known as the board of public works, to consist of three commissioners appointed by the mayor and confirmed by the common council. The members of the first board shall hold their offices one, two and three years, respectively, and thereafter they shall hold their offices for three years, or until their successors are appointed and qualified.

Board of public works; how comprised.

**SECTION 53.** The members of the board of public works shall on or before the first Tuesday in May in each year choose a president of the board from their number. The city clerk shall be the secretary of the board by virtue of his office.

President and secretary.

**SECTION 54.** The mayor, with the approval of the common council, shall appoint some competent person as city engineer, whose term of office shall continue for one year and until his successor is appointed, unless he shall be sooner removed by the council for cause. The city engineer shall keep his office in some convenient place to be designated by the common council, and it shall be his duty to do all engineering work required by said council or the board of public works. The city engineer shall possess the same power to make surveys and plats within the city that is given by law to county surveyors; and like validity and effect shall be given to his acts, and to all plats and surveys made by him, as are or may be given to the acts, plats and surveys of county surveyors.

City engineer; his power and duties.

**SECTION 55.** The city engineer shall file in the office of the city clerk a record of all his official acts and doings, and shall also keep a copy of all plats of lots, blocks and sewers embraced within the city limits; also all the profiles of streets, alleys and sewers, and of the grades thereof, and of all drafts and plans relating to bridges and harbors and of all public buildings belonging to the city, and shall at the same place keep a record of the location of all bench marks and permanent corner stakes from which subsequent surveys shall be started; which said records and documents shall be the property of the city and open to the

City engineer to file record with city clerk.

inspection of parties interested, and shall be delivered over by said engineer at the expiration of his term of office to his successor or to the board of public works. On the last Tuesday of February of each year, and whenever requested, the city engineer shall make a report of all the doings of his department to the board of public works.

Salary of commissioners of public works.

SECTION 56. The commissioners of public works shall be each paid an annual salary to be fixed by the common council before the appointment of such commissioners and at the time other annual salaries are fixed; provided, however, that the salaries of the first commissioners appointed hereunder may be fixed by the common council at its first regular, or any subsequent meeting thereof, after their appointment.

Council to prescribe manner of conducting business.

SECTION 57. The common council may make such rules from time to time as they may deem proper, not contravening any of the provisions of the city charter, for the government of the board of public works, and the manner in which the business of said board shall be conducted.

General rules governing.

SECTION 58. A majority of the board shall constitute a quorum for doing business. They shall keep a record of all their proceedings, which shall be open at all reasonable times to the inspection of any elector of the city, or tax payer. They shall make a report to the council on or before the first Tuesday of March of each year, and oftener, if required.

Superintendence of public works.

SECTION 59. It shall be the duty of the board, under the direction of the common council, to superintend all public works; and to keep the streets, alleys, bridges, sewers and public works and places in repair. They shall also, under the direction of the common council, have charge of the harbor and of all improvements therein.

Monthly and special reports.

SECTION 60. At each regular monthly meeting of the common council, and at each special meeting, if requested five hours in advance by the mayor or by any three members of the council, the board of public works shall make a brief and concise report of their doings up to the time of such meeting, and the council may take such action on the same as they may think proper. If no action is taken by the council within thirty days the report shall be deemed confirmed.

SECTION 61. No building shall be moved through the streets or obstructions be placed therein without a written permit therefor granted by the board of public works; said board shall have power to determine the time and manner of using the streets for laying or changing water or gas pipes, placing or maintaining electric light, telegraph and telephone poles, or making approaches to basements or buildings; provided, however, that the decision of said board in this regard may be appealed from to the council.

Buildings not to be moved through streets without permits.

SECTION 62. In case any corporation or individual shall neglect to repair or restore to its former condition any street, alley or sidewalk, excavated, altered or taken up, within the time and in the manner directed by the board, said board shall cause the same to be done at the expense of said corporation or individual.

Streets, alleys and sidewalks to be restored to former condition.

SECTION 63. All public works, the estimated cost of which shall exceed one thousand dollars, shall be let by contract to the lowest responsible and satisfactory bidder; and all other public work shall be let as the common council may direct, except as provided by section 145 of this act. When the work is directed to be let to the lowest satisfactory bidder, or when such work is required to be so let under the provisions of this section, the board of public works shall advertise for proposals by publishing a notice in the official newspaper of the city at least once a week for at least one week. Before such proposals are advertised for, a profile or plan of the work to be done, together with the specifications, shall be placed on file in the office of the board of public works for the inspection of bidders, and a form of contract as the same will be required to be executed by bidders, shall be prepared, and a copy of the same furnished to any person desiring to bid on the work. No bid shall be received unless accompanied by a certified check for five per cent. of the amount of the bid; which check is to be forfeited to the city by the successful bidder unless he shall enter into the contract within five days after it shall have been awarded to him.

Public works to let to lowest bidder, when.

Notice for proposals, how given.

SECTION 64. The board of public works shall have power to reject any and all bids, otherwise the contract shall be let as elsewhere provided in this chapter.

Rejection of bids.

Schedule of bids to be reported to council, when.

**SECTION 65.** Whenever the lowest bidder shall be, in the judgment of said board, incompetent or otherwise unsatisfactory for the performance of the work on which he bids, the board shall report to the common council of the city a schedule of all the bids for such work, together with the recommendation to accept the bid of the lowest responsible and satisfactory bidder for such work, with the reasons for such recommendations; and thereupon it shall be lawful for the said common council to direct the said board either to let the work to such competent and reliable bidder or to re-advertise the same; and the failure to let such contract to the lowest bidder in compliance with this provision, shall not invalidate such contract or any special assessment made to pay the liability incurred under such contract.

Contractors to restore streets, and maintain barriers and lights to prevent accidents.

**SECTION 66.** All contractors doing any work which shall in any manner obstruct the streets or sidewalks, shall put up and maintain barriers and lights to prevent accidents, and shall be liable for all damages caused by failure so to do. All contracts shall contain a provision covering this liability; and shall also contain a provision making the contractor liable for all damages caused by the negligent digging up of streets, alleys or public grounds, or which may result from carelessness of such contractor in the prosecution of said work; for the payment of which damages any money due said contractor upon any account may be held by the city.

Contracts, mayor and clerk to sign and comptroller to countersign.

**SECTION 67.** All contracts shall be signed by the mayor and clerk unless otherwise provided by resolution or ordinance; provided, however, that no contract shall be executed on the part of the city until the comptroller shall have countersigned the same and made an indorsement thereon, showing that sufficient funds are in the city treasury, or that provision has been made to pay the liability that may accrue under such contract.

Contractor to receive eighty per cent. proportionate value as work progresses.

**SECTION 68.** As the work of any contract progresses, the board of public works may, from time to time, at their discretion, grant to the contractor an estimate of the amount and proportionate value of the work already done, withholding in all cases twenty *per cent.* of said estimate, which shall entitle the holder to receive the

amount thereof, less such twenty *per cent.* from the proper fund. But all contracts shall contain a provision authorizing the board of public works, in case the work under such contract is not completed within the time therein required, to take charge of the work and finish it at the expense of the contractor. In no case shall the deposit required by section 63 be returned to a successful bidder until the contract is performed. This deposit, together with the twenty *per cent.* retained as aforesaid, shall be used in whole or in part, to complete the work. If any of the deposit or of the retained twenty *per cent.* then remains, it shall be paid to such defaulting contractor.

## CHAPTER X.

### WATER WORKS.

SECTION 69. Whenever the water works shall be owned by the city, the same shall be operated under the direction of the board of public works.

Water works, board of public works to manage, when.

SECTION 70. The common council shall have power to legislate on all matters with reference to the construction, operation, management and protection of water works for the city not contravening the provisions of this act or the constitution or laws of this state or contracts already made, provided, however, that all provisions relating to water works, not herein otherwise provided, be adopted by a vote of not less than a majority of all the members of the council.

Powers of council relating to water works.

SECTION 71. The city may acquire by purchase or otherwise, as specified in this act for acquiring real estate for the public use, such lands as may be necessary for the construction and operation of water works to supply the city and inhabitants thereof with water. Provided that in cases where the water works are owned by private persons or corporations the expenses of acquiring such real estate shall be paid by such persons or corporations on a proper conveyance being made to such persons or corporation of said real estate.

Real estate for water works, how acquired.

SECTION 72. When the city owns the water works the water rates shall be collected by the city treasurer, and shall be devoted exclusively to the expenses of maintaining and operating

Water rates, city treasurer to collect.

the works and paying the principal and interest of any indebtedness created in the construction thereof.

Board to furnish treasurer with list of lots to which water has been furnished, and amount, when.

SECTION 73. On the first day of January and July in each year, the board of public works shall furnish the city treasurer with a list of all lots or parcels of real estate to which water has been furnished by the city during the preceding six months, and the amount due for the same. If the amount due is not paid within ten days thereafter, a penalty of ten *per cent.* shall be added, and the treasurer shall proceed to collect the said dues with said penalty, together with five *per cent.* thereon for his fees. He shall have all the authority in collecting said tax vested in him, in the collection of general city taxes. Said dues shall be a lien on the real estate to which the water was furnished from the time said list is placed in the hands of said clerk, and all sums not paid by the first day of October in any year that have accrued during the preceding year, shall be reported by the treasurer to the city clerk, who shall insert the same in the tax roll as delinquent tax against the property. All proceedings in relation to the collection, return and sale of property for delinquent city taxes shall apply to said tax.

Benefits to be assessed against lots before laying water pipe.

SECTION 74. The board of public works, before laying any water pipe along the street, alley or other line in said city, shall assess against the several lots, parts of lots or parcels of land which may front on or abut on the proposed line of water pipes, or which may be contiguous to and used in connection with any such lot or parcel of land such sum as such lot or parcel of land will be in the judgment of said board, especially benefited by reason of laying such water pipes, not to exceed, however, the amount prescribed in the next section; provided, that no lot, parcel of land or part thereof, shall be subjected to the payment of more than one assessment for water pipe laid in the same street or alley.

Ordinary lots; assessment to equal half the estimated cost.

SECTION 75. A regular lot (not corner) which may front or abut on the line of water pipe, shall be assessed an amount equal to one-half of the cost, as estimated by the said board of public works, of furnishing and laying a regular line of

water pipe of approved materials and manufacture, with the required openings for connection with private service water pipes along the front of said lot. Such minor pipe to be not less than four nor more than six inches in diameter, as the said board may determine. Every irregular lot, part of lot, or other parcel of land fronting or abutting on such line of water pipe, and likewise any parcel of land, or lot, which shall be contiguous to any parcel of land, or lot, or part of lot so fronting or abutting, and which in the judgment of said board is or may be most advantageously used in connection therewith, shall be assessed for such water pipes the amount which in the judgment of said board shall be as nearly as may be in just proportion to the amount assessed for regular lots, as compared with the special benefits derived by each from the laying of the said water pipes.

SECTION 76. Every corner lot, and every lot, part of lot or parcel of land, which may front or abut on more than one street on which it is proposed to lay a line of water pipe, shall be assessed for every such line of water pipe; but the aggregate of the assessment therefor on any such lot, or parcel of land, shall be as nearly as may be in just proportion to the amount assessed for regular lots, as compared with the special benefits derived by them respectively from the laying of such water pipe; and in making such assessment, the said board shall take into consideration the situation of such lot or parcel of land with respect to its different and all subdivisions thereof by sale, contract, use or occupation, in severalty, and may assess subdivisions separately; and may also assess any subdivision of such lot or parcel of land in connection with any other part of such lot or other lot or land contiguous thereto, and most advantageously used in connection therewith.

Corner lots;  
manner of assessment of for  
water  
purposes.

SECTION 77. Whenever any lot or parcel of land shall be subdivided by sale or contract, or by use or occupation in severalty, whether such subdivision shall occur before or after the assessment of special benefits as herein provided, the said board of public works may, after ascertaining such facts, at any time before the special assessment shall have been inserted in the tax roll,

Subdivided  
lots; equitable  
apportionment  
of assessment  
to be made for.

make an equitable apportionment of the benefit tax against such lot or parcel of land among the different subdivisions thereof.

Report of assessments to be filed with clerk; notice of, how given.

SECTION 78. The said board of public works shall file reports of such assessments with the city clerk, who shall record the same in a book to be kept for that purpose, and give notice thereof to the parties interested by publishing the same once in each week for three successive weeks in the official papers. Any person feeling himself aggrieved by the report of said board, may, within twenty days after the completion of the publication of notice by the comptroller, appeal from such report to the circuit court of the county. Such appeal shall be entered and conducted in like manner and like security for costs shall be required as provided by law in cases of appeals from the decisions of the common council of said city to said court on the return of assessment of benefits for street improvements. In the making and the signing of all reports or returns under this chapter, by said board of public works to the comptroller or any other officer of the city, the official signature of the president and secretary of said board shall be sufficient.

Report to be filed with clerk of work done for which assessments were made. Certified returns, when.

SECTION 79. The said board of public works shall, from time to time make and file a report with the city clerk, of all work done for which assessments shall have been made as herein provided, and shall make such report of all assessments for work so reported to have been done to the board of public works, who shall, if practicable, make certified returns to the city clerk in time to have the same included in the tax levy for the current year, and the same shall be entered on the tax roll, in a separate column, under the head of "Water Pipe Assessments," and the same shall be collected and the payment thereof shall be enforced by sale, and other proceedings in like manner as is now provided by law in cases of assessments for streets and improvements, except that no certificates shall be issued, but all such assessments and proceeds thereof, when collected, shall belong to the water works fund.

Provisions only to apply when city owns works.

SECTION 80. The preceding provisions relating to the construction of water mains in whole or

in part, at the expense of abutting owners, shall not apply except when the city owns the works.

## CHAPTER XI

### FINANCE AND EXPENDITURES.

**SECTION 81.** The fiscal year shall commence on the first day of October in each year and close on the thirtieth day of September next succeeding.

*Fiscal year.*

**SECTION 82.** All funds in the city treasurer, except school funds, library funds, funds created and set apart for the payment of interest and principal of the debt of the city, and funds collected on special assessments, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly countersigned by the comptroller and authorized by a vote of the common council. All orders drawn upon the treasurer shall specify the purpose for which they are drawn, and shall be payable out of any fund in the city treasury not otherwise appropriated. All orders shall be payable to the person in whose favor they may be drawn or to the bearer thereof; and shall be indorsed by the party presenting the same.

*City funds, what to be under control of council.*

**SECTION 83.** The city treasurer shall not, except as provided by sections 92 and 234, pay out any of the funds in his hands which shall be appropriated by law for any special purpose, except for the purposes for which said funds are specially appropriated, any direction of the city council to the contrary notwithstanding.

*Special funds, what to be paid out for, and how.*

**SECTION 84.** No debt shall be contracted against the city, or certificate of indebtedness drawn upon the city treasurer, unless the same shall have been authorized by the common council; and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

*Certificates of indebtedness, how authorized.*

**SECTION 85.** The common council shall not authorize the issue of orders upon the city treasurer unless the money to pay the same is in the hands of the treasurer to the credit of the fund upon which the orders are drawn.

*Orders drawn upon treasury, when.*

Treasurer to  
make monthly  
statement of  
receipts, etc.

SECTION 86. The treasurer shall on the first day of each month, deliver to the city clerk a statement showing the condition of the treasury at the close of the preceding month, and a statement in detail of all receipts and disbursements since the last report. The comptroller shall examine said report and the vouchers for the disbursements referred to and shall attach thereto a report of his examination thereof, and the city clerk shall place the same before the common council for its consideration at its next meeting. When said report shall have been approved, the city clerk shall preserve the same with the vouchers referred to therein in his office.

Council may  
borrow money  
for ordinary  
expenses.  
Limitation of.

SECTION 87. The common council may borrow money to pay the ordinary expenses of the city, not exceeding twenty *per cent.* of the tax levy for the same purpose the preceding year. Certificates of indebtedness may be issued therefor signed by the mayor and clerk bearing interest not exceeding seven *per cent. per annum.* and payable not later than the first day of March after the same are issued; provided, however, that no such loan shall be made unless authorized by a vote of at least three fourths of all the members of the common council-elect.

Council to  
designate de-  
pository for  
city funds.

SECTION 88. The city council may designate by resolution the bank or banks in the city where the money heretofore deposited by the city treasurer and not drawn out, or hereafter to be deposited by him, shall be deposited, and the security to be given by such bank or banks, such security to be approved by the mayor and comptroller; and when the money is so deposited the treasurer and his bondsmen shall not be liable for the loss of such money by reason of the failure of such bank or banks.

Comptroller to  
advertise for  
bids for deposit  
of moneys,  
when.

SECTION 89. At the beginning of each fiscal year the comptroller shall advertise for bids for the deposits of such moneys, and the common council shall award such deposits to the bank or banks offering to pay the greatest percentage on daily balances for such deposits, and which shall give the required security; provided, that the fact of having made the highest bid or bids shall not of itself entitle any bank or banks to such deposit or deposits, or any part thereof. The awarding of such deposit or deposits shall remain under

the control, and rest in the discretion of the common council.

SECTION 90. The common council shall provide that all money in the hands of the treasurer shall be deposited daily in the bank or banks selected for that purpose, and no money shall be drawn from said bank or banks except on a check or order signed by the treasurer and countersigned by the comptroller.

Treasurer to deposit daily.

SECTION 91. All temporary loans shall be paid out of the taxes levied for the ensuing year unless sooner provided for.

Temporary loans, how paid.

SECTION 92. A sufficient portion of the moneys received for licenses of all kinds to pay all interest on the outstanding bonded indebtedness of the city for the ensuing year, and five *per cent.* of the principal of such bonded indebtedness, shall be set aside for that purpose and placed in a special fund on the first day of June in each year; and in case the whole amount of said moneys received from licenses is insufficient for this purpose the balance required therefor shall be taken from the general fund. Said special fund shall be deposited with such bank or banks in the city as the common council shall contract with to receive the same. The bank receiving such deposits shall pay interest thereon, semi-annually, at a rate not less than four *per cent. per annum.* It shall be stipulated in such contract that the principal shall not be payable by the bank until the bonds for which such sinking fund is provided become due, unless the fund is ordered withdrawn pursuant to the requirements hereafter made in this section, or bonds are ordered to be substituted therefor pursuant to section 234, and that all moneys belonging to such sinking fund shall be paid into such bank as fast as collected, and also that the bank shall pay the interest upon the bonds as fast as such interest shall become due and payable, out of the sinking fund moneys so received; and the semi-annual interest upon such deposits shall be added to the principal of such sinking fund as fast as such interest becomes due. Good and sufficient surety shall be required by the common council of such bank or banks for the faithful performance of such contract; and the council shall, when deemed necessary, and at least once a year, investigate the condition

Sum sufficient to pay interest on bonded indebtedness and five per cent. of principal to be set aside annually, when.

of such bank or banks and the sureties thereof, and in case the council shall at any time deem the condition of such bank or banks, or the sureties thereof, insecure, it may, in its discretion, by a three-fourths vote of all the members-elect, either require additional surety or order the said special fund to be withdrawn. The council shall then, in the manner and according to the terms by this section provided, contract again, and as often as may be necessary, for a deposit of such special fund. Nothing herein contained shall be construed to authorize the perversion, except by substitution as provided by section 234, of any special fund from the use of which it was created.

City bonds, purposes for which council may issue.

SECTION 93. The common council shall have authority to issue city bonds for the following purposes only:

- 1st. Building school houses and purchasing sites therefor.
- 2nd. Public buildings for the use of the city.
- 3rd. Fire protection.
- 4th. Sewers.
- 5th. Water works.
- 6th. Public parks and boulevards.
- 7th. Public cemeteries.
- 8th. Refunding municipal indebtedness.
- 9th. Bridges.

Bonds, how issued; limitation of.

Provided, that no such bonds shall be issued except for building school houses and purchasing sites therefor, unless authorized by ordinance adopted by a vote in favor of the same of at least three-fourths of all the members of the common council-elect. Said vote shall be at a regular meeting not less than one week after the proposed ordinance shall have been published in the official paper of the city; provided, further, that no such bonds shall be issued so that the amount thereof, together with all the other indebtedness of the city, less sinking funds on hand, shall exceed five *per cent.* of the assessed valuation of said city at the assessment preceding the issue of such bonds. All such bonds shall run for and be payable in such time as the common council, by said ordinance shall provide; provided, that no bonds shall be issued payable in less than five years, and no bonds shall be issued payable in more than twenty years, and all bonds issued pursuant to

this section shall bear interest not exceeding six *per centum per annum* payable semi-annually.

## CHAPTER XII.

### ASSESSMENT AND COLLECTION OF TAXES.

**SECTION 94.** There shall be a board of assessors consisting of three assessors appointed by the mayor and confirmed by the common council. The members of the first board shall hold their offices one, two and three years, respectively, and thereafter they shall hold their offices for three years and until their successors are appointed and qualified. One of the assessors shall reside in the First or Second ward, another in the Third, Fifth or Seventh ward, and another in the Fourth or Sixth ward. The members of the board of assessors shall on or before the first day of May of each year choose a president and secretary of the board from their number. The entire city shall constitute a single assessment district. In the discharge of their official duties the assessors shall act together as an assessment board, and the concurrence of a majority of such board shall be necessary to determine any matter upon which they are required to act.

Board of assessors, how comprised. Terms of members; duties.

**SECTION 95.** All property in the city subject to taxation under the laws of this state shall be subject to taxation for all purposes authorized by this act.

All property subject to taxation subject to taxation for all purposes.

**SECTION 96.** The board of assessors shall make an accurate assessment roll of all the property in the city, within the time and in the manner prescribed by law for making the assessment of property for taxation under the revised statutes of this state. The board may employ all necessary clerical help, which shall be paid for out of the general fund of the city. For assessment purposes the town lots and blocks in the First and Second wards shall be grouped in one or more books describing the property, for ready reference, in accordance with the plat of Superior proper as near as may be; and in all the other wards, according to and in conformity with the leading divisions of the several town sites, or largest plats therein, so as to make the several parts of the as-

Assessment roll, board of assessors to make. Manner and time of making.

assessment roll conform as near as may be to the several popularly known divisions of the city; and all books constituting the entire tax roll shall conform as near as may be to these requirements.

Completion of assessment roll, notice how given.

**SECTION 97.** When the assessment roll shall have been completed the same shall be delivered to the city clerk, who shall thereupon give notice by publication in the official paper of the city for ten days, that on a certain day or days therein named, said assessment roll will be opened for examination by the taxable inhabitants; which said notice may assign a day or days certain for the inspection of such assessment roll. On such examination the board of assessors may make such changes as may be necessary to perfect the assessment roll, and after the corrections are made the said roll shall be submitted by the city clerk to the board of review.

Board of review, how composed. Increase of membership, how.

**SECTION 98.** The mayor, city clerk, and city engineer shall constitute the board of review; provided, that the common council may by ordinance provide for an increase of the membership of said board by adding thereto two or four members of the common council. It shall be the duty of any member of the board of assessors and of all other city officers to aid the board of review with counsel when called in for that purpose.

Meetings of board.

**SECTION 99.** The board of review shall meet on the first Monday in July of each year and proceed as such board, as prescribed by the laws of this state.

Assessment roll to be verified and delivered to clerk.

**SECTION 100.** When the roll shall have been examined and completed by the board of review, the board of assessors shall deliver the same, completed and verified as required by the statutes of this state, together with all statements of valuation, to the city clerk, who shall preserve the same in his office.

Lands assessed as a whole may be separately assessed, when.

**SECTION 101.** Whenever any tract of land assessed as a whole shall thereafter be subdivided by platting, sale or otherwise, the board of assessors shall, at any time before the final delivery of the assessment roll to the city clerk, enter on said roll in detail a list of such lots, subdivisions and parcels, and extend against each its equitable proportion of the assessment upon the entire tract so

subdivided; and if the board of review has considered the assessment of the tract as a whole, such equitable apportionment of the entire tax against each lot or parcel shall be valid and binding without the consideration of the board of review, and such original tract shall be released from the lien of all taxes and assessments which shall thereafter attach to the parcels so substituted in place of the original tract.

SECTION 102. On or before the first day of October in each year, the board of public works shall file with the city clerk a detailed statement of the amount of money that will be required for the ensuing fiscal year in their departments, and the city comptroller shall likewise file a statement of the amount required by the police department, fire department, and the remainder of the general fund, and for the purpose of paying interest for the ensuing year on the public debt and five *per cent.* of the principal thereof. The city clerk shall, not later than the second Tuesday of October, place such estimates before the city council for their consideration, and the council, shall thereupon, by resolution, levy such sums of money as may be sufficient for the several purposes for which taxes are authorized, not exceeding the limit provided by law, and in making such levy they shall take into consideration the estimated amount that will be received by the city during the fiscal year from licenses.

SECTION 103. It shall be the duty of the city clerk to make out a complete tax roll, in the manner and form provided by law, and as soon as practicable after the levy shall have been made by the common council as prescribed by the preceding section, and the certificate of the county clerk showing the amount of state and county taxes apportioned to the city, shall have been received, to cause the same to be extended upon such tax roll upon a uniform percentage, by setting opposite the description of each lot, tract or parcel of land, and to the name of each person named in said tax roll in proper columns, such proportionate share of the sums of taxes so levied as may be chargeable upon such lot, tract, or parcel of land, or against such person, and also enter and extend upon such tax roll all special

Board of public works and comptroller to file detailed statements of money separately required for ensuing year when.

Tax roll, clerk to make out as provided by law. Mayor and clerk to sign warrant to treasurer.

assessments and school taxes required to be entered therein. Whenever any tract of land assessed as a whole upon the assessment roll delivered by the assessors to the city clerk, shall thereafter be subdivided by platting, sale or otherwise, the city clerk may, at any time before the time fixed by law for the return of delinquent taxes to the county treasurer, enter on said roll in detail a list of the lots, subdivisions and parcels into which such tract has been subdivided; and in that case he shall extend against each of such lots or parcels its equitable proportion of all assessments and taxes general and special. Such extension and apportionment shall operate to release and stand in substitution of the taxes, assessments and liens on the original parcel so platted or subdivided; and shall in the case of each lot or parcel, and in all respects, be as valid and binding as the assessment and extension of taxes against the original parcel. To the tax roll shall be appended a warrant signed by the mayor and clerk substantially in the following form:

**Form of warrant.**

To ....., City Treasurer of the city of Superior:

You are hereby required to collect from each of the persons and corporations named in the annexed tax roll, and from the owners or occupants named, of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom any such sum or tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed; and out of the moneys so to be collected you are first to pay to the treasurer of said county, on or before the last Monday of January next, the sum of ..... for state taxes; you are to retain and pay out as city treasurer, according to law, the sum of ....., and the balance of said moneys you are required to pay to said treasurer for county purposes, on or before the day above specified; by which day you are further required to make return to said treasurer of this warrant,

with said tax roll, together with your doings thereon as required by law.

Dated the ..... day of ....., 18..  
....., Mayor.  
....., Clerk.

SECTION 104. The tax roll and warrant thereto attached shall be *prima facie* evidence in all courts that the land and persons therein named were subject to taxation and to the special assessments therein entered, and that the assessment was just and equal; and the same duly posted, balanced and completed, shall be delivered to the city treasurer on or before the fifteenth day of December in each year.

Tax roll and warrant to be prima facie evidence of taxation therein.

SECTION 105. After the tax roll shall have been delivered to the treasurer, as provided in the preceding section, it shall not be lawful for the common council to remit, annul or cancel any tax specified therein, except in the following cases:

Council may remit tax, when.

1st. When a clerical error has been made in the description of the property or in the extension of the tax.

2d. When improvements on lots were considered in making the assessment roll, where the improvements did not exist at the time fixed by law for making assessments.

3d. When the property is exempt from taxation.

4th. When a person has been assessed the same year for the same property in more than one ward or place.

SECTION 106. All special assessments shall be carried out on the tax roll in a separate column or columns opposite the lots or tracts upon which the same may be a lien, and the treasurer shall have the same authority with reference thereto as if the amount of such lien was a general tax.

Special assessments to be carried out on tax roll.

SECTION 107. On the receipt of such tax roll, the treasurer shall give one week's notice thereof in the official paper. Such notice shall specify that the taxes must be paid before the last Monday of January following

Notice of collection of taxes.

SECTION 108. On the expiration of the time specified or of any extension of time under the general law, the treasurer shall proceed to enforce the collection of such taxes in the manner provided by law; provided, however, that the treasurer may issue his warrant directly to the chief

Treasurer to enforce collection of taxes, when.

of police of the city, requiring him within a time specified in such warrant, to collect such taxes on personal property as shall then remain unpaid; and the chief of police, receiving such warrant, shall possess all the powers given by law to town treasurers for collection of such taxes, and be subject to the liabilities of town treasurers and entitled to the same fees as town treasurers in such cases.

Chief of police to give bond to city before receiving warrant from treasurer.

**SECTION 109.** Before the treasurer shall sign his warrant of the chief of police, as provided in the preceding section, such chief of police shall give a bond to the city in such sum and with sureties as the common council may prescribe, for the payment to the city treasurer of all taxes by him collected or received by virtue of such warrant.

Chief of police to return warrant, when.

**SECTION 110.** Within the time required by the statutes of this state in case of town treasurers for the return to the county treasurers of delinquent taxes on personal and real property, the said chief of police shall return his warrant for the collection of taxes of personal property to the treasurer.

Treasurer to first pay state tax. Other sums how set aside.

**SECTION 111.** Out of the taxes collected the treasurer shall first pay the state tax to the county treasurer, and shall then set aside all sums of money levied for school and library taxes, then taxes for the payment of principal and interest on the public debt, then moneys levied for the payment of judgments, then all sums raised as special taxes in the order in which they are levied, then the taxes for bridge purposes, then for fire purposes, then for street and other public improvements and lastly county taxes. Delinquent returns shall be made to the county treasurer, the same in all respects as required by the general laws of this state, and thereafter such proceedings shall be had with reference to the delinquent taxes so returned to the county treasurer as are provided for in case of delinquent returns from towns.

Directions only directory.

**SECTION 112.** The directions hereby given for the assessing of lands and personal property, and levying and collecting taxes, shall be deemed directory only, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of

the tax, shall vitiate or in any wise affect the validity of such tax or assessment.

## CHAPTER XIII.

### CITY IMPROVEMENTS.

SECTION 113. The board of public works shall, subject to the review of the common council, have authority to establish the grade of all the streets and alleys of the city, and to change and re-establish the same as it may deem expedient; provided, that wherever it shall change or alter the permanently established grade of any street, any person sustaining damages to his property abutting on such street by such change or alteration of grade, shall have a right to recover such damages in the manner set forth in this chapter.

Street and alley grades, how established or changed.

SECTION 114. The grade of all streets shall be established and described, and the adoption of such grades and all alterations thereof shall be recorded by the city clerk. No street shall be worked until the grade thereof is established and recorded in the manner herein set forth.

Adoption of grades to be recorded.

SECTION 115. The street shall be divided into a carriage way and a sidewalk on each side thereof; the sidewalk shall be for the use of persons on foot, and no person shall be allowed to encumber the same with boxes or other material; but such sidewalk shall be kept clear for the uses specified herein.

Streets to be divided, how.

SECTION 116. The city may cause streets and alleys to be opened, cleared, leveled, graded, graveled, macadamized and paved with wood, stone or other materials, or improved in any other manner; and may cause such streets and alleys to be swept and cleaned; provided, that no street shall be graded, graveled, macadamized or paved, where the expense would exceed five hundred dollars (\$500), except upon the vote of two-thirds of all the members of the council-elect.

Opening, grading and paving of streets.

SECTION 117. The opening, clearing, grading, re-grading, graveling, re-graveling, paving, re-paving, planking, re-planking, macadamizing or improvement of any street or alley, and the construction of crosswalks shall be chargeable to the lots or parcels of land benefited thereby, in pro-

Street improvements to be charged to lots benefited.

portion to the benefits secured thereto. Provided, however, that the total amount so assessed shall not exceed the entire cost of such improvement; and provided, further, that in no case shall the amount so assessed to any parcel of abutting real estate exceed the benefit accruing to such real estate by such improvement, except in case of sidewalks.

Expense of cross walks and casual repairs to be paid by city.

SECTION 118. The expense of all crosswalks across public grounds, shall be paid by the city at large. The expense of making casual repairs to and of cleaning streets, in all cases where the streets shall have been constructed to the established grade, and graveled, planked, macadamized or paved as required by the common council, shall be paid out of the general fund of the city.

Change of established grades, how made.

SECTION 119. Before any established grade shall be changed or any work shall be ordered done on any street, in whole or in part at the expense of the abutting or adjacent real estate, the board of public works shall view the premises and determine the damages and benefits which will accrue to each parcel of such real estate by such change or alteration of grade; the entire cost of the contemplated work or improvement upon the street, the benefits and damages that will accrue to the several parcels of such real estate by such work or improvement, and the amount that should be assessed under the provisions of this chapter, to each parcel of such real estate to be benefited, as benefits accruing thereto by such contemplated work or improvements.

Report of determination to be filed.

SECTION 120. Said board shall make and file in their office a report showing their determination on the questions required to be considered by them under the provisions of the preceding section.

Notice of determination to change grade, etc., how given. Final report with evidence and objections to be filed.

SECTION 121. Notice shall be given by the board of public works, by publication in the official newspaper of the city, at least once in each week for two successive weeks, that such report is open for review at their office and will be so continued for a space of twenty days after the date of such notice; and that on a day and hour named therein, which shall not be more than three days after the expiration of said twenty days, said board will be in session to hear all objections that may be made to such report. No irregularity in

the form of such report, nor of said notice, shall affect the validity of the same if it fairly contains the information required to be conveyed thereby. At the time specified for hearing objections to said report, said board shall hear all parties interested who may appear for that purpose, shall reduce to writing all objections that may be made, and all evidence that may be offered to sustain the same, and shall have power to review, modify and correct said report as they may deem just; and thereupon a complete and final report shall be made and filed by said board, with the city clerk, together with all objections and evidence taken before them to sustain the same, together with proof of publication of said notice; but no irregularity in the form of said report or manner of conducting the proceedings by said board, shall affect the legality of said report.

SECTION 122. The city clerk, at the next regular meeting of the council after filing of said report shall notify the council thereof, and the council may take such action on the same as it may deem advisable. If no action is taken by the council the report shall be deemed confirmed.

Clerk to notify council of filing of report, when.

SECTION 123. Subject to the limitations hereinbefore mentioned, the common council through the board of public works, may determine the amount to be paid by the real estate to be benefited as benefits on account of the improvement of a street, and the amount that shall be paid by the city at large.

Council to determine amount of benefits.

SECTION 124. When the report of the board of public works as made by them, or as changed or modified by the common council shall have been confirmed, the city clerk shall publish notice in the official newspaper of the city once in each week for two successive weeks that a final determination has been made as to the damages that will accrue to the real estate abutting on the street, in case of the change of an established grade, or the benefits to be assessed to the real estate to be benefited in the case of any proposed improvement; provided, that in case the contract is let for less than the whole amount of the benefits assessed, then the board of public works may reduce the same to the actual cost of the work.

Notice of final determination as to damages, how made.

SECTION 125. If the owner of any parcel of land mentioned in said notice feels himself

Appeal from determination.

aggrieved by reason of the determination made, he may within twenty days after the date of such determination, appeal therefrom to the circuit court; and such appeal shall be taken, tried and determined, and bonds for costs shall be given and costs awarded in like manner as in case of appeals from the disallowance of claims under this act; provided, that in case any contract shall have been made for making the improvements, said appeal shall not affect said contract; but a certificate against the lot in question for the amount of benefits assessed to such lots shall be issued, notwithstanding such appeal; and in case the appellant shall succeed, the difference between the amount charged in the certificate so issued and the amount adjudged to be paid as benefits accruing to the parcel of real estate described in such certificate, shall be paid by the city out of the general fund.

Appeal only  
remedy of  
owner.

SECTION 126. The appeal given by the last section from the report of the board of public works as confirmed by the common council, shall be the only remedy of the owner of any parcel of land, or any person interested therein, affected by said improvement, for the redress of any grievance he may have by reason of the making of such improvements, or by reason of the change of any established grade covered by said report.

Proposals for  
bids, when  
and how  
made.

SECTION 127. When any of the works before mentioned shall have been ordered to be done and the plans for the same containing a description of the work, the material to be used and such other matters as will give an intelligent idea of the work required, shall have been filed in the office of the board of public works, where the same can be inspected by persons desiring to bid on such work, the board of public works may advertise in the official paper of the city for bids for doing such work, at least once a week for at least one week.

Contractor  
entitled to cer-  
tificates upon  
approval of  
work done.

SECTION 128. Whenever any work has been done under contract, as provided in this act, and the same shall have been approved by the board of public works, the contractor shall be entitled to a certificate therefor, as to each parcel of land against which benefits shall have been assessed, for the amount chargeable to said lot, and which the owners or occupants have elected to pay ac-

ording to the provisions of this chapter. Said certificate shall draw interest at the legal rate and shall be in such form as the board may prescribe. The amount chargeable to the city shall be paid as the contract for the work may provide.

SECTION 129. After the expiration of nine months from the date of said certificate, the same shall be conclusive evidence of the legality of all proceedings up to and inclusive of the issue thereof; and such certificates may be transferred by endorsement; provided, however, that this shall not affect any appeal from the report of the board of public works as confirmed by the common council. The comptroller's statement of the special assessments to be placed in the next tax roll shall include an amount sufficient to pay said certificates with interest thereon, at the legal rate, from the date of such certificate, to the time when the city treasurer is required to make return of delinquent taxes; and thereafter the same proceedings shall be had as in case of other taxes, except that all moneys collected by the city treasurer and all moneys collected by the county treasurer or county clerk, on account of such taxes, shall be delivered or paid to the owner of the same, on demand, upon surrender of such certificate

Certificates to be conclusive evidence of legality of proceedings, when.

SECTION 130. When a contract is let for doing any work specified herein, chargeable to the real estate to be benefited, it may provide that the amounts so chargeable may be paid with certificates against the lots, or in improvement bonds, or the proceeds of the sale of such bonds, or that payment may be in part made in certificates, part in cash, and part in improvement bonds or the proceeds thereof.

Payment may be made in either certificates or improvement bonds.

SECTION 131. As soon as the amount chargeable to the real estate to be benefited is finally determined, and after the contract is let, the council may cause a notice to be published in the official paper of the city, substantially in the following form:

Notice of final determination and letting of contract to be published.

#### CITY IMPROVEMENT NOTICE.

Notice is hereby given that a contract has been let for (describe the work and street), and that the expense of said improvement chargeable to

Form of notice.

the real estate to be benefited has been determined as to each parcel of said real estate and a statement of the same is on file with the city clerk. It is proposed to issue bonds chargeable to the said real estate to pay the special assessments, and such bonds will be issued covering all of said assessments except in cases where the owners of the property file with the city clerk within thirty days after date hereof, a written notice that they elect to pay the special assessments on their property, describing the same, on presentation of the certificates.

Improvement bonds, when and how issued.

SECTION 132. After the expiration of said thirty days the council may issue improvement bonds covering all the assessments except such as the owners have filed notices of election to pay as stated in the preceding section. Said bonds shall be signed by the mayor and clerk, countersigned by the comptroller, sealed with the corporate seal of the city, and contain such recitals as may be necessary to show that they are chargeable to particular property, specifying the same and the number and amount of said bonds, and such other provisions as the common council may think proper to insert; provided, that no improvement bonds shall be issued for grading or improving any street or alley, where the cost of such improvement is less than one dollar (\$1.00) per front foot on each side of the street.

Bonds, condition of.

SECTION 133. Said bonds shall be semi-annual interest coupon bonds, payable in annual installments, the last of which shall be payable at such time as the council may determine, not exceeding ten years from the first day of March next ensuing, and shall draw interest at a rate not exceeding six *per centum per annum*. Any portion or annual installment or installments, of said bonds may be sold by the common council at not less than par value, and the proceeds collected by the city treasurer shall be paid to the contractor when due to him, or the contract may provide that the contractor shall take bonds as payment on his contract at their par value, but the contractor shall be charged with accrued interest.

Special assessments, clerk to prepare statement of interest and principal, treasurer to pay.

SECTION 134. The city clerk shall carefully prepare a statement of the special assessments on which the bonds are issued, and record the same, together with a copy of said bonds in his office.

**SECTION 135.** The city treasurer shall pay the interest on, and principal of, said bonds as the same become due and charge the amount to the proper fund.

Treasurer to pay.

**SECTION 136.** In each year after the issuing of said bonds, until all of them are paid, when the tax roll for the year is prepared, sufficient of the special assessment on each parcel of land covered by said bonds to pay the annual installment of the principal, and the interest on the amount of said special assessment then unpaid, shall be extended on the tax roll as a special tax on said property, and thereafter this tax shall be treated in all other respects as any other city taxes, and when collected the same shall be credited to the proper fund.

Interest and installment, tax sufficient to be levied annually.

**SECTION 137.** No action shall be maintained to avoid any of the special assessments of taxes levied pursuant to the same, after bonds have been issued covering such special assessments, and said bonds shall be conclusive proof of the regularity of all the proceedings on which the same are based.

No action to be maintained to avoid special assessments, when.

**SECTION 138.** The council shall have authority to establish a board of park commissioners, to prescribe their powers and to fix their compensation.

Board of park commissioners

**SECTION 139.** If at any time the city shall be without a board of park commissioners, the public parks of the city shall be under the charge of the board of public works until a board of park commissioners is established.

Public parks, board of public parks to have charge of, when.

**SECTION 140.** The council shall have full power to legislate with reference to public parks; provided, however, that no park shall be established at the expense of the city without the same is first submitted to a vote of the electors at an annual city election, and there is a majority vote in favor of the same.

Council's power as to public parks; limitation of.

**SECTION 141.** The council shall have exclusive power to determine by ordinance or resolution, the necessity for and location of all culverts and bridges; and the board of public works, under the direction and subject to the review of the council, shall have charge of the construction thereof. The cost of all bridges and culverts shall be paid out of the general fund, or out of the proceeds of the sale of city bridge bonds, except that a

Culverts and bridges, necessity for and location of, council to determine.

portion or the whole of the cost of any bridge or culvert, not, however, exceeding the sum of one thousand dollars (\$1,000), may, in the discretion of the council, be assessed as benefits against the property benefited thereby, in the same manner, with like effect, and with like right of appeal, and shall be collected in the same manner in all respects, as assessments for street improvements.

## CHAPTER XIV.

### SIDEWALKS

Sidewalks to be laid to street grade, when.

**SECTION 142.** In all cases where the grades of sidewalks shall not have been specially fixed by ordinance, the sidewalk shall be laid to the established grade of the street.

Width, material, etc., of sidewalks.

**SECTION 143.** The common council may, from time to time, by resolution, establish the width, determine the material, and prescribe the method of construction of sidewalks.

Grading of sidewalk part of improvement, when.

**SECTION 144.** Whenever a street or any part thereof shall be improved, or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, and shall be let by contract with the other work of improving such street.

Sidewalks to be constructed at owners expense. Board of public works to let contract for, when.

**SECTION 145.** The construction of sidewalks shall be done at the expense of the owners of the lots or lands benefited, as herein provided. It shall be the duty of the board of public works to cause a standard sidewalk to be laid in front of such lots or parcels of land. Such work shall be let by contract in all cases where the estimated cost shall exceed one hundred dollars, and in all other cases it may be done without the intervention of a contract; and in all cases where the sidewalk shall be out of repair for more than three days, it shall be the duty of the board of public works to repair the same. The board of public works shall keep an accurate account of the expense of laying and repairing sidewalks, whether the work be done by contract or without the intervention of a contract, and report the same to the city comptroller who shall annually prepare a statement of the expenses so incurred chargeable

to each lot or parcel of land benefited, and report the same to the city clerk, and the amount therein charged shall be by the city clerk entered in the tax roll, as a special tax against said lot, subdivision or parcel of land, and the same shall be collected in all respects like other city taxes upon real estate.

SECTION 146. The common council may, from time to time, make all needful rules and regulations, by ordinance, for carrying the aforesaid provisions into effect, and for regulating the use of the sidewalks of the city and preventing their obstruction.

Council to make needful rules.

CHAPTER XV.

SEWERS.

SECTION 147. The city shall have full power to construct systems of sewerage, but shall not enter upon such construction until it shall have been divided into sewerage districts, and a plan shall have been adopted in the manner hereinafter specified; provided, that it shall not be necessary before any part of the system is constructed that the plan shall be determined upon in all its details, but it shall be settled so far as relates to that portion of the system upon which the construction is commenced.

Systems of sewerage; contract not to be entered upon until city is divided into sewerage districts.

SECTION 148. The board of public works shall cause diagrams of the plans of sewerage for each district to be prepared showing the lots and parcels of land, the main sewers, minor sewers, manholes, catch basins, and all other matters pertaining to the system.

Plans and diagrams.

SECTION 149. On the completion of such diagram, notice shall be given in the official paper of the city, substantially in the following form:

Notice of completion of sewerage diagram.

Notice is hereby given that a plan for sewerage for the district bounded as follows: ..... has been prepared and is now open for inspection at the office of the city clerk. All persons owning or interested in real estate in said district are entitled to examine the same at any time within twenty days after the first publication of this notice, and file objections to said plan. On the ..... day of ....., 18 .....

Form of notice.

this board will be in session to consider any objections that may have been filed, and all persons desiring to be heard before the board can then be heard.

Dated .....

.....  
.....  
.....

Board of Public Works.

The day for the hearing specified shall be within ten days after the last publication of said notice. Said notice shall be published at least once each week for two successive weeks.

Plans with objections and evidence to be reported to council.

SECTION 150. On the day specified for said hearing before the board, they shall take up and consider all objections made to the plan as proposed, and shall take down in writing any testimony that may be offered to sustain said objections. When the board shall have concluded said hearing, they shall report the proposed plan, with all the objections overruled, and the evidence taken thereon, to the common council. The common council shall then examine the same, and may approve the plan as proposed, or change it in such manner as they may think proper, and approve as changed or modified by them, or may reject the plan and direct the board to propose a new plan, in which case the same proceedings shall be had as before.

Plan finally determined upon to be filed with city clerk.

SECTION 151. When the plan of any sewerage district is finally determined, a complete diagram of the same shall be prepared and filed in the office of the city clerk.

Contract to be let to the lowest bidder. Bids may be rejected.

SECTION 152. The board shall proceed to construct the sewers determined upon, when, and as ordered to do so by the common council. After the common council shall have ordered the construction of any sewer, the board of public works shall advertise for and receive bids to do the work so ordered, having first procured to be carefully prepared and put on file in the office of the board for the examination and guidance of bidders, plans and specifications describing the particular work to be done and the kinds and qualities of materials to be used, and may let the contract to the lowest responsible and satisfactory bidder; provided, however, that the board shall have the right to reject any and all bids, and re-advertise

for proposals if none of the bidders are satisfactory, or if they believe any agreement has been entered into between bidders to prevent competition.

SECTION 153. Such contract may, at the option of the city, except as herein otherwise provided, require the contractor to receive as payment for so much of the work as has been assessed against the lots benefited. interest bearing certificates against such lots respectively or improvement bonds, or the proceeds of such bonds, and the residue of such contract, if any, shall be paid out of the proceeds of the general sewerage tax, to be levied on real estate and personal property within the sewerage districts by the common council on the recommendation of the board of public works, or, after this is exhausted out of a portion of the proceeds arising from the sale of general city sewer bonds.

Manner of payment for work performed.

SECTION 154. After any contract for work under this chapter, to be paid for in whole or in part by such assessment, shall have been entered into, the board of public works shall make, or cause to be made, an assessment in proportion to benefits against all lots, parts of lots, and parcels of land benefited by the sewer so contracted to be built, at the average rate of two and a half dollars per lineal foot, for its whole length.

Assessment to be made in proportion to benefits.

SECTION 155. Whenever any lot or parcel of land shall be subdivided by sale or any other contract, after the assessments of benefits accruing to it by a system of sewerage shall have been made and before such system shall have been fully carried out and extended to such lots assessed, and the assessment on such work paid, any party interested may give notice to the board of such subdivision, and in such case, or when the said board shall in any other way become cognizant of the fact of such subdivision, they may make an equitable apportionment of the said benefit tax against any lot between the different parcels of it; but if by the neglect of the owners of the lots so divided, no such apportionment shall be made, then the entire lots shall be liable for the entire tax.

Assessment to be apportioned between subdivided lots, when.

SECTION 156. The cost of all sewers in excess of two and a half dollars per lineal foot, chargeable to lots and lands as provided in section 154 of this

Sewerage district fund, what to be payable out of.

chapter, of all temporary catch basins, and of the repairing and cleaning of sewers, and all expenditures for temporary work, necessary to carry on the system of sewerage herein provided, and all cost for constructing sewers not provided for by special assessment, shall be paid out of the fund of the proper sewerage district; but no part of the proceeds arising from the sale of general city sewer bonds shall be used for any other purpose than the building of sewers. And all cleaning and repairing of sewers and catch basins, and all temporary work necessary to be done as above stated, shall be done by the authority of the board of public works, as may be necessary.

Money required for sewerage purposes for ensuing year, board of public works to report, when.

SECTION 157. The board of public works shall report to the common council, before the first day of October of each year, as accurately as may be, the amount of money required for sewerage purposes for the ensuing year in each district, in addition to the special assessments made; and the common council are hereby authorized to direct the levy and collection of a tax for sewerage purposes in each district for such amount as may be necessary, not, however, to exceed in any one year the sum of five mills on the dollar on all property, real and personal, subject to taxation in any such sewerage district, which tax so levied shall, when collected, be placed in the fund of the sewerage district in which the same has been collected; and the city treasurer is hereby directed and required to keep a separate and distinct account of each sewerage district. The council may also, on the report of the board of public works that such special assessments and such mill tax will be inadequate to complete the sewers of any district or districts, authorize the issue of general city sewer bonds in pursuance of section 93 of this charter, for an amount sufficient to complete said sewers. The proceeds derived from the sale of such sewer bonds shall be apportioned to the funds of the sewerage districts according to their several needs, for the completion of such sewers.

Payment upon acceptance of work, how made. Certificates of special assessments, how issued.

SECTION 158. Any person to whom a contract is awarded for the construction of a sewer may receive in payment certificates against the lots, parts of lots, or parcels of lands, so as heretofore directed to be assessed, so far as the same will go, in liquidation of the amount of such contract,

and shall be entitled to receive city orders for the balance due, payable only out of the fund of the proper district, supplemented, if need be, by proceeds from the sale of general sewer bonds; and it shall be the duty of the board of public works, after the completion of any contract, and acceptance of the work, to issue such certificates on the request of the person entitled to receive them; and where any sum is found to be due a contractor over and above the amount of certificates so to be issued and received in part payment, to certify the same to the common council, which may direct an order to be drawn on the proper fund for the payment of the same. All certificates of special assessments for building sewers shall be signed by the mayor and clerk of the city, and countersigned by the comptroller, and delivered to the persons entitled to receive the same.

SECTION 159. In all cases the work shall be subject to the superintendence and direction of the board of public works; and no contractor shall be entitled to recover compensation for any work executed by him in any form of action, unless such work shall have been approved by the said board.

Work to be subject to superintendence and approval of board.

SECTION 160. Whenever the common council shall order the paving or repairing of any street in which water mains, gas mains, and sewers, or either of them, shall have been previously laid and constructed, they may also, by resolution require the board of public works to cause water and gas service pipes and house drains to be first laid in such street at the cost of the property fronting on such street, from the sewer, water and gas mains in such street, to a point two feet inside of the curb line on either side of the street at intervals not less than twenty-five feet, along the whole length of such street, except at street and alley crossings. The said board shall procure the same to be done, and charge and assess the expense thereof to the lots, or parts of lots fronting upon such work. The same shall be paid by interest bearing certificates issued against the lots, and shall be levied and collected as other special assessments are levied and collected in said city. Provided, that no street shall be paved or repaired by order of the common council unless

Water and gas service pipes, etc., same to be laid before paving streets.

the water and gas mains and service pipes, and necessary sewers and their connections shall, if previously required by the common council, be first laid and constructed in that portion of said street so to be paved or repaired.

Drains and sewers to be constructed from every lot, when.

SECTION 161. It shall be the duty of said board to have proper drains and sewers constructed from every lot in the city, which in their judgment requires it, and see that such private drains or sewers are made to communicate with the public sewers in a proper manner; and they shall have power to construct such number of private drains and sewers as they may deem expedient.

Manner of construction, form, material, etc., board to determine.

SECTION 162. The said board shall describe the location, arrangement, form, materials and construction of every drain and sewer for every lot in the city emptying into the public sewers, and shall determine the manner and plan of connection of the same; the work of construction shall be in all cases subject to the superintendence and control of said board, and shall be executed strictly in compliance with their orders; but the cost of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage in any district, and shall be charged upon the lot or lots for the benefit of which such private sewer shall be constructed.

Work to be done by contract; how paid for.

SECTION 163. The said board shall have at their office, ready for examination, the specifications of any private drains or sewers so ordered to be constructed, and they shall advertise for proposals and let the work by contract, and at the completion of the contract shall give to the contractor a certificate or certificates against such lot or lots which shall be proceeded with and shall have the like effect and draw like interest as other certificates given for work chargeable to lots.

Contractor to have free ingress and egress to lot.

SECTION 164. Any person who has taken such contract from said board to construct a private drain or sewer from any lot, shall be authorized to enter upon such lot and construct thereon such drain or sewer, and shall have free ingress and egress upon the same with men, teams and appliances for that purpose, and to deposit all necessary building materials, and generally to do and

perform all things necessary to a complete execution of the work.

SECTION 165. No person shall break open or make connection with public sewers, except by the consent and under the direction of the board of public works, and any person who shall do so, or shall willfully or maliciously obstruct, damage or injure any public or private sewer or drain in said city, or willfully injure any of the materials employed or used in said city for the purpose of sewerage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars, or imprisoned in the county jail not to exceed three months, and the cost of repairing the same shall be assessed upon the property.

Consent required to make connection with public sewer. Penalty for willful injury.

SECTION 166. Any contractor or other person acting under the direction of the board of public works, may lay sewers in and through any alleys, streets and public grounds of said city, and through any breakwater or lands where authorized by the council, and also in any highways of the county, whether within the limits of said city or not; provided, that it shall be the duty of such contractor to repair such streets, alleys, public grounds, breakwaters, lands and highways, and to restore the same to their former condition upon the completion of such sewers.

Contractor may lay sewer through streets, alleys etc.

SECTION 167. The diagram filed for a plan of sewerage for any district, after the expiration of nine months from the date of such filing, shall be conclusive proof of the regularity of such proceedings to establish the plan of sewerage shown on such diagram, and the regularity and legality of the proceedings to establish such plan of sewerage shall not thereafter be called in question in any court.

Diagram of sewerage districts to be conclusive proof of regularity of proceedings, when.

SECTION 168. When a plan of sewerage has been finally determined upon, it shall not be changed except by a vote of two-thirds of all the members of the common council elect, in favor of the same. Such change shall be by ordinance passed at a meeting after the same shall have been published, at least once in each week for two successive weeks in the official paper of the city.

Change in sewerage plans, how made.

SECTION 169. When such change shall have been determined upon a diagram shall be pre-

Diagram of change to be certified and filed. When same to be conclusive proof.

pared, certified and filed as before, showing the change, and after nine months from the date of such filing, the said diagram shall be conclusive proof of the regularity and legality of the proceedings to establish such change, and if any change renders useless any existing sewer, the expense of such change shall be paid by the general fund.

Notice to be given of letting of contract and determination of benefit assessment.

SECTION 170. Whenever a contract shall have been let for the construction of any sewer, and the amounts have been determined that are chargeable to the lots or parcels of land benefited by said sewer, if the common council deems it for the best interests of the property owners affected by the special assessment for the construction of said sewer, they may cause a notice to be published in the official paper of the city once in each week for two successive weeks, substantially in the following form:

IMPROVEMENT BONDS FOR SEWERAGE ASSESSMENT.

Form of notice.

Notice is hereby given that a contract has been let for the construction of a sewer as follows: (describe the street or alley) that a statement showing the amount of the special assessment chargeable to the lots and parcels of real estate benefited by said sewer, is now on file with the city clerk. That all parties who desire to pay the special assessment on presentation of the proper certificate are required to file their notice to that effect with the said clerk before the expiration of twenty days from the date of this notice; that the city will issue its *per cent.* semi-annual interest annual installment coupon bonds for an amount sufficient to cover the special assessments which the parties owning the property do not elect to pay on the presentation of the certificate in the manner stated; that said bonds will be a charge upon the property only against which said special assessments are claimed.

Dated the ..... day of ....., 18..

.....  
City clerk of the City of Superior.

Sewerage bonds, council may issue to cover special assessments. Condition of.

SECTION 171. The council shall then have power to issue its semi annual interest coupon annual installment bonds for an amount sufficient to

cover all special assessments which the parties do not elect to pay in accordance with said notice. Said bonds shall be semi-annual interest coupon bonds payable in annual installments, the last of which shall be payable at such time as the council may determine, not exceeding ten years from the first day of March next ensuing, and shall draw interest at a rate not exceeding six *per cent. per annum*. They shall specify on their face that they are sewerage bonds, and shall contain such recitals as may be necessary to show that they are chargeable only to particular property, specifying the same and the number and amount of said bonds, and such other provisions as the council may think proper to insert. The bonds shall be signed by the mayor and clerk, countersigned by the comptroller, and sealed with the official seal of the city.

SECTION 172. Any portion or any installment or installments of said bonds may be sold by the common council at not less than par value, and the proceeds collected by the city treasurer shall be paid to the sewerage contractor when due to him, or the contract may provide that the contractor shall take the bonds as a payment on his contract at their par value, but he shall be charged with accrued interest.

Council may sell bonds or compel contractor to accept same.

SECTION 173. The city treasurer shall pay the principal and interest on said bonds as they fall due and charge the amounts to the proper fund. In each year after the issuing of said bonds until all of them are paid, when the tax roll for the year is prepared, sufficient of the special assessment on each parcel of land covered by said bonds to pay the annual installment of the principal with six *per cent.* interest on the amount of the said special assessment then unpaid, shall be extended on the tax roll as a special tax on said property, and thereafter this tax shall be treated in all respects as any other city taxes, and when collected the same shall be credited to the proper fund.

Principal and interest, treasurer to pay.

SECTION 174. After the issue of said bonds no action shall be brought or maintained in any of the courts of this state to avoid the assessments or tax mentioned in the foregoing section, and said bonds shall be conclusive proof of the regu-

No action to be brought to avoid assessment, when.

larity of all proceedings upon which the same are based.

## CHAPTER XVI.

### SCHOOLS.

City to constitute one school district after first Monday of July 1, 1891.

**SECTION 175.** The city of Superior in the county of Douglas and state of Wisconsin, shall on and after the first Monday of July, A. D. 1891, constitute one school district, and all public schools now organized, or to be organized therein in pursuance of this act, shall under the direction and regulation of the board of education of the city of Superior, as hereinafter established, be public and free to children and youth residing within the limits thereof, between the ages of four and twenty years, inclusive, subject to such rules and limitations as the said board may establish. The territorial limits of said school district, and of said board of education, shall be co-extensive with the limits of the city of Superior.

Board of education, mayor to appoint, when.

**SECTION 176.** The board of education shall consist of one commissioner from each ward of the city of Superior, to be appointed by the mayor and confirmed by the common council of said city. Each of said school commissioners shall be a qualified elector and actual resident of the ward for which he may have been appointed, and also a freeholder therein, and shall continue to reside in the ward during the time for which he shall serve as school commissioner.

Mem. bers to be divided into three classes.

**SECTION 177.** Between the first and fifteenth days of June, 1891, the mayor shall appoint the first board of education under this act. He shall divide the members into three classes, as nearly equal as may be, and shall appoint those of one class for one year, those of another class for two years, and those of the remaining class for three years. All appointments herein shall be made upon the ground solely of capability and fitness, and without any regard to political considerations. Each commissioner shall hold his office for the term designated in said classification, and until his successor shall have been appointed and qualified, and each term of office shall commence on the first Monday in July, 1891. Thereafter all commissioners shall be appointed at the same time

of year as above provided, and shall hold their offices for the term of three years, from the first Monday in July, inclusive, and until their successors shall have been appointed and qualified. Appointments to fill any vacancies in said board shall be made in the same manner as original appointments.

SECTION 178. The school commissioners aforesaid shall constitute and be a corporation by the name of "Board of Education of the City of Superior," and in that name shall be capable of suing and being sued, contracting and being contracted with, and holding, buying or selling and conveying real or personal property as may be authorized by law and as the interest of said public schools may, in the judgment of the board, require. Said board may adopt a seal and shall have charge of the public schools and educational interests within the limits of said district and of said city of Superior, and control of the finances and affairs of the district.

Board of education to be a body corporate. General powers.

SECTION 179. The first meeting of the board of education each year, shall be held on the first Monday in July or as soon thereafter as may be. At its first meeting each year, the board shall elect one of its members president and another vice-president. The president shall preside and preserve order at every meeting of the board at which he shall be present, and he shall perform such other duties as the board shall, by rule, by law or resolution, from time to time require of him. It shall be the duty of the vice president to discharge the duties of the president in his absence.

First annual meeting, when held. President and vice-president, duties of.

SECTION 180. The board of education shall annually at its first meeting, or as soon thereafter as may be, elect a secretary who shall not be a member of the board. The board shall in like manner, annually, at its first meeting or as soon thereafter as may be, elect a superintendent of schools for the city, who shall not be a member of the board. These officers shall hold their respective offices for one year, and until their successors shall have been elected, unless sooner removed by a resolution adopted by the board by a vote of two-thirds of its members; provided, that from and after the first Monday in July, 1891, all jurisdiction of the county superintendent of schools over said district shall determine and cease.

Secretary and superintendent, how chosen, term of office.

Security may be required of officers and employes.

**SECTION 181.** The board of education may require security to be given for the faithful performance of his duties by any officer or employe of said board, in such form and amount as the board shall deem best, and may at any time require of any officer or employe additional bonds and sureties in its discretion. In case of the absence or inability from any cause, of the officers appointed by the board to perform the duties of their respective offices, said board may appoint some suitable person to act in their stead and place during their absence or inability, and such person shall have and possess the same powers and duties as the officer whose place he is appointed temporarily to fill.

General powers enumerated.

**SECTION 182.** The board of education shall have authority:

Establish schools.

First. To establish and organize such high schools, and so many common schools and branches of the same, primary schools, night schools and kindergartens as they shall deem expedient so as to afford to the people of the city such school facilities as the circumstances of the city and its various parts may from time to time require.

Purchase apparatus.

Second. To purchase and preserve such school apparatus and fixtures as may from time to time be required.

Grade schools and prescribe course of study.

Third. To grade the schools, and prescribe the course of study to be pursued therein, and to prescribe and purchase the text-books to be used, and to furnish them free of cost for the use of all pupils who are entitled to school privileges, under proper rules and regulation for preserving the same.

Employ teachers and fix salaries.

Fourth. To employ teachers of all grades and fix their salaries.

Prescribe rules.

Fifth. To prescribe rules of order for the regulation of their own meetings and deliberations, alter and repeal the same from time to time as they shall seem proper.

Appoint special committees

Sixth. To appoint all necessary standing and special committees.

Enact and amend rules.

Seventh. To enact, amend and repeal all necessary rules, regulations and by-laws for the government of the schools, teachers and school officers.

Fix salary and duty of superintendent.

Eighth. To fix the salary and prescribe the

duties of the city superintendent of schools, and of the secretary of the board, respectively.

Ninth. To contract for and purchase all necessary fuel for the schools and school officers, and to provide for lighting and warming the same, and to appoint janitors for the school buildings and school offices, and to fix their salaries. Purchase fuel.

Tenth. To estimate the expenses of the public schools of the city, as hereinafter provided. Estimate expenses.

Eleventh. To designate and purchase suitable sites for school buildings and to enclose, protect and improve the same. Purchase sites.

Twelfth. To provide for the enrollment of all persons in the district of school age, the making of all necessary reports, and transmitting the same to the proper officers as designated by law, so that said city or district may be entitled to its proportion of the public school fund, and to all other incidental privileges. Provide for enrollment.

Thirteenth. To admit as pupils of the public schools under proper restrictions and regulations, children over the age of four and under the age of twenty years, residing out of the district. Admit pupils under restrictions.

Fourteenth. To employ legal counsel, and such assistants as may be necessary. Employ legal counsel.

Fifteenth. To exercise all powers necessarily incident to the powers herein conferred. Exercise powers herein conferred.

SECTION 183. It shall be the duty of the board of education to hold regular monthly meetings at such times as the board shall from time to time prescribe, and special meetings of the board may be held under such rules and regulations as such board may prescribe. A majority of all the members-elect shall constitute a quorum, but a less number may adjourn. Regular and special meetings.

SECTION 184. The proceedings of all regular and special meetings of the board shall have one publication in the official paper of the city. All job work and printing shall be paid at a rate not exceeding the sum paid by the city under the contract for city printing. Proceedings to be published.

SECTION 185. It shall be the duty of the board of education to erect and keep in repair all school buildings, and to provide suitable offices for the board, the secretary of the board, and the city superintendent of schools. In the absence of permanent school buildings or proper offices for the transaction of school business the board Suitable offices to be provided for board and school officers.

Location of high school.

of education may rent suitable rooms temporarily for schools, or offices, or either. Provided, that it shall be and is made the duty of the said board of education to purchase a site for, and to locate, erect and complete the first high school building either within eighty rods of the intersection of Hill and Belknap avenues, or within eighty rods of the intersection of Hill avenue and north Twenty-fourth street produced in said city of Superior as may be determined upon by said board of education.

Real estate for school purposes may be purchased, how.

SECTION 186. The board of education may purchase real estate necessary for school purposes whenever two-thirds of all the members of the board shall vote to make such purchase, and the board may also sell and convey any of its real or personal property, but only when by a like vote the board shall authorize such sale to be made. All votes under this section shall be by yeas and nays, and recorded in the record of the proceedings of the board. All conveyances of property made by said board of education shall be under the seal of said board and subscribed by the president and secretary thereof and countersigned by the comptroller of the city.

Plans and specifications and estimate of cost of school buildings to be submitted to council.

SECTION 187. Whenever the board of education may determine by a vote of two-thirds of all the members thereof that it is expedient and necessary to erect a school building or school buildings in said district, said board shall prepare plans and specifications and an estimate of the cost thereof, and a site therefor and submit the same to the common council, and thereupon the said council may provide and furnish funds for the construction and completion of such building or buildings, and place such funds at the disposal of the board of education for that purpose.

Council may borrow money for school purposes; limitations of; bonds; condition of issue.

SECTION 188. For the purpose of aiding in the erection of school houses in said district and for the purchase of sites for school buildings, the common council is hereby authorized to borrow a sum not exceeding two and one-half *per centum* of the assessed valuation of the taxable property of said city according to the last preceding assessment roll thereof, and the said common council shall have authority to issue therefor the bonds of the city with interest coupons thereto attached; for the payment of the principal and interest of

which, the faith and credit of the city are and shall be irrevocably pledged. The common council shall levy a tax to be collected annually sufficient to pay the interest on such loan, and the installments of the principal to be paid in any year. Provided, that such bonds shall be issued in pursuance to an order adopted by a vote in favor of the same of at least a majority of all the members of the common council-elect. Said vote to be at a regular meeting not less than one week after the proposed ordinance shall have been published in the official paper of the city; and provided further, that no such bonds shall be issued so that the amount thereof together with all the other indebtedness of the city shall exceed five *per centum* of the assessed valuation of said city, at the assessment preceding the issue of such bonds, and provided further, that all such bonds so issued shall by their terms be made payable in not less than five years and absolutely in not more than twenty years after their date, and shall bear interest not exceeding six *per centum per annum* payable semi-annually.

SECTION 189. The proceeds and moneys derived from all loans provided for in the preceding section, shall be exclusively applied under the direction of the board of education of the city to the special purpose of erecting and completing school houses therein, or of providing sites therefor, as designated by said board.

Proceeds derived from loans to be exclusively applied to special purpose.

SECTION 190. Said board of education is hereby authorized and empowered to levy upon the taxable property in said district in each and every year such taxes as will raise sufficient sums of money for all school purposes of every character for the ensuing year, together with all necessary incidental expenses, and for the purchase or procurement of necessary sites for school buildings. It shall be the duty of said board to levy such school taxes as early as the first day of October in each year, and thereupon duly to certify the same to the city clerk, who shall assess the same on the next tax roll, and said taxes shall be collected in like manner as are state and county taxes, and shall together with all costs and interest collected thereon, be paid over to the city treasurer.

Taxes sufficient for all school purposes to be levied annually.

City treasurer  
ex-officio  
treasurer of  
board.

SECTION 191. All school moneys raised in any way for school purposes whether by the state, the county, city or district, or which may be coming to, or owing to the board of education, shall be paid to the treasurer of the city, who is hereby declared to be *ex-officio* treasurer of the board, and who shall receive the same as a separate fund. The said treasurer shall keep a detailed and exact account thereof in such a manner as to show at all times the correct financial condition of said board. He shall pay the same out from time to time upon the orders of the board of education, signed by the president, countersigned by the secretary of said board, and duly authorized by a vote of a majority of all the members thereof. The treasurer shall on the first day of each month deliver to the secretary of the board a full and detailed account of all moneys received and paid out during the preceding month, and showing the exact condition of the school funds at the close thereof.

Treasurer to  
execute bond  
before enter-  
ing upon duties  
as treasurer of  
school district.

SECTION 192. The said city treasurer shall before entering upon the duties of his office as treasurer of said school district, execute and deliver to the board of education of the city of Superior a good and sufficient bond payable to said board in such sum as shall be fixed upon by the board, not less than double the amount of money to come into his hands, and with sureties who shall be freeholders of said city and shall be approved by the board, conditioned that the principal in the bond shall well and faithfully perform and discharge all the duties of his office, and pay and turn over to his successor, or to whomsoever the board may direct, all moneys and every valuable thing which shall come into his hands by virtue of his office belonging to said board.

Funds to be de-  
posited daily  
in designated  
banks in name  
of board; pro-  
posals to be re-  
ceived before  
designating de-  
pository.

SECTION 193. All the funds of the board of education of the city of Superior shall be deposited daily by the treasurer of the said board in one or more designated banks in the city in a special account in the name of said board of education, and no money shall be drawn from said account except on a check or order signed by the treasurer, and countersigned by the president of said board. Such bank or banks may be designated by the board of education in their discretion after re-

questing and receiving proposals, stating the interest that would be paid on daily balances of the amount so deposited, upon condition that said funds with accrued interest shall be held subject to draft at all times on demand. Provided that the amount deposited in any bank shall not exceed the assessed capital stock of said bank, as the same shall appear on the last duplicate tax list; and that before any bank shall be designated as such depository, it shall deposit with such treasurer a bond payable to said board of education, with good and sufficient sureties, who shall be freeholders of the city of Superior, which bond shall be in such amount as said board shall direct, and at least in double the amount of funds to be deposited with said bank and shall be approved by the board as to its form and the sureties. When the money is so deposited, the treasurer and his bondsmen shall not be liable for the loss of such money by reason of the failure of such bank or banks; provided, that if no bank shall be designated as aforesaid, the said treasurer shall keep such funds and be responsible therefor.

SECTION 194. All claims against the board of education shall be itemized and verified by the oath of the claimant or some one in his behalf, and filed with the secretary of the board; and no claim shall be allowed by the board unless authorized by a vote of a majority of all the members-elect of the board. All orders drawn upon the treasurer shall be signed by the president and countersigned by the secretary of the board, and shall specify the purposes for which they are drawn, and shall be payable out of any funds in the treasurer's hands not otherwise appropriated; and all orders shall be made payable to the order of the persons in whose favor they may be drawn.

SECTION 195. The board of education may provide for the payment of teachers' and janitors' salaries on monthly pay rolls, and shall prescribe the form of the same; provided, that said pay rolls shall be verified by the city superintendent, passed upon by the board of education, and signed by its president and secretary.

SECTION 196. The secretary of the board shall keep an exact record in suitable books of all orders and certificates of indebtedness issued by the

Claims to be itemized and verified by oath of claimant.

Monthly pay rolls, superintendent to verify.

Clerk to keep record of orders and certificates issued.

board, showing the number, date, amount, purpose for which drawn and the name of the payee of each order or certificate, separately.

Orders on treasurer not to be issued, when.

SECTION 197. The board of education shall not authorize the issue of orders upon the treasurer unless the money to pay the same is in the hands of the treasurer, to the credit of the fund upon which the orders are drawn.

Special funds, treasurer to pay out, how.

SECTION 198. The treasurer shall not pay out any of the funds in his hands which shall be appropriated by law for any special purpose, except for the purpose for which such funds are specially appropriated, unless required so to do by the city council acting under sections 92 and 234.

Board may borrow money to pay ordinary expenses. Limitation of.

SECTION 199. The board of education of the city of Superior may borrow money to pay the ordinary expenses of the public schools, not exceeding twenty *per centum* of the tax levy for the same purpose the preceding year, and may also borrow money to pay the cost of acquiring, purchasing and improving the necessary sites for school buildings. Certificates of indebtedness may be issued therefor, signed by the president and secretary under the official seal of the board, and bearing interest not exceeding the legal rate *per annum*, and payable not later than the fifteenth day of February after the same are issued; provided, that no such loan shall be made unless authorized by a vote of at least three-fifths of all the members-elect of the board of education, at a legal meeting thereof.

Debt contracted and certificates of indebtedness issued, how authorized.

SECTION 200. No debt shall be contracted against the board of education, nor certificate of indebtedness issued, unless the same shall have been authorized by a vote of the majority of all the members of the board elect, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by law.

Commissioners not to be interested in contracts.

SECTION 201. No school commissioner shall be interested directly or indirectly in any contract to which the said board of education is a party, or in any work, merchandise, books or supplies, or property of any kind done, furnished or acquired for the use of said board of education, or for the public schools of the city of Superior, and any contract or transaction prohibited aforesaid shall be absolutely void, and all moneys which may be paid thereon by said board may be recovered back

and the office of any such school commissioner so offending shall become thereby vacant.

SECTION 202. Every contract, certificate or other written instrument shall be executed on the part of the board by the president and secretary, sealed with the corporate seal, and in pursuance only of authority therefore from the board of education.

Contracts, certificates, etc., how executed.

SECTION 203. No action shall be maintained by any person against said board of education, upon any claim or demand until such person shall have first presented his claim or demand to the said board for allowance, and the same shall have been disallowed in whole or in part. Provided, that the failure of such board to pass upon such claim within sixty days after the presentation of such claim shall be deemed a disallowance thereof.

Action not to be maintained upon claims until first presented to board.

SECTION 204. After the passage of this act, school district No. one and school district No. two, of the village or city of Superior, shall continue in existence until the first Monday in July, 1891, and no longer, and neither of them shall in the meantime enter into any new contract which is not to be fully performed before the date last mentioned, except for the employment of teachers for a period not exceeding one year from the date of such employment. Thereafter, the board of education of the city of Superior established by this act, shall be in all things the legal successor of said school districts, No. one and No. two, and of each of them.

School districts No. one and No. two to continue to exist until first Monday in July, 1891.

New contracts, how entered into.

SECTION 205. It shall be the duty of the director, treasurer and clerk of each of said school districts to attend at the office of the treasurer of the city of Superior on the first Monday in July, 1891, at ten o'clock in the forenoon, and surrender and deliver over to the board of education of the city of Superior, all books, records, vouchers, papers and properties in their custody belonging to their respective offices, boards or districts, and it shall be the duty of the treasurers of said school districts number one and number two respectively, to pay over to the city treasurer then and there, all moneys in their hands, or for which they are responsible as such district treasurers, and any failure so to do shall be held to be a breach of the official bond of each such treasurer so failing, and such bonds may be prosecuted by the said board

School district officers to surrender books, papers, etc., to board, when.

of education of the city of Superior, as also may any other right of action which might have accrued in favor of either of said district boards.

Interest and installments of principal on existing loans, tax sufficient to pay to be levied annually.

SECTION 206. It shall be the duty of the board of education of the city of Superior to levy annually upon the taxable property of said consolidated school district of the city of Superior, such amount of tax as will raise a sum of money sufficient to pay the annual interest and installments of the principal to be paid in any year on the existing loans of said school districts number one and number two, severally and sufficient to pay the respective indebtedness of said districts that may become lawfully due. The levy of such taxes shall be made at the same time as that provided in section 102, chapter XII of this act, and in like manner shall be duly certified to the city clerk, and the same shall be assessed and collected as in said section and chapter provided, and paid over to the city treasurer and by him received and held for the special purpose of extinguishing such indebtedness of said school districts number one and number two.

Lands for school house site, how acquired.

SECTION 207. Whenever said board of education shall deem it expedient, and shall at any regular meeting, by a vote of three-fifths of all the members-elect thereof, resolve to acquire title to any lands situated within the city of Superior, either for a school house site, or for an addition to any school house site, the same may be acquired at the option of said board by proceedings as provided in sections 895, to 904 inclusive, and section 927, of the revised statutes of 1878, and the acts amendatory thereof, except as otherwise herein directed. And it shall be the duty of the city attorney to conduct all such proceedings on the part of the board. The title which said board shall acquire to any lands, as herein provided, shall be an absolute estate in fee-simple, and said board shall declare by resolution its purpose to acquire such absolute title. Provided that said board of education may at any time after the verdict of the jury as provided in section 899 of the revised statutes, enter upon and occupy such lands as are described in its resolution and application for a jury to condemn and appraise the same, until the proceedings contemplated by this act shall have been fully determined.

Board to declare its purpose to acquire title.

**SECTION 208.** The title to all public school buildings now erected, and the lots on which they are situated, and the lots now or hereafter purchased or acquired for school purposes, and the school buildings thereon erected, shall be and become vested in the board of education of the city of Superior.

Title to school property to be vested in board.

**SECTION 209.** The board of education, the secretary of the board and the superintendent of schools, of the city of Superior, shall be governed in all things by the school laws of the state, except as they are altered or modified by this act. The said board shall report to the common council of said city annually in the month of September, the general proceedings and acts of said board; the number and condition of the public schools kept in said city during the year; the time they have severally been taught; the number and names of teachers and janitors, and the amount of pay or salary of each; the number of children taught in said schools respectively; the result of the annual enumeration required by law; the extent of school accommodations in the several schools; the amount of moneys raised or received for schools and for purposes incident thereto, distinguishing the amount received from the state fund, the amount derived from taxes levied by the county board of supervisors and by the board of education respectively, and the accounts allowed by them against the school fund in detail, together with such other information as they may deem useful or as the common council may require. A copy of said report shall be transmitted to the state superintendent of public instruction.

Board and officers, how governed.

Annual report to council when made, what to contain.

## CHAPTER XVII.

### HARBORS.

**SECTION 210.** The city council shall have power to construct, repair, improve and maintain any harbor within or of the city, so as to make such harbor navigable and available for the largest classes of vessels, by dredging channels and slips, building docks, dykes, wharves, piers and breakwaters, or by such other plan of improvement as the city council may prescribe and adopt; and

Harbor improvements, board of public works to assess benefits.

Harbor districts, council to establish; how changed.

when any such improvement shall have been ordered the board of public works shall make an assessment of the benefits accruing to the lands benefited thereby. In order to facilitate the improvement of any harbor or any portion thereof, the city council may by ordinance establish harbor districts, to be numbered from one upwards along the bays, rivers, creeks, sloughs, slips and pockets, lying wholly or in part within the city, each of which harbor districts shall contain such area and embrace such lands and territory to be improved and benefited as the council may by such ordinance prescribe and determine; and after the formation of any harbor district, the cost of the improvement made within any such district shall be assessed to the property within the same, according to the benefits accruing to such property by reason of such improvement. The city council may at any time, by a vote of three-fourths of all its members elect vacate or alter any harbor district, or change the boundaries of the same, or consolidate or re-arrange the harbor districts. In case it shall be necessary to dredge any channel or make any other improvement outside of any dock lines or harbor districts, the cost of such improvement shall be assessed as benefits against the platted property or sub-divisions of land nearest to or benefited by such improvement. Assessments for harbor improvements shall be made, corrected and reported to the city council the same as assessments for street improvements; and certificates or improvement bonds may be issued thereon in the same manner, and with like effect, as in the case of street improvements. The city council may provide that a sum not exceeding ten *per cent.* of the amount of any assessment for benefits shall be added, as an additional assessment for benefits, to cover the cost of engineering, superintending and all other necessary charges upon the city by reason of such improvement; they may also provide that any portion, or the entire amount, of any sum assessed as benefits shall be collected and in the treasury before any work shall be done or improvement made under this chapter. An appeal may be taken from any such assessment upon like notice and security, within the same time and with like effect, as in

Assessments to be reported to council; certificates and bonds, how issued.

the case of street improvements, and like proceedings shall be had thereon.

SECTION 211. The city council shall have, and may exercise the right and power to condemn any lands, whether submerged or not that may be necessary for the improvement of any harbor, and to that end may exercise all the powers of eminent domain granted by chapter XVIII, of this charter, and in the manner therein stated.

Council to have power of eminent domain.

## CHAPTER XVIII.

### EMINENT DOMAIN.

SECTION 212. The city shall have the power to condemn lands for streets, alleys, sewers, public grounds, parks, cemeteries, sites for school buildings and other public buildings, and lands to be used for purposes of drainage and water distribution, canal, harbor improvements and other public municipal purposes, not here enumerated, by the following proceeding:

City may condemn lands for streets, alleys, etc.

SECTION 213. As to streets it shall be competent for any ten resident freeholders in any ward to petition the common council for the opening, widening, extension or change of any street in such ward, and if the land proposed to be taken for that purpose shall lie in two or more wards, then ten resident freeholders of each of the wards shall be required to join in the petition. Such petition shall be addressed to the common council, and shall designate in general terms the location, extent of the proposed laying out, widening, extension or change, but need not contain a particular description of the land proposed to be taken. For the purpose of such petition a person in possession of land under a contract of purchase and sale, or a bond for a deed, shall be deemed a freeholder.

Proceedings upon petition to open, widen or change street.

SECTION 214. When such petition shall be presented to the common council it shall, prior to the adoption of any resolution thereon, be referred to the board of public works, and said board shall make a report to the common council, stating whether or not such petition is sufficiently signed, and if so, giving a particular description of each lot, parcel, or subdivision of land proposed to be

Petition to be referred to board of public works prior to resolution thereon.

taken, and a plat of the proposed street, widening, extension or change. Upon the coming in of said report, the common council may, if the petition be reported sufficiently signed, by a vote of the majority of its members, adopt a resolution declaring that it is necessary to condemn the land designated in such petition and report, referring to them, for the purpose named in the petition and direct the city attorney to commence and prosecute the proper proceedings for the condemnation and acquisition of said land.

Proceedings upon petition to open, widen or change alley.

SECTION 215. As to alleys, a petition for the opening, widening, extension or change of an alley, may be made to the common council, by the owner or owners of one-third or more of the land in the block in which the alley or proposed alley is situated, whether such owner or owners shall be residents of the city or not. Land held under a land contract or bond for a deed, shall for the purpose of such petition, be deemed to be owned by the person so holding it, and infants and others under guardianship, may petition by their guardians. Such petition shall, before any resolution upon it shall be adopted, be referred to the board of public works, who shall thereupon make a report to the common council, stating whether or not, the petition is sufficiently signed, and if so, giving a particular description of each lot, parcel or subdivision of land proposed to be taken, and a plat of the proposed alley, as the same will be when laid out, widened, extended or changed. Upon the coming in of such report, if it shall appear thereby, that the petition is signed by the owner or owners of one-third or more of the land in the block, the common council may adopt a resolution by a vote of a majority of its members, the same as in the case of a petition for the opening, widening, extension or change of a street, and like proceedings shall be had thereon. If it shall afterwards appear either in the case of a street or an alley, that such petition was not sufficiently signed, that fact shall not, in the absence of fraud, vitiate the petition, or the subsequent proceedings thereon.

Council may declare necessity to condemn lands for public use without petition.

SECTION 216. The common council may, without a petition, by a vote of four-fifths of its members, adopt a resolution declaring it to be necessary to condemn to the public use any land for

the opening, widening, extension or changing of any street or alley, and directing the city attorney to commence and prosecute the proper proceedings therefor, and in the case of the opening or extension of public grounds, or acquiring land as a site for a school building, or other public building, or lands for purposes of drainage, sewers, or water distribution, or the taking of lands for harbor improvements or any public municipal purposes not herein enumerated, the common council may without a petition therefor, and by a vote of a majority of its members, adopt a resolution declaring it to be necessary to condemn lands for such purposes, describing it in general terms, but not particularly describing the lands proposed to be taken, and directing the city attorney to commence and prosecute the proper proceedings therefor. Before any resolution provided for in this section shall be adopted it shall be referred to the board of public works, who shall thereupon make a particular description of each lot, parcel or subdivision of land proposed to be taken, and a plat of the proposed street or alley, public ground, building site, drain or water pipe, or land to be used for harbor improvements or other public municipal purposes, and report the same to the common council.

SECTION 217. Whenever, by any resolution adopted under any of the preceding sections of this chapter, it shall be declared necessary to condemn any lands, and the city attorney is directed to commence and prosecute the proper proceedings therefor, it shall be the duty of the city attorney to prepare and present as soon as may be, a petition to the circuit court of the county in which the land proposed to be taken, or some of it, shall lie, for the condemnation of the land mentioned in the resolution for the purpose therein mentioned, and to prepare and file with said petition a sworn list of the names and residences, so far as they are known to him or can with reasonable diligence be ascertained by him, of persons owning or being interested in the lands proposed to be taken therein; and said petition shall have annexed thereto copies of the original petition, if any, the resolution of the common council and the report of the board of public works as to the proposed condemnation. The city attorney

Condemnation of lands, city attorney to prosecute proceedings.

Notice of petition to circuit court.

shall thereupon prepare a notice substantially in the following form:

**Form of notice.**

State of Wisconsin, In the matter of (here insert the object of the proceedings), in the city of Superior.	}	In the circuit court of the county of Douglas.
---	---	--

To whom it may concern:

Notice is hereby given that a petition for the condemnation of real estate has been presented to said court in the above entitled matter, by the city of Superior, by its city attorney. All persons interested in said matter may answer said petition at any time within twenty days after the service of this notice, exclusive of the day of service.

Dated.....

A. B.,  
City Attorney.

**Notices of condemnation proceedings, how served. Filing of petition to be deemed commencement of suit.**

Such notice shall be served upon the owners of land which is proposed to be condemned, and all persons interested therein, in all respects like a summons in a civil action, except that in cases of service by publication and mailing, or by publication alone, the publication shall be made in the official paper or papers of the city, and except that service within the state may be made by the chief of police of the city named in the notice, or his subordinates, instead of the sheriff of the proper county, and the return or returns of such chief of police, by himself or by his subordinates, upon such notice or copies thereof, shall have the same force and effect as the return of a sheriff of the proper county by himself or by his deputies. The filing of said petition shall be deemed the commencement of a suit. Within twenty days after service of such notice upon any party owning or being interested in any real estate proposed to be condemned, such party may serve an answer to such petition upon the city attorney, and file the same as in cases of answers in civil actions. No notice of retainer or appearance without an answer shall be of any avail. When the time for answering shall have fully expired the city attorney may call up said matter for hearing upon a notice of three days, excluding the day of service, and excluding Sundays and legal holidays, and without notice

**Answer, when to be served.**

**Proceedings in circuit court.**

to parties who have not answered, and such proceedings shall have precedence over all other matters not on trial, and the circuit court shall thereupon impanel a jury as in civil cases triable by jury, to determine whether or not it is necessary to take the land proposed to be condemned for public use. Such jury shall view the premises in question in the same manner as in civil actions, when a view of premises is ordered by the court, at the expense of the city, and shall return into court as in such cases; and if no answer shall have been served, the city attorney shall produce such evidence as he deems material as to the necessity for such condemnation, and if an answer or answers shall have been served, the issue upon the petition and such answer or answers shall be tried by the court and jury, the same as other issues of fact, and in either case the court shall thereupon instruct the jury as in other cases triable by jury. The jury shall thereupon retire to consider their verdict as in other cases of jury trials. The verdict shall be either: "We, the jury, find that it is necessary to condemn the real estate sought to be condemned in this proceeding for the public use." Or: "We, the jury, find that it is not necessary to condemn the real estate sought to be condemned in this proceeding, for the public use." Upon the coming in of the verdict, judgment shall be entered condemning the land sought to be condemned to the public use for the purpose set forth in the petition, or dismissing the petition, as the verdict shall require. If the jury shall disagree, a new jury shall be immediately impaneled, and like proceedings shall thereupon be had as before. If two juries shall disagree, the matter shall be continued to the next term of the court, when it may be again called up and like proceedings had thereon. If the three juries shall disagree, the proceedings shall be dismissed. No appeal from a judgment of condemnation shall be allowed, but the supreme court may review such judgment upon a writ of *certiorari* sued out within thirty days after the entry of judgment, and not thereafter.

Form of verdict.

Judgment upon verdict.

Proceedings to be dismissed, when.

Cost of proceedings, city to pay, when.

SECTION 218. The cost of the foregoing proceedings shall be paid by the city, and if the jury shall find that it is not necessary to condemn the lands

in question to the public use, or if the proceedings shall be abandoned, any party who shall have put in an answer shall recover from the city his disbursements necessarily made or incurred, and taxable attorney's fees not to exceed twenty-five dollars.

Condemnation proceedings to be deemed to have been abandoned, when.

SECTION 219. If the city shall not, within one year after the entry of a judgment of condemnation, cause the benefits and damages by reason of such condemnation, to be assessed as provided in this chapter, and shall not have in the proper fund available for that purpose, a sum sufficient to pay the excess of damages over benefits, the condemnation proceedings shall be deemed to have been abandoned. At the expiration of one year after the entry of such judgment, the comptroller shall, upon demand, furnish to the mayor or to any person who shall require it, a certificate showing whether or not there was, at the end of such year, in any fund of the city available for that purpose, a sum sufficient to pay such excess of damages over benefits, and such certificate shall be *prima facie* evidence of the facts therein certified. If it shall appear that there is in any fund of said city, a sufficient sum available for that purpose at the expiration of such year or at any time prior thereto, and after such assessments of benefits and damages shall have been made and confirmed, the city may take possession of the land condemned; an order on the city treasurer shall be issued, as in other cases, in favor of the person in whose favor any excess of damages over benefits shall have been assessed upon the certificates of the city attorney that such person is entitled to receive the same. If the attorney shall refuse to give any such certificate, the party or parties claiming the same may apply to the circuit court at the foot of the judgment of condemnation for a decision awarding such amount to him or them, and upon such application and eight days' notice thereof to the city attorney, the court shall proceed in a summary manner to inquire as to the rights of the parties in the premises, and may make up an issue upon such application and submit the same to a jury in a proper case, and shall make and file a decision, in writing, as to who is entitled to draw the amount in controversy, and

Parties claiming certificates may apply to circuit court, when.

on filing a certified copy of such decision, with the city clerk, an order shall be issued in accordance with such decision. If any two or more parties shall claim the same sum, or if the city attorney shall be in doubt as to whom such sum shall be paid, he may in like manner, apply to the court at the foot of the judgment of condemnation for a decision as to the rights of the parties in respect to such sum, and upon such application and eight days' notice thereof to the parties interested, the court shall proceed in like manner to ascertain and decide who is entitled to said sum or any part thereof, and the city treasurer shall in like manner pay the same out upon and according to such decision. An appeal from any such decision may be taken to the supreme court by any party interested therein including the city, within thirty days after the filing of the same, and such sum shall not be paid while such appeal is pending, nor until the matter shall be finally determined. Such appeal shall be taken upon like notice and undertaking as an appeal from an order in a civil action, and like proceedings shall be had thereon in the supreme court and the circuit court.

Same when two or more parties claim same sum.

Appeal to supreme court, how.

SECTION 220. If any person not the owner of the land condemned, shall have a lien thereon or a leasehold or other interest therein, such person shall receive a portion of the excess of damages over benefits awarded by reason of such condemnation in proportion to the lien or interest he may have had in the land condemned to be ascertained upon the principles of equity; and if the parties cannot agree, the matter may be decided by the court at the foot of the judgment of condemnation, upon the application of a party or the city attorney as provided in section 219. The term, "excess of damages over benefits," shall, when used in this act, be construed to include any sum which shall be assessed as damages, and not offset by an assessment of benefits, as well as the balance in favor of a party in whose favor damages have been assessed and against whom benefits have been assessed.

Leaseholder to receive a portion of excess of damages awarded.

SECTION 221. When any land shall be condemned under this chapter for public grounds, parks, cemeteries, canals, harbor improvements, or sites for school or other buildings, the city shall

City to take a fee-simple title to land condemned, when.

take a fee-simple title to the land so condemned. In all other cases the fee shall remain in the owner, his heirs and assigns, and the city shall take by the condemnation only such an interest in the land as shall be necessary and convenient for the uses and purposes for which it is condemned.

Condemnation not a bar to subsequent proceedings.

SECTION 222. Condemnation proceedings under this chapter shall in no case be a bar to subsequent proceedings for the condemnation of the same premises, or any part thereof, for the same or a different purpose; and the same land may be condemned more than once for different purposes, each consistent with the other.

Street or alley, when to be deemed vacated.

SECTION 223. When a street or alley shall be changed by proceedings under this chapter, so much of the original street or alley as shall be left out of it as changed, shall be deemed vacated without any other proceeding, and the fact of such vacation shall be taken into account in assessing benefits and damages by reason of the condemnation proceedings.

Council to order an assessment of damages within three months after judgment of condemnation; assessment of benefits, when.

SECTION 224. It shall be the duty of the common council within three months after any judgment of condemnation shall have been entered, to adopt a resolution directing the board of public works to make an assessment of damages by reason of such condemnation, and in the case of condemnation for opening, widening, extending or changing streets or alleys, and for opening public grounds, parks, cemeteries or canals, the common council may also direct the board of public works to make an assessment of benefits. Such resolution shall be certified by the city clerk to the board of public works immediately after its adoption and approval. When such assessment shall have been made and reported to the common council, that body may, by resolution, confirm the same, or refer the matter back to the board of public works for a new assessment, or may, by resolution, abandon the condemnation proceeding. If the common council shall for more than three months after the entry of a judgment of condemnation, neglect to order an assessment of damages, or benefits and damages, as the case may be, the condemnation proceedings shall be deemed to have been abandoned; and if the common council shall not within one year after the entry of judgment of condemnation confirm

an assessment of damages, or benefits and damages, and make provisions for paying the excess of damages over benefits, the condemnation proceedings shall be deemed to have been abandoned.

SECTION 225. When the city clerk shall have certified to the board of public works a resolution of the common council requiring an assessment of damages, or benefits and damages, to be made under this chapter, the said board shall immediately proceed to assess the damages, by reason of the condemnation mentioned in such resolution, as follows: Opposite each description of the land condemned the board shall set down in separate columns the damages sustained by the owner by reason of the taking of the land, the damages if any, to the adjoining property of the same owner, the total damages, and in cases wherein benefits may be assessed, the benefits which in their judgment will accrue to lands in the vicinity of the condemned lands, by reason of the condemnation in question, the excess of damages over benefits, and the excess of benefits over damages, each sum being set opposite the proper description. No benefits shall be assessed against any lot, parcel or subdivision, every part of which shall be one thousand feet or more distant from the nearest land condemned, and no benefit exceeding five *per cent.* of the assessed value thereof according to the last assessment roll, shall be assessed against any lot, parcel or subdivision by reason of any one condemnation proceeding, and no benefit exceeding three *per cent.* of the assessed value thereof according to said assessment roll shall be assessed against any lot, parcel or subdivision, the whole of which is more than five hundred feet distant from the nearest land condemned by reason of any one condemnation. In assessing such damage or damages and benefits, the board of public works shall proceed as in case of benefits and damages on account of public improvements, giving like notice, and like opportunities for correction, and reporting the assessment to the common council in like manner.

Board of public works to proceed to an assessment of benefits and damages, when; same, how made.

SECTION 226. When such assessment shall be confirmed by the common council, the city clerk shall transmit the same to the comptroller, who shall thereupon report to the city clerk a list of

Clerk to transmit assessment to comptroller upon confirmation by council.

special taxes to be entered in the tax roll on account thereof, which list shall have set opposite each description against which benefits, not offset by damages, or any excess of benefits over damages, shall have been assessed, the amount of such benefits or excess, which amount shall be levied upon the land described as a special tax, and shall be collected the same as other taxes.

Cost of condemnation, how paid.

**SECTION 227.** The cost of each condemnation shall be paid out of the general city fund, except the cost of condemnations for streets and alleys, and public grounds less than five acres in extent, which shall be paid out of the ward fund or funds, of the proper ward or wards, and the cost of condemnation for other purposes as to which there are special funds, such as the water fund or sewerage fund, if any, shall be paid out of such fund, and all special taxes, levied and collected on account of any condemnation, shall be credited to the fund out of which the cost of the condemnation is paid.

Lands may be condemned either under provisions of revised statutes or as herein provided.

**SECTION 228.** The city may, at its option, condemn lands for any of the purposes mentioned in the first section of this chapter either under the provisions of section 927 and sections 895 to 904, inclusive, of the revised statutes of 1878, and the acts amendatory thereof, or under the foregoing provisions of this chapter; and the city may at any time after the verdict of a jury, as provided by section 899, of the revised statutes, enter upon and occupy such land for streets, alleys, sewerage or drainage purposes, as are described in its resolution and application for a jury to condemn and appraise the same, until the condemnation proceedings contemplated by the law shall have been fully determined.

Appeals to circuit court, how taken.

**SECTION 229.** Any party aggrieved by any assessment of benefits or damages, or both, may appeal to the circuit court therefrom, within the time, in the manner, and upon the security prescribed in appeals from the assessments of benefits and damages on account of public improvements, and like proceedings shall be had thereon. Such appeal shall not affect any special tax levied on account of an excess of benefits over damages, but the amount recovered by the appellant, properly applicable in reduction of such assessment and the costs, if any, shall be paid out of the

proper fund; also the amount recovered by way of increasing any damages assessed, or for damages when none have been assessed, with the costs, if any.

## CHAPTER XIX.

### MISCELLANEOUS.

**SECTION 230.** No member of the common council shall, during the term for which he is elected, be eligible to any other municipal office, except the office of mayor, existing at the time of his election, or created at the time of his election.

Members of council only eligible to office of mayor.

**SECTION 231.** No person shall be incompetent to act as judge, justice of the peace, witness or juror, by reason of his being an inhabitant of the city in any action or proceeding in which the city shall be the party in interest.

Incompetency, residence not to occasion.

**SECTION 232.** The general laws of the state for the government of cities, villages and towns, the assessment and collection of taxes, the preservation of public and private property, highways, roads and bridges, the punishment of offenders, the collection of penalties and the manner of conducting elections, shall be in force in the city, except as otherwise herein provided.

General laws to apply except as herein provided.

**SECTION 233.** The general laws of the state of Wisconsin for the punishment of bribery, misdemeanors and corruption in office shall be in force and shall apply to all officers elected or appointed under the provisions of this act.

Bribery, misdemeanors, etc., punishable under general laws.

**SECTION 234.** Any of the city, general or improvement bonds may be substituted for any city sinking fund or funds or any part thereof, in case the common council shall at any time, by a three-fourths vote of all the members-elect, order this done. When such order is duly made by resolution it shall be the duty of the city treasurer to make such substitution, and a portion of such fund or funds equivalent in amount to the principal of such bond or bonds to be substituted, shall be paid out by the bank or banks where the same is deposited or kept, upon the check or checks of the city treasurer, whether the indebtedness for which such fund or funds was created is due or not. The bond or bonds so substituted

General or improvement bonds may be substituted for sinking fund, how.

must be payable before the time when the sinking fund will be needed for the redemption of the bonds for which it was created. The substituted bond or bonds shall be and remain in the possession of the city treasurer until they become severally due, at which time the amounts thereof with interest thereon shall be paid into the sinking fund or funds where the money for which they were substituted was drawn. The bonds which shall have been so substituted shall then be cancelled.

Officials not to be interested in building or improvement contracts.

**SECTION 235.** No city official shall be interested directly or indirectly in any building or improvement contract to which the city is a party, and whenever it shall appear that such is the case, such contract shall be absolutely void, and the city shall incur no liability thereon whatever. No city officer shall be accepted as surety on any bond, contract or other obligation to which the city is a party.

Property of individuals or corporations not to be levied upon to satisfy obligation of city.

**SECTION 236.** No real or personal property of any inhabitant of the city, or of any corporation thereof, shall be levied on or sold by virtue of an attachment or execution issued to satisfy any contract, debt or obligation of said city, or for any judgment against said city; nor shall any person or corporation be held liable as garnishee of said city.

Forms prescribed by revised statutes to be valid; municipal court prosecutions, forms to be used in.

**SECTION 237.** The use of any forms prescribed by the revised statutes of the state, and acts amendatory thereof, as far as the same are applicable, shall be legal and of the same force and effect as the use of the forms prescribed in this act. Provided, that the following shall be substantially the forms to be used in the municipal court for Douglas county, in cases for prosecutions for the violation of the ordinances of the city of Superior:

COMPLAINT.

In Municipal Court,  
Douglas County, Wisconsin.

City of Superior,  
Plaintiff,  
vs.  
.....  
.....  
.....  
Defendants. } ss.

Form of complaint.

.....  
complaints on oath to the municipal court for  
Douglas county, that .....  
..... did, as the deponent verily believes,  
on or about the ..... day of ....., A. D.  
189.., at said city, violate an ordinance of said  
city, to-wit: In this, that he did then and there,  
contrary to said ordinance .....

.....  
wherefore the complainant prays that said .....  
..... be arrested and dealt with  
according to law.

.....,  
Complainant.

Subscribed and sworn to before me this .....  
day of ....., 189..

.....,  
Municipal Judge.

WARRANT.

In Municipal Court,  
Douglas County, Wisconsin.

City of Superior,  
Plaintiff,  
vs.  
.....  
.....  
.....  
Defendants, } ss.

Form of war-  
rant.

Whereas, A. B has this day complained on  
oath to the municipal court of the county of

Douglas that.....

did, as the deponent verily believes, on or about the.... day of.... A. D. 189..., at said city, violate an ordinance of said city, to-wit: In this, that he did then an there, contrary to said ordinance

and prayed that the said ..... might be arrested and dealt with according to law.

Now, therefor, you are commanded forthwith to arrest the said..... and to bring ..... before me to be dealt with according to law.

Given under my hand, at the city of Superior, in said county and state this ..... day of ..... A. D. 189..

Municipal Judge.

City marshal, variously styled, duties.

SECTION 238. The city marshal shall be known as such, or as a captain or chief of police, in the discretion of the common council; and he shall have command of the police force of the city under the direction of the mayor.

Salary, who not to receive.

SECTION 239. No compensation or salary shall be paid to the mayor, or any alderman, supervisor or school commissioners.

Contractor may be granted an estimate of amount and proportionate value of work.

SECTION 240. The board of public works may, from time to time, as the work on any contract progresses, at their discretion, grant to any contractor an estimate of the amount and proportionate value of the work already done, withholding in all cases twenty *per cent.* of said estimate, which shall entitle the holder to receive the amount thereof, less such retained *per cent.* from the proper fund.

Approval of contracts.

SECTION 241. All contracts entered into by the board of public works under this charter shall be approved in writing thereon as to form and execution by the city attorney and before taking effect shall be signed by the mayor and city clerk and countersigned by the comptroller.

Duties of officers, provisions of revised statutes to apply.

SECTION 242. In cases of failure to describe the duties of any officer elected or appointed under the provisions of this act, the provisions of the revised statutes and acts amendatory thereof as far as the same are applicable, shall be deemed

and taken to be the guide in determining the duties of such officer.

SECTION 243. When any heinous offense or crime has been committed against life or property, within such city, the mayor, with the consent of a majority of the aldermen, may offer a reward for the apprehension of such criminal or perpetrator of such offense.

Rewards for criminals.

SECTION 244. No lot or parcel of land benefited in said city shall be exempt from the payment of its portion or any tax or assessment for sewers, the improvement of streets or the building or repairing of sidewalks, excepting only property belonging to the United States or the state of Wisconsin, and parsonages or property owned by some religious society, association or corporation and not used for pecuniary profit, and this shall be exempt.

Special improvements, what property exempt from.

SECTION 245. Every individual or company of individuals or body corporate owning a lot or tract of land within the corporate limits of the city of Superior, who may desire to subdivide or plat such lot or tract, into city lots, streets and alleys under the provisions of chapter 101, of the revised statutes, shall, in platting the same, cause the streets and alleys to be surveyed and platted in such a manner that they shall connect with the streets and alleys through the lots and blocks in said city adjacent to said lot or tract of land so to be platted; and also correspond in width, and general direction with the same; provided, it shall be the duty of such person or corporation making such plat, to submit the same to the board of public works for approval; and in case it shall be found impracticable or inexpedient to lay out any streets or alleys in the manner above directed, the board of public works in their discretion may consent to and approve a different mode of platting such streets and alleys; but except such plat be approved by resolution adopted by said board of public works, a copy of which, duly certified, shall be affixed to or entered on such plat, it shall not be lawful for the register of deeds of Douglas county to receive such plat or plats of record, or to record the same. Every person neglecting or refusing to comply with the requirements of this section shall forfeit and pay

Platting lands; streets and alleys to connect with and conform to adjacent lands.

Plat, how approved and recorded.

a sum not less than fifty dollars or more than one thousand dollars to be prosecuted for and recovered in the name of the city and paid into the city treasury for the use and benefit of the said city.

Property of the city to remain such. Officers to turn over books, papers, etc.

SECTION 246. All public property of the city of Superior shall remain the property of the city, and all bonds, books, papers, money and property of all kinds and descriptions now controlled by the respective officers of the city shall at the expiration of their term be turned over to the proper officers.

Repeals chapter 152, laws of 1889, and acts amendatory, and acts conflicting herewith. Same not to affect existing contracts, etc.

SECTION 247. Chapter 152 of the laws of 1889, entitled, "An act to incorporate the city of Superior," approved March 23d, 1889 and the several acts amendatory thereof, and all acts or parts of acts, inconsistent, and conflicting with the provisions of this act are hereby repealed; but the repeal of said acts or parts of acts shall not in any manner affect, injure or invalidate any existing contract, act or suit, claims, penalties or demands, that may have been entered into, performed or commenced by the village of Superior (and the word "village" herein shall be construed to mean city), or that may exist under or by virtue of or in pursuance of the said act incorporating said city, or of the acts and parts of acts amendatory thereof, or of any of them, but the same shall exist and be enforced and carried out and be completed as fully and effectually to all intents and purposes as if this act had not been passed, and nothing herein contained shall be held to impair any of the rights granted by said city of Superior to the Douglas County Street Railway company, and the ordinance granting the same is hereby ratified, confirmed and validated, and all other ordinances, resolutions, regulations, rules, by laws and orders either of the village of Superior or the city of Superior, or parts thereof not repealed, suspended, nor made void by this act, or by chapter 152 of the laws of 1889, shall continue and remain of the same force and effect as if this act had not been passed, until altered, amended, repealed or suspended by the common council in pursuance of this act.

Officers to continue until officers elected hereunder.

SECTION 248. The common council and the other officers of the city of Superior under chapter 152 of the laws of 1889, and the acts amendatory thereof, shall hold office and administer this

act so far as practicable, until the officers hereunder shall be elected and qualified.

SECTION 249. This act shall take effect and be in force from and after its passage and publication.

Approved March 31, 1891.

No. 140, S.]

[Published April 3, 1891.

## CHAPTER 128.

AN ACT to incorporate the city of Colby.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

### CHAPTER I.

SECTION 1. All the district of country lying in the counties of Marathon and Clark, state of Wisconsin, hereinafter described, is hereby set off and separated from the town of Hull, in Marathon county, and town of Colby, in Clark county, and shall be a city by the name of "Colby," and the people inhabiting, and those who shall inhabit said district, shall be a municipal corporation by the name of the "City of Colby," and shall have the general powers possessed by municipal corporations at common law, and, in addition thereto, shall have and possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, and of answering and being answered unto, in all the courts of law and equity and other places, and shall have a common seal, and may change or alter the same at pleasure.

Corporation created.

### CHAPTER II.

#### BOUNDARIES.

SECTION 1. All of the west half of section number eighteen, town twenty-eight, range two east,

Boundaries of city.