

PART I.

THE CHARTER.¹

Editor's note. -- This Charter was adopted by election, December 3, 1912, and became effective at 12:00 Noon, April 14, 1913. Amendments are indicated in the historical citation following the amended section in parenthesis. Catchlines and a frontal analysis have been added for the convenience of the user.

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CHAPTER I. NAME AND GENERAL POWERS.

Sec. 1. Generally.

(A) The city of Duluth in the County of St. Louis and State of Minnesota is a municipal corporation of the same name with the following boundaries, except as not included therein pursuant to Subsection B below: Commencing at a point where the north line of Section (25), Township (51) North, Range (13) West, in St. Louis County, Minnesota, intersects the shore line of Lake Superior; thence west to the northwest corner of Section (26), in said Township (51) North, Range (13) West; thence south to the west quarter corner of said Section (26); thence west to the center of Section (27) in said Township (51) North, Range (13) West; thence south to the south quarter corner of said Section (27); thence west to the southeast corner of Section 25 in Township 51 North of Range 14 West; thence north to the north line of the south one-half of the northeast quarter of said Section 25; thence west to the west line of said northeast quarter of Section 25; thence south to the south quarter corner of said Section 25; thence west to the northwest corner of Section (35) in Township (51) North, Range (14) West; thence south to the southwest corner of said Section (35); thence west to the south quarter corner of Section 31 Township (50) 51 North, of Range (14) West; thence north to the center of said Section 31; thence east to the southeast corner of the southwest quarter of the northeast quarter of said Section 31; thence east along the south line of the southeast quarter of the northeast quarter of said Section 31 a distance of 440 feet; thence north along a line that is parallel with and distant 440 feet east of the east line of southwest quarter of the northeast quarter of said Section 31 a distance of 990 feet; thence west 440 feet along a line parallel with and distant 990 feet north of the south line of the southeast quarter of the northeast quarter of said Section 31 to said east line of southwest quarter of the northeast quarter of Section 31; thence north to the northeast corner of said southwest quarter of the northeast quarter of Section 31; thence east to the southeast corner of the west half of the northeast quarter of the northeast quarter of said Section 31; thence north to the northeast corner of said west half of the northeast quarter of the northeast quarter of Section 31; thence west to the northwest corner of the east half of the west half of the east half of the northwest quarter of the northeast quarter of said Section 31; thence south along the west line of said east half of the west half of the east half of the northwest quarter of the northeast quarter of Section 31 to the north line of the southwest quarter of the northeast quarter of said Section 31; thence west to the southeast corner of the northwest quarter of the northwest quarter of said Section 31; thence north to the northeast corner of said northwest quarter of the northwest quarter of Section 31; thence west to the northwest corner of said northwest quarter of the northwest quarter of Section 31; thence south along the west line of said Section 31 to a line that is parallel with and 1780 feet north of the north line of Section 1 of Township 50 North, Range 15 West; thence west along said parallel line a distance of 300 feet; thence south along a line that is parallel with and 300 feet west of said west line of said Section 31 to the north line of said Section 1; thence west to the southeast corner of Section 35, Township 51 North, Range 15 West; thence north to the northeast corner of the south half of the northeast quarter of said Section 35; thence west to the northwest corner of the southeast quarter of the northwest quarter of said Section 35; thence south to the southwest corner of said southeast quarter of the northwest quarter of Section 35; thence east to the northwest corner of the north half of the southeast quarter of said Section 35; thence south to the southwest corner of the north half of the southeast quarter of said Section 35; thence east to the northwest corner of the southeast quarter of the southeast quarter of said Section 35; thence south to the southwest corner of said southeast quarter of the southeast quarter of Section 35; thence west to the north quarter corner of Section 2 of Township 50 North, Range 15 North; thence south to the center of said Section 2; thence west to the northwest corner of the east half of the southwest quarter of said Section 2; thence south along the west line of said east half of the southwest quarter of Section 2 to the north right of way of Trunk Highway 53; thence easterly and southeasterly along said north right of way to the south line of said Section 2; thence east along said south line of Section 2 and along the north line of northwest quarter of Section 12, Township 50 North, Range 15 West to a point that

is 360 feet west of the northeast corner of the northwest quarter of the northwest quarter of said Section 12; thence south along a line that is parallel and 360 feet west of the east line of said northwest quarter of the northwest quarter of said Section 12 to the north line of the southeast quarter of the said northwest quarter of northwest quarter of Section 12; thence west to the northwest corner of said the southeast quarter of northwest quarter of the northwest quarter of Section 12; thence south to the southwest corner of said southeast quarter of the northwest quarter of the northwest quarter of said Section 12; thence west to the northwest corner of the southwest quarter of the northwest quarter of said Section 12; thence south along the west line of said southwest quarter of northwest quarter of Section 12 to the center line of Airbase Road; thence easterly along said center line of Airbase Road to the center line of Swan Lake Road; thence easterly along the center line of Swan Lake Road to the east line of the northwest quarter of said Section 12; thence north to the northeast corner of the northwest quarter of said Section 12; thence east to the northeast corner of said Section 12; thence south to the southwest corner of Township (50) North, Range (14) West; thence west to the northwest corner of Section (2), Township (49) North, Range (15) West; thence south to the northwest corner of the west half of the southwest quarter of said Section 2; thence east to the northeast corner of said west half of the southwest quarter of Section 2; thence south to the southeast corner of said west half of the southwest quarter of Section 2; thence west to the southwest corner of said west half of the southwest quarter of said Section 2; thence south to the southwest corner of Section (14) in said Township (49) North, Range (15) West; thence west to the northwest corner of Section (22), in said Township (49) North, Range (15) West; thence south to southwest corner of said Section 22; thence west to the southeast corner of the west half of the southwest quarter of the southeast quarter of Section 21, Township 49 North, Range 15 West; thence north to the northeast corner of said west half of the southwest quarter of the southeast quarter of Section 21; thence west to the northwest corner of the southeast quarter of the southwest quarter of said Section 21; thence south to the southeast corner of the northwest quarter of the northwest quarter of Section 28 of Township 49 North, Range 15 West; thence west to the southwest corner of said northwest quarter of the northwest quarter of Section 28; thence south to the northeast corner of Section 32 of Township 49 North, Range 15 West, also being the northeast corner of Short Line Park Garden Tracts, according to the recorded plat thereof; thence south along the east line of said Short Line Park Garden Tracts to a line that is parallel and distant 750 feet south of the north line of Short Line Park Garden Tracts; thence west along said parallel line to the west line of said Short Line Park Garden Tracts; thence south along the west line of said Short Line Park Garden Tracts to the northeast right of way of Duluth, Winnipeg and Pacific Railroad Company; thence northwesterly along said northeast right of way of Duluth, Winnipeg and Pacific Railroad Company to the east line of the northeast quarter of the northwest quarter of said Section 32; thence south to the southeast corner of said northeast quarter of the northwest quarter of Section 32; thence west to the southwest corner of said northeast quarter of the northwest quarter of Section 32; thence north to the northwest corner of said northeast quarter of the northwest quarter of Section 32; thence west to the northwest corner of Section 31, Township 49 North, Range 15 West; thence south along the Range line between Township 49 North, Range 15 West and Township 49 North, Range 16 West and continuing thence south on the Range line between Township (48) North, Range (15) West and Township (-48) North, Range (16) West, to the center line of the channel of the St. Louis River; thence easterly along the center line of the channel of said river to the state boundary line between the States of Minnesota and Wisconsin; thence along said state boundary line to the mouth of the St. Louis River at the entry of the Bay of Superior between Minnesota and Wisconsin points; thence in a straight line to the place of beginning.

(B) The property described in this Subsection B is not included within the City of Duluth: that part of Section 1, Township 50 North, Range 15 West that is bounded by a line distant 500 feet southeasterly of and parallel with the center line of northeast-southwest runway of Duluth International Airport, a line distant 750 feet northerly of and parallel with the center line of east-west runway of said Airport, and the east line of said Section 1.

(C) By and in its corporate name, it shall have perpetual succession; save as herein otherwise provided and save as prohibited by the Constitution or Statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights and privileges possessed by the city of Duluth prior to

the adoption of this Charter; also all powers, functions, rights and privileges now or hereafter given or granted to municipal corporations of the first class having "home rule charters" by the Constitution and laws of the State of Minnesota; also all powers, functions, rights and privileges usually exercised by, or which are incidental to, or inhere in, municipal corporations of like power and degree; also all municipal power, functions, rights, privileges and immunities of every name and nature whatsoever; and in addition, it shall have all the powers, and be subject to the restrictions contained in this Charter. In its corporate name, it may take and hold, by purchase, condemnation, gift or devise, and lease and convey any and all such real, personal or mixed property, within or without its boundaries as its purposes may require, or as may be useful or beneficial to its inhabitants.

(As amended by Ord. No. 10226, 5-28-2013, § 1; Ord. No. 10400, 8-10-2015, § 1. Ord. No. 10503, 5-22-2017, §1)

CHAPTER II. ELECTIVE OFFICERS.

Sec. 2. Form of government; ~~chief administrative officer~~ city administrator; membership of council; council districts.

This government provided for by this Charter shall be known as the mayor-council form of government. The mayor shall be aided by a ~~chief administrative officer~~ city administrator who, in the performance of the duties of such office, shall be responsible to the mayor. The council shall have nine members, four elected from the city at large and five from geographical districts.

The city is hereby divided into five council districts numbered from one to five consecutively.

After the state legislative redistricting, based on a new federal census, the city council shall determine whether or not the population of each council district is substantially the same and, if not, the council shall by ordinance establish election precincts to the council districts so as to equalize, as nearly as practical, the number of people in each council district. Each council district shall consist of contiguous territory. If, in any such redistricting, the residence of any district councilor is placed outside of the enumerated district from which such councilor was elected, the office shall not be deemed vacant on that account and such councilor shall continue to serve out the term for which elected.

The council districts are established herein solely for the purposes of electing district councilors. The administration of the city shall never be divided, nor any facility ever provided, nor any appropriation ever made upon a council district basis.

The terms of office of the mayor and councilors shall be for four years and until their successors are elected and qualified. (As amended by election, March 20, 1956; Ord. No. 7256, 11-21-1960; Ord. No. 7617, 1-8-1968, § 1; Ord. No. 8012, 9-14-1973, § 1; Ord. No. 8639, 7-26-1982, § 1; Ord. No. 9553, 8-12-2002, § 1; Ord. No. 9747, 9-26-2005, § 1.)

Sec. 2(A). Combination of rearrangement of election precincts within council districts.

The council may, by ordinance, combine or rearrange election precincts within a council district as the needs or convenience of the electors may require, provided that such combination or rearrangement shall make no geographic change in any legislative, county, or school district. (As amended by election, September 8, 1964; Ord. No. 8639, 7-26-1982, § 2; Ord. No. 9553, 8-12-2002, § 2.)

Sec. 3. Mayor and council subject to initiative, referendum and recall; officers not to hold other public offices.

The mayor and councilors shall be subject to the control and direction of the people at all times by the initiative, referendum and recall provided for in this Charter. The mayor, ~~chief administrative officer~~ city administrator and councilors shall not hold any other public office, notary public excepted, during their tenure as mayor, ~~chief administrative officer~~ city administrator or councilors. The ~~chief administrative officer~~ city administrator shall be a full time officer of the city. The mayor shall not engage in any other

occupation during business hours. (As amended by election, March 20, 1956; Ord. No. 8639, 7-26-1982, § 3; Ord. No. 9747, 9-26-2005, § 2.)

Sec. 4. Vacancies in office of mayor and councilor; acting mayor.

The office of mayor or councilor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, resignation, removal from the city or the district except as in Section 2 provided, conviction of a felony, violation of any of the duties of office, which, by provisions of this Charter, render the office vacant, or continuous absence from the city for more than thirty days, but if additional time is needed, leave may be granted by the council for a longer absence.

If any such vacancy occurs (other than by recall or resignation after recall petition is filed) the council shall without delay appoint an eligible person to fill the same until the first Monday in January after the next municipal election, when the office shall be filled by election for the unexpired term. If the council vote to appoint an eligible person to fill a vacancy results in a deadlock, an eligible person will be chosen by coin toss.

In the case of an absence of shorter duration than renders the office of mayor vacant, or in the event of ~~disability incapacity~~ of the mayor, the mayor's duties shall be filled by an acting mayor who shall be appointed by the mayor from the councilors-at-large after each general municipal election. Should the mayor become ~~disabled incapacitated~~ or be absent for more than ten (10) days without having appointed an acting mayor, the district councilors, by majority vote, shall appoint one of the councilors-at-large as acting mayor. The mayor shall not be considered ~~disabled incapacitated~~ within the meaning of this Charter unless such ~~disability incapacity~~ shall be determined by the council at a hearing held upon notice to the mayor for the purpose of making such determination. The appointment of a councilor as acting mayor shall not be deemed to create a vacancy in the office of councilor-at-large, but while serving as acting mayor such councilor shall not perform city council duties.

The compensation of the acting mayor during the absence or disability of the mayor shall be set by the city council in an amount commensurate with the duties required of the acting mayor from time to time. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8639, 7-26-1982, § 4; Ord. No. 10398, 8-10-2015, § 1; Ord. No. 10399, 8-010-2015, § 1.)

Sec. 5. Salaries.

The salary of the mayor shall be set by the council.

The council shall provide in the annual operating budget a contingent fund of five thousand dollars (\$5,000) unless and until increased by the council. This fund may be expended by the mayor for such public purposes as the mayor may deem proper.

The appointed ~~chief administrative officer~~ city administrator shall be paid a salary set by the mayor with the approval of the council.

The council shall not decrease the salary of any mayor or incumbent ~~chief administrative officer~~ city administrator, except prior to the general municipal election, and to take effect at the beginning of the next term of office for mayor.

The councilors shall be paid a fee for service as a member of the council. The Charter commission shall determine a suitable fee for service and recommend said fee to the council. The council must approve the recommended fee by at least a two-thirds vote. The new fee amount may not take effect until the month of January after the next municipal election. Service as a member of the council, to be eligible for this fee, shall require that the councilor shall be present and in attendance for at least one full formal meeting of the council during the month for which this fee is paid. (As amended by election, March 20, 1956; Ord. No. 8013, 9-14-1973, § 1; Ord. No. 8534, 8-25-1980, § 1; Ord. No. 8639, 7-26-1982, § 5; Ord. No. 8682, 12-19-1983, § 1; Ord. No. 8933, 3-20-1989, § 1; Ord. No. 9429, 11-22-1999, § 1; Ord. No. 9747, 9-26-2005, § 3; amended by election, November 3, 2015.)

CHAPTER III. COUNCIL AND LEGISLATION.

Sec. 6. Legislative powers of city; time of council meetings; officers of council.

All legislative powers of the city shall be vested in the city council and shall be exercised by it in the manner and subject to the limitations hereinafter set forth. The councilors shall meet for organization on the first Monday of January, ~~at which time it~~ At the first regular council meeting of each calendar year the council shall elect one councilor as president and one councilor as vice president. The city clerk shall be secretary of the council unless the council by a two-thirds vote shall determine to elect and employ another as secretary of the council, who shall not be selected from its own membership. The council shall determine its own procedure.

The council may employ and fix the compensation of not to exceed ten student interns or other qualified persons working on a part time basis to assist the council in performing its functions under this Charter, not to exceed a total budget expenditure of \$20,000 annually. Such employees shall not be within the classified service of the city. The provisions of this paragraph shall be implemented by resolution of the council, which resolution must be approved by at least seven members of the council. (As amended by election, March 20, 1956; Ord. No. 8132, 2-3-1975, § 1; Ord. No. 8639, 7-26-1982, § 6; Ord. No. 9553, 8-12-2002, § 3.)

Sec. 7. Regular and special meetings; quorum; records; investigations by council; employment of counsel.

(A). All meetings of the council shall be public. It shall keep minutes of its proceedings which shall be a public record. The council shall hold at least one regular meeting semi-monthly and shall fix the date of all regular meetings. Special meetings of the council may be called by the president of the council, or the mayor, and shall be called by the president upon petition of a majority of all members of the council. At any meeting of the council six members shall constitute a quorum, but a less number may adjourn from time to time. The council shall provide, by ordinance, a means by which a minority may compel the attendance of absent members. All councilors including the president, shall be entitled to vote in the council at all times. Administrative officers of the city, in matters relating to the functions of their offices, and the mayor at any time, shall have the right to attend any meeting of the council, or any of its committees, and may express their views on matters pending before the council, but they shall have no right to introduce any motion, resolution or ordinance, or amendments thereto, nor to vote thereon. The manner in which each member of the council votes upon all propositions shall be entered upon the minutes of the proceedings;

(B). The council may, by ordinance, establish a procedure not inconsistent with law for the holding of investigations of the operation of any office or department administering the affairs of the city, or on any subject upon which it may legislate. In conducting such investigations, the city council, or any member thereof, acting under authority of a resolution adopted by a majority of all members of the council, shall have the right to apply to any court of competent jurisdiction for subpoenas to compel the attendance of witnesses, the production of their books and papers, and the giving of testimony by such witnesses, whenever such attendance, production of books and papers, or the giving of testimony shall be in connection with a subject within the jurisdiction of the city council.

For the purpose of conducting inquiries and investigations the council may employ and fix the compensation of counsel, experts, and employees, and authorize such other expenditures as it deems necessary;

(C). All appointments to municipal office by the mayor, except the mayor's choice of ~~chief administrative officer~~ city administrator, and all appointments of the ~~chief administrative officer~~ city administrator shall be submitted to the council for approval, and no appointment shall be effective until such approval is granted. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8639, 7-26-1982, § 7; Ord. No. 9747, 9-26-2005, § 4.)

Sec. 8. Ordinances--required for all legislation and appropriations; recordation of votes.

Except as in this Charter otherwise provided, all legislation and appropriations of money shall be by ordinance, save that where obligations have been incurred by ordinance, payment thereof may be ordered by resolution, and save also that licenses may be granted, flow of traffic regulated, and the powers conferred by Chapter IX hereof exercised, by resolution. The council may by ordinance authorize executive and administrative officers of the city to issue licenses and permits, except when statutes require licenses to be granted by the council, and to make contracts which are not subject to the competitive bidding requirements of Section 31 of this Charter up to an amount as set forth by ordinance. Every ordinance and resolution shall be in writing and **title** read in full at a council meeting before a vote is taken, except (i) every ordinance or resolution, copies of which, together with a brief description of the purpose of said ordinance or resolution, are presented to each member of the council at least 12 hours prior to the time of the introduction of such ordinance or resolution, or (ii) every resolution awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements shall not be required to be read in full at each reading before the council, but may be read by title and such description. Ordinances and resolutions may be passed upon a voice vote of the council, but if such voice vote is not unanimous, the yeas and nays shall then be called and recorded.

Except for emergency ordinances or emergency resolutions or resolutions awarding the sale of bonds, certificates of indebtedness, capital notes, lease purchase agreements, certificates of participation, and installment purchase agreements, every ordinance and resolution shall be **submitted to filed with** the city clerk by at least 12:00 PM on the day of the agenda session **at least 24 hours prior to the introduction of the same**. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 9311, 8-26-1996, § 1; Ord. No. 9399, 12-21-1998, § 1; Ord. No. 9553, 8-12-2002, § 4; Ord. No. 9652, 3-15-2004, § 1; Ord. No. 9988, 8-24-2009, § 1.)

Sec. 9. Same--Subject to be set out in title; to contain one subject only.

The subject of every ordinance shall be set out clearly in the title thereof, and no ordinance, except one making appropriations, shall contain more than one subject. Ordinances making appropriations shall be confined to the subject of appropriations.

Sec. 10. Same--Enacting clause.

The enacting clause of all ordinances shall be in the words, "The city of Duluth does ordain."

Sec. 11. Same--Public reading; certain ordinances to remain on file one week before final passage; emergency ordinances; filling vacancies in office of councilor when quorum cannot be assembled; procedure when replaced councilor returns.

Every ordinance, other than an emergency ordinance, shall have two public readings either in full or by title and description as provided in Section 8 hereof, which readings shall not both be given on the same day. At least three days shall elapse between the introduction and the final passage of any ordinance, except as otherwise provided in this Charter. Every ordinance, except an emergency ordinance, appropriating money in excess of \$5,000 shall remain on file at least one week before its passage.

An emergency ordinance or resolution is an ordinance or resolution for the immediate preservation of the public peace, health or safety, in which the emergency is defined and declared in a preamble thereto separately voted on, and receiving the affirmative vote of all members of the council in attendance at the meeting considering such emergency legislation; provided that no grant of any franchise shall be construed to be an emergency ordinance or resolution. An emergency ordinance or resolution may be enacted without previous filing.

If by reason of simultaneous death, civil or military disaster, absence or disappearance, it shall not be possible to assemble a regular quorum, then for the purpose of filling vacancies on the council

pursuant to Section 4 hereof, the member or members of the council present at a meeting constitute a quorum. If, subsequent to appointment of a successor to a member of the council by this procedure, such member shall appear and claim the office during the term thereof, then and thereafter the successor's appointment shall cease, without affecting the validity of acts taken by the successor prior to such time. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8448, 4-2-1979, § 1; Ord. No. 8639, 7-26-1982, § 8; Ord. No. 8748, 11-4-1985, § 1; Ord. No. 9311, 8-26-1996, § 2; Ord. No. 9553, 8-12-2002, § 5.)

Sec. 12. Same--Approval or veto by mayor.

Ordinances and resolutions adopted by the council shall be submitted to the mayor who shall, within ten (10) days after receiving any ordinance or resolution, either approve the same by signature, or return it to the council by returning it to the secretary of the council, together with a statement setting forth any objections thereto. No ordinance or resolution shall take effect without the mayor's approval unless the mayor fails to return the ordinance or resolution to the council within ten (10) days after receipt of it, or unless the council upon reconsideration thereof on or after three (3) days following its return by the mayor, shall by a vote of not less than six (6) of the members thereof resolve to override the mayor's veto. The mayor may veto in like manner any individual item of expenditure in any appropriating ordinance and approve the balance of such appropriating ordinance. (As amended by election, March 20, 1956; Ord. No. 8639, 7-26-1982, § 9.)

Sec. 13. Same--Publication.

Every ordinance shall be published in full at least once on the city's official website within ten days after its passage and approval. Said publication shall remain on the city's official website for a period of at least 30 days. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 10063, 11-22-2010, § 1; Ord. No. 10071, 12-20-2010, § 2.)

Sec. 14. Same--Recordation.

Every ordinance, after its enactment, shall be recorded in the Official Proceedings of the Duluth City Council. (As amended by Ord. No. 9553, 8-12-2002, § 6.)

Sec. 15. Same--Effective date--ordinances enacted by council.

Ordinances adopting the annual budget of the city shall take effect on January 1 of the budget year to which they relate. Ordinances making the annual tax levy and ordinances relating to local improvements and assessments shall take effect immediately upon their passage and approval. Emergency ordinances and resolutions shall take effect immediately upon their passage by the council. All other ordinances enacted by the council shall take effect 30 days after the date of their last publication, as required by this Charter, unless a later date is fixed thereon, in which event they shall take effect at such later date. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 9140, 5-17-1993, § 1.)

Sec. 16. Same--same--Ordinances adopted by electors of city.

Ordinances adopted by the electors of the city shall take effect at the time fixed therein, or, if no such time is designated therein, at the date of the adoption thereof.

Sec. 17. Same--Amendments and repeals.

Amendments and repeals of ordinances, or sections thereof, shall be by ordinance. An amending ordinance shall contain the portion of the ordinance or section proposed for amendment. (Ord. No. 10504, 5-22-2017, §1)

CHAPTER IV. ADMINISTRATION OF CITY AFFAIRS.

Sec. 18. Powers and duties of mayor; council to deal with administrative service solely through mayor.

All executive and administrative powers of the city shall be vested in and exercised by the mayor, the ~~chief administrative officer~~ city administrator and such other officers as may be established by or pursuant to the provisions of this Charter. The mayor shall be the chief executive officer of the city. The mayor shall:

(a) Exercise directly, or with the assistance of the ~~chief administrative officer~~ city administrator, supervision of all of the executive and administrative work of the city and provide for the coordination of administrative activities;

(b) See that the provisions of this Charter, the ordinances of the city and all laws are enforced;

(c) Appoint the ~~chief administrative officer~~ city administrator and, in addition, shall have the authority to appoint a communications and policy officer and a community relations officer to perform such duties as are established by job specifications established pursuant to Section 21 below;

(d) Appoint, with the approval of the council, the members of all non-salaried boards and commissions established by ordinance pursuant to the provisions of this Charter. When such boards and commissions are specifically declared by the council to be advisory to the mayor, no council approval shall be required;

(e) Have the power to remove, without restriction and without council confirmation, all officers appointed by the mayor except members of non-salaried boards who have been appointed for a definite term;

(f) Submit annually to the council for its consideration and approval an operating budget;

(g) Recommend to the council a pay plan for all officers and employees;

(h) Sign contracts, bonds or other instruments requiring the assent of the city, except those which other officers are authorized to sign;

(i) See that the terms and conditions of all contracts are faithfully executed;

(j) Upon receiving service of notice, summons or process, in any action or proceeding against the city, notify the city attorney and forthwith inform the council thereof in writing;

(k) Exercise such other powers and perform such other duties as may be prescribed by this Charter, by ordinance or by applicable state law.

The mayor may present to the council messages or information, attend council meetings, have a voice in the proceedings, veto ordinances and resolutions.

Neither the council, nor any of its members, shall direct or request the appointment of any person to, or the removal of any person from office by the mayor or by any of the mayor's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city, except as otherwise provided in this Charter. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the mayor, and neither the council, nor any member thereof, shall give orders to any subordinate of the mayor either publicly or privately. Any councilor violating the provisions of this Section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilor. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8639, 7-26-1982, § 10; Ord. No. 9747, 9-26-2005, § 5; amended by election, November 3, 2009.)

Sec. 19. ~~Chief administrative officer~~ City administrator.

There is hereby established the office of ~~chief administrative officer~~ city administrator, who shall be appointed by the mayor, subject to the approval by majority vote of the city council, ~~for an indefinite term.~~ A duly appointed and confirmed ~~chief administrative officer~~ city administrator may be terminated by the mayor with the consent of the city council by a simple majority vote. The ~~chief administrative officer~~ city administrator shall be the principal assistant. Such assistant shall be appointed based solely on the ability to perform the duties and functions of the office, as set forth in this Charter. The ~~chief administrative officer~~ city administrator (i) shall be an ICMA credentialed city manager or meet the qualifications to be an ICMA credentialed city manager, or (ii) shall have had, during the ten years immediately preceding appointment, at least five years of successful experience in business or public administration, such as would qualify a person for the performance of the duties set forth in this Charter. The mayor may assign any other officer or employee of the city to perform the duties of the ~~chief administrative officer~~ city administrator during the vacancy of that office or absence or disability of that officer. The ~~chief administrative officer~~ city administrator, under the supervision of the mayor and subject to direction by the mayor, shall supervise the heads of all departments except the city attorney; appoint, with the approval of the mayor and the council, and remove, with the approval of the mayor, the heads of all departments; keep informed and keep the mayor advised concerning the activities of all offices, departments and boards and make, or cause to be made, investigations and studies of the internal organization and procedure of any office or department, and may require such reports from any of them which such assistant deems necessary; prescribe accepted standards of administrative practice to be followed by all offices and departments; prepare the annual operating and capital budgets and supervise the execution of budget ordinances; make information available to the mayor, the council and the public concerning the current status of the financial affairs of the city and all offices, departments and boards receiving appropriations from the city; attend meetings of the council at its request, and make available such information as it may require; perform all other duties required of such officer by this Charter, or by ordinance or assigned to such officer in writing by the mayor.

The mayor, by prior written notice directed to the ~~chief administrative officer~~ city administrator, and subject to approval by a majority vote, may relieve the ~~chief administrative officer~~ city administrator of any duties, powers or responsibilities granted the ~~chief administrative officer~~ city administrator by the terms of this Charter. Such written notice, signed by the mayor, shall be filed with the city clerk as a document of public record.

The ~~chief administrative officer~~ city administrator is forbidden to use official authority or influence for the purpose of affecting or interfering with a nomination or election to municipal office; or directly or indirectly to coerce, attempt to coerce, command or advise any municipal officer or servant or employee to pay, lend or contribute any part of such person's salary or compensation or anything else of value to any party, committee, organization, agency or person for municipal political purposes. The ~~chief administrative officer~~ city administrator is forbidden to make any contributions for municipal political purposes, but shall have full right to hold personal political beliefs and to speak on municipal issues.

The sole ground for removal of the ~~chief administrative officer~~ city administrator by the council shall be the finding by the council, based on due proof submitted to the council upon a hearing held upon notice for that purpose, that the ~~chief administrative officer~~ city administrator has violated the terms of the Charter restricting the political activity of such officer. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8639, 7-26-1982, § 11; Ord. No. 9747, 9-26-2005, § 6; amended by election, November 6, 2007.)

Sec. 20. Administrative departments.

The administration of the city shall be distributed among not to exceed nine departments. (As amended by elections, March 20, 1956, and September 8, 1964.)

Sec. 21. Department heads.

At the head of each department there shall be an officer of the city, who shall have control and direction of the department subject to the general supervision of the ~~chief administrative officer-city administrator~~. The head of each department shall, with the approval of the ~~chief administrative officer-city administrator~~, have the power to appoint and remove all officers and employees of the department subject to the civil service provisions of this Charter; provided, that the equal opportunity representative shall be appointed by the mayor with the approval of the city council and may only be removed by the mayor with the approval of the city council. Two or more departments may be headed by the same individual and the ~~chief administrative officer-city administrator~~ may head one or more departments, and heads of the departments may also serve as chiefs of divisions thereof as may be established by ordinance, upon recommendation by the mayor. The authority herein conferred upon the ~~chief administrative officer-city administrator~~ is granted subject to the limitations contained in Section 19 of this Charter.

Each department head shall possess the necessary qualifications to insure efficient administration of such department. The council by ordinance shall establish appropriate minimum qualifications for department heads, ~~the deputy fire chief, the deputy chief of police~~ and the equal opportunity representative.

No officer or employee of the city may use their official authority or influence to compel another officer or employee of the city to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution or to take part in political activity.

All city employees shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 7889, 11-22-1971, § 1; Ord. No. 8438, 1-15-1979, § 2; Ord. No. 8639, 7-26-1982, § 12; Ord. No. 8769, 1-21-1986, § 1; Ord. No. 8788, 5-19-1986, § 1; Ord. No. 9747, 9-26-2005, § 7; amended by election, November 3, 2009; Ord. No. 10227, 5-28-2013, § 1.)

Sec. 22. Pay plan for city employees.

All persons employed by the city, whether officers or otherwise and paid either in part or in whole by appropriations made by the council, except those whose compensation is fixed by this Charter or by statute, shall be compensated only in accordance with collective bargaining agreements or pay plans recommended by the mayor and adopted by resolution. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8265, 9-27-1976.)

Sec. 23. Certain officers required in administrative organization.

The administrative organization of the city shall always provide for the following officers who may or may not be made heads of departments: a clerk, an auditor and a treasurer. The clerk shall be the secretary of the council, unless the council shall elect to appoint a separate officer as secretary of the council under the provisions of Section 6 of this Charter, and shall perform such duties as are usually performed by clerks of municipal corporations, and all such as are required by the laws of the state, and by this Charter, and, in addition, shall perform all such other duties as are required of such office by the council. The clerk shall be the custodian of the official seal of the city. (As amended by election, March 20, 1956; Ord. No. 8639, 7-26-1982, § 13; Ord. No. 10228, 5-28-2013, § 1.)

Sec. 24. City auditor.

The auditor shall be the accountant of the city and shall pre-audit all obligations proposed to be incurred to determine that they are within and pursuant to an appropriation made by ~~ordinance and are not in excess of the limitation established in Section 57 of this Charter~~. In addition, the auditor shall perform all other duties imposed upon such office by the council, by the laws of this state or by the provisions of this Charter. (As amended by election, September 8, 1964; Ord. No. 8639, 7-26-1982, § 14.)

Sec. 25. City treasurer.

The treasurer shall be the custodian of the funds of the city, and shall perform such duties as shall be required by the mayor, the ~~chief administrative officer~~ city administrator, or by ordinance. (As amended by election, March 20, 1956; Ord. No. 9747, 9-26-2005, § 8.)

Sec. 26. City attorney.

The mayor shall appoint a qualified city attorney. The city attorney's appointment shall be subject to confirmation by the city council by a simple majority vote. The attorney shall be the legal advisor of the council and of the officers of the city and shall, under the direction of the council, prosecute all suits for, and defend all suits brought against, the city, and shall prosecute all persons accused of any violation of city ordinances. The attorney shall perform such other and further duties as are required by the laws of the state, by the provisions of this Charter, or by the council. The council may employ special counsel to assist the attorney in special matters at a compensation to be fixed in advance, and by a two-thirds vote of its entire membership may employ special counsel for itself. The attorney shall have the power to appoint and remove assistant city attorneys. The attorney and assistant city attorneys shall be attorneys admitted to practice in all of the courts of the state of Minnesota. A duly appointed and confirmed city attorney may be terminated by the mayor with the consent of the city council by a simple majority vote of the city council.

If a conflict of interest arises that prevents the city attorney and the city attorney's staff from performing the duties of the city attorney required by the laws of the state, by the provisions of this Charter, or by the council, the city attorney shall promptly report to the mayor and the city council, in writing, the conflict and the manner in which the conflict prevents the city attorney and the city attorney's staff from performing the city attorney's duties. If the conflict relates to the business or personal interest of the city attorney, then the mayor may, subject to confirmation by the city council by a simple majority vote, engage an independent counsel to represent the city in the matter with respect to which the conflict exists. If the conflict arises out of actions taken or purported to be taken by the mayor, the city council may, by a simple majority vote, engage an independent counsel to perform the duty the city attorney cannot fulfill because of the conflict. (As amended by election, March 20, 1956; Ord. No. 8639, 7-26-1982, § 15; Ord. No. 9553, 8-12-2002, § 7; amended by election, November 6, 2007.)

Sec. 27. Nonsalaried boards and commissions.

The council may provide, by ordinance, for appropriate nonsalaried boards or commissions which it deems desirable to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances, or to perform such other proper functions as the council may direct. Each such board or commission shall adopt bylaws which govern the conduct of its meetings. In the absence of an applicable bylaw, *Roberts Rules of Order* shall govern. Each such board or commission shall adopt rules allowing and regulating public participation. Among such boards or commissions the council shall provide for a planning commission, a board handling building code appeals, a board of zoning appeals, an airport board, a library board, a board or commission dealing with alcoholic beverage licensing and a park and recreation commission.

Members of all such boards and commissions, including the civil service board, shall be subject to removal by the mayor, for cause, but only after council approval after notice and an opportunity for a hearing before the council.

The cost of sending notices, preparing and distributing minutes and other similar clerical expense actually incurred by nonsalaried boards and commissions shall be borne by the city from the general fund, together with such extraordinary expense as shall be authorized in advance by council resolution. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 9553, 8-12-2002, § 8; Ord. No. 9927, 8-25-2008, § 1.)

Sec. 28. Oath of office.

Every officer, before entering upon the duties of office, shall make and file with the clerk an oath or affirmation to support the Constitution of the United States and of the state of Minnesota, and to perform faithfully, honestly and impartially the duties of such office. (As amended by election, March 20, 1956; Ord. No. 8639, 7-26-1982, § 16.)

Sec. 29. Bonds for city officers.

The council may require any of the officers of the city to give to the city such bonds for the performance of their several duties, as it shall see fit. Such bonds shall be bonds of a surety corporation, and the cost thereof shall be paid by the city. All bonds of any of the officers of the city shall be approved by the council. All bonds shall be approved as to form by the attorney, and shall be filed with the auditor. (As amended by election, March 20, 1956; Ord. No. 7929, 5-22-1972.)

Sec. 30. Conflicts of interest.

(A). No officer or employee of the city shall solicit or receive, any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from, or by reason of, any improvement, alteration or repair required by authority of the city, or any contract to which the city shall be a party, except the lawful compensation or salary of such officer or employee. No officer or employee of the city, except as otherwise provided in this Charter, shall solicit, accept or receive, directly or indirectly, from any public service corporation, or the owner of any public utility or franchise, in the city, any pass, frank, free ticket, free service, or any other favor, upon terms more favorable than those granted the public generally;

(B). Violation of the provisions of paragraph (a) by any elected official shall be a misdemeanor. An attempt (as defined in the state statutes) to violate the provisions of paragraph (a) shall also be a misdemeanor. It shall be the duty of the city attorney to prosecute any violation. If the city attorney is informed of an alleged violation by any citizen, and finds no probable cause to prosecute or otherwise fails to prosecute the same within 30 days, the person alleging the violation may petition the city council for the appointment of a special prosecutor by filing a written request therefore with the clerk, accompanied with full payment of a fee established by the council by resolution. Said fee shall reflect the city's costs of administering the request but not including the costs of any special prosecution. The city council shall, within 60 days of receipt of such written request, vote to approve or disapprove said request and may, by a majority of those voting on the question, petition the chief judge of the district court to appoint a special prosecutor, and the chief judge shall do so within 30 days of the request. If a member of the city council is the alleged violator, that member shall not vote on the question. The special prosecutor shall investigate the matter and, if probable cause is found, shall prosecute it. The defendant shall have a right to trial by jury. The special prosecutor shall be entitled to ordinary and reasonable fees, as determined by the district court, to be paid by the city. The special prosecutor need not be a resident of the city of Duluth;

(C). A violation of any of the provisions of this Section shall disqualify the offender to continue in office or employment of the city. Any elected official who is convicted of violating or attempting to violate this Section is thereby immediately removed from office and the office is thereby declared vacant, without further proceedings. If the conviction is later set aside upon appeal, the official shall be reinstated, unless the term of office has expired;

(D). Violation of the provisions of paragraph (a) by any other officer or employee of the city shall constitute just cause for removal from office or termination of employment in accordance with the procedures established for the removal or discipline of such officer or employee;

(E). Any contract in which any officer or employee of the city is, or becomes, directly or indirectly, interested, personally, or as a member of the firm, or as an officer, director or stockholder of a corporation, shall be and become absolutely void; and any money which shall have been paid on such

contract by the city may be recovered back from any or all the persons interested therein, by a joint or several action. (As amended by Ord. No. 8639, 7-26-1982, § 17; Ord. No. 9032, 7-1-1991, § 1; amended by election, 11-4-2008.)

Sec. 31. Procurement and purchases; bids and letting of contracts.

Within one of the departments authorized in Section 20 of this Charter the council shall by ordinance, establish a division of procurement and purchases to be managed by the purchasing agent, or the city may contract with the state or any local governmental subdivision for the services of any existing purchasing and procurement agency, or to establish a joint purchasing and procurement agency.

The council shall regulate the making of bids and the letting of contracts by ordinance subject to limitations as outlined in Minnesota Statute 471.345 (Uniform Municipal Contracting Law). (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8265, 9-27-1976; Ord. No. 9153, 8-23-1993, § 1; Ord. No. 9399, 12-21-1998, § 2 Ord. No. 9819, 2-26-2007, § 1.)

Sec. 32. Execution of contracts.

All written contracts, bonds and instruments of every kind and description, to which the city shall be party shall be executed in the name of the city by the mayor or other officer designated by ordinance for that purpose, and shall be attested by the clerk, and, when necessary, shall be acknowledged. (As amended by election, March 20, 1956.)

Sec. 33. Publication of certain matters; official newspaper; internet.

The council shall annually provide, by resolution, for the publication of all matters required by this Charter to be published, and to that end shall annually designate the official paper in which all such publications shall be made. The city may choose to publish any such notices or items on the city's internet website so long as this is allowed by Minnesota statutes or is not expressly forbidden by state statutes. (As amended by Ord. No. 9819, 2-26-2007, § 2.)

Sec. 34. Fiscal year; annual audit.

The fiscal year shall be the calendar year. At the end of each year the council shall cause a complete examination and audit of all books and accounts of the city to be made by competent accountant, who shall not otherwise be an officer or employee of the city, unless such examination is to be made by the state public examiner. In either event a summary of the audit in a form required by Minnesota Statute 471.697, or its successor, shall be published by such means as allowed or required by state law. (As amended by election, September 8, 1964; Ord. No. 9819, 2-26-2007, § 3.)

CHAPTER V. CIVIL SERVICE.

Sec. 35. Civil service board--established; membership; term of office; vacancies.

There is hereby established a civil service board, which shall consist of five members, who shall be appointed by the council, and shall serve without compensation, and whose term of office shall be for six years, except as herein next provided. Without delay, after the size of the membership of the board is increased to a total of five members, the council shall appoint two new members, one member to serve an initial term of four years and one member to serve an initial term of six years. Any vacancies in the board shall be filled by the council for the unexpired term. (As amended by Ord. No. 9653, 3-15-2004, § 1.)

Sec. 36. Same--Powers and duties; exceptions for those persons entitled to worker's compensation benefits.

(A). The board, with the approval of the council, shall make rules and regulations for the proper conduct of its business, and shall provide: for the classification of all employees, except

- (1) the officers mentioned in Chapter IV (sections 18 through 34, inclusive) of this Charter;
- (2) **a maximum of** three deputy chiefs of police, who at the time of appointment as such must be a sworn law enforcement officer in the classified service of the city;
- (3) a maximum of three deputy fire chiefs, who at the time of appointment as such must be employed in the fire department of the city;
- (4) an equal opportunity representative; and
- (5) day laborers, officers of election boards, special police officers, special detectives and other temporary employees; for open competitive and free examination as to fitness for an eligibility list from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record. Employees within the scope of this Chapter, who are in office at the time of the adoption of this Charter, shall retain their positions, unless removed for cause. The council may, by ordinance, confer upon the board such further rights and duties as may be deemed necessary to enforce and carry out the principles of this Chapter;

(B). Notwithstanding anything to the contrary in paragraph (A) above, the board, with the approval of the council, may establish noncompetitive or other alternative evaluation procedures for the employment of persons with disabilities when because of such disabilities the procedures prescribed by paragraph (A) would not provide such ~~disabled~~ applicants **with disabilities** with equal employment opportunity. The board may authorize the appointment of any such person to a position in the classified service if it determines that such person has so demonstrated the ability to perform the duties of the position;

(C). Notwithstanding anything to the contrary in paragraph (A) above or in any ordinance of the city, any person who is employed or has been employed by the city in any classified or unclassified position, who has sustained personal injury arising out of and in the course of such person's employment with the city within the meaning of the state worker's compensation law so that such person may be entitled to receive worker's compensation benefits as a result of such personal injury, or has sustained personal injury or developed a disease or debilitating condition such that the person may qualify for disability benefits pursuant to a long term disability insurance program provided by the city by collective bargaining agreement or otherwise, may be employed in any classified position deemed appropriate by the ~~chief administrative officer~~ city administrator without having to comply with the ordinary classified service procedures regarding application for employment, testing, and certification from an eligible list. Any person employed in a classified position pursuant to this paragraph shall not be compensated for employment in such position at a rate which is greater than that currently prescribed for the city position or classification which such person occupied when the above-mentioned personal injury was sustained, or the above-mentioned disability occurred. The implementation of this Subsection (C) shall be subject to the provisions of any pertinent collective bargaining agreement to which the city is a party. (As amended by election, March 20, 1956; Ord. No. 8438, 1-15-1979, § 1; Ord. No. 8447, 4-2-1979, § 1; Ord. No. 8639, 7-26-1982, § 18; Ord. No. 8769, 1-21-1986, § 2; Ord. No. 8787, 5-19-1986, § 1; Ord. No. 8788, 5-19-1986, § 2; Ord. No. 8821, 1-05-1987, § 1; Ord. No. 9095, 9-14-1992, § 1; Ord. No. 9747, 9-26-2005, § 9; Ord. No. 9971, 5-11-2009, § 1; Ord. No. 10295, 5-27-2014, § 1. Ord No. 10736, 2-22-2021, §1 . Ord. No. 10792, 2-14-2022, §1)

CHAPTER VI. ELECTIONS.

Sec. 37. Repealed by Ordinance No. 8273, 10-18-1976, § 1.

Sec. 38. **Municipal elections; state laws to be applicable except for party designation for offices of mayor and councilor.**

All municipal elections in the city of Duluth shall be conducted pursuant to the laws of the state of Minnesota, except that candidates for the offices of mayor and city council shall be named on the ballot and elected without party designation. (As re-enacted by election, November 2, 1976; all of prior Chapter VI which included sections 37 to 49 was **REPEALED** by Ord. No. 8273, 10-18-1976.)

Sec. 39. Municipal elections; financial disclosures by political committees.

For the purposes of this Section, all terms shall have the meanings given them in Chapter 210A, Minnesota Statutes, 1984.

Notwithstanding any law to the contrary, all political committees shall file with the city clerk verified financial disclosure statements as provided herein for all municipal primary, general and special elections including all ballot questions, referendums and initiatives but excluding school board elections. Such statement shall be verified under oath of the secretary, chairman or treasurer of such committee, and shall contain the following:

(a) The name and address of each contributor and/or pledgor who has contributed and/or pledged sums of money, items of property, or other things of value which total in aggregate amount during that year \$100 or more, together with an itemized list of each contribution and/or pledge made by each such contributor and/or pledgor which includes the date of each contribution and/or pledge;

(b) The total of all contributions and all pledges from all sources;

(c) Every disbursement by such committee during such period, together with the name of every person to whom the disbursement is made, the specific purpose for which each was made, and the date when each was made, together with the total amount of disbursements made in any amounts or manner;

(d) Every obligation, expressed or implied, to make any disbursement incurred by such committee during such period, together with the names of the person or persons to or with whom each such obligation has been incurred, the specific purposes for which each was made, and the date when each was incurred, together with the total amount of such obligations made in any amounts or manner.

Such statement shall be filed ten days before any municipal primary election, ten days before any regular or special municipal election and 30 days after any regular or special municipal election and shall cover all transactions for the period from the last previous report to five days before the current report is due. Transactions after the fifth day before filing shall be included in the next reporting period. Each statement shall contain a summary of all preceding statements. In addition, when the last statement filed by any committee indicates that its total disbursements and obligations exceed its total contributions and pledges, such committee shall file additional statements on January 31 of the next four succeeding years, or until all obligations have been paid, whichever occurs first, listing all contributions and pledges not previously listed but required to be disclosed under (a) and (b) above. Such statements shall be made in the manner provided in this Section, and shall cover the preceding calendar year, but no statement need be filed for any year where no contributions or pledges are received. The requirements imposed herein shall be in addition to any imposed by statute. Any person who violates this Section is guilty of a misdemeanor. For purposes of enforcing this Section, the chairperson and treasurer of a political committee shall be jointly and severally responsible for submitting the reports required herein. (As amended by Ord. No. 8747, 11-4-1985, § 1; Ord. No. 9141, 5-17-1993, § 1.)

Secs. 40 to 49. Repealed by Ordinance No. 8273, 10-18-1976, § 1.

CHAPTER VII. RECALL, INITIATIVE AND REFERENDUM.

Sec. 50. Recall.

The holder of any elective office, in the city of Duluth, may be removed at any time by the electors qualified to vote for a successor of such incumbent, in the following manner: A petition signed by such electors equal in number to at least twenty-five (25) percentum of the total ballots cast at the last preceding general municipal election, demanding a special election to determine whether the person

named therein shall be recalled, and to elect a successor of the person sought to be removed, shall be filed with the clerk, which petition shall contain a general statement, in not more than two hundred (200) words, of the grounds on which the removal is sought. The signatures to the petition need not all be appended to one paper, but the place of residence and street number of each signer shall be stated. One of the signers of each such paper shall make oath that the statements therein made are true, as such signer believes, and that each signature to the paper appended is the genuine signature of the person whose signature it purports to be.

Within ten (10) days from the date of filing such petition, the clerk shall ascertain from the voters register whether or not said petition is signed by the requisite number of qualified electors. The clerk shall attach to said petition a certificate, showing the result of said examination. If by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten (10) days from the date of said clerk's certificate. The clerk shall, within ten (10) days after such amendment, make like examination of the amended petition, and if the clerk's certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition is deemed sufficient, the clerk shall submit the same to the council without delay, and thereupon the council shall order the same filed, and a copy thereof delivered to the person sought to be recalled.

Within ten (10) days after the filing of said petition, the council shall fix a date for holding said special election not less than forty (40) days, nor more than fifty (50) days, from the date of said filing. In the published call for the election there shall be printed, in not more than two hundred (200) words, the reasons for demanding the recall of the officer, as set forth in the recall petition, and in said call, in not more than two hundred (200) words, such officer may justify such officer's course in office.

Any qualified elector of the electoral district may be nominated, for the office which may be filled at any recall election, by a petition signed by electors qualified to vote at such recall election, equal in number to at least one (1) percentum of the total number of votes cast in the last preceding general municipal election in the electoral district. Each such nominating petition shall be filed with the clerk at any time after the recall petition is found sufficient and filed with the council, but not less than twenty-five (25) days before such recall election.

Except as herein otherwise provided, such special election shall be conducted, returned, and the result thereof declared, in all respects as are general municipal elections. There shall be placed on the recall ballot or voting machine, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of the person against whom the recall petition is filed) be recalled from the office of (title of office)?," following which question shall be the words "Yes" and "No." On such ballots or voting machines, following each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled in case such person shall be removed from office by said recall election. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on the question of the recall of any incumbent from office, shall vote "No" said incumbent shall continue in office. If a majority shall vote "Yes" said incumbent shall be deemed removed therefrom upon the qualification of the incumbent's successor. If the vote at any such recall election shall recall the officer then the candidate who has received the highest number of votes for the office shall thereby be elected and shall hold office for the unexpired term.

No recall petition shall be filed against any officer until such officer has actually held office for at least six (6) months. No person who has been recalled from office, or who has resigned from such office, while recall proceedings were pending against such person, shall be elected or appointed to any office in the city within one (1) year after such recall or resignation. Should any person resign from office while recall proceedings are pending against such person, the election provided for herein shall be called and proceeded with but shall be limited to the purpose of electing such person's successor in office.

If a majority of the council shall fail or refuse to act in such recall proceedings, compliance with the provisions of this Section may be enforced by proceedings in the District Court of St. Louis County, at the suit of any citizen of this city. (As amended by election, March 20, 1956; Ord. No. 8639, 7-26-1982, § 19.)

Sec. 51. Initiative.

Any proposed ordinance of the city may be submitted to the council by a petition signed by electors of the city, as hereinafter required.

The provisions of Section 50 of this Charter, respecting the forms and conditions of the petition, the mode of verification, certification and filing, shall be substantially followed, with such modifications as the nature of the case requires.

If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty (20) percent of the total ballots cast at the last preceding general municipal election, and contains a request that said ordinance be submitted forthwith to a vote of the people, at a special election, then the council shall, except as herein provided, either:

(a) Pass said ordinance without alteration within twenty (20) days after attachment of the clerk's certificate of sufficiency to the accompanying petition; or

(b) Within twenty-five (25) days after such certification, proceed to call a special election, to be held not less than forty (40), nor more than fifty (50) days after such call, at which said ordinance, without alteration, shall be submitted to a vote of the people.

If the petition be signed by electors equal in number to at least ten (10), but less than twenty (20) percent of the total ballots cast at the last preceding general municipal election at which members of the council were elected, and said ordinance be not passed by the council, as provided in the preceding paragraph (a), then such ordinance, without alteration, shall be submitted to a vote of the people at the next general municipal election occurring at any time after twenty-five (25) days from the date of the clerk's certificate of sufficiency attached to the petition accompanying such ordinance.

Upon any ordinance being submitted to the council, as in this Section provided, the council may however, within ten (10) days after attachment of the clerk's certificate of sufficiency, pass an alternative ordinance covering the same subject matter. If within ten (10) days after the passage of such alternative ordinance, not less than fifty (50) percent of the petitioners for the submitted ordinance shall file with the clerk a petition for the withdrawal of their names from such petition the ordinance petitioned for shall not be submitted to a vote of the people, as petitioned for, and the alternative ordinance shall thereupon become effective. If a petition for withdrawal of names of at least fifty (50) percent of the petitioners for the ordinance be not filed with the clerk within said ten (10) days after the passage of such alternative ordinance, the ordinance petitioned for shall be submitted to a vote of the people, as in this Section provided. In such event the council may at the same time submit said alternative ordinance and the one receiving the highest number of votes at a said election shall thereupon become the ordinance of the city.

Whenever any ordinance or proposition is to be submitted to the voters of the city at any election, the council shall either cause the ordinance or proposition to be printed and mailed by the clerk, with a sample ballot to each voter, at least three (3) days prior to the election, or order such ordinance or proposition to be printed in the official newspaper, and published at least three (3) days prior to the election.

The council shall prepare suitable ballots for the submission of any ordinance provided for in this Section. If a majority of the electors voting on any such ordinance submitted by petition, vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this Section.

The council may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any general municipal election; and should such proposition receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly.

There shall not be held under this Section of the Charter more than one special election in any period of six (6) months; nor shall any such special election be called to be held within sixty (60) days prior to any general municipal election.

Any ordinance or measure that the council, or the qualified electors of the city, shall have authority to enact, the council may, of its own motion, submit to the electors for adoption or rejection at a general or special municipal election. (As amended by election, September 8, 1964.)

Sec. 52. Referendum.

No ordinance passed by the council shall go into effect before thirty (30) days from the time of its last publication, except when otherwise required by the general laws of the state or by provisions of this Charter.

If, during said thirty (30) days a petition, signed by qualified electors of the city equal in number to at least ten (10) percent of the total ballots cast at the last preceding general municipal election protesting against the passage of such ordinance, be presented to the council, the same shall thereupon be suspended from going into operation; and it shall be the duty of the council to reconsider such ordinance, and if the same be not entirely repealed, the council shall submit the ordinance, as provided in Section 51 of this Charter, to a vote of the electors of the city, either at the next general municipal election, or at a special election called for that purpose, and such ordinance shall not become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. The provisions of sections 50 and 51 of this Charter, respecting the forms and conditions of the petition, and the mode of verification, certification and filing shall be substantially followed, with such modifications as the nature of the case requires.

An ordinance approved upon referendum shall have no greater force or dignity than an ordinance passed by the council without referendum, and shall be subject to amendment and repeal in the regular manner. Similarly, an ordinance submitted to the people at the option of the council shall be subject to repeal in the regular manner. But an ordinance proposed by petition and adopted by a vote of the people cannot be repealed or amended except by vote of the people. (As amended by election, September 8, 1964.)

CHAPTER VIII. CITY FINANCES.

Sec. 53. Orders for disbursement.

All disbursements except the principal and interest on bonds and certificates of indebtedness, shall be made only upon the order of the mayor and secretary of the council, countersigned by the auditor, duly authorized by a resolution of the council, and every such resolution and order shall specify the purpose for which the disbursement is made and the fund out of which it is to be paid, provided that the council may by standing resolution authorize disbursements as otherwise provided in this Charter to meet routine and recurring obligations of the city, which routine and recurring obligations shall be set forth in said resolution. The auditor shall not countersign any such order, including orders made pursuant to a standing resolution, until such auditor has ascertained that the obligation has been incurred within and pursuant to an appropriation, that the goods or services have actually been received by the city as shown by a receiving report or time record which may be signed only by an officer or employee of the city who shall have personal knowledge that the goods or services were received or furnished to the city and that the amount thereof conforms to a valid contract, purchase order or pay schedule. Each such order shall be negotiable and payable to the person who has furnished such goods or services. But no order shall be issued until there is money sufficient to pay the same to the credit of the fund out of which it is to be paid, together with all then outstanding orders against such fund. Any order or resolution for the payment of money violating any provisions of this Section shall be void, and any officer of the city violating any provision of this Section shall be personally responsible for the amount of such payment if any such payment is made contrary to the provisions hereof. No contract requiring the payment of money by the city shall be valid unless the particular fund out of which the same is to be paid is specified in such contract. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8639, 7-26-1982, § 20.)

Sec. 54. Funds in city treasury; excise tax on hotels, motels, etc.

(A). The city's accounting system shall present fairly and fully disclose the financial position and results of financial operations of the funds and account groups of the city in conformity with generally accepted accounting principles, as established by the Governmental Accounting Standards Board and the American Institute of Certified Public Accountants.

The requirements of the federal general accounting office, and ~~OMB Circular A-133~~ **CFR part 200, subpart F (Uniform Guidance)**, or its successor, shall be followed in reporting all federal revenues and expenditures, as required, which will demonstrate compliance with finance-related legal and contractual provisions.

The accounting system of the city shall be organized and operated on a fund basis, which is a self-balancing accounting entity, recording cash and other financial resources together with related liabilities and residual equities or balances, which are segregated for the purpose of specific activities or objectives.

The city shall maintain a fund structure that includes:

(1) A general fund to account for all financial resources, except those to be accounted for in another fund;

(2) Special revenue funds, including a permanent improvement fund, to account for the proceeds of specific revenue sources, other than special assessments, expendable trusts, and major capital projects, which are legally restricted to expenditure for specified purposes;

(3) Capital project funds to account for financial resources to as used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds, special assessment funds and trust funds;

(4) Debt service funds to account for the accumulation of resources for, and the payment of, general long-term debt principle and interest;

(5) Enterprise funds to account for operations that are financed and operated in a manner similar to private business enterprises, where the intent of the city is that the costs, including depreciation, of providing goods or services to the general public, be financed through user fees, or where the city has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for public policy, management control, capital maintenance, accountability or other purposes.

An enterprise fund shall be maintained for the acquisition, construction, support, maintenance and operation of each public utility owned and operated by the city, including the payment on any bonds or other indebtedness which may be a lien on such utility. There shall be paid into these funds all monies derived from the sale of bonds issued on account of any such utilities, and from the operation of such utility, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of these funds the cost of the purchase, construction, extension, operation, maintenance and repair of any such utility, including the interest upon all bonds or other indebtedness which may be a lien upon such utility. Any surplus in such funds may be used for the purchase of any bonds or certificates of indebtedness issued upon said utilities, and for the payment of such bonds or other indebtedness upon their maturity;

(6) Internal service funds to account for the financing of goods or services provided by one department or agency to other departments or agencies within the city on a cost reimbursement basis;

(7) **Agency Custodial** funds to account for assets held by the city as an agent for individuals, private organizations or other governmental units.

The city shall establish and maintain those funds required by law and sound financial administration consistent with legal and operating requirements, which should be established to avoid unnecessary funds which would result in inflexibility, complexity and inefficient financial administration.

An annual budget shall be adopted by the city of Duluth which allows the accounting system to provide the basis for appropriate budgetary control. Budgetary comparisons should be included in the appropriate financial statements and schedules, for which an annual budget has been

adopted; (As amended by elections, January 23, 1923, and September 8, 1964; Ord. No. 7692, 3-17-1969, § 1; Ord. No. 7887, 11-22-1971, § 1; Ord. No. 7930, 5-22-1972, § 1; Ord. No. 8265, 9-27-1976, § 4; Ord. No. 8393, 4-3-1978, § 1; Ord. No. 8409, 7-10-1978, § 1; Ord. No. 9142, 5-17-1993, § 1; Ord. No. 9819, 2-26-2007, § 4.)

(B). Repealed by Ordinance No. 9142, 5-17-1993, § 2;

(C). Repealed by Ordinance No. 8265, 9-27-1976;

(D). There is hereby imposed an excise tax of three percent (3%) of the gross receipts derived from the furnishing for a consideration of lodging, of any hotel, rooming house, tourist court, motel or trailer camp, and of the granting of any similar license to use real property within the city other than the renting or leasing thereof for a continuous period of thirty (30) days or more. The council may exclude from such gross receipts income derived from the furnishing of lodging where the daily room rental is less than three dollars (\$3.00) or is less than such other greater or lesser amount as the council shall in its judgment from time to time determine. In no case shall the tax imposed hereby upon the proprietor of such establishment exceed the amount of tax which ~~he is~~ **they are** authorized and required by law to collect from the lodger. The city council may suspend, by resolution regularly adopted, the imposition of such tax in whole or in part in any year in which the council in its judgment shall determine that the revenue derived from such tax is not needed to accomplish the purposes to which such revenue is dedicated by virtue of the financial condition of the **Duluth Entertainment Convention Center arena-auditorium** board ~~of the city of Duluth~~ as evidenced by the financial statements of said board filed with the city council as required by Laws of Minnesota 1963, Chapter 305.

The tax shall be stated and charged separately from the charge made for the furnishing of such lodging, and shall be collected by the proprietor from the lodger insofar as practicable, and shall be a debt from the lodger to the proprietor recoverable at law in the same manner as other debts.

The director of finance and records, or such other officer as the mayor may designate, hereinafter termed the administrator, shall administer and enforce the assessment and collection of the taxes imposed by this Section.

The administrator shall promulgate all necessary rules and regulations for the administration and enforcement of this Section not inconsistent with its provisions; and such regulations shall have the force and effect of law.

The taxes imposed by this Section shall be due and payable to the administrator monthly on or before the 25th day of the month next succeeding, or such other reporting period as the administrator may prescribe.

In promulgating the necessary rules and regulations for the administration of this Section, the administrator shall require returns to be filed by each proprietor in such form as will insure the collection of the taxes imposed by this Section. Such rules and regulations shall include a system for reviewing the returns as so required and shall provide a method for the return of overpayments, and a method for the collection of any deficiencies.

The tax required to be collected by the proprietor shall constitute a debt owed by the proprietor to the city of Duluth, and shall be paid over to the administrator at the time hereinbefore provided, and in accordance with the rules and regulations promulgated by the administrator. The city council may, by ordinance, establish a penalty to be assessed if such tax is not paid within the time herein provided.

Failure to pay the tax or penalty as hereby imposed, or failure to abide by the rules and regulations as promulgated by the administrator, shall constitute a misdemeanor punishable by a fine of not more than three hundred dollars (\$300.00) or imprisonment for not more than ninety (90) days, or both.

For the purpose of determining the correctness of any return required by the administrator, or of determining whether or not a return should have been made, the administrator shall have the power to examine, or cause to be examined, books and records which may be relevant to such determination; but such information so gathered shall be treated as confidential; and it shall be unlawful for the administrator or any public officer to make such information public.

Five (5) percent or five thousand dollars (\$5,000), whichever is greater, of such tax as collected during each calendar year shall be paid into the general fund of the city of Duluth to cover the cost of administration and collection thereof.

Sixty-five percent (65%) of any such tax collected over and above the sums hereinbefore denominated shall be paid into the general fund of the city of Duluth, to be used for the support and maintenance of the arena-auditorium of Duluth; and thirty-five percent (35%) shall be paid into an advertising and publicity fund, which shall be maintained in the city treasury, and which shall be used for advertising and promoting the city of Duluth as a tourist and convention center;

(E). There is hereby established in the treasury of the city of Duluth a fund designated as the community investment trust fund. The following monies shall be deposited into such fund:

- (1) \$3,100,000 from pre-1994 profits of the Fond-du-Luth Casino;
- (2) Net revenues received by the city in 1994 and future years from operation of the Fond-du-Luth Casino. "Net revenues" are revenues less expenses incurred by the city in administering the agreement with the Fond du Lac Band of Lake Superior Chippewa for operation of the casino;
- (3) Investment earnings generated by the monies in the fund;
- (4) Monies appropriated or transferred to such fund from time to time by the council or donated to such fund.

The accumulated investment earnings of this fund shall be transferred annually to the general fund.

Except for the annual transfer of investment earnings to the general fund, monies in this fund shall only be spent or transferred to another fund of the city by authority of a resolution approved by at least seven members of the council. (As amended by elections, January 23, 1923, and September 8, 1964; added by Ord. No. 7692, 3-17-1969; amended by Ord. No. 7930, 5-22-1972; Ord. No. 8265, 9-27-1976; Ord. No. 8393, 4-3-1978; Ord. No. 8409, 7-10-1978; as amended by election, November 7, 1995.)

Sec. 55. Authority to issue bonds and certificates of indebtedness.

The city of Duluth may issue bonds or certificates of indebtedness by ordinance for the following purposes:

- (1) To pay, fund or refund any debts of the city;
- (2) To purchase, construct, extend, improve and maintain public utility plants. Such bonds or certificates of indebtedness so issued shall be a specific lien upon such plants named in such ordinance authorizing the issuance of said bonds or certificates of indebtedness;
- (3) Any purpose authorized by state law. (As amended by elections, January 23, 1923; November 2, 1926; April 5, 1927; April 7, 1931; October 13, 1931; March 13, 1937; November 8, 1938; November 7, 1950; March 20, 1956, and September 8, 1964; Ord. No. 9819, 2-26-2007, § 5.)

Sec. 56. Duty of county treasurer of St. Louis County.

It is hereby made the duty of the county treasurer of St. Louis County, Minnesota, to keep accounts so as to show at all times the amount of money received for the city in the collection of taxes and special assessments, specifying all such taxes by the respective years for which they were levied and the respective portions thereof, which are for interest and penalties, and specifying all such assessments by roll or contract numbers, as the same are certified to the county auditor by the auditor. It is hereby made the duty of the county auditor of St. Louis County quarterly to draw a warrant on the county treasurer in favor of the treasurer for all money in the county treasury for taxes belonging to the city and another warrant for all money collected on account of special assessments belonging to the city, and upon presentation of the same to the county treasurer of St. Louis County, such treasurer shall pay the same respectively out of the monies received by such treasurer for the city for taxes and for special assessments respectively. Said county auditor shall at the same time transmit to the treasurer and auditor a statement showing the separate amounts so paid over on account of each separate local improvement. No county official shall have any authority or power to refund, reduce or abate any special assessment. (As amended by Ord. No. 8639, 7-26-1982, § 21.)

Sec. 57. Limitation on expenses and obligations; personal liability of certain persons when limitation exceeded.

Whenever the expense and obligations incurred, chargeable to any particular fund of the city, in any fiscal year, are sufficient in the aggregate to absorb eighty percent (80%) of the entire amount embraced in the tax levy for that year, together with eighty percent (80%) of the amount estimated, in the apportionment of the current year to be received by said fund from other sources, including such amount as may remain in the fund from the levy of any prior year or years, no officer, board or official body of the city shall have any power, and no power shall exist, to create any additional indebtedness (save as the remaining twenty percent (20%) of said tax levy is collected), which shall be a charge against that particular fund, or which shall be in any manner a valid claim against the city, but said additional indebtedness attempted to be created shall be a personal claim against the officer or the members of the municipal board or body voting for or attempting to create the same.

Sec. 58. Submission of budget to city council.

On or before the first day of October in each year, the mayor shall submit to the council an estimate of the probable expenditures of the city government for the next ensuing fiscal year, stating the amount required to meet the interest and maturing bonds of the outstanding indebtedness of the city, and showing specifically the amounts necessary to be provided for each fund and each department; also an estimate of the amount of income from all other sources of revenue exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation to defray all such expenses and liabilities of the city. The city council shall thereupon determine the sum to be raised by taxation and make appropriations in detail for the next ensuing fiscal year. The council shall, not later than **October 10 September 30 or the date set by the State of Minnesota**, transmit to the county auditor of St. Louis County a statement of the amounts so to be raised by taxation, and the county auditor shall thereupon raise the same by tax levy as by law provided. (As amended by election, March 20, 1956.)

Sec. 59. Sale of certificates of indebtedness after adoption of budget.

As soon as said statement is transmitted to the county auditor of St. Louis County, as aforesaid, the council, by ordinance, first directing the same, may issue and sell certificates of indebtedness in anticipation of the collection of taxes for any fund named in said statement, for the purpose of raising monies for such fund, and may pledge the full faith and credit of the city for the payment of such certificates; but no power shall exist to issue certificates for any of said funds exceeding eighty percent (80%) of the amount named in said statement, to be collected for the use and benefit of said fund. No certificates shall be issued to become due and payable later than December 31 of the next succeeding fiscal year. (Ord. No. 8475, 9-4-1979, § 1.)

CHAPTER IX. LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Sec. 60. Power to make improvements.

The city shall have the power to make any and every type of improvement not forbidden by the laws of the state. An improvement on two or more streets, or two or more types of improvements in or on the same street or streets or different streets, may be included in one proceeding and conducted as one improvement. (As amended by election, September 8, 1964; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 60(A). Special assessment board established; membership; meetings.

A special assessment board is established to review plans for public improvements proposed to be constructed and to be funded in whole or in part through assessments against benefitted property, to hold hearings to hear from persons affected by such proposed improvements and to make recommendations to the council regarding the making of such improvements and the amount, if any, which should be assessed against benefitted properties therefore. The membership on the board shall be established by ordinance. (As amended by election, September 8, 1964; Ord. No. 8640, 7-26-1982, § 1; Ord. No. 9553, 8-12-2002, § 9; Ord. No. 9747, 9-26-2005, § 10; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 61. Resolution of intent--hearing.

(a) Improvements shall originate upon petition of the property owners affected or upon the council's own initiative as the council may, by ordinance, prescribe. Before adopting the ordering in resolution as provided herein, the council shall, by resolution, state its intention to cause the improvements to be constructed and require the mayor to have plans and estimates prepared or cause to be prepared plans and specifications therefor, and an estimate of the cost thereof, and to file such plans and estimate with the special assessment board, together with a recommendation as to what portion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city, the number of installments in which assessments may be paid and the lands which should be included in the special assessment;

(b) The special assessment board shall set the time, date and place at which the board will hold a public hearing to consider such improvement. Not less than ten days prior to the hearing, notice of the hearing shall be mailed to each known owner of the affected property at the owner's last known address;

(c) Failure to receive mailed or actual notice or any defects in the notice shall not invalidate the proceedings;

(d) At the hearing, the special assessment board shall meet and hear any person to be affected by the proposed public improvement or assessment. After completion of the hearing, the board shall transmit to the council the plans, specifications and estimates filed with it and shall report to the council its findings as to the necessity of the proposed public improvement and its recommendation therefor, and its recommendations as to assessment, if any, of the cost thereof. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 62. Ordering in resolution.

After the report of the special assessment board has been received, the council may by resolution order in the improvement and make the determination to defray the whole or any part of the cost of the improvement by special assessment upon the property specially benefitted, the number of installments in which assessments may be paid and designate the land upon which special assessments shall be levied. (As amended by elections, March 20, 1956, and September 8, 1964; Ord. No. 8639, 7-26-1982, § 22; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 63. Power to levy assessments.

The city shall have the power to levy assessments to pay all or any part of the cost of improvements as are of a local character, but in no case shall the amounts assessed exceed the benefits to the property. (As amended by Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 64. Assessment.

(a) After the date of the ordering in resolution described in Section 62 and upon completion of the work, the proper city officers shall calculate the expenses incurred in making the improvement;

(b) Thereafter, an assessment roll shall be prepared, which shall include assessments against property benefitted by the improvement. The roll shall be filed and open to public inspection;

(c) In estimating the benefits to any particular lot, piece or parcel of land, the proper city officers shall consider the owners' interest therein, the form and position of the several parcels of land, the qualified rights of the owners, and any other circumstances rendering the improvement beneficial to ~~him~~ or them the owners;

(d) Notice of the public hearing at which the council will consider the assessment roll shall be published in compliance with statutory requirements for publication of official notices not less than 20 days before such hearing. At least ten days before the hearing, notice thereof shall be mailed to every known owner of property subject to an assessment at his last known address;

(e) At the hearing or at any adjournment thereof, the council shall hear all persons relative to the assessment. Thereafter by resolution, it shall adopt the assessment roll with or without amendment. (As amended by election, September 8, 1964; Ord. No. 8092, 8-5-1974; Ord. No. 9923, 7-23-2008, §§ 1, 2.)

Sec. 65. Other charges.

The council may provide, by ordinance, that the cost of any work such as water and sewer service line installation, replacement and repair, and any maintenance, repair performed on streets, sidewalks, boulevards or other public or private property which are undertaken by the city and which are authorized by statute or city ordinance may be charged against the property benefitted. Such charges shall be collected and levied like special assessments or in such other manner as the council determines. The council shall have the power to abate nuisances on any particular property and shall have the power to collect the costs of such abatement as a special assessment in the manner provided in this Chapter. (As amended by election, September 8, 1964; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 66. Reassessment.

In the event the council finds an assessment or any part thereof is defective, inadequate or invalid, the council may, upon notice and hearing to affected persons in the manner provided for the original assessment, make a reassessment or a new assessment or a supplemental assessment against the parcel or parcels affected. (As amended by election, September 8, 1964; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 67. Appeal.

(a) Within 20 days after the order adopting the assessment, or making a reassessment, a new assessment or supplemental assessment, any person may appeal to the district court for St. Louis County, Minnesota, by filing a notice of appeal with the city clerk stating the grounds upon which the appeal is taken. Such notice shall be filed with the clerk of the district court within ten days after the filing with the city clerk;

(b) The only defense to an assessment shall be that the assessment is fraudulent, or that it is made upon a demonstrable mistake of fact or law, or that the assessment is in an amount in excess of the actual benefits to the property. The jurisdiction of the court shall not be affected by an error, act or omission not affecting the substantial rights of any person;

(c) A person who fails to file the notice of appeal with the city clerk within the time specified or fails to file the notice of appeal with the district court within the time specified shall be forever barred from proceeding with an appeal and trial in said court, and the assessment shall be final;

(d) In case of an appeal, the appellant shall be given a copy of the assessment roll or any part thereof upon payment of an amount designated by administrative ordinance. This copy shall be certified to by the proper city officers and filed by the appellant in the district court. (As amended by election, September 8, 1964; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 68. Trial.

(a) The appeal shall be tried in the district court as other civil cases, pursuant to the district court rules of civil procedure, and shall have preference over all other civil cases;

(b) The court shall either affirm the assessment or set it aside and determine the lawful amount thereof;

(c) If the court approves the assessment, it shall make an order affirming it and render judgment against each lot, part or parcel of land for the amount of the assessment. (As amended by elections, June 19, 1916, and September 8, 1964; Ord. No. 7888, 11-22-1971, § 1; Ord. No. 8092, 8-5-1974, § 2; Ord. No. 8299, 1-10-1977, § 1; Ord. No. 8313, 3-21-1977, § 1; Ord. No. 8641, 7-26-1982, § 1; Ord. No. 9553, 8-12-2002, § 10; Ord. No. 9923, 7-23-2008, §§ 1, 2.)

Sec. 69. Collection.

(a) The council shall provide by ordinance the manner in which the assessment shall be collected, the rate of interest and penalty to be charged thereupon, and the date from which the interest shall first accrue;

(b) The county auditor shall include in the tax rolls any delinquent assessment or installment thereof, together with accrued charges, due and payable under the terms of the ordinance. The amounts so included shall be collected in the same manner as are municipal taxes and shall be subject to the same penalties, costs and interest charges as are municipal taxes;

(c) Every assessment shall be a lien upon all private and public property from the date of the resolution adopting the assessment. Such assessments and interest shall be of equal rank with the lien of the state for general taxes which have been or may be levied upon the property. (As amended by Ord. No. 9826, 3-26-2007, § 1; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 70. Special assessment--alternative procedure.

The city at its option may exercise the powers and follow the procedures provided by Minnesota Statutes, Chapter 429. (As amended by Ord. No. 9553, 8-12-2002, § 11; Ord. No. 9923, 7-28-2008, §§ 1, 2.)

Sec. 71. Repealed by Ordinance No. 9923, 7-28-2008, § 1.

CHAPTER X. EMINENT DOMAIN.

Sec. 72. Power of city generally.²

The city of Duluth is hereby empowered to acquire, by purchase, gift, devise or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose, and the fact that the property so needed has been acquired by the owner under the power of eminent domain, or is already devoted to public use, shall not prevent its acquisition by said city. In addition to the power to acquire property for other public purposes, said city may also acquire, as herein provided, any line or lines of street railway within said city, and all the rolling stock, equipment and other properties of any person, company or corporation owning, or operating, such line or lines of street railway, and may also acquire any gas, water, heat, power, light, **communication infrastructure** ~~telephone~~ or other plant, or other public utility; but no proceedings to acquire any such street railway system or other plant or utility shall be consummated unless the city has the money in its treasury to pay for the same or unless provision for paying for the property proposed to be acquired has been made by vote of the people.

²For case holding that the city, under this Section, has the express power to take by eminent domain land for use as a street, despite the fact that such land has been previously dedicated to public use for railroad purposes, see Northern Pacific Ry. Co. v. city of Duluth, 153 Minn. 122, 189 N. W. 937.

Secs. 73 to 76. Repealed by Ordinance No. 8265, 9-27-1976, § 4.

Sec. 77. Disposition of public ~~utilities~~ utility systems in real estate owned by the city.

No public utility system owned by the city, whether acquired prior to the adoption of this Charter or thereafter, shall be sold, leased or otherwise disposed of by the city, unless the full terms of the proposition of said sale or other disposition thereof, together with the price to be paid therefor, shall have been published in the official paper of said city once a week for six (6) successive weeks, before final action of the council, and submitted to a vote of the people for ratification or rejection at the next general municipal election, and ratified by, at least, a two-thirds majority vote of electors voting thereon.

No real property of the city shall be disposed of except by ordinance. (Ord. No. 8265, 9-27-1976, § 3.)

Sec. 78. Repealed by Ordinance No. 8265, 9-27-1976.

CHAPTER XI. FRANCHISES.

Sec. 79. Definitions.

The word "franchises," as used in this Chapter, shall be construed to mean any special privilege granted for the purpose of profit to any person, co-partnership or corporation in, over, upon or under any of the highways or public places of the city of Duluth, whether such privilege has been, or shall hereafter be, granted by the city of Duluth, or by the state of Minnesota. The term "public service corporation, co-partnership or person," as used in this chapter, shall be construed to mean any person or corporation exercising any franchise within the city of Duluth, except those operating ~~steam~~ railroads.

Sec. 80. Authority of city to grant franchises.

The council, may, by ordinance, adopted by the affirmative vote of seven-ninths of all its members, grant rights in, over, upon or under any highway or public place for the purpose of constructing or operating streets and other railways, or for communications ~~telephoning or telegraphing~~ or transmitting electricity, ~~or transporting by pneumatic tubes~~, or for furnishing to the city or its inhabitants, or any portion thereof, water, light, heat or power, or for any other purpose, but subject always to the limitations and conditions in this Chapter prescribed. (As amended by election, March 20, 1956.)

Sec. 81. Maximum term of franchise.

No perpetual or exclusive franchise shall ever be granted, nor shall any franchise be granted except by ordinance. It shall be a feature of every franchise so granted that the maximum price for the service or charge shall be stated in the grant thereof; and no franchise shall be granted for a longer period than twenty-five (25) years.

Sec. 82. Contents and publication of ordinances granting franchises.

Every ordinance granting any franchise shall contain all the terms and conditions of the franchise and shall be published verbatim in the official paper of the city, at least once a week for four (4) successive weeks after its passage and shall take effect thirty (30) days after its last publication, subject to the referendum provisions of this Charter.

Sec. 83. Power of city to regulate and control franchises granted by city or by state.

The city of Duluth shall have the right and power to regulate and control the exercise by any person, co-partnership or corporation of any franchise, whether such franchise has been or shall hereafter be, granted by the city of Duluth or by the state of Minnesota.

Sec. 84. Annual reports.

Every corporation, co-partnership or person exercising any franchise in the city of Duluth shall file annually on the first Monday in February in each year, in the office of the auditor, a statement, subscribed and sworn to by at least two officers of such corporation, or by the individual in control, in case such franchise is exercised by a person or co-partnership, setting forth in detail for the preceding calendar year the then actual cost to said corporation, co-partnership or persons of the plant or business operated by such corporation, co-partnership or person, the actual encumbrances, debts and obligations thereon, if any, the amount of stock issued, and to whom issued, and the consideration therefor, the gross earnings, the expenses and nature thereof, and the net income, after deducting all proper costs and expenses, the names and residences and the amount of the stock of all stockholders of such public service corporation; if any bonds have been redeemed and not cancelled, that fact shall also be stated. This duty may be enforced by appropriate legal proceedings. Every such corporation or person, who fails to comply with the provisions of this Section, shall also be liable to the city of Duluth for each day of such failure in an amount to be set by city council resolution, to be recovered in a civil action in any court of competent jurisdiction, and at the end of sixty (60) days, if such default shall continue, the council may forfeit such franchise. (As amended by Ord. No. 10229, 5-28-2013, § 1.)

Sec. 85. Increase in amount of capital stock for amount of bonded indebtedness and issuance of bonds by public service corporations.

No public service corporation shall increase the amount of its capital stock or issue bonds, or increase the amount of its bonded indebtedness, without first obtaining permission to do so from the council. And in making application for such permission, such public service corporation shall file with the council a verified statement stating the purpose for which such issue of stock or bonds is desired, and the same shall be published once in the official paper of the city, at least one week prior to the hearing on such application.

Sec. 86. Authority of council to regulate and control maximum prices.

The council may, by ordinance, regulate and control the maximum price to be charged by any corporation or person exercising any franchise for the service rendered by it to the city and to any other person or corporation, but such price shall be fair and reasonable to such public service corporation or person and to the public. When any person or corporation against whom any order is directed under the provisions of this Section shall believe such order to be unjust and unreasonable, he or it may test its justice or reasonableness by proper action in the courts commenced within thirty (30) days after the service of such order, and in such action such order shall be entered in the premises as shall be warranted by the facts developed upon the trial and the law applicable thereto.

Sec. 87. Repealed, September 8, 1964. [Number saved for future amendment.]

Sec. 88. Franchises to contain certain provisions.

Every franchise, which does not contain the provision prescribed in this Section, shall be absolutely void and incapable of ratification by estoppel or otherwise. Every franchise shall contain a provision:

(1) That the grantee shall be subject to and will perform on its part all the terms of sections 83, 85, ~~and 86 and 87~~ of this Charter;

(2) That the grantee of such franchise will comply with all the terms of Section 84 of this Charter and will, for failure to do so, pay the penalty prescribed therein, and if such failure continues for a period of sixty (60) days, will, upon demand of the council, surrender the franchise;

(3) That the council shall have the right:

(a) To hear and determine what are just, fair and reasonable rates, fares and charges for public service, and to order that only reasonable charges shall be imposed, and to make effective such order by penalties and forfeitures. The granting of a franchise shall not be deemed to confer any right to include in the charge for service any return upon the value of the franchise or grant;

(b) To require reasonable extensions of any public service system;

(c) To make such rules and regulations as may be required to secure adequate and proper service, and to provide sufficient accommodations for the public;

(4) That the grantee shall not issue any capital stock on account of the franchise, or the value thereof, and that the grantee shall have no right to receive, upon a condemnation proceeding brought by the city to acquire the public utility using such franchise, any return on account of the franchise or its value;

(5) That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed in the office of the clerk, an instrument, duly executed, reciting the fact of said sale or lease, accepting the terms of said franchise, and agreeing to perform all the conditions required by the grantee thereunder. The assignee or lessee shall also file a bond in such amount and with such conditions as the council may require, which bond shall run to the city as obligee, with sureties satisfactory to the council, and shall obligate the grantee, or lessee, to discharge all obligations and liabilities imposed by said franchise;

(6) That said franchise, and all things constructed thereunder or used in connection therewith, other than rolling stock and power, shall be subject to common use by the grantee or assignee of any other franchise, whenever there shall be necessity therefor, upon payment or tender of compensation for such use. The question of compensation, and all other questions relating thereto, shall be judicial questions, but no judicial proceeding shall suspend or postpone such use if the person or corporation desiring such common use shall deposit in the court such sum as the court, in preliminary hearing, may determine.

Every franchise granted to any railroad or street railway shall also contain a provision that the council may require the elevation or depression of tracks at the expense of the owner of the franchise.

Every franchise granted to any street railway company shall contain a provision that the council may enforce a system of interchangeable transfers without additional charge.

Every franchise granted for the erection of poles or masts on or along the highways, or other public places of the city, for the conduct of electricity, or for any telegraph or telephone purpose, shall also contain a provision that the lower arm of all such poles or masts shall be for the exclusive use of the city, and any franchise granting the right to construct conduits in or under such places for said purposes, shall also contain a provision reserving a definite and reasonable portion thereof for the exclusive use of the city, and the council may require the placing underground, or in any other safe or convenient position, of wires carrying electricity, and other wires.

The violation by the owner of any franchise of any of the express provisions prescribed by this Section shall be cause for forfeiture of the franchise by the council. (As amended by election, September 8, 1964.)

Sec. 89. Authority of city to require additional conditions and restrictions.

The enumeration and specification of particular matters, which must be included in every franchise or renewal or extension of any franchise, granted, shall not be construed to impair the right of the city to insert in such franchises such other and further conditions and restrictions as the council may deem proper to protect the city's interest, nor shall anything contained in this chapter limit any right or power possessed by the city over existing franchises. The extension or renewal of any franchise shall be granted only on the same terms as an original franchise.

CHAPTER XII. REPEALED.

Sec. 90. Repealed by Ordinance No. 8265, 9-27-1976.

Secs. 91 to 98. Repealed by election, March 20, 1956.

CHAPTER XIII. MISCELLANEOUS.

Sec. 99. Repealed by Ordinance No. 8265, 9-27-1976, § 4.

Sec. 100. Vacation of highways streets, alleys, public grounds, or public ways; use of public highways same by abutting property owners.

(a) The council may vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, or part thereof to be vacated.

(b) In the exercise of this power the council shall, by ordinance, provide that:

(1) The council shall refer petitions for vacation to the planning commission for investigation, public hearing, report and recommendation to the council, without undue delay and within sixty days from the time of the initial filing of the petition;

(2) Before holding a public hearing on any petition the planning commission shall give notice of the time, place and purpose of the hearing in such manner and form as the council may designate to the persons who own the land lying within a distance of 300 feet in a line beyond each end of the portion of the highway proposed to be vacated and to such other class or category of persons whom the council may designate in such ordinance;

(3) At the time and place set forth in the notice the interested persons shall be given an opportunity to be heard;

(4) The planning commission shall take into consideration the matters ascertained by its investigation in addition to the matters presented at the hearing;

(5) Upon considering the report of the planning commission, the council may vacate the street, alley, public grounds, or public ways ~~public highway~~ in whole or in part by resolution adopted by a vote of six of its members and as a condition of its action, the council may reserve easements in favor of the public within the area vacated;

(6) If the resolution be vetoed by the mayor, it may nevertheless be adopted by a vote of seven members of the council; and

(7) A record of all vacations shall be made either in the office of the register of deeds or the registrar of titles of St. Louis County, Minnesota. The council may set forth in such ordinance such additional terms, provisions and procedures not inconsistent with this Section as it may deem appropriate;

(c) All vacation proceedings heretofore or hereafter completed pursuant to the Charter provisions and ordinances in effect at the time of the initial filing of the petition shall be valid and effective for all purposes;

(d) The council may by ordinance permit abutting owners to make use of portions of public highways not physically being used or occupied by the public upon such terms and conditions and by such procedure as the council, in each such ordinance, may provide. (As amended by elections, March 20, 1956, and September 8, 1964. Ord. No. 10737, 2-22-2021, §1)

Sec. 101. Repealed by Ordinance No. 8265, 9-27-1976, § 4.

Sec. 102. Repealed by Ordinance No. 9825, 3-26-2007, § 1.

Sec. 103. Repealed by Ordinance No. 8265, 9-27-1976, § 4.

Sec. 104. Adverse possession and statutes of limitation not to operate against city in favor of persons occupying public property or highways.

No right, title, estate or easement of the city in any property shall be lost by adverse possession or occupancy, and no statute of limitations shall operate against the city in favor of any person occupying any public property or highway, whether such highway shall have been improved or not.

Sec. 105. Repealed by Ordinance No. 8265, 9-27-1976, § 4.

Sec. 106. City not required to give bond security, etc., in judicial or quasi-judicial proceedings.

The city shall not be required in any judicial or quasi-judicial proceedings to enter into any bond or undertaking or to give any security whatever.

Sec. 107. Power of council to carry out provisions of Charter.

The council shall, by ordinance, make such regulations as may be necessary to carry out and make effective the provisions of this Charter.

Sec. 108. Repealed by Ordinance No. 8265, 9-27-1976, § 4.

CHAPTER XIV. REPEALED.

Secs. 109 to 111. Repealed by Ordinance No. 8265, 9-27-1976, § 4.