

C E R T I F I C A T E

STATE OF MINNESOTA     }  
COUNTY OF BROWN       }     ss.

CITY OF NEW ULM.

The undersigned, Roman F. Schnobrich, being first duly sworn on oath, deposes, certifies and says:

1. That he is the duly elected and qualified Mayor and Chief Magistrate of the City of New Ulm, a Municipal Corporation, in Brown County, Minnesota, and makes this certificate in compliance with and pursuant to the provisions of Section 36, of Article 4, of the Constitution of Minnesota, and of the laws of the State of Minnesota.

2. That the seal affixed hereto is the seal of the City of New Ulm.

3. That a proposed Amended Charter of the Home Rule Charter of the City of New Ulm, was duly presented to the undersigned as such Mayor by a Charter Commission appointed by the District Court in and for Brown County, Ninth Judicial District, State of Minnesota, and received by him on August 19th, 1952. That thereafter such proceedings were duly had that the City Council of said City did by resolution call and fix the time for holding a special election at which there was submitted the following question:

"Shall the proposed Amended Charter of the City of New Ulm, in the nature of a revision of the existing Charter, as submitted by the Charter Commission, be adopted?"

4. That a City Election was duly held on the 30th day of September, 1952, and that at said election the proposed Amended Charter was duly ratified by the following vote on the question so submitted:

1492 votes in favor and voting "Yes";  
694 votes opposing and voting "No"; and  
1 vote blank.

That the vote so cast has been duly canvassed by and a resolution been duly adopted by the City Council of said City of New Ulm, declaring the result of the special election to be as above stated, and that such proposed Amended Charter

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has been duly adopted and ratified.

5. That the undersigned as such Mayor and Chief Magistrate further states on oath that a true and correct duplicate of the Amended Home Rule Charter, so prepared, voted upon, adopted, and ratified, is hereto attached and made a part of this certificate, and further that a duplicate of this Charter and of this Certificate will be deposited in the office of the Secretary of State, and one duplicate recorded and registered in the office of the Register of Deeds in and for Brown County, Minnesota, to be subsequently deposited among the archives of said City in the office of the City Clerk, in and for the City of New Ulm.

Roman F. Dehnobich

Mayor and Chief Magistrate.

Subscribed and sworn to before me  
this 9<sup>th</sup> day of October, 1952.

L. A. Hume

Notary Public.

L. A. HUME  
Notary Public, Brown County, Minn.  
My Commission Expires May 18, 1954.

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 23 1952

Mrs. Virginia Holm  
Sec. of State

# 11835  
O.D.

REVISED CHARTER OF THE CITY OF NEW ULM

ADOPTED SEPTEMBER 30th, 1952

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
OCT 23 1952

*Mrs. Virginia Holm*  
Secretary of State

## CHARTER

of the

City of New Ulm, Minnesota.

Framed pursuant to Section 36 of Article 4 of the Constitution of the State of Minnesota and the State Laws enacted pursuant thereto, by the Board of Freeholders appointed by the District Court of Brown County, Minnesota, on April 6, 1951, as and for a Home Rule Charter for the City of New Ulm.

### NAME, BOUNDARIES AND SUBDIVISIONS.

#### Name and Boundaries.

Section 1. The City of New Ulm, in the County of Brown, and State of Minnesota, shall, upon the taking effect of this Charter, continue to be a municipal corporation, under the name and style of "City of New Ulm", with the same boundaries as now are or hereafter may be established, such boundaries now being as follows:

All the territory in the County of Brown lying and being in Township Number One Hundred Ten (110) North, of Range Thirty (30) West, saving and excepting therefrom Section Number Twenty-seven (27), Section Number Thirty-four (34), West Half of Section Number Thirty (30), Section Number Thirty-one (31), the South Half of Section Number Thirty-two (32), and the South Half of the Northwest Quarter of Section Number Thirty-two (32), all in said Town and Range.

#### Wards and Precincts.

Section 2. The City of New Ulm shall be divided into four wards, as heretofore, each divided into two precincts. The boundaries of said wards and precincts shall be as they now are or may hereafter be established.

#### Change of Wards and Precincts.

Section 3. The City Council shall have the power by ordinance to change the boundaries of such wards and precincts and to change the number of precincts in a ward, but shall have no power to change the number of wards.

### CORPORATE POWERS, RIGHTS, AND OBLIGATIONS.

#### Corporate Powers.

Section 4. The City of New Ulm, by and in its corporate name, shall have perpetual succession; and, 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 it prior to the adoption of this Charter; also all powers, functions, rights, and privileges now or hereafter given or granted by the constitution and the laws of the State of Minnesota to municipal corporations having "Home Rule Charters"; 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 powers, 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 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; and it may contract with the county or with other municipalities for such joint services and utilities as may seem desirable, and for all other legitimate purposes.

#### Subsisting Rights and Obligations.

Section 5. When this Charter takes effect the City of New Ulm shall be and become the legal successor of the City of New Ulm under its former Charter, and shall be vested with all franchises, rights, and immunities formerly vested in said City, except as herein otherwise provided.

All property and property rights and interests of every kind and nature, formerly vested in said City of New Ulm, or in any board or public officer of the same, all taxes and assessments levied in its behalf, and all rights, penalties or forfeitures, accrued or accruing, shall, when this Charter takes effect, be and become vested in, and be possessed by, the City of New Ulm under this Charter; and all previously existing indebtedness, obligations, and liabilities of said City of New Ulm, or any department thereof, no matter in what form or how incurred, shall, together with all interest accrued or to accrue thereon, be assumed and paid by the City of New Ulm. Any subsisting right, lien, or demand against the City, or any pending action or proceeding to enforce the same, shall not be prejudiced or affected in any way by this Charter.

#### Existing Ordinances Continued.

Section 6. All ordinances, resolutions, rules, and regulations of the City in force when this Charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

#### Continuance of Contracts and Initiated Public Work.

Section 7. All contracts entered into by the City or for its benefit, prior to the taking effect of this Charter, shall continue in full force

and effect. All public work begun prior to its taking effect shall be continued and perfected thereunder. Public improvements for which legislative steps shall have been taken under laws or charter provisions, existing at the time this Charter takes effect, may be carried to completion in accordance with such existing laws and charter provisions.

#### Eminent Domain.

Section 8. In the exercise of the right of eminent domain, herein granted, the City, for the purpose of acquiring private property, within or without the corporate limits thereof, which may be needed for any public use or purpose, may proceed in the manner prescribed by the General Laws of the State pertaining to such proceedings, or in the manner otherwise provided in this Charter.

#### Sale of Real Property.

Section 9. No real property of the City shall be disposed of except by unanimous vote of the City Council, and then only in case the said property is no longer needed for public purposes. The proceeds of any such conveyance or sale shall be used, as far as possible, to retire any outstanding indebtedness incurred by said City in the purchase or improvement of such property, or other property used for the same public purpose; but if there be no such outstanding indebtedness, the City Council may designate some other public use for such proceeds.

#### Gifts and Bequests.

Section 10. The City may, through the City Council or any of the Commissions created under this Charter, receive and accept any gifts, devises, or bequests of real or personal property, and may keep and administer such property for the benefit of the residents of the City in accordance with the terms prescribed by the donor.

#### City May Use General Laws.

Section 11. All general laws and statutes of the State, now or hereafter enacted, applicable to all cities operating under "Home Rule Charters", or applicable to cities of the same class as the City of New Ulm, not operating under "Home Rule Charters", shall, if not inconsistent with the provisions of this Charter, apply to the City of New Ulm and be construed as supplementary to the provisions of this Charter.

#### Construction of this Charter.

Section 12. The provisions of this Charter shall be construed liberally in favor of the City, to the end that it may have all necessary powers for the efficient conduct of its municipal affairs, as contemplated by the municipal home rule provisions of the constitution and laws of the State of Minnesota.

The specific mention of particular municipal powers in other sections of the Charter shall not be construed as limiting the powers of the City in the premises to those thus mentioned. All powers of the City, whether express or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner determined by the City Council.

Charter a Public Act.

Section 13. This Charter shall be a public act and need not be pleaded or proved in any Court.

NOMINATIONS AND ELECTIONS.

Election to Make Charter Effective.

Section 14. Promptly upon the ratification of this Charter by the electors of the City, in the manner provided by the Constitution and the general laws of the State authorizing its submission, it shall be incumbent upon the then existing Council to arrange for the election of the officers provided for in this Charter on the first Tuesday after the first Monday in the month of November. The officers thus elected shall enter upon their duties on January 1st, following and serve for such term as they were elected.

Regular Municipal Elections.

Section 15. Regular municipal elections shall be held on the first Tuesday after the first Monday in November, 1952, and on that day biennially thereafter, at such places in the various precincts now or hereafter established as the City Council may designate.

At such regular elections there shall be elected the officers provided for in this Charter or that may hereafter be required in lieu thereof by the laws of the State.

Special Elections.

Section 16. The City Council may by resolution order a special election and fix the time of and provide all means for holding the same. The notice, in case of such special elections, shall include a statement of the purpose for which the election is to be held, but in all other respects the procedure shall conform as nearly as possible to that herein provided for other municipal elections.

Notice of Elections.

Section 17. Notice of all elections shall be given by the City Clerk in the manner provided by the general election laws of the State of Minnesota applicable to the City of New Ulm, but the failure to give such notice shall not invalidate the election.

### Nominations for Office.

Section 18. The mode of nomination of all elective officers provided for by this Charter shall be by petition. The name of any elector of the City shall be printed upon the ballot whenever a petition as hereinafter prescribed shall have been filed in his behalf with the City Clerk, providing said elector has not filed his declination to be a candidate for said office at least twenty-five days before said election. Such petition shall be signed by a number of electors equivalent to at least three per cent of the total number of votes cast at the last regular municipal election. In the case of a ward Councillor, the required percentage of signatures shall be based upon the vote cast in such ward. No elector shall sign petitions for more candidates than the number of places to be filled at the election, and should he do so his signature shall be void as to the petition or petitions last filed. All nomination petitions shall be in the hands of the City Clerk at least thirty days before the election. The Clerk shall prepare the ballots in a manner to be provided by ordinance.

The signatures to the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street number, or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

#### Nomination Petition

We, the undersigned electors of the City of New Ulm, hereby nominate (here use name of nominee), whose residence is \_\_\_\_\_, for the office of \_\_\_\_\_ to be voted for at the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and we individually certify that we are qualified electors and that we have not signed more nomination petitions of candidates for this office than there are persons to be elected thereto.

Name

Street and Number

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

being duly sworn, deposes and says, that he is the circulator of the foregoing petition paper containing \_\_\_\_\_ signatures, and that the signatures appended thereto were made in his presence and are the signature of the persons whose names they purport to be.

Signed \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_. This petition, if found insufficient by the City Clerk shall be returned to the person whose name appears as nominee in the petition at his address.

Where a nomination petition is filed nominating a qualified voter for the office of Ward Councillor, the electors signing such petition shall be residents of such nominee's ward at the time of signing such petition.

If a candidate regularly nominated as provided herein, should die or withdraw by the filing of a formal statement of withdrawal with the City Clerk, then the time limits herein prescribed for the filing of such nominating petition shall be waived and such nominee's name placed upon the ballot if ballots have not been printed.

#### State Laws Applicable.

Section 19. Except as otherwise provided herein, the provisions of any state law, now or hereafter in force, relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other provisions with respect to the conduct of elections, shall, so far as applicable, apply to all municipal elections held under this Charter.

#### Tie in Election.

Section 20. Whenever two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the City Council, at such time and in such manner as they may direct, of which time and place said candidates shall have notice.

### FORM OF GOVERNMENT.

#### Elective Offices.

Section 21. The elective offices of the City shall be a Mayor, five members of the City Council, to be styled "City Councilors", a City Clerk, a City Treasurer, and a Municipal Judge, all of whom shall be residents and qualified electors of the City. Each ward shall elect a councilor, who shall be a resident and qualified elector within the ward from which he seeks election and there shall be elected within and for said City one Councilor-at-large, who, upon qualifying, shall be the President of the Council. All other elective officers shall be elected from the City at large.

#### Boards, Commissions, and Departments.

Section 22. In addition to the elective officers of the City, there shall be a Board of Health, a Public Utilities Commission, a Fire Department, and a Police Commission, the duties, powers, and form of organization of which shall be as defined herein.

#### Appointive Offices.

Section 23. There shall also be appointed, in the manner herein-after provided, a City Manager, a City Attorney, a City Assessor, and such other officers and employees as may be required under this Charter, the General Laws of the State, or the ordinances of the City.

#### Incompatible Offices.

Section 24. No member of the City Council, nor any member of his immediate family, shall be appointed City Manager, or hold any other paid municipal office or employment under the City; and, until one year after the expiration of his term of office as Councilor no former member shall be appointed to any paid office or employment under the City, created during his term as a member of the Council or the emoluments of which were increased during said term.

#### Combining of Offices.

Section 25. Any two or more of the offices created under this Charter, and made appointive by the City Council, may, in the discretion of the Council, be filled by one and the same person. Additional functions and duties may be assigned to departments, commissions, and offices established by this Charter, but no function or duty assigned by this Charter to a specific department or office shall be discontinued by the Council or assigned to any other department or office.

#### Additional Offices, Departments, or Commissions.

Section 26. The City Council may create and establish additional offices, departments, or commissions, consistent with the general purposes of this Charter and may, from time to time alter the form or functions thereof. It may also discontinue temporarily or entirely abolish the departments, commissions or offices by it so established.

#### Functions of the Council.

Section 27. All powers of the City, both legislative and administrative, unless otherwise delegated by the provisions of this Charter, shall vest in and be exercised by the City Council subject as herein provided to the initiative, referendum, and recall powers of the people.

Except as otherwise specifically provided in this Charter, the Council shall have complete control over all administrative service, but it shall exercise that control through a City Manager to be appointed by said Council, and shall not itself attempt to perform any such service.

#### Duties and Powers of the Mayor.

Section 28. The Mayor shall be the chief executive officer



of the City. He shall also be the head of the police department of said City and shall have the power of appointing and removing all police officers and watchmen, subject to confirmation and approval of the Police Commission. He shall exercise all powers and perform all duties conferred on him by this Charter, the ordinances of the City, and the laws of the State.

He shall have the power to veto all ordinances and resolutions enacted or adopted by the City Council, also all motions passed by the Council involving the expenditure of public funds or the granting of licenses or permits.

He shall be recognized as the official head of the City for all ceremonial purposes, and by the Governor of the State for the purpose of the martial law. He shall study the operation of the City Government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any officer or department of the City.

#### Acting Mayor.

Section 29. In case of the temporary absence of the Mayor from the City, or by reason of his inability through sickness or otherwise temporarily to perform the duties of his office, the President of the City Council, or in the event he also is prevented by absence or sickness from acting, then the Vice-President of the Council, shall during such absence or disability, exercise the powers and perform the duties of the Mayor, and while so acting shall be styled "Acting Mayor" and his acts in that capacity shall have the same force and validity as if performed by the Mayor.

#### Terms of Office.

Section 30. The terms of all officers elected at the regular Municipal elections, shall be for four years, and until their successors are elected and qualified, provided however, that at the regular election in 1952, the Mayor, the City Treasurer and the Councilors for the Second and Fourth Wards shall be elected for a term of two years and the Councilor at Large, the Councilors for the First and Third Wards, the Municipal Judge, and the City Clerk shall be elected for a term of four years. Thereafter, their successors shall all be elected for four-year terms.

Except as otherwise provided in this Charter, the term of office of all appointive officers shall be for one year and until their successors shall have been appointed and duly qualified.

#### Commencement of Terms.

Section 31. Unless otherwise specifically provided in this Charter, the terms of all elective officers shall begin on the first day of January following their election and of all appointive officers on the first Tuesday after the first Monday in January.

#### Vacancies - How Created.

Section 32. A vacancy in any office created under this Charter,

and filled either by election or appointment or a definite term, shall be deemed to exist for any of the following reasons: The death, resignation, removal, or recall of the incumbent; his removal from the ward for which he was elected, or from the City; his conviction, while in office, of any infamous crime or of any offense involving a violation of his official oath; his failure to take the oath of office or to give or renew his official bond or to deposit or file such oath or bond within the time prescribed, the decision of a competent tribunal declaring his election or appointment void; or the death of the person elected or appointed to fill a vacancy, or for a full term before he qualifies, or before the time when by law he should enter upon the duties of the office to which he was elected or appointed, in which case the vacancy shall be deemed to take place at the time when his term of office would have begun had he lived.

#### Vacancies - How Filled.

Section 33. Whenever such a vacancy occurs the City Council shall by resolution declare such vacancy to exist and an eligible person shall forthwith be appointed to fill the same. In the case of a vacancy in the membership of the Council it shall be filled by appointment only until the next regular municipal election, at which time a successor shall be chosen for the balance of the unexpired term. In all other cases the appointment shall be for the unexpired term; provided, that in filling a vacancy in the office of Mayor, the Council shall not appoint one of its own members; and provided, further, that any vacancy, resulting from a recall election or from a resignation in consequence of the filing of a recall petition, shall be filled in the manner expressly provided in this Charter.

#### Vacancies in Commissions.

Section 34. Nothing in the foregoing section shall be construed as applying to vacancies in the membership of commissions appointed under this Charter. Such vacancies shall be filled in the manner specifically provided herein.

#### Salaries.

Section 35. The members of the City Council and the Mayor shall receive such salaries as may be fixed by the Council not exceeding, however, \$100.00 for any one year; provided, that the City Council may create a contingent fund for the Mayor, in such amount as it may deem proper, to cover legitimate expenses incurred in his official capacity. Such salaries shall be fixed by the first Council elected under this Charter for the period of their incumbency, and by every succeeding Council, for a period of two years, and shall not be increased or diminished during any such period. In addition, such Councilors shall receive compensation of \$1.00 per hour of actual service when meeting as a Board of Equalization, not to exceed, however, a period of five days in any one year.

The salary of all other elective officers shall also be fixed by the City Council.

Except as otherwise provided for herein, the City Council shall fix the salaries of all appointive officers at the time of their appointment.

#### Removals.

Section 36. Every person elected to office under this Charter, and every person appointed for a definite term, shall be subject to removal by a four-fifths vote of the Council. No such officer, however, shall be removed except for cause, nor unless furnished with a written statement of the charges against him and an opportunity given him to be heard, in person, or by counsel, in his own defense.

The Council shall fix the time and place for a hearing on such charges, of which not less than ten days' notice shall be given to the officer to be removed, and shall have the power to arrange the mode of trial, to compel the attendance of witnesses and the production of papers, to administer oaths, and to hear the proofs and arguments. If, after due notice, said officer shall neglect to make answer to the charges, the same shall be cause for removal without further notice.

#### Powers Reserved to Electors.

Section 37. There is reserved to the electors of the City, the power, in accordance with the provisions of this Charter, to initiate and adopt ordinances and resolutions, to require measures passed by the City Council to be referred to the electorate for approval or disapproval, and to recall elected public officials. Such powers shall be known respectively as the initiative, referendum, and recall.

#### Oaths of Office.

Section 38. Every person elected or appointed to office under this Charter shall, before entering upon the performance of the duties of his office, take and subscribe an oath of office, in the form prescribed by the General Laws of this State, and shall cause the same to be filed with the City Clerk.

#### Official Bonds.

Section 39. The City Manager, the City Clerk, the City Treasurer, and such other officers as the Council or the various Commissions may direct, shall each, before entering upon the duties of their respective offices, be required to give bond to the City, in such sum as may be fixed by the Council or the Commissions, as additional security for the faithful performance of their respective duties and the safekeeping of the moneys, funds, securities, and property belonging to the City or any of its departments or commissions, or under their control. Such bonds shall be approved by the Council or the Commissions, as the case may be, and shall then be filed with the City Clerk, excepting that the bond of said City Clerk shall be filed with the City Treasurer.

## INITIATIVE, REFERENDUM AND RECALL.

### Initiatory Petitions.

Section 40. Any proposed legislation, in the form either of an ordinance or resolution, may be submitted to the City Council by a petition asking for its adoption by the Council, or, in case of unfavorable action by the Council, for its submission to approval by a vote of the electors.

Any five electors may form themselves into a committee for the initiation of such a petition by filing with the City Clerk a copy of the proposed ordinance or resolution, approved as to form by the City Attorney, together with their names and addresses as members of the Committee. Thereupon the City Clerk shall furnish them with uniform blanks in the form of signature papers for circulation among the voters.

### Signature Papers and Affidavits.

Section 41. Each signature paper shall contain, or have attached thereto, a copy of the proposed ordinance or resolution and a statement signed by the members of the committee setting forth that they are the sponsors thereof. The signatures obtained to each of such signature papers shall be in ink or indelible pencil and shall be accompanied in each instance by the address, by street and number, of the signer. At the end of the list of signers there shall be an affidavit by the circulator of the paper to the effect that each signature appended thereto is the genuine signature of the person whose name it purports to be and that it was made in the presence of the affiant.

### Filing of Petition.

Section 42. When the signature papers are presented for filing in the office of the City Clerk they shall be treated collectively as one instrument, which, to constitute a regular and sufficient initiative petition, shall contain a number of signatures equal to at least ten per cent of the total number of votes cast at the last preceding regular municipal election.

Within five days after the filing of the petition the City Clerk shall ascertain whether it is signed by the required number of qualified electors, and shall endorse thereon a certificate of the result of his examination. If his certificate shows that the number of signatures to the petition is insufficient, the committee sponsoring the petition shall be notified of the fact and given thirty days in which to file additional papers and to correct any irregularities.

If at the end of that period the petition is found to be still irregular or insufficient, the Clerk shall file the same in his office with a second certificate endorsed thereon, showing the results of the final examination.

Thereupon no further proceeding need be taken thereunder, except that the City Clerk shall inform the City Council of the filing of such insufficient petition, the nature and purpose thereof, and the number of signatures actually appended thereto.

The final finding of the insufficiency or irregularity of a petition shall not prejudice the initiation of a new petition for the same purpose, nor shall it prevent the City Council, if it so desires, from acting with reference thereto in the same manner as if the petition had been in all respects regular and sufficient.

#### Procedure of the Council.

Section 43. If the certificate of the Clerk shows that the petition is sufficient, he shall present the proposed ordinance or resolution to the City Council at its next regular meeting. The Council shall thereupon proceed to consider the same, and shall take final action thereon within thirty days after its submission to the Council by the Clerk.

If the Council fails to adopt the proposed measure, or shall pass it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed measure shall be submitted by the Council to a vote of the electors at the next regular municipal, state, or primary election.

If, however, the number of signatures to such petition shall be equal to at least twenty per cent of the total number of votes cast at the last preceding regular municipal election, the Council shall call a special election for submission of the measure, to be held not less than thirty, nor more than forty-five, days thereafter, unless a regular municipal, state, or primary election is to occur within three months, in which case the proposal may be submitted at such regular election.

In case the City Council passes the proposed resolution or ordinance with amendments to which four-fifths of the sponsoring committee do not offer any objections, filed in writing with the City Clerk within ten days after the adoption thereof by the Council, the proposed measure need not be submitted to the electors.

#### Initiative Ballots - Effect of Vote.

Section 44. The ballots used in voting upon any such proposed measure shall state briefly the substance thereof and shall give the voter the opportunity to vote either "For the Measure" or "Against the Measure". If a majority of the electors voting on any such measure shall vote in favor thereof, it shall thereupon become an ordinance or resolution of the City, as the case may be. Any number of proposed measures may be voted upon at the same election, but in case there shall be more than one, the voter shall be allowed to vote for or against each separately.

#### Initiation of Charter Amendments.

Section 45. Nothing contained in this Charter shall be construed as in any way affecting the right of the electors under the Constitution and General Laws of the State to propose amendments to this Charter.

#### Referendum.

Section 46. Any ordinance or resolution, passed by the City Council, excepting emergency ordinances and resolutions as defined in this Charter and ordinances and resolutions making the annual tax levy, determining the annual budget, and providing for local improvements and special assessments, shall be subject to a referendum vote of the electors of the City, if, at any time before the taking effect of such ordinances or resolutions as herein provided, there shall be filed with the City Clerk a petition, signed by electors equal in number to fifteen per cent of the total number of votes cast at the last preceding general municipal election, requesting the City Council to repeal or amend such ordinance or resolution as proposed in said petition or submit it to the qualified electors of the City for their approval or rejection.

#### Referendum Petitions.

Section 47. The rules and regulations for the presentation and filing of referendum petitions shall conform as nearly as possible to the rules and regulations prescribed herein for the form and manner of signing initiative petitions, the filing, examination, certification, and sufficiency thereof, and their presentation to the Council by the City Clerk.

#### Action by the Council.

Section 48. When a referendum petition asking for the repeal or amendment of any ordinance or resolution shall have been presented to the City Council, the Council shall thereupon reconsider the said ordinance and resolution and either repeal or amend the same, as requested in the petition, or by aye and no vote reaffirm its adherence to the measure as originally adopted. In the latter case the City Council shall immediately order an election for the submission of the repeal or amendment of said measure to the electors of the City, such election to be held not less than thirty nor more than forty-five days thereafter; provided, that if any other municipal, state or primary election is to occur within sixty days after such meeting, the Council may in its discretion provide for the holding of such referendum election at that time.

#### Referendum Ballots - Effect of Vote.

Section 49. The ballots to be used in any referendum election shall conform, as near as may be, to the form prescribed herein for ballots in initiative elections. If a majority of the electors, voting on the question of repeal or amendment, vote against the ordinance or resolution which it is sought to repeal or amend, it shall not go into effect, except



as amended; but if a majority of the voters voting thereon favor the measure as adopted, it shall go into effect immediately, or on the date therein specified.

Suspension of Ordinances and Resolutions Pending Referendum.

Section 50. Whenever any referendum petition is filed as herein provided, the ordinance or resolution which it is desired to have submitted to a referendum vote of the electors shall be suspended from taking effect during the pendency of the proceedings.

Blanks for Petitions.

Section 51. The City Clerk shall provide and keep on file at all times forms of blanks to be used in the circulation of initiative and referendum petitions.

Initiation of Recall Petitions.

Section 52. Any five electors may form themselves into a committee for the purpose of bringing about the recall of any officer elected from the City at large. Any five electors of any ward may form themselves into a committee for the purpose of recalling the Councilor elected from that ward.

Such committees shall certify to the City Clerk the name of the officer whose removal is desired, a statement, in not more than two hundred fifty words, of the grounds for removal, and their intention to bring about his recall. Thereupon the City Clerk shall furnish them with uniform blanks in the form of signature papers for circulation among the voters.

Signature Papers and Affidavits.

Section 53. Each signature paper shall contain, or have attached thereto, a copy of the certificate filed with the City Clerk, and no signature paper of any kind shall be put into circulation prior to such certification. Each signature paper shall also contain a statement, signed by the members of the Committee, setting forth that they are the sponsors of the recall petition.

The signatures obtained to each signature paper shall be in ink or indelible pencil and shall be accompanied in each instance by the address, by street and number, of the signer. At the end of the list of signers there shall be an affidavit by the circulator of the paper to the effect that each signature appended thereto is the genuine signature of the person whose name it purports to be and that it was made in the presence of the affiant. The signature papers when presented for filing shall be treated collectively as one instrument to be known as the recall petition.

#### Filing of Petition.

Section 54. Within thirty days after the filing of the original certificate, the committee shall present the completed petition for filing in the office of the City Clerk. The Clerk shall examine the same within the next five days, and if he finds it irregular in any way, or finds that the total number of signers is less than twenty-five per cent of the total number of votes cast, in the City or ward, as the case may be, at the last preceding regular municipal election, he shall so notify all members of the committee, and the committee shall then be allowed a period of ten days in which to present additional signature papers and to correct the petition in all other respects; provided, however, that they shall not be permitted to change in any way the statement of the grounds upon which the recall is sought. If at the end of that time the City Clerk finds the petition still insufficient or irregular, he shall notify all members of the committee to that effect and shall then file the petition in his office with a certificate endorsed thereon as to his findings. No further action need then be taken thereon.

#### Recall Election

Section 55. If the petition or amended petition be found sufficient, the City Clerk shall transmit it to the City Council without delay, and shall also officially notify the person sought to be recalled.

If the officer sought to be recalled resigns within ten days after the receipt by the City Council of the recall petition, the vacancy shall be filled in the manner provided in this Charter for the filling of vacancies in all elective offices, and no recall election be held.

If he does not resign within the time aforesaid, the City Council shall at its next meeting provide for the holding of a special recall election throughout the City, or the ward in question, to be held not less than thirty nor more than forty-five days thereafter; provided, that if any other municipal, state, or primary election is to occur within sixty days after such meeting, the Council may, in its discretion provide for the holding of the recall election at that time.

At such election the officer whose removal is sought shall be deemed to be a candidate and his name shall be placed on the ballot without any further act on his part. Other candidates shall be nominated in the manner provided in this Charter for the nomination of candidates for elective offices.

#### Procedure at Recall Election.

Section 56. The notice for the election shall contain a brief statement of the grounds upon which the recall is sought, and also a statement, in not more than five hundred words, by the officer, in his own behalf. The election itself shall be conducted, as far as may be possible, in accordance with the usual procedure in municipal elections.

The ballot to be used at such election shall contain the names of all candidates nominated for the office in which it is desired to create a vacancy, including the name of the officer whose recall is sought. If the incumbent fails at such election to receive the highest number of votes, he shall be deemed removed from office, and the candidate receiving the highest number of votes shall be deemed his successor in office for the unexpired term.

#### Recall Limitations.

Section 57. No recall petition shall be filed against any officer until he has been in office for six months, and none within six months of the end of his term.

#### Blanks for Petitions.

Section 58. The City Clerk shall provide and keep on file at all times forms of blanks to be used in the circulation of recall petitions.

### COUNCIL PROCEDURE

#### Regular Meetings.

Section 59. On the first Tuesday after the first Monday in January in each year the City Council shall hold what shall be known as the regular annual meeting. All other stated regular meetings shall be held on the first Tuesday of each month.

#### Special Meetings.

Section 60. Special meetings may be held at any time upon call of the Mayor, or at the request of any three members acting through the Mayor, and if for any reason the Mayor refuses to act upon such request, then upon the call of the members themselves. In all cases notice in writing, containing a statement of the purpose for which the meeting is called, shall be given to each member of the Council at least six hours in advance thereof, either by delivery in person or by leaving a copy of the notice with some responsible person at the member's usual place of abode.

#### Rules of Procedure and Quorum.

Section 61. The Council shall determine its own rules and order of business, and shall keep a journal of its proceedings. A majority of all members elected shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

#### Meetings to be Public.

Section 62. All meetings of the City Council shall be public, and any citizen shall have access to the minutes or records thereof at all reasonable hours.

### Organization.

Section 63. On the first Tuesday after the first Monday in January following the first election held under this Charter, and at the annual meeting immediately following any regular municipal election, the newly elected Councilors shall enter upon the duties of their office, and the Council shall then proceed to perfect its organization. From their own number they shall choose a Vice-President, who shall preside at all meetings of the Council in the absence of the President and perform such other duties as may be required by him by the provisions of this Charter.

The Councilors elected in the first election under this Charter shall serve for the interim period ending January 1st 1953 and then for full term for which they were elected.

### Appointments.

Section 64. At its first organization meeting, or as soon thereafter as possible, the Council shall appoint a City Manager, who shall hold office during the pleasure of the Council and whose powers and duties as the administrative officer of the City shall be as defined herein. The City Manager shall be appointed for an indefinite period and may be suspended or removed by the Council at any time. The action of the Council in suspending or removing him shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the City Council. In the event of his removal the Council shall immediately take steps to appoint his successor.

At the same meeting, and at the annual meeting in each year thereafter, the Council shall appoint a City Attorney and such other officers as are, or may be, required under the provisions of this Charter, the General Laws of the State, or the Ordinances of the City, and whose appointment is not specifically delegated to some other authority.

The Mayor shall likewise at these meetings, or adjourned sessions thereof, make such nominations for appointment as he is authorized to make by this Charter, but which require confirmation by the City Council.

At the regular monthly meeting in October of each year the City Council shall also appoint a City Assessor, whose term of office shall begin on the Tuesday next following.

### Ordinances, Resolutions, and Motions.

Section 65. The final vote upon all ordinances or resolutions, and upon all amendments thereto, shall be by ayes and noes, and the vote of each member shall be recorded in the minutes. The votes of at least three members shall be required for the passage of all ordinances, resolutions and motions, except as otherwise provided in this Charter. Every ordinance or resolution enacted or adopted by the Council shall be signed by the President of the Council, attested by the City Clerk, and approved by the Mayor, and shall be filed with the City Clerk immediately after its passage.

#### Procedure on Ordinances.

Section 66. The enacting clause of all ordinances passed by the Council shall be in the words: "The City of New Ulm does ordain." Every ordinance shall be presented in writing. Every ordinance, other than emergency ordinances, shall have two public readings in full, and at least three days shall elapse between the first and second readings thereof.

#### Emergency Ordinances and Resolutions.

Section 67. 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 or declared in a preamble thereto, separately voted upon, and agreed to by at least four members of the Council, as recorded by ayes and noes.

#### Procedure on Resolutions.

Section 68. Every resolution shall be presented in writing and read in full before a vote is taken thereon, unless the reading thereof is dispensed with by unanimous consent.

#### Signing and Approval.

Section 69. Every ordinance or resolution enacted or adopted by the Council shall be presented by the City Clerk to the Mayor for approval or disapproval within three days after its passage, Sundays excepted. Under such presentation, the Mayor shall endorse thereon the date of its presentation to him, and shall, within three days, Sundays excepted, place thereon in writing, either his approval or disapproval. If he disapproves of the same, he shall attach thereto his objections, and return such ordinance or resolution, together with his objections, to the City Clerk within the time aforesaid.

Upon the return of any such ordinance or resolution, disapproved by the Mayor, the vote by which the same was passed shall be reconsidered by ayes and noes, entered upon the record, and if upon such reconsideration it shall be passed by said Council by a four-fifths vote of its membership, it shall have the same effect as if approved by the Mayor.

If an ordinance or resolution is not returned by the Mayor within three days after it shall have been presented to him, it shall have the same effect as if approved by him.

#### Publication of Ordinance.

Section 70. After approval in any manner, every ordinance shall be published at least once in the official paper of the City within fifteen days after such approval and shall be recorded by the City Clerk in a book kept for that purpose, and the affidavit of publication thereof shall be

recorded therewith, and the record of said ordinance and affidavit of publication thereof, or a certified copy thereof, shall be deemed sufficient evidence of such publication.

Mayor's Veto of Motions.

Section 71. Every motion passed by the Council, involving the expenditure of public funds or the granting of licenses or permits, shall be subject to the veto of the Mayor.

If not disapproved by him within three days after its passage, it shall have the same effect as if expressly approved by him. If he disapproves of the same, he shall file his objections, in writing, with the City Clerk within the time aforesaid, in which event the vote upon such motion shall be reconsidered by the Council, and if, upon reconsideration it shall be passed by a four-fifths vote of its membership, it shall have the same effect as if approved by the Mayor.

When Ordinances and Resolutions Take Effect.

Section 72. Emergency Ordinances and resolutions, and ordinances and resolutions determining the annual budget, making the annual tax levy, and providing for local improvements and special assessments, shall take effect immediately upon their passage and approval, and publication in case of ordinances.

All other ordinances and resolutions, enacted by the Council, shall take effect thirty days after the date of their passage and approval, and publication in case of ordinances, unless a later date is fixed therein, in which event they shall take effect at such later date. Ordinances and resolutions adopted by the electors of the City shall take effect at the time fixed therein, or, if no such time is designated therein, then immediately upon the adoption thereof.

Reconsideration of Council Vote.

Section 73. No vote of the City Council shall be reconsidered or recinded at a subsequent meeting unless there be present at such meeting as large a number of councilors as were present when the vote was taken.

Official Paper.

Section 74. At the regular annual meeting in each year the City Council shall designate one of the legal newspapers, regularly printed and published in the City, as the official paper of said City, in which shall be published all ordinances and other proceedings and notices, the publication of which is required by this Charter or the ordinances of the City; provided, that the City Council may order the publication of such ordinances, notices, and advertisements as may be of general importance in such other newspapers as they may direct.



DEPARTMENTS OF CITY ADMINISTRATION.

City Manager - Powers and Duties

Section 75. The City Manager shall be the Administrative Officer of the City, and shall supervise and direct the administration of the City's affairs except as otherwise provided in this Charter, and shall be responsible to the City Council for the faithful discharge of his duties. He shall be subject to all of the provisions of this Charter, and to such rules and regulations consistent therewith as may from time to time be adopted by the City Council. He shall have the following powers and duties:

- (1) He shall attend all meetings of the City Council with the right to take part in its discussions, but shall have no vote; but the City Council may in its discretion exclude him from meetings at which his removal is considered.
- (2) He shall be the Purchasing Agent of the City and shall have power and authority to make purchases for it and to enter into contracts in its behalf, subject to such rules, regulations, and directions as may from time to time be prescribed by the City Council.
- (3) He shall audit and approve in writing all bills and accounts before orders are drawn for their payment and together with the City Clerk, as hereinafter provided, he shall sign all orders on the City Treasurer.
- (4) He shall make such suggestions and recommendations to the City Council from time to time as he thinks proper for the efficient administration of the City's affairs; and the City Council may, whenever it deems fit to do so, refer any question or matter to the Manager for investigation and report.
- (5) He shall keep the City Council fully advised as to the financial condition and needs of the City, and prepare and submit to the City Council the annual budget of the City.
- (6) He shall see that all contracts entered into by the City for public improvements or other purposes are faithfully and honestly performed by the contractor, and that all street and other work ordered or authorized by the City Council is properly performed. He shall carefully inspect all work done and all materials furnished whether on contract or otherwise, and make report to the City Council from time to time during the progress of the work, and upon final completion thereof; he shall approve all bills and estimates for such work before payment, and no work shall be finally accepted until final inspection and approval by him. To the end that he may efficiently perform said duties, he shall have power to appoint and remove a City Engineer, a Street Commissioner and such other employees as may be necessary for the purposes aforesaid. All such appointments shall be without definite term, and a City Engineer shall be employed only when necessary. The compensation of all of said officers and employees shall be fixed by the City Council.

(7) He shall perform such other duties as may be prescribed by this Charter or required of him by the City Council not inconsistent with the provisions of this Charter.

During the absence or disability of the City Manager, the duties of his office shall be performed by some properly qualified person designated by the City Council.

#### Purchases.

Section 76. No purchase involving the expenditure of more than \$3,000.00 shall be made except upon competitive sealed bids, and in all such cases public notice should be given and bids invited for the same by notice published in the official paper of the City once in each week for two successive weeks; provided, however, that the City Council shall have power, without limitation as to amount, to authorize the purchase of supplies or equipment of any kind or character, and to make emergency repairs or replacements, without receiving bids therefor, when recommended in writing by the City Manager and approved by unanimous vote of the City Council.

#### Requisitions.

Section 77. No order shall be placed or any purchase made for or on behalf of the City except upon written requisition of the head of the Department or Board in such form as the City Manager shall prescribe.

#### City Clerk - Powers and Duties.

Section 78. The powers and duties of the City Clerk shall be as follows:

(1) He shall be the chief accounting officer of the City and all departments thereof. He shall keep a complete set of books, showing in detail all of the business and financial affairs and transactions of the City. The City Council shall have authority to prescribe the form of such books of account and also to prescribe and enforce such methods of accounting as it may deem best for the interest of the City.

(2) He shall have the corporate seal of the City and all papers and records of the City except as otherwise provided in this Charter.

(3) He shall be the Clerk of the City Council and as such shall attend all of its meetings and keep a record of all of its proceedings in books to be provided therefor.

(4) He shall sign all orders on the City Treasurer, but only when authorized to do so as provided in this Charter. He shall also sign all bonds, certificates of indebtedness, warrants, or other evidences of indebtedness at any time issued by the City, and affix the corporate seal thereto. He shall also sign in behalf of the City any and all contracts authorized by the City Council, pursuant to the provisions of this

Charter, and shall likewise affix the corporate seal thereto.

(5) He shall on request, prepare and certify under the corporate seal of the City copies of all papers and records in his office, and he shall be entitled to make a reasonable charge therefor.

(6) He shall have the power to administer oaths and affirmations and to take acknowledgments.

(7) He shall promptly notify all officers of their election or appointment and of the amount of their official bonds.

(8) He shall report the name of any person elected or appointed to any office, who shall have neglected to file his official bond or oath of office as required, to the Council at its next meeting after such default.

(9) He shall present to the City Council at each regular meeting thereof a report, setting forth in detail and classified as to funds, all moneys received and paid out in behalf of the City since its last monthly report, the balance to the credit of each fund, and the balance on deposit in each City Depository. At the end of each fiscal year he shall present a similar report to the City Council, showing in detail all receipts and disbursements of the City for the fiscal year then ending. All of said reports shall be in such form as may be prescribed by the City Council. He shall also make such other and further reports as may from time to time be required of him by the City Council.

(10) He shall have such other powers and duties as may be elsewhere provided in this Charter or as may hereafter be prescribed by the City Council.

#### Duties of the City Treasurer.

Section 79. He shall receive and safely keep all moneys and funds belonging to or under control of the City or any department thereof, including the moneys and funds of the Public Utilities Commission, and any other commission or bureau hereafter at any time established.

(2) He shall be the custodian of and shall safely keep all bonds, certificates of indebtedness, warrants, and other securities owned or held by the City or any of its departments, or by the Public Utilities Commission or any other commission or bureau hereafter or at any time established, for any purpose whatsoever.

(3) He shall keep an accurate and detailed record of all moneys and property received by him belonging to the City or any department or commission thereof. He shall keep a separate account for each fund and pay no money out of the treasury except by an order signed by the City Manager and City Clerk, as provided by and in this Charter. He shall pay all orders out of the particular fund on which they are drawn and no other, and shall refuse to pay any order when there is insufficient money in the fund on which it is drawn to pay the same.

(4) He shall deposit daily all moneys received by him, belonging to the City or any department or commission thereof, in some bank or banks designated by the City Council as a depository or depositories. All moneys shall be deposited in the name of The City of New Ulm. He shall issue receipts in triplicate for all moneys paid to him, one of which shall be delivered to the person making the payment, one to be delivered forthwith to the City Clerk, and one to be retained as a permanent record in the City Treasurer's Office.

(5) He shall present to the City Council at each regular meeting thereof a report, setting forth in detail and classified as to funds all moneys received and paid out by him in behalf of the City since his last monthly report, the balance to the credit of each fund, and the balance on deposit in each City depository. At the end of each fiscal year he shall present a similar report to the City Council, showing his receipts and disbursements as such City Treasurer for the fiscal year then ending. All of said reports shall be in such form as may be prescribed by the City Council. He shall also make such other and further reports as may be required from time to time by the Council.

(6) He shall have such other duties as may be elsewhere provided in this Charter, or as may hereafter be prescribed by the City Council.

#### City Attorney.

Section 80. The City Attorney shall be a person who has been admitted to practice in the Courts of this State for at least three years prior to his appointment. He shall be the legal advisor of and attorney for the City and all departments or officers thereof in relation to their official powers and duties. It shall be his duty to attend all meetings of the City Council; to give advice in writing, when so requested, to the Council, the City Manager, or any of the authorized boards or commissions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party, to prosecute for all offenses against the ordinances or regulations of the City and for such offenses against the laws of the State as may be required of him as the chief legal officer of the municipality by law; to draw all contracts, bonds, and other instruments in writing in which the City is concerned and to endorse thereon his approval of the form and correctness thereof; to draw all ordinances and resolutions; and to perform such other duties of a legal nature as the City Council may from time to time require.

#### City Assessor.

Section 81. The Assessor shall have and possess all of the authority, rights, powers, and duties of assessors under the General Laws of the State, now or hereafter enacted, together with the right to appoint a deputy or deputies, subject to the approval of the City Council.

#### Board of Health.

Section 82. The Board of Health, created under this Charter, shall be composed of three resident freeholders, one of whom shall be designated in

his appointment as Health Officer of the City and executive head of the Board. The Health Officer shall be a qualified practicing physician, and shall receive as compensation for his services such salary as the City Council may determine at the time of his appointment. All members of the Board shall be appointed by the Mayor, with the approval of the Council held under this Charter and at the regular annual meeting in each year thereafter. Their tenure of office shall be until their successors are duly appointed and qualified.

The Board, in addition to enforcing the ordinances of the City pertaining to sanitary conditions and the public health, shall perform all duties prescribed for municipal health boards and health officers by the laws of the State, and in the performance of such duties they may exercise all the powers conferred by said laws.

#### Publicity of Records.

Section 83. All records and accounts of every officer and department of the City shall be open to inspection to any citizen at all reasonable times and under reasonable regulations established by the City Council, except such records and documents the disclosure of which would tend to defeat the lawful purposes which they are intended to accomplish.

#### Investigation of City Affairs.

Section 84. The Council and any officer or officers, formally authorized by it, shall have power to make investigations into the City's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers.

#### Audits.

Section 85. As soon as practicable after the close of each fiscal year an independent audit shall be made of all accounts of all City Officers by a qualified public accountant or accountants, selected by the City Council and who have no personal interest, direct or indirect, in the financial affairs of the City or any of its officers; but if such an audit is required to be made by state officers under the provisions of any law for the inspection and audit of municipal accounts, the City Council may accept such audit by state officers as fulfilling the requirements of this section for an independent annual audit. The City Council may at any time provide for an examination or audit of the accounts of any officer or department of the City Government.

#### Service of Process.

Section 86. Whenever any suit or action shall be commenced against the City, all and every process and notice whatsoever effecting the City shall be served upon the Mayor, or, in his absence, upon the City Clerk, and it shall be duty of the officer so served to forthwith inform the City Council thereof.

#### Police Department.

Section 87. The Police Department of the City shall consist of the Mayor, a Chief of Police, and such other police officers and patrolmen as the City Council may from time to time determine.

The Mayor shall be the responsible head of the department and as such shall have the power to appoint all members of the force and suspend or remove them at will; provided, however, that the appointment, suspension and removal of all members of the police force, other than the Chief of Police, shall be subject to confirmation by the Police Commission or a majority of its members.

The Chief of Police, subject at all times to the orders of the Mayor, shall be in immediate control and supervision of all of the police officers and shall be responsible for the faithful performance of their duties as well as his own.

#### Police Commission.

Section 88. A Police Commission of three members shall be appointed by the City Council from outside its membership at its first meeting after the adoption of this Charter, one member for the term ending on the first day of January, 1954; one for a term ending on the first day of January, 1955; and one ending on the first day of January, 1956. Beginning with the year 1954 and every year thereafter at the regular annual meeting of the City Council, one commissioner shall be appointed by it for a term of three years. The members of the commission shall serve without compensation.

Such commission shall have the power and duty to confirm or disapprove all appointments, suspensions and removals of members of the police force except the Chief of Police and special policemen, but shall exercise no other control over the Police Department or its members. The Commission in its discretion may require the filing of a formal charge against any policeman sought to be suspended or removed by the Mayor and shall direct a hearing thereon with an opportunity to be heard.

Any complaints relative to misconduct on the part of any police officer or officers or complaints involving malfeasance or nonfeasance on the part of such officers or officer made to the Mayor, Chief of Police, or City Manager, shall be filed with the Commission for its consideration before confirming appointments. The Commission shall meet quarterly with the Mayor, Chief of Police, and the City Manager, at the call of the Mayor.

#### Qualifications.

Section 89. No person shall be eligible to appointment in the Police Department who is not a citizen, nor shall any person be eligible to appoint therein other than as a special policeman, who has not been a resident of the City for at least one year prior to his appointment.



#### Duties.

Section 90. The duties of all police officers shall be such as the laws of the State and the ordinances of the City may prescribe for the preservation of the public peace, the prevention and detection of crime, the arrest of offenders, the protection of the rights of persons and property, the enforcement of laws of the State and the ordinances and regulations of the City, and the custody and care of prisoners held in the City jail during the pendency of hearings or trials in the City courts.

#### Powers of Police Officers.

Section 91. The Chief and all regular officers of the Department shall possess the authority and rights of, shall perform all the duties of Constable, and, when acting in matters to which the City is not a party, shall receive the same fees as constables under the law of this State.

#### Service of Process and Writs.

Section 92. The Chief, and all regular Police Officers have the power to execute and serve all warrants, process commitments, and writs whatsoever, issuing out of any authorized court of the City, and whenever any crime shall be committed in the City and the person or persons accused or suspected thereof shall flee from justice, the officers of the Department shall have authority to pursue and arrest such fugitives anywhere in the State.

#### Special Police.

Section 93. The Mayor may, in case of riot, large public gatherings, or disturbances, appoint such special or temporary police officers as he may deem necessary, but such special or temporary appointments shall not continue in effect for more than one week without the consent of the City Council.

#### Police For Designated Places.

Section 94. The Mayor may also, at the request of any person, firm, society, or corporation, appoint policemen or watchmen who shall serve without expense to the City, and have police powers to preserve the peace and protect property within such limits and at such places as may be designated in such appointment, but such policemen or watchmen may exercise no authority, nor wear any badge of office, outside the limits named in such appointment.

#### Compensation.

Section 95. The salaries or compensation of the Chief and all regular and special police officers and patrolmen shall be fixed by the Mayor, by and with the approval of the City Council. In addition to the salary allowed to the regular officers of the Department they may be allowed to retain as their own all fees to which they may be entitled for the service of papers, issuing out of any authorized Court of the City; provided, that they shall not be paid any additional compensation whatever for the service of warrants,

subpoenas, and other papers, or for attendance upon court in any criminal action in said city wherein the City of New Ulm is a party.

Fire Department.

Section 96. The City Council shall have the power to make all regulations reasonable necessary for the prevention of fires and the elimination of fire hazards within the City. It shall have power to prescribe the limits within which buildings, the material or construction of which shall be regarded as dangerous to surrounding property, shall not be erected, enlarged, placed, or repaired; to prescribe the manner in which such buildings shall be constructed or repaired; to order the removal of any or all buildings or materials erected or placed in violation of such prescription, by notice to the owner or agent; and, in case the same is not removed in pursuance of notice given to order the same to be removed by the Police or Fire Marshal in such manner as the Council may direct.

Fire Apparatus and Fire Department.

Section 97. The City Council shall have the power also to authorize the purchase of all apparatus, equipment, and supplies necessary for the extinguishing of fires; to erect fire stations and buildings needed for the proper housing of such apparatus and equipment; to establish fire alarm systems and other devices for the prompt and effective handling of fires; and to authorize, support, and maintain an adequate and efficient department of fire companies, and to establish by ordinance the rules and regulations for the government thereof.

Chief of the Department.

Section 98. At its annual meeting each year the City Council shall appoint a Chief of the Fire Department and such other officers as the ordinances and regulations may require. All such appointments shall be on the basis of merit and experience and, if not inconsistent with these qualifications, upon the recommendations of the Department.

Fire Marshal.

Section 99. The Council shall likewise annually appoint a Fire Marshal for the City who shall have authority to enforce all ordinances of the City relating to fire prevention and shall have the right to enter and examine any building and all parts thereof, at all reasonable hours for the purpose of enforcing all such ordinances. The City Council may also require the Fire Marshal to examine particularly into the cause of any fire within the City and report to the Council the results of such examination.

Compensation.

Section 100. The compensation to be paid the Chief of the Department, the Fire Marshal, and other officers or members of the department shall be

determined by the City Council.

#### Library Board.

Section 101. The City Council shall maintain a public library, reading room, and Historical Museum for the use of inhabitants of the City and may levy an annual tax of not more than three mills for such purpose, and the proceeds thereof to be known as the library fund.

The Mayor, with the approval of the City Council, shall appoint a board of nine directors to constitute a library board, not more than one of whom shall at any time be a member of the City Council. One-third of the members of such board shall hold office for one year, one-third for two years, one-third for three years, from January first, following their appointment, the term of office of each being specified by the Mayor. Annually thereafter the Mayor shall appoint three directors for the term of three years and until their successors qualify. The Mayor by and with the consent of the City Council may remove any member of the said library board for misconduct or neglect.

#### Vacancies and Compensation.

Section 102. Vacancies on the Board of Directors shall be reported to the City Council and filled by like appointment for the unexpired term. Directors shall receive no compensation for their services as such.

#### Organization of Library Board - Powers and Duties.

Section 103. The Library Board, immediately after its appointment, and thereafter, at its annual meeting, shall organize by electing one of its members as President, one as Secretary, and one as Treasurer. The Treasurer, before entering upon his duties shall give bond to the municipality in an amount fixed by the directors conditioned upon the faithful discharge of his official duties. Employees of the Library and Museum shall be appointed by the City Manager, subject to the approval of the Library Board.

The Board shall adopt such by-laws and regulations for the government of the library, reading room, and museum and for the conduct of its business as may be expedient and conformable to law. It shall have exclusive control of the expenditure of all moneys, collected for or placed to the credit of the library fund, of the construction of library buildings, and of the grounds, rooms, and buildings provided for library purposes. But all moneys received for such library shall be paid into the City Treasury, be credited to the Library Fund, be kept separate from other moneys of the City and be paid out only upon itemized vouchers approved by the Board.

The Board may lease rooms for library use, fix compensation of employees with the approval of the City Manager and City Council, the Board may purchase grounds and erect or remodel buildings thereon.

All moneys received by the Library out of taxes levied for library purposes shall be paid into the City Treasury. Moneys received as book fines, shall be kept by the Treasurer of the Library Board in a Special Fund, such moneys to be used for books and small miscellaneous items as may be needed in operation of the Library, in the judgment of the Board. Memorial Funds, legacies, and donations received by the Library shall be paid over to the Treasurer of the Library Board and be used by the Board for purposes specified by the donors, and the Treasurer of said Board shall file an accounting of moneys so received with the City Clerk upon request. The annual levy for library purposes shall not be diminished by reason of gifts, legacies and donations.

#### Directors Now In Office.

Section 104. Directors of the existing Library Board of the City in office under the existing ordinances and resolutions of the City shall so continue until the expiration of their respective terms, but their successors shall be appointed and vacancies filled under the provisions hereof. At the first regular meeting of the Board following the third Saturday of July in each year, the Board shall report to the City Council all the amounts received during the previous year, or preceding year, and the sources thereof, the amounts expended, and for what purposes, the number of books on hand, the number purchased and loaned, and such other information as it deems advisable. A copy of such report shall be filed with the state library commission.

#### Title to Property - Free Use.

Section 105. All property given, granted, conveyed, donated, devised, or bequeathed to, or otherwise acquired by the City for a library, reading room, or museum shall vest in, and be held in the name of the City of New Ulm, and any conveyance, grant, donation, devise, bequest, or gift made to or in the name of the public library or library board shall be deemed to have been made directly to the City. Every library, reading room, or museum established under this Charter shall be forever free to the use of the inhabitants of the City of New Ulm, subject to such reasonable regulations as the directors may adopt.

#### Finances - Council to Control Finances.

Section 106. The Council shall have full authority over the financial affairs of the City, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts and the safekeeping and disbursement of public moneys, and shall make provision for the payment of all liabilities and expenses, all subject to the provisions of this Charter.

#### Fiscal Year.

Section 107. The fiscal year of the City shall end each year on the last day of December.

Funds - Division Thereof.

Section 108. The following funds shall be maintained for which separate and distinct accounts shall always be kept:

(1) An Administration Fund, out of which shall be paid the ordinary and current expenses of the City for the payment of which out of some other fund no provision is made. Into this fund shall be paid all moneys and revenues of the City not appropriated or payable to any other fund.

(2) A Sinking Fund for each issue of bonds, certificates of indebtedness, or other funded obligations of the City, out of which shall be paid the principal thereof.

(3) An Interest Fund for each issue of bonds, certificates of indebtedness, or other funded obligations of the City, out of which shall be paid the interest thereon when due.

(4) A Fire Department Fund, out of which shall be paid the ordinary and current expenses of the Fire Department of the City, and any and all expenses for the prevention and control of fires within the City.

(5) A Library Fund, out of which shall be paid the current expenses of maintaining the City Library and Historical Museum and out of which any books and equipment shall be purchased.

(6) A Sewer Fund, out of which shall be paid the ordinary and current expenses of maintaining the sewers and sewer system of the City and keeping the same in repair.

(7) A Street Fund, out of which shall be paid the ordinary and current expenses of maintaining the streets, sidewalks, crossings, and alleys of the City and keeping same in repair.

(8) A Cemetery Trust Fund, into which shall be paid all moneys received in trust by the City of New Ulm for the perpetual care and maintenance of graves and lots in the City Cemetery. No payments shall ever be made out of said funds but the same shall remain intact and be forever held in trust by the City of New Ulm for the purposes stated. All moneys in this fund shall be invested under the direction of the City Council in bonds or other securities that are approved investments for the Sinking and Interest Funds of the City as otherwise provided in this Charter.

(9) A Cemetery Trust Interest Fund, into which shall be paid the income and revenue from the Cemetery Trust Fund hereinbefore provided and the moneys in such fund shall be used to pay for the care and maintenance of those graves and lots in the City Cemetery for which provision is made by payments into the Cemetery Trust Fund.

(10) The City Council may from time to time hereafter establish such other funds as in its opinion may be necessary or proper, and provide the

means by which they shall be established and maintained and the disbursements to be made therefrom, and may make such other provisions with respect thereto as it deems proper.

Collections on Special Assessments - How Applied.

Section 109. In all cases where the bonds, certificates of indebtedness, and other funded obligations of the City have been or shall be issued for the making of any local improvement or other public works improvements, or acquisition of grounds or sites for public buildings or other public purposes, the cost of which is said to be paid for in whole or in part by special assessments upon benefited property, all moneys collected by the City on the principal of such assessments, and also all moneys paid by the City at large, the State of Minnesota, or any County, School District or other municipal corporation, for or on account of such improvement, shall be paid into and credited to the appropriate sinking fund; and all moneys collected by the City as interest upon such assessments or any other payments shall be paid into and credited to the appropriate interest fund.

Payments by Public Utilities Commission.

Section 110. Whenever the bonds, certificates of indebtedness, or other obligations of the City have been or shall be issued for the acquisition, construction, purchase, equipment, maintenance, replacement, reconstruction, extension, enlargement, or other improvement to or of any public utility, now or hereafter owned or operated by the City, the Public Utilities Commission shall from time to time, and so far as the funds of such utility permit, transfer and pay into the appropriate sinking and interest funds of the City such sum or sums as may be necessary to pay the principal and interest owing on such bonds, certificates of indebtedness, or other funded obligations, when and as they become due.

Whenever the Public Utilities Commission is unable for any reason to make provision for the payment of the principal and interest of said obligations when due, or any part thereof, it shall become the duty of the City Council to provide for the payment of the same in some lawful manner, but any bonds issued by the City, or any moneys advanced or provided by the City for that purpose, shall be regarded as the primary obligation of such utility and shall be paid or repaid to the City out of the earnings and revenues of such utility as soon as practicable.

Funds - How Maintained.

Section 111. The City Council shall by tax levy or otherwise make adequate provision for the requirements of each and all of said funds, but no general taxes shall ever be levied for the Cemetery Trust Fund or the Cemetery Trust Interest Fund.

Transfer of Funds.

Section 112. The City Council may from time to time, by four-fifths vote, transfer moneys from one fund to another, but shall have no authority



to transfer any moneys or securities from or out of any sinking fund, unless the amount to the credit of such fund is sufficient to pay all outstanding bonds or other funded obligations for which it was created, and then only as to such excess; nor to transfer any moneys or securities from or out of any interest fund unless there is sufficient money to the credit of said fund to pay interest in full to maturity on all outstanding bonds or funded obligations of the City for which it was created, and then only as to such excess; not to transfer any moneys or securities from or out of the Cemetery Trust Fund under any circumstances.

Application of Moneys to Particular Funds.

Section 113. All taxes and moneys received or appropriated for any particular fund shall be paid into and credited to such fund; and all taxes and moneys received by the City, not appropriated or otherwise payable to any particular fund, shall be credited to the Administration Fund.

The Budget - Preparation of Annual Budget.

Section 114. On or before the First day of July of each year the City Manager shall prepare an estimate in writing of the revenue and expenditures of the City for the next fiscal year, which shall contain a detailed estimate of the revenues and requirements of each fund for such year, and a comparison of such estimates with the corresponding items for the current fiscal year and the preceding two fiscal years which estimates shall be arranged in parallel columns. Such estimates shall be accompanied by the recommendation of the City Manager as to the amount to be appropriated for each fund, with reasons therefor, in such detail as the City Council may direct. The City Manager may submit with the estimates such explanatory statement or statements as he deems necessary.

The estimates shall be printed or typewritten. A copy thereof shall be furnished to the Mayor, City Manager, City Clerk, and each member of the City Council. Three copies shall be posted in public places in the City not less than ten days before the regular meeting of the City Council in August of that year, and at which time the estimates shall be submitted to the Council for consideration. A copy of such estimates shall be kept in the City Clerk's office and shall be subject at all times to inspection or examination by any taxpayer or citizen of the City.

Passage of the Budget.

Section 115. The Budget shall be considered at the regular monthly meeting of the Council in July, and the Council shall hold adjourned meetings from time to time until all the estimates have been considered. The meetings shall be so conducted as to give interested citizens reasonable time in which to be heard, and an opportunity to make such inquiries as may seem pertinent to them. The budget estimates shall be read in full, and the City Manager shall explain the various items thereof as fully as may be deemed necessary by the Council. The annual budget as finally agreed upon shall be adopted by resolution setting forth the budget in detail, and

shall be recorded at length in the Council proceedings. The sum total appropriated shall be less than the total estimated revenue by a reasonable margin. The Council shall adopt the budget resolution not later than the regular monthly meeting in September.

Enforcement of the Budget.

Section 116. It shall be the duty of the City Council and the City Manager to enforce strictly the provisions of the budget. They should not allow or approve any claim or demand against the City unless an appropriation has been made therefor in the budget, nor any expenditure covered by the budget unless there is sufficient unexpended balance left therein; and the City Manager and City Clerk shall not issue any order on the Treasurer for the payment of any such claim or demand. Any obligations authorized or incurred by any officer or employee of the City for any purpose not authorized in the budget, or for any account in excess of the amount therein authorized, shall be a personal obligation upon the person incurring or authorizing the expenditure.

Veto by Mayor.

Section 117. Promptly upon adoption of the Budget Resolution it shall be transmitted to the Mayor for his approval or disapproval, and shall be considered and returned by him as in the case of ordinances or other resolutions. He may approve or disapprove of the whole or any part or item thereof, excepting that he shall have no authority to disapprove any sum or item therein contained for the payment of the funded debt of the City, the interest thereon, or any sums therein provided for interest or sinking funds. If the budget be disapproved, the Council shall proceed to reconsider the vote by which the budget was passed, but if an item or items only are disapproved, the reconsideration shall be only as to such item or items. If upon such reconsideration four members shall vote to pass the budget or such item or items, the same shall be deemed to be duly adopted and in full force and effect. Upon such final adoption of the budget resolution the sums fixed therein shall be deemed appropriated for the next fiscal year for the several purposes named therein, and no other.

Alterations in the Budget.

Section 118. After the budget shall have been adopted, the City Council shall have no power to increase the appropriations therein fixed for any purpose, either by the insertion of any new items or otherwise, in excess of the estimated revenues, unless the actual receipts shall exceed such estimates, and then only to the amount of such excess; but the City Council shall have no authority to reduce the amounts appropriated in the budget for the payment of principal or interest on bonds, certificates of indebtedness, or outstanding warrants of the City, or the provisions made in the budget for any sinking fund.

Subject to the foregoing provisions, and except as hereinbefore provided, the City Council may at any time by resolutions adopted by a four-

fifths vote, change or alter the amount appropriated for any purpose or object in the budget, whether in the same or any other fund, and authorize appropriate transfers in the budget accounts to effect the same; and may also by like vote authorize the transfer of an unexpended and unincumbered balance of any lawful purpose or object.

Taxation - Property Subject to Taxation.

Section 119. All real, personal, and other property within the City except such as may be exempt by laws of this State, shall be subject to taxation for the support of the City Government, and the payment of its debts and liabilities, and all taxes shall be assessed and collected in the manner provided for by the General Laws of this State, except as hereinafter provided; provided, that nothing herein contained can be construed as limiting the levying and collecting of special assessments as provided for in this Charter.

Board of Equalization.

Section 120. The City Council shall constitute a Board of Equalization and shall have and possess all of the authority, rights, powers, and duties of like boards under the General Laws of the State now or hereafter enacted, and shall be governed as to the time and place of meeting and in all other respects by such laws.

Levy and Collection of Taxes.

Section 121. On or before the first of October of each year the Council shall levy by resolution the taxes necessary to meet the requirements of the budget for the ensuing fiscal year. The City Clerk shall transmit to the County Auditor annually, not later than the tenth of October, a statement of all the taxes levied, and also all delinquent special assessments levied upon any real property within the City, and such taxes and assessments shall be collected and the payment thereof be enforced with and in like manner as state and county taxes. No tax shall be levied by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purpose for which the same is levied, but in that case the surplus shall go into the fund to which such tax belongs.

Tax Settlement with County Treasurer.

Section 122. The City Treasurer shall see that all moneys in the County Treasury belonging to the City are promptly turned over to the City according to law.

Limit of Tax Levy and System of Taxation.

Section 123. Subject to the State Constitution, and except as forbidden by it or by State Legislation, the Council shall have full power to

provide by ordinance for a system of local taxation and to change the same from time to time. Insofar as the City procures a revenue from taxes upon real and personal property as such, it shall conform as fully as possible to the General State law as to the assessment of such property and the collection of such taxes. No taxes for general city or municipal purposes shall be levied by the City Council in any one year exceeding 40 mills on the dollar of the assessed valuation of the taxable property of the City, and in addition thereto such amounts as may be necessary to pay the interest on the funded debt of the City, and the portion of the principal sum of such funded debt in such year, and all amounts included in the budget for any sinking or interest fund, and any judgments lawfully obtained against the City.

City Depositories - Council to Designate Depositories.

Section 124. The City Council shall have power to designate, and from time to time, redesignate, a bank or banks in the City of New Ulm, or elsewhere, in which the City Treasurer shall deposit and keep the moneys and funds of the City. Such designation may be made at any time by the City Council, but only after advertising for proposals therefor in the official newspaper of the City once in each week for two successive weeks. The maximum amount which may at any time be kept on deposit in such depository so designated shall be fixed by the City Council.

Bond of Depositories.

Section 125. Each depository shall give bond to the City, conditioned for safekeeping and repayment of all sums deposited in such depository, together with the interest thereon. If a bond with personal sureties is given, the amount thereof shall be at least double the amount authorized to be deposited in such depository. If a surety bond is offered, it shall be in an amount equal to the amount authorized to be deposited in such depository. In lieu of such bond, a depository may deposit with and assign to the City bonds or other securities, as provided by the General Laws of this State, now or hereafter enacted, which bonds or other securities shall have a market value at all times equal to the amount of the deposit authorized.

Treasurer's Exemption from Liability.

Section 126. The City Treasurer shall keep the funds of the City in the depository or depositories so designated, and when so deposited the Treasurer and the sureties on his official bond shall be exempt from all liability for the loss of any funds so deposited to the amount only that such deposit was authorized by the City Council, and only if such loss is caused by the failure, bankruptcy, or any other act or default of such depository.

The failure of the City Council to designate a depository or depositories shall not exempt or relieve the City Treasurer or the sureties on his official bond from any liability for moneys or funds in his hands belonging to the City.

Investment of Funds - Approved Investments.

Section 127. Sufficient money shall always be retained in each Sinking and Interest Fund to provide for the prompt payment when due of the principal and interest of the obligations for which such fund was created. Such money shall be deposited in a depository or depositories of the City designated by the City Council as otherwise provided in this Charter.

All moneys belonging to any Interest or Sinking Fund or to any other permanent fund of the City, not so deposited in a depository or depositories of the City, may be invested only in securities authorized by the General Laws of the State.

Investments - By Whom Authorized.

Section 128. No investment of any moneys belonging to any Sinking, Interest, or other permanent fund of the City shall be made except by resolution adopted by a unanimous vote of the City Council. It is hereby made the duty of the City Council and of the Mayor to make careful inquiry and investigation concerning the security of any such investment before the same is made in order that loss on account thereof may be avoided. This section shall not apply to funds of the Utilities Commission.

Sale or Pledge of Securities.

Section 129. Any bonds or other such securities in any such fund may be sold or pledged by authority of the City Council at any time, but any moneys received from the sale or pledge thereof shall remain a part of such fund and be deposited or invested as hereinbefore provided.

Treasurer's Exemption from Liability.

Section 130. In all cases where the City Council shall authorize the investment of moneys belonging to any such fund, in any of the aforesaid bonds or securities, the City Treasurer and the sureties on his official bond shall be exempt from all liability for the loss of money so invested by reason of the non-payment of the principal or interest or depreciation in the market value thereof.

Penalty for Violation.

Section 131. Any member of the City Council or other officer of the City who shall recommend or authorize, or vote to authorize the investment of any moneys belonging to any Sinking, Interest, or any other permanent fund of the City in any bonds or other obligations or securities, other than those specifically mentioned in Section 127 hereof, shall be personally liable for any loss or damage occasioned the City by reason of such investment.

Allowance and Payment of Claims - Verification of Claims.

Section 132. Every account, claim, or demand against the City, ex-

cept as otherwise provided in this Charter, shall be itemized and verified by the affidavit of the claimant, or his agent, to the effect that the service, labor, or material therein mentioned has been actually performed or furnished as therein stated, that the claim is just and correct, and that no part thereof has been paid.

#### Approval of Claims.

Section 133. Before any such account, claim, or demand shall be considered or approved by the City Manager some officer or employee of the City having personal knowledge of the matter shall certify in writing upon the same that the service, labor, or material therein mentioned has been actually furnished to and received by the City, whereupon it shall be examined in detail and audited by the City Manager, and if he finds the same or any part thereof to be a just and proper claim and charge against the City, he shall endorse his approval thereon in writing accordingly.

#### Allowance of Claims.

Section 134. The City Council shall have authority to allow or disallow, in whole or in part, any account, claim, or demand against the City, but shall have no authority to consider or allow any such account, claim or demand unless verified or approved as hereinbefore provided.

#### Money - How Paid Out.

Section 135. No money shall be paid out of the City Treasury unless authorized by vote of the City Council and then only upon an order signed by the City Manager and countersigned by the City Clerk, as herein-after provided, excepting that orders may be issued by the City Manager and the City Clerk and paid by the Treasurer without authorization by the City Council when approved and ordered by the City Manager in the following cases:

- (1) To pay when due the interest and principal of outstanding bonds, warrants, and certificates of indebtedness of the City.
- (2) To pay the salaries and compensation of the officers and employees of the City where such compensation or salaries have been fixed by the City Council.
- (3) To pay any account, claim, or demand against the City that is subject to discount for payment within a limited time, but only in cases where such payment must be made before the claim, account, or demand can be submitted to the City Council for allowance in the usual way in order to obtain the discount thereon; but the City Council may at any time by resolution suspend or terminate the authority granted in this section to issue and pay such orders.

In all cases where orders are issued as hereinbefore provided without allowance or express authority of the City Council, the City Manager shall



make a report in writing to the City Council at their next meeting, showing in detail as to each order, so issued, the number of same, name of person to whom issued, amount, purpose for which issued, and the discount, if any, received by the City on account of such payment.

The City Treasurer shall also pay out of the appropriate funds of the City, without allowance or approval of the City Council, any orders that may be issued upon the Treasurer by the Public Utilities Commission.

#### Orders - How Signed.

Section 136. Every order upon the Treasurer shall be signed by the City Manager and countersigned by the City Clerk, and shall designate the purpose for which it is drawn and the fund out of which it is payable, and shall be payable only out of such fund. Every order shall be made payable to the order of the person in whose favor it is drawn and may be transferred by endorsement. No order on any such fund shall be drawn unless there is money to the credit of such fund sufficient to pay the same together with all orders previously issued against such fund.

#### Municipal Indebtedness - Scope.

Section 137. This chapter shall not be construed as relating to the current obligations of the City payable in the usual course of business and out of its current revenues, but only to obligations of the City, authorized as required by law or this Charter, evidencing an indebtedness of the City payable with interest at future and stated times. The word 'bond' as used in this Charter shall include any and all bonds, certificates of indebtedness, warrants, or other funded obligations of the City, authorized as stated and evidencing such indebtedness.

#### Issuance of Bonds.

Section 138. All bonds of the City shall be issued in the name of The City of New Ulm and shall be exempt from all taxation. They shall be issued under the seal of the City, regularly dated and numbered, and signed by the Mayor and the City Clerk. The City of New Ulm shall have authority to issue the following bonds: Refunding Bonds, Local Improvement Bonds, Public Utility Bonds, Public Improvement Bonds, Permanent Improvement Revolving Fund Bonds, Emergency Bonds, and Temporary Construction Bonds.

#### Refunding Bonds.

Section 139. Refunding Bonds shall be issued to refund bonds, certificates of indebtedness, warrants or other funded obligations of the City, whether due or not due.

#### Local Improvement Bonds.

Section 140. Local Improvement Bonds shall be issued to layout, open, extend, widen, straighten or otherwise alter or change any street, alley, or highway within the City; to fill, grade, gravel, pave, repave

macadamize, or otherwise improve any street, alley, or highway within the City, and to construct boulevards, curbs, and gutters thereon; to construct, lay, relay, extend, repair, or otherwise improve the public sewers of the City, including service pipes and mains and all necessary fixtures, appurtenances and appliances; or to make any other local or public improvement not prohibited by law or this Charter.

#### Public Utility Bonds.

Section 141. Public Utility Bonds, shall be issued to replace, reconstruct, extend, enlarge, or otherwise improve the Water Works System, Electric Light Plant, Gas Distribution System, or the Steam Heating System now owned and operated by the City; to acquire, construct, purchase, equip, maintain, replace, reconstruct, extend, enlarge, or otherwise improve any other public utility or convenience to be operated by the City, from which a revenue is or may be derived, and to acquire property needed in connection therewith; and to construct, reconstruct, replace, extend, enlarge, repair or otherwise improve a Distribution System or Systems for any or all of such utilities.

#### Public Improvement Bonds.

Section 142. Public Improvement Bonds shall be issued to purchase or otherwise acquire grounds for public parks, boulevards, cemeteries, or other public purposes; to improve the same; and to purchase or otherwise acquire sites for public buildings and other structures, and to construct, reconstruct, enlarge or improve such buildings or structures.

#### Permanent Improvement Revolving Fund Bonds.

Section 143. Permanent Improvement Revolving Fund Bonds may be issued to create and maintain a Permanent Improvement Revolving Fund. The amount of such bonds outstanding at any one time shall not exceed \$50,000.00.

#### Emergency Bonds.

Section 144. If during any year, by reason of calamity or other emergency, or unforeseen circumstances, the City is obliged to make extraordinary expenditures for which no provision has been made in the budget, then and in such event the City Council may by a four-fifths vote thereof authorize the issuance and sale of Emergency Bonds, not exceeding in any one year, however, the sum of \$100,000.00, said bonds to mature in not to exceed six years and to bear interest at not to exceed six percent per annum.

#### Temporary Construction Bonds.

Section 145. Whenever the City shall have entered into contract for the making of any local or public improvement, the cost of which is to be paid for in whole or in part by special assessment upon benefited property, the City Council may, by four-fifths vote, issue and sell Temporary Construction Bonds of the City for the purpose of financing the construction

of such improvement, and until permanent financing therefor can be conveniently arranged.

Such bonds shall be issued and sold from time to time, during the making of said improvement, in such amounts as may be necessary to meet the obligations of the City in connection with the making of said improvements. Bonds for such improvement shall not be issued in excess of the contract price therefor. All of such bonds shall be due not more than one year from the date of issue and shall bear interest not exceeding six per cent per annum, payable semiannually.

At the time of the issuance of any such bonds the City Council shall, by resolution, obligate the City, before or as soon as the improvement shall be completed, to take appropriate proceedings to levy and assess such portion of the cost thereof as may properly be assessed upon benefited property, and further obligate the City to issue and sell the local improvement bonds of the City to the amount permitted by law for the making of such improvement and to apply the proceeds therefrom in payment of such temporary construction bonds, and to make such other provision for their repayment by taxation or otherwise as may be necessary.

#### Other Bonds.

Section 146. In addition to the bonds hereinbefore enumerated the City shall have the right and power to issue bonds for any other lawful purpose not prohibited by law or by this Charter, or for any municipal purpose whatsoever authorized by any law or statute of this State, now or hereafter enacted, applying to cities of like class as the City of New Ulm, whether operating under a Home Rule Charter or otherwise.

#### Bonds for Current Expenses Prohibited.

Section 147. No bonds of the City shall ever be issued to pay current expenses or to pay or refund Emergency Bonds.

#### Provisions for Payment - Sinking and Interest Funds.

Section 148. In order that definite and certain provision be made for the payment of bonds and other funded obligations of the City, a Sinking Fund and Interest Fund shall be created of each issue of bonds, certificates of indebtedness, or other funded obligations of the City heretofore or hereafter issued.

As soon as possible after the adoption of this Charter, the City Council shall make suitable provision by tax levy or otherwise, for an adequate Sinking Fund for each issue of bonds or other funded obligations now outstanding to pay the principal thereof when due; and also for an adequate Interest Fund for each of said issues to pay the interest thereon.

Whenever any bonds shall hereafter be issued by the City, excepting, however, Temporary Construction Bonds, the City Council shall, before the

issuance thereof, levy a direct annual tax for each year until the principal and interest of such bonds are paid in full, which levy shall be sufficient in amount to pay the principal and interest of said bonds when as such principal and interest mature.

Such tax shall be irrevocable until all such indebtedness is paid, and no further action of the City Council shall be necessary to authorize the extension, assessment, and collection of such tax.

The City Clerk shall promptly furnish a certified copy of such levy to the County Auditor of Brown County, together with full information concerning the obligations for which the tax is levied, and such County Auditor shall thereupon extend and assess the tax so levied.

When there is any money in any Sinking or Interest Fund available for the payment of the principal or interest of the bonds for which such funds were created, the City Council may, by resolution, irrevocably set aside and appropriate the same, or such portion thereof as may be necessary, to the payment of the principal and interest of such bonds becoming due in the ensuing fiscal year; whereupon, and before October Tenth of such year, the City Clerk shall file a certified copy of such resolution with the County Auditor, who shall then reduce the tax levy for such year by the amount so set aside and appropriated.

Due provision shall be made in each annual budget for the payments of the principal and interest of bonds becoming due in the ensuing fiscal year, and to the extent that such payments are not otherwise provided for, the City Council shall levy sufficient taxes to pay the same.

#### Violation of Sinking Fund Provisions.

Section 149. If the City Council or any other officer of the City shall fail or neglect to comply with the provisions of this Charter pertaining to said Sinking and Interest Funds, any taxpayer of the City or the owner of any bonds of the City shall have the right to maintain in any Court of competent jurisdiction an appropriate action to enforce compliance therewith.

#### Form and Maturity of Bonds.

Section 150. All bonds of the City shall be in such form as may be prescribed by the City Council. They shall be payable serially in annual installments as determined by the City Council, the first installment to become due not more than three years from its date, and the last not more than twenty years from the date thereof, excepting Emergency Bonds and Temporary Construction Bonds, which shall be payable as hereinbefore provided. The City Council may provide that any bonds issued by the City shall be callable before maturity at such time and on such terms as it deems proper.

issuance thereof, levy a direct annual tax for each year until the principal and interest of such bonds are paid in full, which levy shall be sufficient in amount to pay the principal and interest of said bonds when as such principal and interest mature.

Such tax shall be irrevocable until all such indebtedness is paid, and no further action of the City Council shall be necessary to authorize the extension, assessment, and collection of such tax.

The City Clerk shall promptly furnish a certified copy of such levy to the County Auditor of Brown County, together with full information concerning the obligations for which the tax is levied, and such County Auditor shall thereupon extend and assess the tax so levied.

When there is any money in any Sinking or Interest Fund available for the payment of the principal or interest of the bonds for which such funds were created, the City Council may, by resolution, irrevocably set aside and appropriate the same, or such portion thereof as may be necessary, to the payment of the principal and interest of such bonds becoming due in the ensuing fiscal year; whereupon, and before October Tenth of such year, the City Clerk shall file a certified copy of such resolution with the County Auditor, who shall then reduce the tax levy for such year by the amount so set aside and appropriated.

Due provision shall be made in each annual budget for the payments of the principal and interest of bonds becoming due in the ensuing fiscal year, and to the extent that such payments are not otherwise provided for, the City Council shall levy sufficient taxes to pay the same.

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#### Rate of Interest.

Section 151. All bonds shall bear interest at a rate to be fixed by the City Council, not exceeding six percent per annum, payable semi-annually.

#### Sale of Bonds.

Section 152. Before any bonds of the City hereafter issued shall be sold, the City Council shall by resolution, fix a time and place for receiving bids for such bonds, and shall give notice thereof in such form as it may direct, by two weeks publication in the official newspaper of the City, and by such other and additional notice as may be determined by the City Council.

At the time and place so fixed, the bids shall be opened and the offer complying with the term of such notice, and deemed most favorable to the City, shall be accepted by the City Council, but the City Council may reject any and all of such offers and award said bonds to a more favorable bidder, or, upon like notice, it may invite other bids.

Any City Councilor or other officer of the City who shall enter into or approve any contract or agreement for the sale or disposition of such bonds, contrary to the provisions thereof, or aid in preventing competitive bidding therefor, shall be guilty of malfeasance, and any such contract or agreement shall be void and of no effect.

Notwithstanding the foregoing provisions the City Council shall have the right to sell, in whole or in part, any bonds hereafter issued by the City to the residents thereof by popular subscription at not less than par and accrued interest. In all such cases the Council shall give published notice in the official paper of the City, and in such other manner as it may deem necessary, that the City will receive bids from the residents of the City for such bonds, in amounts of \$100.00 or any multiple thereof; and that at the same time it will receive bids from any other source for the bonds so to be issued. When all bids are received the Council may award the bonds to any one or more of such bidders in accordance with what, in their judgment, will be for the best interests of the City, but in no case shall any bonds be sold for less than par value and accrued interest.

#### Proceeds From Sale of Bonds.

Section 153. Upon payment to the City Treasurer of the amount offered therefor by the successful bidder or bidders, the bonds shall be delivered and the City Treasurer shall receive and hold the proceeds thereof for the purpose or purposes stated in the resolution authorizing the issuance thereof, and shall credit the appropriate fund therewith.

#### Approval of Voters.

Section 154. No bonds shall be issued without the approval, first obtained, of the legal voters of the City, by majority vote of the electors



voting on the question of the issuance thereof, at a special election called for that purpose, or at a general election in the notice whereof the issuance of such bonds shall be plainly submitted for approval or rejection; provided, however, that the approval of the voters shall not be required as to Refunding Bonds, Local Improvement Bonds, Emergency Bonds, or Temporary Construction Bonds, but the City Council shall have full power and authority to issue such bonds in its discretion without the vote or the authority of the electors.

Limit of Indebtedness.

Section 155. The total net bonded indebtedness of the City shall never exceed ten percent of the last assessed valuation of the taxable property therein, including moneys and credits.

In determining the net bonded indebtedness of the City, there shall be deducted from its gross bonded indebtedness the following:

(1) All bonds or other funded obligations issued for the acquisition, construction, purchase, equipment, maintenance, replacement, reconstruction, extension, enlargement, or improvement of the Water Works System, Electric Light Plant, Gas Distribution System, or Steam Heating System now owned and operated by the City, or either of them; or any other public utility or public convenience hereafter owned and operated by it from which a revenue is or may be derived, or the acquisition of any property needed in connection therewith.

(2) All bonds or other funded obligations issued for any purpose whatsoever to the extent that they are payable from the proceeds of special assessments levied upon benefited property.

(3) All bonds or other funded obligations of the City issued for the creation or maintenance of a Permanent Improvement Revolving Fund.

(4) The amount of all moneys and the face value of all securities held as a Sinking Fund for the payment of the bonds and other funded obligations of the City, other than those deductible from the gross bonded debt of the City under this section.

(5) All Temporary Construction Bonds issued by the City pursuant to the provisions of this Charter.

Validation of Certain Proceedings and Obligations.

Section 156. All proceedings had or taken at or prior to the time that this Charter becomes effective, by the City of New Ulm and its City Council and officers, in the matter of authorizing and ordering of local improvements of any kind, the making of contracts therefor, the determination of the costs and benefits, the levying of assessments, and the authorization and issuance of warrants, certificates of indebtedness, and

bonds of the City on account hereof, including the advancement of moneys for such projects from various funds of the City, and the delivery of such bonds, certificates of indebtedness, and warrants to such funds in replacement of such advances, and the assessments so levied, and the bonds, certificates of indebtedness, and warrants so issued, are hereby all and singular in all respects legalized and validated; and any and all such bonds, certificates of indebtedness, and warrants are hereby declared to be valid and binding obligations of the City of New Ulm, according to the terms thereof, and of the resolutions or ordinances authorizing their issuance.

Notwithstanding any defects, errors or omissions in such proceedings, and without regard to the provisions of the laws under which such proceedings were attempted to be had, and as to any such proceedings which may be pending when this Charter takes effect, the City Council may complete the same, as nearly as may be, according to the provisions of the laws under which they were commenced.

Any bonds, certificates of indebtedness, or warrants so delivered to and held in any fund or account of the City may be sold by the officers charged with the administration of such respective funds or accounts whenever moneys are required for the purposes for which they were created.

#### Right to Proceed Under State Law.

Section 157. The provisions contained in this Charter, as to the purposes for which the bonds of the City may be issued and the procedure relating to the issuance and sale thereof, shall not be exclusive, but shall be supplemental to the General Laws of the State, now or hereafter enacted, pertaining to said matters. In any case where the provisions of such general laws are not inconsistent with the provisions of this Charter, the City Council may, at any time, proceed under any such general law having application to cities of like class as the City of New Ulm, whether incorporated under a Home Rule Charter or otherwise.

#### STREETS, ALLEYS AND SIDEWALKS

##### City Council to Have Control.

Section 158. The City Council shall have the care, supervision, and control of all highways, streets, and alleys within the limits of the City, and all sidewalks, cross walks, bridges, culverts, retaining walls, and other structures therein or thereon.

##### Laying Out and Changing Streets.

Section 159. The City Council shall have power to lay out or open any new street, highway, or alley within the City, or to widen, straighten, extend, or otherwise alter or change any street, highway, or alley now or hereafter existing in the City.

Improvement of Highways Outside City Limits.

Section 160. The City Council may appropriate and expend such reasonable sums as it deems proper to assist in the improvement and maintenance of roads and bridges lying beyond its boundaries and leading into it, either within or without the County in which it is situated.

Vacations-Petition.

Section 161. The City Council shall have sole and exclusive power to vacate streets, alleys and highways within the City. No such vacation shall be granted or ordered by the City Council except upon the petition of one or more residents and freeholders of the City, which petition, accompanied by a plat of the street, alley, or highway proposed to be vacated, shall set forth the reasons for such vacation and shall be verified by the oath of the petitioners.

Vacations-Order for Hearing-Publication.

Section 162. The City Council shall thereupon, if they deem it expedient that the matter be proceeded with, order the petition to be filed with the City Clerk, and shall appoint a time and place for a hearing thereon, and direct that notice be given to all interested persons or parties, by publication in the official paper of the City for two successive weeks, at least once in each week, which notice shall state that such petition has been filed as aforesaid, and shall also state briefly its object and that said petition will be heard and considered by the City Council at said time and place.

Vacations-Determination by the City Council.

Section 163. The City Council shall hear and consider said petition at the time and place so appointed and shall receive the testimony and evidence of all interested persons or parties and make such further investigation concerning said matter as it deems best; and may thereupon, by resolution adopted by not less than four-fifths vote of its members, declare such street, alley, or highway, or any part thereof, vacated; and thereupon a copy of such resolution, duly certified by the City Clerk, shall be recorded in the office of the Register of Deeds of Brown County, Minnesota.

Vacations - Appeals.

Section 164. Within ten days after the adoption of any resolution vacating any street, alley, or highway within the City, or any part or portion thereof, any person being aggrieved thereby may appeal therefrom to the District Court of Brown County, Minnesota, by serving upon the Mayor, or, in his absence, upon the City Clerk, a notice of appeal stating briefly the grounds thereof, and giving a bond in the sum of Two Hundred Fifty Dollars to the City, to be approved by a Judge of said Court conditioned that the appellant will duly prosecute the appeal and pay all costs and dis-

bursements which may be adjudged against him, and abide the order of the Court.

Such notice of appeal, with proof of service, and said bond so approved as stated, shall be filed with the Clerk, of said Court within ten days after the adoption of said resolution, and if not so filed the appeal shall be ineffective and shall be dismissed.

As soon as any such appeal is taken, it shall be the duty of the appellant to cause to be transmitted to the Clerk of said Court a certified copy of the record of all proceedings had and taken before the City Council in such matter. He shall pay the City Clerk his reasonable fees and charges therefor.

The appeal shall be placed upon the calendar of the next general term after the filing of said notice and bond, and shall be tried as other appeals are tried in such cases.

#### Vacations - Plat to be Filed.

Section 165. Whenever any highway, street, or alley is laid out, widened, enlarged, or vacated under the provisions of this Charter, the City Council shall cause an accurate survey and plat thereof to be made in duplicate. One copy thereof shall be filed in the office of the City Clerk, and the other shall be filed in the office of the Register of Deeds of Brown County.

#### Right of Way Over Streets.

Section 166. The City Council shall have power and authority by a four-fifths vote of its members, to grant a right-of-way upon, over, or through any of the public streets, highways, and alleys of the City, and also to grant the exclusive use of any portion of any street, alley, or public highway, not required for public uses, to any railway company, or other corporation or person, upon such limitations and conditions as may be prescribed by the City Council; but any such grant shall be deemed a license and may be revoked by the City Council at any time.

#### Street Grades.

Section 167. The City Council shall have power to establish the grade of any street, alley, or sidewalk, and may by vote of four-fifths of the members of the Council change, the same after it has been established.

It shall cause accurate profiles of all grades established or changed to be kept in the office of the City Clerk.

#### Sidewalks - Property Owners to Build and Maintain Same.

Section 168. Whenever the City Council, under the authority hereby granted, shall order the construction of sidewalks along any highways,

street, or alley within the City, it shall be the duty of the owners of land, adjoining or fronting upon such highway, street, or alley to construct the same of such material and width, and upon such place and grade, as the City Council may prescribe; and it shall also be the duty of such owners to reconstruct such sidewalks when required so to do by the Council, to maintain them at all times in good order and repair, and to promptly remove the snow therefrom.

In ordering the construction or reconstruction of any such walks, the Council shall direct, by resolution, where and how the work is to be done, specifying in detail the type of construction and fixing the time within which the work is to be completed. Thereupon the City Clerk shall prepare a notice stating briefly the directions embodied in the resolution, and cause the same to be served on each owner of the property affected, either personally, or by leaving a copy thereof at his usual place of abode with some person of suitable age and discretion then resident therein, or by mailing a copy thereof to him by registered mail at his last known postoffice address, or by publishing the same at least once in the official paper of the City.

If the work be not done within the time so prescribed, the City Council shall proceed to have the same done by contract, or otherwise, and to levy and assess the cost thereof upon and against the land adjacent to or fronting upon such sidewalk, and to collect such assessments, all in the manner provided in this Charter for the making and collection of special assessments. Various lots and parcels of land owned by different persons may be included in one assessment proceeding.

#### Sidewalks - Repairs and Snow Removal by the City.

Section 169. If the owner of any lot or parcel of land shall suffer or permit any sidewalk adjacent to or along the same to become broken or out of repair, or shall fail to promptly remove the snow therefrom at any time, it shall be the duty of the City Council to cause the same to be immediately repaired in a good and substantial manner, or the snow to be promptly removed therefrom, as the case may be; and the owner of any such lot or parcel of land shall forthwith pay to the City the cost of making such repairs or removing such snow.

In all cases where the cost thereof has not been paid to the City by the owner of the land, the City Council shall, once in each year, assess and levy the cost of making such repairs, or removing such snow, upon the lots and parcels of land fronting or abutting upon sidewalks which have been so repaired, or from which the snow has been so removed by the City, and shall collect such assessments, all in the manner provided in this Charter for the making and collection of special assessments. Assessments for all such repairs and the removal of snow from sidewalks within the year may be combined in one assessment proceeding.

Liability for Obstructions and Excavations.

Section 170. Any person, who shall render any street, alley, or highway within the City insufficient or unsafe for travel, or public use, either by reason of any unauthorized excavations or obstructions in or upon said street, alley, or highway, or by reason of negligence in the making or maintaining of any authorized excavation or obstruction, or by reason of failure to maintain proper guards or lights for the same, shall be primarily liable for all damages to whomsoever resulting when not caused by the negligence of the party or parties injured.

No action shall be commenced or maintained against the City of New Ulm for such damages unless such person or persons shall be joined as a party or parties defendant therein; and in case of judgment against the defendants in such action execution shall at first issue only against such other person or persons, and the City shall not be required to pay such judgment until such execution shall be returned unsatisfied; and if the City shall pay such judgment, it shall become the owner thereof and may enforce payment thereof from the other defendant or defendants in any lawful manner.

Limitations of Actions.

Section 171. Every person who claims damages from the City of New Ulm for or on account of any loss or injury sustained by reason of any defect in any bridge, street, sidewalk, road, park, public works, or any grounds or places whatsoever, or by reason of the negligence of the City or any of its officers, agents, servants or employees, shall cause to be presented to the City Council, within thirty days after the alleged loss or injury, a written notice, stating the time, place and circumstances thereof and the amount of compensation or other relief demanded.

No action therefor shall be maintained unless such notice is given within the time stated; nor shall any action be maintained if commenced within ten days or more than a year after the occurrence of the loss or injury.

Claim for Death - Notice for Same.

Section 172. The provisions of the preceding section shall also apply when the claim is one for death by wrongful act or omission, and in that case a notice may be presented by the personal representative, surviving spouse, or next of kin within one year after the alleged injury or loss resulting in such death; provided, however, that if the person for whose death the claim is made shall have duly presented, within thirty days from the date of such alleged wrongful act or omission, a notice, which would have been sufficient had he lived, the same shall be deemed sufficient within the terms of this section.



Liability for Insufficiency of Streets.

Section 173. The acceptance of plats of additions, or subdivisions thereof, either within or without the limits of said City, shall not make the City liable to grade the streets therein designated, nor responsible for any insufficiency of such streets, unless the City Council shall by resolution direct the same to be graded and opened for travel.

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Power to Make Improvements.

Section 174. The City of New Ulm is hereby vested with, and authorized and empowered to exercise, the following powers, in the manner provided by this Charter or the General Laws of the State now or hereafter enacted:

- (1) To lay out, open, extend, widen, straighten, or otherwise alter or change any street, alley, or highway within the City.
- (2) To fill, grade, gravel, pave, repave, macadamize, and construct boulevards, curbs, and gutters, or otherwise improve any street, alley, or highway within the City.
- (3) To maintain and keep in repair, sprinkle, oil, or otherwise provide for the laying of dust upon any such streets, alleys, or highways; to plant shade and ornamental trees thereon, and to protect, trim, and maintain same.
- (4) To construct, reconstruct, extend, repair, and maintain sidewalks, cross walks, bridges, culverts, retaining walls, and other structures in or upon any such streets, alleys, or highways.
- (5) To install and extend street or ornamental lights along or upon any such streets, alleys, or highways.
- (6) To construct, lay, relay, extend, repair, and maintain water mains, heating mains, and sewers in and along such streets, alleys, and highways, including all fixtures, appliances, and appurtenances incident thereto, including service pipes and main; to keep open and in serviceable condition the outlets of the sewers and sewer system of the City; and to construct, reconstruct, repair, and maintain a sewage disposal plant or system.
- (7) To drain or fill marshy or low grounds, and abate nuisances.
- (8) To provide for, construct, and maintain all other local or public improvements, not prohibited by the laws of this State, which may inhere in or pertain to municipal corporations.
- (9) To acquire by condemnation or otherwise, property of any kind whatsoever, necessary for any such purposes.

Right to Award Damages and Levy Assessments for Improvements.

Section 175. Except as otherwise provided in this Charter, the City Council shall have authority to ascertain and award the amount of damages to be paid to the owner of property taken or injured by any such improvement, and the power to levy and assess the whole or any part of the cost and expense of making such improvement upon the property especially benefited thereby, including the amount of damages so awarded for property taken or injured thereby.

Such assessments of benefits may be made upon any lawful basis, or according to any lawful method, and shall be in proportion to the benefits to be received by each parcel or tract of land, and may be without regard to cash valuation, but shall not exceed the total cost and expense of the improvement; nor shall any lot or parcel of land be assessed more than the amount of the special benefit thereto by reason of such improvement.

Such award of damages and assessment of benefits may be made in the same proceeding.

Right to Combine Two or More Proceedings.

Section 176. Any two or more improvements may be made at the same time and in one proceeding, and may be included in one contract and in one assessment proceeding; but in any such case the cost and expenses of each improvement shall be separately determined and apportioned by the City Council, and assessment made accordingly, as hereinafter provided.

Branch Sewer and Water Pipes.

Section 177. Before making any such improvement, the City Council may, by resolution, require the owners of abutting property to lay branch sewers or water pipes, of such material and in such manner as the City Council may determine, from the mains to the curb or lot line of each lot, and in case any property owner shall fail or neglect to lay such sewer or water pipes within thirty days after being served with a copy of such resolution, the City Council may cause the same to be constructed, and the cost and expense, thereof assessed against such property in any proceeding to levy special assessments for such improvements.

City and Other Municipalities to Pay Proportionate Share of Costs.

Section 178. The City of New Ulm and any county, school district, or other municipality shall severally contribute and pay toward the cost of any such improvement its proportionate share thereof, on account of real property owned by it abutting on the improvement or benefited thereby, to the amount that such improvement would have been assessed if owned by an individual.

The respective amounts to be contributed by the City or any such county, school district, or other municipality on account of any such improvement, shall be determined by the City Council in the proceedings to

levy special assessments therefor against other benefited property, and the same notices with respect to the making of such improvements and award of damages and levying of assessments therefor, shall be given to such counties, school districts, or other municipalities as to other property owners.

If any county, school district, or other municipality shall fail to promptly pay its proportionate share of the cost of any such improvement, as so determined, the City may recover the amount thereof in any appropriate civil action.

City May Pay Part of Cost.

Section 179. The City may also, if the City Council shall so determine, pay the whole or any part of the cost of making such improvements between street intersections or between street and alley intersections, and such other part or portion of the cost of making such improvement or improvements as it may deem just and equitable.

Institution of Proceedings.

Section 180. The making of any such improvement may be instituted by a petition filed with the City Clerk and signed by the owners of not less than thirty-five per cent in frontage of the real property abutting upon such proposed improvement, exclusive of any such property that may be owned by the City, the State, or any county, school district, or other municipality. The owner of a life estate in any property shall be deemed an owner of said property within the meaning of this section.

But the City Council may, by resolution adopted by a four-fifths vote of its members, institute a proceeding for the making of any such improvement without a petition therefor.

Council to Provide for Hearing on Petition or Resolution.

Section 181. Upon the filing of any such petition or the adoption of any such resolution by the City Council, the City Council shall fix a time and place when the same shall be examined, heard, and considered by the City Council, and it shall thereupon be the duty of the City Clerk to give notice of such hearing as hereinafter provided.

Notice of Hearing.

Section 182. It shall thereupon be the duty of the City Clerk to prepare a notice of hearing in said matter, setting forth in general language the improvement or improvements proposed to be made, and that the City Council will meet at the time and place appointed, to examine, hear, and consider said petition or resolution, as the case may be, and to take such action with respect to the making of such improvement as it deems proper; and, in the case of a proceeding which has been initiated by a petition, that it will at said hearing first examine and consider such petition and determine whether it is signed by the requisite property owners and is

otherwise sufficient. Such notice need not include a description of the property affected or likely to be assessed therefore, or the names of the owners thereof.

Such notice shall be published in the official paper of the City once in each week for two successive weeks. The last publication thereof shall be not less than seven days prior to the date set for such hearing. The City Council may direct such other and further notice to be given as in its judgment may seem proper, but its failure so to do, or the failure to give any other and further notice which it may direct to be given, shall not affect the validity of the proceedings.

#### Determination of Sufficiency of Petition.

Section 183. At the time and place appointed, or at some subsequent time to which the hearing may be adjourned, the City Council shall first examine the petition, if one has been filed and determine by resolution whether or not it has been signed by the requisite number of property owners and is otherwise sufficient, after making such investigation pertaining to said matter as it deems necessary, and hearing any and all persons and parties who may care to be heard with reference thereto.

Unless reversed upon appeal, as hereinafter provided, the determination of the City Council as to said matter shall be final and conclusive.

#### Hearing on Petition or Resolution.

Section 184. If the City Council shall determine that the petition has been signed by the requisite number of property owners and is otherwise sufficient, or in case the proceeding has been instituted by resolution of the City Council without a petition, it shall thereupon, at said time, or at any later time to which the hearing may be adjourned, proceed to hear and consider the said petition or resolution, as the case may be, and any and all reasons for or against the making of such improvement; and shall hear any and all persons and parties who may desire to be heard with reference thereto. Upon the conclusion of the hearing the City Council shall by resolution determine whether the improvement or improvements shall be made or not, which resolution shall describe the improvement or improvements in a general way, but need not describe the property affected or likely be assessed therefor, or the names of the owners thereof.

#### Publication of Resolution Determining Sufficiency of Petition.

Section 185. Any resolution adopted by the City Council determining that any such petition has been or has not been signed by the requisite number of property owners or is or is not otherwise sufficient, shall be published for one week in the official paper of the City.

#### Appeal from such Determination.

Section 186. Any person being aggrieved by such determination may

appeal to the District Court of Brown County within ten days after the adoption and publication of such resolution, by serving upon the Mayor or in his absence upon the City Clerk, a notice of appeal stating briefly the grounds thereof, and giving a bond in the sum of Two Hundred Fifty Dollars (\$250.00) to the City, to be approved by the Judge of said Court, conditioned that the appellant will duly prosecute the appeal and abide the order of the Court therein, and pay all costs and disbursements which may be adjudged against him.

Such notice of appeal, with proof of service thereof, and said bond so approved as stated, shall be filed with the Clerk of said Court within ten days after the adoption and publication of such resolution, and if not so filed the appeal shall be ineffective and shall be dismissed.

City Clerk to Furnish Transcript of Proceedings.

Section 187. The City Clerk shall thereupon promptly transmit to the Clerk of said Court a certified copy of said petition and resolution and of such other papers and records as may be required for a determination of said appeal, and the appellant shall pay his proper and reasonable charges therefor.

Trial of Appeal.

Section 188. Such appeal may be brought on for trial in vacation or at any general or special term of said Court upon eight days' notice by the City or the appellant, and shall be tried by the Court without a jury. There shall be no pleadings, and the only questions to be determined by the Court are whether the petition in such proceedings is signed by the requisite property owners and is otherwise sufficient, and whether a notice of hearing thereon has been given as required by the provisions of this Charter. There shall be no appeal from such determination.

Contracts for Improvements.

Section 189. Upon the adoption of any resolution by the City Council, determining that any such improvement or improvements shall be made, the Council shall proceed to make such improvement by letting contract therefor, or shall otherwise provide for the making thereof, all as provided in this Charter.

Determination of Benefits and Damages.

Section 190. Whenever a contract has been entered into, or the City Council shall have otherwise provided for the making of any such improvement or improvements, the City Manager, with the assistance of a City Engineer, shall calculate the amount of damages to be paid to the owners of property taken or injured by such improvement; and shall also calculate the proper amount to be specially assessed for such improvement against every lot, piece, or parcel of land especially benefited thereby; and shall also calculate the amount that the City and any county, school district,

or other municipality shall severally contribute and pay toward the cost of such improvement on account of real property owned by it, abutting on the improvement or benefited thereby.

The amount of damages, the amount of special assessments, and the amount to be contributed and paid by the City or any county, school district, or other municipality, shall be separately determined and stated, as to each and every lot, parcel, or tract of land affected by such improvement.

Such calculations shall be tabulated and reduced to writing and filed with the City Clerk, and shall constitute the proposed assessment of benefits and damages in said proceedings.

Hearing on Proposed Assessment.

Section 191. Upon the filing of any such proposed assessment of benefits and damages, the City Council shall, by resolution, fix a time and place when the same shall be examined, considered, and passed upon by the Council, and it shall be the duty of the City Clerk to give notice of such hearing as hereinafter provided.

Notice of Hearing Thereon.

Section 192. It shall thereupon be the duty of the City Clerk to prepare a notice of hearing on such proposed assessment, which shall set forth the time and place where the same will be examined, considered, and passed upon by the Council, the nature, in general language, of the improvement or improvements, and that the proposed assessment is on file with the City Clerk and open to inspection.

Such notice need not include a description of the property proposed to be assessed or otherwise affected in said proceeding, or the names of the owners thereof, or the amount of damages, or the amount of the proposed assessment as to any tract or parcel of land, or the amount that the City or any county, school district, or other municipality shall pay on account thereof.

Such notice shall be published in the official paper of the City once in each week for two successive weeks. The last publication thereof shall be not less than seven days prior to the date set for such hearing. The City Council may direct such other and further notice to be given as in its judgement may seem proper, but its failure so to do, or the failure to give any other and further notice which it may direct to be given, shall not effect the validity of the proceedings.

Written Objections to be Filed.

Section 193. All objections of such proposed assessment for any reason whatsoever, shall be in writing and filed with the City Clerk on or before the time appointed for such hearing, and all objections not specified therein shall be deemed waived.



#### Hearing on Proposed Assessment.

Section 194. At the time and place appointed, or at some subsequent time to which the hearing may be adjourned, the City Council shall meet and consider the proposed assessment and any and all objections so filed with the City Clerk, and shall hear any and all persons and parties who shall desire to be heard with reference thereto. The City Council may correct, change, or amend the proposed assessment in any respect that it deems just and equitable. Upon the adoption, by resolution, of such proposed assessment as corrected, amended, or changed, the same shall constitute the award of damages and the special assessments on account of such improvement or improvements against the various lots, pieces, or parcels of land therein mentioned, and a determination as to the amount to be contributed and paid by the City, or any county, school district, or other municipal corporation on account of such improvement.

Unless reversed on appeal, as hereinafter provided, such award, assessment, and determination shall be final and conclusive upon all interested persons and parties.

#### Appeal.

Section 195. Any person being aggrieved by such determination may appeal to the District Court of Brown County within ten days after the adoption of such resolution, by serving upon the Mayor, or, in his absence, upon the City Clerk, a notice of appeal, stating briefly the grounds thereof, and by giving a bond in the sum of One Hundred Dollars (\$100.00) to the City, to be approved by the Judge of said Court, conditioned that the appellant will duly prosecute the appeal and abide the order of the Court therein, and pay all costs and disbursements which may be adjudged against him.

Such notice of appeal, with proof of service thereof, and said bond, so approved as stated, shall be filed with the Clerk of said Court within ten days after the adoption and publication of such resolution, and if not so filed, the appeal shall be ineffective and shall be dismissed.

#### City Clerk to Furnish Transcript of Proceedings.

Section 196. The City Clerk shall thereupon promptly transmit to the Clerk of said Court a certified copy of the proposed assessment and of any and all objections thereto filed with him by the appellant, and of the resolution of the City Council adopting such proposed assessment, and of such other papers and records as may be required for a determination of such appeal; and the appellant shall pay his proper and reasonable charges therefor.

#### Trial of Appeal.

Section 197. Such appeal may be brought on for hearing in vacation or at any general or special term of such court upon eight days' notice by the City or the appellant, and shall be tried by the Court without a jury.

#### Assessments Payable in Installments.

Section 198. Any assessment of benefits shall be payable in equal annual installments extending over such period not exceeding twenty years as the City Council shall determine, the first of such installments to be payable on or before the first day of June following the adoption of the assessment. The interest on bonds, notes or other evidences of indebtedness issued in anticipation of the collection of assessments for the period from the date of issuance to such first day of June following the adoption of the assessment shall be included in the cost of the improvement, to be paid by assessments on the property benefited. All deferred payments shall bear interest from the first day of June following the adoption of the assessment, payable annually commencing on the date for the payment of the second installment of principal. The rate of interest on deferred payments shall not exceed the rate of interest payable on such bonds, notes or other evidences of indebtedness issued in anticipation of the assessment plus an addition to such rate sufficient to reimburse the City for its actual and reasonable administrative expense in connection with the collection of installment payments and interest thereon; such addition to the rate of interest payable on said bonds, notes or other evidences of indebtedness shall in no event exceed two percent per annum.

#### Lien on Property Assessed.

Section 199. Any and all such special assessments and all penalties and interest thereon, shall be a paramount lien upon the lands upon which such assessments are imposed from and after the adoption of the assessment therefor by the City Council and shall be of equal rank and have the same priority and preference as taxes levied upon such property under the General Laws of the State.

#### Payment to City Treasurer.

Section 200. All special assessments shall be payable to the City Treasurer, who shall issue receipts therefor as otherwise provided in this Charter. All special assessments and the interest thereon, shall be deemed delinquent if not paid when due, and thereupon a penalty of four per cent shall accrue and an additional penalty of one per cent for each month shall accrue and be charged on such unpaid installments up to and including October 1st in each year.

#### Delinquent Assessments.

Section 201. On or before the tenth day of October in each year, the City Clerk shall transmit to the County Auditor a list, duly certified by him of all delinquent assessments, including any penalty which has attached thereto, with interest on such assessments computed to the first day of June next thereafter. Upon receipt of such list, the County Auditor shall enter the several amounts of such unpaid assessments on the tax list for the ensuing year, and levy the same upon the several lots and parcels of land to which the same are respectively chargeable; and the same shall thereupon be collected and payment thereof enforced as in the case of other taxes on real estate.

#### Adjournments.

Section 202. The City Council may adjourn any hearing in a local improvement or special assessment proceedings, or in any other matter, from time to time, and shall not be required to give notice thereto to interested persons or parties; but any such adjournment shall be noted in the record of the proceedings of the City Council.

#### Supplemental or New Assessments.

Section 203. In the case of omissions, errors, or mistakes in the making of any such award, assessment, or determination, it shall be competent for the City Council to make supplemental assessments to correct such omissions, errors, or mistakes.

In all cases where any assessment or any part thereof is set aside, the Council may cause a reassessment or a new assessment to be made as to any property assessed for or otherwise affected by such improvement.

#### Informalities Not to Vitate Proceedings.

Section 204. No omission, error, or mistake in making such award, assessment, or determination, or in any of the proceedings had or taken with reference thereto, shall vitiate or in any way affect any such award unless by such omission, error, or mistake substantial injury has been done to the party or parties claiming to be aggrieved.

#### Abandonment of Proceedings.

Section 205. The City Council may at any time prior to the letting of a contract for such improvement, or the beginning of work for the making thereof without contract, abandon any improvement ordered by the City Council under the provisions of this Charter, if it shall deem it to be for the best interests of the City so to do; and may in such cases take such further action with reference to said matter as it may deem to be just and proper.

#### May Proceed Under State Laws.

Section 206. The provisions contained in this Charter for the making of local or other improvements, and the award of damages and the levying of a special assessments therefor, shall not be exclusive, but shall be supplementary to the General Laws of the State, now or hereafter enacted, pertaining to said matters; and the City Council may at any time proceed under any such general law having application to cities operating under a Home Rule Charter, or to cities of like class as the City of New Ulm.

#### Local Improvement Bonds.

Section 207. At any time after the assessment of benefits and damages shall have been made in connection with any local improvement proceeding, the City Council may proceed to issue Local Improvement Bonds to pay the

costs and expenses of making such improvement, including the amount of damages to property taken or injured thereby, in the manner and as otherwise provided in this Charter.

#### PUBLIC UTILITIES

##### Public Utilities Commission.

Section 208. There is hereby created and established in the City of New Ulm a Public Utilities Commission, which shall have sole and exclusive management and control of the Water Works System, the Electric Light Plant, the Gas Distribution System, the Steam Heating System, and the Sewage Disposal Plant, now owned and operated by the City and of any other utility now or at any time hereafter owned or operated by the City and determined to be a Public Utility by the City Council.

##### Appointment - Qualification - Terms of Office.

Section 209. The Commission shall consist of three members, each of whom shall be a citizen, qualified voter, and freeholder of the City. They shall be appointed by the Mayor.

The term of office of the present commissioners shall be continued upon adoption of this Charter until the third Tuesday in January of the year in which they expire.

At the organization meeting of the newly elected City Council in January of each year, the Mayor shall appoint a member of the Commission for a term of three years, whose term of office shall commence on the third Tuesday of January that year, and who shall succeed the member whose term then expires.

Each member of the Commission shall hold office until his successor is appointed and qualified.

##### Appointments Subject to Confirmation.

Section 210. All appointments of members of the Commission, including those to fill vacancies, shall be subject to confirmation by the City Council.

##### Vacancies in Commission.

Section 211. All vacancies in the Commission, by resignation or otherwise, shall be filled by appointment by the Mayor for the unexpired term.

##### Removal of Members of Commission

Section 212. Any member of the Commission may be removed from his office by a four-fifths vote of the City Council, but no such member shall be removed except for cause and until he has been furnished with a written

statement of the charges against him, and has had a reasonable opportunity to be heard in his defense.

Compensation of Members.

Section 213. Members of the Commission shall receive compensation as fixed by the City Council but at no time shall they receive less than that received by Members of the City Council, and may be paid actual and necessary expenses incurred by them in the performance of their duties.

Powers and Duties of Commission.

Section 214. Except as otherwise provided in this Charter the Commission shall have full and exclusive control of and power over the Water Works System, the Electric Light Plant, the Gas Distribution System, and the Sewage Disposal Plant now owned and operated by the City and of all other utilities at any time hereafter owned or operated by the City, including all buildings, structures, machinery, apparatus, equipment, materials, supplies, and all other property belonging to or appurtenant to the same; and shall also have full and exclusive control and power over all moneys, bonds, certificates of indebtedness, warrants and other securities in the current or any other fund of the Commission. The Commission shall have power:

- (1) To provide for regular meetings of the Commission at least once in each month, keep proper minutes thereof, and prescribe their own rules or procedure.
- (2) To operate each and all of said utilities and to do any and all things necessary for the economical management, control, and operation thereof.
- (3) To keep the same in repair, and to make necessary replacements, extensions, improvements, changes and additions thereto; provided, however, that the Commission shall have no power to make any replacements, extensions, improvements, changes, or additions which require the issuance of the bonds of the City to pay for the same, in whole or in part, or which are to be paid for in whole or in part by special assessment upon property benefited thereby; but in such cases, the Commission shall recommend to the City Council, in writing, the making of such replacements, extensions, improvements, changes, or additions, whereupon the City Council shall in its discretion proceed to make the same and to issue bonds or levy assessments upon benefited property, as the case may be, to pay for the same, in whole or in part. Upon completion of such replacements, extensions, improvements, changes, or additions, the Commission shall have full control and management thereof, including power to operate the same.
- (4) To buy fuel, supplies, and other materials.
- (5) To fix and determine the rates and charges to be made for water, light, heat, power, and other services furnished by said utilities, and

statement of the charges against him, and has had a reasonable opportunity to be heard in his defense.

Compensation of Members.

Section 213. Members of the Commission shall receive compensation as fixed by the City Council but at no time shall they receive less than that received by Members of the City Council, and may be paid actual and necessary expenses incurred by them in the performance of their duties.

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(1) To provide for regular meetings of the Commission at least once in each month, keep proper minutes thereof, and prescribe their own rules or procedure.

(2) To operate each and all of said utilities and to do any and all things necessary for the economical management, control, and operation thereof.

(3) To keep the same in repair, and to make necessary replacements, extensions, improvements, changes and additions thereto; provided, however, that the Commission shall have no power to make any replacements, extensions, improvements, changes, or additions which require the issuance of the bonds of the City to pay for the same, in whole or in part, or which are to be paid for in whole or in part by special assessment upon property benefited thereby; but in such cases, the Commission shall recommend to the City Council, in writing, the making of such replacements, extensions, improvements, changes, or additions, whereupon the City Council shall in its discretion proceed to make the same and to issue bonds or levy assessments upon benefited property, as the case may be, to pay for the same, in whole or in part. Upon completion of such replacements, extensions, improvements, changes, or additions, the Commission shall have full control and management thereof, including power to operate the same.

(4) To buy fuel, supplies, and other materials.

(5) To fix and determine the rates and charges to be made for water, light, heat, power, and other services furnished by said utilities, and



to collect the same and all other earnings and revenues of said utilities; provided, however, that whenever any new schedule of rates is adopted for any of the utilities, or any change or alteration is made in the existing schedules, affecting either a part or all of the patrons of such utility, the Commission shall cause public announcement of such new schedule, or such change or alteration, to be made in the official newspaper of the City.

(6) To prescribe the time and manner in which payment for all such service shall be made, and to provide for the discontinuance or termination of such service in case of non-payment, and in its discretion to require payment in advance for any or all of such service.

(7) To make and enforce reasonable rules and regulations pertaining to such service and the distribution and use thereof, and the operation of said utilities, and to prescribe penalties for the violation thereof. Any and all rules, resolutions, regulations, and ordinances, which are now in force relating to the Water Works System, Electric Light Plant, Gas Distributing System, Steam Heating System, and Sewage Disposal Plant of the City, shall be deemed and considered adopted by the Commission and to be in full force and effect until repealed, altered, or amended by the Commission.

(8) To prescribe the form of books of account to be kept by the Commission, and also to prescribe and enforce such methods of accounting as it may deem necessary or proper.

(9) The Commission shall have the right to the reasonable use of the streets, alleys, and other public grounds of the City for the purpose of maintaining and operating such utilities and for repairing the same, or making any extensions, improvements, changes, or additions thereto; but whenever the surface of any street, alley, or public ground is disturbed, the Commission shall cause the same to be promptly restored, as nearly as may be, to its original condition.

(10) To make, perform and enforce contracts in the name and in behalf of the City, and to do any and all other things that may be necessary or proper to carry out the purposes expressed herein.

The Commission shall, at the end of each fiscal year, of the City, make a written report to the City Council showing in detail, and classified as to funds, all moneys received and paid out by the Commission for the fiscal year then ending; the balance to the credit of each fund; the balance on deposit in each city depository; and the character and amount of outstanding bonds or other funded obligations for the payment of which the Commission is primarily liable. The report shall also show the nature and cost of any changes, improvements, or additions made during said year to the utilities under its control, and shall also set forth any other changes, improvements, or additions contemplated or under consideration by the Commission, with an estimate of the cost thereof. It shall also contain any other information that the Commission may deem to be of interest to the City Council and the public at large. This report shall be published in the official paper of the City.

Voters to Approve Sale, Lease or Abandonment.

Section 215. No Public Utility now or hereafter at any time owned by the City, nor any part thereof, shall be sold, leased, or abandoned except by resolution adopted by four-fifths vote of the City Council; and no such resolution shall become effective until it shall have been submitted to the legal voters of the City at a regular or special election held therein and approved by a four-sevenths vote of the electors voting thereon at such election.

Officers.

Section 216. Immediately after their appointment and qualification the Commission shall elect from their number a President, and a Vice-President, who shall hold office until the regular meeting of the Commission in January, next thereafter. At each regular meeting in January of each year, the Commission shall elect from their number a President and a Vice-President, who shall hold office for one year and until their successors are elected and qualified.

The City Clerk shall be ex-officio Secretary of the Commission, and the City Treasurer shall be ex-officio Treasurer of the Commission.

As soon as the Commission is organized, a Superintendent of Utilities shall be appointed by the City Manager, subject to confirmation by the Commission, who shall hold office until removed.

Such other officers as the Commission may deem necessary or proper shall be appointed from time to time, and the Commission shall prescribe the respective duties of such officers, all of whom shall hold office at the pleasure of the Commission.

Duties of the President.

Section 217. The President shall preside at all meetings of the Commission and sign all rules and regulations authorized by the Commission.

Duties of the Vice-President.

Section 218. The Vice-President shall perform the duties of the President in case of the latter's absence or disability.

Duties of the Secretary.

Section 219. The Secretary shall have the following powers and duties:

(1) He shall be the chief accounting officer of the Commission and shall keep a complete set of books, showing in detail all of the business and financial affairs and transactions of the Commission.

(2) He shall be the custodian of all of the books, records, and papers of the Commission, except as otherwise provided in this Charter.

(3) He shall be the Clerk of the Commission, attend all of its meetings, and keep an accurate record of all of its proceedings in books to be provided therefor.

(4) He shall sign all checks when authorized so to do as provided in this Charter. He shall also sign any and all contracts authorized by the Commission, pursuant to the provisions of this Charter.

(5) He shall make a monthly report to the Commission, showing in detail, and classified as to funds, all moneys received and paid out in behalf of the Commission since his last monthly report, the balance to the credit of each fund, and the balance on deposit in each City depository. To each monthly report shall be attached a detailed statement of all patrons who are delinquent in payment of their accounts, and the amount owing by each of them. Such report shall also contain any other information that may be required by the Commission.

At the end of each fiscal year of the City he shall present a similar report to the Commission, showing in detail all receipts and disbursements of the Commission for the fiscal year then ending. He shall also make such other and further reports as may from time to time be required of him by the Commission. All of said reports shall be in such form as may be prescribed by the Commission.

(6) Copies of all reports made by the Commission as provided in this Section, shall be furnished to the City Council.

(7) He shall have such other powers and duties as may be elsewhere provided in this Charter, or as may hereinafter be prescribed by the Commission.

#### Duties of the Treasurer.

Section 220. The powers and duties of the Treasurer shall be as follows:

(1) He shall receive and safely keep all moneys and funds belonging to the Commission.

(2) He shall be custodian of and safely keep all bonds, Certificates of indebtedness, warrants, and other securities owned by the Commission for any purpose whatsoever.

(3) He shall keep an accurate and detailed record of all moneys and property received or disbursed by him belonging to the Commission. He shall keep a separate account for each fund, and pay out no money, except upon an order signed by the President and Secretary of the Commission, as provided by this Charter. He shall pay all orders out of the particular fund on which they are drawn, and no other; and shall refuse to pay any order when there is insufficient money in the fund on which it is drawn to pay the same.

(4) He shall deposit daily all moneys received by him, belonging to the Commission, in some bank or banks designated by the City Council as a City depository or depositories. All moneys shall be deposited in the name of the City of New Ulm--Public Utilities Commission. He shall issue receipts for all moneys paid to him which shall be in such form as may be prescribed by the Commission.

(5) He shall make a monthly report to the Commission, showing in detail and classified as to funds all moneys received and paid out in behalf of the Commission since his last monthly report, the balance to the credit of each fund, and the balance on deposit in each City depository. To each monthly report shall be attached a detailed statement of all patrons who are delinquent in payment of their accounts, and the amount owing by each of them. Such report shall also contain any other information that may be required by the Commission.

At the end of each fiscal year of the City he shall present a similar report to the Commission, showing in detail all receipts and disbursements of the Commission for the fiscal year then ending. He shall also make such other and further reports as may from time to time be required of him by the Commission. All of said reports shall be in such form as may be prescribed by the Commission.

(6) Copies of all reports made to the Commission, as provided in this section, shall be furnished to the City Council.

(7) He shall have such other powers and duties as may be elsewhere provided in this Charter or as may hereafter be provided by the Commission.

Duties of City Manager.

Section 221. The City Manager shall have the following powers and duties:

(1) He shall attend all meetings of the Commission, with the right to take part in its discussions, but shall have no vote.

(2) He shall be the purchasing agent of the Commission, and shall have power and authority to make purchases for it, and to enter into contracts in its behalf, subject to such rules, regulations, and directions as may from time to time be prescribed by the Commission.

(3) He shall audit and approve in writing all bills and accounts before orders are drawn for their payment.

(4) He shall make such suggestions and recommendations to the Commission from time to time as he thinks proper, and the Commission may, whenever it sees fit to do so, refer any question or matter to the Manager for investigation and report.

(5) He shall perform such other duties as may be prescribed by this Charter or required by the Commission, not inconsistent with the provisions hereof.

(6) He shall have the power to appoint and remove all heads of departments, and all subordinate officers and employees in the departments, all appointments to be upon merit and fitness alone.

(7) He shall have the right to exercise control over all departments and divisions of the Public Utilities now in existence or which may be hereafter created by the City Council or the Utilities Commission.

#### Duties of the Superintendent

Section 222. (1) The Superintendent of the Utilities Commission shall have charge of the physical property of the City under operation of the Utilities Commission and the operation of all utilities of the City, subject to the provisions of this Charter, and to any rules, regulations, and directions given him by the City Manager.

(2) He shall prescribe the duties of the employees and shall recommend to the City Manager suspension or removal of employees for cause.

(3) He shall attend all meetings of the Commission, with the right to take part in its discussions, but shall have no vote.

(4) He shall make such suggestions and recommendations to the Manager from time to time as he thinks proper, and the Manager may whenever he sees fit so to do, refer any question or matter to the Superintendent for investigation and report.

(5) He shall perform such other duties as may be prescribed by this Charter or required by the Commission, not inconsistent with the provisions thereof.

#### Compensation of Officers and Employees.

Section 223. No salary or compensation shall be paid by the Commission to the Secretary, Treasurer, or City Manager, but the Commission shall pay to the City such shares of their salaries as may be agreed upon by the Commission and the City Council.

The salary and compensation of the Superintendent of Utilities and of all other officers and employees of the Commission shall be fixed by the Commission.

#### Requisitions.

Section 224. No order shall be placed or any purchase made for or on account of the Commission except upon written requisition of the City Manager.

#### Purchases Exceeding \$3,000.00

Section 225. No purchase involving the expenditure of more than

Three Thousand Dollars shall be made except upon public bids, and in all such cases public notice shall be given and bids invited for the same by advertisement published in the official newspaper of the City once in each week for two successive weeks.

Allowance and Payment of Claims.

Section 226. Any account, claim, or demand against the Commission, except as otherwise provided in this Charter, shall be itemized and verified by the affidavit of the claimant or his agent, and shall be approved, examined, and audited, and the approval of the City Manager endorsed thereon, in like manner as in the case of accounts, claims, or demands against the City.

The Commission shall have authority to allow or disallow, in whole or in part, any account, claim, or demand against the Commission, but shall have no authority to consider or allow any such account, claim, or demand unless verified and approved as hereinbefore provided.

Money - How paid out.

Section 227. No money shall ever be paid out unless authorized by vote of the Commission, and then only upon an order signed by the City Manager and countersigned by the Secretary thereof, excepting that orders may be issued by the City Manager and Secretary of the Commission and paid by the Treasurer, without authorization by the Commission in the following cases:

(1) To pay the salaries and compensation of the officers and employees of the Commission where such salaries or compensation have been fixed by the Commission as provided in this Charter.

(2) To pay any account, claim, or demand against the Commission that is subject to discount for payment within a limited time, but only in cases where such payment must be made, in order to obtain the discount thereon, before the claim, account, or demand can be submitted to the Commission for allowance in the usual way; but the Commission may at any time, by resolution, suspend or terminate the authority granted in this section to issue and pay such orders.

In all cases where orders are issued as hereinbefore provided, without allowance or express authority of the Commission, the Secretary shall make a report in writing to the Commission at their next meeting, showing in detail as to each order so issued the number of the same, name of person to whom issued, the amount, purpose for which issued, and the discount, if any, received on account of each payment.

Orders - How signed - Form.

Section 228. Every order upon the Treasurer shall be signed by the City Manager and countersigned by the Secretary of the Commission, and shall designate the purpose for which it is drawn, and the fund out of which it is



payable, and shall be payable only out of such fund. Every order shall be made payable to the order of the person in whose favor it is drawn, and may be transferred by endorsement. No order on any fund shall be drawn unless there is to the credit of such fund sufficient to pay same, together with all orders previously issued against such fund.

#### Repair - Construction - And other Work - How Performed.

Section 229. In the initiation and performance of any repair, construction, or other work in connection with any of the utilities under its control, the Commission, in all cases where the estimated cost, inclusive of labor and materials, shall exceed \$2,000.00 shall advertise for bids for doing the same in the manner hereinafter provided. When the estimated cost, inclusive of labor and materials shall not exceed \$2,000.00 the Commission may call for bids in the same manner, or it may, by unanimous vote, either let a contract for such work without calling for bids, or direct that such work, or any part thereof, be done by day-work under the supervision of the City Manager, or some other officer designated by the Commission. In all cases where bids are to be received, and in all other cases, where the estimated cost, inclusive of labor and materials, shall exceed \$1,000.00, plans and specifications for the proposed work shall be adopted by the Commission and filed with the Secretary; and before any such work is actually undertaken a detailed estimate of the cost thereof shall be furnished to the Commission by the Superintendent of Utilities.

In all cases where bids are to be received, the Commission shall be governed in every essential particular, by the provisions set forth in Section 137 to 146 inclusive, of this Charter as the form of procedure to be followed in the initiation and performance of similar work in behalf of the City when undertaken by the City Council, the Commission to perform the duties imposed thereby upon the Council, and the Secretary the duties imposed upon the City Clerk.

#### City Officers not to be interested in Contracts.

Section 230. No member of the Commission, or officer thereof, or City Councilor or other officer of the City, shall directly or indirectly be a party to or interested or concerned in any contract or job with the Commission, or in any work prosecuted by its authority, or in the compensation to be received therefor, or in the furnishing of supplies, fuel, or other articles purchased by the Commission; and any member of the Commission or officer thereof, or City Councilor or other officer of the City, so offending, shall, on violation thereof, be removed from office.

#### Funds - Division Thereof.

Section 231. The following funds shall be maintained, for which separate and distinct accounts shall always be kept:

- (1) A General Fund for each public utility, out of which shall be

paid the ordinary and current expenses of such utility for the payment of which out of some other fund no provision is made. Into this fund shall be paid the current income and revenues and all other moneys and revenues thereof not appropriated or payable to any other fund.

(2) A Sinking Fund for each issue of bonds, certificates of indebtedness, or other funded obligations of the City, issued for or on account of any public utility, out of which shall be paid the principal thereof.

(3) An Interest Fund for each issue of bonds, certificates of indebtedness, or other funded obligations of the City, issued for or on account of any public utility, out of which shall be paid the interest thereon.

(4) A Depreciation and Replacement Fund for each utility, out of which may be paid the cost of repairing, replacing, reconstructing, or otherwise maintaining such utility or any machinery, equipment, or other articles or thing pertaining thereto.

(5) The Commission may from time to time hereafter establish such other funds as in its opinion may be necessary or proper, and provide the means by which they shall be established and maintained and the disbursements to be made therefrom, and may make such other provisions with respect thereto as it deems proper.

#### Interest and Sinking Funds.

Section 232. The Commission shall provide for, and at all times thereafter maintain a Sinking Fund for each issue of bonds or certificates of indebtedness with which to pay the principal thereof when due, and also for an adequate Interest Fund for each of said issued to pay the interest thereon.

Whenever any bonds, certificates of indebtedness, or other funded obligations shall hereafter be issued by the City for or on account of any public utility owned or operated by the City, which are properly chargeable upon or payable out of the earnings and revenues of each utility, the Commission shall at the time of the issuance thereof provide adequate Sinking and Interest Funds therefor, so as to insure the prompt payment when due of the principal and interest thereon.

#### Depreciation and Replacement Fund.

Section 233. The Commission shall provide, and at all times thereafter maintain a Depreciation and Replacement Fund for each utility under its control. Adequate depreciation shall at all times be charged upon all of the property of each utility; and all depreciation so charged shall be paid into the Depreciation and Replacement Fund of said utility at the end of each fiscal year, or more frequently in the discretion of the Commission; but the Commission may in its discretion discontinue, in whole or in part, payments into the Depreciation and Replacement Fund of any utility during the time when the amount in such fund equals or exceeds fifty per cent of the cost

of all of the property belonging to such utility as shown by the Books of the City Commission after deducting therefrom any depreciation theretofore charged against the same.

The Commission, however, shall have the right to use the money in the Depreciation Fund for the purchase of new equipment, if necessary, replacing same with bonds or certificates of indebtedness from the Utilities, which are to be repaid to the fund on the same basis as tho the money was borrowed from a private bank or corporation.

#### Transfer of Funds.

Section 234. The Commission may from time to time in its discretion transfer moneys from one fund to another, but shall have no authority to transfer any moneys or credits from or out of any Sinking Fund unless the amount to the credit of such fund is sufficient to pay all outstanding bonds or other funded obligations for which it was created, and then only as to such excess; not to transfer any moneys or securities from or out of any Interest Fund unless the amount to the credit of said fund is sufficient to pay interest in full to maturity on all outstanding bonds or funded obligations for which it was created, and then only as to such excess.

The Commission may at any time, by unanimous vote, all members being present, transfer money from any fund of one utility to any fund of another utility.

#### Percentage to be Paid City.

Section 235. Five percent of the gross receipts from all sources of the Utilities shall be paid over to the City Treasurer quarterly to be expended by the City Council for such general municipal purposes as the City Council may direct. This is in lieu of taxes.

In case of emergency the City Council finds itself in dire need of funds and no source to take it from, the Utilities Commission may, if its funds warrant, pay to the City a sum of money in addition to the gross revenue tax, but under no condition should said sum exceed twenty-five per cent (25%) of its annual net profits.

#### Inability to Pay.

Section 236. If at any time the Commission shall be unable for lack of funds or other reason to make payments on outstanding bonds, in whole or in part, it shall give notice thereof to the City Council, and it shall thereupon be the duty of the City Council to make provision for the payment thereof as otherwise provided in this Charter.

#### Investment of Sinking, Interest, & Depreciation & Replacement Fund.

Section 237. Sufficient money shall always be retained in each Sinking and Interest Fund to provide for the prompt payment when due of the principal and interest of the obligations for which such fund was created,

and there shall also be retained in each Depreciation and Replacement Fund sufficient money for the reasonable requirements of such fund. Such moneys shall be deposited in the depository or depositories of the City designated by the City Council as otherwise provided in this Charter, or may be invested in certificates of indebtedness from other City funds.

All moneys belonging to any Interest or Sinking Fund or to any depreciation or Replacement funds, not so deposited in a depository or depositories of the City, shall be invested by authority of the Commission in interest bearing bonds or other obligations of the kind and character specifically mentioned in Section 127 of this Charter as approved investments for the general interest, Sinking and other permanent funds of the City.

Any bonds or other securities in any such fund may be sold or pledged by the Commission at any time, but any moneys received from the sale or pledge thereof shall remain a part of such fund and be deposited or invested as hereinbefore provided.

#### Investments - By Whom Authorized.

Section 238. No investment of any moneys belonging to any such fund shall be made except by resolution adopted by unanimous vote of the Commission. In order that loss on account thereof may be avoided, it is hereby made the duty of the Commission to make careful inquiry and investigation as to the security of any such investment before the same is made.

#### Treasurer Released from Liability.

Section 239. In all cases where any moneys belonging to any such fund are invested in any bonds or other obligations of the character authorized in Section 127 of this Charter, for the investment of the general Sinking, Interest, or other permanent funds of the City, and such investment is made by authority of the Commission, the City Treasurer and the sureties on his official bond shall be exempt from all liability for the loss of the moneys so invested, by reason of the non-payment of the principal or interest, or depreciation in the market value thereof.

#### Penalty for Violation.

Section 240. Any member of the Commission, or other officer of the Commission, who shall recommend or authorize, or vote to authorize the investment of any moneys belonging to any Sinking, Interest, or Depreciation and Replacement Fund of the Commission in any bonds or other obligations or securities other than those specifically mentioned in Section 127 of this Charter shall be personally liable for any loss or damage occasioned the City by reason of such investment.

## CONTRACTS FOR IMPROVEMENTS.

### Work - How Performed.

Section 241. In undertaking any repair, construction, or other work in behalf of the City, the Council, in all cases where the estimated cost, inclusive of labor and materials, shall exceed \$3,000.00, shall advertise for bids in the manner hereinafter provided. When the estimated cost of such work, inclusive of labor and materials, shall not exceed \$3,000.00, the Council may call for bids in the same manner, or it may, by a four-fifths vote of its membership, whenever in its judgement it is economical or for the public interest so to do either let a contract for such work without calling for bids or direct that such work, or any part thereof, be done by day-work, under the supervision of the City Manager or some other officer of the City designated by the Council, who shall thereupon be authorized to employ the necessary labor and procure the necessary materials in the open market for the doing of said work.

In all cases where bids are to be received, and in all other cases where the estimated cost of such work, inclusive of labor and materials, shall exceed \$3,000.00, plans and specifications shall be adopted by the City Council and filed with the City Clerk.

It shall be a condition of all plans and specifications for the doing of any such work that the contractor shall employ local workmen when available in the performance thereof.

Before any such work shall be undertaken by the City, a detailed estimate of the cost thereof shall be furnished the Council by the City Manager.

### Subdivision of Work.

Section 242. In all cases where any such work is to be done by contract, it shall be the duty of the City Manager, or of any other person charged with the preparation of plans and specifications therefor, to provide that the work be divided into such portions, sections, and divisions, and in such other manner as to afford all contractors, local or otherwise, a reasonable opportunity to bid thereon; and it shall likewise be the duty of the City Council to invite bids for the various portions, sections, and divisions of said work, in such manner as to accomplish that purpose; but the City Council shall in all cases invite bids for the doing of the entire work, including all portions, sections, and divisions thereof; and may award contract or contracts to any one or more bidders, giving preference, however, to local contractors and local workmen where the interests of the City will not be adversely affected thereby.

### Advertising for Bids.

Section 243. In all cases where bids are to be received for any such work, and plans and specifications therefor have been adopted and filed as hereinbefore provided, the City Council shall direct the City Manager to advertise for sealed bids for the same, in accordance with such plans and specifications, and appoint a time and place for receiving such bids. Such advertisement shall be published in the official paper of the City for not

less than once each week for two consecutive weeks, and in such other manner as the Council may direct.

Cash or Certified Check to Accompany Bid.

Section 244. Each bid shall be accompanied by a cash deposit or certified check for not less than ten percent of the amount of such bid payable to the City, to insure the execution of a contract between the bidder and the City for the doing of such work, in accordance with said bid, and the furnishing of a bond for the faithful performance thereof as required by law and this Charter; and if successful bidder shall fail to enter into the contract with the City for the doing of said work, or to furnish such bonds, the amount of such deposit or certified check shall be forfeited to the City as liquidated damages for such default.

Form of Advertising.

Section 245. All such advertisements for bids shall state briefly, in general terms, the nature of the work to be done; where the plans and specifications therefor may be examined; within what time bids will be received therefor by the City Clerk; the time and place where they will be opened and considered by the City Council; that no bids will be received or considered unless sealed and filed with the City Clerk within the time stated; that each bid shall be accompanied by a cash deposit or certified check for not less than ten percent of the amount of each bid, payable to the City, and that the City reserves the right to reject any and all bids.

Opening of Bids.

Section 246. The City Council shall meet at the time and place mentioned in the advertisement for bids and publicly receive, open, read all bids received by the City Clerk. No bids shall be considered which were not filed within the time limited by the advertisement, or which are not accompanied by a cash deposit or certified check, as stated in the advertisement.

Acceptance of Bids.

Section 247. The City Council shall thereupon consider the bids so received, and if it shall decide to award a contract for the work, the lowest responsible bid shall be accepted; but the Council may reject any and all bids, and, where the estimated cost inclusive of labor and material shall not exceed \$10,000.00, may, by a four-fifths vote of its membership, direct that such work be done by day-work in the manner provided in Section 241 of this Charter, or it may be in its discretion call for new bids for the doing of said work.

In determining the responsibility of a bidder, the City Council may consider his financial responsibility, his experience and his ability otherwise to perform the contract, without reference to the responsibility of the sureties of his bond. Any bidder who shall have defaulted theretofore in any contract with the City, except as to time of performance, or who has



refused to enter into contract after the same has been awarded to him, or to furnish bond for the performance thereof, may be rejected on that ground as not being a responsible bidder. The determination however of the City Council as to the responsibility of any bidder shall be final and conclusive.

Execution of Contract and Bond.

Section 248. All contracts shall be executed by the bidder within ten days after the acceptance of his bid, and he shall also within said time furnish and deliver to the City a good and sufficient bond for the performance of said contract, as hereinafter specifically provided.

Contractor's Bond.

Section 249. The successful bidder shall give bond to the City of New Ulm, for not less than the contract price, with surety or sureties to be approved by the City Council, which shall be conditioned as provided in Section 574.26, Minnesota Statutes Annotated, and acts amendatory thereof, and the provisions of said act and acts amendatory thereof are hereby made applicable to and a part of any contract entered into by and between the City and such bidder.

Contract Void Unless Provisions Observed.

Section 250. Any contract entered into by the City for the doing of any work without first adopting plans and specifications and inviting public bids therefor, as provided by this Charter, shall be void and of no effect.

City Officers Not to be Interested in Contracts or Purchases.

Section 251. No City Councilor or other officer of the City, shall, directly or indirectly, be a party to, or interested in, any contract or job with said City, or in any work prosecuted by its authority; or in the compensation to be received therefor; or in the furnishing of supplies, fuel, or other articles purchasable for the public uses; and any City officers so offending, shall, on violation thereof, be removed from office by the City Council.

The provisions of this section shall have no application to any proceedings had or taken to designate a City depository or depositories, but any bank may be designated as a City depository, notwithstanding the fact that any City Councilor or other officer of the City is a stockholder, officer, or otherwise interested in such bank; but the City Councilor or other officer of the City so interested in any such bank shall take no part in any proceedings that may be had in the matter of the designation of said bank as a City depository.

Collusion between City Officers and Bidders.

Section 252. Any officer of the City or any department thereof, who shall aid or assist any bidder in securing a contract to furnish labor,

material, or supplies at a higher price than that proposed by any other bidder, or who shall have favor one bidder over another, by giving or withholding information; or who shall wilfully mislead any bidder in regard to the character of the materials or supplies called for; or who shall knowingly accept materials or supplies of a quality inferior to those called for by any contract; or who shall knowingly certify to a greater amount of labor performed or to the receipt of a greater amount or different kind of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office.

Collusion between Bidders - Contract Void.

Section 253. Whenever any person or party to whom a contract has been awarded shall have conspired or agreed with any other person or party to do any act or thing, or refrain from doing any act or thing whereby competition in the lotting of said contract or in the receiving of bids therefor has been or may be hindered, restricted, or prevented, the City Council may declare the contract so awarded to be null and void; and thereupon it may advertise for new bids for said work, or otherwise provide for the doing thereof in the manner provided in this Charter.

FRANCHISES

Definition.

Section 254. The word "Franchise" as used in this Charter shall be construed to mean any special right or privilege granted to any person, co-partnership, or corporation to use any part or portion of any street, alley, or public place of said City for the construction, maintenance, or operation of a public utility therein or thereon, whether such right or privilege has been heretofore or may hereafter be granted by the City, the State of Minnesota, or any other authority; but a temporary license or permission to use the streets, alleys, or public places of the City, for a period not exceeding one year, shall not be considered a franchise within the meaning of this Charter.

Power to Grant.

Section 255. The City Council may grant franchises by ordinance adopted by a four-fifths vote, but in no case shall a franchise, or an amendment to any of the provisions thereof, be granted by an emergency ordinance. Any and all franchises at any time granted by the Council shall be subject to all of the provisions and limitations contained in this Charter.

Proposed Franchises to be referred to Public Utilities Commission.

Section 256. Before a franchise for any public utility is granted or renewed the matter shall be referred by the City Council to the Public Utilities Commission for investigation and report. The said Commission shall consider the same, make such investigation thereof as it deems proper, and report in writing as promptly as possible its conclusions to the City

Council, and make such recommendations pertaining thereto as it sees fit; and at its discretion it may submit with said report a form of franchise for the consideration of the City Council. Such report shall be advisory only, but the City Council shall have no right or authority to grant or renew any franchise until the matter has been investigated and report made by the Public Utilities Commission, unless the Commission fails to make its report within sixty days after such reference, in which event the City Council may proceed without such report, as provided in this Section.

#### Renewals and Extensions.

Section 257. Any renewal or extension of a franchise shall be subject to all of the conditions and provisions of this Charter, applying to new or original franchise.

#### Provisions and Publication..

Section 258. Every ordinance, granting, renewing, or extending any franchise shall contain all of the terms and conditions of the franchise, and shall be published as in the case of other ordinances.

#### Time and Limit of Franchises.

Section 259. No perpetual or exclusive franchise shall ever be granted; nor shall any franchise be granted for more than twenty years.

#### Power of Regulation.

Section 260. In all franchises, or renewals thereof, hereafter granted by virtue of this Charter, the City Council shall have authority to reserve to the City the power to reasonably regulate and control the exercise thereof, within the City, by any person, co-partnership, or corporation receiving the same; to require proper and adequate extensions of plant and service and the maintenance of the same at the highest practical standard of efficiency; to establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates; and to require the holder of any such franchise, at his own cost and expense, if the public needs require it, to place, move, relocate, or reroute, or place underground, any poles, wires, pipes, conduits, or other attachments or fixtures which it shall place in or upon any public street, alley, or public place in the City, under or by authority of said franchise.

#### Rates and Charges.

Section 261. The maximum rates or charges that may be made for service furnished by the holder of any such franchise shall be stated in the ordinance granting the same, and no rates or charges in excess of those so stated shall ever be charged or collected. The City Council may in its discretion at any time negotiate with the holder of any such franchise for a modification of rates and charges. In case of failure to reach an agreement by

negotiation, the matter shall be referred to a board of arbitration, consisting of three members, one of whom shall be appointed by the City Council, one by the holder of the franchise, and these two shall by mutual agreement select a third person, preferably an expert in valuation and rate making. In case of their inability to agree upon such third arbitrator, he shall be appointed by the District Court of Brown County. Promptly upon their appointment, the said Board of Arbitration shall investigate and consider the matter so referred to them.

In considering the matter, the Board of Arbitration, in determining the value of the property of the holder of such franchise, shall not include any amount whatsoever on account of the value of such franchise or the rights possessed by the holder on account thereof, whether capitalized upon the books of such holder or not.

The Board of Arbitration shall make report as promptly as may be of their findings with respect to a reduction of such rates and charges, and the decision of said Board of Arbitration, or the majority of the Board of Arbitrators, as to a reduction of any such rates and charges shall be final and conclusive, subject, however, to revision by any court of competent jurisdiction.

#### City's Right to Purchase.

Section 262. At the end of five years following the grant of any franchise, and at the end of any succeeding period that may be specified in the franchise, not exceeding five years, the City of New Ulm shall have the right to purchase the property of any person, company, or corporation, operating and doing business in said City under a franchise granted by it, by paying to the owner thereof the reasonable value of the property employed in and connected with such business, but without paying or making any allowance for the franchise, or any rights possessed by the holder thereof on account thereof. Such value, unless the same is agreed upon between the City and the owner, shall be determined in and by condemnation proceedings, in the manner provided in this Charter or by the General Laws of this State.

#### Right to Terminate Franchise.

Section 263. The City Council may, by ordinance, terminate any franchise for nonacceptance thereof by the grantee within the time limited therein, or for misuse or nonuse, or for failure to begin or complete construction within the terms prescribed by the franchise, or for any other failure to comply with its terms.

#### Transfer of Franchise.

Section 264. No sale, transfer, or lease of any franchise shall be valid or effective unless approved by the City Council any ordinance or resolution. Copies of all deeds, transfers, leases, mortgages, or other documents affecting any such franchise, or the property of the holder thereof situated within the City of New Ulm, shall be promptly filed with the City

Clerk upon the execution thereof; and no sale, transfer, or lease of any franchise shall be approved until copies of such papers are filed as hereinbefore provided. Nor shall any such transfer, sale, or lease be effective unless and until the assignee or lessee shall file in the office of the City Clerk an instrument in writing, duly executed, reciting the fact of such transfer, sale, or lease, and accepting the terms of the franchise and agreeing to perform all the conditions therein contained. The assignee or lessee shall also, at the option of the City Council, file a bond in such amount and under such conditions as the City Council may determine, with sureties satisfactory to the Council, obligating the assignee or lessee to perform and discharge all of the conditions and provisions imposed by said franchise.

#### Acceptance of Franchise.

Section 265. Every Franchise, and every extension or renewal thereof, shall be accepted in writing by the grantee within thirty days after its passage by the Council, and before its submission to the voters in case of a referendum. Such acceptance shall be construed to be an acceptance of and consent to all of the terms, conditions, and limitations contained in the ordinance granting the franchise, and also all of the provisions of this Charter. No franchise shall be binding upon the City until accepted by the grantee as provided in this section.

#### Franchise shall contain Certain Provisions.

Section 266. Every franchise hereafter granted by the City Council shall contain the following provisions:

(1) That the grantee and his assigns shall be subject to all of the terms and conditions of this Charter.

(2) That the grantee and his assigns shall not at any time claim or collect any rates or charges in excess of the maximum rates set forth in the franchise; that all such rates and charges shall at all times be just, fair, and reasonable for the service rendered, and that they may be reduced from time to time in the manner provided in this Charter.

The aforesaid provisions shall be considered to be part of every franchise whether expressly incorporated therein or not, and any provisions to the contrary in such franchise shall be null and void.

#### Other Provisions of Franchise.

Section 267. The enumeration elsewhere in this Charter particular conditions or provisions which are to be included in or made a part of every franchise, or renewal or extension thereof, shall not be construed as impairing or limiting the right of the City to insert therein such other and further conditions and provisions as the Council may deem proper to protect the City's interests; nor shall anything contained in this Charter

CERTIFICATE OF COMMISSION

We, the undersigned, being the duly appointed, qualified and acting members of the Board of Freeholders or Charter Commission, in and for the City of New Ulm, Brown County, Minnesota, hereby certify that the foregoing document, consisting of 270 Sections, numbered 1 to 270 inclusive, is the draft of a proposed new or revised Charter for the City of New Ulm, prepared and framed by said Board of Freeholders and approved by said Board and the undersigned members thereof, and hereby affix our signatures to said draft and deliver the same to the Honorable Roman Schnobrich, Mayor, and the Chief Executive of the said City of New Ulm, to be submitted as by law provided.

Dated at New Ulm, Minnesota this 18th day of August, 1952.

(s) Victor P. Reim

(s) John H. Woebke

(s) Alois Eibner

(s) W. J. Kral

(s) Peter Kitzberger

(s) T. W. Manderfeld

(s) Otto F. Oswald

(s) Edwin A. Wenninger

(s) H. H. Prah

(s) Armin F. Retzlaff

(s) Adolph G. Meile

(s) William Stelljes

(s) Herman J. Aufderheide

(s) Henry N. Somsen, Jr.

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O.D.

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
ST. P.  
JAN 22 1932

Mrs. Virginia Holm  
Secretary of State