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PROPOSED CHARTER

OF THE

CITY OF FAIRMONT,

TO BE VOTED UPON AT A GENERAL
ELECTION TO BE HELD

TUESDAY, MARCH 12, 1901.

RECEIVED THIS 16TH DAY OF NOVEMBER, 1900.

EMORY STOWE,
President of Village Council.

RE-INDEXED

MAY 12 1921

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TUESDAY, MARCH 12, 1901.

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EMORY STOWE,

President of Village Council.

STATE OF MINNESOTA, COUNTY OF MARTIN—ss:
DISTRICT COURT, SEVENTEENTH JUDICIAL DISTRICT.

This is a hearing upon a petition, duly presented to this Court, on the 17th day of May, A. D. 1900, at the Village of Fairmont, Martin County, Minnesota, asking for the appointment by the Court of a board of fifteen freeholders and legal voters of said Village to frame a charter for its own government as a city.

It appears as a matter of fact that the Village of Fairmont in the County of Martin and State of Minnesota now is, and for more than five years last past has been, a duly incorporated village existing under the general laws of the State of Minnesota; that there are now 421 legal voters residing in said village, as shown by the returns of the last election held in said village; that more than 10 per cent. of such legal voters have signed said petition above referred to, which petition is marked Exhibit "A," attached to this order, herein referred to and made a part hereof, and it appearing to this Court to be advisable and to the best interests of all concerned that a board of fifteen freeholders who now are, and for the past five years have been, qualified voters of said village be appointed to frame a charter as asked for in said petition.

Therefore, be it known, that at the Village of Fairmont, in the County of Martin, and State of Minnesota, on this 17th day of May, A. D. 1900, I, the undersigned, Judge of the District Court within and for the 17th Judicial District of the State of Minnesota, of which said County of Martin forms a part, do, by virtue of the laws of this State, the provisions of section 36 of article 4 of the constitution of the State of Minnesota as well as chapter 351 of the general laws of the State of Minnesota for the year 1899, approved on the 20th day of April, A. D. 1899, hereby constitute and appoint the following named persons to be and constitute a board to prepare, frame, draft, propose and submit a form of municipal charter for that certain municipal corporation known as the Village of Fairmont, in the County of Martin and State of Minnesota, as referred to in said petition, each of which persons are freeholders and for the past five years have been qualified voters of the said Village of Fairmont:

FREDERICK W. BETZ,
WALTER R. DIMENT,
ELMORE HOUGHTALING,
CHRISTIAN N. PETERSEN,
HENRY RIPPE,
JOHN T. SWEARINGEN,
BENJAMIN F. VOREIS,

MALCOLM ALDRICH,
JOHN H. GORMAN,
RICHARD S. JACKSON,
GEORGE LESTER,
HENRY W. SINCLAIR,
EMORY C. STOWE,
EDWARD F. WADE,

ALBERT L. WARD.

Dated this 17th day of May, A. D. 1900, at the Village of Fairmont, Martin County, Minnesota.

JAMES H. QUINN,
Judge of the District Court.

CHARTER OF THE CITY OF FAIRMONT,

FRAMED AND ADOPTED PURSUANT TO SECTION 36 OF ARTICLE 4, OF THE
CONSTITUTION OF THE STATE OF MINNESOTA, AND CHAPTER
351, OF THE GENERAL LAWS OF THE STATE OF
MINNESOTA FOR THE YEAR 1899.

CHAPTER I.

NAME AND CITY AND WARD BOUNDARIES.

Section 1. All the district of country in the county of Martin and State of Minnesota contained within the limits and boundaries hereinafter specified shall be a city by the name of Fairmont, and the people now inhabiting or who shall hereafter inhabit the district of country herein described and contained shall continue to be a municipal corporation by the name of the "City of Fairmont," and by that name shall sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure, and take, hold and purchase, lease and convey such real and personal or mixed estate as the purposes of the corporation may require within or without the limits aforesaid; shall be capable of contracting and being contracted with; and in addition to the powers hereinbefore enumerated shall also possess the powers hereinafter specifically granted; and in addition thereto shall have such powers possessed by municipal corporation at common law as are not in conflict therewith or with the General Statutes of the State of Minnesota and the authorities thereof, and shall have perpetual succession.

Sec. 2. The district of country aforesaid constituting the city of Fairmont and the said limits and boundaries thereof shall be as follows: The west one-half of section four (4), all of section five (5), all of section eight (8), west one-half of section nine (9), northwest quarter of section sixteen (16), north half of section seventeen (17); also, that part of sections six and seven (6 and 7) lying east of the center of channel of the creek connecting Lake George and Lake Sisseton; also, that part of section seven (7) lying east of the center of channel connecting Lake Sisseton and Budd lake, all lying and being in town one hundred and two (102) north of range thirty (30) west of the fifth principal meridian.

Sec. 3. The said city of Fairmont shall be, and hereby is, divided into three wards, to be called the first (1st), second (2d) and third (3d) wards limited and bounded as follows:

All of said territory lying north of the center line of the Chicago, Milwaukee & St. Paul Railway shall be the third ward.

All that territory lying south of said Chicago, Milwaukee & St. Paul Railway and north of a line commencing at the western boundary of said city of Fairmont, thence due east along the center of Webster street to the fair grounds, thence continuing on same line to the east line of section eight (8), thence north on said section line to the center of Blue Earth avenue, thence east along the center of said Blue Earth avenue to the eastern boundary of said city of Fairmont, shall be the second ward.

All of that territory lying south of the last-mentioned line shall be the first ward.

Provided, that, after the organization of said city under this charter, the council may, from time to time, by vote of two-thirds of the members-elect thereof, by resolution or ordinance, make such re-division of the city into wards as may be required by the public interests; but no ward shall be created that shall contain fewer than one hundred and fifty (150) legal voters; and provided further, that, when for two successive elections the number of votes cast in a ward shall exceed three hundred and fifty (350), then said council shall subdivide such ward, or make such subdivision of said city into wards, that each ward will contain not more than three hundred and fifty (350) votes. Provided, that, in any such re-division, it shall be the duty of the council to provide for an equal population, as near as may be, in each ward.

SUCCESSION.

Sec. 4. When this charter takes effect the city of Fairmont shall be and become the legal successor of the village of Fairmont, under its former charter, and shall be vested with all franchises, rights and immunities formerly vested in said village of Fairmont, except as herein otherwise provided. All property and property rights and interests of every kind and nature formerly vested in said village, shall, when this charter takes effect, be and become vested in, and be possessed by, the city of Fairmont, under this charter.

CHAPTER II.

ELECTIVE AND GENERAL PROVISIONS OF OFFICERS.

Sec. 5. There shall be elected in the city of Fairmont a mayor, a treasurer, a clerk, an assessor, three members of the council at large and one member of the council from each ward, who shall be known as aldermen, two justices of the peace, and two constables from the city at large. Said officers shall be known as the elective officers of said city. The appointive officers of said city shall be an engineer, members of the board of health, street commissioners, scaler and weigher, water and light commissioners, park commissioners and an attorney.

Said officers shall be appointed by the council. Such appointment shall be made by ballot, and it shall require the affirmative vote of a majority of all the members of the council to appoint such officers.

Sec. 6. The term of office of the mayor, treasurer, clerk and assessor shall be one year. The term of office of all other elective offices shall be two years, provided that at the first election one member of the council from each ward shall be elected for three years and thereafter for the term of two years.

The term of all appointive offices shall be one year, except as hereinafter otherwise provided. All terms of office under this charter shall be construed as beginning ten days after the election at which such officer is elected of the appropriate year, except as herein otherwise specifically provided. All officers, whether elective or appointive, shall continue in office until their successors are elected or appointed and qualified, and in case an officer is elected or appointed to fill an unexpired term such term expires at the time the term of the original incumbent would expire.

Sec. 7. The regular election shall be held annually on the first Tuesday after the first Monday in April of each year, and the first regular election under this charter shall be held on the first Tuesday after the first Monday in May, 1901. At said first regular election there shall be elected the following officers, to-wit: The mayor, treasurer, clerk and assessor, three members of the council at large and one member of the council from each ward, two justices of the peace and two constables from the city at large, and annually thereafter successors shall be elected for all elective offices whose terms of office under this charter expire prior to the next following regular election.

The mayor, or in case of his refusal the council, may, by affirmative vote of the majority of all its members, call a special election

of the voters of the city and provide for holding the same, the purpose of such election shall be clearly stated in such resolution, and no other matter shall be submitted thereat.

Sec. 8. All general laws of the State of Minnesota relating to elections and the preliminaries thereof shall, so far as applicable, apply to and govern all elections under this charter, and are hereby adopted as a part of this charter the same as if it were specifically reenacted. The returns shall be made to the clerk, and within one week after any election under this charter the council shall meet and canvass the returns thereof, and declare the result as appears from such returns; and the clerk shall forthwith give notices in writing to the officers elected of their respective election. A plurality of votes for election of officers shall constitute an election. When two or more persons 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 council, at such time and place and in such manner as it may direct.

Sec. 9. An elective or appointive officer provided by this charter, having entered upon the duties of his office, may resign the same by and with the consent of the council, provided that any member of the board may resign with the consent of such board. Any elective or appointive officer changing his residence from the city, or any alderman from the ward for which he was elected or appointed, and any such officer who shall refuse or without cause neglect to enter upon the discharge of the duties of his office for ten days after the beginning of the term for which he was elected or appointed to fill, and ten days after being notified by the clerk of his election or appointment, shall be deemed to have vacated and abandoned such office.

REMOVALS.

Sec. 10. An elective or appointive officer provided for by this charter may be removed from his office by the affirmative vote of two-thirds of all the members of the council; but no such officer shall be removed except for cause, nor unless he has first been furnished with a copy of the charges against him and has had reasonable opportunity to be heard in person or by counsel in his own defense. The council shall have the power to fix the time and place of trial of such officer (who shall be given at least ten days' notice thereof), 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 such officer shall neglect, after due notice, to make answer to such charge, the same shall be cause for removal without further notice. When any such hearing

is ended the council shall forthwith proceed without debate to vote *viva voce*, on roll call, upon a motion declaring such officer removed. Among such causes shall be continued absence by alderman from meeting of council, or by any member of a board from the meetings of such board, or neglect of duties by any officer.

Sec. 11. No person shall be eligible to any office under this charter who is not at the time of filing his nomination certificate or at the time of his appointment to such office a qualified elector of the city of Fairmont and able to read and write the English language understandingly, or who is at such time interested in any contract with the city of Fairmont to which he is a party either individually or as a firm. The term "contract" as used in this section shall be construed to include any transaction of sale, barter or exchange by which any property is transferred or acquired by said city, or labor or services are performed for said city.

Sec. 12. No officer or employe of the city shall vote for or make any contract in behalf of said city or any department thereof with himself or with any firm of which he is a member, nor shall he be in any manner directly or indirectly interested in any contract with the city, and any contract in which any such officer or employe is or becomes directly or indirectly interested shall be and become absolutely void; and any such officer by the fact of such vote shall forfeit his office, and any money which shall be paid on such contract by the city may be recovered back from any or all the persons interested therein by a joint or separate action; provided, that this section shall not be construed to apply to a contract for the deposit of funds of the city.

Sec. 13. Any officer or employe of the city who shall willfully or negligently violate any of the provisions of this charter, or convert any of the public property to his own use, or knowingly permit any other person to so convert it, shall be guilty of a misdemeanor, and shall upon conviction be punished, when any punishment thereof is not otherwise provided by law, as misdemeanors are punishable by the criminal laws of this state, and on conviction thereof shall also forfeit his office and shall be liable to the city for any amount of loss or damages suffered by reason of such violation of law.

Sec. 14. Whenever a vacancy shall occur in any of the elective or appointive offices provided for by this charter by reason of death, resignation, change of residence, refusal or neglect to enter upon the discharge of his office, or any other cause, such vacancy shall be filled, for the unexpired term by appointment of the council; provided, however, that when such vacancy shall occur in the office of mayor, alderman or justice of the peace, and such vacancy

occurs more than six months before the expiration of the term for which he was elected, then such vacancy shall be filled by a special election to be held on the Tuesday next following the expiration of forty days from the date when such vacancy occurred. If any elective officer excepting constable is not elected for any reason at the time when he should be elected under this charter the council shall forthwith hold a special election to fill the vacancy, except where other provision is made herein for such emergency.

POWERS.

Sec. 15. From and after the time this charter shall go into effect the various officers of the city of Fairmont, whether then in office or subsequently appointed, shall be vested with such powers and functions, and with such powers and functions only, as shall be specified in this charter as to their respective offices; but this section shall not be construed to extend the term of office of any officer either elective or appointive prior to the adoption of this charter.

Sec. 16. Every elective and appointive officer except members of the council and all boards provided for in this charter shall annually, on or before the thirty-first day of March, make and transmit to the council full and detailed reports properly verified by affidavits of the business of such office or department for the current fiscal year, together with a true and full inventory of all money, property and other effects of the city in the possession of such office or board or under his or its control. Such officers and boards shall likewise make to the council similar reports and exhibit all their books of account, papers and other records kept by them whenever requested by the council so to do.

Every elective and appointive officer and board and member thereof provided for by this charter shall, at the expiration of this term of office in whatsoever way terminated, turn over to the city or his successor in office all books, papers, files, records, money and other property and things whatsoever pertaining to his office which may be in his possession or under his control.

Sec. 17. Every person elective or appointive to any office, under this charter, shall, before he enters upon the duties of such office, take and subscribe an oath of office and file the same with the clerk.

Sec. 18. In all cases where the salaries of officers are fixed by the council they shall be fixed by resolutions at the regular meetings in April of each year for the succeeding year.

CHAPTER III.

OFFICERS—THEIR POWERS AND DUTIES.

MAYOR.

POWERS AND DUTIES.

Sec. 19. The mayor shall be a member of the council and preside over its meetings, but shall have no vote, except in case of a tie, when he shall have the power to cast the deciding vote. He shall not serve on any committee of the council, except upon an unanimous vote of the entire council. He shall be the chief executive officer of the city, and shall have command and control of its police force. He shall cause the laws of the state, the provisions of this charter and the ordinances of the city to be duly observed and enforced within the city, and all other officers of the city to discharge their respective duties, and to that end may institute and maintain any appropriate action or proceeding against any delinquent officer. He shall from time to time give the council such information and recommend such measures as he shall deem advantageous to the city. He shall sign all warrants and orders drawn on the treasurer, and all bonds, obligations and contracts on behalf of the city, except as may be otherwise provided for herein. He shall, upon service of notice, summons or process upon him, in any action or proceeding against the city, forthwith inform the attorney and the council thereof.

VETO POWER.

Sec. 20. Every ordinance or resolution of the council shall, before it takes effect, be presented to the mayor for approval. If he shall approve it, he shall sign the same, but if he disapprove it, he shall return it to the council with his objections thereto, by depositing the same with the clerk, to be presented to the council at its next regular meeting, or at a special meeting called for that purpose. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be deemed to have been reconsidered, and the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor; and if, upon such submission, the council shall pass the same by a two-thirds vote of all its members, it shall have the same effect as if approved by the mayor, and in case the vote shall be by yeas and nays, it shall be entered by the clerk. If an ordinance or resolution shall not be deposited with the clerk by the mayor within ten days after it shall have been presented to him, the same shall have the same effect as if approved by him.

ACTING MAYOR.

Sec. 21. During the absence of the mayor from the city or his inability from any cause to discharge the duties of his office the council shall elect by ballot from its own number an officer who shall be styled acting mayor, and such person shall, for the time being, exercise all of the powers, and discharge all the duties, and be subject to all the liabilities imposed by general law or the city charter or ordinances upon the mayor, and his acts while so acting as mayor shall have the same force and validity as if performed by the mayor.

He shall have the right to vote in the council, but shall not cast the deciding vote in the event of a tie. Such acting mayor shall continue to discharge the duties herein assigned to him until the mayor returns to his duties and actually resumes the duties of his office; and in case of vacancy in the office of the mayor for any cause, an acting mayor shall be chosen, who shall continue in office until the successor of the mayor is elected or appointed and qualified.

CLERK.

DUTIES.

Sec. 22. The clerk shall keep the corporate seal of the city and all papers and records thereof, except as herein otherwise provided; attend all meetings of the council and keep a record of all proceedings thereof. He shall draw and sign all orders on the treasurer as directed by the council, and he shall keep a full and accurate account of the orders so drawn by him, in books provided for that purpose; and said books shall show to whom and for what purpose the same were drawn. He shall attest the signature of the mayor to all contracts, and affix the seal of the city thereto, and deliver the same to the proper officer or party. He shall keep regular books of account which shall at all times show the precise financial condition of the city, a record of all bonds, orders, warrants or other evidence of indebtedness which have been redeemed, and the amount of each outstanding.

Said books shall contain separate accounts with the different city officers and the various funds of the city, and the amount, date and purpose of each appropriation made by the council, and all payments made on account of the same. He shall indorse upon each ordinance and resolution the time when the same was delivered by him to the mayor, and the time when it was returned to him by the mayor. He shall, upon request, furnish certified copies of papers and records in his possession, and when so certified to by him, under

the corporate seal of the city, they shall be received in evidence in any and all courts, the same as if the originals thereof were produced by said clerk in such court, and he shall be entitled to collect and receive for such services such fees as are allowed to the clerk of the district court of Martin county for similar services. He shall record at length in a book provided by the city for that purpose all official and other bonds running to the city of Fairmont, excepting only the bonds of the clerk and treasurer, which shall be recorded in the office of the register of deeds of Martin county, and all bonds shall be filed and preserved by the clerk.

He shall be entitled to receive from the obligors upon all such bonds, or the person presenting the same for record, such compensation as is allowed for similar services to the register of deeds of Martin county. He shall file in his office all chattel mortgages, contracts and other instruments by which personal property is transferred or encumbered presented to him for filing, and which are permitted to be filed by the laws of this state, referring to chattel mortgages, and shall receive as compensation therefor such fees as are allowed by the general law. He shall, in addition to the duties herein prescribed, perform such other duties as may be required of him by the general laws or by the council.

OFFICIAL POWERS.

Sec. 23. The clerk shall have the supervision of all printing and of publications ordered by the council, and he shall cause to be published in the official paper the minutes of all proceedings of the council, as soon after each meeting as practicable, and also cause to be published in said paper all ordinances as soon as practicable after their final passage.

POWERS.

Sec. 24. The clerk shall have the power to administer oaths and affirmations, and to take and certify acknowledgments of deeds and other instruments in all cases in which the same are required or sanctioned by law. He shall have power to appoint, subject to the approval of the council, a deputy clerk, who shall hold his office at the pleasure of the clerk or council, and shall have authority, under the direction of the clerk, to perform all duties of that office.

The salary of the deputy shall be paid by the clerk.

FEES.

Sec. 25. All fees paid to the clerk for filing and recording papers and other services, by the public at large, may be retained by him as additional compensation to the salary paid to him by the city.

He shall keep an accurate account of all fees so received by him, and report to the council annually the amount thereof, at the January regular meeting.

SALARY AND BOND.

Sec. 26. Before entering upon his duties, the clerk shall execute and deliver to the city his bond, in such sum as the council may direct.

EXAMINATIONS AND REPORTS.

Sec. 27. The clerk shall check up the books of the treasurer at least once in every month, count the cash and verify the bank balances, and forthwith report to the council the condition of the moneys of the city and its several funds at the time of his examination. He shall also report to the council as to the correctness of each statement made by the treasurer to the council, and as to whether the moneys reported by the treasurer are actually in his hands or on deposit, as set forth in said treasurer's statement. He shall also, at least once in every month, check up the books and accounts of the water and light department, and of all other receiving and disbursing officers, boards and departments of the city, and shall certify to the correctness or incorrectness of such books and accounts and of the reports submitted by said officers to the council. Upon the discovery of any inaccuracy or deficiency in the accounts or reports of any of said officers he shall forthwith notify the mayor and council thereof.

For the purpose of making any examination provided for in this charter, the clerk shall have power to summon before him and examine under oath any officer or employe of the city, or any other person, concerning any transaction of the city, or the accounts of any officers, boards, department or employe thereof, and to compel the production of any books, accounts or other papers pertaining to such transaction or account; and he shall, on or before the tenth day of the month following, make detailed report of such examination to the council, and such report shall give the financial condition of the city at the close of the month reported, and shall be published in the official paper in the issue thereof next following the meeting of the council at which said report is presented.

CLAIMS AGAINST THE CITY.

Sec. 28. All claims and demands against the city or any board or department thereof shall, before they are allowed by the council, be audited and adjusted by the clerk, and by him distributed into the appropriate funds.

ESTIMATES AND TAX LEVY.

Sec. 29. He shall annually, on or before the first day of January, present to the council an estimate of the expenses of the city for the following year and the revenues necessary to be raised therefor.

DISTRIBUTION OF FUNDS.

Sec. 30. It shall be his duty, immediately upon the receipt of any taxes by the city from the county treasurer, or upon receipt of assessments or moneys from any other source, to cause the proper distribution of such moneys to be made into the several funds.

PURCHASING AGENT.

Sec. 31. The clerk shall be the purchasing agent for the city. In all cases where bids are not required by law to be advertised for, supplies for the public works and purposes of the city shall be purchased as follows: The purchasing committee of the council, or such officer or board as by it shall be designated for that purpose, shall make an estimate of the necessary supplies and draw a requisition upon the clerk therefor, who shall make a full record of the same, and upon which he shall, under the direction of the purchasing committee, after being authorized by the council, purchase such supplies for account of the city; provided there be money in the particular fund from which payment therefor may be made to meet the same.

BOND OF CLERK.

Sec. 32. Before entering upon the duties of his office the clerk shall give a bond, with sufficient surety, in such sum as the council may direct, conditioned for the faithful performance of the duties of his office.

DEPUTY CLERK.

Sec. 32. The clerk may appoint, by and with the consent of the council, and at his pleasure may remove, a deputy or assistant, who shall, during his absence or his inability to act for any reason, discharge the duties of such office. He shall have the same powers and duties as the clerk, and the city shall be protected in the exercise of such powers and duties by the bond of the clerk; but the city shall in no wise be liable for the salary of such deputy. It shall be the duty of the clerk to see that all assessments levied by the council are certified by the clerk in proper time to the clerk of Martin county.

TREASURER.

DUTIES.

Sec. 33. The treasurer shall receive and safely keep all moneys belonging or accruing to the city, including license money and fines, and shall keep accurate and detailed account thereof, and he shall be entitled to, and shall demand and receive of the treasurer of Martin county, at times specified by law, all moneys due the city for taxes and assessments, including interest and penalties thereon, on account of all levies or assessments made by the city or its predecessors.

He shall be the custodian of all bonds, certificates of indebtedness, or other securities, held by the city or in the sinking fund of the said city. Upon the receipt of any money by him he shall forthwith credit the same to the separate funds to which the same respectively belongs, or for which it has been levied, and shall deposit the same daily, in the name of the city, to the order of the treasurer, in such depositories as shall have been designated by the council therefor.

CITY DEPOSITORIES.

Sec. 34. Any bank, banking house or trust company, having its principal place of business in the State of Minnesota may be designated by the council, by resolution, after advertising in the official paper for proposals and receiving proposals, stating what security will be given to said city for such funds so deposited, and containing the conditions that said funds with accrued interest shall be held subject to drafts and payments at all times on demand. Provided, that the amount deposited in any such depository shall not exceed the assessed capital stock of said depository, as the same shall appear on the duplicate tax list; provided, further, that the proposals above referred to shall not be acted upon by the council until ten days after advertisement.

Before any such bank, banking house or trust company shall be designated as such depository it shall deposit with such treasurer a bond, payable to the city, and executed by not less than three freeholders of the State of Minnesota as sureties, or in lieu thereof a bond furnished by some reputable surety company, which bond shall be approved by the council, and shall be in such amount as said council shall direct, and in at least double the amount of funds to be deposited in said depository; said bond to be conditioned for the safe keeping and payment of such funds and interest thereon; and whenever required to do so by the council such depository shall furnish a new bond and other sureties, to be likewise approved.

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

WHEN TO PAY OUT MONEY.

Sec. 35. The treasurer shall pay no money out of the treasury except in the following cases: Upon an order or warrant, properly drawn and countersigned, which has been first duly authorized by the council, and which shall specify the purpose for which it is drawn, and the fund out of which and the person to whom it is payable; and upon the payment and receipt by him of any such order or warrant the treasurer shall cancel and file the same, and it shall not be again issued, and he shall keep separate orders drawn on each particular fund. All warrants so cancelled by him, as aforesaid, shall be turned over to the clerk by said treasurer monthly, along with his report hereinafter referred to. In case said warrants were issued for the payment of the bonds of said city, or interest coupons thereon, then such bonds or coupons shall be cancelled by the treasurer, and returned by him with such warrant to the clerk.

MONTHLY STATEMENT.

Sec. 36. The treasurer shall, on the first of each month, make a statement to the council of the amount by him received and disbursed on account of each fund, and a statement of the amount of money in his hands in the various funds, deposited with each depository, and the total amount of the city's funds, and where placed and deposited.

He shall, whenever notified so to do by the council, withdraw all funds from any depository so designated, as hereinbefore provided, and notify the council thereof, and shall deposit no more therein until authorized so to do by the council.

MISUSE OF CITY MONEY.

Sec. 37. No funds of the city shall be loaned by the treasurer to any city officer or any other person, or otherwise disposed of, except in accordance with the law. Any violation of any of the provisions of this section shall, unless otherwise punishable by the criminal laws of the state, be punished by a fine in a sum not exceeding one thousand dollars, or by imprisonment in the county jail of Martin county not exceeding one year. The treasurer is prohibited from paying any warrant which, upon its face, shows that it is

drawn in violation of this charter or the laws of the state, and in case of any such payment the treasurer and the sureties upon his bond shall be liable to the city for the amount of such warrant.

BOND OF TREASURER.

Sec. 39. Before entering upon the duties of his office, the treasurer shall give a bond to the city in such sum as the council may direct, for the faithful performance of the duties of his office.

ATTORNEY.

QUALIFICATIONS.

Sec. 40. No person shall be appointed to the office of attorney unless he be, at the time of his appointment, a counsellor of the supreme court of this state of two years' standing.

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

OPINIONS.

Sec. 41. He shall, when so requested, furnish a written opinion upon any subject submitted to him by the council or any committee thereof, or by the mayor or any board of the city, in respect to their official duties or municipal affairs. He shall personally attend all meetings of the council; and when requested so to do, the meetings of said committees and boards. He shall notify the council in writing of the result of all actions to which the city is a party, or in which it is interested. He shall keep a registry of files of all actions, suits and proceedings under his charge, in which the city is interested, and safely keep copies of all briefs used in cases wherein he appears for the city, and copies of all official communications and opinions given by him to any officer, department or board. He shall deliver all property of whatever description in his possession or under his control, belonging to the city or to the office, to his successor in office, who shall give duplicate receipts therefor, one of which he shall file with the clerk. He shall prepare all contracts and bonds, and other instruments of writing, in which the city or any department thereof shall be concerned.

SUITS AGAINST EMPLOYES.

Sec. 42. He shall, when directed so to do by the council, appear and conduct the defense in any action, prosecution or proceeding against any officer or employe of the city, or any board or department thereof, on account of any act done by such officer, board or department while engaged in the performance of official duties.

INABILITY TO ACT.

Sec. 43. In case of sickness or inability of the attorney to act, he may, at his own expense, appoint, by and with the consent of the council, another attorney to act in his stead for the time being.

ASSESSOR.

DUTIES.

Sec. 44. The assessor and his deputies, hereinafter mentioned, shall qualify in the manner and form prescribed by the general law, and shall perform all the duties required by the general laws of the State of Minnesota, and have the powers, rights and privileges allowed by the same respecting the listing of property for taxation, and notice may be signed and given and other acts, relating to the duties of such office, done by any such deputy assessor in the name of the assessor.

APPOINTMENT—DEPUTIES.

Sec. 45. The assessor must be a freeholder of the city, and for the past five years a resident and elector thereof. He shall be elected by the council. He shall, with the consent of the council, appoint such deputies as may be required to enable him to properly perform the duties of his office, and may discharge such deputies at will. He shall present the names of such deputies to the council for its approval at its regular meeting in April.

BOARD OF EQUALIZATION.

Sec. 46. The mayor, who shall be chairman, and one member of the council from each ward appointed by it for that purpose, shall constitute the board of equalization. The members thereof shall be sworn according to law, as such, and shall meet at the council chamber on the fourth Monday in June, at ten o'clock in the forenoon, and from day to day thereafter by adjournment, until their work is completed. Said board shall cause notice of its meetings to be published at least ten days prior to the first day of its meeting, in the official paper of the city, and also in at least one daily paper in said city. Said board shall elect one of its members secre-

tary, who shall keep a record of its proceedings, and perform such other duties as may be herein provided.

The powers and duties of such board of equalization shall be the same as that prescribed by general law for township boards of review and county boards of equalization, so far as relates to property within the city of Fairmont, and the mode of procedure shall be the same as that prescribed by the general laws for the conduct of proceedings of such boards. The assessor shall attend the sessions and hearings of said board, and give information when desired. He shall revise his assessment rolls in accordance with the decisions of said board, and after the same shall have been certified by the mayor and secretary of said board, he shall transmit to the county auditor such revised assessment rolls not later than the fifteenth day of August of each year.

COMPENSATION.

Sec. 47. The city shall fix the salary of the assessor. The salaries of all deputies shall be paid by the assessor. Each member of the board of equalization shall be paid out of the city treasury the sum of three dollars per day for every day of actual service upon said board.

BOND.

Sec. 48. The assessor shall, before entering upon his duties, execute to the city a bond with sufficient surety in the penal sum of one thousand dollars.

ENGINEER.

APPOINTMENT—DUTIES.

Sec. 49. The council may, when necessary and occasion requires, appoint a civil engineer, of at least three years' practical experience as such, who shall hold his office at the pleasure of the council, and receive such compensation for his services as may be determined by said council. He shall have the supervision and general charge of all the work done for the city, and all work done on any street, highway or alley in the city. He shall, under the direction of the council, establish all official lines, elevations and grades. He shall keep a full official record of all the work done in the office or under his supervision. He shall direct the manner of performing all engineering work of the city, and the manner of the construction of all sidewalks, street crossings, bridges, pavements, sewers or other structures in or upon any street or public grounds. He may suspend such work when the construction thereof shall not conform

to contract, and he shall take care that the terms of all contracts for any work or construction on behalf of the city are fully complied with.

SURVEYS—BONDS.

Sec. 50. All surveys, profiles, plans and estimates made by him or his assistants for said city and his official records shall be the property of said city, and shall be carefully indexed and preserved in the office of the clerk and the public records of the city. He shall possess the same power in the city in making surveys, plats and certificates as is or may from time to time be given by general law to county surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are or may be given to those of county surveyors.

Before entering upon the discharge of his duties the engineer shall execute and deliver to the city his bond in such sum as the council may direct.

BUILDING INSPECTOR.

APPOINTMENT—QUALIFICATIONS—DUTIES.

Sec. 51. The council shall appoint a building inspector, who shall be a competent architect and practical builder. He shall enforce, or cause to be enforced, the laws of the state and ordinances of the city relating to the construction and inspection of all buildings, structures and public utilities, and inspection of gas, water and electric light meters, chimneys, smokestacks, steampipes and elevators in all buildings and structures within the city.

The building inspector shall have the right to enter into any unfinished or unoccupied building or structure, between the rising and setting of the sun, in the discharge of the duties of his office. He shall have power to inspect plans and specifications for buildings, and for the location of heating and lighting apparatus, and to grant permits for the construction and alteration of buildings. And no building shall after the adoption of this charter be erected within the fire limits of the city without a permit first obtained from the building inspector.

Sec. 52. The building inspector shall receive as compensation for his services such fees as the council may by resolution or ordinance determine. Before entering upon the discharge of the duties of his office he shall furnish a bond to the city of Fairmont, with sufficient surety, in such sum as the council may direct.

STREET COMMISSIONER.

APPOINTMENT—POWERS.

Sec. 53. The council shall appoint a street commissioner, who shall hold his office at the pleasure of the council. The street commissioner shall have control and supervision of the construction, maintenance and repair of pavements, sewers, streets, sidewalks and maintaining, repairing, cleaning, sweeping and sprinkling of all streets, alleys and other public places within the city, and the grading of all streets and alleys, whether in original construction or otherwise; and all work shall be done by the street commissioner under the supervision of the engineer, if one is employed by the council, unless otherwise provided by the council. It shall be his duty to superintend the location and erection of all electric light, telephone and telegraph poles within the city, to inspect all railroad crossings, and see that the general laws and ordinances of the city relating thereto are properly enforced. The street and bridge committee shall decide any dispute that may arise between the street commissioner and the engineer as to their respective duties and powers. The council shall have the power to discharge such commissioner at will, without cause, at any time, and employ another if deemed expedient.

COMPENSATION—BOND.

Sec. 54. The street commissioner shall receive such compensation as the council may determine. Before entering upon the discharge of the duties of his office he shall furnish a bond to the city, with sufficient sureties, and in such sum as the council may direct.

JUSTICES OF THE PEACE.

POWERS—DUTIES.

Sec. 55. The justices of the peace of the city shall enter upon the discharge of their official duties on the first day of April after their election, and they shall have and possess all the authority, powers, rights and jurisdiction that justices of the peace have or hereafter may possess who are elected under the general laws of the State of Minnesota, and be subject to all the penalties under such laws. They shall in addition thereto have authority and jurisdiction to hear, try and determine all the complaints for the violation of any provision of this charter and of any ordinance, resolution, by-law, rule or regulation made or adopted under and by virtue thereof, and of all cases cognizable by a justice of the peace in which the city

is a party, and of all suits, prosecutions and proceedings for the recovery of a fine, forfeiture, or any penalty under any ordinance, resolution, by-law or regulation of this city or its charter.

In all prosecutions for the violation of any provision of this charter or any ordinance, resolution, by-law or regulation adopted under and by virtue thereof said justices of the peace may proceed to the trial and determination thereof in a summary manner. In all proceedings before justices of the peace authorized by this charter, and in all civil proceedings before such justices, the same forms and proceedings shall be had and used, where not otherwise directed, as are established and required to be had and used in criminal and civil actions by the general laws of the state before justices of the peace; and appeals from the judgment and decision of said justices of the peace of the city shall be allowed and taken in all respects as provided by law for appeals from justices of the peace under the state laws.

SECURITY FOR GOOD BEHAVIOR.

Sec. 56. In all cases of conviction, either under state law or ordinance of the city, for assault, battery or affray, breach of the peace, disorderly conduct, keeping or frequenting houses of ill-fame, and keeping or maintaining disorderly or ill-governed houses, said justices shall have the power, in addition to the fine or penalty imposed, to compel the offender to give security, in a sum not exceeding five hundred dollars, for their good behavior and to keep the peace for a period not exceeding six months.

DISPOSITION OF FINES.

Sec. 57. All fines and penalties, imposed by the justices of the peace of this city for the violation of this charter or any ordinance, resolution, by-law or regulation thereof shall belong to and be turned into the treasury of the city.

REPORTS—FEES.

Sec. 58. The justices of the peace shall each month, or oftener if required by the council, report to it all proceedings instituted before them in which the city is interested, and shall, at the same time, account for and pay over to the treasurer all fines collected or received by them belonging to the city, and said justices of the peace shall be entitled to receive from the county of Martin such fees in criminal cases where the state is a party as are allowed by statute to other justices of the peace for similar services, and they shall be entitled to receive from the city of Fairmont such fees in

cases where the city is a party as justices of the peace are, entitled by law to tax up and receive from said county in similar cases.

CONSTABLES.

POWERS—DUTIES.

Sec. 59. The constables of the city of Fairmont shall have all the powers that are had by, and shall perform like duties to those required of, constables under the general laws of the state, and shall be entitled and receive the compensation therein prescribed.

WEIGHER AND SCALER.

Sec. 60. The mayor shall appoint, by and with the consent of the council, an official weigher and scaler for the city, who shall hold his office for one year. He shall have such powers, perform such duties, and receive the compensation hereinafter prescribed.

PARK COMMISSIONERS.

APPOINTMENT—POWERS—DUTIES.

Sec. 61. The council may appoint three freeholders of said city to act as park commissioners, who shall have such powers and perform such duties as the council may direct. They shall serve without compensation. Their term of office shall be two years.

OFFICIAL PRINTING.

Sec. 62. The council shall, at the annual meeting, or within thirty days thereafter, let the contract for publishing the ordinances and proceedings of the council, and other public notices required by law, to some newspaper published in the city and possessing the qualifications of a legal newspaper, under the general laws of the State of Minnesota, and such contract shall be let as other contracts are required to be let; provided, that the compensation paid for such printing shall never exceed two-thirds of the amount allowed by law for legal advertisements; and provided further, that, if each and all the proposals received by the council for such printing shall fix a price in excess of the maximum herein provided, or if no proposals shall be received, then and in either event the council may adopt such other method for publication of ordinances, proceedings and other matters as it may deem best. The compensation therefor shall in no event exceed the amount herein provided. The newspaper in which such contract for printing is let shall be designated the official paper.

CHAPTER IV.

COUNCIL—POWERS—DUTIES.

GENERAL POWERS—ELIGIBILITY.

Sec. 63. The legislative power of the city shall be vested in a council, which shall be composed of the mayor and aldermen.

No person shall be a member of the council who is not a legal voter of the city, and a resident thereof, and who shall not have been such for at least one year next preceding his election. Except as in this charter otherwise provided, no member of the council shall hold any other office, position or employment, directly or indirectly, under the city government, during the term for which he was elected.

ORGANIZATION—APPOINTMENT OF OFFICERS.

Sec. 64. The annual meeting of the council shall be held on the 2nd Thursday after the annual election of each year, at eight o'clock in the evening, at which meeting, or within one month thereafter, all appointive officers of the city, whose selection is not otherwise provided for herein, shall be appointed by the council.

CANVASSING VOTES.

Sec. 65. The council shall have power to, and it shall, within three days after any city election, meet and canvass the returns of votes cast at such election, and declare the results thereof; and it shall be the judge of the election and qualification of its own members.

QUORUM.

Sec. 66. A majority of all the members of the council shall constitute a quorum, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as the council may prescribe.

RULES—MEETINGS.

Sec. 67. The council shall prescribe rules for its proceedings, determine the time for its regular meetings, and provide for the calling of special meetings; but no business shall be transacted at a special meeting unless the same shall have been specified in the call therefor. It shall keep a journal of its proceedings. The ayes and noes shall, on demand of any member, upon any vote, be taken and entered in the journal.

The council shall have authority to punish its members for disorderly or contemptuous behavior in its presence.

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

The council shall have power to compel the attendance of witnesses and the production of books, papers and other evidence at any of its meetings. It may issue subpoenas for witnesses, signed by the mayor, which shall be served in the same manner as process issued by a justice of the peace; and witnesses shall be deemed to be guilty of contempt for the same causes and acts as witnesses in district court, and the council shall have the same powers as the district court of the State of Minnesota to punish such contempt.

SOLICITATION.

Sec. 68. Saving only as he is authorized to do so by law, no member of the council shall demand, request or solicit any officer, department or employe of the city to engage or hire any person to work for the city or to place any man upon the pay roll of the city, and any member of the council so demanding, requesting or soliciting shall be guilty of a misdemeanor.

ORDINANCES—RESOLUTIONS.

Sec. 69. Every legislative act of the council shall be by ordinance or resolution. The enacting clause of every ordinance shall be in these words: "Be it ordained by the city of Fairmont as follows." No ordinance or resolution shall contain more than one subject, which shall be expressed in its title, nor shall any ordinance be amended after its introduction so as to change its original purpose.

PASSAGE OF ORDINANCES.

Sec. 70. No ordinance shall be introduced except at a regular meeting, at which meeting it shall have its first reading. Its second reading shall be at some subsequent regular or adjourned meeting, which shall occur not less than one week after its first reading. Its third reading shall be had, and it may be passed, only at a regular or adjourned regular meeting, occurring at least one week after its second reading, and no ordinance shall be passed until it has had three readings, as herein provided. No ordinance shall be re-considered, except at the first regular meeting after its adoption or rejection, nor at such meeting unless there are present as many members of the council as were present when said ordinance was adopted or rejected.

PUBLICATION—APPROVAL.

Sec. 71. It shall require the affirmative vote of at least a majority of all the members of the council to enact an ordinance or resolution. The vote shall be taken by yeas and nays, and be entered upon its journal. Every ordinance or resolution, before it takes effect, shall be published in the official paper. The proof of such publication, by affidavit of the foreman or publisher of the paper, or any other competent proof thereof, shall be prima facie evidence of the legal passage, enactment, approval, publication and promulgation of such ordinance or resolution in any court of this state or elsewhere.

CERTAIN ORDINANCES AND RESOLUTIONS.

Sec. 72. Every ordinance or resolution providing for any specific improvement, or involving the appropriation or disposition of public property or the expenditure of public money, or levying any tax or assessment, or creating any liability, or awarding or approving any contract for the payment of money, or ordering and condemnation of private property or the making of any local improvement, shall require a two-thirds vote of all the members of the council; provided, however, that the pay roll of certain city officers and employes hereinafter specified shall only require a majority vote of the members of the council present.

RECORDING.

Sec. 73. All ordinances and resolutions, with proof of publication, shall be deposited with the clerk, who shall record the same at length in a suitable book; but proof of recording shall not be required in any proceeding where it is necessary to prove such ordinances.

ORDINANCES GRANTING FRANCHISES.

Sec. 74. Except as otherwise provided in the constitution of the state, or as otherwise specified in this charter, an ordinance or resolution for the lease or sale of any public utility, or for the purchase of property of the value of three thousand dollars and upwards, must be submitted to the vote of the electors of the city before the same shall be valid, and in no case shall any franchise be granted for a longer period than ten years.

The ballots used at such election shall contain the words "For the Ordinance" (stating the nature of the proposed ordinance) and "Against the Ordinance" (stating the same).

Returns of such election shall be made to the clerk, as provided for other elections, and the council must meet and canvass the returns within three days.

If a majority of the votes cast upon such submission shall be in favor thereof, the council shall, within thirty days from the time of such election, proclaim such fact, and upon such proclamation such ordinance shall be legal and binding. No such franchise or lease or sale of any public utility or any such purchase of property shall be of any force or effect except it be made in the manner above provided.

SPECIFIC POWERS.

Sec. 75. The council shall have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend or repeal all such ordinances, rules and by-laws, for the enhancement of the general welfare, for the government and good order of the city, for the protection of the public health, comfort and safety, for the suppression of vice and intemperance, and for the prevention of crime as it shall deem expedient. It shall have the power to establish and maintain city prisons and watchhouses for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offense whatever in any way cognizable before any justice of the peace in said city; to make all rules and regulations for the government and management of such prisons and watchhouses; to appoint keepers and other officers for the same, and prescribe their duties and fix their compensation,—and the keepers of such prisons and watchhouses shall have and possess all the powers and authority of jailers at common law or by the laws of this state; and all ordinances enacted by said council are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States and of this state. And for these purposes the council shall have authority by ordinance or resolution:

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

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

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

Fourth—To provide for and regulate crosswalks, curbs and gutters.

Fifth—To regulate or prevent the use of streets, sidewalks and public grounds for signs, signposts, awnings, awning posts, telegraph, telephone and electric and trolley poles, horse troughs, racks and the posting and distributing of handbills and advertisements; to control, prescribe and regulate the mode of constructing and suspending awnings, and the exhibition and suspension of signs thereon; to prevent the incumbering of the streets with vehicles, lumber, boxes or any other thing or material; to prevent the exhibition of signs on canvass or otherwise in or upon any vehicle, standing or traveling upon the streets or public grounds of the city; to remove and abate any nuisance, obstruction or encroachment upon the walks, streets, alleys or public grounds; to provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit the same in any portion of the city; and to prohibit the piling of snow or other incumbrance upon any street by persons owning or operating any street railway along or across the same, or by any person or party.

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

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

Eighth—To regulate or prevent the flying of flags, banners, and signs across the streets, alleys and public places, and to regulate, license or prohibit the construction and use of bill boards and signs adjacent to or near the streets, alleys and public places, or upon any vacant lot or other property.

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

Tenth—To regulate the speed of horses and other animals, vehicles, street cars and locomotives upon the streets and within the limits of the city, and to compel persons to fasten their horses or other animals, attached to vehicles or otherwise, while standing in the streets; to regulate or prevent the use of bicycles and other similar vehicles on streets, sidewalks or public grounds; and to prevent the riding or driving of any animal upon any sidewalk, and prevent any damage to sidewalks or public property.

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

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

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

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

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

Sixteenth—To provide for and change the location, grade and crossings of any railroad, and to compel railroad companies to lower and bridge over or raise their tracks, or to construct viaducts over the same, and to fence their respective rights of way, or any portion of the same, and to construct cattle guards and keep the same in repair within the limits of the city. In case any railroad company fails to comply with any such ordinance, it shall be liable for all damages to the owner of cattle, horses, or other domestic animals, which may be sustained by reason of injuries thereto while on the tracks of such railroad, in like manner and extent as under the general laws of the state, by reason of injuries thereto while on the tracks of such railroad may be instituted before any justice of the peace or other court of competent jurisdiction.

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

places, and to regulate or prohibit the obstruction of streets, alleys and other public places by railway trains, cars or engines.

Eighteenth—To regulate or prohibit the whistling of locomotives or engines in boats or factories, and the discharge of steam, cinders, sparks and dense smoke therefrom.

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

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

Twenty-first—To restrain the pollution of the waters of any creek, pond, lake or watercourse within or adjacent to the city; to prevent the dumping of refuse or other matter therein, and to provide for the cleansing and purification of water, water courses and canals, and the drainage and filling of ponds or pools on private property, whenever necessary to prevent or abate nuisances; and to compel the owner or occupant of any building or grounds to remove from the premises owned or occupied by him all such offensive substances as the council or health officer may direct, and upon his default to authorize the removal or destruction thereof by some officer of the city at the expense of such owner or occupant, and to assess such expense against such property.

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

Twenty-third—To license, regulate, prohibit or suppress billiard, pool or pigeon-hole tables, pin alleys, bowling alleys, shooting galleries, lodging-houses, restaurants and hotels.

Twenty-fourth—To license and regulate gift, fire, auction or bankrupt sales, and to license and regulate itinerant merchants and transient merchants or vendors, agents and solicitors for stages, cars, vehicles or public houses.

Twenty-fifth—To license, regulate or prohibit the exhibitions of showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concert or dance halls, theatrical performances, skating rinks, museums, and all like places of amusement.

Twenty-sixth—To license and regulate insurance offices and agen-

cies, auctioneers, pawnbrokers, second-hand and junk dealers, and to compel all such persons to keep such records of their transactions as it may direct, and make report thereof, and to regulate the time, place and manner of holding public auctions or vendues.

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

Twenty-eighth—To license, regulate or prohibit fortune tellers, clairvoyants, astrologers, massage doctors, street-hawkers, vendors and public criers.

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

Thirtieth—To license and regulate all peddlers, book agents, canvassers, news boys, bootblacks and chimney sweeps doing business in the city.

Thirty-first—To license and regulate the sale of spirituous, vinous, fermented, malt or other liquors; provided, that no saloon shall hereafter be established within four hundred feet of any schoolhouse, except such as are already existing at the time of the adoption of this charter.

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

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

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

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

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

Thirty-seventh—To regulate or prohibit the storage, receipt, transportation, dealing in and use of gunpowder, dry pitch, rosin, coal oil, benzine, naphtha, gasoline, turpentine, gun cotton, nitro-glycerine and any product thereof, and other combustible or explosive material, within the city, or within one mile from the limits thereof, and the use of lights in stables, shops, and other places, and the building of bonfires; and to regulate and restrain the use of fire crackers, torpedoes, Roman candles, rockets and other fireworks, and of firearms.

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

Thirty-ninth—To restrain and punish vagrants, mendicants, street beggars, prostitutes, and to regulate or prevent public bathing or swimming within the city limits, and to prevent and punish open and notorious drunkenness, fighting, assaults, batteries and disorderly conduct and obscenity in the city, and to prohibit within the city the circulation, sale or exhibition of libellous, obscene and immoral publications, prints, pictures, advertisements and illustrations, and any publications, either of printed matter or sign pictures, effigy or otherwise naturally tending to provoke a breach of the peace or to impair the morals of the community.

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

Forty-first—To restrain and prohibit lotteries, and to suppress all kinds of gambling with cards, dice, hazard, roulette, or other games of chance, the use of black boards, lists and tickets for the purpose of gambling, all poolrooms and betting-rooms, and the selling of pools or books on horse races or other contests, real or fictitious; to suppress, prohibit and restrain all mechanism and devices used for gambling or betting; to prohibit all fraudulent practices and the use of fraudulent devices, and to authorize the destruction of all instruments used for the purpose of gambling or other unlawful purpose.

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

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

Forty-fourth—To provide for the inspection of bread made for sale, and regulate the making of the same, and prescribe the weight and quality of bread in the loaf, and provide for the seizure and forfeiture of bread baked contrary thereto.

Forty-fifth—To provide for and regulate the inspection by the board of health of meats, poultry, fish, game, butter, flour, cheese,

lard, eggs, vegetables, meat, milk, fruits, whisky and other liquors and provisions, and to provide for the taking and summary destruction of any such provisions which are unsound, spoiled or unwholesome; and to regulate and prevent the bringing into the city, having or keeping such unsound, spoiled or unwholesome provisions, or any unsound or putrid beef, pork, fish, hides, skins, or other substances, and to inspect and regulate dairies and dairy products, and to regulate the sale of milk within the city.

Forty-sixth—To provide for and regulate the manner of weighing hay and straw and selling the same, and measuring and selling firewood, coal and lime; to provide for the inspection of lumber and building materials, and to regulate the measuring and selling thereof; and to prohibit the sale of any such products by weight or measure, unless first weighed or measured by the official weigher and scaler.

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

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

Forty-ninth—To prescribe the limits within which wooden buildings shall not be erected, placed or repaired, and to direct that all and any buildings within such fire limits, when damaged by fire, decay or otherwise to the extent of fifty per cent of their value, shall be torn down or removed, and to prescribe the manner of ascertaining such percentage, and to compel the owners of any buildings, or other structures which have been destroyed or partially destroyed, or have become dangerous by fire or otherwise, to take down the same, or any part thereof; and in case of refusal or neglect

of said owner to so take down the same when ordered by the council, then to cause the same to be taken down, and to provide by ordinance for the punishment for such refusal or neglect, and to assess the cost thereof upon the land upon which said building or structure stood.

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

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

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

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

Fifty-fourth—To regulate the construction of chimneys and smokestacks, and to prohibit the emission of sparks and cinders from chimneys, smokestacks, or other sources, and to declare the emission of sparks and cinders a nuisance, and to require the use of such practical appliances as may be necessary to prevent the emission of the same.

Fifty-fifth—To declare what shall be a nuisance, to abate the same, and impose fines upon parties who may create, continue or suffer nuisances to exist.

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

Fifty-seventh—To regulate or prevent the burial of the dead within the city, and to regulate and determine the manner in which bodies which have been placed in a vault or tomb or other place for the purpose of burial may be removed, and to regulate and control the location of cemeteries and crematories, and to cause the removal of bodies interred contrary to law, and to vacate and discontinue any cemetery and compel the removal of any bodies interred therein.

Fifty-eighth—To regulate the location, construction and management of stock yards, slaughter houses, packing houses, renderies, tallow chandleries, storing places for hides, bone or glue houses, gas works, soap factories, dye houses and tanneries, or any other

noisome or unwholesome business within the limits of the city, or within a distance of one mile outside of the limits thereof.

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

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

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

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

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

Sixty-fourth—To require and regulate the removal or destruction of swill, offal, garbage, ashes, street sweepings, barnyard litter, manure, rubbish yard cleanings and the contents of privy vaults, cesspools and sinks, decaying animal matter and dead animals, or any other vile or unhealthy material.

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

Sixty-sixth—To establish and regulate public wells, cisterns, hydrants, reservoirs, fountains and watering troughs.

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

Sixty-eighth—To regulate lodging houses and tenement houses, and to prevent the over crowding of the same, and to require the same to be kept in proper sanitary condition.

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

Seventieth—To regulate the employment of minors on the public streets and other public places.

Seventy-first—To compel the owner or occupant of property within the city limits to keep the same clear of any brush or other material or substance liable to communicate fire to adjacent property, and in case the owner or occupant of such property shall neglect or refuse to remove the same, within ten days after being notified so to do by the council, either personally or by one publication in the official paper, said council shall have the authority to have the same done and assess the costs thereof against the property.

Seventy-second—To direct and regulate the planting and preservation of ornamental trees and shrubbery within the public grounds and streets of the city and to prevent any injury thereto or interference therewith, and punish any person willfully damaging any sidewalk, pavement, or appurtenance to the water works, sewerage or electric light system, or to any other property in or about the public works of the city, and to punish interference with or the withholding of any property of the city by any officer thereof or any other party, and to establish boulevards and provide for their maintenance.

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

Seventy-fourth—To regulate and require licenses to be obtained for the pursuit and prosecution of such occupations or kinds of business not in this chapter expressly referred to and provided for as in the opinion of the council may require regulation, and in general to adopt all such measures and establish all regulations in cases for which no express provision in this chapter is made as the council may from time to time deem necessary for the promotion of the health, comfort and safety of the inhabitants, the preservation of peace and good order, and the suppression of vice and enhancement of the public welfare.

Seventy-fifth—To provide for lighting the city.

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

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

Seventy-eighth—To regulate and control, in a manner not contrary to any specific provision on the subject contained in this charter, the exercise by any person or corporation of any public franchise or privilege which, by the terms of the grant thereof, is to be exer-

cised within the corporate limits of the city, whether such franchise or privilege has been granted by the city or by or under the State of Minnesota or any other authority.

Seventy-ninth—To provide for the levy, collection and expenditure of a poll tax within the city.

POWERS TO IMPOSE PENALTIES.

Sec. 76. The council shall also have the power to prescribe, in any ordinance enacted by it, the punishment for the violation of such ordinance by subjecting the offender to pay a fine not to exceed one hundred dollars, or to be confined and kept at hard labor in the work-house of the city, upon the public works of the city, or in any county jail, or in any place of confinement maintained by the city, for a period not to exceed ninety days.

COMPILATION.

Sec. 77. The council may, from time to time, provide for the compilation and publication, in book or pamphlet form, of the charter, ordinances of the city, rules of the council and any of the departments of the city, and such statutes of the state as it may designate, and may provide for the distribution, by sale or otherwise, of copies of such compilation or publication. Such books or pamphlets, so issued, purporting on the title page to be published by authority of the council and to contain the charter and ordinances of the city, or other matter in this section above mentioned, shall be prima facie evidence of their contents in all courts of this state, and all provisions of the charter, and all such ordinances, rules, regulations and resolutions found therein shall be presumed to have been duly and legally passed, approved, adopted and promulgated.

All justices of the peace and other courts which may hereafter be established in this city shall take judicial notice of this charter and its provisions, and all ordinances and resolutions duly passed by the council of this city.

NUISANCES.

Sec. 78. The powers conferred upon the city to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law.

Depots, houses or buildings of any kind within the limits of the city, wherein more than fifty pounds of gunpowder or more than ten barrels (of fifty-five gallons each) of petroleum or other inflammable or explosive oils or substances are deposited or kept at one time,

gambling houses, houses of ill-fame, disorderly houses and houses or places where intoxicating liquors are sold without license, within the city, are hereby declared and shall be deemed to be public or common nuisances.

JURISDICTION OF THE CITY.

Sec. 79. The jurisdiction of the city, for the suppression of diseases and the abatement of public nuisances, or the suppression of any business or traffic contrary to the regulations of the council, shall extend for a distance of one mile beyond the limits thereof.

INTOXICATING LIQUORS.

Sec. 80. All the general laws of the State of Minnesota pertaining in any manner to intoxicating liquors shall, so far as applicable, be in force in, and apply to, the city of Fairmont.

DAMAGED BUILDINGS—REMOVALS.

Sec. 81. Whenever any owner or occupant of any property shall fail to remove any building or structure which has been injured by fire, as provided for in subsection 49 of section 75 of this charter, then and in that case the council may proceed to cause to be removed such building or structure, and assess the expense of such removal against the property from which such removal is had. Before effecting such removal, however, the council shall give at least five days' notice to the owner or occupant of said premises of its intention to so remove said building or structure and to assess the costs thereof upon said property, which notice may be served upon such owner or occupant personally if found within said city; if not occupied, and said owner does not reside within the city, then said notice may be served by mailing a copy thereof to said owner at his last-known postoffice address, and such notice shall be served in the manner provided by law for the service of papers by mail, or service made on a non-resident by the publication of said notice in the official paper for two consecutive issues thereof.

At said meeting of the council, or at any meeting to which said matter may be adjourned, the council shall hear all interested parties, and if determined upon to make an assessment for expense of removal by the council, may be for the full amount of the expense of such removal, and, before making the same, the council shall require the clerk to give notice by publication in the official paper, at least once a week for two consecutive weeks, of its intention to make such assessment upon such property at a meeting of the council to

be specified in the notice, and at said meeting or at any subsequent meeting to which said matter may be put over the council shall hear all interested parties, and shall then, or at a subsequent meeting, proceed to make an assessment against such property, which assessment shall be certified and returned to the county auditor of Martin county, Minnesota, to be collected in the same manner as other city assessments are by him collected.

Nothing herein contained shall be construed to prohibit the council or the mayor or building inspector to order torn down without notice any building or structure within said city which may be dangerous to passers by.

CONTROL OF STREETS.

Sec. 82. The council shall have the care, supervision and control of all public highways, bridges, streets, lanes, alleys, public squares and grounds, sewers, public improvements, and of the entire water front of the city bordering on Lake Sisseton, Lake George, Budd lake, Hall lake and their outlets and inlets connecting said lakes, and shall have full power and authority to regulate and control all wharves and landing places, the landing of passengers, and generally shall have the care, supervision and control of all public property within the limits of the city.

It shall have authority to open streets when necessary, and shall cause all streets which may have been opened under the authority of the city, or with its consent, to be kept open and in repair, and free from obstruction and nuisance. The city shall be exempt from all liability for damage caused to either person or property by reason of the existence or operation of any railroad along, across, under, over or upon any public highway, bridge, street, lane, alley, or other public way, within the limits of the city.

VACATION OF STREETS.

Sec. 83. The council shall have exclusive power to vacate or discontinue public grounds, streets, alleys, highways, other than park ways, within the city, and also all county, town and state roads, whether actually travelled or used at the date of such petition for vacation or not. No such vacation or discontinuance shall be granted or ordered by the council, except upon a petition of the majority of owners of property on the line of such public ground, street, alley or highway within such city, proposed to be vacated, together with a distance of three hundred feet in each direction from the end of such portion so proposed to be vacated, and a corporation, otherwise a proper party, may join in and verify such petition, by any officer,

and be counted as a resident for the purpose of this section. Each petition provided for in this section shall state the facts and reasons for such vacation, accompanied by a plat of the ground, and it shall be verified by one of the petitioners. The council, when the petition is presented, shall, if it deems it expedient that the matter shall be proceeded with, thereupon order the petition to be filed with the clerk, who shall give notice by publication in the official paper for two consecutive weeks, at least once a week, to the effect that such petition had been filed as aforesaid, and the same shall be heard and considered by the council on a day and at a place therein specified, not less than ten days from the expiration of such publication. The council shall, at the time and place appointed, investigate and consider said matter, and shall hear the testimony and evidence on the part of the parties interested. The council, after hearing the same, may, by resolution, passed by a three-fourths vote of all the members thereof, declare such street, alley, highway or road vacated, which resolution, if approved by the mayor, or passed over his vote, shall go into effect the same as other resolutions, after a transcript thereof and of said plat duly certified by the clerk has been filed for record and duly recorded in the office of the register of deeds of said Martin county.

The council may by resolution in any case provide that no such vacation shall be valid until the value of the premises so vacated shall be deposited in the treasury, which value shall be fixed by resolution of the council by three-fourths vote of all the members thereof, and shall in no case be less than a proportionate value of the abutting property.

Provided that vacations and discontinuances of any county, state or town road may be granted upon the petition of a majority of the owners of such property to which the same or the portions thereof sought to be vacated passes, when such owner shall have platted the same, and shall have provided, in lieu of such roads, sufficient streets, in the opinion of the council; and the acceptance of such plat and the resolution of vacation shall, when recorded, be conclusive evidence thereof.

NEW OFFICES NOT TO BE CREATED.

Sec. 84. The council shall have no power or authority to create any new or salaried office not provided for by this charter, but nothing herein contained shall prevent the city and its officers from employing such servants and agents from day to day and from month to month as shall be authorized by the council by resolution.

COMPROMISES.

Sec. 85. The council shall not have the power or authority, except by resolution adopted by vote of two-thirds of all the members of such council, to authorize any compromise of any disputed demand or any portion thereof.

DAMAGES FOR INJURIES.

Sec. 86. The council shall not have the power to authorize the payment of any damages claimed for alleged injuries to persons or property except by resolution adopted by vote of three-fourths thereof.

APPEALS TO DISTRICT COURT.

Sec. 87. Whenever any claim, excepting the claim of an employe or officer of the city, for wages or salary, is allowed and ordered to be paid in whole or in part by the council, no warrant for the same shall be signed by the mayor until ten days after such allowance, and the attorney of the city may, and if the amount so ordered to be paid exceeds twenty-five dollars and seven taxpayers of the city file with him a request in writing to appeal therefrom, he shall, on behalf of and in the name of the city, appeal from the decision of the council to the district court of said Martin county at any time within said ten days, and such appeal shall be perfected in the same manner, and like proceedings shall be had, as in cases of allowance by the board of county commissioners of claims against the county and appeals therefrom, as provided by the general laws of this state.

In case of appeal being taken, the clerk shall forthwith, without charge, make a return thereof to said district court, which return shall include a certified copy of the claim and a transcript from the records in the office of the clerk of the action of the council and mayor thereon. In all such appeal cases the proceedings shall be put on the trial calendar, among the issues of fact, for trial at the next general term of the district court of said Martin county, held after eight days from the date of the appeal, and on or before the second day of such term pleadings shall be made up under the direction of the court, as in civil actions, and thereupon all proceedings shall be had as in other cases in district court.

CHAPTER V.

FINANCIAL DEPARTMENT.

FISCAL YEAR.

Section 88. The fiscal year of the city shall begin on the first day of April.

DEBT NOT TO BE INCREASED.

Sec. 89. The debt of the city shall not be increased nor shall any new bond of the city or warrant be issued except as herein provided, nor shall the city loan its credit, become a stockholder, or make any contribution or donation to any person, company or corporation.

PROVISION TO PAY INDEBTEDNESS.

Sec. 90. The council is hereby authorized to provide by taxation for the prompt payment of interest, and for a sinking fund for the purpose of paying the bonds of the city, whether heretofore or hereafter issued.

WARRANTS.

Sec. 91. All money and other property belonging to the city except as otherwise provided in this charter shall be under the management and control of the council, and moneys shall be paid out upon the warrant of the mayor, countersigned by the clerk, after having been duly authorized by resolution of the council, passed by an affirmative vote of a majority of the whole number thereof; provided, that the salaries of all regular officers and employes of the city, except street commissioner, may be paid upon motion of the council, duly passed by a majority vote, but this proviso shall not be construed to include the wages of officers and employes of the city, specially or temporarily employed. The resolution providing for the issue of a warrant shall state the fund upon which such warrant shall be drawn, and every warrant shall designate the specific purpose for which it is issued and the specific fund upon which it is drawn, and shall be payable out of none other. Each warrant shall be payable to the order of the person in whose favor it is drawn. No warrant on any specific fund shall be drawn or issued until there is money sufficient in the treasury to the credit of such fund to pay the same, together with all other warrants issued since the adoption of this charter, that may then be outstanding against such fund, and the council is hereby prohibited from authorizing

the issue or ordering paid any such warrant, until there is sufficient money, as aforesaid, in the treasury applicable thereto to meet such warrant, together with all other warrants which may be outstanding against said fund. No officer or official body of the city shall have any power to contract or create any indebtedness against the city except in accordance with the provisions of this charter, or to create any liability against the city by the issuance of any warrant contrary to the provisions of this section, and any warrant issued contrary thereto shall be wholly void as to the city, but the same shall constitute a personal claim against the officer or officers issuing the same and any member of the council voting to authorize the issuance of the same or attempting to create such indebtedness.

BOARD OF TAX LEVY.

Sec. 92. There shall be a board of tax levy, which shall consist of the mayor, clerk and the chairman of the finance committee of the council. Said board shall meet at the office of the clerk on the second Monday in September each year, and may adjourn from time to time as may be made necessary by the duties hereby required of it, but not later than the 30th of September. Said board shall consider, determine and fix a maximum rate of taxation for the various purposes for which the council is authorized to levy taxes for such year, and it shall be the duty of such board to reduce the maximum rate of taxation for such purposes to the lowest practical limit, and the clerk shall, on or before the first day of October, certify to the council such maximum rate, and the council shall, thereupon, make such levy as it may deem necessary.

FUNDS.

Sec. 93. There shall be maintained in the treasury the following funds: A sinking fund, a special sinking fund, a permanent improvement fund, a permanent improvement revolving fund, an interest fund, a water and light fund, a poor fund, and such other funds as the council may by resolution or ordinance direct.

1. The sinking fund is created for the purpose of accumulating money to pay the principal of the bonded indebtedness of the city, and for the maintenance of this fund there shall be levied an annual tax of five mills on the dollar of the assessed valuation of all taxable property in the city. There shall also be assigned and placed in the sinking fund twenty-five per cent of all license fees collected by the city and twenty-five per cent of all fines paid into the treasury, and the treasury shall keep a separate account with the city depositories of all moneys belonging to the sinking fund, and the treasurer is hereby forbidden to place any money hereby appropriated to the sinking fund in any other fund.

There shall also be paid into the sinking fund all taxes collected to pay interest in excess of the amount required to pay such interest.

SINKING FUND COMMISSIONERS.

The mayor, clerk, treasurer and attorney shall constitute a board of sinking fund commissioners, and the council may, by resolution, define such duties for said board as are not herein provided. Said commissioners shall have charge of the sinking fund, and shall, by and with the consent of the council, invest the same in bonds or other obligations of the city, issued pursuant to this charter, or in such other bonds as are permitted by law for the investment of the public school fund of the State of Minnesota, or in any county or school bonds of this state. In case of investment in the bonds or other obligations of the city the same shall not be cancelled, but shall be held in the sinking fund, and the interest thereon shall be paid over and applied to such sinking fund. Whenever any bonds of the city shall become due, the said commissioners shall, by and with the consent of the council, dispose of such bonds then in said fund as, with the money on hand belonging to the same, shall be necessary to pay such maturing bonds. And said commissioners, by and with the consent of the council, may dispose of any of the bonds in said fund at such other time as said commissioners and council may deem for the best interests of said fund. Whenever the amount of such sinking fund, together with the interest and revenue therefrom, computed to the time of the maturity of the city bonds, is sufficient to pay all of said bonds, the levy of five mills hereinbefore provided for may be omitted, and the money otherwise devoted to this fund may be diverted to other funds; but, in case of decrease of interest, or for any other cause, said fund shall, in the judgment of the council, be insufficient to pay said bonds of the city at maturity, such tax shall be resumed.

Said commissioners shall make a detailed report to the council at the first meeting in July each year, and at such other times as the council may require, and said report shall show the condition of said sinking fund, the nature and value of each of the securities thereunto belonging, with the full description of said securities.

Any taxpayer of the city, or any of the owners of the bonds of this city, shall have the right to maintain, in a court of competent jurisdiction, any proper action or proceeding to enforce, upon the part of the council or said commissioners, compliance with the provisions of this section. Whenever, at the maturity of any bonds of the city, said sinking fund shall not have money in it sufficient to pay the bonds so maturing, and whenever the council shall deem it

advisable and for the best interests of the city to take up any outstanding bonds not due, the council may issue other bonds of the city, to run not exceeding twenty years, on such terms as to place and times of payment and rate of interest as may be deemed advisable, and in such amount as may be necessary to meet such deficiency, and to make up and refund such bonds if not due; provided, that refunding bonds shall in no case draw a higher rate of interest than the bonds taken up.

2. The special sinking fund is created for the purpose of accumulating moneys to pay such warrants of the city, outstanding at the time this charter shall go into effect, as may constitute legal charges against the city. For the maintenance of this fund there shall be levied an annual tax of six mills on the dollar of the assessed valuation of all taxable property in the city, and the treasurer, immediately upon the collection by him of any such taxes, shall place the same to the credit of said fund. This fund shall also be in charge of the board of sinking fund commissioners, who, by and with the consent of the council, shall, at least once every six months, and oftener if practicable, cause to be issued a call for such outstanding warrants as there may be money in said fund sufficient to meet; but such warrants shall not be paid except in the order in which they have been registered.

Provided, that when the bonded indebtedness of the city shall be reduced to eight per cent of its valuation, one-third of the sinking fund may, each year, be applied to the redemption of said warrants, until all are redeemed.

Whenever there is sufficient money in said fund to pay all such outstanding warrants as may constitute legal claims against the city, together with interest thereon, then said six-mill tax shall be omitted and the special sinking fund abolished, and any moneys that may remain to the credit of such fund after the payment of all such warrants shall be turned over to the sinking fund.

3. The permanent improvement fund is created for the purpose of paying the costs of all real property and all rights therein, and all improvements thereon which the city may have or acquire for its various purposes, payment for which is not otherwise provided for out of other funds, and also for the purpose of paying such portions of the expense of local improvements as shall devolve upon the city.

There shall be paid into this fund all moneys received from the sale of any permanent improvements or property of the city, the proceeds whereof are not otherwise disposed of under this charter, and also such amounts as may from time to time be realized from the sale of bonds issued on account of this fund, and the principal sum of all excess of assessments for water mains and sewers. It

shall be further maintained by an annual tax which shall be levied by the council as a part of the annual tax levy.

4. The permanent improvement revolving fund is created for the purpose of providing money for paying for that portion of local improvements, under the provisions of this charter, for which assessments may be levied. It shall not be supported by taxation. There shall be paid into it all moneys received from all assessments levied under this charter for local improvements, and also such amounts as may be realized from the sale of bonds or certificates authorized therefor in this charter.

5. The interest fund is created for providing moneys for the payment of interest to become due during the next fiscal year upon the outstanding bonds of the city. It shall be maintained by an annual tax levy, made by the council, upon all taxable property of the city, of such an amount as will be sufficient to pay such interest.

6. The water and light fund is created to provide for the support and maintenance of any plant owned or operated by the city for furnishing to the city or its inhabitants water or light, and of paying the cost of the purchase, construction, extension, operation, maintenance and repair of the city water and light plant, and the interest on all bonds and outstanding obligations issued on account of said water and light plant.

This fund shall not be maintained by taxation, but there shall be paid into it all moneys derived from the sale of any property acquired for or used in connection with the water and light plant of the city; also, the proceeds of all special assessments levied on account of or in connection with such water and light plant; also, such amounts as may, from time to time, be realized from the sale of bonds issued on account of said plant; and, also, all moneys received from the operation of said plant, including water and light rates, rentals and penalties.

It shall be the duty of the water and light commission, provided for in this charter, together with the council, within four months after the adoption of this charter, to make an estimate of the amount of the outstanding bonds against the city, properly chargeable to the construction of the present water and light plant, and the interest on such bonds shall be paid from this fund, beginning with the installment of interest falling due next after the first day of October, 1901.

Should there be any accumulation of money in this fund beyond the needs thereof, the council may, by resolution passed by a two-thirds vote, direct such accumulation, or any part thereof, to be paid and transferred to the sinking fund.

7. The poor fund is created for the purpose of providing moneys to be paid out in taking care of the poor of the city. This fund

shall be supported by taxation, but no larger amount shall be levied therefor in any one year than one mill on the dollar of the assessed valuation of the taxable property of the city.

8. The general fund is created to provide moneys for the payment of all legal obligations of the city. It shall be maintained by tax levy, and there shall also be paid into it all moneys belonging to the city not specifically designated as belonging to any other fund.

THE SEVERAL FUNDS.

Sec. 94. The income and revenue of the city paid into the treasury shall at once, by the treasurer, under the direction of the clerk, be apportioned to and kept in the separate funds established by this charter and by the council, and it shall be unlawful to transfer money from one fund to another, or to divert money from the fund to which it belongs, except that, when there shall be a surplus of cash to the credit of any such fund, the council may, by resolution passed by a three-fourths vote of all its members, authorize said surplus cash to be placed in the sinking or interest fund; provided, that money shall never be transferred to any other fund from either the sinking fund or the special sinking fund until the several purposes for which said funds have been established and maintained shall have been fully accomplished.

NO DEBT CREATED WITHOUT AUTHORITY OF THE COUNCIL.

Sec. 95. None of the departments respectively of the city or any officer of such department shall have power or authority to make any contract or to create any debt against the city before the council shall have authorized the same by a two-thirds vote of the members thereof; and no committee of the council or officer thereof shall allow or approve any claim in favor of any person, firm or corporation for any purpose whatever attempted to be created as aforesaid unless the creating of such claim or the incurring of such indebtedness shall have been previously authorized by the council. Every requisition from any officer, department or commission to purchase supplies or create any indebtedness against the city shall be itemized.

MONEY NOW IN TREASURY.

Sec. 96. Within thirty days after it has been declared that this charter has been adopted it shall be the duty of the council, with the assistance of the clerk and treasurer, to apportion the money now in the city treasury among the several funds herein provided for.

POWER TO BORROW MONEY OR INCUR DEBT.

Sec. 97. The city of Fairmont may issue bonds by ordinance as follows:

1. For the purpose of constructing, regulating, maintaining, extending, enlarging or improving suitable water or light plants, or either of them, or for the purpose of purchasing any such already in existence in the city, or for the purpose of acquiring or paying for any real or other property needed in connection with any such plant; and such bonds shall be a first lien upon all water and light plants and structures of any kind, if issued for both, and if for one only of them, upon the appliances and structures thereof and all property acquired for use in connection therewith, owned and purchased by the city.

2. For the purpose of raising not to exceed ten thousand dollars for a permanent improvement revolving fund, provided for in this charter, in order to provide money for any contemplated local improvement, and such bonds shall constitute a first lien upon all such local improvements, and upon the property benefited thereby and to be assessed therefor.

3. For the purpose of paying, funding or refunding any bonded indebtedness of the city, or the interest thereon, existing at the time this charter goes into effect, or created at any time in any manner by said charter authorized. The city of Fairmont, by ordinance, may issue its certificates or other evidence of indebtedness in anticipation of any taxes or assessments levied upon any portion of the taxable property of this city, as provided for herein. Such ordinance for the issuance of bonds or certificates may provide that the same shall be general obligations of the city, or that they will not be general obligations, but shall be payable out of any assessed taxes, assessments, funds or liens held by the city, or may limit the city's liability thereon in any other manner, or shall guarantee that the city shall pay for the same; provided, that the bonds so issued under subdivision 2, above mentioned, shall always be general obligations of the city.

The city shall have authority to protect itself by acquiring title to any property subject to special assessment for local improvements, and shall have authority by ordinance to assign and convey any property so acquired, whether proceedings to acquire such title have been had prior to the time of the going into effect of this charter or thereafter, and shall have the power in like manner to assign any lien or right of action held by the city on account of or arising out of any such assessment, as security for the payment of any bonds, certificates of indebtedness or other evidence of indebtedness mentioned in this section, or to provide that such bonds, certificates

or other evidence of indebtedness mentioned herein may be collected out of any such property, liens or rights of action.

Whenever the council shall pass any ordinance to issue bonds pursuant to the provisions of this section, such ordinance shall provide for the submission to the legal voters of the city, at some general or special election to be called by the council for that purpose, the proposition for issuing said bonds, to an amount deemed by said council advisable. Such election, whether general or special, shall be conducted in the same manner and with the same formalities as special and general elections are conducted under the general laws of this state.

The ballot to be voted at such election shall read substantially as follows: "Shall bonds be issued by the city of Fairmont under the provision of section 97, Chapter V., of the charter of said city to the amount of ——— dollars, for the purpose of ———," and no such bonds shall be issued until such ordinance has been approved by a majority of the legal voters voting at such election.

The debt of the city shall not be increased by bonds or otherwise beyond five per cent of the total value of the taxable property of the city, according to the last preceding assessment for the purpose of taxation; provided, that bonds may be issued as above provided in subdivisions one and two, but the total amount of such bonds when added to the other indebtedness of the city shall not exceed seven per cent of its taxable property as above defined; and provided, further, that bonds may be issued, as above provided, for funding the city's bonded indebtedness whenever required; and provided, further, that certificates of indebtedness against taxes levied and assessed may be issued as hereinafter provided.

Bonds, certificates and other evidences of indebtedness and obligations of the city authorized by this section shall in no event bear a greater rate of interest than six per cent per annum, and if they run for more than five years shall not bear a greater rate of interest than five per cent per annum, and shall in no event be sold for less than the par value thereof, and shall be sold in accordance with the provisions of chapter 355 of the laws of the State of Minnesota for the year 1897, sections one and two, and acts amendatory thereof. Except as provided in this charter, no warrants, bonds or other evidence of indebtedness shall be issued by the city or any one in its behalf.

TAX CERTIFICATES.

Sec. 98. At any time after the annual tax levy has been certified to the county auditor, and not earlier than October 10th in any year, the council may, by ordinance passed by three-fourths majority

of all the members thereof, issue and sell, or cause to be issued and sold, from time to time, as many as needed, certificates of indebtedness in anticipation of the collection of the taxes so levied as aforesaid, for any special fund named in said tax estimate, for the purpose of raising moneys for such special funds; but no power shall exist to issue certificates for any of said separate funds exceeding fifty per cent of the amount named in said tax estimate, to be collected for the use and benefit of said fund, but no certificate shall be issued to become due and payable later than December 31st of the year succeeding the year in which said tax estimate, certified to the auditor as aforesaid, was made, and said certificates shall not be sold for less than par and accrued interest, and shall not bear a greater rate of interest than six per cent per annum, which certificates shall state upon their face for which of said separate funds the proceeds of said certificate shall be used, and the whole amount embraced in said tax estimate for that particular purpose. They shall be numbered consecutively, and be in denominations of fifty dollars, or a multiple thereof, and may have interest coupons attached, and shall be otherwise of such form and terms and with the coupons be made payable at such place as will best aid in their negotiation, and the proceeds of the tax assessed and collected as aforesaid on account of said fund, and the faith and credit of the city are irrevocably pledged for the redemption of the certificates so issued, except as in this chapter provided; provided, that this section shall authorize the sale of certificates against the taxes for 1901 and 1902 only.

PENALTIES.

Sec. 99. Any willful neglect or refusal on the part of the treasurer or clerk to perform the duties required in this chapter or by the charter of the city, or any vote or act of the mayor or any member of the council, or of said officers or other officers of the city, made or done with the willful intent to evade the provisions of this chapter or this charter, or to divert the funds raised by taxation or pledged by ordinance to any specified purpose, is hereby declared to be malfeasance in office, and upon conviction thereof such officer shall be removed from office, and shall, in addition thereto, be punished by a fine not exceeding one hundred dollars or by imprisonment in the Martin county jail not exceeding three months, and any occurrence of any neglect, refusal, vote or act, as aforesaid, shall be prima facie evidence that the same was done with such willful intent.

POLL TAX.

Sec. 100. Every male inhabitant of the city between the ages of twenty-one and fifty years, when not exempt by law, shall annually pay a poll tax of not less than one day nor more than two days' work upon the streets, highways or public improvements of the city, within the ward in which he is a resident, and such number of days shall be fixed and levied by the council by resolution, at its regular meeting in March, in each year.

All persons liable to pay such poll tax may, in lieu of work, pay to the treasurer in cash not exceeding one and one-half dollar for each day so fixed by the council. The clerk shall, not later than the first day in May each year, prepare a full and complete list, in triplicate, of all residents of the city who are liable to pay poll tax. Said list shall be compiled from the last voters' list used at any municipal or general election, as the case may be, held in the city, and it shall be his duty to add thereto the names of all other persons liable to pay said tax who have been omitted from said poll list or who have become residents since the same was prepared. The list shall, after the name of each person thereon, contain a check mark in the proper column to indicate the ward in which such person resided at the time such poll tax list is prepared, and if exempt, the cause thereof; and if such person has died or removed from the city, the fact shall be indicated on said list. The list, when completed, shall be submitted to the council for approval, and when corrected and approved one copy thereof shall remain in the office of the clerk, and be at all times open for inspection, one copy shall be delivered by him to the treasurer, and the third shall be delivered to the street commissioner, and shall be prima facie evidence of the liability of the persons named therein to payment of poll tax.

The clerk shall, not later than the tenth day of May in each year, notify each person in the city who is liable to poll tax, by postal card, of the amount of his said tax, and that it may be commuted at the rate of one dollar per day, by payment at said rate to the treasurer, who shall receive all such payments, and place them in the general fund, and shall make each month a detailed report thereof to the council at its regular meeting. Said report shall give the name and ward of each person who has made payment of said poll tax to him during the preceding month.

All of said poll tax which shall not have been commuted shall be worked out in person, in the manner provided by the laws of the state for the collection of highway labor in towns, except that the same shall be worked under the supervision and direction of the street commissioner.

Said street commissioner shall make report in writing to the council monthly, at its regular meeting, which report shall be in detail, and give the name and residence, by wards, of all persons who have worked their said poll tax under his direction, and the date and place thereof, and shall show the names of all persons who have not worked or commuted their said poll tax.

It shall also be the duty of the street commissioner to add to said list the names of all persons legally liable to the tax who may have been omitted from said poll tax list, and to report the same to the council, and to compel all such persons to work or commute said poll tax.

Failure on the part of said street commissioner to make said reports, or any of them, or to add the name of all such persons liable to poll tax to said list and to require them to pay or commute the same, and promptly report to the council all such persons who fail, refuse or neglect to pay or commute said poll tax, shall be grounds for dismissal from his office, and he shall thereafter be disqualified for appointment as street commissioner.

This provision shall not be construed to be a bar to any prosecution of said street commissioner for any neglect of duty or other wrong doing.

Every person, resident of the city, liable to poll tax, who has been duly notified and does not commute, and who refuses or neglects to appear at the time and place and work his poll tax, when required, and as directed by said street commissioner, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in the manner provided in the general laws of Minnesota relating to highways and penalties for neglecting road duty, shall be liable to all the penalty therein provided.

CHAPTER VI.

WATER AND LIGHT DEPARTMENT.

POWER OF CITY.

Sec. 101. The city may construct or purchase its water and electric light plant, or either of them, and dispose of the same at will. The city may maintain, enlarge, extend, repair and operate the same. It may furnish water and light for all municipal purposes, and may supply the same to the inhabitants of the city, and to such others as it may deem expedient.

COMMISSIONERS.

Sec. 102. The control, management and operation of all such water and light plants shall be committed to a board, to be known as the "Water and Light Commission."

ELIGIBILITY—APPOINTMENT—SALARIES.

Sec. 103. Said board shall consist of three members, all of whom shall be residents and citizens of the city, and at least two of whom shall be freeholders and residents of the city for five years prior to the time of their appointment. They shall be appointed by the district court of the seventeenth judicial district of Minnesota, within sixty days after the adoption of this charter, as follows: One member for one year, one for two years, and one for three years. Said terms being considered herein as beginning May 1, 1901, and annually thereafter, one member shall be appointed by the council at the time and in the manner that other officers are appointed; provided, however, that no such appointment shall be made by the council except by a vote of two-thirds of all the members thereof, and said commissioners, before entering upon the duties of their office, shall qualify and give bond in the sum of at least twenty-five hundred dollars.

The members of said board shall be paid a salary not to exceed two hundred dollars a year each, the same to be paid out of the water and light fund, and form a part of the operating expenses of the plant.

ORGANIZATION—POWERS.

Sec. 104. Said board shall organize by electing one of its number president and another secretary, and such secretary shall be the clerk and bookkeeper of the water and light department, and shall receive for such additional service such compensation as said board and the council may direct. Said board shall employ a superintendent, a collector (who may be one of its number), an engineer, and such other necessary help as will enable it to properly perform its duties under this charter, and may discharge said employes at will. Said board shall prescribe the duties of all such employes, and shall fix their compensation. Said board and its employes may enter upon any premises for the purpose of examining the same and making surveys, and it may prosecute any action in the name of the city against any person for the use of water or light, or for injury to any of the property or works entrusted to its care.

Said board may require from the persons employed by it bonds for the faithful performance of their duties. The amount of such

bonds shall be fixed by the board, provided that the collector shall give a bond in at least the sum of three hundred dollars.

BY-LAWS, RULES.

Sec. 105. Said board is hereby vested with full power to make and enforce such by-laws, rules and regulations as may be necessary to carry into effect the object and intent of this chapter, and to cause all such by-laws, rules and regulations to be entered in a book kept for that purpose, and signed by the president and secretary, which, when so entered and signed, shall be open at all times for inspection, and shall be evidence in any court of justice. Said board shall fix and maintain the rents and rates for water and light furnished by it, so that the water and light fund of the city shall, in each fiscal year, be at least sufficient to defray the cost of the operation, maintenance and extension of the water and light system of the city and to pay the interest on all bonds of the city, designated under this charter, which have been issued on account of the construction of the water and light plant, and to maintain a sinking fund of five per cent of the amount of the bonds so designated for replacement; and it is hereby made the duty of the council to establish such sinking fund within sixty days after the adoption of this charter.

DISTRIBUTION—PRICE.

Sec. 106. Said board shall regulate the distribution and use of water and lights in all places and for all purposes where the same shall be required for either public or private use, and shall fix the price and rates therefor; provided, that, in case of hydrants for extinguishing fires, and fountains and watering troughs, and lights for the streets, public buildings and other public places, the board shall fix and locate the same as the council may direct; provided, that said board shall not charge the city for such water or light a higher rate than is charged to private parties, and the price to be charged per year for each hydrant shall not exceed forty dollars. The city shall pay, out of the general fund, to the account of the board, or to the water and light fund, at the price and rate so fixed by the board, for all water and light supplied to the city for public purposes.

Said board is hereby authorized and required to restrain and prevent any and all waste of water and light, and may, when in its judgment seems necessary, shut off the water or light or take such other action as in its judgment may be proper.

PAYMENT IN ADVANCE REQUIRED.

Sec. 107. The board shall have full power and authority to require the payment in advance for the use of water furnished by it in or upon any building, place or premises, and in case prompt payment for the same shall not be made, then it shall shut off such water; and in case prompt payment of light bills shall not be made, as required by the board, then such light shall be shut off, and said board shall not again supply said building, place or premises with water or light until all arrears, with interest thereon, together with the costs and expenses of turning said water or light off and on, shall have been fully paid.

LIABILITY OF OWNER OF PROPERTY.

Sec. 108. The owner of any private property which has upon it pipes connected with the city water works to convey water thereto, or wires and fixtures connected with the city lighting plant to convey light thereto, shall, as well as the lessee or occupant of such premises, if any, be liable to the city for the rents or rates for all water from said water works, and all lights from said plant, used upon such premises, and such rents or rates may be recovered in an action against such owner, lessee or occupant, or against any one or more of them.

SUPPLIES.

Sec. 109. All supplies for the water and light plants, or either of them, shall be purchased as follows: An itemized list of such supplies shall be made by said board and delivered to the clerk, who shall register the same, and submit it with his report thereon to the council, and if approved by the council, said bill of supplies shall be purchased under the provisions of chapter ten of this charter, by the clerk, under the direction of the council; provided, that the council may authorize the purchase of supplies for amounts up to the sum of two hundred dollars, in open market, without inviting proposals therefor; provided, further, that the council, by a two-thirds vote, may authorize the water and light commissioners to contract for services or supplies, not to exceed fifty dollars in any one month, which may be absolutely necessary for the operation of the water and light plant; but in the event of any extraordinary or sudden injury to said plant, whereby great damage might ensue by reason of delay, the board shall make its requisition for supplies to the clerk, who, by and with the consent of the mayor, shall purchase supplies on account of the city without an order from the

council therefor, and said board shall cause the damage or break to be repaired in such manner as it may deem best for the interests of the city; provided, further, that if any requisition of said board for any such supplies shall be refused by the council for any reason, said board may at once make application to the district court of Martin county for an appropriate writ to compel the council to furnish such supplies, and the court shall, forthwith, hear and determine said matter, upon eight days' notice to the city by service upon the mayor or clerk. And during the pendency of such proceeding, said court may order said board to contract for and purchase said supplies as the court may deem necessary and proper, and all such supplies, so purchased by the board under order of the court, shall be paid for by the city by order of the council as other supplies are paid for.

DUTIES OF COLLECTOR AND SECRETARY.

Sec. 110. It shall be the duty of the collector, under the direction of the board, to collect and pay forthwith into the treasury all moneys due on account of the operation of the water and light plant, and all the money which may come into his hands belonging to the city. In case any water or light rate of any tenant of premises shall not be paid for ten days after the same fall due, said collector shall give to the owner of such premises notice in writing of such default, and that the city will hold him liable for such bill contracted by such tenant. Such notice shall be served as follows: If the owner is a resident of the city, then in the manner provided by law for the service of a summons in the district court; if a non-resident having an agent in the city, then upon the agent; if a non-resident, without a resident agent, then by publishing said notice in the issue of the official paper next following the expiration of said ten days. The secretary shall keep a set of books in his office, which shall contain a full and complete statement of the condition and operation of the plant, all moneys received by the board and paid over to the treasurer, and all payments made for account of the water and light plant, and all moneys due and owing to the board for any cause whatever, together with an accurate account of all the expenses of the board. At the beginning of every month the secretary shall present to the council, upon carefully prepared vouchers, all the bills for labor and material previously obtained or purchased by the board as herein provided, which, after being examined and certified to by the board and by the auditor, shall be presented to the council at its next meeting for allowance and payment.

EXTENSION OF SERVICE.

Sec. 111. Extension of the water pipes of the city and of electric light lines shall not be made except when ordered by said board and approved by the council.

PENALTIES.

FOR INJURIES TO WORKS.

Sec. 112. Any person who shall willfully and without authority from said board, break, remove, or in any manner damage any of the pipes, gates, boxes, hydrants, machinery, hose, wires, poles, transformers, or other property of any description belonging to or in any manner connected with said water and light plants, or either of them, shall, on conviction thereof, be punished by imprisonment in the common jail of Martin county for not exceeding ninety days, or by a fine not exceeding one hundred dollars, at the discretion of the court.

Sec. 113. Any person who shall, without authority from the board, tap or tamper with any main or surface pipe, or take water therefrom, or open or shut any surface cock or fire hydrant, or unscrew wholly or partially the tap from such hydrant, or turn water into any tunnel or ditch excavated or used by the board for the purpose of laying the pipes or mains, or who, being authorized by the board to take water from any pipe for any specified purpose, shall, without authority from said board, use such water for other than such specified purpose, or permit any other person to use any such water, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail of Martin county for not exceeding three months.

INTERFERENCE WITH WATER.

Sec. 114. If any person shall maliciously or willfully divert the water, or any portion thereof, from said works or plant, or shall corrupt or render the same impure, or shall interfere with, destroy or injure any pipe, conduit, machinery, or other property used or required for procuring or distributing water, shall forfeit to the city, to be recovered in a civil action, treble the amount of damages occasioned by him, besides costs, and all such acts are hereby declared to be misdemeanors, and may be punished as provided for in section 113 of this chapter.

OMISSIONS FROM WATER RATES.

Sec. 115. It is hereby declared to be punishable by a fine of not exceeding one hundred dollars, or by imprisonment in the county jail of Martin county for not exceeding ninety days, or by both fine and imprisonment, in the discretion of the court, for any member of said board to neglect or refuse to collect the water or light rates or rentals, or the cost of labor or supplies furnished by said board, to any person or corporation, or to discriminate in favor of or against any individual in regard thereto.

CHAPTER VII.

FIRE DEPARTMENT.

ORGANIZATION.

Sec. 116. There shall be a fire department, of which the mayor shall have general supervision. The head of said department shall be known as the chief of the fire department. Said department shall be either volunteer or paid, but a paid fire department shall not be established except by an ordinance passed by an affirmative vote of two-thirds of all members of the council, which ordinance, before it takes effect, shall be submitted to and adopted by the voters of the city, under the provisions of section 10 of Chapter IV. of this charter.

ELECTION OF OFFICERS.

Sec. 117. If the city maintain a paid fire department, the mayor shall nominate and the council shall elect the chief and such other officers and members of the department as may be deemed expedient.

If a volunteer fire department is maintained, the members thereof shall elect their own chief, assistant chief and other officers, subject to confirmation and approval by the council.

Such volunteer department may adopt a constitution and by-laws, not inconsistent with the laws of the state, and subject to the approval and confirmation of the council.

Such department is also authorized and required to make and submit to the council a draft of all needful rules and regulations, not inconsistent with the laws of the state, the provisions of this charter or the ordinances of the city, for the government and control of such department and the prevention and extinguishment of fires. Thereupon the council may consider the same, and formulate and adopt such rules and regulations as shall govern and control the said department in all its operations.

POWERS AND DUTIES OF CHIEF.

Sec. 118. The chief of the fire department, under the direction of the mayor and council, shall have the general superintendence of the fire department and the custody of all engines, hooks and ladders, trucks, hose, horses and other property used and maintained for the purposes of said department. He shall see that the same are kept in proper order, and that all the rules and regulations and all provisions of this charter relative to the fire department and to the prevention and extinguishment of fires are duly executed. He shall superintend the preservation of all property endangered by fire, and shall have control and direction in case of fire of all persons, organizations or associations engaged in preserving such property. In case of the absence or disability of the chief for any cause, the assistant chief shall exercise all the powers, perform all the duties and be subject to all the responsibilities of chief.

AUTHORITY AT FIRES.

Sec. 119. The council may, by ordinance, provide for the removal and keeping away of any and all persons from fires, and may confer powers for that purpose upon the mayor, the chief, assistant chief and other officers of the fire department and the police officers of the city; and for such purposes the chief or assistant chief shall be vested with police powers. The mayor shall have authority, under such provisions as the council may enact, to send fire engines and other apparatus of the department, with a competent force of employes, to the relief of any other community, or for the preservation of property endangered by fire outside of the limits of the city.

FIRE ALARM AND OTHER PROPERTY.

Sec. 120. The council may provide for the establishment and maintenance of an efficient fire alarm telegraph and telephone system for the purpose of the fire department, and shall provide for the purchase or lease of such fire engines and other apparatus for fire protection as may be necessary to secure the highest efficiency of the department.

The council shall also provide for the sale or disposal of any property no longer necessary for the use of the department, and the proceeds thereof shall be paid over to the treasurer. The council shall also have power to provide for the erection of fire stations or engine houses, and the purchase or condemnation of sites therefor.

The powers in this section granted are subject to the general restrictions contained in this charter.

DESTRUCTION OF BUILDINGS.

Sec. 121. Whenever any building in the city shall be on fire, it shall be lawful for, and shall be the duty of, the mayor or the chief of the fire department to order and direct the destruction and removal of, and to destroy, pull down and remove such building, or any other building in the vicinity, or any part thereof, that he may deem hazardous or likely to communicate fire, and no action shall be maintained against any person, or said city, therefor, or on account thereof.

PENALTIES.

Sec. 122. If any person shall, at any fire, refuse to obey the orders of the chief of the fire department, or other officer vested with authority at such fire, such person shall be guilty of a misdemeanor, and shall be punished as prescribed by the ordinance of this city; or, in case the offense is not punishable under the ordinances of the city, then as misdemeanors are punished under the laws of the state.

CHAPTER VIII.

HEALTH DEPARTMENT.

APPOINTMENT—QUALIFICATIONS.

Sec. 123. The health department shall consist of three members, one of whom shall be a physician, duly licensed to practice medicine within the State of Minnesota, of good standing in his profession, and who shall have been in active practice for at least three years. He shall be styled health officer.

Each member of said department shall be a resident and elector of the city at the time of his appointment. They shall be appointed as other officers, for the term of one year.

GENERAL POWERS—DUTIES.

Sec. 124. Except as otherwise provided in this charter, the members of said department shall have and exercise all the authority and powers and shall perform all the duties granted to or imposed upon local boards of health by the general laws of the State of Minnesota, and all such laws of said state governing such local boards shall, so far as applicable, apply and be in force in the city.

SPECIAL POWERS AND DUTIES.

Sec. 125. The members of said department, in addition to the powers and duties mentioned in section 124 of this chapter, shall have the following and additional powers:

To enforce the laws of the state and the ordinances of the city, and the provisions of this charter relating to public health, and for the enforcement of all such laws, provisions of this charter and ordinances, they and each of them shall have, and be vested with, all the powers of police officers of the city.

PROFESSIONAL ADVICE.

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

TO MAKE A CIRCUIT OF OBSERVATION.

2. It shall be the duty of the health officer to make a circuit of observation to every part of the city and environs, from time to time, and in all cases wherein he may discover the existence of any agent, the presence of which will prove dangerous to the health of the city, and there is no ordinance competent for the correction of the evil, he shall immediately report the same to the council, accompanied by his written opinion of the necessity of extraordinary or particular action.

TO SELECT SITES FOR QUARANTINE STATIONS.

3. The health officer, by and with the approval of the council, may select such sites, places and boundaries for quarantine stations and purposes as may be necessary.

RIGHT TO ENTER BUILDINGS.

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

TO SERVE NOTICES TO ABATE NUISANCES.

5. To serve notice in writing upon the owner, occupant, or agent of any lot, building or premises in or upon which any nuisance may be found, or upon any person who shall have caused such nuisance, requiring him to abate the same within reasonable time, and such notice may be given or served by any officer who may be directed to give the same.

TO PROVIDE BOOKS FOR KEEPING A RECORD.

6. It shall be the duty of the health officer to provide, at the expense of the city, the necessary books for keeping a record of all transactions of the health department, including the proper registration of births and death, and such other statistical information necessary for such official work of said department.

TO VISIT AND EXAMINE THE SICK.

7. It shall be the further duty of the health officer to visit and examine, or cause to be visited and examined, all sick persons who shall be reported to him as suffering from any infectious or contagious disease, and to cause such person to be removed to the hospital or such other place as he may think proper, and cause him to be provided with suitable nurses and attendance at his own expense, if he is able to pay for the same; but if not, then at the expense of the city.

TO PROVIDE EQUIPMENT AND MEDICINE.

8. To provide, under the direction of the council, furniture, fuel, food, medicine, and such other articles as may be necessary for the equipment and maintenance of any hospital for the prevention and control of infectious or contagious diseases among men or animals. To control all such hospitals, and to secure the decent and prompt burial of bodies of all persons dying at such hospitals.

9. He shall, when directed by the poor committee of the council or the board of health, attend any indigent sick person in the city, and furnish at his own expense medicine for such person.

PENALTIES.

Sec. 126. Any person who, without a permit from the health officer, shall bury or remove the body of any dead person, or shall leave unburied any such dead body longer than four days; or who shall fail to bury the body of any person dying of any infectious or contagious disease within twenty-four hours after death when or-

dered by such health officer so to do; or who shall refuse or neglect to abate any nuisance for the existence of which, as owner, occupant or agent of the place upon or within which such nuisance exists, he is responsible, after having received a notice from the health officer so to do; or who shall neglect to report the occurrence or existence of any birth, death or case of contagious or infectious disease as provided for in this charter, the ordinances of this city or the laws of the state; or who shall import or bring into the limits of the city, knowingly, any person or animal sick of contagious or infectious disease; or who shall remove, or cause to be removed, without permission from the health officer, any placard, announcing any contagious or infectious disease, attached to any house or building or inclosure by the said health officer or his subordinates; or who shall refuse to be vaccinated or to secure the vaccination of any minor child for whom he may be responsible; or who shall disobey or willfully avoid quarantine regulations imposed by the health officer; or who shall interfere with the health officer or his subordinates in the exercise of his or their duties; or who shall violate any of the provisions of this charter or the laws of the state or the ordinances of the city relating to the public health, shall, upon conviction, be deemed guilty of a misdemeanor, and punished as prescribed by the ordinances of the city; or in case the offense is not punishable under the ordinances of the city, then as misdemeanors under the criminal laws of the state.

CHAPTER IX.

POLICE DEPARTMENT.

ORGANIZATION.

Sec. 127. There shall be in the city a police department, of which the mayor shall have control and supervision, and of which he shall be the chief executive officer and head. Said department shall consist of a chief of police and such patrolmen as from time to time may be authorized by the council. All members of said department shall be employes of the city, and they shall be nominated by the mayor, but must be confirmed by the council before entering upon the discharge of their duties.

The mayor or council may, at his or their pleasure, remove any member of the department. The number of members shall be limited and regulated by the number of inhabitants of the city, as determined by the last state or government census thereof. Including the chief of police, there shall not be more than one officer to

every one thousand inhabitants of the city or fraction thereof. Provided, that the mayor, in case of large public gatherings or other unusual occasions requiring additional police force, may appoint such other patrolmen, at a compensation not exceeding two dollars per day, as he may deem necessary; but such temporary appointment shall not continue in force for more than three days.

SPECIAL POLICEMEN.

Sec. 128. The mayor may likewise, at the request of any person, corporation or organization desiring special police protection, appoint special policemen, who shall serve without expense to the city, and possess police power to preserve the peace, protect property and make arrests for crime at such places and within such limits as may be designated by the mayor; but such special policemen shall not exercise any official authority or wear any badge of office outside of the limits so designated, except that, in the event of an arrest made by a special policeman, he may wear such badge while taking the person so arrested to the police station.

QUALIFICATIONS.

Sec. 129. No person shall be eligible to appointment in the police department who is not a citizen of the United States, or able to read and write the English language understandingly. Nor shall any person be eligible to any appointment in any department who shall not have been a resident of the city for at least one year immediately preceding his appointment. Any person appointed to the office of chief or patrolmen shall, before entering upon the discharge of the duties of such office, execute a bond to the city in such sum as the council may direct, for the faithful performance of his duty.

POWERS OF POLICE OFFICERS.

Sec. 130. The chief of police shall possess the powers of constable at common law and under the statutes of this state, and shall have the power to serve and execute any warrant, summons or other process issued out of any justice court of the city, and shall have authority to pursue and arrest, in the city or beyond the limits thereof, or in any part of the state, any person charged with or who has committed any violation of any ordinance of the city, or any other offense or crime within the city; but no such officer shall have power to arrest without such warrant, except in cases in which arrests without a warrant are authorized by the general statutes of the state, and the violation of any city ordinance shall be deemed a public offense.

CONSERVATORS OF THE PEACE.

Sec. 131. The mayor or acting mayor, the chief of police, the sheriff of the county and all police officers and constables shall be conservators of the peace. They may command the peace and suppress in a summary manner all riotous or disorderly behavior or proceedings within the city limits, and for such purpose may require the assistance of all bystanders, and, if need be, of all citizens, and in suppressing any riotous or disorderly behavior or proceedings, the authority to command shall be in the officer present, in the order in this section named.

PENALTIES.

Sec. 132. If any bystander or citizen shall refuse to aid in preserving the peace or in suppressing riotous or disorderly behavior or proceedings when thereto required as provided in the preceding section, he shall be guilty of a misdemeanor, and be punished by a fine of not more than fifty dollars or imprisonment for not more than thirty days.

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

GRATUITY OR REWARDS PROHIBITED.

Sec. 133. Any member of the police department who shall accept, directly or indirectly, from any person while in his custody, or after he shall have been discharged, any gratuity or reward, or any kind of intoxicating drink, or who shall receive from any person without the written permission of the mayor any reward for the arrest of any thief or recovery of any goods or money, or compensation for damages sustained while in the discharge of his duties, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not exceeding one hundred dollars or imprisonment not to exceed ninety days.

COMPENSATION TO BE FIXED BY COUNCIL.

Sec. 134. Except as otherwise herein provided, the compensation of the chief of police, patrolmen and other employes of the police department shall be fixed by the council in the same manner as the compensation of city officers.

CHAPTER X.

CONTRACTS.

DEFINITIONS.

Sec. 135. All contracts for commodities or service to be furnished or performed for the city or any department thereof involving an expenditure of more than one hundred dollars shall be made as in this chapter provided, and not otherwise.

The words "commodities" and "service" as used in this chapter shall be construed to include all work, labor, materials, supplies or other property, and all lighting and other service, and all local or public improvements.

The word "contract" as used in this chapter shall be construed to include every agreement, in writing or otherwise, executed or executory, by which any commodities, work or service are to be furnished to or done for the city, and every transaction whereby an expenditure is made or incurred on the part of the city or any department or officer thereof.

All action in this chapter required or authorized to be taken by the council shall be by resolution or ordinance.

ESTIMATES, AMOUNT OF CONTRACT.

Sec. 136. The council in the first instance shall, on its own motion, or may, on the recommendation or report of any department or officer of the city, determine in a general way the commodities, work or service to be done or furnished, and shall fix the estimate cost thereof, and in order to determine such estimated cost may require estimates from any officer or employe of the city.

In case such estimated cost, as determined by the council, shall not exceed the sum of one hundred dollars, the council may direct that the commodities, work or service be procured by or through the proper department or officer of the city without public bids.

In all cases where such estimated cost shall exceed the sum of one hundred dollars said commodities or service shall only be furnished or done upon public bids or procured in open market.

PLANS AND SPECIFICATIONS.

Sec. 137. Before advertising for bids the council shall cause to be prepared by the proper department or officer of the city and filed with the clerk detailed plans and specifications and the proposed contract for commodities and service.

ADVERTISING.

Sec. 138. After filing the same the council shall direct the clerk to advertise for bids for doing or furnishing said commodities or service in accordance with such contract, plans or specifications. Such advertisement shall be published in the columns of the official paper, and in such other papers and at such other times and in such other manner as the council may direct.

All advertisements for bids shall clearly state that such bids are to be received and opened at a public meeting of the council, in the council chamber, upon a certain day and hour.

CERTIFIED CHECKS.

Sec. 139. In advertising for any bid the council shall require any bidder to deliver his bid and a certified check upon any reputable bank of this state, payable to the city of Fairmont, for at least ten per cent of the total amount of such bid, which check and the amount thereof shall be forfeited to the city of Fairmont as liquidated damages if the bidder, upon the letting of a contract to him, shall fail to enter into the contract so let. All advertisement for bids shall reserve the right to reject any and all bids.

RECEIVING AND OPENING BIDS.

Sec. 140. At the time and place mentioned in the advertisement for bids the council shall meet in public session, and publicly receive, open and read all bids that may be presented. Before any of said bids are opened they shall be numbered consecutively, and no further bids shall be received after any bid has been opened. The council shall give all persons who desire the same an opportunity to inspect all bids when they are opened. No bid shall be considered when not accompanied by the specified check.

ACTION BY COUNCIL.

Sec. 141. The council shall act upon such bids, and determine which one shall be accepted. All contracts shall be awarded to the lowest reliable and responsible bidder complying with the foregoing requirements; provided, that the council may reject any bids which it may deem unreasonable or unreliable, and the council in determining the reliability of the bid shall consider the question of the responsibility of the bidder and his ability to perform his contract, without any reference to the responsibilities of the sureties on his bond, and any person who shall have defaulted in any contract awarded by the city (except as to time), or who shall have refused

to enter into a contract after the same shall have been awarded to him, shall not be considered a reliable and responsible bidder. In case the lowest responsible bid shall be more than the estimated cost of such commodities or service, the council may reject all bids and abandon the proposed contract, or it may require the clerk to re-advertise for new bids in the manner hereinbefore provided.

All contracts shall be executed by the bidder within five days after the contract is ready for his signature, and if not executed by him in said time he shall be deemed to have abandoned the same.

PERFORMANCE OF CONTRACTS.

Sec. 142. After the acceptance by the council of any bid it shall direct the execution of a contract by the proper officers in accordance therewith, and also in accordance with the said plans, specifications and proposed contract, and such contract shall be carried out by the proper department or officer of the city as in this chapter provided.

In case the council shall determine that any commodities or service are to be procured in open market, the same shall be procured or done by the proper department or officer in accordance with such general directions as the council may give.

BOND.

Sec. 143. Every person to whom a contract is awarded for an amount exceeding two hundred dollars shall give bond, in such sum as the council may direct, and with such sureties as the mayor may approve, for the faithful performance of such contract.

In the case of all other contracts the council may require a bond, and in all cases of contracts coming within the purview of chapter 354 of the general laws of 1895 of the State of Minnesota and the amendments thereto it shall require such bond as is required by such laws.

EXPENDITURES.

Sec. 144. It shall be the duty of each officer or head of a department to report to the council quarterly the commodities, work and service likely to be needed for the operation of his department or office during the remainder of the then fiscal year, and not theretofore contracted for.

EMERGENCIES.

Sec. 145. In case of emergency, and when the delays provided for in this chapter will cause great damage to the public interest, or endanger public safety, the head of any department, with the written approval of the mayor, may make necessary repairs by day labor and procure materials therefor in the open market.

CONTRACTS NOT TO BE ASSIGNED.

Sec. 146. No contract for which a bond or deposit is required as provided in this charter shall be assigned or transferred in any manner, and any assignment or transfer thereof, except by operation of law, and except by consent of council expressed by resolution, shall fully end and determine such contract, and shall make the same null and void as to any other or further performance thereof by the contractor or his assigns without any act on the part of the city; and the city, through its proper authorities, may at once proceed to re-elect such contract, or may, at its discretion, proceed to complete the same as the agent and at the expense of such contractor and his sureties.

AFFIDAVITS THAT CLAIMS ARE PAID.

Sec. 147. Before any contractor or his personal representatives shall receive any estimates on any contract for which a bond or deposit is required, as provided in this chapter, said contractor or his representatives shall make and file with the clerk an affidavit that all claims for all work and labor to date, on the work for which an estimate is asked, have been fully paid.

PENALTY.

Sec. 148. Any contract made in violation of the provisions of this chapter shall be absolutely void, and any money paid on account of such contract by the city, or any department or officer thereof, may be recovered by the city, without restitution of the property or the benefits received or obtained by the city thereunder.

Any officer of the city violating any provision of this chapter shall thereby forfeit his office, in addition to all other penalties prescribed therefor, and such office may be declared to be vacant by proper proceedings in the courts of the state or by action of the council as provided for in this chapter.

CHAPTER XI.

SALARIES AND BONDS.

SALARIES.

Sec. 149. The following officers shall receive salaries, to-wit: Clerk, treasurer, attorney, health officer and assessor. The members of the water and light commission shall also receive salaries which are limited by this charter.

Members of the board of health, exclusive of the health officer, street commissioner and engineer, shall be paid for their services such sums as the council may direct, and members of the board of equalization shall be paid the compensation hereinbefore provided.

The clerk, building inspector and scaler and weigher shall be entitled to collect the fees provided for by this charter, which shall be fixed by the council, and, excepting the clerk, shall receive no further compensation from the city.

The mayor, aldermen and park board shall receive no compensation for their services, but there shall, each year, be set apart from the general fund one hundred dollars for the mayor's contingent expenses, which shall be paid out by the treasurer upon the mayor's warrant, and which he may expend for any purpose connected with the proper discharge of the duties of his office. He shall file proper vouchers for all such expenditures, and if any part of said sum remains unexpended at the close of the fiscal year it shall be returned to the general fund.

EMPLOYEES.

Sec. 150. The compensation of all employes of the city shall be fixed by the council except as herein otherwise provided, and such compensation shall be paid monthly in the discretion of the council.

SALARIES NOT CHANGED.

Sec. 151. The salaries of the officers of the city shall not be increased or diminished during the term for which any such officer shall have been elected or appointed, nor during the period intervening between the election or appointment of any such officer and the commencement of his term of service; provided, that this section shall not apply to the members of the water and light commission.

All officers appointed or elected under the former ordinance of the city, who by the terms of this charter continue to act as officers after

this charter goes into effect, shall receive the compensation herein provided for such office.

GIFTS.

Sec. 152. No officer or member of any board or employe of the city shall directly or indirectly, in or about the performance of his office or position, ask or receive any gift, compensation, gratuity, reward or other valuable thing whatever, excepting the salary or fees prescribed herein.

BONDS.

Sec. 153. The council may require bonds from any officer or employe of the city in those cases where a bond is not required by the terms of this charter, and may fix the amount of the bond so required by it, and make any regulations it may deem proper in regard to the sureties thereon.

CORPORATE SURETIES.

Sec. 154. The sureties on all bonds required of officers and employes and others by the terms of this charter may be surety corporation, authorized under the general laws of the state to do surety bond business and to give such bond; but such bond must be approved by the council.

CHAPTER XII.

EMINENT DOMAIN AND LOCAL IMPROVEMENTS.

PART I.

EMINENT DOMAIN.

POWER TO ACQUIRE PROPERTY.

Sec. 155. The city of Fairmont is hereby empowered to acquire, by purchase, condemnation proceeding or otherwise, any property, corporeal or incorporeal, wheresoever situated, either within or without the limits of the city, which may be needed by the city or any board or department thereof for any public purpose whatever. And the fact that the property so needed has been obtained by the owner under eminent domain, or is already devoted to a public use, will not prevent its acquisition by the city.

Where nothing is specified to the contrary the city, in any acquisition of property, shall be deemed to have acquired the fee title and absolute ownership of such property, except in case of streets and alleys.

The city of Fairmont is hereby empowered, except as hereinafter specified, to levy assessments upon any property benefited by any improvement which may be made by the council under the provisions of this chapter, to the extent of such benefits, without regard to valuation.

LIMITATIONS.

Sec. 156. Except in cases of improvements to abate a nuisance, no real estate shall be assessed for benefits resulting from the taking or injuring of real property unless the owners of at least one-half of the real estate to be assessed therefor, as appears by the last assessment for general tax levy found in the office of the auditor of Martin county, Minnesota, at the time of the presentation to the council of the petition for improvement, shall petition therefor, which petition shall be in writing and filed with the clerk.

In case of condemnation of land for parks, parkways or boulevards, at least one-half of the total damages and expenses thereof shall be a general charge on the city, and payable out of the general fund.

In all cases where the total damage and expense of taking or injuring real estate for any improvement shall not exceed one hundred and fifty dollars the same shall be a general charge upon the city, and payable out of the appropriate fund, and if there be no such fund, then out of the general fund. Two or more improvements described in the foregoing sections may be combined in one proceeding, if deemed best and so ordered by the council.

DIVISION I.

PROCEDURE WHERE THERE MAY BE AN ASSESSMENT FOR BENEFITS.

Sec. 157. When the council shall determine that it is necessary to take, damage or destroy any property of any description for any public purpose, it shall declare the same by resolution, in which shall be stated in a general way the nature and extent of the proposed improvement, and the property proposed to be taken therefor, and the property, if any, that shall be benefited by such proposed improvement, and upon which assessments therefor shall be made. Thereupon the clerk shall publish a notice in the official paper, once a week for two successive weeks, stating that said matter is pending

before the council, and describing, in a general way, the property proposed to be taken, and the other facts specified in said resolution, and fixing a time and place when and where any person may be heard by the council concerning the taking of such property and the assessment upon such other property of the cost of said improvement; and it shall be the duty of the council at such time and place to hear any person who may wish to be heard concerning such taking and concerning the assessing upon such other property of the cost of such improvement. Objection to either such taking or assessment may be in writing, and filed with the clerk at least one day before the time set for the hearing. Thereupon the council shall cause to be made and filed with the clerk a plat and survey of such property, showing the nature, course and extent of the improvement, and the property necessary to be taken, damaged or destroyed therefor, and the parcels of land to be benefited thereby, together with the names of the owners of each parcel of such property, as the same appears upon the last assessment roll in the office of the county auditor of the county in which the property is situated at the date of the resolution above referred to, together with such statements as may, in the opinion of the council, be proper to explain such survey and the nature and extent of such proposed improvement; and such plat and survey may be amended, modified or changed. And if the council decide after said hearing to proceed with such condemnation and assessment, it shall, by resolution, adopt such plat and survey and order, and direct the making of the improvement, and the assessment of the survey of the property benefited to pay the costs thereof.

COMMISSIONERS.

Sec. 158. After the passage of the resolution specified in the foregoing section the council shall then, or at a subsequent meeting, appoint three commissioners, all of whom shall be freeholders and electors of the city, and not in any way interested in any property to be affected by this proceeding, to view the premises, and ascertain and award the amount of damages and compensation, if any, to be paid for the property to be taken or injured for such improvement, and to assess the amount of such damages and compensation and the expense of the improvement, so far as the same can be assessed, upon the lands to be benefited by such improvement, in proportion to the benefits to be received by each parcel, without regard to valuation. Two of said commissioners shall constitute a quorum, and be competent to perform any duties required of the whole number thereof. Before entering upon the discharge of their duties such commissioners shall take and subscribe an oath to discharge their

duties with fidelity, and make a just and impartial appraisal and award of damages and assessment of benefits, which oath shall be filed with the clerk; and in case any such commissioner shall fail to qualify in five days after being notified by the clerk of his appointment, or in case of vacancy for any cause, the council may appoint another to fill the vacancy.

SERVICE OF NOTICE.

Sec. 159. Said commissioners shall give fifteen days' notice, by one publication in the official paper, of the time and place when and where they will meet to make said award and assessment, or said award, in which notice they shall describe the land to be condemned by general description, and shall specify the purpose of the assessment and in a general way what property will be assessed therefor. They shall cause a copy of such notice to be served in the manner in which a summons in district court is required to be served upon all owners of the lands to be condemned, as appears by the last assessment list in the office of the auditor of the county in which said lands are situated, who can be found in Martin county, and also upon all persons occupying said lands; and they shall mail, with postage prepaid, a copy of such notice to all non-residents of Martin county appearing to be interested in said lands to the last-known postoffice address of such non-residents. Proof of the service of such notice shall be made by affidavit of the party serving the same, and shall state the time, place and manner of said service, and, if served by mail, how each notice was addressed, and such affidavit shall be filed in the office of the clerk.

FAILURE TO SERVE NOTICE.

Sec. 160. In case of failure of such commissioners to serve such notices, or any of them, said commissioners shall forfeit their right to compensation for their services, and the council in such case is hereby forbidden to grant to them or any of them any compensation whatever for their services as commissioners.

VIEWING PREMISES—TAKING EVIDENCE.

Sec. 161. The commissioners shall view the premises to be condemned, and receive any legal evidence that may be offered for the purpose of proving the true value thereof and the damages that may be sustained or the benefit that may be conferred, if such benefits are assessable by reason of the contemplated improvement; and said commissioners for this purpose are hereby authorized to administer oaths to all witnesses produced before them, and may

adjourn the meeting from time to time to place until such assessment is completed; and said commissioners shall have authority to send for persons and papers and to compel the attendance of witnesses, and shall have authority to issue subpoenas for such purpose.

HEARING.

Sec. 162. All persons interested in any property so to be condemned, or in any real estate to be assessed for such improvement, and the attorney of the city, may be present and be heard and adduce evidence before said commissioners at said hearing. If, at the hearing, additional property to that described in the notice shall be included in the assessment for benefits or part of the property be excluded therefrom, no new notice shall be necessary.

APPRAISEMENT OF DAMAGES.

Sec. 163. After viewing the property and hearing the evidence offered such commissioners shall prepare and make a true and impartial appraisal and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the making of such improvement; but if the remainder of the same property, a part of which only is to be taken or damaged by such improvement, shall be benefited by such improvement, then the commissioners, in considering and awarding compensation and damages, shall also consider, estimate and offset the benefits which will accrue to the same owner in respect to the remainder of the same property, and award to him only the excess of the compensation or damages over and above such benefits.

DAMAGES TO BE ASSESSED.

Sec. 164. Having ascertained the damages and expenses of such improvement, as aforesaid, the said commissioners shall thereupon apportion and assess the same, together with the cost of the proceeding, upon the real estate, if any be assessable therefor, by them deemed benefited by such improvement, in proportion to such benefit; but in no case shall the amount of such assessment exceed the actual benefit to the parcel so assessed.

ASSESSMENT ROLL.

Sec. 165. The assessment roll shall contain a brief description of each tract or parcel of property taken, injured or assessed, the names of the owners thereof, so far as known to the commissioners (and, if unknown, they shall so state), and the amount of dam-

ages awarded to, and benefits, if any, assessed against, each parcel of property. The assessment roll shall be footed up and shall show both the total damages awarded and the total benefits assessed, if any. If the whole amount of such compensation awarded, together with the costs of said proceedings, shall exceed the actual benefits to the property subject to the assessment, the commissioner shall so state on such assessment roll, and shall specify the amount of such excess. The commissioners shall also note on the assessment roll the total amount included in the assessment to cover the expenses of the proceeding.

NOTICE OF COMPLETION AND CONFIRMATION.

Sec. 166. When completed said commissioners shall cause to be given ten days' notice, by one publication in the official paper, to the effect that their proceedings have been completed, and that at a time and place therein specified they will attend for the purpose of hearing objections, and that all such objections must be filed in writing with said commissioners at least one day prior to the time of hearing, and that, unless sufficient cause is shown to the contrary, the said award and assessment will be then and there confirmed. Said notice shall contain a copy of the assessment roll, as completed, and no objection shall be considered unless the same be filed as herein provided; but the commissioners may, in their discretion, allow any party interested who has accidentally or inadvertently omitted to file his objections, as aforesaid, to do so at the time fixed for the hearing.

NEW NOTICE MAY BE GIVEN.

Sec. 167. Nothing herein contained shall preclude the commissioners from causing a new notice to be given, specifying a different time and place at which they will attend, for the purpose of hearing the objections to said assessment and for confirmation thereof, in the manner before required, in case the previous notice shall be found incorrect, or in case of absence of the commissioners, or for any other reason that will be satisfactory to the commissioners.

COMMISSIONERS MAY ADJOURN AND REVISE.

Sec. 168. The commissioners, or any of them (the others being absent), shall have power to adjourn such hearing from time to time, and they shall have power, in their discretion, to revise and correct the said assessment, and to confirm or set aside the same, and proceed to make an assessment de novo, with or without any further order from the council; and said assessment when confirmed

shall be corrected to conform to such confirmation, and shall be final and conclusive upon all parties interested therein not appealing therefrom.

PROCEDURE AFTER CONFIRMATION.

Sec. 169. When said assessment is confirmed, it, together with all affidavits of publication and proof of service of notices connected therewith, shall be duly certified to by the commissioners, and filed with and entered in a book kept for that purpose by the clerk, who shall forthwith, under the direction of the council, certify said assessments to the auditor of Martin county and to the treasurer of the city, as hereinafter provided.

REASSESSMENT.

Sec. 170. If said assessment shall be set aside by the commissioners, as aforesaid, or by the court, for any cause, jurisdictional or otherwise, said commissioners shall forthwith proceed de novo, without any further order from the council, to make another or new assessment, and they shall proceed in like manner and give like notice as herein required in relation to the first assessment, and all parties in interest shall have like rights and the said commissioners shall perform like duties and have like powers in relation to any subsequent determination as are hereby given in relation to the first assessment. Provided, however, that, if the damages or benefits assessed to any parcel of land shall not be appealed from, or shall not have been set aside by the court, the said commissioners in any subsequent assessment may omit such parcels of land as to which the first assessment shall not have been set aside or appealed from, or on which said assessment shall have been paid; and as often as an assessment against any parcel of real estate for any local improvement is set aside the same shall be re-assessed until said property shall have paid its proper proportionate share or benefits accruing from said improvement. Provided further, that no second or other assessment for benefits can be made against any parcel of land which the court shall adjudge is not benefited by the improvement for which the assessment was attempted to be made, or which the court shall adjudge is not subject to assessment.

APPEAL.

Sec. 171. Any party interested in any property taken or damaged in these proceedings, or any citizen of the city, or the city, may appeal to the district court of the county in which said property is situated from an award or assessment of damages in the manner provided for hereinafter.

DIVISION II.

WHERE THERE CAN BE NO ASSESSMENT FOR BENEFITS.

PROCEDURE.

Sec. 172. Whenever, in cases of condemnation of any such property set forth in section 155 of this chapter, where there can be no assessment for benefits, all of the acts and proceedings required to be had and done in Division I. of this chapter, in proceedings where there may be an assessment for benefits, shall be had as required in Division II. hereof, where there can be no assessment for benefits, except that the commissioners in the latter case shall in no event make any assessment for benefits. And all the provisions of said Division I. of this chapter shall, so far as applicable, apply to and be in force hereunder in Division II. hereof, to condemn property where there can be no assessment for benefits.

COMPENSATION OF COMMISSIONERS.

Sec. 173. Whenever any commissioners appointed under the provisions of this chapter shall have confirmed their assessments or their award, and certified and filed with the clerk such assessments and awards, and all appeals have been disposed of, and they shall have finally completed their work as such commissioners, the council shall pay them such reasonable compensation for their services as it may deem just.

EFFECT OF AWARD.

Sec. 174. Whenever an award of damages shall be made and confirmed and not appealed from, in any proceedings for the taking of property under this chapter, or whenever the court shall render final judgment in any appeal hereunder the rights of all parties in said matter shall be finally fixed and determined thereby, and the same shall constitute a lawful and sufficient condemnation and appropriation to public use of any property or rights specified in section 156 of this chapter for which damages are so awarded, and every right, title and interest therein and thereto and every lien thereon shall be thereby divested, and the city shall become vested with and entitled to and become the owner of the property taken and condemned, absolutely, for all purposes except as to lands taken for street, alley or highway purposes, in which the city shall only acquire an easement for such purposes. And the city shall be bound to and shall, within one year of such final determination, pay the

amount of such award with lawful interest from the date of the final award or confirmation thereof, or judgment of court as the case may be; and if not so paid judgment therefor may be had against the city. In case there is any doubt as to who is entitled to such compensation or damages, or any part thereof, the amount so awarded or in doubt or in dispute shall be by the council appropriated and set apart in the treasury for whoever shall establish his rights thereto by a proper judicial proceeding and the production of a certified copy of his judgment, and in all cases, before payment of any such award, the owner of such property or the claimant of the award shall furnish satisfactory evidence to the council of his rights to such award.

ABANDONMENT.

Sec. 175. The city of Fairmont may, by resolution of the council, at any time before the confirmation by the commissioners of their award of damages or benefits, or, in case of an appeal, within twenty days after the final determination thereof, abandon such proceedings, and shall thereupon pay the cost thereof.

DESCRIPTIONS TO BE RECORDED.

Sec. 176. Upon the completion of any proceedings under this chapter for the acquisition of any property by the city the council shall cause an accurate description of the property so taken to be prepared, with a statement of the amount of damages, if any, awarded and paid or to be paid, to the former owner thereof, and cause its mayor and clerk to acknowledge the same for the city, and cause the same to be recorded in the office of register of deeds of the county in which such property is situated; and it is hereby made the duty of such register of deeds, upon being paid his statutory fees, to record such statement in some appropriate book in his office, and such record, or a duly certified copy thereof, shall be prima facie evidence that the city of Fairmont is the lawful owner of such property.

PART II.

LOCAL IMPROVEMENTS.

DIVISION I.

PROCEDURE FOR MAKING IMPROVEMENTS—GRANT OF POWERS.

Sec. 177. The city of Fairmont is hereby authorized to fill, excavate, grade, level, pave, re-pave, curb, wall, bridge, gravel, macada-

mize, sprinkle, plank, sweep or light any street, avenue, lane, alley or highway, and keep the same in repair; also, to fill, excavate, grade, improve, protect and ornament any public park, square or ground; also, to construct, improve or ornament any park, boulevard or grass plat; also, to plant and protect shade and ornamental trees along streets and avenues; also, to construct, lay, re-lay and repair sidewalks, sewers, retaining walls, gutters, drains and pipes for surface water and private drains in, over or under any street, lane, alley or highway; also, to abate nuisances; also, to drain lowlands within the city when they constitute a nuisance, and the whole or any part of such expense of such improvement may be, subject to the provisions hereinafter contained, defrayed by an assessment upon the real estate benefited thereby, in proportion to such benefits, without regard to valuation, to be determined and levied in the manner hereinafter provided.

PETITION BY PROPERTY OWNERS.

Sec. 178. The city shall have no power to assess upon real estate any part of the expense of in anywise improving any street, alley or highway, except sweeping or sprinkling the same, unless at least one-fourth of all the owners of real estate to be assessed therefor and the owners of at least one-half of the frontage of such street or part of street to be improved shall first petition the council for such improvement. Nor shall the city have any power to assess upon any real estate any part of the expense of constructing any sewer or drain, or pipe for surface water or private drain, unless at least ten per cent of the owners who own at least ten per cent of the real estate to be assessed therefor shall first petition the council for such improvement.

EXEMPT PROPERTY.

Sec. 179. The amounts which would otherwise be assessable against public property or property exempt from assessment for improvement shall be paid out of the permanent improvement fund.

SEVERAL IMPROVEMENTS.

Sec. 180. One or more of such improvements upon one or more streets may be made at the same time, under one order and in one assessment proceeding, and may in that case be included in one contract; but in such case the expense of each improvement shall be separately apportioned and assessed upon the several parcels of land benefited by such improvement in proportion to such benefit.

APPLICATION.

Sec. 181. All applications, proceedings or propositions for any improvement authorized in section 177 of this chapter shall be made to or emanate from the council. Any such application or petition made to the council shall be in writing, and if made by owners of property liable to be assessed therefor shall state the place of residence of each signer and shall specify the real estate owned by each signer which he believes will be benefited by the improvement thereunder, and such petition shall be verified by the oath of such signer, and shall be prima facie evidence of its own genuineness and of the facts therein stated, and shall be preserved in the office of the clerk. The council shall investigate the proposed improvement and the cost of the same, and whether the requisite number of owners to be assessed therefor have joined in the petition, and if it shall be determined that such improvement or modification thereof shall be necessary or proper, it may, in its discretion, subject to the provisions of section 178 of this chapter, by resolution, declare its purpose to make said improvement, which resolution shall state the facts so far as applicable required to be stated in said resolution, specified in section 157 of this chapter. Thereupon, the clerk shall give like notice to that required in said section 157, and all the provisions of said section, so far as applicable, apply to and govern the action of the council in this proceeding.

CONTRACT AND ASSESSMENT.

Sec. 182. When the council shall authorize any improvement described in section 177 of this chapter it shall cause the work described in said order to be let and done by contract, as in this chapter provided. Upon the making of such order and the letting of such contract the council shall thereupon, or at a subsequent meeting, appoint three commissioners, who shall have the same qualifications and powers and qualify in the same manner and perform the same duties, so far as necessary and proper, that are prescribed in section 158 of this chapter.

Said commissioners shall proceed without delay to assess so much of the amount necessary to pay the cost of such improvement as is assessable, including the expense of making such assessment, as nearly as they can ascertain the same, on the property benefited thereby, in proportion, as nearly as may be, to the benefits resulting thereto; but in no case in excess of such benefits. In making the assessment roll the commissioners shall describe separately each parcel of property assessed and the amount assessed against the same, and shall state the names of the owners thereof so far as known to

said commissioners. No mistake or omission in the owner's name shall in any wise affect such assessment.

RAILWAYS.

Sec. 183. When, in any case, any portion of the cost and expense of making any improvement mentioned in section 177 of this chapter shall, by virtue of any law or ordinance or by virtue of any contract, be chargeable upon any railway or street railway company, the amount so chargeable may be assessed against such property, and the balance only upon such real estate to be benefited thereby; and the city may collect the amount so assessed against said railway company by distress and sale of personal property, in the manner provided for by the general laws of this state in the case of taxes levied upon personal property, or by suit brought to enforce the collection of any indebtedness; provided, however, that any real estate belonging to such railway company and subject to assessment and deemed benefited by any such improvement, shall be assessed as in other cases.

NOTICES TO BE GIVEN.

Sec. 184. Before proceeding to make an assessment for any improvement mentioned in said section 177 said commissioners shall give the notice prescribed in section 159 of this chapter, and all the provisions of said section 159, so far as applicable, shall apply to and govern the acts and proceedings of the commissioners appointed and acting under Part II. of this chapter.

And in case of failure of said commissioners to serve notice, the provisions of section 160 of this chapter shall apply to and govern the acts and proceedings of said commissioners and the council.

NOTICE OF HEARING OBJECTIONS AND CONFIRMATION.

Sec. 185. The commissioners shall view the premises, take evidence, hear all parties interested and assess the benefits, and in performing these duties all the acts and proceedings of the commissioners shall be done under the provisions of sections 161, 162, 163 and 164 of this charter, and all the provisions of said sections, so far as applicable, shall be in force and apply to the acts of said commissioners under this section, and when said assessment is confirmed it shall be final and conclusive upon all parties not appealing therefrom.

ASSESSMENTS TO BE CERTIFIED.

Sec. 186. When said assessment is so confirmed, it, together with all affidavits of publication and proofs of service of notices connected therewith, shall be duly certified by said commissioners, and filed with and entered in a book kept for that purpose by the clerk, who shall forthwith, under the direction of the council, certify said assessment to the auditor of Martin county, and said auditor shall at once extend said assessment for collection against the several parcels of property certified to him upon the proper books in his office.

Any such assessment and the interest thereon which shall not have been paid on or before the first day of January following the return thereof shall thereafter be payable to the county treasurer as other taxes and assessments are payable, and shall become delinquent, and be subject to a like penalty as state and county taxes; and said county treasurer shall make settlement with the city treasurer for all collections made by him on account thereof in the same manner as for other taxes levied in the city.

Said clerk shall also make and certify a copy of said settlements to the treasurer of the city, whose duty it shall be to receive payment of all such assessments and interest, up to and including the thirty-first day of December following, and said assessment shall bear interest at the legal rate from the date of the filing of the same with said clerk.

When any such assessment is paid to the treasurer of the city he shall give duplicate receipts therefor, one of which shall be delivered to the clerk, who shall thereupon mark upon his roll opposite the appropriate parcel of land the words "Paid on the — day of —;" and on the first day of January following, the clerk, after comparing his roll with the roll in the office of the treasurer, shall certify to the county auditor all payments made on account of such assessment, and said auditor shall mark on his book, opposite the appropriate parcel of land therein described, the word "Paid."

APPEAL TO DISTRICT COURT.

Sec. 187. Any person interested in any property assessed under this chapter for benefits resulting from any improvement, or any citizen of the city, or the city, may appeal from such assessment to the district court of Martin county within thirty days after the date of confirmation thereof, and such appeal is hereby declared to be the conclusive way in which said assessment can in any wise be reviewed, modified or annulled, and this shall be construed to apply to all appeals allowed by this chapter.

PROCEDURE ON APPEAL.

Sec. 188. Said appeal shall be made by serving a copy of notice of appeal upon the clerk of the city, stating that the appellant appeals to the district court from said assessment, which notice shall contain a description of the property so assessed, his interest in said appeal, and the objection of the appellant to such assessment, and by filing with the clerk or said court, within ten days thereafter, said notice of appeal with proof of service thereof. In case of an appeal it shall be the duty of the clerk of the city within ten days after service upon him to prepare and deliver to the appellant a copy of the assessment roll as confirmed.

It shall be necessary to include in such copy only those pages of said roll which are pertinent to the property involved in such appeal, which copy shall, within fifteen days after the taking of such appeal, be filed by the appellant in the office of the clerk of court to which the appeal is taken. The district court may, for good cause shown, grant further time for filing such certified copies, or may, when necessary, require a further return to be made. The cause shall be entered by such clerk in the name of the person taking said appeal against the city as an "appeal from assessment," and it may be brought on for hearing by either party.

PROCEDURE IN COURT.

Sec. 189. Such appeal shall be tried by the court, without a jury, at a general or special term, without pleading, other than above stated. Upon such trial the appellant can make no other objections to said assessment than those stated in his notice of appeal, but the court may, in its discretion, permit such notice to be amended in this respect at any time. The court shall hear such competent evidence as may be offered by either party, and may revise, correct, amend, reduce or confirm the assessment appealed from, or may order new assessments to be made as to the property concerning which such appeal is taken, and in that event shall direct the commissioners how to make such re-assessment so as to avoid the errors complained of.

The court shall not dismiss the appeal, or confirm or annul the assessment, on the ground that only a portion of the assessment roll has been returned; but either party may introduce the whole of said roll in evidence, and the same shall, in all cases, whether on said appeal or otherwise, and in all courts, be prima facie evidence of the validity of all proceedings up to and including the confirmation of the assessment.

Disbursements, but no costs, may, in the discretion of the court, be allowed upon such appeal as in other civil cases; but any judg-

ment entered therefor against said city shall be a separate judgment and paid out of the general fund of the city. Upon the determination of said appeal by the district court either party may appeal to the supreme court of the state.

RE-ASSESSMENT.

Sec. 190. The commissioners may re-assess any parcel of land for benefits for local improvements when deemed necessary and proper by them, and in such case all the provisions of section 170 of this chapter, so far as applicable, shall apply to and govern the acts and proceedings of said commissioners.

And said commissioners are hereby authorized, in their discretion, to levy an additional assessment upon parcels of land benefited by such local improvement in all cases where it shall be found that the actual cost of making said improvement has exceeded the total amount of benefits already assessed, and in such case such additional assessment shall be for such additional cost, and in such case like notice shall be given and similar proceedings had in all respects as in making said original assessments.

WHEN ASSESSMENT A LIEN.

Sec. 191. From and after the date of the confirmation of the assessment as provided for in this chapter such assessment shall be a lien on all property affected thereby.

DEDUCTION FOR PROMPT PAYMENT.

Sec. 192. A deduction of five per cent shall be allowed on all assessments paid before the lapse of time for the appeal hereinbefore provided for.

ASSESSMENTS ALREADY LEVIED.

Sec. 193. The foregoing provisions shall not affect the collection of assessments already made.

OMISSION OF ASSESSMENT ON CORNER LOTS.

Sec. 194. The council may, in its discretion, in case of any corner lot, when one frontage of such lot has been fully assessed for laying any water main or sewer, in case like improvement is to be made along the street on the other frontage of such lot, omit the assessment for such new improvement on such lot to an extent not exceeding a frontage of sixty feet of any such lot as it may deem just; but the discretion of the council in such matters shall be final, and the refusal or failure of the council to make such omission shall not be ground for setting aside such assessment in any court or proceeding.

PART III.

MAKING OF IMPROVEMENTS.

DIVISION I.

PROVISIONS OF CHAPTER X. TO APPLY.

Sec. 195. Except as herein otherwise provided, the provisions of Chapter X. of this charter shall apply to contracts mentioned in this chapter in like manner as to other contracts of the city.

PLANS, PROFILES AND SPECIFICATIONS TO BE MADE.

Sec. 196. Whenever any public improvement shall be ordered to be let for which an assessment is to be made as aforesaid the council shall cause a plan or profile of the work proposed, together with the specifications for the doing of the same, to be prepared, which shall be deposited with the clerk, and kept by him at all times open for the public inspection. If the permanent improvement revolving fund shall contain sufficient funds to pay the estimated cost of the proposed improvement in addition to the cost of all other improvements then under construction or contract, but not otherwise, the council shall, after the making and filing of said plans, profiles and specifications, cause proposals for doing such work to be advertised for. Provided, this shall not apply to street sprinkling, cleaning or building sidewalks.

RIGHT TO SUSPEND WORK.

Sec. 197. The right shall be reserved in said contract to the engineer, with the consent of the council, in case of improper construction, to suspend the work at any time or to order the entire reconstruction of the same if improperly done.

ESTIMATES.

Sec. 198. In the course of the proper performance of a contract the council may, from time to time, not oftener than once a month, as the work progresses, allow to the contractor estimates of the amounts already earned, less fifteen per cent thereof, which, when ordered by the council, shall entitle said contractor to receive the amount so allowed out of the money applicable to the payment of such work. When the whole work has been completed by such contractor to the satisfaction of the council the balance due may be audited and allowed by the council, on a final estimate by the coun-

oil, and shall be payable out of the moneys applicable to the payment of such work.

GUARANTY OF DURATION.

Sec. 199. Whenever necessary or advisable, in case of contracts for permanent improvements, the contract may provide that the city shall reserve upon the completion of the work such sum and upon such conditions and for such length of time as the specifications shall specify as a guarantee for the duration of the work performed under such contract.

COUNCIL TO COMPLETE WORK.

Sec. 200. If in the opinion of the council any work under contract does not progress each month so as to insure its completion within the time named in the contract, the council shall have power to furnish and use men and materials to complete the work, and charge the expense thereof to the contractor, and the same shall be deducted from any money due or to become due such contractor, or may be collected from him or the sureties on his bond in a suit by the city.

PROPERTY OWNERS MAY CONSTRUCT STREETS.

Sec. 201. Property owners shall be allowed to construct streets and other public improvements upon, along or through their own property, at their own expense, in such cases and upon such terms and under such regulations as the council may prescribe from time to time by ordinance.

PART IV.

SIDEWALKS.

PLANS AND SPECIFICATIONS.

Sec. 202. The council shall by resolution adopt and cause to be filed for inspection in the office of the clerk general plans and specifications to apply to and govern the building, relaying and repairing of all sidewalks in the city.

From time to time in each year the council shall cause invitations for bids to be published in the official paper, in the same manner and for the same length of time as is required in the case of other public improvements, for building, laying and repairing all sidewalks that may be ordered by the council during the calendar year. The bids therefor shall be received and opened, contract let and

bond given in the same manner provided in this chapter for other public improvements.

GRANT OF POWERS—DUTIES OF OWNERS.

Sec. 203. The city shall have the right to cause to be constructed sidewalks along any of the public streets and highways of said city that it may deem necessary, and cause the same to be relaid, repaired or removed when necessary; and it is hereby made the duty of all owners of land adjoining any street or highway in the city to construct, relay, repair or remove such sidewalk along the side of the street or highway next to the land of such owners respectively as may have been heretofore constructed or as shall hereafter be constructed or directed by the council to be built, and the same shall be constructed of such material and width and according to the plans and specifications adopted by the council therefor.

HOW ORDERED.

Sec. 204. Whenever the council shall deem it necessary that any sidewalk in the city shall be built or relaid, it shall, by resolution, direct such building or relaying, according to the plans and specifications adopted therefor.

Personal notice by the publication of such resolution once in the official paper shall be sufficient notice to the owners of the lands along which such sidewalk is to be built to construct the same, and unless such owners shall each, along his respective land, construct and fully complete such sidewalk within thirty days after the publication of such resolution or the service thereof upon him as aforesaid the council shall forthwith proceed to build or relay the same under contract, as hereinbefore provided under the direction of the street commissioner, who shall at once file with the clerk his report of such work.

Within ten days after the filing of said report the mayor and clerk, acting as commissioners therefor, shall ascertain the expense of such building or relaying, and assess and levy such expense upon and against each lot and parcel of land upon which such sidewalk shall front, in accordance with the provisions herein made.

REPAIR OF SIDEWALK.

Sec. 205. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten or out of repair it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and firm manner and report to the

council the cost of such repairs, in each case, with a description of the lot or parcel of land abutting upon the sidewalk on which such repairs are made, and such report shall be carefully filed and preserved by the clerk, and it shall be the duty of the commissioners to assess the cost and expense of making such repairs against said lots, as above provided.

In case any such sidewalk shall become so out of repair as to be dangerous, and cannot be made safe without being rebuilt, and there are no funds to pay the expense of such rebuilding, it shall be the duty of the street commissioner to remove the same entirely, and the expense of such removal shall be added to the cost of rebuilding when the same shall be rebuilt, and shall be collected with the assessment for such rebuilding.

NOTICE OF CONFIRMATION OF ASSESSMENT.

Sec. 206. In the month of September of each year said commissioners shall give ten days' notice by one publication in the official paper to the effect that at a time and place therein specified, not later than the first day of October following, the assessment for sidewalks theretofore made by them will be confirmed unless sufficient cause be shown to the contrary, and that objections to any particular assessment must be filed one day before the time specified in said notice with clerk.

At the time and place specified said commissioners shall meet and shall proceed to the hearing thereof, and shall have the same power to revise, correct, confirm or set aside such assessments, or to proceed de novo, as commissioners have in case of other assessments under this charter, and said assessment when confirmed shall be final and conclusive unless appealed from as in this chapter provided, and said assessment shall be by said commissioners combined in one assessment roll and certified to said clerk, who shall, under the direction of the council, and on or before the tenth day of October, certify the same to the auditor of Martin county to be collected in the same manner as other assessments made under this chapter.

COLLECTION OF ASSESSMENTS.

Sec. 207. The treasurer of the city shall receive payment of all such assessments up to and including December 31st following, and all the provisions of section 186 of this chapter shall, so far as applicable, apply to and govern the acts and proceedings of all officers relative to the collection of the assessments herein provided for.

PART V.

SPRINKLING.

POWERS.

Sec. 208. The council shall have power, throughout the city, or in such districts as it shall designate, to sprinkle the streets, highways and public places of said city, and to assess the whole or any part of the cost of the same upon adjacent property.

PETITION FOR SAME.

Sec. 209. Whenever a majority of the property owners representing at least fifty per cent of the frontage of the abutting real property to be assessed shall petition the council to have any street, highway or public place or any portion thereof in said city sprinkled, and to have the cost thereof, or such portion of such cost as shall not be a charge upon the city at large, assessed against such abutting property, the council shall proceed to consider, investigate and act upon the said petition, and decide whether such sprinkling is necessary and proper. The council shall give ten days' notice by one publication in the official paper that such petition has been presented, and at a time and place therein stated said matter will be considered, and that all persons interested may then and there appear and be heard. If upon such hearing the council shall determine that said sprinkling is necessary and proper, it shall declare the same by resolution, and proceed to cause said work to be done by contract for the calendar year under the provisions of chapter 10 of this charter, and such regulations as the council may establish therefor.

The mayor and clerk, acting as commissioners for that purpose, shall assess the cost thereof by an equal rate per front foot of the parcels of land abutting upon the street or highway sprinkled, within ten days after the letting of said contract, and said commissioners shall confirm their assessment at the time and in the same manner required in section 206 of this chapter, and all the provisions of said section shall, so far as applicable, apply to and govern the acts and proceedings of commissioners under this section, and all the provisions of section 207 of this chapter relating to the assessment and collection of assessments shall apply to and govern the acts and proceedings of the officers relating to the collection of the assessment herein provided for. The levy above provided for shall be made annually until the council shall receive a petition signed by the owners of more than fifty per cent of the frontage of the property to be assessed requesting that said improvement be discontinued, and the council shall thereupon consider said petition, and if it shall determine that it is advisable and proper to discontinue the same it shall make an order to that effect.

COMPENSATION.

Sec. 210. The commissioners referred to in Parts IV. and V. shall serve without compensation.

CHAPTER XIII.

ACTIONS AND EVIDENCE.

LIMITATIONS OF ACTIONS—NOTICE TO CITY.

Sec. 211. No action shall be maintained against the city on account of injuries received in any manner whatever to persons or property by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare unless such action be commenced within six months from the receiving or happening of the injury, nor unless notice shall have been given in writing to the mayor or to the clerk within thirty days after the receiving or occurrence of said injury, stating the time when and the place where the same was received or suffered, and that the person injured will claim damages of the city for such injury; but the notice shall not be required when the person injured shall in consequence thereof be bereft of reason.

ADVERSE POSSESSION.

Sec. 212. No right, title, estate or easement of the city in or to any property shall be lost by any adverse possession or occupancy, and no statute of limitation shall run or operate as against the city in favor of any person or persons occupying any of the public or platted streets or alleys or public or platted grounds, parks, parkways or boulevards of the city, whether any such streets, or grounds or any such property shall be improved or not.

OBSTRUCTIONS, ETC., IN STREETS.

Sec. 213. If any person or company shall place or leave any obstruction or make any excavation or opening, or cause any defect in any street, road, alley, public ground in the city, or leave any obstruction, excavation or opening or defects unguarded or without proper protection, such person or company shall be liable to any person injured in person or property without his fault because of any obstruction, excavation, opening or defect; and in case any judgment shall be recovered in any action against the city for any injury caused by such obstruction, excavation, opening or defect, the city shall have the right to recover the amount of any such judgment from

the person or company placing or leaving such obstruction, making such excavation or opening or causing such defect.

PROCESS AGAINST THE CITY.

Sec. 214. Service of summons, process or notice in any action or proceeding against the city may be had by leaving a copy thereof with the mayor or clerk.

DISQUALIFICATIONS.

Sec. 215. No judge, justice of the peace or juror shall be incompetent or disqualified to act as such by reason of his being an inhabitant or taxpayer of the city in any action or proceeding in which the city shall be a party in interest.

SECURITY—APPEAL.

Sec. 216. The city shall not be required, in taking an appeal or in suing out any writ or process in or about any action or proceeding, to enter into any bond or undertaking, or to give any security whatever. Any stay allowed by law or ordered by the court in favor of the city shall take effect without the giving of any such bond or security.

JUDGMENT AGAINST THE CITY.

Sec. 217. Whenever any final judgment shall be rendered against the city said judgment shall be paid or enforced in the manner provided by the general laws of the state for the payment and enforcement of judgments against cities.

Sec. 218. In all prosecutions for the violation of the provisions of this charter or the ordinances of the city the first process shall be by warrant, which shall run in the name of the city of Fairmont; provided, that no warrant shall be necessary in the case of an arrest of any person while in the act of violating any provision of this charter or ordinance of the city, and the person or persons so arrested shall be proceeded against, bound over, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant.

AFFIDAVITS OF PUBLICATION.

Sec. 219. The proprietor of the official paper shall, immediately after the publication of any notice, ordinance, resolution or proceeding of the council, or of any other matter which is required by any provision of this charter, file with the clerk a copy of such publica-

tion; and such affidavit shall be prima facie evidence of the publication, and no account or claim for any publication whatever shall be allowed or adjusted by the clerk or warrant issued by the council until each affidavit shall have been filed with the clerk, and until the clerk shall have certified that fact to the council.

VERIFICATION OF CLAIM.

Sec. 220. Before any account, claim or demand against the city for any services, property or material for which the city shall be liable shall be audited or allowed by any board, person or persons authorized by this charter to audit or allow the same, the person in whose favor such claim shall be, or his agent having personal knowledge of the facts, shall reduce the same to writing, in items, and shall verify the same as claims are required to be verified by section 687 of the statutes of Minnesota for the year 1894; provided, that the provisions of this section shall not apply to any claim or demand for the salary of any city official or regular employe under any department of the city government, or for any claim or demand of any contractor under any contract by him secured by bond to the city as provided in this charter.

PENALTIES.

Sec. 221. Any member of any board or any person or persons authorized by this charter to audit or allow any account, claim or demand against the city, or any department thereof, who shall audit or allow any such account, claim or demand which does not conform to the requirements of the preceding section shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days.

CHAPTER XIV.

FRANCHISES.

ORDINANCES GRANTING FRANCHISES.

Sec. 222. Every ordinance by which the council shall propose to grant any franchise shall contain all the terms and conditions of the franchise to be granted, and it shall be a feature of every franchise so granted that the maximum price for the service or charge shall be stated in the grant thereof, and before any such ordinance shall be in force it shall be submitted to the qualified voters of the city at some general or special election in the manner that other ordi-

nances are submitted under the provisions of section 74 of this charter.

REGULATION OF RATES.

Sec. 223. The city shall have the power to regulate and control the maximum rate to be charged by any corporation or person exercising any franchise in the city for the service rendered by it to the city, but such price shall be fair and reasonable to such corporation or person and to the public. The manner in which such rate shall be regulated shall be fixed by the council by ordinance, and said council shall have the right and is hereby authorized to prescribe by ordinance for the appointment of commissioners to fully investigate and hear and determine all questions with reference to rates to be charged by any such corporation or person, and the council may further provide by ordinance that every person or corporation exercising any franchise in the city shall pay a gross earnings tax, provide the amount thereof, and the method of its collection.

REPORTS.

Sec. 224. Every corporation or person exercising any franchise in the city of Fairmont shall file annually, on the first Monday in February, in the office of the clerk, a statement, subscribed and sworn to by some officer of such corporation or person who knows the facts, setting forth in detail for the preceding calendar year the then actual cost of the plant or business operated by such party; the actual incumbrance, debts and obligations thereon, if any; the amount of stock issued, and to whom; the gross earnings; the expenses and the net income; and the amount of stock of any such corporation. Said statement shall be open to public inspection, and if the owner of any such franchise refuses or neglects to file such report as herein provided the council may proceed by ordinance to cancel and revoke such franchise.

CHAPTER XV.

MISCELLANEOUS PROVISIONS.

DUTIES OF OFFICERS.

Sec. 226. The council may at any time require other and further duties to be performed by any officer whose duties are prescribed in this charter; provided, that such other and further duties are not inconsistent with this charter.

PUBLIC IMPROVEMENTS.

Sec. 227. When the council shall determine to make any public improvement which it has authority to make under this charter, and

no specific procedure is in this charter provided therefor, the council may proceed to condemn property and to award damages, and in proper cases to assess benefits, according to any method of procedure prescribed in this charter applicable thereto.

INSPECTION OF BOOKS.

Sec. 228. All records, books and papers pertaining to the business of the city or any board or department thereof shall be public and open to the inspection of any citizen of said city at all reasonable times and places.

JAIL FEES.

Sec. 229. The city of Fairmont shall not be liable in any case for the board or jail fees of any person who may be committed by any officer or magistrate of the city to the jail of Martin county under the state laws.

To the Hon. B. C. Stowe, President of the Village Council:

We, the undersigned, appointed on the seventeenth day of May, 1900, by the honorable the district court of the State of Minnesota in and for the county of Martin as a commission to draft a proposed charter for the city of Fairmont, in accordance with section 36 of article 4 of the constitution of the State of Minnesota, and chapter 255 of the general laws of the State of Minnesota for the year 1897, and chapter 351 of the general laws of the State of Minnesota for the year 1899, do hereby respectfully submit and return to you the foregoing draft of the proposed charter of the city of Fairmont.

FREDERICK W. BETZ,
WALTER R. DIMENT,
ELMORE HOUGHTALING,
CHRISTIAN N. PETERSEN,
HENRY RIPPE,
JOHN T. SWEARINGEN,
BENJAMIN F. VORBEIS,
JOHN H. GORMAN,
MALCOM ALDRICH,
RICHARD S. JACKSON,
GEORGE LESTER,
HENRY W. SINCLAIR,
EDWARD F. WADE,
ALBERT L. WARD,
EMORY C. STOWE.

Dated Nov. 16, 1900.

State of Minnesota

ss

County of Martin

I, Emery C. Stowe, do hereby certify that I am the President of the Village Council of the Village of Fairmont, Martin County, Minnesota, and have been such President of said Village Council for more than a year last past.

That on the 17th day of May, 1900, at the Village of Fairmont, Minnesota, the Honorable James H. Quinn, Judge of the District Court, in and for Martin County in the State of Minnesota, upon a petition duly made and presented to him, according to law, duly appointed fifteen (15) Free-holders and legal voters of said Village of Fairmont, Minnesota to frame a charter for its government as a City.

The persons so named are as follows;

Frederick W. Betz,	John H. Gorman,
Walter R. Diment,	Malcom Aldrich,
Elmore Houghtaling,	Richard S. Jackson,
Christian N. Petersen,	George Lester,
Henry Rippe,	Henry W. Sinclair,
John T. Swearingen,	Edward F. Wade,
Benjamin F. Voreis,	Albert L. Ward,

Emery C. Stowe.

That thereafter and on the 16th day of November, A. D. 1900, the said above named board, filed with me as President of the Village Council of the Village of Fairmont, Minnesota, a draft of the proposed charter of the City of Fairmont, Martin County in the State of Minnesota.

That thereafter and on March 12, 1901 at the annual election in and for the said Village of Fairmont, Minnesota, after due notice had been given, the question of adopting and ratifying said proposed charter was duly submitted to the legal voters of the said Village of Fairmont with the following result;

Whole number of votes cast in favor of adopting and ratifying said proposed charter for the City of Fairmont, Minnesota,-----250.

Those against adopting and ratifying said charter,----- 97.

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#2.

That the adoption and ratification of said charter was duly carried. Adopted and ratified by a majority of over 4/7 of the qualified voters voting at said village election, to wit; by a majority of 153.

That the charter attached and made a part of this certificate, is the charter presented to me, as Chief Magistrate of the said Village of Fairmont, and is now the charter of the city of Fairmont, *Minnesota*

In witness whereof I have hereunto set my hand and the corporate seal of said Village, this 14th day of March, 1901.

Samuel C. Stone
Village President.

*of the Village of Fairmont
State of Minnesota*

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