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PROPOSED CHARTER

of the

CITY OF ROCHESTER,

framed pursuant to Minnesota Constitution,
Art. 4, Sec. 36, and Laws 1903, ch. 238.

ROCHESTER CHARTER COMMISSION.

- C. F. Massey, President.
- Martin Heffron, Secretary.
- David Bradley.
- Chas. E. Callaghan.
- Julius Reiter.
- H. H. Witherstine.
- C. Van Campen.
- A. T. Stebbins.
- Harold J. Richardson.
- Paul Schulz.
- T. H. Bliss.
- George E. Doty.
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- F. D. Rommel.
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No 40

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P. E. Hanson
Secy of State
2362

CHAPTER I.
ORGANIZATION.

Section 1. All that part of Olmsted County contained within the limits hereinafter described, shall be a municipal corporation, named the "City of Rochester", and by that name shall have perpetual succession. It shall have the general powers possessed by municipal corporations at common law; and, in addition thereto, shall possess the powers hereinafter set forth. It shall be capable of contracting and being contracted with; of suing and being sued; pleading and being impleaded in all courts of law and equity. It shall have a common seal, and may change and alter the same at pleasure. It may rent, purchase, take, hold, lease or convey such real, personal and mixed estate as the purposes of the corporation may require, within or without the city. It may receive in trust, and may control for the purposes of such trust, all estate, moneys and assets which may have been or shall be bestowed upon it by will, deed, or any other form of gift, or conveyance, for any general corporate purpose, for the benefit of any cemetery or library located therein, for the aid of indigent poor, for the general purposes of education, for charitable purposes of any description within said city, or for any other purpose beneficial to said city and the residents thereof. As such trustee it may lease and convey real estate and sell personal property, loan money, take and hold mortgages, bonds, notes and other securities, and sue or foreclose upon, or release them at pleasure. Such a trust shall be accepted only by resolution passed by a vote of four-sevenths ($\frac{4}{7}$) of all the members of the Common Council, and approved by the Mayor.

Section 2. The territory included within the following boundaries and limits shall constitute the City of Rochester: Beginning at the southeast corner of section one (1) in township one hundred and six (106) north, of range fourteen (14) west, and running thence to the southwest corner of the southeast quarter ($\frac{1}{4}$) of said section one (1), thence south

to the southeast corner of the north one half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) of section twelve (12) of said town and range; thence west to the southwest corner of said north one-half ($\frac{1}{2}$); thence north to the southwest corner of said section one (1); thence west to the southwest corner of section two (2) in said town and range; thence north on the west line of said section two (2) to the point of intersection with the south line of College Street in said city; thence west on a line continuous with the south line of College Street to the point of intersection of said line, if continued, with the west line of the east twenty (20) acres of the north one-half ($\frac{1}{2}$) of the northeast quarter ($\frac{1}{4}$) of section three (3) in said town and range; thence north to a point where such north and south line would intersect with the north line of Zumbro Street if continued westwardly; thence east on a line continuous with the north line of Zumbro Street to the west line of section thirty-five (35) in township one hundred and seven (107) north, of range fourteen (14) west; thence north to the northwest corner of the southwest quarter ($\frac{1}{4}$) of section twenty-six (26), in township one hundred and seven (107) north, of range fourteen (14) west; thence due east to the northeast corner of the southeast quarter ($\frac{1}{4}$) of section twenty-five (25) in the same township; thence south to the northwest corner of the southwest quarter ($\frac{1}{4}$) of section thirty-one (31) in township one hundred and seven (107) north, of range thirteen (13) west; thence east to the northeast corner of the southwest quarter ($\frac{1}{4}$) of said section thirty-one (31); thence south to the southeast corner of the southwest quarter ($\frac{1}{4}$) of said section thirty-one (31); thence west to the southwest corner of the southwest quarter ($\frac{1}{4}$) of said section thirty-one (31); thence south to the place of beginning, containing sections one (1) and two (2), in township one hundred and six (106) north, of range fourteen (14) west; sections thirty-five (35) and thirty-six (36), and the south one-half ($\frac{1}{2}$) of sections twenty-five (25) and twenty-six (26) in township one hundred and seven (107) north, of range fourteen (14) west, and the southwest quarter ($\frac{1}{4}$) of section thirty-one (31) in township one hundred and seven (107) north, of range thirteen (13) west.

Section 3. The said city shall be divided into three (3) wards, called the First, Second and Third Wards.

The First Ward shall comprise all that part of the city which lies east of the Zumbro river and between the southern limits of said city and a line drawn east and west along the center of Third Street to the eastern limits of said city; also that part of said city which lies west of the Zumbro river and between the southern limits of said city and a line drawn east and west along the center of College Street to the western limits of said city.

The Second Ward of said city shall comprise all of that part of said city lying north of the First Ward and east of the Zumbro river to a line drawn along the center of the main track of Chicago & Northwestern Railway Company, in said city; also that part of the southwest quarter ($\frac{1}{4}$) of section thirty-one (31) in township one hundred and seven (107) north, of range thirteen (13) west, lying south of the center line of said main track of said railway; also that part of said city lying north of the First Ward and west of the Zumbro river to a line drawn east and west along the center of Sixth Street to the western limits of said city.

The Third Ward of said city shall comprise all of that part of said city lying north of the Second Ward.

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

All property and property-rights and interests of every kind and nature formerly vested in said City of Rochester, or in any board or public officer of the same, shall, when this charter takes effect, be and become vested in, and be possessed by, the City of Rochester under this charter, and all previously existing indebtedness, obligations and liabilities of said City of Rochester, or any board or department thereof, shall, to-

together with all interest accrued or to accrue thereon, be assumed and paid by the City of Rochester.

All property and property rights formerly vested in Independent School District No. 8 of Olmsted County, which is embraced within the corporate limits of the city, shall, when this charter takes effect, be, and become vested in, and be possessed by, said School District No. 8 of Olmsted County, otherwise known as The Board of Education of the City of Rochester, under this charter, and all previously existing indebtedness, obligations and liabilities, of said School District shall, together with all interest accrued or to accrue thereon, be assumed and paid by the said School District No. 8 of Olmsted County, otherwise known as The Board of Education of the City of Rochester, under this charter.

Section 5. All ordinances, resolutions and regulations in force in the City of Rochester at the time this charter takes effect, and not inconsistent with the provisions hereof, shall remain and be in force until altered, modified or repealed by the Common Council.

Section 6. All rights of action, penalties and forfeitures accrued to the City of Rochester before this charter takes effect, shall remain unaffected hereby, and may be prosecuted, recovered and received as fully in every respect as though this charter had not taken effect.

Section 7. Any lien on real property, existing in favor of the State of Minnesota, or the City of Rochester, at or before the taking effect of this charter, for taxes, or for special assessment levied by said city, and all right, title or estate acquired by or vested in the State of Minnesota, or the City of Rochester, by reason of the forfeiture or sale to the state or city of any lot, lots, tracts, or parcels of land offered in a public sale for taxes or special assessment levied by said city, interest and costs due thereon, and not sold to others for want of bidders, are hereby assigned and transferred to and continued in said

State of Minnesota or the City of Rochester, as the case may be, and all lots, tracts, or parcels of land forfeited or sold to the State, or said city, shall from the taking effect of this charter, be deemed and taken to be forfeited and sold to the State or said city as the case may be. In all cases where certificates of purchase have, at the time this charter takes effect, been made out in the name of purchasers at any sale for such delinquent taxes or special assessment, the right to redeem any such sale shall not be impaired by anything in this charter.

CHAPTER II.

ELECTIONS.

Section 8. There shall be an annual election for elective officers hereinafter provided, which election shall be known as the "Charter Election" and shall be held on the second Tuesday in March of each year, at such place within each ward as the Common Council shall designate, and the polls shall be kept open from nine o'clock in the forenoon until seven in the afternoon; and ten (10) days previous notice shall be given by the City Clerk of said city of the time and place of holding such elections, and the officers to be elected, by posting notices thereof in three (3) of the most public places in the city, and by publishing the same in the official paper of said city.

Section 9. All general laws of the State of Minnesota relating to elections and the preliminaries thereto, shall, so far as applicable, except as herein otherwise provided, apply to and govern all elections hereunder.

Section 10. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner as in the general or charter elections, and within such time as the Common Council may prescribe by resolution.

Section 11. It shall not be necessary to appoint judges or clerks for special elections to fill vacancies or for any other purpose, but the judges and clerks of election at the last general or charter election in any precinct shall continue to be judges and clerks of election for such special election, and vacancies of judges and clerks may be filled the same as in general or charter elections.

Section 12. As soon as the polls are finally closed, of which closing proclamation shall be made by one of the judges thirty (30) minutes previous thereto, the judges shall proceed to canvass the votes cast at such election in the same manner as is provided by the general statutes of this state, and after the canvass is thus completed the judges of election shall, before they disperse, make return thereof, stating the number of votes cast for each person for each and every office, and enclose the same in an envelope and duly seal the same and within twenty-four (24) hours deliver, or cause to be delivered, such returns, together with the ballot boxes and ballots cast at such election, to the City Clerk. Within one week after any election, the Common Council shall meet and canvass the returns thereof and declare the result as it appears from the same. The person who receives the most votes for an elective office shall be declared elected. The City Clerk shall then give immediate notice of election to each of the persons so declared elected. If the election of any person receiving such notice shall be disputed by any other candidate, the latter may contest the same in the District Court in and for Olmsted County. The proceedings in such contest shall be as prescribed by the general statutes of the State of Minnesota in case of contested elections of city officers.

Section 13. When two (2) or more candidates for an elective office receive an equal number of votes for the same office, no other candidate receiving a higher number, the election shall be determined by the casting of lots in the presence of the Common Council, at a public meeting thereof, at such time and in such manner as it shall direct. Written notice of such proceeding shall be served by the City Clerk on the respective candidates interested at least one day prior thereto.

CHAPTER III.

GENERAL PROVISIONS CONCERNING OFFICERS.

Section 14. The elective officers of said city shall be a Mayor, an Alderman at Large, an Assessor, a Treasurer, and a Justice of the Peace for the city, who shall be styled "City Justice". The Mayor shall be elected at the general city election in each odd numbered year, and shall hold office for a term~~me~~ of two (2) years, and until his successor is elected and qualified. The Alderman at Large shall be elected at the general city election in each even numbered year, and shall hold office for a term of two (2) years, and until his successor is elected and qualified. The Assessor and Treasurer shall each hold office one year and until his successor is elected and qualified. The City Justice shall hold office two (2) years.

Section 15. The elective officers of each ward shall be two Aldermen, one Constable and one Justice of the Peace. There shall be one (1) Alderman elected from each Ward at the general city election in each year, who shall hold office for a term of two (2) years and until his successor is elected and qualified. The Constable and Justice of the Peace shall each hold office for two (2) years.

Section 16. In the event of a vacancy in the office of Mayor, Alderman at Large or Ward Alderman during the first year of the term, a successor shall be appointed to hold the office until the next annual election and until his successor is elected and qualified. The successor of such appointee shall be elected at the ensuing annual election, to hold his office for one (1) year, and until his successor is elected and qualified. Officers appointed by the Common Council shall receive a majority vote of all the members to constitute an appointment, such vote to be had viva voce on roll call.

Section 17. No person shall be eligible to hold any office provided for in this charter, who shall not be^a qualified elector of the State

of Minnesota, and who shall not have been a resident of the city for thirty days next preceding the day of election.

Section 18. All city officers elected by the people, except members of the Board of Education, shall enter upon the duties of their respective offices the first Monday of April in the year of their election. The officers appointed by the Mayor or by the Common Council shall enter upon the duties of their respective offices on the second Monday in April in the year of their appointment, ^{except as hereinafter provided;} All the officers of said city, whether elected or appointed, shall hold their respective offices for the term of one year, and until their respective successors shall be elected or appointed and qualified, except as otherwise provided in this charter; provided, that all persons holding office at the time this charter shall take effect, shall continue in office, exercising the same powers and performing the same duties as theretofore until their respective successors, elected or appointed hereunder, shall be elected or appointed and qualified.

Section 19. Every person elected or appointed to any office under this charter, shall, before he enters upon the duties of his office, take and subscribe an oath of office, before some officer authorized to administer oaths, and file the same with the City Clerk. Each such person, shall also, before entering upon the duties of his office, give to the city such bond, if any, as hereinafter required, or as may be required by the Common Council, the same to be approved by the Common Council and filed with the City Clerk.

Section 20. Any elective officer provided for by this charter, except the mayor, or any officer appointed by the Common Council, may be removed from his office by the affirmative vote of five-sevenths (5/7) of all the members of the Common Council; but no such officer shall be removed except for cause, nor unless he has first been furnished with a copy of the charges made against him, and has had reasonable opportunity

to be heard in person or by counsel in his own defense, The Common Council shall have power to fix the time and place of trial of such officer, who shall be given at least ten (10) days notice thereof; to arrange the mode of trial; to compel attendance of ^{witnesses} ~~witnesses~~ and the production of papers; to administer oaths and to hear the proofs and arguments. If such officer shall neglect, after due notice, to make answer to such charges, the same shall be cause for removal without further notice. When the Common Council shall declare by motion that the hearing is ended, it shall forthwith proceed without debate to vote viva voce on roll call upon a motion declaring such officer removed.

Section 21. Whenever fifty or more freeholders of the City of Rochester shall file in the District Court of Olmsted County a verified complaint charging that any elective or appointive officer of the city has been guilty of malfeasance, oppression or corruption in office, or has committed any act which is cause for removal from office under this charter, and setting forth the facts upon which such charges are based, the Judge of said District Court, upon presentation of said complaint to him, may issue an order returnable before him, requiring the officer against whom the complaint is made to appear and answer said complaint and show cause why he should not be removed from office. Upon the return of such order, the Court shall prescribe the course of pleading, the time of trial and the manner of procedure therein. After hearing the said cause, said Court shall by order remove such officer from office if it shall appear at the trial that said officer has been guilty of malfeasance, oppression or corruption in office as specified in the complaint, or has committed any act so specified which is cause for removal from office under this charter.

Section 22. Any elective or appointive officer changing his residence from the city or ward for which he was elected or appointed under the provisions of this charter, and any such officer who shall neglect or refuse to qualify within ten (10) days after notice of his election

or appointment, or to enter upon the discharge of the duties of his office within the designated time, shall be deemed to have vacated his office.

Section 23. Any elective or appointive officer provided for by this charter, having entered upon the duties of his office, may resign the same, with the consent of the Common Council; provided, that any member of a board may resign with the consent of such board.

Section 24. If an elective officer is not chosen at the time when such elective officer should be chosen, under the terms of this charter, the Common Council shall forthwith call a special election to fill the vacancy. Whenever a vacancy shall otherwise occur in any office, either elective by the people or appointive by the Common Council, including the office of Mayor, such vacancy shall be filled by appointment, by warrant of the Common Council, the appointee to hold his office until the next annual election, or appointment of officers, and until his successor is elected or appointed and qualified.

Section 25. No member of the Common Council or other officer of the City of Rochester, while holding his office, shall directly or indirectly be a party to or interested or concerned in any contract or job with the city, or in any work prosecuted by its authority, or in the compensation to be received therefor, or in the furnishing of supplies, fuel or other articles purchasable for the public use, and any contract or transaction prohibited as aforesaid shall be void, and the office of any such city officer so offending shall thereby become vacant upon conviction thereof.

Section 26. Any person having been an officer in said city shall, within ten (10) days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession, belonging to the city, or pertaining to the office he may have held. If he fail to do so, after such notification and request,

he shall forfeit and pay to the use of the city one hundred dollars (\$100)†, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the law of the State in case of the unlawful detention of personal property.

Section 27. Any officer or employee 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 a punishment is not otherwise provided by law, as misdemeanors are punishable by the criminal laws of the State; and, on conviction thereof, he shall forfeit his office and shall be liable to the city for any amount of loss or damage suffered by reason of such violation of law.

CHAPTER IV.

THE MAYOR AND POLICE DEPARTMENT.

The Mayor.

Section.28. The Mayor shall be the chief magistrate or executive officer of the city. He shall have command and control of the entire police department, with power to appoint and remove any and all officers thereof. He shall take care that the laws of the State, the provisions of this charter and the ordinances of the city are duly observed and enforced within the city. He shall have general supervision and control of all the officers and departments of the city government. He shall take care that all other officers of the city discharge their respective duties, and to that end may maintain an action of mandamus, or other appropriate action, against any delinquent city officer. He shall, from time to time, give the Common Council such information and ^{recommend} ~~commend~~ such measures as he shall deem advantageous to the city. He may, whenever he shall deem it necessary, require of any city officer an exhibit of his books and papers. He shall possess such further powers and perform such further duties as may be conferred or prescribed by this charter, or by any act of the Legislature of the State of Minnesota, which is or shall be applicable to the City of Rochester, or by any city ordinance or regulation duly passed or adopted in pursuance thereof.

Section 29. The Mayor shall sign all appointments, commissions, licenses and permits granted by the Common Council, and all warrants, certificates of indebtedness and orders drawn on the Treasurer by order of the Common Council for the payment of money. He shall sign all bonds and other obligations on behalf of the city.

Section.30. Upon service of notice, summons or process upon him in any action or proceeding against the city, he shall forthwith inform the City Attorney and the Common Council thereof.

Section 31. He shall possess the veto power over all ordinances passed by the Common Council, and over all resolutions of the Common Council where the action taken thereby is required to be taken by resolution under the terms of this charter. Such veto power shall be exercised in the manner and subject to the restrictions hereinafter set forth.

Section 32. During the absence of the Mayor from the city, or in case of his disability for any reason to discharge the duties of his office, the Alderman at Large shall, for the time being, exercise all the powers and discharge all the duties of the Mayor. The Alderman at Large while so acting as Mayor, shall be styled the "Acting Mayor", and his acts in that capacity shall have the same force and validity as if performed by the Mayor.

Police Department.

Section 33. 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 Common Council. All members of said department shall be residents of the city. They shall be appointed by the Mayor, and may by him be discharged. Any member of said department may, for cause, be removed by the Common Council, on notice, and hearing, as provided hereinbefore for the removal of other city officers by the Common Council.

Section 34. In case of large public gatherings requiring additional police force, or on other unusual occasions, or whenever the Mayor shall deem it necessary for the ^{maintenance} ~~maintenance~~ of good order in the city, the Mayor may appoint such other special patrolmen as he may deem necessary, at a compensation not exceeding two dollars (\$2) per day, but such temporary appointment shall not continue in force for more than one week.

The Mayor ^{may} ~~shall~~ likewise at the request of any person, corporation or organization desiring special police protection, appoint special Police-men, who shall serve without pay except fees in cases of arrest and con-

viction. They shall possess police powers to preserve the peace, to protect property, and to make arrests for crimes, misdemeanors or violation of city ordinances at such places and within such limits as may be designated by the Mayor. The appointees under this section shall qualify by taking and filing an oath of office, but they shall not be required to give bond.

Section 35. 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, or who has been convicted of a crime. Nor shall any person be eligible to any appointment therein, except as special patrolmen, who shall not have been a resident of the city for at least one year immediately preceding his appointment. The Chief of Police and patrolmen shall each execute to the city a bond before entering upon the discharge of the duties of their respective offices, in amounts as hereinafter provided, conditioned for the faithful performance of the duties of their respective offices..

Section. 36. The Chief of Police shall possess the powers of a constable at common law and under the Statutes of this State. He shall have power to serve and execute any warrant, summons or process issued out of any Justice's court of the city. He shall have authority to ^{prosecute} ~~persecute~~ 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 State law or ordinance of 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 statute of the state, or by the provisions of this charter, and the violation of any city ordinance shall be deemed a public offence.

Section 37. The Mayor or Acting Mayor, the Chief of Police, the Sheriff of Olmsted County, all police officers, constables and Aldermen, shall be conservators of the ^{peace} ~~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 any or all bystanders, and if need be, of all citizens. In suppressing any riotous or disorderly behavior or proceedings, the authority to command shall be in the official present, in the order named in this section.

Section 38. If any bystander or citizen shall refuse to aid in preserving the peace, or in suppressing riotous or disorderly behavior or proceedings, when required as provided in the preceding section, he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than fifty dollars (\$50), or in default of payment thereof, by imprisonment for not more than thirty (30) days.

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

Section 39. Any member of the Police Department who shall accept, directly or indirectly, from any person while in his custody or after discharged, any gratuity or reward, or any kind of food, refreshment or 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 for 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 on conviction thereof, shall be subject to a fine not exceeding one hundred dollars (\$100), or, in default of payment thereof, shall be imprisoned not exceeding ninety (90) days.

Section 40. Except as herein otherwise provided, the compensation of the Chief of Police, patrolmen and other employes of the police department, shall be fixed by the Common Council in the same manner as the compensations of other appointive city officers are fixed.

CHAPTER V.

THE ASSESSOR AND BOARD OF EQUALIZATION.

THE ASSESSOR.

Section 41. The Assessor shall qualify in manner and form prescribed by the general law, as well as in the manner and form prescribed by this charter. He shall perform all the duties pertaining to the office of Assessor required by the general laws of the State, and shall have the powers, rights, and privileges allowed by the general law respecting the listing of property for taxation.

Section 42. The Assessor may, by and with the consent of the Common Council, appoint a Deputy Assessor, when necessary to enable him to properly perform the duties of his office. He may discharge such deputy at will. Such Deputy Assessor may sign notices and do all other acts relating to the duties of such office, but his acts shall all be done in the name of the Assessor, and the Assessor shall be held responsible therefor. The Deputy Assessor, before entering upon his duties, shall take and file his oath of office, and shall deposit with the Assessor such bonds with such sureties as may be required and approved by said Assessor in a sum not less than five hundred dollars (\$500).

BOARD OF EQUALIZATION.

Section 43. The Mayor, City Clerk, and three (3) Aldermen to be appointed by the President of the Common Council, shall constitute and be the City Board of Equalization. Such Board shall meet at ten (10) o'clock in the forenoon on the fourth (4th) Monday of June in each year at the Council Chambers in the City Hall of the City of Rochester, for the purpose of reviewing the assessments of property in the city, and they shall immediately proceed to examine, ascertain and see that all taxable property in said city has been properly placed upon the list, and duly valued by the Assessor; and in case any property real or personal, shall have been omitted, by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real

property, and each article, parcel or class of personal property shall be entered upon the assessment list at the true and full value thereof. The Assessment of the property of any person shall not be raised until such person shall have been duly notified of the intent of the Board so to do. On the application of any person considering himself aggrieved, they shall review the assessment and correct the same as to them shall appear just. A majority of said officers are authorized to act at such meeting and they may adjourn from day to day until they shall finish the hearing of all cases presented to them. All complaints and grievances of residents of the city in reference to the assessment of ^{real or} personal property shall be heard and decided by such Board.

The complaints of non-residents in reference to the assessment of any property, real or personal, or the complaints of residents in reference to any assessment made after the meeting of said City Board shall be heard and determined by the County Board.

Section 44. It shall be the duty of the Assessor to attend the meeting of the City Board of Equalization, with his assessment books and papers and note all changes and additions made by the Board, and correct his work accordingly.

Section 45. The Mayor, ^{City Clerk} and Alderman shall each receive as compensation for his services as a member of the Board of Equalization three dollars (\$3) per day for each day of actual service; provided, however, that no member shall receive pay for more than ^{five (5)} ~~three (3)~~ days in each year.

Section 46. The Assessor shall cause ten (10) days previous notice to be given of the time and place of the meeting of the City Board of Equalization, by posting notices in at least three (3) public places in the city, but the failure to give such notice or to hold such meeting shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied.

CHAPTER VI.

THE CITY TREASURER AND CITY DEPOSITORIES.

Section 47. The City Treasurer shall receive and safely keep all moneys belonging or accruing to the city, including license money and fines. He shall keep accurate and detailed accounts thereof. He shall be entitled to and shall demand of and receive from The County Treasurer at the times specified by law, or the provisions of this charter, all moneys due the city from taxes collected; also from assessments, interest and penalties collected in payment of levies and assessments made by the city or its predecessors for any local improvement. He shall be the custodian of all bonds, certificates of indebtedness or other securities held by the city or in the sinking fund thereof.

Section 48. The City Treasurer shall immediately credit to the proper fund any money received and shall deposit it in the name of the city and to the order of the City Treasurer, in a depository, if any, which shall have been designated by the Common Council; but he shall not deposit with any such depository an amount in excess of one-half ($\frac{1}{2}$) of the penalty of the bond furnished by such depository. All interest that may accrue upon any such moneys shall be credited to the General Fund.

Section 49. Any state or national bank or trust company, having its principal place of business in the City of Rochester, may, by resolution be designated ^{by the Common Council} as a depository for city money ~~by the Common Council~~. It shall first advertise ten (10) days in the official paper for bids and receive proposals as to what security will be given to the city for funds deposited, and as to the conditions under which such funds and accrued interest will be held subject to checks, orders and payments at all times on demand. There never shall be deposited in any such depository an amount to exceed the assessed capital stock of such depository as shown by the duplicate tax list.

Section 50. Before any such bank or trust company shall be designated as such depository, it shall deposit with the City Clerk a bond payable to the City of Rochester, which shall be executed by not less than three (3) freeholders of the State, as sureties, or by a reputable surety company, which bond shall be approved by the Common Council. This bond shall be in such amount as the Common Council shall direct and in at least double the amount of funds to be deposited in such depository. Such bond shall be conditioned for the safe keeping and payment of such funds and interest thereon. Whenever required to do so by the Common Council, such depository shall furnish a new bond, and other sureties, to be likewise approved. Such bonds when approved shall be deposited and filed in the office of the City Clerk for safe keeping.

Section 51. Whenever any portion of the funds of the city shall be deposited by the City Treasurer in any such depository, he and his sureties on his official bond shall to such extent, be exempt from all liability ~~for all loss occasioned by~~ ^{thereon by reason of} a loss of such deposited funds while so deposited through failure or bankruptcy, or any other act or default of such depository.

Section 52. The Treasurer shall pay no money out of the City Treasury except in the following cases, viz:

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

Second. Upon an order or warrant properly drawn, signed by the Mayor and City Clerk, which has been first duly authorized by the Common Council, and which shall specify the purpose for which it is drawn, the fund out of which, and the person to whom it is payable.

Third. In the duly authorized payment of employe~~s~~s of any department of the city on time checks or pay rolls, in which case he shall make such payment to each employe~~d~~d, or to the person to whom such

employee shall in writing order it paid, taking his receipt therefor.

Fourth. Out of the Library Fund, upon the presentation of a duly authenticated ~~warrant~~ ^{voucher} from the Library Board, countersigned by the City Clerk.

Fifth. Out of the Sinking Fund, upon a warrant of the Commissioners of the Sinking Fund, attested by the City Clerk.

Section 53. The City Treasurer shall, on the first of each month, make a statement to the Common Council, and to each board or department having control of any fund, of the amount received and disbursed on account of each fund controlled by the Common Council, or such board or department, respectively, and a statement of the amount of money in the various funds deposited with each depository, and in his hands. At the same time he shall report to the Common Council the total amount of city funds and where placed or deposited.

He shall, whenever notified so to do by the Common Council, withdraw all funds from any depository designated as hereinbefore provided, and notify the Common Council of such withdrawal and shall thenceforth deposit no more therein until authorized so to do by the Common Council; and such funds when so withdrawn shall be re-deposited by him in another depository of the city, if any, which shall be designated by the Common Council.

Section 54. No funds of the city shall be loaned by the Treasurer to any officer of the city, or to any other person, or to any other fund, or be otherwise disposed of, except in accordance with law and the provisions of this charter. 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 (\$1000) or by imprisonment in the county jail of Olmsted 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 of 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.

CHAPTER VII.
COURTS AND JURIES.

City Justice.

Section 55. The City Justice shall possess all the authority, power and rights of a Justice of a Peace, and shall have sole exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, cognizable before a Justice of the Peace. Warrants returnable before the City Justice may be issued in criminal cases by any Justice in the city, but no fee shall be received therefor.

Section 56. The City Justice shall have exclusive jurisdiction in all cases cognizable before a Justice of the Peace, in which the city is a party. He shall also have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty under any by-law, ordinance or regulation of the City of Rochester, or its charter, or for the breach or violation of any such by-law, ordinance or regulation, and in all cases of offence committed against the same. In all prosecutions for any violation of the provisions of this charter or any ordinance, ~~restriction~~ ^{regulation}, by-law or regulation adopted under or continued in force by virtue thereof, the City Justice may proceed to the trial and determination thereof, in a summary manner without a jury.

Section. 57. In all prosecutions for any violation of this charter or of any by-law or ordinance of the City of Rochester, the first process shall be by warrant. The same proceedings shall be had in civil or criminal actions before said City Justice, when not otherwise herein directed, as are or shall be established and required to be had in civil or criminal actions by the laws of the state relating to courts of Justice of the Peace.

Section. 58. All warrants, processes or writs issued by the City Justice, or other Justice as hereinbefore mentioned, for violation of any ordinance or by-law of the City of Rochester, shall run in the name of the

and shall be directed to the ^{chief of Police} ~~City Marshal~~ or any constable of said city. The title of the action, however, shall be entered in his docket in the name of the City of Rochester.

Section 59. No warrant shall be necessary in case of arrest of any person or persons when taken in the act of violating any law of the State of Minnesota, or ordinance of the City of Rochester. The person or persons so arrested may be proceeded against, tried, convicted and punished or discharged, in the same manner as if arrest had been made under a warrant.

Section 60. In a prosecution for a breach or violation under this charter or any ordinance, by-law or regulation of the city, or for any assault, battery or affray not indictable, committed within the city limits, no appeal shall be had or allowed when the judgment or fine imposed, exclusive of costs, shall not exceed twenty-five (\$25); and the same practice shall obtain in all civil and criminal actions before the City Justice, including appeals therefrom, when not otherwise herein directed, as are established and required to be had in civil and criminal by the laws of this state before Justices of the Peace.

Section 61. On convicting any person for assault, battery or affray within the city or of violating any ordinance of the city or of a breach of the peace, disorderly conduct, keeping a house of ill-fame, or frequenting the same, or of keeping or maintaining a disorderly or ill-governed house, the City Justice is empowered, in addition to the fine

,penalty and costs imposed, to compel such offenders to give a bond for good behavior, and to keep the peace, for a period not exceeding six months. Such bond shall be in a sum not exceeding five hundred dollars (\$500) , or in default of such offender, giving such security, the court may commit him to the County Jail of Olmsted County for a period not exceeding six (6) months.

Section 62. The City Justice shall have the same power and authority in cases of contempt as a court of record.

Section 63. On return of the process and at any time before the commencement of trial in any action or proceeding, civil or criminal, except a prosecution for violation of city ordinances, if either party, his agent or attorney, makes and files an affidavit stating that the City Justice is a material witness and such party, without whose testimony he cannot safely proceed to trial, or that ~~from~~ prejudice, bias or other cause, he believes

the City Justice will not decide impartially in the matter, or if the City Justice is near of kin to the plaintiff, the City Justice shall, on demand, transfer such action, and all papers therein to some other Justice of the Peace in the city, or in an adjoining election district, whom he believes is not so disqualified. If there be no other Justice in the city or in any adjoining election district, he shall send it to the nearest qualified and acting Justice of the Peace in Olmsted County. Upon the transfer of the action such Justice of the Peace shall have jurisdiction to hear, try and determine the same as fully as the City Justice might have done. No action or proceeding shall be removed more than once and the City Justice is not required to transfer any civil action until all his costs therein are paid.

Section. 64. All fines and penalties imposed by the City Justice for offences committed within the city limits, or for violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city.

Section 65. On the imposition of any fine or penalty by the City Justice, for the violation of any ordinance or by-law thereof, or for any assault, battery or affray committed within the limits of the city, the offender may be forthwith committed to the city prison, and may be there imprisoned and compelled to perform hard labor under the direction of the ^{Chief of Police} ~~City Marshal~~, for the benefit of the city, not exceeding ninety (90) days in the discretion of the City Justice, unless such fine or penalty be sooner paid, and from the time of the arrest of any person for any such offense until the time of his trial, he may be imprisoned in the city Prison.

Section 66. On the conviction of any person before the City Justice of any offense committed within the limits of the city, of which offense the City Justice has jurisdiction, which offense is or may be punishable by imprisonment in the county jail, the City Justice may sentence such person to confinement in the city prison instead of the county jail.

Section 67. In case of the absence, sickness or other disability of the City Justice, or for any sufficient reason, the Mayor may by warrant, authorize any other Justice of the Peace within the city to perform the duties of the City Justice. It shall thereupon be the duty of the Mayor to inform the City Attorney and City Marshal of such substitution, and make report thereof to the Common Council. It may confirm or set aside such appointment, or appoint some other Justice of the Peace, and the Justice of the Peace so appointed shall, for the time being, possess all the authority, rights and powers of the City Justice.

Section 68. The City Justice shall make a monthly report to the Common Council of all the proceedings instituted before him in which the city is interested. He shall at the same time account for all fines and penalties collected by him belonging to the city, pay the same to the City Treasurer and receive his receipt therefor. The City Justice shall be entitled to receive from the County of Olmsted such fees in criminal cases, occurring without the city, as are allowed to other Justices in the county for similar services.

Section 69. The Justice of the Peace and Constables elected in each ward shall have the same power, authority and rights as are possessed by other Justices and Constables of the County elected under the general law, provided, that a Ward Justice shall not have jurisdiction in criminal actions in those cases wherein the City Justice has exclusive jurisdiction hereunder, except when sent to such Ward Justice on change of venue. A Ward Justice may hold his offices at any place within the limits of the city and ^{there} hear and conduct all trials, examinations and proceedings cognizable by him. The practice in the ward courts shall be that which is set forth in the general law relating to Justices of the Peace, except as herein otherwise provided.

Section 70 A transcript of any judgment rendered in the City Justice's court, or in any Ward Justice's court when filed in the office of the Clerk of the District Court in and for Olmsted County, or any other

~~court in Minnesota~~ shall become a lien upon the unexempt real estate of the judgment debtor in such county, and shall have like effect as is provided by law relative to such transcripts from courts of Justices of the Peace, and the proceedings thereon may thereafter be the same.

Juries.

Section 71. Juries for the trial of all actions, civil or criminal cognizable before the City Justice, shall be drawn as provided by the general law relating to Justices of the Peace, except in those criminal cases for violation of State law or municipal ordinances, where the offense charged was committed within the limits of the City of Rochester. ^{then} ~~In all~~ ~~cases~~ a city jury shall be used as hereinafter provided.

Section 72. Juries in the courts of the Ward Justices shall be drawn as provided by the general state law; except in a case sent to a Ward Justice on change of venue from the City Justice's court when the jury in such case would have been drawn from the City Jury List, then the jury ^{shall} ~~should~~ be impaneled from the City Jury List the same as if the action had been tried before the City Justice.

Section 73. ^{at the first regular meeting} ~~On the first Monday of~~ May in each year, the Common Council shall select from the qualified electors of the city one hundred and sixty-eight (168) persons properly qualified to act as jurors in the District Court. It shall make a list thereof, which list shall be signed by the Mayor and certified by the City Clerk. Such list shall be filed in the office of the City Clerk. The persons so selected shall, for the trial of criminal actions committed within the limits of the City of Rochester, constitute the jurors for the City Justice's Court for the year ensuing unless there shall be a deficiency. In preparing such list the Common Council shall only select persons who are known, or believed, to possess the qualifications of jurors, and not exempt by law.

Section 74. On filing such list, the City Clerk shall write the names of the persons contained therein on separate pieces of paper, and fold up such pieces of paper, each in the same manner, as nearly as possible, so that the name written thereon shall not be visible. He shall place the same in seven envelopes, with twenty-four names in each envelope. He shall securely seal the envelopes and number them from one (1) to seven (7) inclusive, and file and keep the same in his office for use in impaneling a jury, as hereinafter provided.

Section 75. Whenever a jury trial shall be demanded in the City Justice's Court, or in any Ward Justice's Court, in any criminal action arising within the limits of the City of Rochester for violation of a State law, or when a jury be allowed by the court for the trial of an action for the violation of a municipal ordinance, the City Justice or Ward Justice, as the case may be, shall, by written order, require the City Clerk to deliver to the officer of the court one or more of such envelopes as may be necessary, commencing with the envelope numbered one and consecutively in their numerical order, until a jury is impaneled.

Section 76. On the trial of the action the officer of the court shall break the seal of the envelope and deposit the pieces of paper with the names written thereon in a box to be provided for that purpose. He shall then draw out of the box one of the pieces of paper, and shall distinctly pronounce the name written thereon. If no objection is made by either party, the person whose name is drawn shall be one of the persons to comprise the jury. He shall continue to draw out the names until the panel is full and the jury sworn, when the names shall be returned to the envelope and sealed up and returned to the City Clerk to be by him securely kept until the same shall be again needed in impaneling a jury.

Section 77. On the trial of any such action in the City Justice's Court, the plaintiff and defendant shall each be entitled to six peremptory challenges. The defendant shall first take his challenge to an individual juror when the name is drawn from the box. If there is no challenge by the defendant, the plaintiff may challenge the juror. No more than six

peremptory challenges shall be allowed to either party in the trial of the action. Either party may challenge a juror for cause when the jury is summoned and appear in court, before the jury is sworn. Upon each challenge for cause the City Justice shall determine whether the juror ~~is~~ challenged is indifferent between the two parties. His decision thereon shall not be subject to exception or appeal. If the juror is excused, another name shall be drawn from the box by the officer. If there be no challenge to the person so drawn, he shall be sworn as a juror. In case the names in the box be exhausted before the impaneling of a jury, the names contained in another envelope shall be put into the box, and so on until a jury is obtained for the trial of the action. If there shall be more than one defendant in the action, all the defendants shall join in the challenge of the juror, either peremptorily or for cause.

Section 78. The envelopes used to impanel a jury shall not be used again in the impaneling of a jury until the whole number of envelopes shall have been used, when those first used may be used again during the year as often as necessary, commencing with number one (1) and using the same in their consecutive order to number seven (7).

Section 79. In selecting the names of persons ^{who} ~~that~~ shall comprise the jury list the Common Council shall not select the names of persons who were on the jury list the previous year, and no person shall be compelled ~~ed~~ to serve as a juror in the City Justice's Court two years in succession. If the ^{Common} Council should fail or neglect to select a list of jurors as herein provided, a jury may be selected and empaneled on the trial of any such criminal action under the general state law for the selection and empanelling of juries in courts of Justices of the Peace.

Section 80. If, for any cause, there be a deficiency of jurors in the trial of any action in such court, the officer shall, under the direction of the City Justice or the Ward Justice, as the case may be, summons from the bystanders, or others, a sufficient number to fill the panel, after all the names on the jury list shall have been exhausted.

Section 81. The City Justice shall issue ~~an~~ venire as provided by the general law for the trial in courts of Justices of the Peace of civil and criminal causes, to compel the attendance of any person so drawn, and may compel the attendance of any juror by attachment. For that purpose, he shall have all the powers of a court of record to punish for a contempt, by fine not exceeding one hundred dollars (\$100) or in default of payment thereof by imprisonment not exceeding ninety (90) days.

On the trial of any criminal action wherein the fine, if paid, ~~will~~ would go to the city, whether for violation of a state law or of a municipal ordinance, the city shall be liable, for, and pay, the costs therein, including jury fees of one dollar (\$1) per ^{for each juror} day, unless the same be paid by the defendant therein.

CHAPTER VIII.

THE COMMON COUNCIL.

Section 82. The legislative authority of the city shall be vested in a Common Council, which shall be composed of an Alderman at Large and two Alderman from each ward in the city.

Section 83. The Alderman at Large shall be the President of the Common Council. In case of his absence from any meeting of the Common Council, the other members thereof present shall select one of their number to act in his place, who shall be styled "President pro tem of the Common Council". While so acting he shall have the same authority as the Alderman at Large, were he present and acting as the President, and his acts shall have the same force and validity.

Section 84. The "President" or, in his absence, the "President pro tem" shall preside at the meetings of the Common Council and shall possess all the powers usually vested in the presiding officers of similar bodies, but shall have no vote therein, except a casting vote in the case of a tie.

Section 85. The Common Council shall be the judge of the election and eligibility of its members, and, for that purpose, shall have power to send for persons and papers. Its jurisdiction over election contests involving its members shall be concurrent with that of the District Court under the law of the State. If a contestant elects to appeal to the decision of the Common Council, its decision shall be final.

Section 86. One regular meeting of the Common Council shall be held on the first Monday in each calendar month at 8 o'clock P.M., at the place where the Council usually convenes, unless any such first Monday

shall be a legal holiday, in which event it shall be held at the same hour and place on the day following. The Mayor, Alderman at Large, or any two (2) Aldermen may call a special meeting at any time by serving, or causing to be served, upon the several members, a written notice thereof, in which the particular object of such special meeting shall be stated. Such notice shall be served at any time before the hour stated in the call, in the manner prescribed by statute for the service of a District Court summons.

Section 87. No other business shall be transacted at a special meeting than such as is designated in the call, unless by unanimous consent of all the members present. In case of the attendance of less than a quorum at any stated meeting, the members present may adjourn to any special time they may designate, and all business transacted at such adjourned meeting shall have the same validity as if done at the meeting from which the adjournment was taken.

Section 88. A majority of the Alderman shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members under such penalties as may be prescribed by ordinance.

Section 89. The Common Council shall have power to determine the rules of its proceedings, punish its members for disorderly conduct, and with the concurrence of five-sevenths ($5/7$) of the members elected, expel a member, and also remove from office any officer of the city in the manner hereinbefore provided.

Section 90. The Common Council shall keep a journal of its proceedings, and ayes and nays, when demanded by any member present, shall be entered on the journal.

Section 91. No Alderman shall be appointed to any office under the authority of the city which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

Section 92. In all matters, except those provided for in Section 103 of this Charter, and except in cases herein mentioned where action is required to be by ordinance, the Common Council shall act by resolution in writing; or, in cases in which it is not otherwise provided in this Charter, by mere motion to be entered on the minutes.

Section 93. Every appropriation to the amount of two hundred dollars (\$200) or more to be paid to any one person, firm or corporation, and the letting of any job or work, or the authorizing of any contract or purchase involving an expenditure from the city treasury of two hundred dollars (\$200) or more, and the fixing of any officer's salary or employe's wages at the aggregate sum of five hundred dollars (\$500) or more a year, and every determination to issue the bonds of the city, or in any way to contract indebtedness exceeding two hundred dollars (\$200), and every provision for the sale of any real or personal estate of the city of the value of two hundred dollars (\$200) or more, and every determination to make any improvement, or to take private property for public use, and every levy of taxes and every special assessment shall be by ordinance or resolution in writing.

Section 94. Every ordinance and resolution passed by the Common Council, wherein action is taken on any of the matters mentioned in the last preceding section, shall be signed by the President of the Common Council and shall be attested by the City Clerk. The Clerk shall also attach the corporate seal. On the next day after the passage thereof the same shall be transmitted by the City Clerk to the Mayor for his approval.

Section 95. If the Mayor approves the same, he shall append his signature, with the date of his approval thereto. He shall then return it to the City Clerk within five (5) days of its transmission to him. If the Mayor declines to approve the same he shall within said five (5) days return it to the City Clerk with a statement of his objections thereto, to be presented to the Common Council at its next meeting thereafter.

Section 96. Upon the return of an ordinance or resolution to the Common Council, without the Mayor's approval, the question shall again be put upon the passage of the same, notwithstanding the objections of the Mayor, and if upon such vote, which shall be taken by a call for the ayes and nays, five-sevenths (5/7) of all the members of the Common Council shall vote in favor of such ordinance or resolution, the same shall be declared enacted, and shall have the same force and effect as if approved by the Mayor.

Section 97. If any ordinance or resolution so submitted to the Mayor shall not be returned by him to the City Clerk within five (5) days (Sundays excepted) after presentation thereof to him, the same shall be deemed to be approved by him, and he shall deliver the same to the City Clerk on demand.

Section 98. No ordinance shall be passed at the same meeting of the Common Council at which it shall have been presented, except on the unanimous consent of all the members present, which shall be noted in the record; but this shall not preclude the passage of an ordinance at the same meeting at which it shall have been presented, when ^{such} ordinance ^{shall be} reported by any committee of the Common Council to whom the subject of such ordinance shall have been referred at any previous meeting.

Section 99. The style of all ordinances shall be: "The Common Council of the City of Rochester do ordain".

Section 100. Every ordinance passed as aforesaid shall be recorded by the City Clerk in a book provided for that purpose. It shall not be in force, however, until published in the official paper of the city, at least one week. Before any such ordinance shall be recorded, the publication thereof as aforesaid shall be proved by the affidavit of the foreman or publisher of such paper. This affidavit shall be recorded therewith and shall at all times be deemed and taken as sufficient evidence of such publication.

Section 101. In all actions, prosecutions and proceedings of every kind before the City Justice of the City of Rochester, or any Justice of the Peace of said city, such court or courts shall take judicial notice of all ordinances of the said city, and it shall not be necessary to plead or prove such ordinances in such courts.

Section 102. The Common Council may repeal or amend any ordinance by it enacted, but every such repeal or amendment must itself be by ordinance. The Common Council shall have no authority to modify any ordinance or to make any exception to the operation thereof by a mere motion or resolution.

SPECIFIC POWERS.

Section 103. The Common Council, except as by this Charter otherwise provided, shall have the management and control of the finances and of all the property of the city; and shall also have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, 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 health, comfort and ~~of the~~ safety of the citizens for the suppression of vice and intemperance and for the prevention of crime. It shall have power to establish and maintain city prisons and

watch houses for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offense whatever in any way cognizable before the City Justice or any Justice in the city; to make all rules and regulations for the government and management of such prisons and watch houses, to appoint keepers and other officers for the same, to prescribe their duties and to fix their compensation. The keepers of said prison and watch houses shall have and possess all the powers and authority of jailers at common law or by the general laws of the State. The Common Council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person, persons or corporation that shall have violated any of the provisions of any ordinance passed or ordained by it. All ordinances are hereby declared to have the force of law; provided, that they shall not be repugnant to the constitution and laws of the United States, or of this State. For these purposes the Common Council shall have authority by ordinance or resolution:

First. To license and regulate the exhibition of common showmen and shows, of all kinds, and the exhibition of caravans, menageries, circuses, concerts, roller skating rinks, museums, places of amusement, and all other devices and theatrical performances for which charge is made also to license and regulate all auctioneers, pawnbrokers, billiard tables pigeon hole tables, bagatelle tables, nine or ten pin alleys, bowling saloons, shooting galleries, taverns, victualing houses, cane racks and other games and devices.

Second. To prevent and prohibit any person from giving or dealing in spirituous, fermented, malt or vinous liquors unless duly licensed by the Common Council.

Third. To restrain and prohibit all description of gambling, and all fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gambling in said city, and to provide by ordinance for the seizure, condemnation and destruction of all devices, apparatus or other things used for gambling or gambling purposes.

Fourth. To prevent and prohibit any riot, noise, disturbance, or disorderly assemblage in the city, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same; to prohibit and suppress disorderly houses, grogeries or houses of ill fame and to provide for the arrest and punishment of the keepers thereof.

Fifth. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as may be necessary for the health, comfort and convenience of the inhabitants of the city, and to remove and abate any other nuisance injurious to the public health or safety, and remove, or require to be removed any building or structure which may have, or shall have become dangerous to life or property by reason of dilapidation, defects in structure, or other cause, and to provide for the punishment of all persons who shall cause or maintain any such nuisance.

Whenever it shall become necessary to remove or abate any such nuisance, or remove any such building or structure, or cleanse, remove or abate any of the places above set forth, and the said Common Council shall cause a written or printed notice to be served on the owner or occupant of the lot or lots upon which said nuisance, building or structure is situated, requiring the owner or occupant within a specified time, not less than three (3) days from the date of service, to remove or abate the same at his own cost and expense; and if the premises are vacant and unoccupied, the Council shall cause a notice to be posted at or near the nuisance, building or structure, requiring the owner of said lot or lots to remove the nuisance, building or structure within a specified time, not less than three (3) days from the date of posting, proof of which shall be filed with the City Clerk.

If such nuisance, building or structure is not removed, and the premises and place cleansed within the specified time, the Council may cause the same to be removed or cleansed and the expense thereof shall be assessed by the Common Council upon the lot or lots, notice being first given by publication in the official paper of the time and place such

assessment will be made.

Said assessment shall be a lien on the lot or lots the same as city county or state taxes, and shall be returned with and collected in the same manner as the other city taxes.

Sixth. To direct the location, construction and management of stock yards, slaughter houses, pack houses, renderies, tallow chandleries, storing places for hides, bone or glue houses, rag and rubber yards, junk shops, second hand stores, gas works, soap factories, dye houses, tanneries, markets, breweries, distilleries, or any other noisome or unwholesome business within the limits of the city, or within a distance of one mile outside thereof, and to regulate or prohibit the storage, receipt, transportation, dealing in and use of gunpowder, dry pitch, resin, coal tar, benzine, naphtha, gasoline, turpentine, gun cotton, nitroglycerine and any product thereof, and other combustible or explosive material within the city, or within one mile from the city limits thereof and the use of lights in stables, shops and other places, and the building of fires; and to regulate and restrain the use of firecrackers, torpedoes, Roman candles, rockets and other fireworks, and of firearms within the city.

Seventh. To prevent the incumbering of streets, sidewalks, alleys, lanes or public grounds with carriages, carts, wagons, sleighs, boxes, barrels or kegs, lumber, firewood, posts, suspended or swinging signs, awnings or other materials or substances whatever, and to prohibit persons from gathering in crowds or groups or standing singly on the streets or sidewalks in such manner as to obstruct passage thereon or to annoy other persons passing along the same; to authorize the police to disperse any such crowd or group, or to cause the removal of any such person, and to arrest the offender or offenders in case of refusal on the part of such person or persons to obey any reasonable direction given for the purpose of clearing the way or preventing annoyance to passers by.

Eighth. To regulate the movement of railroad locomotives and cars and to prevent and punish immoderate riding or driving in the streets; to compel persons to fasten and to care for their horses or animals attached to vehicles or otherwise, while standing in the street.

Ninth. To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese and other animals, and to authorize the distraining, impounding and sale of the same and to impose penalties on the owners of such animals for violation of such ordinances, and to define the territorial limits within which swine may be kept in said city.

Tenth. To prevent the running at large of dogs, to require a license for keeping the same, to impose fines upon their owners, and to authorize the destruction of said dogs in a summary manner when at large contrary to the ordinance.

Eleventh. To prevent any person from bridging, depositing or having within the city, any putrid carcass or other unwholesome substance and to require the removal of same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides, or skin of any kind, and, on default, to authorize the removal thereof by some competent officer at the expense of such person or persons, and to impose a fine upon such person or persons for such default.

Twelfth. To make and establish public pumps, wells, cisterns, hydrants, reservoirs and fountains, and to provide for and conduct water into and through the streets, avenues and public grounds and to provide for the erection of water works for the supply of water to said city, and its inhabitants, and to grant a right to one or more persons, companies, or corporations to erect water works to supply said city with water, and to authorize and empower such person or persons, company or corporation to lay water pipes and mains into, through and under the streets, avenues, and public grounds of the City of Rochester.

And to provide for the erection and operation either by the city or by private parties, of gas works, electric light or other works, or means to light the streets, avenues, alleys and public grounds and buildings of the city and to supply light or power to the inhabitants thereof, or to grant ^{the right} to one or more persons, companies, or corporations to erect, maintain and operate such works with all rights incident or ~~app~~ pertaining thereto, and to authorize and empower such person or persons, company or corporation

to lay pipes, mains and wires into, through and under the streets, avenues, alleys and public grounds of said City of Rochester, and the erection of poles, masts, and towers, and the running of wires thereon over, in, upon, under and across the streets, avenues and public grounds, and to provide for the erection and operation of works for heating the public buildings of said city by steam, gas or other means and to supply heat or power to the inhabitants of said city.

Provided that said city, may, if deemed to be for its best interests, reserve the right to purchase any of the works hereinbefore mentioned at any time after ten (10) years from the making of such grant at a valuation to be agreed upon or determined in a manner prescribed in the grant.

Thirteenth. To regulate, control or prohibit the placing of telegraph, telephone, electric light or other poles or posts that now are or that hereafter may be placed, and the suspension of electric or other wires that now are or that may be hereafter suspended along or across the streets of said city, and to require any or all already placed or suspended, either in limited districts or throughout the entire city, to be removed or to be placed in such manner as the Common Council may designate beneath the surface of the street or sidewalk.

Fourteenth. To license and regulate butcher shops, butcher stalls, vendors of butcher's meat, commission merchants and all other persons who dealing in or selling on commission any fresh or butcher's meats, poultry, or game, and all hucksters, vendors or dealers in fruits or vegetables, also stock yards; also to regulate and restrain the sale of fresh or butcher's meat within said corporate limits; provided that no person selling game, or who may dispose of any animals raised or fatted by him, or who may sell fresh meats by the carcass or in quantities not less than by the quarter shall be deemed or held a vendor of fresh or butcher's meat under the provisions of this section.

Fifteenth. To establish the powers and duties of Boards of Health, subject to the general statutes of this state in such case made and provided; to regulate the burial of the dead and to prohibit such burial within the city limits, and to provide for the registration of births and

deaths within said city, and for keeping and returning the record of mortality and causes thereof.

Sixteenth. To license and regulate hackmen, expressmen, and all other persons engaged in carrying passengers or freight and to regulate their charges therefor. To prescribe standing places or stations within the streets where such hacks, drays or other vehicles used for such carrying may stand or remain while waiting for business or orders, and to designate such standing or waiting places in the licenses for such draymen, hackmen, or other persons, and to prohibit them from standing or waiting in any other places ^{within each street and to regulate and prescribe standing places} for all vehicles going to and waiting at any railroad depot or station in the city, and to authorize the Mayor or City Marshal of said city to regulate and direct the location of vehicles at such railroad depots or stations.

Seventeenth. To compel railroad companies and all other corporations and persons to do all needful and proper grading, draining and filling upon lands owned or occupied by them within the limits of said city; to compel railroad companies to construct and keep in repair suitable street crossings, bridges, viaducts and carriage ways over, or subways under, their several tracks, and to maintain lights, gates or flagmen at such street crossings of their tracks as the Common Council may require; to prevent the obstruction of streets, lanes, and highways by engines or cars of such companies, and to provide for the punishment by fine or imprisonment of any officer, agent or servant of such railroad company found guilty of a violation of any ordinance, resolution or by-law passed pursuant to this subdivision.

Eighteenth. To grant the right of way over, through or upon any of the public streets of said city, to any person, company or corporation, to build, maintain and operate a street railway; and 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.

Nineteenth. To regulate the speed of horses and other animals, vehicles, street cars and locomotives, upon the streets ~~and within the~~

^{or to regulate houses}
~~limits~~ or other animals attached to vehicles or otherwise, while standing in the streets; to regulate or prevent the use of bicycles, automobiles, and other similar vehicles, on streets, sidewalks or public grounds; and to prevent the riding or driving of any animal upon any sidewalk and to prevent any damage to any sidewalks or public property.

Twentieth. To prevent the shootings of fire arms, fire crackers, rockets or other projectiles, and to prevent the exhibition of any fire works in any situation which may be deemed by the Common Council dangerous to the city or any property therein, or annoying to any citizen thereof.

Twenty-first. To restrain drunkenness, immoderate drinking of intoxicating beverages, brawling and obscenity in the streets or public places, and to provide for arresting, removing and punishing any person who may be guilty of the same.

Twenty-second. To authorize the arrest, fine and imprisonment of vagrants and all persons not having means of support, and without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, billiard halls, houses of ill fame or houses of bad repute or gambling houses; also those who shall be found trespassing in the night time upon private premises, or begging or placing themselves in the streets or other thoroughfares, or public grounds to beg or receive alms; also those keeping, exhibiting, or visiting gaming tables or gambling houses; also all who go about for the purpose of gaming, or shall have in their possession any article or thing used for obtaining money by false tokens or pretenses; also any person who shall disturb any concert, theatre or other public or private entertainment or gathering, or any place where public or private school is kept, either on week day or Sunday, or any place where religious worship is held.

Twenty-third. To restrain, regulate and license porters, hackmen, and also runners, agents and solicitors for hacks, omnibuses, cars, public houses or other establishments.

Twenty-fourth. To establish and maintain public markets and market houses for the display and sale of meats, vegetables, fruits and other articles of food; to designate places for, and to prescribe the manner of, selling hay, straw, coal, and fire wood; to provide for the inspection

of hay, coal, and the measuring of firewood and other fuel, and to appoint suitable persons to inspect, superintend and conduct the same; to establish and maintain public market places for the sale of horses, sheep, cattle, mules and other animals, and to regulate and control the same.

Twenty-fifth. To compel the owners or occupants of building or lots to remove snow, dirt or rubbish from the sidewalk, street, or alley opposite thereto, and to compel such owner or occupant to remove from any lot owned or occupied by him all such substances as the Board of Health shall direct, and on his default, to provide for his punishment.

Twenty-sixth. 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-seventh. To regulate the sale or traffic in merchandise and other commodities in the City of Rochester, by transient traders or dealers in goods, wares and merchandise occupying stores, ~~or~~ ^{or grounds} buildings in the city, or engaged in the sale of such goods, and to license and regulate such transient traders and dealers, and to prohibit the same if not so licensed, and to provide for the punishment of any such traders who shall within said city vend, sell, or dispose of, or offer to vend, sell, or dispose of any goods, wares, or merchandise without first having obtained such license; provided, that all merchants or dealers in goods or merchandise whose stocks of goods have not been assessed and taxed within the city for the fiscal year, during any part of which they shall be engaged in such business, and who shall not be bona fide residents of the city, shall be deemed "transient traders" or "dealers" for the purposes of this sub-division.

Twenty-eighth. To provide for and regulate the manner of weighing hay and straw and selling the same; and measuring and selling fire wood, coal and lime; to provide for the inspection of lumber and building material; and to regulate the measuring and selling thereof; to provide for punishment for the use of false weights and measurements, and to prohibit the sale of any such products by weight or measure, unless first weighed

or measured by the official weigher and scaler.

Twenty-ninth. To license, regulate or prohibit fortune tellers, clairvoyants, astrologers, massage doctors, street hawkers, venders, public criers, paddlers, book agents, canvassers, newsboys, bootblacks, hucksters, pawn brokers, junk dealers and chimney sweeps doing business in the city, and to prohibit fakirs therein.

Thirtieth. To provide for and regulate the inspection and sale of tobacco, beef, pork, milk, flour, meal, lard, butter, whiskey and other liquors, fish and all other meats and provisions, and to provide against the sale of meat improperly slaughtered or cared for, or killed or hung up in a filthy or unwholesome place, or fed upon filthy refuse, or offal, or in a filthy or unwholesome place, or in any way putrid, tainted or having been exposed to taint by reason of the surroundings in which it has been kept. And to provide for the punishment of any person or persons offering for sale any unwholesome meats, vegetables or other food products; or for the punishment of any person or persons offering for sale any meat, vegetables, or other food products in an unwholesome place or building, or which have been hung up or kept in an unwholesome place or building.

Thirty-first. To regulate the construction of buildings, to prescribe the depth of cellars, material and method of construction of foundations and foundation walls, the manner of construction of drains and sewer pipes the thickness, material and construction of party walls, partitions and outside walls, the size and material of floors, beams, girders, columns, roofs, chimneys, flues, stacks and heating apparatus, to apportion and adjust such regulations as to height and size of the building to be erected, to regulate the construction and location of privies and vaults in such buildings, to prohibit the construction of buildings not conforming to such prescribed standard, either in the whole city or within such building limits as it may prescribe; to establish, alter or enlarge such building limits from time to time; to appoint an inspector or inspectors of buildings or to devolve the duties of such inspector on any city officer; to give such inspector or any officer authority to enter upon, examine and inspect all buildings in process of construction in said city, or within such

building limits, and to direct the suspension of any such building operation as shall not conform with such regulations; provided, however, that neither the Common Council nor any inspector or any officer of said city, shall have control or regulation of any building erected by the United States or the State of Minnesota.

Thirty-second. To prescribe the limits and, from time to time, to alter, diminish or enlarge the same, within which wooden buildings, or buildings of other material not deemed to be fire-proof, shall not be erected, placed, enlarged or rebuilt and within or into which such buildings shall not be moved, and to direct that any and all buildings within the limits prescribed, shall be made and constructed of fire-proof materials, and with such precautions against fire as the Common Council shall by ordinance ^{and} prescribe; also to prohibit the repairing of wooden buildings within such fire limits, without its consent, and to prescribe the manner of applying for such consent, and to direct that any and all such buildings within such limits, when damaged by fire, decay or otherwise, to the extent of fifty per cent (50%) of their respective values, 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 ^{Common Council} ~~City~~ Council, then to cause the same to be taken down; and to provide by ordinance for the punishment of such refusal or neglect, and to assess the cost thereof upon the land upon which said building or structure stood. The proceedings on assessment shall be the same and with like effect as provided in Subsection Fifth hereof.

Thirty-third. To provide for and regulate the erection of hitching posts and rings for fastening horses, and to prohibit them in any portion of the city in its discretion; and to regulate the opening of hatchways and compel proper guards about the same.

Thirty-fourth. To regulate the construction, location and care of chimneys, fire-places, stoves, stove-pipes, ovens, boilers, smoke-stacks and the appurtenances thereto used in or about any building or premises in the city, and to provide for the removal thereof, or for making the same safe when considered dangerous; also to prevent the deposit of ashes in unsafe places and to regulate and prevent the operation of manufactories or other establishments likely to cause or promote fires in the city.

Thirty-fifth. To provide for and regulate the numbering of dwelling houses and other buildings in the city and to compel the owners of such houses or buildings to have the proper number designated thereon.

Thirty-sixth. To license and regulate bill-posters, and to prevent the painting, chalking, drawing, marking or posting of any device or advertisement upon any sidewalk, bridge or other public property of the city, or upon any building, fence, or other structure without the consent of the owner thereof.

Thirty-seventh. To direct and regulate the planting and cultivation of trees in the streets and public grounds and highways of the city, and to provide punishment for injury or destruction of the same, or of any street signs, lamps or monuments of the city.

Thirty-eighth. To do all acts and make all regulations which may be necessary and expedient to the preservation of health and the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city, and to make and enforce quarantine laws within the city and within three miles of the limits thereof.

Thirty-ninth. To appoint inspectors, weighers, and gaugers, to regulate their duties and to prescribe their compensation.

Fortieth. To provide for the maintenance and government of all public buildings already erected for the use of the city, and to provide for the erection, maintenance and government of such other public buildings as the Common Council may deem necessary for the use of the city. *To provide for and maintain a suitable apartment for the Women's Club, and room or place for*

the tenement house for the poor.
Forty-first. To appoint one or more Fire Wardens and prescribe their duties.

Forty-second. To grant authority to any person or persons, company or corporation, to erect, maintain, and operate a telephone exchange or telegraph line, over, upon, across or under the streets, alleys and public grounds of said city, under the rules and limitations of this charter; and to grant to any private party or parties, company or corporation, the right to string any such wires over, upon, across or under the streets, alleys and public grounds of the city for private use, subject to said rules and regulations, and to make such rules and regulations for the government of the same as may be necessary.

Forty-third. To provide for the purchase of fire engines and other apparatus and appliances for the discovery, prevention and extinguishment of fires and for the installing and management of an electric fire alarm system; to provide for and regulate the formation of fire engine, hook, and ladder, patrol and hose companies, and provide for the due support, regulation and discipline thereof, and for the disbanding thereof and their apparatus returned when the Common Council shall deem such disbanding necessary or expedient, and for the care, keeping and preservation of the engine apparatus, appliances, and other property belonging to the fire department; to prescribe the duties of firemen and their officers, and to regulate the conduct of firemen and their officers, police officers, and all other persons at or near the scene of fires in the city; to authorize the removal or destruction of buildings when necessary to arrest the progress or prevent the spreading of any fire; and, in general, to make such provisions as in the judgment of the Common Council may tend to promote the efficiency of said department, and to secure all possible protection to property in the city from fire.

Forty-fourth. To grant a yearly license to the owner or lessee of any building authorizing him to use the same as a theater, concert hall, museum or other place of public amusement, recreation or instruction.

Forty-fifth. To regulate the manner and places of keeping and exhibiting stallions, bulls and jacks.

Forty-sixth. To regulate and require licenses to be obtained for the pursuit or prosecution of such other occupation or kinds of business not herein above expressly referred to and provided for, as in the opinion of the Common Council may require regulation; and, in general, to adopt all such measures and to establish all such regulations, in cases for which no expressed provision is hereinbefore or hereinafter made, as the Common 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, the suppression of vice and enhancement of public welfare in the city.

Forty-seventh. To prohibit the playing, by minors, of pool, billiards, or any other game in any billiards or pool room, or in any saloon, or any other place where billiardx and pool tables are kept or other games allowed, and to provide for the punishment by fine or imprisonment of any person or persons owning, operating or having control of any such game or games, who permit such minor or minors to play the same in violation of this provision or any ordinance passed pursuant hereto.

Forty-eighth. To establish and maintain a public library in accordance with the laws of the State of Minnesota, and to assist or maintain a free reading room, and to make such rules and regulations regarding the government of the same, as they may from time to time deem necessary.

Forty-ninth. 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 purpose, 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.

Fiftieth. To provide for and regulate cross-walks, curbs and gutters.

Fifty-first. To regulate and prohibit the exhibition or carrying or distributing, or throwing of banners, placards, advertisements, and hand bills, in or upon the streets, public grounds and sidewalks.

Fifty-second. To regulate and prevent the flying of flags, banners and signs across the streets, and to regulate the construction and use of

bill boards in or near the streets and public places.

Fifty-third. To regulate and prohibit traffic and sales upon the streets, sidewalks, or public places.

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

Fifty-fifth. To name and change the names of the streets, avenues, alleys and other public places.

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

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

Fifty-eighth. To compel railroad companies to raise or lower their tracks to conform to 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 any such railroad company so that they may be crossed at any place on said street, alley or highway.

Fifty-ninth. To compel and require railroad companies to make and keep open and in repair, ditches, drains and 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 the adjacent property shall not be impeded.

Sixtieth. To restrain the pollution of the waters of any creek, run, pond, lake or water course, within or adjacent to the city; to prevent the dumping of refuse or other matter therein and to provide for the cleansing and purification of water, water-courses, and canals, and the

drainage filling of ponds or pools on private property whenever necessary to prevent or abate nuisances.

Sixty-first. To compel the owner of low ground where water is liable to collect and become stagnant, to fill or drain such low place and to provide penalties for failure to do so.

Sixty-second. To restrain, regulate and control the cutting of ice in waters in or adjacent to the city.

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

Sixty-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 to provide for the removal of unsanitary plumbing and to compel the same to be kept in a sanitary condition.

Sixty-fifth. To prevent and suppress riots, routs, affrays, disturbances, disorderly assemblies, cock fights, ^{dog}~~cat~~ fights, sparring matches and all brutal or depraved exhibitions or sports.

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

Sixty-seventh. To regulate the making and sale of bread and prescribe

the weight and quality of the bread in the loaf and provide for the seizure and forfeiture of bread baked contrary to the regulations established by the Common Council.

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

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

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

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

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

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

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

Seventy-fifth. To compel the owner or owners of vacant property within the city limits to keep the same clear of any brush or other material or substance liable to communicate fire to adjoining property, and in case the owner or owners of such property shall neglect or refuse to re-

move the same within ten (10) days after notified so to do by the Common Council, either personally or by one publication in the official newspaper of the city, said Common Council shall have authority to have the same done, and assess the cost thereof against the property. The proceedings on assessment shall be the same and with like effect as provided in Subsection Fifth hereof.

Seventy-sixth. To provide for the revocation of licenses.

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

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

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

Eightieth. To establish a public pound and 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.

Eighty-first. To appropriate money from the general fund, not exceeding \$300 per year for band or bands to furnish music in public places within the city.

Eighty-second. To provide, establish, equip and maintain suitable municipal works, apparatus and facilities for the cleaning, repairing and sprinkling of streets, alleys and public grounds, and for the collection and disposal of garbage and all other waste material.

Eighty-third. To appropriate not exceeding \$500 to the relief committee of any neighboring city or locality for the relief of the needy or distressed, caused by fire, cyclones, or other unusual calamity, when such appropriation shall be petitioned for in writing by at least one fourth ($\frac{1}{4}$) of the voters of the city as shown by the returns of the last preceding

Charter election

Section 104. The Common Council may impose punishment for the breach of any ordinance of the city, to the extent of a fine not exceeding one hundred dollars (\$100) and costs of prosecution, or imprisonment in the city prison or county jail not exceeding ninety (90) days, and may provide that offenders against such ordinance may be required to give security to keep the peace, and for good behavior for a period not exceeding six (6) months, and in a sum not exceeding five hundred dollars (\$500).

Section 105. The Common Council of the City of Rochester may provide by ordinance that any person convicted of an offense before the City Justice, subjecting such offender to imprisonment under the charter and ordinances of the city, may be kept at hard labor in any work-house established by said city for that purpose, or the city prison of said city, or, in case of male offenders, may be kept at hard labor during the term of imprisonment in such work-house, or on the public streets and improvements of said city. It may also provide by ordinance that any one convicted of an offense before the City Justice as aforesaid, and committed upon non-payment of a fine imposed, may be kept at hard labor in any work-house of said city, or in the city prison as aforesaid, or, in case of a male offender, may be kept at ^{hard}~~hard~~ labor either in such work-house or upon the public streets or improvements in the city, until such person shall work out the amount of such fine at such rate as the Common Council may prescribe, not less than one dollar per day. The Common Council shall have full power to establish by ordinance all needful regulations for the security of such prisoners thus employed, and prevent escape and preserve proper discipline, and shall have power to establish a suitable work-house in said city for the purposes aforesaid, and make all needful regulations for the government of the same.

Section 106. The Common Council shall examine, audit, and adjust the accounts of the City clerk, Street Commissioner, Justice of the Peace and all other officers and agents of the city at such times as they may deem proper, and also at the end of each fiscal year, and before the term for which the officers of said city were elected or appointed shall have

expired; and the Common Council shall require every such officer or agent to exhibit his books, accounts and vouchers for such examination and settlement and if such officer shall refuse to comply with the order of said Common Council in the discharge of his said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books or vouchers to said Common Council, or a committee thereof, it shall be the duty of the Common Council to declare the office of such person vacant.

And the Common Council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or the discharge of his official duty, and shall make a full record of all such settlements and adjustments.

CHAPTER IX.

NON-ELECTIVE OFFICERS, BOARDS AND EMPLOYEES.

Section 107. The Common Council shall at the first regular meeting in April in each year, appoint a City Attorney, City Clerk, City Engineer, Pound Master, ~~Fire Warden~~, Chief of the Fire Department, ^{Fire Warden} and such other officers and employes as may be necessary to carry into effect the provisions of this charter, each of whom shall hold his office or position until his successor has been appointed and qualified, unless sooner removed. It shall have power to prescribe the duties and compensation of any officer by it appointed not herein provided for, and to require from time to time other and further duties to be performed by any officer whose duties are herein prescribed. It shall also at such meeting or an adjournment thereof appoint an Official Paper for the year ensuing.

CITY ATTORNEY.

Section 108. It shall be the duty of the City Attorney to appear for the city in the prosecution of all actions for violation of any city ordinance, or general law of the state within the limits of the city, of which the City Justice has jurisdiction, when the fine for the punishment of said offense, would, if paid, go to the city. He shall represent the city in all legal proceedings in which ^{it} ~~the city~~ is a party. He shall attend the meetings of the Common Council, and give his opinion upon any legal question which may be submitted to him officially by the Common Council or any of its committees or any officer or board of the city respecting their official duties. He shall draw all ordinances and legal instruments for the city, and shall perform such other professional services as properly appertain to his office. He shall receive such compensation for his services as the Common Council shall deem proper.

CITY CLERK.

Section 109. The City Clerk shall keep the corporate seal and all papers and records of the city. He shall attend the meetings of the Common Council and keep a record of the proceedings thereof. Copies of all papers

filed in his office, and transcripts from the records of the Common Council certified by him under the corporate seal, shall be evidence in all courts the same as if the originals were produced. He shall draw and countersign all orders on the Treasurer pursuant to an order or resolution of the Common Council or any Board authorized to make the same, and all bonds issued by authority of the Common Council or pursuant to any statute of this state. He shall also keep a full and accurate account thereof in books provided for that purpose; Provided, that orders in the prescribed form may be issued at the proper time, without specific action by the Common Council or Board in each instance, for the payment of salaries, wages or expenses previously fixed and determined by the Common Council or Board respectively, for certain definite terms or periods, and made payable at certain definite times, and in certain definite installments.

Section 110. The City Clerk shall have power to administer oaths, and affirmations, and take the acknowledgment of deeds and other writings. He shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. He shall retain in his possession all records, files, books and papers incident to his office, and shall not allow them to pass from his possession, except under the direction of the Common Council. He shall receive for his services such sum as the Common Council shall deem proper.

He shall have the power to appoint, subject to approval of the Common Council, a Deputy Clerk. Such deputy shall hold his office at the pleasure of the Clerk or Common Council, and shall have authority under the direction of the City Clerk, to perform any or all the duties of that office. The salary of the Deputy Clerk shall be paid by the City Clerk. In case ^{the absence of} of the City Clerk or his deputy, from any meeting of the Common Council, it may appoint an Acting City Clerk.

Section 111. All fees paid to the City Clerk by private individuals for filing and recording papers and for other services, as allowed by law, shall go to said City Clerk.

Section 112. In addition to the above powers and duties, the City Clerk shall countersign all orders drawn on the City Treasurer, or on the

Treasurer of School District No. 8 of Olmsted County, whether issued by him or by any other officer or board authorized so to do. No such order shall be paid unless so countersigned. He shall keep a record of each such order so countersigned in proper books, by him to be kept, in such a manner as to show at all times the precise state of the several funds of the city, and as the system of book-keeping authorized by the Common Council may require.

Section 113. The City Clerk is expressly prohibited from countersigning any order on the City Treasury or the Treasury of said School District No. 8, for the payment of any amount not a valid claim against the city or such school district, or which may have been incurred contrary to the provisions of this Charter or the laws of the state, any vote of the council or of any board to the contrary notwithstanding.

CITY ENGINEER.

Section 114. The City Engineer shall, under the direction of the Common Council, or the Chairman of the Street and Alley Committee, superintend the grading, repairing and improving of the streets and alleys and the building and repairing of sidewalks and cross-walks, gutters, sewers, bridges and public grounds, also the expenditure of taxes levied and collected for such purpose. He shall have the supervision of the highways in the city, shall discharge the same duties as are required by general law of overseers of Highways, and shall perform any other duties required by the terms of this charter.

Section 115. At least fifteen (15) days before the annual charter election the City Engineer shall file with the City Clerk a full and detailed account of all receipts and expenditures after the date of the last annual report, together with an inventory of all the tools belonging to the city in his possession.

Section 116. It shall be his duty to inspect all streets, alleys, sidewalks, crosswalks, sewers, gutters, bridges and public grounds, and to immediately report any defect or need of repair therein to the Chairman of the Street and Alley Committee, and, under the direction of the Common

Council or Chairman of the Street and Alley Committee, to remove snow or any other obstruction from the sidewalks, crosswalks and bridges in the city.

Section 117. He shall have immediate supervision and direction of all persons employed to work on the streets, alleys, bridges, sidewalks, crosswalks and public grounds, with power to engage and, in his discretion, to discharge such persons. No greater number of persons shall be employed or any higher wages paid or promised them than from time to time shall be authorized by the Common Council. He shall at reasonable intervals deliver time checks to laborers in payment for wages due, or else deliver to the City Treasurer certified pay rolls, either of which shall be duly signed by him and attested by the Chairman, or in his absence, any member of the Street and Alley Committee. On receipt thereof the City Treasurer is authorized to pay the same out of the moneys in his hands appropriated to the use of the Street and Alley Committee.

Section 118. He shall keep a strict account of the time during which every laborer is employed and every team used under his supervision in a book provided for that purpose, which book shall be subject to the inspection of the ~~Chairman of the~~ Street and Alley Committee. He shall require each person, upon being paid for his work, to sign a receipt in such book, acknowledging payment of such sum. He shall not pay or expend any greater sum in the employment of men or teams each month than the sum authorized by the Common Council for that month. He shall also keep a separate book in which he shall keep an itemized account of the amount expended for material used by him on the streets, alleys, bridges, sidewalks, crosswalks, sewers, water mains, conduits, and public grounds, said book shall be open at all times to the inspection of the ~~Chairman of the~~ Street and Alley Committee.

Section 119. He shall report to the Common Council in writing at its first meeting in each month, the amount expended for labor and teams and the amount of material used during the preceding month, with a recommendation as to the amount needed in his department for the ensuing month.

Section 120. It shall be the duty of the City Engineer to make all surveys, plans and estimates required of him by the Common Council, or by any provision of this charter, and to establish all grades of streets when required by the Common Council. He shall perform such other and further duties pertaining to his office as the Common Council may from time to time require.

Section 121. All surveys, plans and estimates made by him for the city shall be the property of the city and shall be carefully preserved in the office of the City Clerk, or such other place as the Common Council shall designate and the same shall at all times be open to the inspection of all parties interested. He shall receive such compensation for his services as the Common Council may direct.

Section 122. The City Engineer shall appoint, by and with the consent of the Common Council, such Assistant Engineer or Engineers as may be necessary to carry out the duties of his office. Such assistants shall receive such compensation for their labor as the Common Council shall determine, and shall be under the control of the Common Council and its Street and Alley Committee in like manner as is prescribed for said City Engineer.

POUNDMASTER.

Section 123. The Poundmaster shall have charge of the City Pound and shall perform such other duties and receive such compensation as the Common Council shall by ordinance prescribe.

CHIEF OF THE FIRE DEPARTMENT.

Section 124. The duties of the Chief of the Fire Department shall be fixed by ordinance, and his salary shall be fixed by the Common Council.

FIRE WARDENS.

Section 125. The Fire Wardens shall perform such duties as may by the terms of this charter, the laws of the state or any ordinance of the city be prescribed. ^{their} ~~his~~ compensations shall be fixed by the Common Council.

OFFICIAL PRINTING.

Section 126. The Common Council shall, at the first regular meeting in each year, or within thirty days thereafter designate one newspaper printed in the city, in the English language, as the official newspaper of said city for the period of one year then beginning and until a successor is designated, in which shall be printed all ordinances, official notices and all reports, proceedings of the Common Council and other matters required by this charter, to be published and such other matters as the Common Council may from time to time direct. Such newspaper shall possess the qualifications of a legal newspaper under the general laws of the State of Minnesota, and such contract shall be let to the lowest bidder. ~~It~~ The compensation paid for such printing shall never exceed one half the ~~amount~~ allowed by statute for legal advertisements, ~~and~~ provided, however, that if ^{the price for each} each and all the proposals received by the Council for such printing, shall ~~be a price~~ ^{be} in excess of the maximum herein provided, or if no proposals shall be received, then and in that event, the Council may adopt such other mode of publication of ordinances, resolutions and other matters as it may deem best. The newspaper awarded such contract for printing shall be designated the official paper.

Section 127. It shall be the duty of the City Printer immediately after the publication of any ordinance, resolution, ~~or~~ notice or other matter, which by this charter is, or by the city ordinances or amendment hereto shall be, required to be published, to file with the City Clerk a copy of such publication, with his affidavit or the affidavit of his foreman, of the length of time the same has been published and such affidavit shall be conclusive evidence of the publication of such resolution, ordinance, notice or other matter.

PARK BOARD.

Section 128. There shall be a Board of Park Commissioners of the City of Rochester, to consist of one member from each ward and one member at large, appointed by the Mayor and confirmed by the Common Council. They shall be residents and freeholders of the city. Each shall hold office

for two years, the term of two of the four (4) expiring each year. As soon as this Charter takes effect, Park Commissioners for the First and Third Wards shall be so appointed, whose terms of office shall extend to the second Monday in April in 1906, unless commissioners shall already have been chosen under the state law, before this charter goes into effect, in which case such commissioners shall continue as such officers hereunder until the second Monday in April, 1906. As soon as this Charter takes effect, a Park Commissioner at Large and a Park Commissioner for the Second Ward shall also be so appointed, whose terms of office shall extend to the second Monday in April, 1907, unless commissioners shall already have been chosen under the state law, before this Charter goes into effect, in which case such commissioners shall continue as such officers until the second Monday in April, 1907. In the first week of April in each year hereafter commencing with 1906, new commissioners shall be so appointed as their respective terms expire, each to hold his office two (2) years from the second Monday in April of the year of his appointment. Vacancies for unexpired terms shall be filled in a like manner.

Section 129. Each person so appointed shall file a written oath and acceptance with the City Clerk before entering upon the discharge of the duties of his office. The Park Commissioner at Large shall, by virtue of his office, be the President of said Board. They shall, as soon as this Charter takes effect, choose from the members thereof a Secretary, and at the first meeting thereof in April in each year thereafter, the members shall again so elect a Secretary. Said Board shall from time to time appoint and employ a Superintendent of Parks, and such other agents and employes as it shall deem necessary, whose compensation shall be fixed by the Board, subject to revision by the Common Council, and who shall be paid out of the Park Fund.

Section 130. The Board shall, on or before the first Monday in April in each year, file with the City Clerk for the Common Council, a detailed statement of the receipts and disbursements of the Board during the preceding year ending March 31st. It may include in such report any recommendations or information, and the Common Council may publish the same or such portion thereof as it shall deem advisable.

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Section 131. The said board shall have management and control of all the parks and parkways of the city. It shall direct all expenditures from the park fund for the maintenance and improvement of the parks and parkways, and shall have power to provide, either directly or by lease of privileges, such conveniences, accommodations and entertainments as such board may deem proper for the use, enjoyment or recreation of visitors to such parks, excepting gambling and sale of intoxicating liquors which shall not be permitted or carried on in said parks at any time.

Section 132. The city may from time to time acquire lands for parks and parkways, within or without the corporate limits, in manner provided in this charter. Lands may be so acquired, in the name of the city by gift, devise, purchase or condemnation, and, upon obtaining title thereto, said board may assume possession thereof. Said board may also accept and receive on behalf of the city bequests or donations of money or property for the use of the city, for purposes connected with the parks and parkways.

Section 133. When the Board of Park Commissioners shall deem it to be for the public interest that any tract or tracts, parcel or parcels of land shall be condemned for the use of the city for any public park or parkway, or the extension of any park or parkway within or without the limits of the city, and shall so determine by resolution signed by at least three of their number they shall present the same to the Common Council. The Common Council shall thereupon have power, upon the application of such Board of Park Commissioners, to acquire all necessary lands for park purposes, either by purchase or condemnation. In case it shall be deemed necessary to take private property for any of the purposes therein stated, the Common Council may condemn such property in the same manner herein provided, or as provided by law, for the condemnation of property in the laying out, opening and widening of public streets, highways and alleys; provided, it shall not have power to take by condemnation for park purposes any portion of any public or private cemetery.

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Section 134. The Board of Park Commissioners shall not in any fiscal year, create any obligation or spend any money upon parks or park ways other than the amount levied and appropriated therefor by the Common Council, or otherwise donated or appropriated for such use. The president of such board shall audit all bills and accounts created by it, or by its Superintendent, before they shall be allowed by the Common Council. The President shall not audit any bills or accounts, unless there is money in the City Treasury belonging to the proper fund to pay such bills and accounts. Any member of such board may be removed from office by the Mayor or Common Council. But no member shall be removed except for cause, or unless furnished with a written statement of the charges against him, nor until he shall have reasonable opportunity to be heard in his defense.

Section 135. The members of such Board shall receive no compensation for services, but shall be reimbursed for actual expenses incurred in the discharge of their duties.

Section 136. The Board of Park Commissioners shall have authority to expend money out of the Park Fund upon the boulevards of the city, when the same have been designated as such by the Common Council, for the purpose of improving and beautifying the same and for boulevarding the sides of such streets as are designated as boulevards, also for the purpose of planting trees on streets, but shall not otherwise have or exercise any jurisdiction or control over the same, or any part thereof.

LIBRARY BOARD.

Section 137. The Common Council shall have power and authority to establish and maintain within the city public libraries, reading rooms, galleries of art and museums for the use and benefit of the inhabitants thereof. There shall be a Library Board of the City of Rochester, which shall be a department of the city government, consisting of nine (9) directors. Three of them shall be appointed by the Mayor, with the approval of the Common Council, on or before the third Saturday of July in each year. Such directors shall be chosen from the citizens at large with

reference to their fitness for such office. They shall hold their respective offices for a term of three years from the third Saturday in July in the year of their appointment. The directors of the Library Board in said city at the time this charter goes into effect shall be and continue directors of the Library Board hereunder until the expiration of the term for which each was appointed or elected. As their respective terms expire, new directors shall be appointed as aforesaid, in groups of three, who shall hold office for three years, and until their successors are appointed and qualified. Women shall be eligible to such appointment. Such directors are subject to removal for cause by the Mayor with the consent of the Common Council. They shall not be required to give bond.

Section 138. Each person so appointed a director of the Library Board shall file a written oath and acceptance with the City Clerk before entering upon the discharge of the duties of his office.

Section 139. A vacancy in the Board of Directors of the Library Board occasioned by removal, resignation or otherwise, shall be reported to the Mayor and Common Council, and the unexpired term shall be filled in like manner as an original appointment. Such directors shall act without compensation.

Section 140. Said directors shall, immediately after the annual appointment, meet and organize, by the election of one of their number President, and another of their number Secretary, and by the election of such other officers as they may deem necessary. Said Secretary, before entering upon the duties of his office shall be required to give bond with sureties to the satisfaction of and in an amount to be fixed by said directors. They shall take charge of, and have full possession and control of the present library building and the premises on which it is located, also the library and free reading rooms in said city as now established. They shall make and adopt such by-laws, rules and regulations for their own guidance, and for the government of the library and reading rooms, or either of them, as may be expedient, ^{and} not inconsistent with this charter.

They shall have the exclusive control of the expenditure of all moneys collected and placed to the credit of the Library Fund, and of the construction or repair of any Library building, and of the supervision care and custody of the ground, rooms or buildings constructed, leased or set apart for that purpose; provided that all moneys received for such Library shall be deposited in the treasury of the city to the credit of the Library Fund, and it shall be kept separate and apart from other money of the city, and shall be paid out only upon the properly authenticated vouchers of the Library Board, countersigned by the City Clerk.

Section 141. Said Board shall have power to lease and provide appropriate rooms for the use of said Library, shall have power to appoint a suitable Librarian and necessary assistants, and fix their compensations, and shall also have power to remove such appointees. It shall in general carry out the spirit and intent of the provisions of this charter relating to such Library Board. Said Board shall have the power, when approved by the Common Council, to purchase ground and erect thereon other suitable buildings for the use of said Library.

Section 142. Said Board, with the consent of the Common Council, expressed by resolution or ordinance, may accept any conveyance, gift, grant, donation, devise, or bequest for library purposes, or for the establishment, maintenance or enlargement of an art gallery or museum in connection with such library, which may be given, granted, ^{conveyed} ~~donated~~, devised or bequeathed by any person, company or corporation to said city for library purposes, and may enter into any agreement with any such person, company or corporation or with his or their legal representatives, affecting such gift, grant, donation, bequest, or devise as may be proposed or imposed concerning the same, subject however, to the limitations herein contained, and any such agreement shall have ^{the} full and binding effect of a contract between such person, company or corporation and the city.

Section 143. Any and all property given, granted, conveyed, donated, devised or bequeathed to, and any and all property purchased or acquired

by the City of Rochester, for the purpose of a library or reading rooms, shall vest in and be held in the name of the City of Rochester, and any conveyance, grant, donation, devise, bequest or gift made to the the Library Board, shall be deemed and considered as having been made directly to the City of Rochester for libraries and reading rooms.

Section 144. Said Board of Directors shall, on or before the 31st, day of December in each year, make a report to the Common Council, stating the amount received during the past year from taxes and all other sources, the amount expended and for what purposes, the number of books on hand, the number purchased, the number loaned, and such other information as it may deem of interest. It shall send a copy of such report to the Minnesota State Public Library Commission.

Section 145. The directors of said Library Board shall have power in their discretion, to admit to the benefit of such library, persons not residing within the corporate limits of the City of Rochester, provided that they shall execute a contract in writing in the form of a bond with sureties to the City of Rochester, to be approved by the Board of Directors, conditioned to make good all damages or loss of books issued to them, and covenanting that the person so receiving the benefits of the library shall at all times conform to all the laws, rules, regulations and charter provisions governing the said library. Such non-resident patrons shall pay into the City Treasury to the use of said Library Board, for their privileges, such sums and at such times, as may by the directors be from time to time prescribed.

Section 146. The previous establishment by the City of Rochester of a public library and reading rooms under the laws of this state and the present maintenance thereof by the city, is hereby confirmed, but it shall after this charter takes effect, ^{as it was} be maintained and operated under the provisions of this charter. The library and reading rooms so established shall be free forever to the use of the inhabitants of the City of Rochester, subject to such reasonable rules and regulations as the Library

Board may adopt. The Common Council shall hereafter annually levy for the maintenance of said Public Library and reading rooms a tax not exceeding two (2) mills on the dollar. Any and all property, whether real or personal, of whatever nature, including all uncollected taxes, the title of which is, or may be, vested in the existing Library Board of the city, at the time this charter becomes fully operative upon the city, shall then forthwith become and be vested in the city as the corporate successor of such Board, with the same rights, and subject to the same obligations and burdens, to be managed and cared for, however, by the Library Board created by this Charter. And if such previously existing Library Board shall at that time be charged with any special trust, the city shall be and is hereby substituted and appointed special trustee in place thereof, such trust, however, to be managed and executed by and through the Library Board hereby created, as an administrative department of the city, and all rights and obligations existing at that time against said former Library Board shall be enforced against the city.

PUBLIC UTILITY BOARD.

Section 147. There shall be a Public Utility Board in the City of Rochester, composed of three members. There shall at all times, if possible, be one member of said Board who is a member of the Common Council. They shall be appointed by the Mayor and the appointment confirmed by the Common Council, and the term of office of each, except as hereinafter provided, shall be three years.

Section 148. Within thirty days after this charter takes effect, the Mayor, by and with consent and confirmation of the Common Council, shall appoint from among the resident citizens of the city the three members of said Public Utility Board, choosing men with reference to their fitness for such office. One shall be so chosen whose term shall expire on the second Monday in April in the year 1906, another whose term shall expire on the second Monday in April in 1907, and another whose term of office shall expire on the second Monday in April in 1908. In the first week of April 1906, and annually thereafter, one member shall be so chosen whose term of office shall be for three years. Appointments may be so made at any time to fill a vacancy for an unexpired term.

Section 149. Each person so appointed shall file a written oath and acceptance with the City Clerk before entering upon the discharge of the duties of his office. No bond shall be required. The members of said Board shall act without compensation.

Section 150. The members of said Board shall annually after the appointment of the new member appoint one of their number as President. They shall also appoint a Secretary who shall not be a member of said Board.

Section 151. The city may construct or purchase its water plant or its lighting plant. It may dispose of either of the same, on a vote of a majority of the electors thereof. The city may maintain, enlarge, extend, repair and operate the same. It may furnish water, light, and power for all municipal purposes and may sell and supply the same to the inhabitants of the city.

Section 152. The general functions of the Public Utility Board shall be to control, manage and operate all those public utilities which are, or shall be operated by the city. The measure of the powers and duties of said Board shall, for the present, only extend to the control, supervision, management and operation of the City Electric Light Plant. But any other public utility hereafter acquired by the city shall be placed under the control and management of said board, in which event the powers and duties of said board relating thereto shall be fixed and limited by the Common Council by ordinance.

Section 153. The Secretary of said Board shall also be the Book-keeper and collector for the City Electric Light Plant. Said Board shall annually appoint an experienced electric engineer as Superintendent and Electrician of said plant. It shall also appoint and hire such other employes as are necessary for the proper management and operation of such plant, and may discharge them at will. Such Board shall prescribe the duties of such ^{Superintendent, Secretary and} employes and shall fix their compensations. Such Board may

require from its appointees and employes bonds for the faithful performance of their duties. The amount of such bonds shall be fixed by ^{the} ~~the~~ Board.

Section.154. Said Board is hereby vested with 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 charter, 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. Said Board shall fix and maintain the rents and rates for light furnished by it, so that the Public Utility Fund of the city shall, so far as possible, in each fiscal year, be sufficient to defray the cost of the operation, maintenance and extension of the City Electric Light Plant, and to pay the interest on all bonds of the city which have been or shall be issued on account of any extension of said Plant, and to maintain a reasonable reserve fund for ~~the~~ use at any time in making repairs and extension.

Section 155. The said ^{Board} ~~Board~~ shall regulate the distribution of lights in all places, for all ~~pur~~poses where the same shall be required, for either public or private use, except as hereinafter provided, and shall also, with the concurrence of the Common Council, regulate the reasonable sale and use of electric current for power. The city shall pay to such Board, monthly, out of the Lighting Fund, a reasonable rate fixed by said ^{Board} ~~Board~~, for all public lighting for streets and city buildings supplied by the said City Electric Light Plant, but no higher rate shall be charged therefor than shall be charged to private parties. Said Board may also, with the concurrence of the Common Council provide for heating city buildings with steam from the boilers in said plant, the city to pay from the general fund to said Board therefor a reasonable rate to be fixed by said Board. Said Board is also authorized and required to restrain and prevent, so far as possible, any and all waste of electric current, and may, for non-payment of dues or other cause, shut off any light or power, or take other action relating thereto that it may deem proper.

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Section 156. All supplies for the lighting plant shall be contracted for and purchased by said Board in the name of the city; but every appropriation for the amount of two hundred dollars (\$200) or more to be paid to any one person, firm or corporation, and the letting of any job or work, or the authorizing of any contract or purchase involving the expenditure from the City Treasury of two hundred dollars (\$200) or more, and the fixing of any officer's salary or employe's wages at the aggregate sum of five hundred dollars (\$500) or more a year, and every provision for the sale of any real or personal estate pertaining to said plant, of the value of two hundred dollars (\$200) or more, and every determination to make any improvement pertaining to the business of said City Electric Light Plant, shall first be authorized by a resolution duly passed by the Mayor and Common Council, before the said Public Utility Board shall have any right or authority to act thereof. Any contract to be let by such Board involving an expenditure exceeding two hundred dollars (\$200), shall be let to the lowest responsible bidder, after having given at least one week's notice in the official paper.

Section 157. The Common Council may transfer money from the General Fund to the Public Utility Fund for the purpose of defraying the expense of any extension, improvement or enlargement of said plant. The Common Council shall transfer money from the General Fund to the Public Utility Fund when necessary to pay for the running expenses or repairs of said plant. All bills against said Board shall be verified by the claimant or his agent the same as other bills against the city. On or before the first day of each calendar month, such bills shall be audited by said Board; and, if allowed, shall be transmitted by the Secretary to the City Clerk. The City Clerk shall thereupon draw orders on the City Treasury payable out of the Public Utility Fund for the several amounts. Said orders shall be signed by the Mayor, attested and countersigned by the City Clerk, and a record thereof kept by the City Clerk as in case of all other city orders.

Section 158. It shall be the duty of the Secretary under the direction of the Board, to collect, and pay forthwith into the City Treasury all moneys due on account of the operation of said City Electric Light Plant. He shall keep a set of books in his office which shall contain a full and complete statement of the condition and operation of the plant, all moneys received by the Board and paid over to the City Treasurer, all payments made for the account of said plant, and all moneys due or owing to said Board for any cause whatever, together with an accurate and detailed account of all the expense of said Board. He shall also keep an accurate account of all purchases, and sales, bills receivable and bills payable. He shall on the first day of each calendar month make a monthly statement in writing to the Common Council of the conditions and affairs of said Board, which shall be attested by the President of said Board and on the first day of April in each year an Annual Report shall be made to the Common Council in like manner. Said Secretary shall keep a record of the proceedings of the said Public Utility Board, which shall at all times be open to public inspection. He shall have charge of the correspondence of said Board, shall keep copies of all letters written and shall file all letters received. He shall perform such other and further duties as said Board shall prescribe and as the Superintendent and Electrician shall require.

Section 159. No additional street lights shall be granted, nor any taken away or dispensed with, by said Board without the approval of the Common Council.

CHAPTER X.

SCHOOL DISTRICT AND SCHOOLS.

Section 160. Subchapter 10 of Chapter 48 of Special Laws of Minnesota for the year 1891, is hereby continued in force and excepted from repeal or modification by this charter. It reads as follows:

"Section 1. The City of Rochester, in the County of Olmsted, shall constitute one school district under the general school laws of this state, except so far as they are modified in their application to said district by this act, and hereafter all schools organized therein in pursuance to this act shall be under the control and direction of a Board of Education, and be free to all persons between the ages of five (5) and twenty-one (21) years, resident in said city.

Section 2. The Board of Education shall consist of one (1) member from each ward and two (2) members at large. The members from the wards shall serve for two (2) years and the members at large for two (2) years and until their successors are elected and qualified.

Section 3. The Board of Education shall possess all the powers of boards of directors, in independent school districts under the general school laws of this state, and, in addition thereto, such powers as are conferred upon them by this act; Provided, that taxes shall not be assessed or levied except as in said act, to which this act is an amendment as provided.

Section 4. The Board of Education shall have power to levy a tax on all taxable property in said city each year sufficient, with the amount received from other sources, to maintain necessary schools in said district ten (10) months in each year, including the amount required for fuel and repairs of school buildings; Provided, that said Board shall not levy a tax of more than five (5) mills on the dollar of the valuation of said property in any one (1) year, except by and with the assent and approval of the Common Council of said city; and such taxes shall be levied and collected as other taxes are or may be levied and collected in said city.

Section 5. For the purpose of purchasing necessary ground, improving and ornamenting the same and erecting school buildings thereon, the Board of Education shall have power, by and with the assent and approval of the Common Council of said city, to levy taxes on all the taxable property in said city, not exceeding in any one (1) year ten (10) mills on the dollar of the assessed valuation thereof, and may for like purposes and for the purpose of funding the present school debt, and with like assent and approval of said Common Council, issue the bonds of said district payable on or before fifteen (15) years after date thereof, with interest not exceeding seven per cent (7%) per annum, payable annually; Provided, that not more than fifteen thousand dollars (\$15,000) of such bonds shall be outstanding and unpaid at one time.

Section 6. The Board of Education shall have full control of all the public schools in said district, and shall have power to direct where pupils shall attend school, what books shall be used in the several schools and may grade said schools, and make and enforce any reasonable rules or regulations pertaining to the management and government of such schools.

Section 7. Within fifteen (15) days after the annual election in said city, which shall be the annual election of said district, said Board of Education shall meet at the office of said Board, and after being duly qualified, shall proceed to elect one of their number President and one of their number Clerk. The Clerk shall receive for his services such compensation, not exceeding one hundred dollars (\$100) per annum, as may be determined by said Board.

The President shall preside at all meetings of the Board, but shall have only a casting vote in case of a tie; he shall sign all orders drawn on the Treasurer, voted to be paid by said Board. A majority of said Board shall constitute a quorum for the transaction of business, but the President of said Board is not to be considered a member for the purpose of making such a majority. No money or tax shall be legal unless sustained by a majority of all the Board elected, and in making of such majority the President is not to be considered a member of said Board.

Section 8. The Clerk shall act as Clerk of the District, as all District Clerks are now required by law, and perform the duties required of Clerks under the general school laws of this state, and make all necessary returns to entitle said district to the benefits of the appropriation of the common school fund; also, draw and attest all orders on the Treasurer for money voted by said Board, and keep all district accounts as required by law.

Section 9. The County Treasurer of Olmsted County shall pay all orders signed by the President of the Board of Education of said city and attested by the Clerk of said Board, if there are sufficient funds in his hands belonging to said district, and shall deliver to the Board of Education the said orders so paid by him at the time of settlement with the said Board; and the duties of the office of the District Treasurer are hereby devolved upon the County Treasurer of said county, and the office of District Treasurer is hereby abolished, and the said County Treasurer shall not receive any compensation for the services herein provided for.

Section 10. No money shall be drawn from the County Treasury for or on behalf of said district, except on an order signed by the President of the Board and attested by the Clerk, stating in said order for what purpose the same is drawn; and the records of the district shall be so kept as to show the name of each member of the Board of Education voting for any appropriation, and no order shall be drawn on the County Treasurer of said County of Olmsted on behalf of said district except upon the affirmative vote of a majority of said Board.

Section 11. If a quorum of the members of said Board shall not be present at any duly called meeting of said Board, the members present shall adjourn from time to time until such time as a quorum shall be present, and they shall have the same power to compel the attendance of absent members as are given by this act to the members of the Common Council of said city.

Section 12. The Board of Education shall annually, on the first Monday of September of each and every year, make a detailed report to the Common Council of said city of the receipts and expenditures of said Board for the preceding year, ending July 31st., and showing such report the amount of outstanding indebtedness in orders or bonds or both, and the accrued interest thereon.

Section 13. The Board of Education of School District No. 8 of Olmsted County, the same being the School District included in the limits of the City of Rochester, are hereby authorized to sell, convey, any real estate not used for public purposes belonging to said School District or in which said School District has any interest; all conveyances for the same shall be executed by the President and Clerk of said Board on behalf of said School District.

Section 14. All acts and parts of acts in the general school laws and in the charter of the City of Rochester conflicting with the provisions of this act are hereby repealed, so far as they relate to the School District herein named."

CHAPTER XI.

FINANCES AND TAXATION.

Section 161. The fiscal year of the said city shall commence on the first day of April in each and every year.

Section 162. All funds in the city treasury shall be under the control of the Common Council, except any funds which by the terms of this charter is placed under the control of a Board, and shall be drawn out upon the order of the Mayor and City Clerk, duly authorized by the vote of the Common Council or such Board, and every order shall specify the purpose for which it is drawn, and the fund from which it is payable, and the name of the person in whose favor it may be drawn, and shall be payable to the order of such person, and may be transferred by endorsement. Every order on the City Treasury shall be countersigned by the City Clerk, otherwise it shall not be paid by the Treasurer. No appropriation shall be made unless a majority of the members of the Common Council, or of the Board authorized to make the same, shall vote in favor of it.

Section 163. All moneys and securities belonging to the city shall be divided into the following funds, accounts of which shall be kept separate and distinct, viz:

First. A General Fund, into which all the revenues of the city shall be placed, except as are herein directed to be placed in some other fund. The General Fund may be used for any lawful city purpose in the discretion of the Common Council, and the money may be temporarily or permanently transferred from the General Fund to other funds by the Common Council.

Second. A Street and Alley Fund, into which shall be placed all taxes levied by general taxation, especially for this fund for improving and repairing streets, alleys, avenues, boulevards and public grounds, and for building and repairing of sidewalks and cross-walks, paving, macadamizing and grading streets, alleys and public grounds.

Third. A Bridge Fund, into which shall be paid all taxes levied by the Common Council for ~~the~~ building and repairing bridges.

Fourth. A Permanent Improvement Fund, into which shall be paid all taxes levied by the Common Council for purchasing grounds, and erecting and repairing buildings for city purposes.

Fifth. A Permanent Improvement Revolving Fund, into which shall be paid all amounts realized from the sale of certificates of indebtedness issued on account of such fund, or in anticipation of the collection of special assessments made for local improvements, and the principal sum of all special assessments and benefits assessed and levied on account of any local improvements, and there shall be paid out of such fund that portion of the cost of all local improvements for which special assessments are levied, and such amount of excess assessments as may in any instance be refunded, and for no other purpose whatever, except in repayment of advances made from the General Fund as herein provided. And the city may maintain such fund sufficient to meet the expenses of all such improvements as the same become payable as in this Charter provided. And the Common Council may from time to time by resolution passed by a five-sevenths (5/7) vote, issue, negotiate and sell bonds, certificates of indebtedness, or orders for the creating or maintaining of such fund, without having the proposition of their issue approved by the legal voters of the city, and such bonds, certificates of indebtedness, or orders shall not be sold for less than par, and shall bear interest at a rate not to exceed six per cent (6%) per annum, and shall be made payable from said fund, or if on account of non-payment of assessments there be not sufficient moneys within such fund to pay them, then from the General Fund, in which case the same shall be returned from the Permanent Improvement Revolving Fund to the General Fund as soon as the special assessments are collected which should have paid such certificates; provided, however, that the amount of the certificates so issued, including any ^{issued} ~~issues~~ under the provisions found elsewhere in this charter, providing for the issuance of bonds, certificates of indebtedness, or orders in anticipation of the collection of special assessments levied, shall not exceed at any one time two per cent (2%) of the total value of the taxable property of the city according to the last preceding assessment for purposes of taxation.

Sixth. An Interest Fund, into which shall be paid all taxes levied by the Common Council for the payment of interest to become due during the next fiscal year on the bonded indebtedness of the city, and shall be used only for the payment of interest on the bonds for which the

city is liable, and for transfer to the sinking fund.

Seventh. A Sinking Fund, into which shall be paid all taxes levied by the Common Council for the purpose of providing for the certain payment of the bonded indebtedness of the city, and all funds transferred to this fund from the other funds by the Common Council, and shall be used only for paying bonds on which the city is liable, which funds shall be managed and the money invested as hereinafter provided.

Eighth. A Special Fire Department Fund, into which shall be paid all moneys received by the city from the state, for the benefit of the fire department, by virtue of the statutes of this state and any amendment thereof, and said fund shall be subject to disbursement for those purposes only specified in said statutes or amendments.

Ninth. A Sewer Fund, into which shall be placed all taxes levied by general taxation by the Common Council for the purpose of constructing or repairing sewers in the city.

Tenth. A Fire Protection Fund, into which shall be paid all taxes levied by the Common Council for the purpose of paying a hydrant rental or maintaining fire protection for the city.

Eleventh. A Library Fund, into which shall be paid all taxes levied by the Common Council for the purpose of maintaining the public library and reading rooms in the city.

Twelfth. An Armory Fund, into which shall be paid all taxes levied by the Common Council for the purpose of renting an Armory for a Company of State Militiamen within the city.

Thirteenth. A Lighting Fund, into which shall be paid all taxes levied for the purpose of paying for the lighting of public buildings, streets, grounds and other public places.

Fourteenth. A Public Utility Fund, into which shall be paid all moneys transferred from the general fund by the Common Council to the use of the Public Utility Board or raised on bonds for the operation, management, improvement or repair of the City Electric Light Plant, or other public utility, which may be placed under the supervision of the Public Utility Board. All moneys collected by said Board for private or public

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lighting or power or other use of any public utility under its supervision shall also be placed in such fund.

Fifteenth. A Park Improvement Fund, into which shall be paid all taxes levied by the Common Council, ^{or otherwise assessed} for the improvement of the public parks and parkways in the city.

~~Section 103.~~ All property real and personal, within the city, except such as may be exempted by the laws of the State, shall be subject to taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed in like manner as provided by the general laws of this state for the assessment of taxes for town purposes, except as herein otherwise provided.

Section 104. The Common Council shall have power annually to levy taxes on all taxable property in the city as follows:

For the General Fund, so much as it may deem necessary, not exceeding eight (8) mills on the dollar of the assessed valuation of the city as shown by the last assessment.

For the Street and Alley Fund, so much as it may deem necessary, not exceeding five (5) mills on the dollar of such assessed valuation.

For the Bridge Fund, so much as it may deem necessary, not exceeding five (5) mills on the dollar of such assessed valuation.

For the Permanent Improvement Fund, so much as it may deem necessary, not exceeding five (5) mills on the dollar of such assessed valuation.

For the Interest Fund, so much as may be necessary to pay accruing interest on outstanding bonds on which the city is liable, not otherwise provided for.

For the Sinking Fund, so much as may be sufficient from year to year to pay all bonds at maturity, on which the city is liable, not exceeding two (2) mills on the dollar of such ^{assessed} valuation.

For the Sewer Fund, so much as it may deem necessary, not exceeding three (3) mills on the dollar, of such assessed valuation.

For the Fire Protection Fund, so much as may be necessary to pay the hydrant rental, or maintaining fire protection for the city.

For the Library Fund, so much as it may deem necessary for the maintenance of the public library and reading rooms, not exceeding two (2) mills on the dollar, of such assessed valuation.

For the Armory Fund, so much as may be necessary for the renting or maintaining of an Armory for the Militia.

For the Lighting Fund, so much as may be necessary to pay for the lighting of public buildings, streets, grounds and other public places.

For the Park Improvement Fund, so much as it may deem necessary for the improvement of the public parks and parkways in or near the city, not exceeding one (1) mill on the dollar of such assessed valuation.

Section 165. No appropriation shall be made without a vote of a majority of all the members of the Common Council, in its favor, which shall be taken by ayes and nays and entered on the minutes of the Common Council.

The Common Council may provide for the examination, from time to time, of such cancelled orders, and also cancelled bonds or other obligations, in the hands of the City Treasurer, and for their destruction, preserving such record or vouchers thereof as the Common Council, or any committee thereof, may deem proper.

All appropriations and expenses of the city not otherwise provided for shall be paid out of the general city fund.

CHAPTER XII.

THE SINKING FUND.

Section 166. In order to provide for the certain payment of the bonds and debts of the city, the Common Council is authorized to create and maintain a Sinking Fund. The Mayor, the President of the Common Council and the Chairman of the Finance Committee of the Common Council shall constitute and be known as "The Commissioners of the Sinking Fund of the City of Rochester". The Common Council shall by ordinance define the duties of such Commissioners not herein enumerated.

~~Section 166.~~ Any two of the officers above named are hereby authorized and required to discharge the trust and duties vested in them in the succeeding sections of this chapter, but shall not be entitled to receive any additional salary or compensation for such service.

Section 167. The said Commissioners shall from time to time invest the moneys which shall constitute the Sinking Fund for the redemption of the city debt or any surplus of interest to the credit of the interest fund, or as much as they can, in the purchase of bonds issued by the city or bonds issued by the Board of Education, at the market value thereof. They are authorized to invest the said moneys, or such part thereof as they see fit, either in the purchase of such city or school bonds or in the bonds of the State of Minnesota, or in United States bonds, notwithstanding the said State or United States bonds may be above par value thereof, or they may deposit the same in a designated depository as hereinafter provided. However, they shall at all times give preference to the purchase of city bonds if the same can be procured at reasonable rates.

Section 168. In case any such city bonds cannot be purchased at par value and said Commissioners shall deem it desirable, they may deposit a part or all of the moneys in either the Interest Fund or the Sinking Fund in one or more designated national banks, savings banks, state or private

banks in the name of the City of Rochester, which depositories shall be appointed, and shall qualify, as hereinbefore provided for the designation of depositories of city money.

Section 169. Whenever the Commissioners shall have invested any part of said fund in the purchase of any of the several classes of bonds above mentioned, and shall at any time thereafter deem it for the best interest of the city that any part, or all, of the bonds of any such description be sold, and the proceeds invested in any other class of bonds or such proceeds returned to the city treasury, or deposited as hereinbefore provided, they shall have power to sell any such bonds at not less than the market value thereof, and re-invest or deposit the proceeds thereof.

Section 170. Whenever any of the moneys, constituting the sinking fund for the redemption of the city debt shall be required for any such purchase, investment or deposit, or for the redemption of the city bonds at their maturity, the amount of money so required shall be paid by the City Treasurer upon a warrant of said Commissioners.

The City Clerk shall attest and countersign said warrant and affix the seal of the city thereto.

Section 171. Whenever any of the money, constituting the Sinking Fund is on deposit in a designated depository the same shall be paid by said depository upon a warrant of said Commissioners, the City Clerk shall also attest and countersign said warrant and affix the seal of the city thereto.

Section 172. It shall be the duty of the City Clerk to attend all the meetings of said Commissioners and to keep a correct journal of all

their proceedings which said journal shall be verified by said Commissioners and attested by the City Clerk, and once in each year, and oftener if required by the Common Council, said Commissioners shall render to the Common Council a full and detailed report of their proceedings. Any investments or other act of said Commissioners shall be based upon a resolution duly entered in said journal.

Section 173. In the event of a vacancy in office or inability of any of said Commissioners to attend to the trust hereby imposed, it shall be the duty of the Common Council, by resolution, to designate one or more of their number to supply the place of such Commissioner for the time being. The said Commissioners shall meet upon the call of any one of them and the Mayor, or, in his absence, the Acting Mayor shall preside at all meetings of said Commissioners.

Section 174. All bonds and securities purchased by said Commissioners shall be held in safe keeping by the City Treasurer. Whenever city bonds are paid by warrant of said Commissioners, a record thereof shall be made in the book of the Commissioners, and the said bonds shall be carefully cancelled and burned by said Commissioners in the presence of the Common Council.

Section 175. It shall be the duty of said Commissioners to protect the credit of the city, and direct and superintend the remission of funds for the payment of interest on the bonded indebtedness of the city, to the place where said bonds or interest may be payable, and if at any time said Commissioners shall find that the Interest Fund for the payment of the interest upon the bonded indebtedness of said city shall not be sufficient to meet and pay such interest, the Commissioners may, by resolution, to be

entered upon their record and signed by them, recommend to the Common Council that any surplus balance to the credit of the Sinking Fund, or as much thereof as may be necessary to meet and pay said interest, may be transferred to the credit of said interest fund; or, in case of a surplus of the interest fund for any one year, they may recommend in like manner that said surplus be transferred to the credit of the sinking fund; provided, that before said resolution and recommendation shall become operative, the same shall be reported to the Common Council and shall be approved by a resolution thereof, and the said resolution shall be certified by the City Clerk to the Commissioners and entered upon the record of said Commissioners, and the same shall authorize said Commissioners to make said transfers. This section shall not be so construed as to permit the transfer of funds from the interest or sinking fund to the credit of any other fund of the city. Any other transfer of said funds is hereby forbidden.

Section 176. Whenever the Sinking Fund shall be insufficient to pay all the maturing city bonds, the Common Council may refund the same by issuing other city bonds, without submitting the proposition to the legal voters of the city, to run not exceeding twenty (20) years. They may bear such terms as to the place of payment and rate of interest as may be deemed advisable, and in such an amount as may be necessary to meet such deficiency. The Common Council may also provide for the issuance of *bonds* certificates of indebtedness, ^{or orders} as elsewhere provided in this charter for the creation and maintenance of a permanent Improvement Revolving Fund and in anticipation of the collection of special assessments for local improvements, in an amount not to exceed two per cent (2%) of the total value of the taxable property of the city according to the last preceding assessment for purposes of taxation, without a submission of the proposition to the legal voters of the city. The Common Council may also provide for the issuance of bonds, certificates of indebtedness or orders, other than those authorized above, for the purpose of anticipating the

collection of general taxes for the year in which they may be issued, without submitting the proposition to the legal voters of the city, to the extent of fifteen thousand dollars (\$15000) to be outstanding and unpaid at any one time, payable not more than one year after the date thereof out of the general or any special fund of the city, with interest thereon at a rate not exceeding six per cent (6%) per annum. The city may also issue bonds, after first submitting the proposition to the voters of the city, as herein elsewhere provided, but it shall not in any case, or at any time, be bonded or otherwise contract indebtedness, in excess of five per cent (5%) of the assessed valuation of the taxable property of the city according to the last preceding assessment for the purposes of taxation. Neither the Common Council nor any officer or officers of the city shall otherwise, without especial authority of law or the provisions of this charter, have authority to issue city bonds, certificates of indebtedness, or orders, or create any debt or liability against the city.

Section 177. If the Common Council shall deem it advisable they may issue the bonds of the city, to run not exceeding twenty (20) years on such terms as to place of payment and rate of interest as may be deemed advisable and to such an amount as may be necessary to pay the bonds now outstanding against said city; provided, that the rate of interest shall not exceed six per cent (6%) per annum.

CHAPTER XIII.

Bonds for Local Improvement.

Section.178. The Common Council, besides the power to issue bonds and certificates of indebtedness as elsewhere provided in this Charter, for the purpose of defraying the costs and expenses of making such local improvements within the city, or building such sewers therein, as may from time to time be hereafter determined to be made, may from time to time issue bonds of the city, to be designated as follows. Those for local improvement shall be known as "City of Rochester Improvement Bonds", and those for building and repairing sewers shall be known as "City of Rochester Sewer Bonds", which bonds shall not exceed twenty-five thousand dollars (\$25,000) outstanding at any one time. Such bonds may bear interest at such a rate payable annually or semi-annually, either in said city or in the city of New York, and the principal thereof to mature at such times and to be payable at such place as may in each case be determined by the Common Council. The several installments of interest accruing upon any such bonds may be evidenced by coupons thereto attached. All such bonds and coupons shall be signed by the Mayor and City Clerk of said city, and sealed with the corporate seal thereof. No such bonds shall be sold or in any manner disposed of by the city, or the Common Council at less than their par value. No such bonds shall be issued until the legal voters of the city shall in the manner hereinafter provided, determine that the same may be issued. The provisions of this section shall not apply to the construction of any railroad within the city, nor shall any bonds or other evidence of indebtedness of the city be issued to any railroad or railroad company under the provisions of this charter.

Section 179. Whenever the Common Council shall determine to make any such improvements and issue any such bonds, it shall adopt, and enter upon its record, a resolution setting forth the purpose for which such bonds are to be issued, the amount thereof, the rate of interest and how payable, the time or times when the principal shall become due and the place where the bonds are to be payable, and all other conditions of the

of the issue of such bonds. It shall also determine the time when the question of the approval or rejection of such resolution, and the issuing of such bonds will be submitted to the legal voters of the city for their determination. It shall order a special election to be held within the city upon a designated day, for the purpose of submitting such question to the voters, but such question shall not be submitted to the voters at any general or charter election.

Section 180. No proposition shall be submitted to the people under this charter, unless five sevenths ($5/7$) of the members of the Common Council shall vote in favor of such submission. Thereupon, the City Clerk shall cause a copy of such resolution, together with a notice of the time of holding such election at which the question of approval or rejection of such resolution and the issuing of such bonds will be submitted to the legal voters of the city for their approval or rejection, to be published in the official paper of said city for at least two (2) successive weeks, once in each week, next ~~preceding~~ ^{preceding} such election, and by posting copies of such notice in three (3) of the most public places of the city. Due proof of such publication and posting shall be made and filed in the office of the City Clerk. Such election shall be conducted, and the votes canvassed, and return thereof made in the same manner as prescribed by law for the election of the officers of the city at the annual charter election.

Section 181. The voters at any such election casting their ballots in favor of the approval of any such resolution for the issuing of any such bonds, shall use ballots having distinctly printed or written, or partly printed and partly written, thereon the words: "For approval of the resolution of the Common Council of the City of Rochester, authorizing the issue of the bonds of said city (State object for which the bonds are to be issued) and for issuing such bonds. Yes," and those casting their ballots against the approval of any such resolution and issuing of any such bonds shall use ballots having distinctly printed or written or partly ~~printed and~~ ^{partly} written thereon the words: "For the approval of the resolution of the Common Council of the City of Rochester, authorizing the issue of the bonds of said city (State purpose for which the bonds

are to be issued) and for issuing such bonds.No".

Section 182. If three-fifths (3/5) of the votes cast at any such election shall be in favor of the approval of any such resolution and the issuing of such bonds, then the Common Council shall issue such bonds in the amount and upon the terms and conditions in said resolution, specified, and not otherwise. The amount received from the sale of any such bonds shall be paid into the City Treasury and placed to the credit of the proper fund for the benefit of which said bonds were issued.

CHAPTER XIV.

1. STREETS, ALLEYS AND PUBLIC GROUNDS.
2. EMINENT DOMAIN.
3. LOCAL IMPROVEMENTS AND ASSESSMENTS.

1. STREETS, ALLEYS AND PUBLIC GROUNDS.

Section 183. The Common Council shall have the care, supervision and control of all public highways, bridges, streets, alleys, and grounds within the limits of the said city, and shall cause all streets, alleys, or highways within the city to be kept open and in repair and free from nuisance. It shall have the same authority to lay out roads in the unplatted part of said city as is given to the supervisors of townships by the general laws of the state.

Section 184. No street or alley which shall hereafter be dedicated to public use by the proprietor or proprietors of grounds within said city shall be recognized as a public street or alley unless the Common Council shall first approve of the plat thereof, or accept such dedication, or afterwards confirm the same by resolution.

Section 185. No action shall be maintained against the City of Rochester for any injury occasioned by a defect in the condition of any bridge, street, sidewalk, or thoroughfare, unless action shall be commenced within one year from the happening of the injury, nor unless notice shall have first been given in writing to the Mayor or City Clerk within thirty days of the occurrence of such injury or damage, stating the place where and the time when such injury was received, and what the person so injured will claim as damage from the city for such injury; but the notice shall not be required when the person injured shall, in consequence thereof, be bereft of reason, nor shall any such action be maintained for any defect in any street not graded and opened for travel or on grounds where sidewalks are usually constructed when no sidewalk is built.

Section 186. The Common Council shall have power to contract for the making, grading, repairing, cleansing, cutting, filling, excavating, leveling, paving, re-paving, curbing, walling, bridging, macadamizing, planking, improving, and adorning of the streets, alleys, highways, public grounds, reservoirs, gutters, sewers, ^{and buildings} and building and repairing sidewalks and crosswalks within the city, and to direct and control the persons employed therein. All such improvements shall be superintended by the City Engineer or his assistants.

Section 187. The cost and expense of surveying streets, alleys and sidewalks and estimating work thereon, shall be paid out of the general fund. Improving, repairing and cleaning streets and alleys shall be paid from the Street and Alley Fund, unless collected by special assessment when it shall be paid from the Permanent Improvement Revolving Fund.

Section 188. The acceptance of plats of additions of any grounds or subdivisions thereof, either within or without the limits of the city, shall not make the city liable to grade the streets therein designated, nor responsible for any insufficiency of such streets until the ^{Common} ~~City~~ Council shall direct the same to be graded and opened for travel.

2. ~~HEAVY~~ ^{HEAVY} DOMAIN.

Section 189. Private property shall not be taken, destroyed or damaged for public use by the City of Rochester without just compensation first paid or secured in the manner herein prescribed.

Grading.

Section 190. The City of Rochester, is hereby authorized and empowered to establish or change the grade of any street. It may, on change of grade condemn and take an easement in the land abutting on such street for the construction of slopes and fills in the grading of such street to the grade as so changed as one improvement and as one and the same proceeding. The proceeding for the condemnation of such easement shall be as hereinafter provided.

Section 191. The Common Council shall cause to be established under the direction of the City Engineer or his assistants, the grade of all

streets, sidewalks and alleys in said city which it may consider necessary to be graded, and shall cause an abstract of the same to be made, showing the points at which the said grade line begins, ends and changes; also the elevation, depression or differences of these points as compared with the point from which the levels for all street grades are taken, the distance between each change, and the ratio of inclination between the points of change. The abstract so made when confirmed by resolution of the Common Council, passed by a majority of all the members elect, and not until, shall become the established grade.

Section 192. The City Clerk of said city shall then record said abstract in a book kept by him for that purpose, certifying to the same, also certifying to the time of its adoption.

Section 193. The City Clerk shall furnish a certified copy of such abstract to the Register of Deeds of Olmsted County who shall record the same in a book kept for that purpose.

Section 194. The grade of any street now established, or which may hereafter be established, may be changed in the same manner above provided for the establishment thereof, except that the abstract shall be confirmed by the Common Council only upon a vote of five-sevenths ($5/7$) of all the members elect.

Condemnation.

Section 195. The City of Rochester, is hereby authorized and empowered, on a vote of not less than a majority of all the members of the Common Council to condemn land for public parks, parkways, public markets, for the ^{opening} widening, extending, altering, or straightening of any street, lane, alley or highway, and to condemn an easement in land across, over or under private property, for streets, bridges, approaches, culverts, viaducts, ditches and for any and all other public use or improvement, and to condemn an easement in land for the construction of slopes or retaining walls, for cuts and fills upon real property abutting on any street, lane, alley or highway now ordered or that shall hereafter be ordered to be opened, extended, altered,

straightened or graded and for the change of any grade and for any fill or cut to be made in any street, lane, alley, or highway, and to levy benefits assessments for any of the improvements mentioned above. The said city is further authorized and empowered to acquire by purchase or condemnation or otherwise, any property within or without the city, corporeal or incorporeal, which may be needed by the city, or any board or department thereof, for any public purpose not herein otherwise mentioned.

Section 196. The Common Council, upon ordering an improvement above mentioned to be made, shall appoint as many commissioners as there may be wards in the city, selecting one from each ward, each of whom shall be a disinterested freeholder and qualified voter of the city, to view the premises, and assess the damages which may be occasioned by the taking of private property or otherwise in making said improvement. The commissioners so appointed shall be notified as soon as practicable by the City Clerk to attend a meeting at his office, at a time to be fixed by him for the purpose of qualifying and entering upon their duties. If any person so appointed upon being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to the city not exceeding fifty dollars (\$50), and shall be liable to be prosecuted before the City Justice as in the case of fines imposed for violation of an ordinance. The commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentee or absentees as aforesaid, selected from the ward in each case not represented, and possessing the qualifications aforesaid. In all other cases of vacancy the Common Council shall fill such vacancy.

Section 197. The commissioners shall be sworn by the City Clerk to discharge their duties as commissioners in the matter with impartiality and fidelity, and to make due return of their actions and doings to the Common Council.

Section 198. Such commissioners shall by the assistance of the City Engineer and with all reasonable speed, cause a survey and a plat of the proposed improvement to be made and filed with the City Clerk,

exhibiting as far as practicable, the land, or the parcels of property, required to be taken, or which may be damaged thereby, and shall thereupon give notice by publication in the official paper for at least ten (10) days, to the effect that such plat has been filed and that the commissioners will meet at a time and place designated by them, and thence proceed to view the premises and assess the damages for the property to be taken or which may be damaged by such improvement.

Section 199. At the time and place so appointed the commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary, for the purpose aforesaid. When the view and hearing shall be concluded, they shall determine and assess the amount of damages to be paid to the owner or owners of each parcel of property proposed to be taken, or which may be damaged by such improvement, and in so doing shall take into consideration the value of the property proposed to be taken with such other damages as may be incident thereto, and also the advantages which will accrue to such owner or owners in making such improvement.

Section 200. If there should be any building wholly or partly standing upon the land to be taken, said commissioners shall in each case determine and assess the amount of damages which should be paid to the owner or owners thereof. In the event that such building or so much thereof as might be necessary, should be taken, they shall also determine and assess the amount of damages to be paid to the owner or owners in case he or they elect to remove such building. The damages in relation to buildings shall be assessed separately from the damages in relation to the lands upon which they stand.

Section 201. If the land and buildings to be condemned belong to different persons, or if the land be subject to lease, mortgage or judgment or if there be any estate in it less than an estate in fee, the injury or damages done to each of such persons or interests may be ^{awarded} ~~awarded~~ by the owners, less the benefits resulting therefrom.

Section 202. Said commissioners, having ascertained and assessed the damages aforesaid, shall make and file with the City Clerk a written report to the Common Council of their action in the premises, embracing a schedule or assessment of the damages in each case, a description of the land and the name of the owners, if known to them, and also a statement of the cost of proceedings.

Section 203. Upon the filing of such report with the City Clerk, he shall give at least ten (10) days notice by publication in the official paper to the effect that such award and assessment has been returned and that the same will be confirmed by the Common Council at a meeting thereof, the time and place of which shall be given in said notice, unless written objections be made by persons interested in any land required to be taken.

Section 204. Any person or persons interested in any building wholly or partly ^{standing} upon any land required to be taken by such improvement shall, on or before the time specified in such notice, notify the Common Council, in writing, of his or their election to remove such building according to the award of the commissioners.

Section 205. The Common Council at the time fixed for the consideration of such report, or at any adjournment thereof, shall have power in its discretion to confirm, revise or annul the assessments, giving due consideration ^{to} any objections interposed by parties interested.

Section 206. The damages ~~be~~ assessed shall be paid out of the General Fund, and shall be paid or tendered, or deposited and set apart in the City Treasury to the benefit and for the use of the parties entitled thereto. ^{within six (6) months from the confirmation of such assessment and report} The land or property required to be taken for the purposes aforesaid, shall not be appropriated until the damages awarded therefor to every owner thereof shall be paid or tendered to the owner or his agent or ^{deposited} ~~deposited~~ and set apart for his use as aforesaid, and in case the city should be unable to determine to whom the damages in any particular case so awarded should be paid, or in case of disputed claims in relation

thereto, the damages may be deposited, by order of the Common Council, in the District Court of Olmsted County in the same manner as moneys are paid into court until the parties entitled thereto shall substantiate ^{their} ~~there~~ claims thereto.

✓ Section 207. If any ^{owner} or owners of buildings shall have so elected to remove his or their buildings, he or they shall so remove them within thirty (30) days from the confirmation of such report, or within ~~such~~ ^{such} further time as the Common Council may allow for that purpose, and shall be entitled to payment of the damages awarded therefor from the city in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected, after having so elected to remove the same within the time prescribed, such buildings, or so much thereof as may be necessary to be taken upon payment or deposit of the damages awarded therefor, may be then taken and appropriated, sold or disposed of, as the Common Council shall direct, and the extra proceeds ^{thereof} shall belong to the city.

Section 208. When any ^{person} owner of lands or tenements affected by any proceedings under this charter shall be an infant, or labors under legal disabilities, the Judge of the District Court, or in his absence the Judge of any court of record, upon application of said commissioners, the city, such party or his next friend, may appoint a suitable guardian for such person, and all notices required hereby shall then be served upon such guardian.

Section 209. Any person feeling himself aggrieved by such assessment, may, within twenty days from the time of confirmation of said report or assessment, appeal to the District Court by serving a notice in writing on the Mayor, a copy whereof with proof of service shall be filed in the office of the Clerk of the District Court of Olmsted County. Such appeal shall be tried by the Court with a jury as in ordinary cases, but no pleadings shall be required. The party appealing shall specify in the notice of appeal the grounds of objection to such assessment. No other

objections than those so specified shall be considered. The report and confirmation as aforesaid or a transcript thereof certified by the City Clerk shall be prima facie evidence of the facts therein stated ^{that} such assessment was regular and just, and that it was made according to law. The judgment of such Court therein shall be final. Such appeal shall be entered and brought on for trial, and be governed by the same rules in all other respects as appeals from ~~the~~ Justices of the Peace in civil actions.

Section 210. Whenever any public ground, street or alley shall be laid out, opened, widened, extended, altered or straightened under the provisions of this chapter, the Common Council shall cause an accurate survey and plat thereof to be made and filed in the office of the Register of Deeds for Clatsop County.

Vacating Streets, Alleys and Public Grounds.

Section 211. The Common Council shall have power to vacate or discontinue public grounds, streets, alleys or highways within the city. No public grounds, streets, alleys or highways within the city shall be vacated or discontinued by the Common Council except upon a petition of three-fourths (3/4) of the owners of property on the line of such public grounds, streets, alleys or highways, resident within the city. Such petition shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways proposed to be vacated, and shall be verified by the oath of at least two (2) of the petitioners. The Common Council shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition filed of record with the City Clerk who shall give notice by publication in the official paper, for four weeks, at least once a week, to the effect that such petition has been filed as aforesaid, and stating in brief its object, and that said petition will be heard and considered by the Common Council, or a committee appointed by it, on a certain day and place therein specified not less than ten days from the expiration of such publication. The Common Council, or such committee as may be appointed by it for the purpose, at the time and place appointed, shall investigate and consider the said matter and shall hear the testimony and evidence on the part of parties interested.

The Common Council thereupon, after hearing the same, or, upon the report of such committee in favor of granting such petition, may, by resolution passed by a two-thirds ($2/3$) vote of all the members elect, declare such public grounds, streets, alleys or highways vacated, which said resolution after the same shall go into ~~the~~ effect, shall be published as in case of ordinances, and thereupon a transcript of such resolution, duly certified by the City Clerk, shall be filed for record and duly recorded in the office of the Register of Deeds for Olmsted County.

Section. 212. The Common Council may by resolution provide that no such vacation shall be valid until the value of the premises so vacated shall have been deposited in the City Treasury which value shall be fixed by such^d resolution which shall be passed by a two-thirds ($2/3$) vote of all the members thereof at not less than a proportionate average value of the abutting property, according to the last previous assessment for taxation.

Section 213. Any person aggrieved thereby, within twenty (20) days after the publication of such resolution, may appeal to the District Court of Olmsted County under the same regulations as in the case of opening streets and alleys and the judgment of said Court thereon shall be final.

3. LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Section 214. The City of Rochester shall have power to make local improvements by special assessments upon the property to be adjudged to have received special benefit from such improvements, or upon the property fronting thereon. The ascertainment and apportionment of the special benefits derived from such local improvements shall be made in accordance with the General Laws of the state, except as otherwise provided in this charter. No improvement to be paid for by special assessment shall be undertaken without the consent of a majority in interest and number of the owners of the property to be taxed or assessed, unless the ordinance or resolution therefor shall receive, on final passage the affirmative vote of five-sevenths (5/7) of all the members of the Common Council, and be approved by the Mayor, after a public hearing of the persons interested, due notice of the time and place of which public hearing shall have been published once in the official paper of the city at least five (5) days prior to the time designated in such notice.

Section 215. The Common Council, shall have power to establish and maintain a general system of sewerage for the city, or for any sewerage district into which the city or any part thereof may hereafter be divided, or for any part or portion of the city, in such manner and under such regulations as it may deem expedient. It may, from time to time, alter or change such system or systems of sewerage; provided, that the sewerage plans and systems heretofore adopted shall continue to be used until changed or modified.

Section 216. The Common Council shall, for the purposes aforesaid, have power at any time, and from time to time, to divide the city or any part thereof into sewerage districts, and to change the same, and to create a district sewerage fund for each or any of such districts in such manner and under such regulations as it may deem expedient.

Section 217. The Common Council is also authorized to prescribe the conditions upon and manner in which any sewer that now is or hereafter may be constructed within the city, may be tapped or connected with by any person. It may also determine the amounts to be paid the city for permits for so doing, as well as to prescribe such regulations and enact such ordinances in relation to such sewers and sewerage, and for the protection and maintenance thereof, as the Common Council may deem expedient.

Section 218. Whenever a sewer is ordered built the Common Council is authorized to include in such order the construction as far as the property lines of all the lateral connections and private drains that may be deemed expedient or necessary, or, whenever a street is ordered paved, to include in such order the construction as far as the property lines of all sewer, water and gas connections that may be deemed expedient or necessary. The cost of this work shall be assessed upon the frontage or *property* benefitted in the same manner as other local improvements.

Section 219. The Common Council shall also have power, to cut, fill excavate, grade, level, pave, re-pave, curb, wall, bridge, gravel, macadamize or plank in any street, avenue, lane, alley, or highway, and keep the same in repair; also to construct, lay, re-lay, and repair retaining walls, gutters, drains, and pipes for surface water and private drains, in, over, or under any street, lane, alley, or highway.

Section 220. 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 separately be apportioned and assessed upon the several parcels of land.

Section 221. Subject to the restrictions herein contained, the Common Council is authorized to cause sewers to be constructed, or any of such local improvements to be made, in any street, avenue, lane, alley, or highway within the city, and to levy special assessments therefor in any of the methods following, at its option, viz:

First. By an assessment against each lot, piece, or parcel of land benefitted by the improvement, without regard to cash valuation, ratably, and in proportion to the special benefit so conferred upon it, or

Second. By an assessment for the whole cost and expense of such improvement, except street and alley crossings and catch basins in the construction of sewers, or such portion of such cost and expense as it may deem just, by an assessment upon the properties abounding or abutting on the portion of such street, avenue, lane, alley or highway along which such sewer or other improvement may be made, in an equal sum per each front foot of such property, excepting only corner property in the discretion of the Council, or,

Third. By an assessment for the whole cost and expense of such improvement, except street and alley crossings and catch basins in the construction of sewers, partly upon the abutting properties and partly upon the properties not abutting but benefitted thereby, or,

Fourth. By an assessment partly upon the two (2) classes of property above named in sub-sections two (2) and three (3) of this Section, or either of them, and partly by ~~the~~ taxation upon the whole property of the city; or, in sewerage assessments, the whole property of the city or of the sewerage district in which the sewer may be constructed; Provided that in no case shall more than one-half ($\frac{1}{2}$) of the cost of such improvement be assessed upon the whole property of the city or district.

Section 222. If the assessment be made by either of the methods prescribed in subsections two (2) and three (3) of the last section above, it may be without regard to cash or assessed valuation of any property,

and said Council shall determine what proportion of such cost and expense shall be assessed upon such abutting property, and what proportion thereof upon such non-abutting property. The assessment per front foot in either of such classes shall be equal upon all properties of the same class, excepting corner property on construction of sewers, if the Council so chooses, as hereinafter provided.

Section 223. If the assessment be made pursuant to subsections two (2), three (3) or four (4) of Section 221 of this charter, the cost and expense of constructing sewers on street and alley crossings and of all catch basins shall be paid out of the sewerage fund of the city or of the proper district.

Section 224. The Common Council, in its discretion, in cases of corner property, having frontage on two (2) streets, if an assessment has already been made for the construction of a sewer on one of such streets, or if constructed on both streets under the same contract and would be assessed at the same time, on levying a frontage assessment for construction of a sewer, may except such corner property from the assessment of such portion of the frontage on one of such streets as to it shall seem just, not exceeding one-half ($\frac{1}{2}$) of the frontage of such corner property on both streets. In such case the cost of construction along such corner property which shall not be assessed against it shall be included in the amount to be assessed against the properties to be assessed the same as if said corner property was not abutting upon such improvement. The discretion of the Council in such matter shall be final and its action or refusal, or failure to act, shall not be ground for setting aside any such assessment in any court or proceedings.

Section 225. Whenever said Common Council shall vote to cause sewer or other local improvement to be made, it shall determine and designate in a general way as nearly as may be practicable, the character and extent of such improvement, and the material to be used therein, and it shall

thereupon be the duty of the City Engineer or any other competent engineer, designated by the Common Council, to prepare an estimate of the cost of such improvement. Upon the reception of such report the Common Council may postpone action thereon to any regular or special meeting thereof, and may direct the City Clerk to advertise for and receive in the meantime bids for doing the work and furnishing the material, or either, required to construct or complete such improvement and report the same to the Common Council, or the Common Council may in any other manner obtain information respecting the probable cost of such improvement.

Continued
Section 226. Whenever said Council shall have obtained such information as it may deem necessary with reference to such improvement, it shall determine in a general way the manner in which the cost and expense thereof shall be assessed. If it shall determine that the whole or any part of such cost and expense shall be assessed upon any properties abounding or abutting upon such improvement, or partly upon such properties and partly upon such properties not so abounding or abutting but benefitted thereby, it shall determine what properties are within each of said classes and the proportion of such cost and expense to be assessed upon the properties in each of such classes, and shall appoint a meeting of such Council at which all persons interested in such improvement may be heard.

Section 227. Thereupon the City Clerk shall prepare a list which shall contain the names of the owners so far as the same are known, and a description of each and all of such properties, which list, together with the notice of the time and place of such meeting, he shall cause to be published once in the official paper not less than ten (10) days prior to such meeting.

Section 228. At the time and place appointed for such meeting, or an adjournment thereof, said Council shall meet and hear all persons interested in such improvement who may desire to be heard, and the Council may adhere to its resolution to make such improvement, or modify the character thereof, or manner of assessing the cost and expense thereof, or may abandon it.

Section 229. If the Common Council shall determine to make such improvement, it shall let the contract to the lowest responsible bidder, and shall enter into a written contract with him for the construction thereof. It shall require a bond on the part of the successful bidder conditioned as required in contractors' bonds as set forth elsewhere in this charter, in such sum and with such sureties as the Common Council may determine, which bonds shall be approved by the Mayor.

Section 230. If the work of making the improvement in question, is carried on by the City Engineer, then at any time after the estimate is filed, the improvement ordered, and the work thereon begun, or if it be done by contract, then at any time after the contract has been entered into, the Common Council shall by resolution, fix a time and place, not less than ten (10) days thereafter, when and where it shall levy special assessments for such improvement, against the property benefited by such improvement or against the several properties abutting, or benefited but not abutting or against both, or partly against either or both and partly by general taxation, in accord with its previous determination in the matter. Notice of such hearing shall be given by publication once in the official paper not less than ten (10) days prior to such meeting.

Section 231. At the time and place appointed the Common Council shall meet and hear all testimony offered by or on behalf of interested parties. Thereupon the Common Council shall by resolution determine the amount of special assessment by it levied against each lot, piece or parcel of land for the cost of such improvement. The assessment may be in the following or any other form which the Common Council may deem proper viz;

"The Common Council of the City of Rochester does hereby assess and levy upon and against the several lots and parcels of land described below and situated in said city, the respective sum of money set opposite each lot or parcel.

This assessment is made to defray the cost and expense of

along _____ from _____ to _____ in said city.

1. If assessed pursuant to Subsection one (1) of Section 221 of this charter, add, 'Said lots or parcels of land are assessed ratably according to benefits ^{derived} ~~derived~~ from such improvement without regard to cash valuation', or

2. If assessed pursuant to Subsection 2 of Section 221 of this Charter, add, 'Said lots or parcels of land are assessed upon the basis of _____ per front foot' or,

3-4. If assessed pursuant to Subsections 3 or 4 of Section 221 of this Charter, add, 'Said lots or parcels of land abutting upon such improvement are assessed upon the basis of _____ per front foot and the lots

Section 232. The Common Council shall have power and authority by a majority vote of all the members of said Common Council to provide by resolution at the time any such special assessment as aforesaid is levied to pay for local improvements, that any such assessment, or any part thereof, may be paid in annual installments of any number, not exceeding ten (10), with interest upon such deferred installments, payable annually, at a rate not exceeding six per cent (6%) per annum; provided that no special assessment for less than ten dollars (\$10) on one tract shall be divided.

Section 233. A certified copy of the assessment, and the resolution, if any, dividing the same shall be delivered forthwith in duplicate by the City Clerk to the City Treasurer. It shall be his warrant for the collection of such assessments.

Section 234. The City Treasurer shall forthwith cause the same to be published once in the official paper, with a notice attached that the assessments so made for such improvements are due and payable to him, and that they will bear interest from the expiration of ten (10) days from the publication of such notice if not paid.

Section 235. All assessments not paid within ten (10) days after the publication of said notice shall draw interest thereafter until paid at the rate of six per cent (6%) per annum.

Section 236. At the expiration of said ten (10) days the City Treasurer shall return one duplicate warrant for the collection of such assessments to the City Clerk, with a statement thereto attached as to which of said assessments shall not have been paid.

Section 237. But said City Treasurer may continue to collect such assessments until they, with other tax lists, are placed in the hands of the County Treasurer for collection, when he shall report to such County Treasurer which, if any, of such assessments shall have been paid since his report to the *City Clerk*

City Clerk.

Section 236. Any such assessment may be paid at any time by payment of the amount thereof with interest to the date of payment.

Section 239. The City Clerk shall, not later than the first day of November next subsequent to the return of such duplicate warrant to him, make and file in the office of the County Auditor of Olmsted County a certified copy of such assessment and resolution, if any, and shall also make and attach thereto a tabulated statement containing a description of each and every tract or parcel of land described in such assessment on which the assessment has not been paid, and the amount of principal and interest of such unpaid assessment which will become due upon each and every tract or lot during each and every year in which any installments of such assessment will become due.

Section 240. Upon the filing of such copy of such assessment and resolution in the office of the County Auditor, the amount assessed upon each and every tract or lot of land in such assessment described, but not paid, shall forthwith be and become a lien upon such lot or tract which lien shall continue until such assessment be fully paid.

Section 241. The County Auditor shall on or before the first day of January next succeeding the filing in his office of such assessment, resolution and tabulated statement enter upon the tax lists of said county, as a special assessment upon each and every of the tracts or lots in said assessment and statement described ^{and not paid} the amounts set opposite such tract or lot as first becoming due, and on or before the first day of January in each and every year thereafter until such installments be fully paid, he shall in like manner enter upon such tax lists the amount of such installment next to become due.

Section 242. Such assessments shall be collected in the same manner as is or may be provided for the collection of county and state taxes.

Section 243. The City Clerk shall, on or before the first day of November in each and every year, file in the office of said County Auditor a statement containing a description of each and every tract or lot of land upon which the then next maturing installment of such assessment has not been paid, and the amount of principal and interest which will next become due upon such assessment.

Section 244. For the purpose of providing funds in advance of, and in anticipation of the collection of the moneys to be derived from any such assessment, the Common Council may at any time after levying the assessment, and from time to time, issue the bonds, certificates of indebtedness, or orders of the city to be paid from the Permanent Improvement Revolving Fund out of the moneys to be collected, or, if such assessments shall not have been paid into the said fund when any such bond, certificate or order comes due, then to be paid out of the general fund. If paid from the general fund, such sum shall be replaced in the general fund when the special assessment shall be collected; provided, the issue of such bonds, certificates, or orders, together with those elsewhere authorized in this charter in aid of the Permanent Improvement Revolving Fund, shall not exceed two (2) per cent of the taxable property of the city as shown by the last previous assessment, unless the same be submitted to the legal voters.

Section 245. Such bonds, certificates, or orders shall bear date of the day when actually issued and delivered, shall be under the corporate seal of the city, signed by the Mayor and countersigned by the City Clerk, in such sums as the Common Council may from time to time determine

not exceeding in the aggregate the amount of such assessment; shall be payable at the office of the City Treasurer at such time or times, as the Common Council may determine, and out of the funds to be derived from the assessment in such bond or certificate specified, or out of the general fund as aforesaid, with interest payable annually at a rate not exceeding six per cent (6%) per annum and shall be payable to order or bearer as by the Common Council determined.

Section 246. The installments of interest accruing upon any such bonds, certificates, or orders, may be evidenced by coupons or orders thereto attached, signed by the Mayor and City Clerk. Such bonds, certificates, or orders shall not be sold, negotiated or disposed of by the Common Council at less than the par value thereof.

Section 247. All moneys collected from any such assessment shall be set apart for and applied to the payment of the bonds, certificates, or orders issued upon such assessment, and shall not in whole or in part be applied to any other or different use or purpose whatever.

Section 248. No error or informality in any action taken by the city in the ordering or making of any such improvement, or the levying of any such assessment, or the execution, delivery or issue of any such bonds, or certificates or orders shall in any manner affect the validity of any such assessment bonds, or certificates, or orders.

SIDEWALKS.

Section 249. The Common Council of said city shall prescribe the width of all sidewalks, by them ordered to be constructed or repaired, and

the material and construction thereof, and all sidewalks in said city shall be built upon an established grade.

Section 250. The Common Council or City Engineer of said city shall have power to prevent the laying out or construction of any sidewalk which shall not be constructed in the manner or of the material, width, size, or grade established by such ordinance; ^{or resolution} and may also require the repair, removal, or reconstruction of any sidewalks now laid, and which may not be of the width, grade or material designated in such ordinance, ^{or resolution}

Section 251. Whenever the Common Council of said city shall deem it necessary to construct or rebuild any sidewalk in said city, it shall, by resolution, require the city engineer, or his assistants, to publish a notice to all owners or occupants of any lot or parcel of land adjoining such proposed sidewalk, to construct or rebuild so much thereof as adjoins their several lots at his or their own expense within a certain time designated in such notice, not less than thirty (30) days from the first publication thereof; the said notice shall be published in the official paper of said city not less than two (2) weeks, and shall contain a substantial description of the locality where each sidewalk is to be constructed or rebuilt, the nature of the work ^{to be} done, and the time within which the owners or occupants are required to do the same; and in said resolution, said Common Council shall order the City Engineer, or his assistants, to build or reconstruct, as the case may be, such sidewalks, if the same ^{be} ~~is~~ not built or reconstructed within the time aforesaid by the owners or occupants of the abutting property, at the expense of said property.

Section 252. If any such sidewalk be so constructed or rebuilt by the city the Common Council at a meeting on or before the 25th. day of October following, ~~after giving notice for ten (10) days, by one~~

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~~publication in the official paper~~, shall assess the expense of the building or repair of such sidewalk with interest on the cost thereof, at the rate of two per cent (2%) per month from the time of performing the work until the first day of June next thereafter, upon such lots or parcels of land, or parts thereof, so chargeable, in such manner that each lot or tract, or part thereof, shall be charged with the whole expense and interest as aforesaid, of the cost of repair of said walk adjacent thereto. The Common Council shall cause a statement of such assessment to be returned to the Auditor of Olmsted County on or before November first next following, the assessment. Such assessment when so transmitted to the County Auditor shall constitute a lien on such lots or parcels of property and shall be collected and payment thereof enforced in like manner as county or state taxes are collected and payment thereof enforced.

Section 253. 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 City Engineer to immediately repair the same in a good, substantial and firm manner, and file with the City Clerk a report of the cost of such repairs in each case, with a description of the lot or parcel of land abutting upon such sidewalk on which such repairs are made. Such report shall be carefully filed and preserved by the City Clerk. It shall be the duty of the Common Council to assess the cost and expense of making such repairs against such lots or parcel.

Section 254. In the month of October of each year, said Common Council shall give ten (10) days notice by one publication in the official paper to the effect that at a time and place therein specified, not later than the 25th. day of October, the assessment for so repairing sidewalks theretofore made by them, ^{pursuant to Section 253 above,} will be made unless sufficient cause be shown to the contrary and that objections to any particular assessment must be filed with the City Clerk one day before the time specified in said notice. On making such assessment it shall be returned to the County

Auditor, and collected in the same manner and with like effect as other sidewalk assessments herein provided for, with like interest.

Section 255. The expense of constructing or repairing sidewalks in said city shall include all stone work, excavation or filling to make the same upon established grades.

Section 256. All sidewalks constructed or repaired by the owner or occupant of any lot or parcel of land, in pursuance of notice under this Charter, or without such notice, shall be subject to the approval of the City Engineer or his assistants.

Section 257. Assessments for constructing sidewalks may be in the following form or in any other form which the Common Council may adopt:

"The Common Council of the City of Rochester does hereby assess and levy against the lot or lots, parts of lots, pieces or parcels of land hereinafter described on account of sidewalks constructed, repaired or rebuilt opposite thereto by the City of Rochester, during the year _____ as assessments and penalties the sums set opposite the same as follows:

SPRINKLING.

Section 258. The Council shall have power to sprinkle the streets, highways and public places throughout the city or in such places as it shall designate, and to assess the whole or any part of the cost of the same upon adjacent property.

Section 259. Whenever a majority of the property owners, representing at least fifty per cent (50%) 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 Common Council shall proceed to consider, investigate and act upon the said petition and decide whether such sprinkling is necessary and proper.

Section 260. The expense of such improvement shall be chargeable to and assessed upon the lots and parcels of land abutting upon such streets, alleys, lanes, avenues, and public grounds in which such improvements are done; such assessment to be apportioned among ^{the} several lots or parcels of land hereinafter provided; The Common Council may by resolution determine that a portion of the cost of such improvement shall be borne by the city, such portion to be designated in such resolution and in such case the portion so designated shall not be included in the assessment, and shall be paid for out of the general fund of the city.

Section 261. Before any proceedings are had, the Common Council shall each year, by ordinance or resolution, determine what territory in the city shall be sprinkled and the time and manner in which the same shall be done. If, however, the Common Council shall deem it impracticable

to designate the exact length of time during which sprinkling shall be done during any season, such council may contract for such work without designating the beginning and ending of such sprinkling season, and, in such case, shall have power to order the beginning of said work on three⁽³⁾ days' notice, and shall likewise have power to order said work to cease for the season.

Section 252. Prior to the passage of any resolution for the letting of a contract for sprinkling, the expense of any part of which is to be assessed upon abutting lands, the Common Council shall designate a time not less than ten (10) days distant and a place at which it will meet and take action in relation to the doing of the proposed work, and shall direct that notice be given by the City Clerk and the time and place thereof, and that in the meantime sealed proposals for the doing of such work will be received by the City Clerk. Such notice shall state when such sprinkling is to be done, and shall be given by publication thereof at least one week in the official paper. Opportunity shall be given to any and all interested parties to be heard for or against such proposed work, and the City Clerk shall, in the presence of the Common Council, open and read all sealed proposals which may have been received for the doing of such work, and the furnishing of all material therefor. The Common Council may then by a majority vote of all its members, accept the most favorable proposal, such proposal to be that of the lowest responsible bidder, and by resolution may authorize the doing of such proposed work, or any part thereof, by the person or persons whose proposal shall have been accepted, and may direct that a written contract be made with him or them therefor; or, it may reject any and all proposals offered, and refuse to authorize the doing of such work, or may, in its discretion, from lack of quorum or other reasons, postpone the consideration and decision of the whole matter, or any branch thereof, to a future time, of which postponement all parties interested shall be required and deemed to take notice.

Section 263. As soon as the contract is let for such sprinkling, or at such other time as the Common Council may choose, it, or a committee appointed by it for that purpose, shall determine what part of the costs of such improvement shall be borne by each lot or parcel of land, and make an assessment thereof in writing according to the benefits, giving a description of each lot or parcel so assessed, and the amount so assessed against each lot or tract and shall present the same to the Common Council at its next regular meeting.

Section 264. On receipt of such assessment the Common Council shall direct that the same be placed on file with the City Clerk or Recorder for the inspection of all parties interested, and shall appoint a time not less than six (6) days distant, and a place when and where it will meet to consider and act upon such assessment. The City Clerk shall thereupon give notice of such meeting by one publication of such notice in the official paper at least five (5) days prior to the time so appointed for said meeting. Reference shall be made in such notice to the number of the sprinkling district in which such assessment is made, and shall state the amount assessed for each hundred square feet of territory adjacent to the property so assessed.

Section 265. At the time and place so appointed, the Common Council shall proceed to consider said assessment and hear all objections which parties interested may desire to make thereto; or it may adjourn, if necessary, from time to time, and after due consideration shall make such corrections or changes in such assessment as it may deem necessary to perfect and equalize the same. The assessment, as so confirmed and established, shall be final, conclusive and binding upon all parties interested, and no appeal shall lie in any case from such confirmation. The several amounts charged in such assessments as so confirmed and established against the several lots and parcels of land therein mentioned shall be collected as

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hereinafter provided.

Section 266. When any assessment shall have been confirmed it shall be the duty of the City Clerk to issue a warrant for the collection thereof, which shall be under the seal of the city and signed by the Mayor and City Clerk, and shall contain a printed or written copy of the assessment as confirmed, or so much thereof as described the real estate assessed and the amount of the assessment in each case; which warrant shall be delivered by the City Clerk to the City Treasurer for collection.

Section 267. Such assessments shall be a specific lien on the real estate upon which the same are imposed, from the date of the warrant issued for the collection thereof.

Section 268. Upon receipt of such warrant, the City Treasurer shall forthwith give notice, by one publication in the official paper of the city, that such warrant is in his hands for collection, requiring the respective owners of all lots and parcels of land mentioned in the assessment to pay the amount so assessed to the City Treasurer within thirty (30) days from the date of the first publication of such notice. If not paid within thirty (30) days a penalty of ten per cent (10%) shall be added by the Treasurer.

Section 269. On or before the 25th. of October next following the assessment the City Treasurer shall return to the City Clerk a list duly certified by him of the assessments remaining unpaid, giving in such list a description of the several lots or parcels on which the assessments have not been paid and the several amounts assessed thereth with penalties added.

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Section 270. The City Clerk shall thereupon transmit a certified list of such unpaid assessments and penalties, with a description of the several lots or parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the County Auditor of Olmsted County, who shall enter the several amounts of such unpaid assessments and penalties on the tax list for the next ensuing year, against the several lots or tracts of land upon which the same are chargeable and the same shall thereupon be collected as county and state taxes are collected.

GENERAL PROVISIONS RELATING TO IMPROVEMENTS AND ASSESSMENTS.

Section 271. No error or informality in the proceedings under this chapter shall vitiate the assessment made by virtue hereof or prevent the collection of such assessment and any objection to any assessment shall be made to the Common Council before the return thereof to the Auditor of the County of Olmsted, provided the notices hereinbefore provided for shall have been given and proof thereof filed with the City Clerk of said city. When any notice is required to be published under the provisions hereof the publisher or printer of such newspaper, or the foreman of such publisher or printer, shall make affidavit thereof, annexed to a printed copy of such notice, specifying the time therein when the paper in which such notice was published and shall file the same in the office of the City Clerk, which affidavit shall be evidenced in all cases and in all courts of the facts contained therein.

Section 272. In all cases when the City Treasurer or the County Auditor or County Treasurer shall be unable to enforce collection of any such assessment by reason of any irregularity or omission in any of the proceedings, had or attempted to be taken, as herein provided, or if, for any cause, the proceedings of the Common Council or any officer be found irregular or illegal, whether jurisdictional or otherwise, the Common Council may order a new assessment, from time to time, and as often as may be, until the full amount determined to be assessed against the real estate abutting on or benefitted by such improvement has been collected,

and when any new assessment is made the same proceedings shall be had in making such assessment and enforcing collection thereof as herein provided for.

Section 273. Nothing herein shall interrupt or interfere with any assessments which have been heretofore made, but the collection thereof shall go on according to the provisions of the charter of said city in force at the time of making such assessments.

Section 274. In all proceedings and advertisements for the levy and collection of special assessments hereunder, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges, and parts thereof, the year and the amounts. Usual abbreviations or signs may also be used to represent dollars, cents, and other words.

CHAPTER XV.

CONTRACTS.

Section 275. All contracts for commodities or service to be furnished or performed for the city, or any department thereof involving an expenditure of more than two hundred dollars (\$200), 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 Common Council shall be by resolution or ordinance. If the proposed contract be in the hands of a Board, under this Charter, such Board shall take the same proceeding as herein provided for the Common Council, and the Clerk or Secretary of such Board shall do those acts in relation to such contract as are provided by this chapter to be done by the City Clerk ^{if} ~~when~~ the letting of the contract ^{where} ~~is~~ in the hands of the Common Council.

Section 276. The first step toward making such a contract, shall be for the Common Council or Board charged with the duty of making such contract, to have the cost of the proposed commodity, work or service to be estimated and determined by such officer, employe or other person or persons as it shall deem best.

If such estimated cost ^{does not} ~~exceeds~~ two hundred dollars (\$200) the Common Council or Board, in whose hands the matter may be, may direct that the commodities, work or service ~~to~~ be procured by or through the proper department or officer, without advertisement and public bids.

Section 277. Before advertising for bids the Common Council or Board, shall cause to be prepared by the proper department, or officer of the city and filed with the clerk, detailed plans and specifications, ^{for} ~~and~~ the proposed contract for commodities and service.

Section 278. After filing the same the Common Council shall direct the City Clerk or if the matter is in the hands of a Board, such Board shall direct its clerk or secretary 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, once, at least one week before the letting of the contract and in such other manner as the Common Council or such Board may direct.

All advertisements for bids shall clearly state that such bids are to be received and opened at a public meeting of the Common Council in the Council Chambers or such Board ~~as the case may be~~ at its usual meeting place, upon a certain day and hour.

Section 279. In advertising for any bids, the Common Council or Board shall require the bidder to deliver his bid and a certified check upon some reputable bank payable to the ^{Mayor of} City of Rochester or such ^{The President of} Board for at least ten (10) per cent of the total amount of such bids, which check and the amount thereof shall be forfeited to the city or Board as liquidated damages, if the bidder, upon the letting of the contract to him, shall fail to enter into the contract so let. All advertisements for bids shall reserve the right to reject any and all bids.

Section 280. At the time and place mentioned in the advertisement for bids, the Common 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 Common Council or Board shall give all persons, who desire the same, an opportunity to inspect all bids when they are opened. No bids shall be considered when

not accompanied by a certified check.

Section 281. The Common Council or Board 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 Common Council or Board may reject any bids which it may deem unreasonable or unreliable, and the Common Council or Board, in determining the reliability of a bid, shall consider the question of the responsibility of the bidder and his ability to perform his contract, without any reference to the responsibilities of the sureties upon 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 Common Council or Board 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.

Section 282. After the acceptance by the Common Council or Board of any bids, it shall direct the execution of a contract by the proper officer, in accordance therewith and also in accordance with the said plans, specifications and proposed contract, and such contracts shall be carried out by the proper officer of the city, as in this charter provided.

In case the Common Council or Board 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 Common Council or Board may give.

Section 283. Before any contract whatever for the doing of any work or labor, or furnishing any skill, or material, or commodity to the city

for the erection, construction, repair or alteration of any bridge, public building or any other public structure, work ~~or~~ improvement or in the making of any public improvement whatever, ^{or for performing any labor or furnishing any material or commodities,} shall be valid for any purpose, the contractor therefor shall enter into a bond with the city (~~or make the deposit herein provided~~) for), for the use and benefit of the city and of all other persons who may perform any work or labor or furnish any skill or material in the execution of such contract, conditioned to pay as they become due all just claims for all work and labor performed and all skill and material furnished in the execution of such contract, and also to save the city harmless from any cost or expense, that may accrue on account of the doing of the work specified in such contract, and also to complete such contract according to its terms, and to comply with all the requirements of law, which bond shall be in an amount to be fixed by the Common Council or Board not less than the contract price agreed to be paid for the performance of such contract. Every bond shall be duly signed and acknowledged by the contractor and surety or sureties as hereinafter provided. All bonds shall be prepared by the City Attorney, approved by the Mayor and filed with the contract in the office of the City Clerk, and shall be open to the inspection of the public.

Any surety company authorized to do business in the State of Minnesota, may be the surety on such bond. The Common Council or Board may in its discretion and in any or all instances require surety company bond, instead of a personal bond.

Section 284. In case of emergency, and when the delays occasioned by the strict compliance with this charter relative to the furnishing of commodities or performance of work or services, 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.

Section 285. No contract for which a bond or deposit is hereby required shall be assigned or transferred in any manner. Any assignment

or transfer thereof, except by operation of law, and except by consent of the Common Council or Board, expressed by resolution, shall fully void 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 upon the part of the city; and the city, through its proper authorities may at once proceed to re-let 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.

Section 286. Before any contractor or his personal representatives shall receive any estimates or payments on any contracts for which a bond or deposit is required, as provided in this chapter, said contractor or his representatives shall make and file with the City Clerk, or the Clerk or Secretary of such Board as shall have the matter in charge, an affidavit that all claims for all work and labor to date, on the work for which an estimate or payment is asked, has been fully paid.

Section 287. 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.

CHAPTER XVI.

FRANCHISES.

Section.288. Public Franchises or privileges to be exercised by any person, persons or corporation in any street, streets or public places in the City of Rochester, may be granted or proposed by ordinance passed by a vote of five-sevenths (5/7) of all the members of the Common Council and approved by the Mayor. Every such ordinance granting any franchise or privilege shall contain all the terms and conditions of the franchise to be granted. 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. No franchise or privilege shall hereafter be granted or extended for a longer period than twenty (20) years, except by vote of the people as provided in Section ²⁹⁰ 290 hereof.

The Common Council shall have power by ordinance to reasonably regulate and control the exercise by any person, persons or corporation of any public franchise or privilege in any of the streets or public places in the city, whether such franchise or privilege shall have been granted by the city, county or state.

Section 289. 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 Common Council by ordinance and said Common 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 such corporation or person. The Common Council may further provide by ordinance that ^{any or} every person or corporation exercising any franchise in the city, shall pay a gross earnings tax. It may provide the amount thereof and the method of its collection.

Section 290. No perpetual franchise or privilege, or exclusive franchise or privilege, or any franchise or privilege for a term exceeding twenty (20) years shall ever be granted or extended unless the question of granting the same shall have been first submitted to the qualified voters of the city, and passed by a vote of sixty (60) per cent of the voters as shown by the last preceding charter election.

Section 291. The Common Council may by ordinance require every corporation or person, exercising any franchise in the City of Rochester, to file annually on the first Monday in February, in the office of the City 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 expense and 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 Common Council may proceed by ordinance to cancel and revoke such franchise.

Section 292. Nothing in this chapter contained shall be taken or construed as annulling, releasing or modifying any franchise or contract existing between the City of Rochester and any individual, company or corporation at the time this charter goes into effect.

CHAPTER XVII.

SALARIES, BONDS AND MISCELLANEOUS PROVISIONS.

Salaries.

Section 293. The following officers of the city shall receive each year salaries as follows:

The Mayor, two hundred dollars (\$200).

Aldermen, each, seventy-five dollars (\$75).

Chairman of the Street and Alley Committee, and Chairman of the Finance Committee, each, twenty-five dollars (\$25), additional to their respective salaries as Aldermen.

No other further sum shall be paid to said officers, or any of them, for any services which they may perform as such officers.

No Alderman, or the Mayor, acting or being appointed by the Common Council to act as a member of any committee whatsoever, shall receive any recompense for his services as a member of such committee, except as herein provided.

Section 294. Members of the Park Board, the Library Board, the School Board and the Public Utility Board shall receive no compensation for their services, but shall be paid all actual and necessary expenses incurred in performing their official duties.

Section 295. The following officers of the city shall each receive such compensation as the Common Council shall deem proper, to-wit:

City Attorney, City Clerk, Assessor, Treasurer, City Engineer, Chief of Police, Patrolmen, Members of the Board of Health, Superintendent of the Dumping Ground, Poundmaster, Chief and Members of the Fire Department, Fire Warden, Superintendent of the Fire Alarm System, Building Inspector and any and all other officers whose compensations are not specifically mentioned in this Charter, and the incumbents of any other offices which the Common Council may create hereunder, also the wages of the employes of the city, except the officers or employes hired and controlled by any Board

empowered hereinbefore to fix their respective salaries and wages. Such salaries and compensations shall be fixed at the time any office is created and annually at the commencement of the official year. No officer's salary shall be increased or diminished during his term of office. The Common Council may at any time fix the compensation of any officer or committee for any extraordinary service performed.

Bonds.

Section 296. The City Treasurer shall, before entering upon the duties of his office, execute to the city a bond with at least two (2) sureties to be approved by the Common Council in such penal sum and upon such conditions as the Common Council shall direct. The Chief of Police and City Justice shall each, before entering upon the duties of his office, execute to the city a bond in the penal sum of one thousand dollars (\$1000) conditioned for the faithful discharge of the duties of his office. The Ward Justices of the Peace, Constables, City Engineer and Assistant Engineer, City Clerk, City Attorney, Regular Patrolmen and Assessor shall each, before entering upon the duties of his office, execute to the city a bond with two (2) sureties to be approved by the Common Council in the penal sum of five hundred dollars (\$500), conditioned for the faithful discharge of the duties of his office, and the Common Council may require bonds from the other officers of the city in such penal sums and such conditions as they may deem best.

The Common Council may also, from time to time, require a new or additional bond from any officer aforesaid and remove from any office any officer refusing or neglecting to give the same.

All bonds shall be filed in the office of the City Clerk before the officer enters upon the duties of his office,

Section 297. Any Surety Company qualified to execute bonds within the State of Minnesota, may be a surety on any of said bonds, or any bond required by this charter. Only one surety shall be required when surety

(4-7)

bond is furnished. The Common Council may require that any or all such bonds shall be Surety Bonds instead of personal bonds, and may provide for the payment of premiums on officer's surety bonds by the city, or any part thereof. Such bonds shall be subject to the approval of the Common Council.

Section 298. The Treasurer of Olmsted County, as Treasurer of School District No. 8 of Olmsted County, once in every two (2) years, at the time he qualifies as County Treasurer, shall execute and give a bond to the Board of Education of said ^{School} District No. 8 of Olmsted County, executed by at least two (2) sureties, or a Surety Company, to be approved by said Board of Education, in such penal sum and upon such conditions as said Board of Education shall direct. If surety company bond be furnished, the Board of Education may provide for the payment of the premium thereon, or any part thereof, by the School District.

MISCELLANEOUS PROVISIONS.

Section 299. All civil actions to recover any penalty or forfeiture under this charter, or under any ordinance or regulation passed in pursuance hereof or for any other authorized purpose, and all prosecutions for the violation of any penal provision in this charter, or of any ordinance or regulation adopted in pursuance hereof, shall be brought in the corporate name of the city.

Section 300. In any complaint for the violation of any ordinance of the city relating to the offense of vagrancy, it shall be sufficient to charge the defendant with being a vagrant, and evidence of all facts constituting the said offense in the particular case may be given under such general charge.

Section 301. No person shall be an incompetent judge, witness, juror, referee or commissioner in any action or proceeding to which said city is a party, by reason of his being an inhabitant or an officer thereof.

Section 302. All deeds, leases or other conveyances or other written transfers of property made, and all written contracts entered into by the city, and all bonds or other evidences of debt issued by the city, shall, on behalf of the city, be signed by the Mayor and attested by the City Clerk.

Section 303. Service of process and writs in any action or other judicial proceeding against the city shall be made upon the Mayor, and upon such service being made, the Mayor shall immediately inform the Common Council thereof, and shall take such other steps in relation to the action or proceeding in which such process or writs are issued as may be required by ordinance in such case provided, or by resolution of the Common Council.

Section 304. When any final judgment shall be recovered in any complaint against the city, the same shall be paid out of any moneys in the General Fund in the City Treasury not appropriated or required for other purposes. If there are no moneys in said fund which can be devoted to the payment of such judgment without injury to other interests of the city, the amount of such judgment, with interest thereon, shall be included in the next levy of taxes ordered by the Common Council, and when collected shall be paid to the holder of such judgment.

Section 305. All real estate and the appurtenance thereto, all buildings, all engines, trucks, carts, appliance and apparatus, all machinery and all other property of any kind or description which is now or may hereafter be owned or held by said city or the Board of Education for city or public uses or purposes, shall be exempt from taxation, and seizure or sale under or by virtue of any execution or other writ, or by virtue of

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any action or proceeding.

Nor shall any real or personal property of any inhabitants of the city or of any individual or corporation be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of the city.

Section 306. The city shall have the right to take and to prosecute an appeal to the District Court of Olmsted County or to the Supreme Court of this State, in any action or proceedings to which it may be a party, if the judgment order or decree, from which it may desire to appeal, is one from which an appeal would lie under the general statutes of this State.

And whenever such appeal is taken by the city, the requisite bond on appeal shall be executed in the name of the city by the Mayor and attested by the City Clerk, who shall affix the corporate seal of the city thereto; but no sureties or justification shall be required on such bond. The provisions of this section, respecting bonds on appeal shall apply to all other bonds which it may become necessary for the city to furnish in actions or other judicial proceedings.

Section 307. The city shall not be liable in any case for the board, washing or fees on commitment, of any persons who shall be committed to the jail of Olmsted County on charge or conviction of any offense under the general statutes of this State; provided, the City of Rochester shall be liable in all cases for the board and jail fees of every person convicted of any offense committed within the city limits of the city, punishable under the State laws or ordinances of the city, who may be committed by any officer of the city or any magistrate to the jail of Olmsted County, when the fine, if paid, would go to the city.

Section 308. The said city may hold, lease and purchase real and

personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation and assessment while the property of the city.

Section 309. All papers, files, plats and other public records required to be kept, preserved and filed, unless otherwise provided for in this Charter, shall be placed, filed and preserved in the office of the City Clerk.

Section 310. Failure to hold any election in said city at the time or the manner in this Charter prescribed, or failure on the part of the Common Council, or of any city officer or officers, to perform any duty prescribed by this Charter at the time when or in the manner in which it should be performed, shall ^{not} operate to dissolve or suspend the city as a municipal corporation, or to diminish or affect the city's municipal or corporate powers or privileges, but such election may be held, or such duty be performed, at a subsequent time with full force or effect.

Section 311. Any person who shall violate any of the provisions of this ~~act~~ Charter, for the violation of which no punishment has been provided herein, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars (\$100), or by imprisonment in the City or County Jail not exceeding ninety (90) days.

Section 312. No law of this state contravening the provisions of this Charter shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

Section 313. When this Charter goes into effect, the present Marshal and Assistant Marshals shall be the Chief of Police and regular Patrolmen hereunder until April 1st, 1905, at which time their successor shall be appointed by the Mayor hereunder. All other persons holding offices when this Charter goes into effect, except as herein otherwise provided, shall continue to hold the same office hereunder, until the expiration of the term for which he was appointed or elected.

Section 314. This Charter shall take effect, be in force, and supersede the present Charter, except as herein otherwise provided, at the expiration of thirty (30) days from the date of the ratification hereof by the voters of the City of Rochester.

To Honorable A.C. Stevenson, Mayor of the City of Rochester:

We, the undersigned, appointed on January 11th, 1904 by Honorable Arthur H. Snow, Judge of the District Court in and for the Third Judicial District of the State of Minnesota, as a Board of Freeholders to draft a proposed charter for the City of Rochester, pursuant to Minnesota Constitution, Art. 4, § 36, and Minnesota General Laws of 1903, chapter 236, do hereby respectfully submit and return to you as the chief magistrate of said city the foregoing Proposed Charter of the City of Rochester.

Dated, July 8th, A.D. 1904.

1. Geo B Doty.
2. H. H. Withurstine
3. A. J. Stebbins
4. Julius J Reiter
5. C Van Campen
6. C. F. Massey
7. D. W. Bradley
8. C. E. Callaghan
9. M. Heffron
10. J. H. Bliss
11. Geo J Allen
12. J. D. Rammel
13. Harold J Richardson
14. Jno J Fulkerson
15. Paul Schulz

State of Minnesota, County of Olmsted, ss.
City of Rochester.

The foregoing proposed New Charter of the City of Rochester was filed in my office this July 11th 1904

A. C. Stevenson.

Mayor of the City of Rochester

District Court, Third Judicial District, State of Minnesota.

In the Matter of the Petition for the Appointment of a Board to frame a Charter for the City of Rochester, in the County of Olmsted, State of Minnesota.

Whereas, there has been presented to the undersigned a petition purporting to be signed by at least ten per cent of all the legal voters of the City of Rochester in the above named county and state, praying for the appointment of a board of fifteen freeholders, who have been, for the past five years next preceding the presentation of said petition, legal voters of said city, for the purpose of framing a new charter for the government of said city;

And, whereas, it has been made to appear, by proof satisfactory to the undersigned, that the several signers of said petition are in fact legal voters of said city, that the signatures purporting to be theirs are genuine, and that together they number more than one tenth of the legal voters of said city according to the returns of the last preceding election in said city;

Now therefore, by virtue and in pursuance of the authority in me vested by Chapter 238 of the Laws of the State of Minnesota, for the year 1903, I do hereby appoint the following named persons who are freeholders of said city, and for five years immediately preceding the presentation of said petition, had been and still are legal voters therein, to-wit: C. F. Massey, H. H. Witherstine, George B. Doty, G. J. Allen, H. J. Richardson, Julius Reiter, A. T. Stebbins, C. Van Campen, T. H. Bliss, Martin Heffron, J. J. Fulkerson, Paul Schulz, C. E. Callaghan, F. D. Rommel, and David Bradley, to constitute and act as a Board for the purpose aforesaid, in accordance with the legislative act hereinabove referred to.

Dated, January 11th, 1904.

ARTHUR H. SNOW,
Judge of the District Court
of the Third Judicial District
of the State of Minnesota.

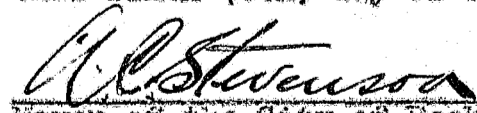
STATE OF MINNESOTA, County of Olmsted, ss.


City of Rochester.

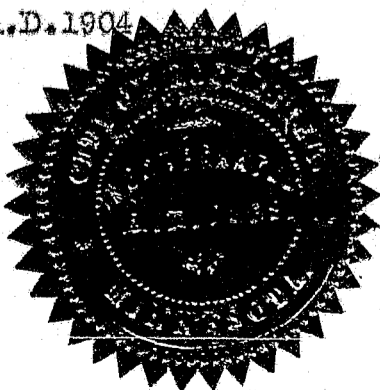
I, A. C. Stevenson, Mayor of the City of Rochester, in Olmsted County, Minnesota, do hereby certify that the foregoing Charter of the City of Rochester was, on July 11th, A. D. 1904, returned to me as Mayor of the City of Rochester by the Charter Board appointed by Honorable Arthur H. Snow, Judge of the District Court for the Third Judicial District of the State of Minnesota, ^{by order a copy of which is hereto attached.} under authority of Minnesota Constitution, Art. 4, § 36, and Laws 1903, ch. 238, to be submitted to the qualified voters of the City of Rochester for ratification or rejection. The law making authorities, pursuant to said laws, by resolution of the Common Council duly passed on August 1st, 1904, and approved by the Mayor, duly called and authorized a special election to be held in the various election districts of said city on August 22nd, 1904. After due notice and pursuant to said laws, such special election was on that date, viz: August 22nd, 1904, duly held, at which the question, "Shall the proposed New Charter of the City of Rochester be ratified?" was submitted to the qualified voters. There were 769 votes cast at such election. Said Charter was duly ratified at such election by a vote of four-sevenths (4/7) of the qualified voters voting thereat, the result being as follows: 482 votes in favor of ratification, and 281 votes against the same.

I further certify that the foregoing and annexed presentation of the new Rochester City Charter presented by the Charter Board of said City as aforesaid is a true and correct copy of the original draft of the same, which is on file and of record in my office as Mayor of the City of Rochester, and of the whole thereof.

IN WITNESS WHEREOF, I have signed this certificate, and caused it to be attested by the City Clerk and authenticated by the corporate seal of the City of Rochester in duplicate this sixth (6th) day of September, A. D. 1904


Mayor of the City of Rochester, Minnesota.

Attest:  #
City Clerk.



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