

STATE OF MINNESOTA,

Counties of Rig Stone and Lac Qui Parle,

City of Ortonville.

This is to certify that the attached printed pages numbered one (1) to One hundred twenty-two (122) inclusive is a duplicate of the proposed city charter of the city of Ortonville, as presented to the city council of said city by the charter commission of said city, on the 10th day of August 1908, and that said proposed city charter was by said council of said city in the manner prescribed by law, duly submitted to the electors of said city on the 8th day of September 1908, after due notice given as required by law, and that at said election more than four-sevenths of the qualified voters voting at said election voted in favor of and ratified the adoption of said proposed city charter, whereupon the same has been legally and properly declared, adopted and ratified.

I further hereby certify that the attached printed pages constituting the proposed city charter of the city of Ortonville, is in all respects a true and correct copy of the original as prepared and submitted to the city council by the charter commission of said city upon the date aforesaid, and the whole thereof including the signatures and report of said commission.

Charles Bolck

Mayor of the City of Ortonville, Minn.

Attested

E. H. Morrill

City Recorder of City of Ortonville, Minn.

2385

CITY CHARTER
of the
CITY OF ORTONVILLE.

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CHAPTER 1.

NAME, BOUNDARIES AND WARDS.

Sec. 1. All that district of country in the Counties of Big Stone and Lac qui Parle in the State of Minnesota contained within the limits and boundaries hereinafter described, and all the people now inhabiting and who shall hereafter inhabit the said district, shall be a Municipal Corporation, under the name of the City of Ortonville, and by that name may sue and be sued, plead and be impleaded in any court or tribunal, and shall have perpetual succession, make and use a common seal and alter it at pleasure, take, hold, lease and convey all such real, personal and mixed property within or without the limits of said City as the purposes of the corporation may require or the transactions or exigencies of its business may render necessary, and shall be capable of contracting and being contracted with and shall have all the general powers possessed by municipal corporations at common law; and in addition thereto all the powers that may be granted to it under the general laws of the State of Minnesota or by this charter, and such powers and functions only.

Sec. 2. When this charter takes effect the City of Ortonville shall be and become the legal successor of the present City of Ortonville, under its former charter, and shall be vested with all its franchises, rights and immunities vested in the said City Charter except as herein otherwise provided.

All property and property rights and interest of every kind and nature formerly vested in the present City of Ortonville, or in any board of Public Officers of the same shall, when this charter takes effect, be and become vested in and be possessed by the City of Ortonville, under this Charter, and all previously

existing indebtedness, obligations and liabilities of said present City of Ortonville, or any Board or Department thereof shall, together with all the interest accrued or to accrue thereon, be assumed and paid by the City of Ortonville under this Charter.

Sec. 5. The district of country constituting the City of Ortonville shall include the following described land and territory situate in the Counties of Big Stone and Lac qui Parle, State of Minnesota, to-wit:

Commencing at a point where the township line between townships one hundred and twenty-one (121) and one hundred and twenty-two (122) of range forty-six (46), intersects the State line, thence east on the line between said townships one hundred and twenty-one (121) and one hundred and twenty-two (122) to the corner between sections four (4) and five (5), township one hundred and twenty-one (121), and sections thirty-two (32) and thirty-three (33), township one hundred and twenty-two (122), range forty-six (46), thence south to the quarter post between sections four (4) and five (5), township one hundred and twenty-one (121) range forty-six (46), thence east through the center of section four (4) to the quarter post between sections three (3) and four (4), thence south on the section line between sections three (3) and four (4), nine (9) and ten (10) to the corner between sections nine (9) and ten (10), fifteen (15) and sixteen (16), thence east to the corner post between sections ten (10) and fifteen (15), thence south to the quarter post between sections fifteen (15) and twenty-two (22), thence due west to the State line, thence along the state line to the point of beginning, containing all of fractional section five (5), the South one-half ($\frac{1}{2}$) of section four (4), Lot one (1) of Section eight (8), all of Section nine (9), the West one-half ($\frac{1}{2}$) of Section fifteen (15) and all of Section sixteen (16), all in township one hundred and twenty-one (121) of range forty-six (46), in the counties of Big Stone and Lac qui Parle and State of Minnesota, is hereby set apart and incorporated as the City of Ortonville, under the provisions of Chapter Three Hundred and Seventy-five (375),

of the General Laws of the State of Minnesota for the year one thousand nine hundred and seven (1907), and sections seven hundred forty-nine (749) to seven hundred fifty-eight (758) inclusive of Revised Laws of 1905, and amendments thereto.

Sec. 4. The City of Ortonville is hereby divided into two wards bounded and described as follows: The first ward of the City of Ortonville shall comprise all of the following bounded land and territories: Commencing at a point where the township line between township one hundred and twenty one (121) and one hundred twenty two (122) north, Range forty six west, intersects the state line, between Minnesota and South Dakota, thence east on the line between said townships to the corner between sections four (4) and five (5) township one hundred and twenty-one (121) and sections thirty-two (32) and thirty-three (33), township one hundred and twenty-two (122) north, range forty-six west, thence south to the quarter post between sections four (4) and five (5), township one hundred and twenty-one (121) north, range forty six (46) west thence east to the center of section four (4) in said town and range, thence south on the quarter line of sections four (4) and nine (9) in said town and range, to a point where said quarter line intersects with Jackson Avenue in the City of Ortonville, thence in a south westerly directions along Jackson Avenue to the end thereof between blocks eighteen (18) and twenty-five (25) in said City of Ortonville, thence south westerly in a direct line to the Iron monument on the line between the states of Minnesota and South Dakota at the foot of Big Stone Lake, thence northwesterly along said state line to the place of beginning.

Sec. 5. The second ward of said city shall comprise all of the following bounded lands and territory: All that part of the City of Ortonville lying east and south of ward one, as described in section four of this charter.

Sec. 6. All ordinances, resolutions, by-laws and rules existing at the time of the adoption of this charter shall be in full force and effect until repealed.

CHAPTER 11.

OFFICERS AND ELECTIONS.

Sec. 7. The elective Officers of said City shall be a Mayor, City Clerk, Treasurer, City Justice, ^{and Special Judge} Judge of the Municipal Court and three Aldermen, all of whom shall be elected at large, and two Aldermen from each ward. The appointive Officers of said City, shall be an Attorney, three members of the Board of Health, a City Marshal and Deputies, three Park Commissioners, a Chief of the Fire Department, nine members of the Library Board and such other Officers and Boards as may be hereinafter provided.

Sec. 8. Each ward shall constitute one or more election precincts as required by law for the holding of all elections provided by law under the General Laws of this state, and also for all elections provided by this charter. All appointive Officers shall hold their respective offices during the pleasure of the appointing power and their terms of office shall expire on the first Monday of January, following the regular bi-ennial City Election, after their appointment, except as their terms of office may be otherwise provided by law or this charter.

All Officers shall be qualified electors of the City or Ward in which they shall be elected or appointed and not interested in any contract with the City or former City of Ortonville as a party thereto.

All elective Officers shall hold their office for the term of two years, except the Judge of the Municipal Court, who shall hold his office for four years.

Sec. 9. Bi-ennial City elections shall be held on the first Tuesday after the first Monday of November in each odd numbered year and the Officers elected at such elections shall take office on the first Monday in January following such election.

At least Twenty (20) days before any such election the City Council shall designate three (3) persons to act as judges or inspectors, and two (2) persons to act as clerks for each election precinct at such election. All City elections shall be held and conducted in the same manner and under the same penalties as required by the general laws of the state regarding elections, and like notice shall be given.

When any election shall be closed the Judges or Inspectors shall make return thereof to the City Clerk within twenty-four (24) hours after such election in the same manner as provided by law for the return of State and County Officers to the County Auditor; and within one (1) day thereafter the City Council shall meet and canvass the returns thereof and declare the result as it appears from ^{such} returns, and the City Clerk shall forthwith give notice to the persons elected of their respective elections.

The City Council, on petition of not less than fifty (50) free-holders who are legal voters shall at any time by resolution order a special election of the voters of the city and provide for holding the same. The purpose of such special election shall be clearly stated in such resolution, and no other matter shall be submitted thereat. At least twenty (20) days notice of any such special election shall be given as provided by law and such special election shall be conducted in the same manner as bi-ennial city elections.

Sec. 10. All elections shall be by ballot and each ballot shall contain the names of the persons voted for with the proper designation of the office and such ballots may be written or

printed, or partly written and partly printed.

When two (2) or more candidates for an elective office shall receive an equal number of votes for the same office the election shall be determined by casting of lots in the presence of the City Council at such time and in such manner as the said Council may direct.

All persons entitled to vote for State or County officers and who shall have resided in such city for thirty (30) days next preceding any annual or special election shall be entitled to vote thereat.

Any person removing from the city or any ward thereof for which he was elected or appointed or any person who shall refuse or neglect for ten days after notice of his election or appointment to qualify and enter upon the duties of his office shall be deemed to have vacated his office.

And any officer having entered upon the duties of his office may resign by giving ten days notice thereof to and with the consent of the City Council. And it shall then be the duty of said City Council to declare the office vacant and to provide that the same shall be filled as hereinafter provided. Whenever a vacancy shall occur in any elective office, except that of Mayor, by death, removal or resignation the City Council shall have power to fill the same by appointment.

Sec. 11. All officers, whether elected or appointed, shall continue in office until their successors are elected or appointed and have qualified.

In cases where officers are elected or appointed to fill an unexpired term, the term of office of such officer so elected or appointed shall expire at the same time as the term of the original incumbent would expire.

Sec. 12. Every person elected or appointed to any office under the provisions of this charter, shall, before he enters upon the duties of his office and within ten (10) days of his election or appointment take and subscribe an oath of office for the faithful discharge of his duties as such officer and file the same with the City Clerk, who shall preserve the same, and such officers as are required to give bonds shall also within the time aforesaid execute such bonds in the manner required by law and file the same with their oaths of office for approval by the City Council.

Sec. 13. Should there be a case not otherwise provided for under this charter, a failure to elect any elective officers except the Mayor, for whose election provision is made under this Charter, the City Council shall appoint such officer as in case of a vacancy; should there be a failure to elect a Mayor the City Council shall order a special election to be held therefor without unnecessary delay.

Sec. 14. From and after the time when this Charter shall go into effect the various officers of the City of Ortonville, whether then in office or subsequently elected or appointed shall exercise and be vested with such powers and function only, as are specified and granted in this charter as to their respective offices.

Sec. 15. All officers, who, under this Charter, are to be appointed, shall be appointed by the Mayor and confirmed by an affirmative vote of a majority of all the members of the City Council taken by ballot and recorded by the Clerk.

Sec. 16. The City Council shall be the judge of the election and qualification of its members, and in such cases shall have the power to send for persons and papers; it shall determine the rules and regulations of its own proceedings.

Any elective officer under this Charter may be removed from his office by the affirmative vote of Five-Sevenths of all the members of the City Council, but no such officer shall be

removed except for cause nor unless he has first been furnished with a copy of the charges against him and has had reasonable opportunity to be heard in person or by counsel in his own defense. Continued willful absence from Three consecutive regular meetings by an alderman and neglect of duty by an elective officer of the city shall be deemed sufficient cause for removal from office. The City Council shall have the power to fix the time and place of trial of such officer, who shall be given at least ten days notice thereof, to arrange the mode of trial, to compel the attendance of witnesses and the production of papers, to administer oaths and to hear the proofs and arguments. If such officer shall neglect after due notice to make answer to such charges, the same shall be cause for removal without further notice. The Mayor shall have the power to suspend an appointive officer, for a period not to exceed Ten days, at his pleasure and without showing cause, and to appoint a successor for the term of such suspension. The Mayor shall have power to remove any appointive officer, by and with the consent of a majority of the members of the City Council. But no appointive officer shall be so removed except for cause, nor unless furnished with a written statement of the charges against him, or until he shall have reasonable opportunity to be heard in defense.

CHAPTER 111.

Sec. 17. The Mayor shall be the chief executive officer of the city. He shall take care that the laws of the State and the ordinances and resolutions of the City Council, are duly observed and enforced and that appointive officers of the city shall discharge their respective duties.

He shall from time to time give the City Council such information and recommend such measures as he may deem of advantage to the city.

All ordinances and resolutions shall, before they take effect, be presented to the Mayor for his approval or rejection, and if he approves the same he shall endorse his approval upon ~~and~~ sign the same, and such as he shall not approve he shall return to the City Council with his objections thereto by depositing the same with the City Clerk to be presented to the City Council at the next regular or special meeting thereof, and upon the return of any ordinance or resolution without the approval of the Mayor to the City Council, the vote by which the same was passed shall be re-considered, and if after reconsideration it shall be passed by a vote of five-sevenths of all the members of said council, it shall have the same effect as if approved by the Mayor, and in such case, any ordinance or resolution not returned by the Mayor within five (5) days, Sunday excepted, after it shall have been presented to him shall have the same effect as if approved by him.

The Mayor shall be the chief executive officer and head of the police of the city and any police officer appointed by the mayor as aforesaid, may be discharged from office by him whenever in his opinion the welfare of the city may demand it. He is clothed with the power to call upon any male inhabitant over the age of eighteen years and upon organized or unorganized force of armed citizens of said city to aid in the enforcement of the laws of the State and City and any person when so directed, who shall not obey such call or render such aid shall upon

conviction before the City Justice or Judge of the Municipal Court or other magistrate having jurisdiction thereof, be fined not less than five nor more than one hundred dollars. In case of riot, large public gatherings or other disturbances he may appoint as many special policemen or watchmen as he may deem necessary, and discharge the same when he sees fit, but such special appointments shall not continue for more than three days without the consent of the City Council.

Sec. 18. The City Clerk shall keep his office at the place of meeting of the City Council or at such ~~place~~ other place convenient thereto as the City Council may determine.

He shall be the custodian of the corporate seal and all papers and records of the City, and keep a record of all proceedings of the City Council.

He shall draw and countersign all orders on the City Treasury in pursuance of any order or resolution of the City Council and keep a full and accurate account thereof in books provided for that purpose.

The City Clerk shall give a bond with sureties in the sum of not less than one thousand dollars (\$1000.00) at the discretion of the City Council and file the same with the Clerks of the District Courts of said counties.

The City Clerk shall have power to administer oaths and affirmations and to take the acknowledgment of deeds, mortgages and other instruments in writing.

It shall be his duty to report to the City Council the financial condition of the City whenever the Council requires. He shall take and keep a list of the City bonds, to whom issued, for what purpose, when and where payable and rate of interest they respectively bear, and shall recommend such action to the City Council as will in his judgment secure the payment of the

interest on such bonds, on or about the first (1st) day of September, or before the time of levy in each year, to estimate the expenses of the city and revenue to be raised for the ensuing year.

He shall countersign all contracts made in behalf of the city and all certificates of work authorized by the City Council.

The City Clerk shall keep regular books of account, in which he shall enter all indebtedness of the city, and which shall at all times show the precise condition of the city, the amount of bonds, orders, certificates of indebtedness which have been redeemed, and the amount of each outstanding; ~~He~~ countersign all bonds, orders and other evidence of indebtedness of the city, and keep accurate accounts thereof; stating to whom and for what purposes issued and the amounts thereof; and keep account of all receipts and disbursements of officers of the city, showing the amount that they have received from the different sources of revenue, and the amount they have disbursed under the direction of the City Council.

The City Clerk shall examine all the reports, books, vouchers and accounts of the City Treasurer and from time to time perform such other duties as the City Council may direct, and shall keep a record of all his acts and doings and keep a book in which he shall enter all contracts, with an index thereto. Such records shall be open to the inspection of the public.

He shall also make an accurate list annually of the births and deaths occurring within the city limits and report the same at the time and in the manner required by law of town clerks, and for the same compensation, to be paid as provided by law.

He shall perform all other services by law required of clerks of villages, cities or townships, within such city; but when services are required of him by public law for which compensation is provided such services shall not be regarded as services for the city, and he may retain such compensation in addition to the salary paid him by the city.

Sec. 19. At the first meeting of the City Council in January following election they shall proceed to elect by ballot from their number a President of the Council, as provided by section thirty-six (36) of this Charter. The Mayor shall preside over the meetings of the City Council, and in case of a tie shall cast the deciding vote; during the absence of the Mayor from the city, or his inability from any cause to discharge the duties of his office, the said President of the Council shall exercise all the powers and discharge all the duties of the Mayor. In case the Mayor shall be absent from any meeting of the City Council, the President shall act as presiding officer for the time being, and discharge the duties of said Mayor. The President of the City Council or temporary presiding officer, while performing the duties of Mayor, shall be styled acting Mayor and the acts performed by him while acting as Mayor as aforesaid shall have the same force and validity as if performed by the Mayor. The Mayor and the President of the City Council shall have the right to administer oaths and affirmations.

Sec. 20. The City Council may, at its first regular meeting, appoint, upon the nomination of the Clerk, a Deputy-clerk, for such period as may be deemed necessary. Whenever the Clerk and Deputy clerk are absent, or are for any reason unable to act, the Council may appoint a clerk pro tempore and said clerk so appointed, as well as the Deputy-clerk, when acting as City Clerk, shall have the same powers, and be subject to the same restrictions and liabilities as the City Clerk.

Sec. 21. The city attorney shall be a person admitted to practice in all courts in this state, at least three years prior to his appointment, and shall be the legal adviser of all officers of said city upon all subjects arising by virtue of this charter, and ordinances adopted in accordance therewith. He shall attend, and prosecute and defend, all suits, actions or proceedings, either civil or criminal, for and on behalf of said city, or in which the city may be a party. He shall, when required, furnish a written opinion upon any subject, arising by virtue thereof, submitted to him by the city council, or any of its committees, or by the mayor, attend the meetings of the city council when requested, draw all contracts and agreements between said city and other parties, and ^{such} ~~and~~ other legal instruments and papers as may be required in connection with the administration of city affairs, and perform such other professional services as shall properly pertain to his office. He shall hold his office for the term of two years, at the pleasure of the council appointing him, and his compensation shall be fixed by the city council.

Sec. 22. When from absence, sickness or other cause, the city attorney shall be unable to attend to any of his official duties, he may designate some one to act in his stead for the time being, but at his own expense. Provided, the city council shall have the right and authority to employ additional counsel to assist the city attorney in the prosecution or defense of any proceeding or action at law in which the city is interested, or to discharge the duties of the city attorney when there is none.

Sec. 23.

CITY TREASURER.

Sec. 23. The City Treasurer shall receive and safely keep all monies belonging to or accruing to the city including license money and fines, keep accurate and detailed accounts thereof, credit the amount so received to the proper fund and give receipt therefor, and shall, without delay, transfer to the City Clerk a duplicate of his receipt therefor.

The Treasurer shall report to the City Council on or before the 10th day of January of each year a detailed statement of the receipts of money by him received, and a gross statement of the city orders paid during the fiscal year ending the 31st day of December of the previous year, together with the condition of the treasury on such date, which statement shall be filed with the City Clerk.

The Treasurer shall report to the City Council at such time and in such other manner as said Council may prescribe.

The Treasurer, shall, before entering upon the duties of his office, give a bond to the city with two or more sufficient sureties to be approved by the City Council for at least twice the amount of money which will probably be in his hands at any one time during his term of office, which amount shall be fixed by said council and entered upon the records of said city; said bonds shall be recorded in and kept on file in the office of Register of Deeds of the county.

Sec. 24. No funds of the city shall be loaned to any person, or in any manner disposed of, except as in this Charter provided.

The City Treasurer shall receive no benefit or emolument whatever (except his salary or fees) connected with or in any way derived from the position and keeping of the money of the city.

Sec. 25. All warrants and orders for the payment of funds of the city shall be signed by the Mayor or acting Mayor thereof and countersigned by the City Clerk, and shall designate the fund upon which they are drawn, and the City Treasurer shall not pay out any money of said city except upon such warrants. Upon the payment of any warrant the City Treasurer shall file and cancel the same and it shall not again issue.

He shall keep separately the warrants drawn upon each particular fund.

All payments for license to sell intoxicating liquors or beer shall be paid in lawful money of the United States.

Sec. 26. The City Treasurer shall have a compensation to be fixed by the City Council at the first meeting thereof after his election, or as soon as possible thereafter, and they shall not change, increase or diminish the same during the term for which he was elected or appointed, provided, however, that such salary or fees shall not in any event exceed the sum of one hundred dollars per year.

CITY MARSHALL AND STREET COMMISSIONER.

Sec. 27. The City Marshall shall be Street Commissioner unless the City Council shall appoint another person as Street Commissioner and when a City Marshall shall be appointed he shall, before entering upon his office, take his oath and file his bond with sureties, and in such amount as the City Council shall direct, with the City Clerk.

As City Marshall he shall be chief of police of said city, and shall perform such duties as shall be prescribed by the Mayor or City Council for the preservation of the public peace, and as may be required of him by ordinance.

As Street Commissioner he shall take the personal inspection and supervision of the public streets, roads, alleys and sidewalks, and the opening, grading and repair of streets, roads and alleys, the building and repair of bridges, sidewalks, culverts and street crossings, the opening and building of waterways and gutters, street drainage and sewers and the collecting of the poll tax as levied by the City Council and turn the same over to the City Treasurer and take receipt therefor. He shall have charge of laborers and teams deemed necessary. He shall keep an accurate account of all expenses incurred in the performance of his duties, authorized by the Council and report the same from time to time, as required, to the City Clerk, but he shall have no power to incur any expense or obligate the city in any way except as authorized by the City Council. He shall receive such compensation for his services as

shall be fixed by the City Council but he shall not give his personal attention to any other business during the term of his office, nor be interested in any contract with the city, other than Street Commissioner.

Sec. 28. The City Council shall have the power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed and not inconsistent with this Charter and to appoint such other officers as may be necessary to carry into effect the provisions of this charter and to prescribe their duties unless otherwise provided for. No officer elected or appointed by the council shall be elected or appointed for a longer time than the next election of officers and until his successor is elected or appointed and qualified.

Sec. 29. The City Council shall have the power, unless otherwise herein provided, to fix the compensation of all officers elected or appointed under this charter, which compensation shall be fixed by resolution, and the compensation so fixed shall not be changed, increased or diminished during the term for which such officer is elected or appointed except as herein otherwise provided: provided, that no member of the city council or the Mayor shall receive any compensation for his service as such officer.

Sec. 30. Every elective or appointive officer and every member of any board, at the expiration of his term of office in whatsoever way determined, shall turn over to his successor in office or some other properly authorized officer on demand, all the books, papers, records, money or other property and thing whatsoever pertaining to his office or belonging to the City.

Sec. 31. The Mayor, city marshal, the sheriff of the county in which such city is situated or his deputy or deputies, the coroner, each police officer and watchman shall be officers of the peace, may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of

the city, and for such purpose may command the assistance of bystanders, and, if need be, of all citizens, if any person shall refuse to aid in maintaining the peace when so required, he shall forfeit and pay a fine not to exceed fifty dollars, and in default of the payment thereof be imprisoned not to exceed thirty days. In cases where the civil power may be required to suppress riots or disorderly behavior, a superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

Sec. 32. Any officer or employee of the city who shall willfully or negligently violate any of the provisions of this charter, or commit any fraud upon the city or convert any of the property of said city to his own use, or knowingly permit any such fraud or conversion, shall be guilty of a misdemeanor; and when the punishment therefor is not otherwise provided by this charter, shall be subject to the penalties prescribed for a misdemeanor by the criminal laws of the state in addition to such penalties, any such act shall constitute a forfeiture of office and shall be cause for the removal of such officer or employee.

Sec. 33. The city clerk, treasurer and superintendent of public works shall each make and cause to be published in the official paper of the city not less than ten or more than twenty days prior to the ^{bi}annual election, a clear, concise and classified report of all monies and property received by them or either of them during the preceding ^{two} years, shewing from what source received, how expended and disposed of, which reports shall be verified by the oath of the officer, making the same to the effect that the same is true.

Sec. 34. Whenever in this charter it is provided that acts shall be done by a majority or a certain proportion of the members of the City Council less than all, the Mayor shall not be counted as one of their number.

CHAPTER IV.

CITY COUNCIL.

General Powers.

Sec. 35. The legislative power and authority of the City of Ortonville shall be vested in the City Council, composed of the Mayor and Aldermen.

MEETINGS.

Sec. 36. The city council shall hold a stated meeting on the first Monday in January following the bi-ennial election, at eight o'clock P. M., when one of their number shall be elected President; other stated meetings shall be held on the first Monday of each month at such hour as shall be prescribed by the rules and resolutions of the council, and the Mayor or any four members of the city council may call special meetings of the council by a written notice of one day to each of the members, to be delivered personally or left at their usual place of abode, which notice shall contain a statement of the business for which the meeting is called; and no other business shall be transacted at such special meeting except such as is designated in such notice.

Sec. 37. QUORUM.

Sec. 37. A majority of the councilmen shall constitute a quorum but a less number may meet at the time of any stated meeting and adjourn, and all business transacted at such adjourned meeting shall have the same validity as if done at a stated meeting and a minority as well as a majority may compel attendance of absent members.

CANVASSING VOTES.

Sec. 38. The city council shall be the judge of the election and qualification of its members, and in such cases shall have the power to send for persons and papers; it shall determine the rules and regulations of its own proceedings.

ORDINANCES AND RESOLUTIONS.

Sec. 39. Every legislative act of the City Council shall be by ordinance. The style of all ordinances shall be: "The City Council of the City of Ortonville do ordain." No ordinance or resolution, except for general appropriations, shall contain more than one subject, which shall be expressed in the title, and no ordinance or resolution shall be amended after its introduction so as to change its original subject or purpose. Ministerial acts may be, by resolution, passed by such vote as provided by this charter.

READING AND PASSAGE.

Sec. 40. An affirmative vote of at least a majority of all members of the City Council shall be required to enact any ordinance or resolution, which shall be taken by yeas and nays, and be entered in its journal. It shall forthwith be presented by the City Clerk to the Mayor for his approval as herein provided. No ordinance, resolution, proposed ordinance, or proposed resolution shall be reconsidered, except at the same or the next regular meeting after its adoption or rejection, and not in such case, unless there are then present at least as many members of the City Council as were present when said ordinance ~~or~~ resolution was adopted or rejected and then on motion of party voting in affirmative. No ordinance shall be introduced except at a regular meeting, at which meeting it shall have its first reading. Its second reading, except by unanimous consent, shall be had at a subsequent regular or adjourned meeting, occurring not less than One week after its first reading, and such ordinance shall not be amended after the meeting at which it receives its second reading, except by the unanimous consent. It shall receive its third reading and may be passed only at a regular or adjourned meeting occurring at least One week subsequent to the time of its second reading. No ordinance shall be passed until it has had Three readings. Every ordinance shall be published

once in the official newspaper of the City before it takes effect. Proof of such publication shall be by affidavit of one of the printers, publishers or the foreman of such newspaper, which shall be prima facie evidence of the legal passage of such ordinance or resolution in all courts of this State, or elsewhere.

Sec. 41. All ordinances after being published shall be signed by the presiding officer of the City Council and the City Clerk, and shall be recorded by the latter in a book to be kept for that purpose, before they shall take effect.

FAILURE TO VOTE.

Sec. 42. Any member of the City Council, who, being present when his name is called, fails to vote on any pending proposition, shall be counted as having voted in the negative.

MAJORITY VOTE.

Sec. 43. No appropriation shall be made without a vote of a majority of all the members of the city council in its favor; which vote shall be taken by yeas and nays as they shall appear by roll call and entered of record in the proceedings of the city council.

DISQUALIFICATION.

Sec. 44 Except as in this charter otherwise provided, no member of the City Council shall, during the time for which he is elected be eligible to any other elective or appointive office of the City.

FUNDS AND ACCOUNTS.

Sec. 45. The City Council shall designate the depositories for, and disposition of, the funds of the City, as provided by section 774 of the Revised Laws of 1905 of this State, and by resolution approve all bonds given for the safe keeping thereof.

~~The city council shall examine, audit, and adjust the accounts of the treasurer and all other officers of the city, at such times~~

Before so designating such depository, said council shall advertise in the official paper of said city for at least one week for proposals. Such proposals shall state what security will be given to said city for the funds so deposited and what interest will be allowed on such deposits, together with such other matters as the Council may designate.

The proposals received by the Council for such funds shall be considered by said Council, and thereupon they shall designate as the City Depositories the banks offering to pay the highest rate of interest for said funds; the financial standing of which banks and the security offered for the safe keeping of said funds, is satisfactory to said council.

The interest accruing to said city on such deposit shall be credited on the first day of each month, and on said first day of each month such depositories shall file with the City Clerk a true and itemized statement of the Treasurer's account, which statement shall be presented to said City Council at the first regular meeting thereafter and filed and presented in the office of the City Clerk.

The city council shall examine, audit, and adjust the accounts of the treasurer and all other officers of the city, at such times as they shall deem proper, and also at the end of each year and before the terms for which the officers of the city were elected or appointed shall have expired; and if any officer shall refuse his books, accounts and vouchers for examination and settlement, or shall refuse to comply with the orders of the city council in the discharge of his duties in pursuance of this section the city council shall declare his office vacant; and the city council shall institute suits and proceedings at law against any officer or agent of the city who may be found delinquent or in default in his accounts or the discharge of his official duties, and shall make a full record of all settlements and adjustments.

The City Council shall have the authority to require the city clerk and city treasurer to make monthly reports or statements of the receipts and disbursements, and of the financial condition of said city, to the city council, and require such report or statement to be made and submitted before his salary for the preceding month be paid, and to withhold his salary until such report or statement is made and submitted.

PUBLIC PROPERTY.

Sec. 46. The City Council shall have the care, control and supervision of all public buildings and grounds of the City, the care and supervision of which are not by this charter vested in any board or officer of the City.

STREETS.

Sec. 47. The City Council shall have exclusive power to open, vacate, alter and improve the streets, public grounds, alleys, and highways of the City as in this Charter provided, and shall have and maintain the active care, supervision and control of all public highways, bridges, streets, alleys and public grounds within the limits of the City.

PUBLIC BUILDINGS.

Sec. 48. The City Council shall have power by a Five-sevenths vote of all the members thereof to erect, provide for, improve and repair all public buildings and works together with such appurtenances, accessories, apparatus and equipments in connection therewith, as may be necessary for the transaction of the business of the City, either within or without its limits; and to acquire by purchase, gift or condemnation, all lands necessary as sites for said buildings or works to be used in connection therewith; and to acquire by purchase, gift or condemnation, real property for municipal purposes, and to sell or authorize the sale of any of said property.

WITNESSES.

Sec. 49. The City Council, and any of its committees authorized by it so to do, shall have power to compel the attendance of witnesses and the production of books, papers and other evidence at any of its meetings, or before such committees, and for that purpose may issue subpoenas, or attachments, in any case of inquiry or investigation, to be signed by its presiding officer or the chairman or such committee, as the case may be, which shall be served and executed by any officer or person authorized by law to serve subpoenas or any other process.

PUNISHMENTS.

Sec. 50. The City Council may provide by ordinance any punishment for the breach of this charter or any ordinance of the City to the extent of a fine not exceeding One Hundred Dollars or imprisonment in the County Jail or any other place of detention maintained by the City, not exceeding Ninety Days, and may provide that such imprisonment shall be cumulative for an indefinite term, not exceeding Ninety days, subject to suspension or termination by reason of or during good behavior of the person imprisoned, and offenders against such ordinance may be required to give security to keep the peace and for good behavior for a period of not exceeding Six months, in a sum not exceeding Five Hundred Dollars. The City Council may further provide by ordinance that any person, convicted of any offense before the Municipal Court, subjecting such offender to imprisonment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established by said city for that purpose, or in case of a male offender may be kept at hard labor during his term of imprisonment in such workhouse or upon the public streets, and improvements of said city, or both; and may also provide by ordinance that any one convicted of an offense before the Municipal Court as aforesaid, and committed upon nonpayment of a fine imposed, may be kept at hard labor in any workhouse of said

city as aforesaid, or in case of a male offender, may be kept at hard labor either in such workhouse or upon the public streets and improvements, or both, until such persons shall work out the amount of such fine at such rate of compensation as said ~~council~~^{City} council may prescribe, for a time not exceeding the term of such commitment, and the City Council shall have full power to establish by ordinance all needful regulations for the security of such prisoners thus employed, and to prevent escape and insure proper discipline, and shall have power to establish a suitable workhouse in said city for the purpose aforesaid and under such regulations as the city council may provide.

COMPILATIONS.

Sec. 51. The City Council may, from time to time, provide for the compilation and publication of the charter, ordinances of the City, rules of the City Council and such other reports and regulations of the City Council and such statutes of the State as it may designate, and may provide for the distribution, sale or disposal of copies of such compilation or publication. Such publication so issued, purporting on the title page to have been published by the authority of the City Council and to contain the ordinances of the City, or other matter in this section above mentioned, shall be prima facie evidence of their contents in all courts of this state, and, in absence of evidence to the contrary, all ordinances, rules, regulations and resolutions found therein shall be presumed to have been duly and legally passed and adopted. Copies, duly certified by the City Clerk, of ordinances, rules, regulations and resolutions, or other papers in his official custody, or of any records kept by him in his official capacity, shall also be admitted as prima facie evidence of their contents in all courts of this state. All courts of this City shall take judicial notice of all ordinances and resolutions duly passed by the City Council.

SALE OF PROPERTY.

Sec. 52. The city council shall have the management and control of the finances ^{and} of all property of the city, both real and personal, may provide for the sale of any personal property of said city, in such manner as it shall consider for the best interest of the city; the real estate belonging to said city shall only be sold upon the vote of the legal voters therein given at a regular or special election of said city upon a notice duly given, which shall specify the real estate to be sold or, if such real estate does not exceed five hundred dollars in value, by a unanimous vote of all the members of the city council thereon entered of record upon the books of said city, such votes to be taken by yeas and nays and fully entered upon the record thereof.

SPRINKLING.

Sec. 53. The city Council may by a majority vote, cause to be sprinkled the streets, avenues or public places, or any of them, and may in accordance with the provisions of this chapter relating to contracts, authorize such sprinkling, and when any of such streets, avenues or public places are sprinkled under and by virtue of the authority granted by this section one-half of the cost of the same shall be paid by the city council out of the general fund of said City of Ortonville, and the other one-half by the persons owning lots abutting in such streets, avenues or public places so sprinkled, and upon the failure of the persons so owning the lots abutting upon the streets, avenues or public places to pay the one-half of the cost of said sprinkling as aforesaid, on or before October 1st, of each and every year, they shall be deemed delinquent and the sum or sums shall be taxed and extended against the said lots and become a lien thereon, and said sums shall be returned to the county auditor and collected in the same manner that all other village, county and state taxes are collected, provided, that notice shall be

given, once, in the official paper, of the time and place where action will be taken in regard to said sprinkling, and opportunity given to all parties interested to be heard for or against such work.

LICENSE TO SELL INTOXICATING LIQUORS.

Sec. 54. The legal voters of the City of Ortonville shall have the authority and power to vote upon and determine for themselves the question whether or not license shall be granted to any person or persons in said city to sell lager beer, spirituous, malt or fermented liquors and the city clerk is hereby required, on the petition of twenty-five (25) per cent, or more, of the legal voters of said city, based upon the vote cast at the last preceding annual municipal election, filed with him at any time not less than ten (10) days before any annual municipal election; to give notice that the question of license will be submitted at said election; and notice thereof shall be given by the city clerk at the same time and in the same manner that notices of annual municipal elections are given and he shall place or cause to be placed upon the ticket or ballot in the same manner that the names of candidates are placed thereon, the words "In favor of license," and the words, "Against license," and upon the canvass of the ballot a return shall be made showing the number of votes in favor of license and the number of votes against license, in the same manner as prescribed by law for canvassing other election returns; and if such returns show that a majority of votes cast at said election are against license, then, and in such case, the city council of said city shall grant no license to sell lager beer, spirituous, vinous, malt or fermented liquors to any person whomsoever in said City of Ortonville, except to persons legitimately and bona fidedly engaged in the business or occupation of druggists, and then only for medicinal and mechanical purposes.

And provided further, that it shall be the duty of the city council in all cases where the people of said city have heretofore or shall hereafter ^{by} vote, in manner as aforesaid, declare that no license shall be granted for the sale of spirituous, vinous, malt, fermented or other intoxicating liquors (except for medicinal or mechanical purposes), to prohibit any and all persons from bartering, selling, giving away or in any manner disposing of, or keeping for sale or other disposal, any spirituous, vinous, malt, fermented or intoxicating liquors within the limits of the City of Ortonville, anything contained in this charter to the contrary notwithstanding.

And provided further, that nothing herein shall be construed so as to require the city council to grant license to sell spirituous, vinous, malt, fermented or other intoxicating liquors, even if the people of the city shall vote to grant license but the said council shall have the right to refuse to issue a license to all or any persons whomsoever, for any cause which shall be deemed by a majority of the city council sufficient.

And provided further, that no such license shall be granted unless the application therefor is accompanied by a bond, with two or more sufficient sureties to be approved by the city council, such bond to run to the City of Ortonville, Minnesota, and to be conditioned for the faithful observance and performance of all the laws of the State of Minnesota, and of the ordinances, resolutions and regulations of the City of Ortonville, and to protect and save harmless the said city from any and all loss or damage in any way growing out of or connected with the granting of such license, and which bond shall provide for the payment of the amount thereof upon the conviction of the licensee for the violation of any of the laws of the State of Minnesota, or any of the ordinances, resolutions and regulations of the City of Ortonville, to be recovered by said city for its use in an action upon said bond against the sureties thereof, provided, that whenever the people shall have voted against the issuance of license for the sale of intoxicating liquors in said city, it shall thereafter be

unlawful for any person or corporation to sell, barter or give away the same in said city, at retail or wholesale, except it may be sold at wholesale for shipment to points outside of said city in any quantity whatever and provided that nothing herein shall be construed to prevent or forbid any manufacturer of intoxicating liquors in said city from selling his product to be consumed outside of said city.

Sec. 55. No such license shall be granted for a less term than one year, and on and after June 30th, 1909 all liquor and other licenses issued shall commence and terminate on the 30th day of June of each year, but after June 30th, 1908 to adjust the charges for those now engaged in selling liquor, licenses may be issued for less than a year for the pro rata portion of annual license.

REVOCAION OF LICENSE.

Sec. 56. Any license issued by the authority of the city council may be revoked by said council at any time for cause, and upon conviction before any court of any person holding a license, for the violation of any provision or of any ordinance relative to the exercise of any right granted by such license the council may, upon such conviction, revoke such license in addition to the penalty provided by law or ordinances of any such violation. Before any such license shall be revoked by said council, for cause as above specified, notice shall be given to the person or persons holding such license and reasonable opportunity given them to be heard before said council before such revocation.

No license shall be granted for a longer period than one year, and in all cases where said city shall, at their bi-ennial election, vote to do away with the sale of intoxicating liquors under the option laws as herein provided, then all licenses for the sale of intoxicating liquors then in existence shall expire within thirty days after such election, and in such cases the city

council shall refund to the holder of said license an amount pro rata equal to the unexpired portion of said license.

Sec. 57. All powers conferred upon Cities by Chapter 16 of the Revised Laws of the State of Minnesota for 1905 and any amendments thereof may be exercised by this city.

CITY ENGINEER.

Sec. 58. The city council shall have the power to appoint a city surveyor, or engineer, prescribe his duties and fix his compensation; said officer shall be a practical surveyor or engineer; he shall file with the city clerk all surveys, plats, plans and estimates made by him for the city, and record them ~~in~~ⁱⁿ a plat book provided by the city for that purpose; he shall receive proper compensation for such recording; and such plat books and notes shall be the property of said city and be open for the inspection of all parties interested, provided, that grade shall in all cases be established before streets are graded or sidewalks are built.

PAYMENT OF CLAIMS.

Sec. 59. All bills, claims and accounts presented to the city council for auditing, allowance, adjustment or payment, except salaries and fees of officers fixed by law shall be first verified by the claimant or someone in his behalf, as just and correct and such verification shall be subscribed by the affiant, sworn to, and filed with such claim.

Each claim allowed shall also bear the number of the order drawn for its payment, and the Clerk shall take and preserve a receipt for each order issued. Orders presented to the Treasurer and not paid for want of funds, shall be so marked, and paid in order of their presentation, and shall bear interest at the rate of six per cent from the date of such presentation.

APPEAL FROM ALLOWANCE OF CLAIMS.

Sec. 60. No order shall be issued or signed for the payment of any claim until ten days after the allowance thereof, within which time, the City Attorney may in any case and if the amount allowed exceeds \$25.00, upon the request of five tax payers of the City, he shall on behalf and in the name of said city, appeal from such allowance to the District Court in and for the County of Big Stone. To have such appeal he shall serve a written notice setting forth the fact of the appeal, the claim referred to, and the date and amount of its allowance, and thereafter no order shall be issued until the appeal is determined. The City Clerk shall forthwith file the copy of notice served, and transmit to the Clerk of said court the original affidavit and claim, with a certified copy of the minutes of all council proceedings relating thereto. Upon proof being filed with said Clerk of the service of said notice, the court shall have jurisdiction of said claim, and of the parties thereto. Such appeal shall be tried and determined in the same manner as appeals from a decision of the county board, as provided by Sections 415 to 418 inclusive of Revised Laws of 1905 and amendments thereto.

SPECIFIC POWERS.

Sec. 61. The City Council except as in this charter otherwise provided, shall have the general 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, and repeal all ordinances and resolutions for the government of the city and to promote the good order of the same, for the suppression of vice and intemperance, and shall make such ordinances for the benefit of the inhabitants thereof and for the prevention of crime as they shall deem expedient.

All such ordinances and resolutions are hereby declared to have the force of law within said city, provided they be not repugnant to the constitution of the United States, or that of this State or the general laws thereof, and for these purposes the said city council shall have specific authority by ordinances:

First: To license and regulate the exhibition of common showmen and shows of all kinds; the exhibition of circuses and concerts, theatrical performances and also to license and regulate all merry-go-rounds, auctions, auctioneers, gift, fire, and bankrupt sales, itinerant doctors, physicians and surgeons, merchants and transient venders of merchandise, billiard and pool tables, bowling alleys, skating rinks, water toboggan slides, shooting galleries, butcher shops and stalls, venders of butchers, meats, pawn brokers, bucket shops, brokers and stock brokers, saloons, clairvoyants, fortune tellers and astrologers, hawkers, peddlers, street venders and canvassers doing business in said city, and all places of public amusement where money is charged for entrance, and all dealers in second hand goods, junk dealers, all intelligence offices, and employment offices, all draymen and hackmen, and to prohibit pawnbrokers and junk or second-hand dealers purchasing or receiving from minors without the written consent of their parents or guardians; and to compel all such persons to keep such records of their transactions as it may direct.

To prohibit lotteries and gift enterprises, and to prevent all description of gambling and playing dice, hazard, roulette or other games of chance; the use of black-boards, lists, tickets, or price quotations for the purpose of betting or gambling; to prohibit all pool rooms, bucket shops and betting rooms, and the selling of pools and making of books on horse races or other contests, real or fictitious; to suppress and prohibit all mechanism and other devices used for gambling or betting; to prohibit all fraudulent devices, and to authorize the destruction of all instruments used for the purpose of betting, gambling or other unlawful purposes.

Second: To restrain and prohibit all descriptions of fraudulent device and practices, and all playing of cards, slot machines, musical or other-wise, and other games of chance for the purpose of gambling, and all letteries within the city.

Third: To prevent any fighting, brawling, assault, battery, disorderly noise, riot or disorderly assemblage in said city, and to provide for the punishment of any person or persons who shall be guilty of the same; and to suppress disorderly houses and houses of ill-fame, or assignation, tents, wagons and other places or structures used for immoral purposes, gambling houses, and to provide for the arrest and punishment of the keepers thereof and to authorize the destruction of all instruments used for the purpose of gambling. To prohibit, punish and suppress cock-fights, dog-fights, sparring matches and all brutal or depraving exhibitions, punish any who shall disturb any place where public or private schools are held, either on week or Sabbath days, or places where religious worship is held.

Fourth: To compel the owners or occupants of any cellar, sausage or soap factory, tannery, hide warehouse, stable, barn, pig sty, privy, sewer, drain, cess-pool, laundry, cold storage house or establishment, and butter packing establishment or institution or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time as often as may be necessary for the health and comfort of the inhabitants of said city or in such portions of the city as it may designate and to compel sewer connection in such portions and to make the same and assess the cost thereof on the property so connected.

Fifth: To direct the location and management of stock yards, slaughter houses, markets, manure and offal dumps, breweries and distilleries, to prevent dumping into the rivers, streams or other waters, in said city and pollution of their waters and to prohibit offenses or unwholesome business or establishments within

the limits of the City.

Sixth: To prevent and control the incumbering and obstructing of streets, sidewalks, alleys, lanes and public grounds with carriages, railroad cars or locomotive, carts, wagons, sleighs, bicycles and other vehicles, boxes, lumber, firewood, awnings, signs, *posts* or any other materials whatever and to prevent games and other amusements in such places.

Seventh: To direct and control the laying out and construction of railroad tracks, bridges, turnouts and switches in the streets and alleys, and the location of depot grounds within the city; to require that railroad tracks, bridges, turnouts and switches shall be so constructed and laid out as to interfere as little as possible with the ordinary travel and use of the streets and alleys; and that sufficient space be left on either side of said tracks for the safe and convenient passage of teams and persons; to require railroad companies to keep in repair streets through which their tracks may run, and to construct and keep in repair side-walks across the right of way in said streets for the accommodation of the public, also suitable crossings properly graded at the intersections of the streets or alleys, to the full width and length of their right of way in said streets, alleys, and highways where the railroads cross the same in said city; to require the construction of sewers, ditches, and culverts when the council shall deem necessary, and the construction and maintenance of bridges, culverts, drains and sewers across and in the streets, alleys and highways and to compel them to maintain overhead crossings and *low* bridges across their Right of Way along the full width of their right-of-way or yards in said city, when and where the same shall be deemed necessary for public safety or convenience by the council; To provide for and change the location, grade and crossing of any railroad and to require companies to ~~lower~~ *lower* and bridge over or raise their

tracks, and to pay all damages caused thereby, and to fence their respective rights of way, or any portion of the same, and construct cattle guards within the limits of the city.

To regulate or prohibit the whistling of locomotive engines; to regulate and prohibit the unnecessary discharge of steam therefrom and the causing or permitting steam to escape therefrom unnecessarily.

To require the railroad companies to raise or lower their tracks to conform to any grade which has been or hereafter may be established in said City, and to keep such tracks on a level with the street surface, and to compel the planking or paving of such tracks by such railroad companies so that they may be crossed at any place on a street, alley or public place. To regulate the movement and speed of railroad locomotives and cars, to require the maintenance of flagmen, lights or the construction and maintenance of gates at the crossings of railway tracks over such streets, alleys and avenues of the city as the city council shall deem to require such precaution; to prevent any railway company from unnecessarily obstructing the streets or crossing at any time, and in no event exceeding five (5) minutes, accident excepted, and any conductor, engineer, or any other person in charge of any railroad train, locomotive or car, who shall obstruct any street or crossing in said city contrary to the provisions of any ordinance, shall be guilty of a misdemeanor, and on conviction be punished as provided by ordinances relating thereto.

Eighth: To establish pounds and pound districts, which shall be under the supervision of a single pound master, to be appointed by the city council and whose fees shall be fixed by them. To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese and ducks or other animals or fowl and to prevent the staking out of any such animals either upon and within public streets and alleys or upon private grounds so that such animals can trample upon, over or across any sidewalk or upon any public grounds in said city, and to authorize the distraining and sale of the same when at large contrary to the

ordinances and to impose penalties upon the owner of such animals for the violation of such ordinance, provided, that when a sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and sealing such animals shall be ~~shall be~~ deposited in the office of the treasurer of said city for the use and benefit of the owners thereof, if called for by such owners within six (6) months from the date of such sale.

Ninth: To prevent the running at large of dogs and to require a license for keeping the same and to provide for and authorize the muzzling, impounding and destruction, in summary manner, of all dogs when at large, contrary to the ordinance.

Tenth: To prevent any person from bringing, depositing or leaving within the city any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises such substance or putrid or unsound beef, pork, fish, hides or skins, of any kind, and in default to authorize the removal thereof by some competent officer at the expense of such person or persons, and to provide for the punishment of such offenders.

Eleventh: To regulate or prevent processions or parades, the flying of flags, banners and signs, and distributing of hand bills and advertisements in or upon the streets, alleys and public places of said city; to regulate and prevent the throwing, depositing or sweeping papers, refuse, offal, dirt, garbage or any offensive matter in or upon any street alley, public ground or place, and to regulate, license and prohibit construction and use of bill boards and signs adjacent to or near streets, alleys and public places, or upon any vacant lot or other property; and to prohibit painting or placing placards, signs, advertisements or other articles upon sidewalks, posts or poles in or upon streets, alleys or public places.

Twelfth: To establish and regulate boards of health, private hospitals and hospital grounds, and for the registration of births and deaths and the return of bills of mortality and regulate or prevent the burial of the dead within the city limits. Boards of health shall consist of not more than three members, who shall be appointed by the city council.

Thirteenth: To prevent any person from riding or driving any horse, mule, cattle or other animal, bicycles, tri-cycles, automobiles, or similar device on any sidewalk, park, boulevard or other public grounds in said city or in any way doing damage to any trees, grounds, boulevards, public grounds or sidewalks within the streets and to prevent and provide for the punishment of horse racing, immoderate riding or driving in streets and to regulate the use and speed of automobiles, bicycles and all other vehicles and to compel persons using the same to carry a light at night in said city.

Fourteenth: To prevent the shooting of fire arms or fire crackers, and to prevent any exhibition of fire-works or the building of bon-fires in any location which may be considered by the city council dangerous to the city or any property therein, or annoying to any citizen thereof.

Fifteenth: To prevent open and notorious drunkenness, immoderate drinking, brawling and obscenity in the streets, alleys, stores, saloons, or other public places within said city, (and all places to which the public are invited for the purposes of business or pleasure, or any other purposes, are in addition to all other public places, to be considered public within the meaning of this act), and to provide for the arrest and punishment of all persons who shall be guilty of the same.

Sixteenth: To compel the owners or occupants of buildings or grounds to remove snow, dirt and rubbish from the sidewalk, street or alley opposit thereto, and to compel such owners or

occupants to remove from the lot or lots owned and occupied by them all such substances as the board of health or the city council shall direct, and in his or their default to authorize the removal and destruction thereof by some officer at the expense of the owners or occupants; also to compel the owner or owners of low grounds, including railway companies, where water is liable to collect or become stagnant to fill or drain such low places, and, in their default, to authorize such filling or draining at the expense of such owner or owners, and to provide that such expense to enforce this section shall become a lien upon the lot or property involved.

Seventeenth: To regulate and establish a City Hospital or Pest House and do all acts and make all regulations which may be necessary and expedient for the preservation of the health and the suppression of disease of and among the inhabitants of the city; and make, regulate and provide means to prevent the introduction or spread of contagious disease in the city; to make quarantine laws, and to provide for the punishment of the violation thereof.

Eighteenth: To regulate and prevent the landing of persons from railroad cars, or other conveyances infected with contagious or infectious diseases or disorders and to make such disposition of such persons as may be necessary to preserve the health of the city; and also to regulate, control and prevent the landing of paupers and persons in destitute conditions, of persons not having a legal residence or settlement therein, and to require that such persons be taken back to the place from whence they may have been brought by the person or persons bringing, conveying or having them in said city and to prevent infected cars or other conveyances from coming into the city.

Nineteenth: To regulate the time, manner and place of holding public auctions and vendues and to regulate and prohibit traffic and sales upon the streets, sidewalks and public places.

Twentieth: To provide for watchmen, and prescribe their number and duties, and regulate the same, and to create and establish the police of said city, and regulate the same, except as hereinafter otherwise provided.

Twenty-first: To regulate the inspection of wood, hay, milk, grain, flour, pork, beef, mutton, veal, and all kinds of meat, poultry, game, fish, salt, whiskey and other liquors and provisions, and to authorize the seizure and destruction of any impure or adulterated articles sold or offered for sale that are dangerous to the public health, and to provide for the punishment for the use of false weights and measures, and to regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread offered for sale contrary thereto.

Twenty-second: To purchase or acquire by gift, devise or condemnation, lands within the city limits, or to take and hold by lease such lands for the purpose of parks or public grounds, and to provide for the improvement of the same; and also to direct and regulate the planting and preservation and removal of ornamental or shade trees in the streets, alleys, parks or public grounds or highways of said city and provide for trimming trees along sidewalks thereof and to appoint a suitable person to inspect and take charge of the same and to fix his compensation and prescribe his duties; And to provide for the payment of planting and caring for the same by taxing the abutting property or from the general fund.

Twenty-third: To regulate and control the species of trees that may be grown in said city or planted in the streets, alleys, parks or public places of said city.

Twenty-fourth: To remove and abate any nuisance injurious to the public health or morals; and the city council shall have power to define what shall be considered nuisances, and to provide for the punishment of all persons who erect or maintain the same.

Twenty-fifth: To remove and abate any nuisances, obstruction or encroachment on any of the streets, alleys, or public grounds or highways leading out of the city.

Twenty-sixth: To build and maintain and regulate docks and wharves on the waters of Big Stone Lake within the City limits, and provide for the collection of such fees or charges for the use of the same by steamboats, gasoline, electric or other boats

or vessel as the city council may fix by ordinance from time to time, and the city council shall have the use and control for the above purpose of the shores or bank of the lake or river not the property of individuals.

Twenty-seventh: To restrain and punish vagrants, tramps, mendicants street beggars and prostitutes, ^{and to prohibit} within the City the circulation, sale or exhibition of libelous obscene and immoral publications, prints, pictures, advertisements, illustrations, and printed or pictured matter tending to provoke a breach of the peace or impair the morals of the community.

Twenty-eighth: To license and regulate runners, agents, solicitors for stages, cars, public houses or other places, draymen, hackmen, expressmen and other persons engaged in the carriage of passengers, baggage or freight, and to regulate their charges therefor, and to authorize the Mayor and Marshal of the city to regulate and direct the location of vehicles standing upon the streets and public grounds in the city.

Twenty-ninth: To provide for and regulate the erection of hitching posts or rings for the fastening of horses or other animals, or to prohibit the same in any portion of the city; to compel persons to fasten their horses or other animals attached to vehicles or otherwise while standing in the streets and fixing the time limit for the same to remain standing in one place.

Thirtieth: To regulate the making and maintaining of openings and excavations in the streets, alleys, public grounds and public places, for the laying of gas and water mains and pipes, construction of subways and conduits, and for other purposes; and to regulate the building and maintaining of sewers, tunnels and drains, and the construction and use of all structures and conduits of every kind, underneath the streets, alleys, sidewalks, public grounds and places of the City, and to regulate and if it is deemed necessary, to prohibit the construction and maintaining of coalholes, manholes, hatchways, and other openings in sidewalks, streets and alleys and the coverings and grates thereof.

Thirty-first: To regulate the numbering of houses and lots, and to compel owners of houses or buildings of other sorts to have such numbers designated thereon and to name, change and regulate the names of the streets, avenues and highways of said city.

Thirty-second: To require the owner or lessee of any building or structure now or hereafter erected in the city or within any limits in the city designated by the city council, to place thereon such fire escapes and such appliances for protection against or extinguishment of fires as it may direct, and to do each and every act which it may think necessary or advisable to lessen the danger to human life in the case of fire or accident, and to require the owner or occupant of any lot or parcel of land within the city to clear and keep clean the same of all dead wood, weeds or other combustible or inflammable rubbish likely to increase danger from fire, or to facilitate the spread of fire and to provide for the doing of such work upon the failure of the owners or occupants so to do, and to assess the cost thereof as a special tax upon the land so cleared, such tax to be returned and collected in the same manner as other city taxes.

Thirty-third: To regulate, control, or prohibit the placing of poles for the suspension of electric, telephone and telegraph wires, or other wires, along or across any of the streets of said city, or the suspension of such wires; and to require any already placed or suspended, either in limited districts or throughout the entire city, to be removed and placed beneath the streets or sidewalks of the city, and to compel the proper insulation of all electric wires in use within the city and to prohibit barbwire near any sidewalk.

Thirty-fourth: To regulate or prohibit the penning, herding and treatment of all animals within the city; to prohibit and punish cruelty to animals, and to require the places where animals are kept to be maintained in a healthful condition and to protect birds and harmless wild animals.

Thirty-fifth: To lay out, open, change, widen or extend streets, avenues, lanes, alleys, parks, squares, or other public grounds, and to grade, pave, improve, repair or discontinue some or any part thereof; to establish, open, maintain, repair mains, canals or sewers, curbs, and gutters, to alter, widen or straighten water courses, to make, widen, alter or otherwise improve, keep in repair, vacate, or discontinue sidewalks or crosswalks.

Thirty-sixth: To divide the city into wards and number the same, whenever the number of votes in any one ward shall exceed four hundred.

Thirty-seventh: To restrain, control and regulate the selling and disposing of spirituous, vinous, malt, fermented or any intoxicating liquors within the said city, and may enforce the same by appropriate ordinances.

Thirty-eighth: To establish and maintain a public library and reading room and purchase therefor books, periodicals and papers, and to make all needful rules and regulations for the use and safe keeping of the same.

Thirty-ninth: To prevent the sale of cigarettes to minors and limit the hours of sale of the same, in open places, and to prescribe penalties for enforcing.

Fortieth: To regulate the cutting of ice on Big Stone Lake within the City of Ortonville, and to compel any person or persons taking ice therefrom to leave no open places wherefrom ice ^{may} have been taken, but to compel all such person or persons to build fences or guards around the same, and to license and regulate ice dealers; to regulate fishing or hunting within the limits and within the waters and streams of said city; and to regulate places of bathing and swimming in the waters within the city limits.

Forty-first: To provide for lighting the City and to establish and regulate public wells, cisterns, hydrants, reservoirs and fountains.

Forty-second: To establish, regulate, and to license ferries from such city, or any landing therein, to the opposite shore, or from one part of said city to another, and in granting license to lay so such reasonable terms and restrictions in relation to the keeping of ferries, and the time, manner, and rates of the carriage and transportation of persons and property as the city council may prescribe, and the city council shall have power to provide for the revocation of any such license, and for the punishment by proper fines and penalties of the violation of any ordinance prohibiting unlicensed ferries, or regulating those established and licensed.

Forty-third: To provide for the inspection of steam-boilers, and all places used for the storage of explosive or inflammable substances or materials and to locate and regulate the same, and to prescribe the necessary means and regulations to secure the public against accidents and injuries therefrom, and to assess the costs and expense of such proceedings against the property and owners thereof.

Forty-fourth: To appropriate and expend such reasonable sums as it may deem proper to assist in the improvement and maintenance of roads beyond its boundaries and leading into it, and of bridges thereon, whether they are within or without the counties in which it is situate.

Forty-fifth: To regulate or prohibit the carrying or wearing by any person of concealed, dangerous or deadly weapons, and to provide for the confiscation thereof to the city.

Forty-sixth: To fix the amount, terms and manner of issuing licenses, not inconsistent with law, and subject to the provisions of this charter; provided, that no license shall be issued for more than one year.

Forty-seventh: To regulate and control, in a manner not contrary to any specific provision of this charter on the subject, the exercise by any person or corporation of any public franchise or privilege in any of the streets or public places of the city, whether such franchises or privileges have been granted by said City or under the laws of the State of Minnesota, or any other authority.

Forty-eighth: To regulate the operation of blasts and blastings and the construction, location and operation of derricks, windlasses, freight and passenger elevators and other structures, apparatus and operations hazardous to life and property.

Forty-ninth: To regulate and prevent the ringing of bells and chimes, the blowing of whistles, beating of drums, discharge from gasoline engines, and the making of other noises, to regulate or prohibit the whistling of traction engines and designate what streets they shall be permitted to use in said City.

Fiftieth: To provide for the regulation and inspection of dairies and milk cows furnishing milk in said City wherever said dairy or cows may be located and to forbid the sale of any milk from diseased cows or from ~~an~~ by any dairy or milk man refusing to permit such inspection and fulfil the requirements of the inspector.

Fifty-first: To regulate lodging, tenement and apartment houses, hotels and restuarants, and to prevent the overcrowding of the same, and to require the same to be put and kept in a proper sanitary condition.

Fifty-second: To regulate the height, construction and materials of all buildings, chimneys, ~~staks~~ and other structures; to prevent the emission of dense smoke, ^{the erection} or maintenance of insecure or unsafe buildings, walls, ~~stank~~, chimneys, or other structures and to provide for their summary abatement or destruction; to prescribe the material and methods of construction of foundations and foundation walls, the manner of construction and the location of drains and sewer pipes, the thickness, materials and construction of party walls, partitions and outside walls, the size and material of floor beams, girders, piers, columns, roofs, chimney flues and heating

apparatus; to regulate the construction of bath rooms, water closets, privies and vaults; to prohibit the construction of buildings and structures not conforming to such regulations, and to direct the suspension at any time of any such building as does not conform to such regulations.

Fifty-third: To prescribe the fire limits, within which buildings or structures of wood or other material not fire proof shall not be erected or placed and to provide for the removal of such buildings hereafter erected, and to direct that any building within such fire limits, when damaged by fire, decay or otherwise to the extent of Fifty per cent of its value, shall be torn down and removed, and to prescribe the manner of ascertaining such percentage, and to provide for requiring the owners of buildings or other structures, which have been destroyed or partially destroyed, or have become dangerous by fire or otherwise, to take the same or any part thereof down, and in case of refusal, or neglect of said owner to take the same down, when ordered by the City Council, then to cause the same to be done, at the expense of the owner and to assess the cost thereof upon the land upon which such building or structure stood.

Fifth-fourth: To prevent the construction, and to cause the removal of dangerous chimneys, fire places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or about any building or structure; to regulate the carrying on of manufactures liable to cause fires; to prevent the depositing of ashes or the accumulation of shavings, rubbish or other combustible materials in unsafe places, and to make provisions to guard against fires.

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

Fifty-sixth: To establish and maintain City prisons and other places of confinement, for the imprisonment, punishment and safe keeping of all persons arrested for, charged with, or convicted of, any offense; make rules and regulations for the government and management of such prison, and other places of confinement, and to prescribe the duties of the keepers and officers of the same, which keepers shall have all powers and authorities of jailors at common law, or under the laws of this state.

Fifty-seventh: To provide for the lighting of the streets, alleys, and other public places within the City.

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

Fifty-ninth: To license and regulate plumbers, and to regulate sewer, water and street connections of all kinds.

Sixtieth: To provide for licensing Electricians and for the revocation of licenses so granted and to fix the fee and the amount, terms and conditions of the bond for any such license and the length of time such license shall remain in force; to prohibit any person not a licensed electrician from hanging or placing any electric light, telephone, telegraph, messenger service or power wires in said city, either in or out of any building therein, or setting up or putting in place any apparatus for generation, conveying or using electricity for light, telephone, telegraph, messenger service or power purposes; to prescribe rules and regulations for installing or placing any such wiring or apparatus; to provide for inspecting the same, and for issuance of permits for any job or jobs of the same and to prohibit the doing of the same without first obtaining the approval of such electrical inspectors as the Council may appoint; to prescribe the terms and conditions upon which such permit may be issued, by whom the same may be revoked and what additional terms and conditions may be added to such permit by the officer issuing the same; and to prescribe penalties for the violation of any of the terms or conditions of any such license or permit.

Sixty-first: To establish and regulate scales and provide for the measuring or weighing of merchandise offered for sale and the place and manner of weighing and selling hay, grain, straw and other substances, and the measuring, weighing and selling of firewood and other fuel and to appoint a suitable person to superintend and conduct the same, and fix their compensation.

Sixty-second: To provide for the inspection and sealing of all weights, and measures, and to enforce the keeping and use, by vendors, of proper weights and measures duly accepted and sealed.

Sixty-third: To regulate and control the quality and measurement of gas, to prescribe and enforce rules and regulations for the manufacture and sale of gas and electricity, to provide for the inspection of gas, water and electric meters, and to appoint an inspector and prescribe his duties. And the City Council may

grant permission to any person, persons, or corporation to lay gas, heating or other pipes in any or all the streets, alleys, highways, and public grounds, subject to the conditions required herein for the granting of franchises, but in all cases the City Council shall regulate the laying thereof so as not to interfere with water mains, sewers or lateral branches thereof, whether heretofore constructed or to be constructed, or with the proper drainage of the city.

Sixty-fourth: To prescribe the limits within which wood, lumber, lath, shingles, hay, straw or other combustible materials, can be piled or stored, and lumber yards established or maintained, and to require any person maintaining any lumber, shingle or lath or wood yards in the city to remove the same, when they become dangerous to building structures or other property.

Sixty-fifth: To direct the location, regulate and prescribe the construction of privies, vaults and cess-pools, to require and provide for the removal and disposition of their contents, and of all swill, offal, garbage, ashes, barnyard litter, manure, yard cleanings, dead animals, foul or unhealthy stuff and obnoxious weeds throughout the city, with authority to assess, levy upon, and compel the payment of the expense of such removal upon the property, owner or occupant thereof from which such above named matter or thing shall be taken; provided that notice be first served upon the owner or occupant thereof to remove said matter or thing above named within the time to be fixed in the notice.

Sixty-sixth: To permit the construction and operation of street railways, telephone, telegraph lines and heating plants within said city, and prescribe the street, or streets, and alleys on which such street railway may be constructed and upon which the telephone and telegraph lines, or conduits, and pipes for heating, may be placed; and the city council may, and it shall be their duty to impose such restrictions and limitations upon the use and enjoyment of such privileges as the council may deem

proper. Provided, that no such permit shall be granted until franchise therefor shall have been voted by the electors of said city, as provided in this charter, but no franchise shall be granted except subject to the control and regulation of the city council.

Sixty-seventh: The City Council may also provide for the laying out and construction of a general system of sewerage within said city, and to tax the cost of building and construction of such sewer to the property owners fronting along the streets, alleys or highways within which such sewer is built and constructed as is more particularly provided in this charter.

Sixty-eighth: To regulate and prescribe the maximum weight of a load to be drawn over any bridge or street in the City, and to direct upon what streets heavily loaded vehicles or traction engines may be drawn or propelled and from what streets, bridges, alleys and public places the same may be excluded.

General Powers.

Sec. 62. The City Council may exercise all further power requisite and proper to carry into effect the express power in this charter specified, and the authority herein in general terms conferred upon the said council shall not be limited or qualified by any specified granted power herein.

Resolutions.

Sec. 63. If, in case, any of the powers granted to the city council to be exercised by ordinance named in section Sixty-one (61) of this chapter, or other provision of this act, cannot be well exercised by the passage of ordinances, then, and in that case, the said city council may exercise any of said powers by means of the passage of resolutions.

Additions and Plats.

Sec. 64. The City Council shall have the sole power to accept and approve plats of additions to the City, and to prescribe the location and width of streets and alleys required in said additions.

Whenever any person shall subdivide any piece of ground within the said city, he shall cause the same to be surveyed and platted in accordance with the provisions of chapter 64 Revised Laws of 1905 of the State of Minnesota and amendments thereto.

The width of all streets and alleys, of all additions to such city, shall be graded in the same manner, and they shall conform to the grades and width of the existing streets and alleys of such city and no plat of any addition to this city shall be approved by the city council nor accepted until the grades of all streets and alleys therein shall have been duly established under the direction of the city council and all grading, filling and excavation required to make such new streets and alleys conform to grades so established shall be duly completed and all of which shall be done by the owner of such new addition and without expense to said city.

CHAPTER V.

Water and Light Plant.

Superintendent.

Sec. 65. The City Council shall have the general management and control of the water-works and electric lighting plant in said city. At its first meeting after organizing and annually thereafter, the City Council shall appoint a proper person, not a member of the City Council as superintendent, subject to removal, who shall, before he enters upon his duties, give bond with sufficient sureties to the city in double the amount that will probably come into his hands, to be approved by said City Council, and filed with the city clerk and entered upon his records, and whose annual salary shall be fixed by the City Council, payable monthly, who shall, under the direction of the City Council have supervision of the construction, operation and repair of the water and electric light systems of the city, and of all reservoirs, pumps, pumping stations, machinery, intakes, water mains, pipes, standpipes, hydrant extensions and apparatus used in the operation of the water system of the city, and shall have supervision of the erection, operation, maintenance and repair of the electric light works and the apparatus for lighting streets, alleys, public and private grounds and buildings of said city; the laying of pipemains and wires into, through, under and across the streets, alleys and public grounds of said city, and the erection of poles, masts and towers, and the running of wires thereon, over, under and across the streets, alleys, and public and private grounds of said city; provided, that the City Council shall have full authority to contract for and incur all expense for fuel to operate the said water and electric light plants and also to provide and contract for such skilled and ordinary labor as deemed necessary to operate the said plant and system, and also to contract for and incur any expense for improvements and repairs on the same that may be necessary.

~~Sec. 66. The superintendent or such other person as the council~~

Sec. 66. The superintendent or such other person as the council may select shall keep all records and accounts pertaining to matters within his department; he shall receive and receipt for all water and electric light rents and other monies accruing to the city for the use of water and electric lighting and deposit the same as collected with the city treasurer; and report the same to the city council monthly; said superintendent shall keep separate accounts of all rents or rates collected, and of all rents or rates due and uncollected and of all monies received; he shall also keep separate accounts of all disbursements for running expenses and ordinary repairs in his department for additions, extensions or new constructions.

Payment of Rents.

Sec. 67. The superintendent shall require payment in advance of the rents or rates for the use of the water or light furnished in or upon any buildings, lawn, place or premises, except where such water or light is furnished through a meter, and ⁱⁿ such case shall require payments not later than ten days after such meter is inspected and a statement of account rendered. In all cases where prompt payment for said rents or rates shall not be made, said superintendent shall shut off the water or light from such place, building or premises, and shall not again supply the said building, place or premises with water, nor the delinquent party with light until the unpaid rents or rates for water or light used have been paid.

Council to Fix Rates.

Sec. 68. The city council shall by ordinance establish such rules and regulations as it may deem necessary for supplying of water and light for the use of the inhabitants of said city, both public and private parties, and shall from time to time fix the rents or rates for the use of water and electric lighting and the periods for which advance payments shall be required and the period when the meters shall

be inspected and accounts rendered for water and lighting. The said rates shall be so fixed that the water and electric light fund of the city in each year shall be at least sufficient to defray the cost of the operation and maintenance of the water and electric light system of the city and to pay the interest on all bonds of the city issued on account of such systems.

The city council may make all necessary rules and regulations concerning the tapping of any mains, branches or pipes or making connections therewith by private parties, licensed plumbers or other persons, or concerning the connecting, laying, installing of electric light wires and establishing both water and light meters; they may require all consumers to use proper meters, and no person shall connect with said light plant or water system or use any light or water therefrom without having permission from the City Council to do so. And said City Council may require that all connections with said lighting plant and water system shall be made only under the direction of its own engineer or servants, and regulate the placing of all meters.

Owner and Lessee both Liable.

Sec. 69. The owner of private property which has upon it pipes connected with the city water works, to convey water thereto, shall, as well as the lessee or occupant of such premises, if any, be liable to the city for all rents or rates for all water from said water system, used upon said premises, and such rents or rates may be recovered in an action against such owner; lessee and occupant, or against one or more of them.

Property Liable for Rents.

Sec. 70. Such water and light rents or rates shall constitute and be a lien upon all premises where the same may be furnished either to owner, lessee, or occupant and all such amounts remaining unpaid on the first day of October each year shall be levied and assessed by

the City Council upon and against each tract or parcel of property where such water or light may have been furnished, and collected as provided for in chapter on local improvements in this charter, or such lien may foreclosed by action in District Courtⁱⁿ and for Big Stone County.

Mechanics Lien.

Sec. 71. When the City of Ortonville shall furnish any labor or material to connect any property with the light or water system of said city, or have done any wiring or supplied any electric light fixtures or furnishings or work in connection therewith, whether under contract with the owner of such real estate or at the instance of any agent, trustee, contractor, or sub-contractor of such owner, or one holding possession of such premises under contract for purchase thereof, it shall have a lien upon the lot or tract of land where labor or materials are furnished for the price or value of such contribution. Any such amounts unpaid on the first day of October each year may be levied and assessed by the city council upon the property benefited and collected as provided by this chapter, or such lien may be foreclosed as provided by chapter 69 Revised Laws of 1905 as to Mechanics Liens, except that said city need file no lien statement as set forth in section 3511 of said chapter 69 but may proceed to foreclose at any time within one year of furnishing the last item of such account.

City to pay for Water and Lights.

Sec. 72. The superintendent shall as nearly as possible ascertain and keep account of the water and electricity used by the city and for each public purpose of the city, and payment for such water and electricity shall be made into the water and electric light fund out of the proper fund of the city, in four equal quarterly payments, viz., on the first day of January, the first day of April, the first day of July and the first day of October in each year.

In case the amount of water and electricity used by the city or for any public purpose of the city cannot be exactly ascertained, the city council shall determine and fix the charge to be made for the water and electricity furnished, and shall as nearly as possible determine and fix the charge for such water and electricity at the same rental or rates at which water and electricity are furnished to private consumers.

Penalties.

Sec. 73. The city council shall, by ordinance, provide punishment and penalties for all injuries to and interferences with said water and electric light system or anything connected therewith. Any person who shall without authority willfully break, remove or in any way injure or damage any main, branch water pipe, aqueduct, dam, bulk head, intake pipe gate, gate-house, conduit or vent-box or box corner, main pipe or cover of hydrant or any part of machinery or property of the water and electric light system of the City of Ortonville or open any water-gate or perforate or bore or cause to be bored or perforated any water main or pipe or shall without proper permit make connection with any main or pipe; and any person who shall without authority willfully destroy, injure, cut, disconnect, break, ground or in any way interfere with any wires or poles, lamp, switch, instrument, meter or any electrical apparatus, plant machinery, ~~NEAR~~ line or system or make any connection therewith for the purpose of taking, using or wasting electricity or the electric current or prevent any electric or water meter from duly registering the quantity of electricity or water supplied or in any wise willfully use or cause to be used without the consent of the proper authority any electricity manufactured or distributed by the electric plant of said city, or who, being authorized to take water from any main or service pipe into any specified building, or upon any specified premises, or to be used for any specified purpose shall, without authority, use such water for any other than such speci-

fied purpose, or permit any other person to use the same for any other than such specified purpose, or to take the same out of such building; and such other persons so using or taking such water; and one who without lawful authority shall dig or excavate within six (6) feet of any main, water or gas pipe, gate, hydrant or blow-off, of said works, shall be guilty of a misdemeanor and punished as prescribed in the ordinances of the city or in case the offense is not punishable under the ordinances of the city, then as misdemeanors are punished by the criminal laws of the state.

Sec. 74. The superintendent and each of his assistants and employees who shall knowingly omit any person or property from his or its proper assessment for water or electric lights rents or rates, or neglect or refuse to collect the same, or who shall discriminate in favor of or against any person or property in regard thereto shall be guilty of a misdemeanor and be punished therefor as provided in section seventy-three (73) of this charter.

No Lease or Sale.

Sec. 75. No lease or other disposal of the Water and Light Plant shall be made except by a two-thirds ($2/3$) vote of the qualified electors of said city.

Tax Levy.

Sec. 76. The City Council shall, at the time of making the annual tax levy in every year, levy, upon all the taxable property of said City, situate in such district as shall be within the limits where protection from fires can be furnished by the water works system of said city, a tax, in such amount as, in the judgment of said Council, will be sufficient for the purposes aforesaid; not exceeding one half ^{of one} per cent; such levy shall be in addition to the amount levied to defray the general expenses of said City. All moneys received from any such levy shall be paid into, and belong to, said water and light fund and shall not be used or appropriated for any other purpose whatever.

~~Extensions.~~

Extensions.

Sec. 77. The City Council, may from time to time, for the purpose of furnishing a full supply of water to the inhabitants of the City of Ortonville, extend said water works or make new lines of works, and as it shall from time to time extend its said works or make new lines of works, it may draw water from any lake, spring or creek by means of pipes, drains, conduits, aqueducts or other means of conducting water so as to connect such lakes, springs or creeks with its water works, and may erect and construct dams, bulkheads, gates and other needed structures and means for controlling of water and its protection; and may also for the purpose of furnishing electricity for lighting the streets of the city, and for commercial lighting and power, extend its electric lines, poles and wires and erect such poles, lines and wires and purchase such new or additional machinery as it may deem necessary for the purpose of furnishing electricity for uses in said city, both for lighting and power purposes; and may also, for the purpose of furnishing gas, for lighting or heat, for streets or commercial use, build and construct a gas plant, lay and extend pipes and mains for conducting gas, and purchase such machinery, pipes and other material as may be necessary for such construction, extension and operation; and may also, for heating purposes, in connection with the water works and electric plant, construct pipe lines for conducting hot water to the various parts of the city, and to that end purchase pipe, machinery and appliances necessary for such construction, extension and operation, and in general do any other act necessary or convenient for accomplishing the purpose contemplated by this chapter.

Cost of Water Mains.

Sec. 78. Whenever water mains shall be laid, relaid or extended through any street or alley of said city, or any portion thereof, the City Council shall have the power, and shall be its duty to levy and collect by special assessment such portion of the cost or expense there-

of as shall not exceed the estimated cost of laying a six-inch main, including pipe hydrants, valves and all necessary specials, by special assessment upon the property on both sides of such street or alley fronting upon such improvement of an equal sum per front foot without regard to cash valuation. The cost not provided for by such assessment, including the increased cost of larger mains, and the cost of laying mains upon street crossings, as well as the proportion which would otherwise be assessed against any property which is by law exempt from such assessment, shall be paid out of the water and light fund.

Sec. 79. The City Council may, in its discretion, in cases where any lots, fronting on two streets, have been previously assessed, and the assessment paid, for laying any watermain or sewer pipe upon a different street from the one through which such proposed improvement is to be extended, remit from the assessment of such corner lot, such portion of such second assessment, as it may be deemed just under all the circumstances of the case, but the discretion of the city council in such matter shall be final, and the refusal or failure of said council to make remission shall not be ground for setting aside such assessment in any court or proceeding.

CHAPTER VII.

Taxation and Bonds.

Fiscal Year.

Sec. 82. The fiscal year of the City of Ortonville shall be the same as the calendar year.

Tax Levy.

Sec. 83. The city council shall have power to levy an annual tax upon all property in said city, taxable under the laws of this state; but no such tax shall exceed one (1) per cent of the assessed valuation of said property. All taxes so levied and collected shall be paid into the city treasury and become part of the general fund, and may be used for any lawful city purpose in the discretion of the city council, and such money may be transferred from the general fund to any other fund created by the city council or by this charter.

Poll Tax.

Sec. 84. The city council shall have power to assess and levy a poll tax upon all the male inhabitants in said city between the ages of twenty-one and fifty years, except such as are exempt by law, of not to exceed two days work upon the streets, highways, alleys or public grounds of said city; such poll tax shall be assessed and levied by said city council on or before its first meeting in March of each year, and the city clerk of said city shall as soon thereafter as practicable issue a warrant to the street commissioner of said city containing the names of all persons in said city liable to poll tax and the number of days each is assessed; all persons liable to poll tax may commute and pay the same to the street commissioner at the rate of \$1.00 per day. All moneys received by the street commissioner for poll tax and fines shall be paid to the city clerk with a monthly report of the same, and the city clerk shall deposit the same in the city treasury, and such moneys shall be expended upon the streets, highways, alleys, sidewalks, or public places, at such times as the city

council may direct and they shall have full power to direct the street commissioner when, where and how to expend such poll tax and labor. All the general laws of the state relating to the levy, assessment, collecting, working and suing for poll tax in townships in this state now in existence or hereafter enacted, and all penalties therein provided shall apply to all poll tax levied and assessed in this city except as herein expressly provided.

How Levied.

Sec. 85. Taxes may be levied by resolution of the City Council, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount shall exceed the amount required to be raised for the special purpose for which same is levied; but in such case the surplus shall, if the tax be general tax, go into the general fund of the city. If it be a bond or interest tax, it shall be kept and used for the future payment of principal and interest of the same class of bonds or the purchase thereof before due. If it be for improvements, it shall be kept and used for future improvements of the same character.

Statement to County Auditors.

Sec. 86. The city council shall cause to be transmitted to the county auditors of the counties in which such city is situated on or before October ~~tenth~~ of each year a statement of all taxes levied by them, and such taxes shall be entered and collected and payment thereof enforced with the state and county taxes, and in the same manner in which they are collected and enforced; and the county treasurer of each of said counties shall pay over to the treasurer of the city all taxes collected by him for such city as provided by general laws of the state.

Money- How Paid.

Sec. 87. No money shall be paid out of the City Treasury, except Library Fund, unless such payment be authorized by vote of a majority of all the members of the City Council, and then shall be drawn out

only upon the order of the Mayor, countersigned by the clerk, which order shall specify the purpose for which it is drawn and the fund out of which it is payable, and the name of the person in whose favor the same is drawn, and may be made payable to the order of such person, or bearer, as the City Council may determine.

Bonds.

Sec. 88. The city council of said city shall have power and authority to issue bonds of said city sufficient to pay, fund and refund the floating indebtedness of said city existing at the time of the adoption of this charter, the proceeds of which bonds shall be used solely for the purpose of paying such indebtedness and thereafter said city council shall not be authorized to issue any bonds except hereinafter provided. The city council of said city shall have the power to issue bonds in the place of and to supply the means for paying matured and maturing bonds of said city and to consolidate and fund the same.

No other bonds of said city shall be issued by said city or by the city council thereof unless first authorized by sixty per cent of the legal voters present and voting at any general or special city election of which election due public notice as to time, place and object of the election has been given.

All bonds of said city hereafter issued shall run not more than twenty years and shall bear interest at the rate not to exceed six per cent per annum, principal and interest payable at such time and places as may be fixed by resolution of the city council; and such bonds shall be signed by the Mayor and attested by the clerk; ~~and~~ such bonds shall not be sold for less than par value and the proceeds from the sale thereof shall not be expended for any other purpose than that for which they were issued.

The total indebtedness of the city shall not at any time exceed five per cent, of the total value of the taxable property of said city according to the last preceding assessment for the purpose of taxation, except as hereinafter provided.

Water and Light Bonds.

Sec. 89. Provided that all bonds issued prior to the adoption of this charter for the purposes of constructing, regulating, maintaining or extending or improving suitable water and electric light plants or either of such plants in said city, or for the purpose of acquiring or paying for any real estate or other property needed in connection with such water or light plants or either of them for the protection of the purity of the water supply or otherwise, shall not be deemed to be a part of the five per cent total indebtedness of this city as hereinbefore provided; and thereafter said city may issue such additional bonds as may be necessary to extend and enlarge or improve such water and light plant or either of such plants and such additional bonds so issued for such purposes shall also not be deemed to be a part of the total indebtedness of said city, which said city is hereinbefore forbidden to make to exceed five per cent of the total value of the assessed valuation of the property in said city; such bonds shall be authorized, issued, negotiated and sold in the same manner as other city bonds and shall be a first lien upon all water and light plants and structures of either kind if issued for both; if issued for only one then upon the appliances and structures thereof and all the property acquired in connection therewith erected or purchased by said city and the proceeds of said bonds shall not be expended for any other purpose than that for which they were issued.

Time Warrants.

Sec. 90. The City Council may issue time warrants, when the fund on which the warrant is drawn is exhausted; provided, that at no time shall the aggregate warrants outstanding against all funds exceed the sum of five thousand dollars, and that said warrants shall bear interest at the legal rate.

Incurring Debt.

Sec. 91. No debt shall be incurred or created by the city, the city council, or any officer of the city, except pursuant to the authority herein expressly given for that purpose, and no orders shall be issued upon the city treasurer exceeding the amount of tax collected, or assessed, or in process of collection.

Funds.

Sec. 92. The moneys and securities in the city treasury shall be divided into the following funds to-wit:

The General Fund, into which shall be paid, and in which shall be kept, in addition to such moneys as may be raised therefor by taxation all receipts by the ^{city} from license, fees, fines and costs, sales of city property, all moneys received from any source except such as may be expressly destined for special funds, and from which shall be paid all the ordinary and current expenses, debts and liabilities of the city, including salaries of officers, street force, fire and health departments, street lighting, printing, stationery and other purposes not otherwise expressly provided for.

Electric Light and Water-works Fund.

The Electric Light and Water-works Fund is created for the purpose of purchasing, constructing, maintaining, extending, enlarging, improving and operating a city light, power and waterworks plant, or plants. The Electric Light and Waterworks Fund shall not be supported by taxation, except as in this charter provided, but there shall be paid into such fund all income from the operation and maintaining of such plant or plants, all income from the sale of supplies, labor and materials in connection therewith, all income that shall be set apart from the General Fund on account of lighting, water and power for public purposes, the principal and premium derived from the monies paid into such fund to meet outstanding bonds or indebtedness against the same.

Library Fund.

The Library Fund, into which shall be paid, and in which shall be kept, all moneys raised, by taxation or otherwise, for the support or benefit of the free public library of the city, and which shall be subject to the order of the proper officers of said library for the payment of the expenses thereof.

And such other special funds as may hereafter be established by any statute of the state, or by order of the council.

Sec. 93. The said different funds, mentioned in the last preceding section, shall be kept separate and distinct, and the city treasurer shall keep separate and distinct account of receipts therein and disbursements therefrom. Each of said funds shall be devoted only to the particular purpose or purposes for which it is created, and the city treasurer is expressly prohibited from making any disbursements from either of said funds, and from permitting the same to be to any extent depleted, for any other purpose than such particular purpose or purposes, any attempted appropriation of the city council or any order to the contrary notwithstanding. The city treasurer shall pay no order, or part of any order, drawn on either of said funds, unless the fund so drawn upon contains money or securities sufficient to cover the amount of such order or such part thereof, and he shall pay no orders unless the order recites upon its face the fund or funds to which it is chargeable, and in case he shall make payment on any order drawn on either of said funds in excess of the balance existing to the credit of such fund at the time of such payment, he shall be personally responsible therefor, and the city shall not be liable or accountable to him for the excess so paid; it shall be the duty of the city treasurer, as soon as any one of said funds is exhausted, to immediately notify the city clerk and the city council of such fact.

The city treasurer shall not make or permit any transfer of money from either of said funds to another, except in cases mentioned and provided for in this charter.

No Limitation When.

Sec. 94. No limitation or restriction herein contained shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be recovered against the city. In case of failure to collect taxes, or other cause, and when such levy shall prove insufficient to pay such judgment, new taxes shall be levied until the whole of such judgment shall be paid. Any excess of the amount so levied and collected over the payment of such judgment shall go into the General Fund of said city.

Sinking Fund.

Sec. 95. It shall be the duty of the city council, within sixty days after the first election held under this charter, to ascertain and determine the total amount of all the outstanding indebtedness owing by the City of Ortonville when this charter goes into effect and to establish a Sinking Fund for the purpose of providing for the payment of the same, at such time and in such manner as it may seem for the best interest of said city. It may levy a special tax for that purpose, if deemed advisable, not to exceed five mills on the dollar of the assessed valuation of said city in any year, the proceeds to go into said fund.

Said City may refund any floating indebtedness by the issue and sale of Sinking Fund Warrants, payable in such annual amounts, within a period of not less than six years, nor more than ten years, as it may deem advisable; and such warrants when issued shall not be affected by any limit of indebtedness prescribed herein, and shall bear interest at the legal rates.

Any surplus money remaining in said fund, for which there is no present need, may at the discretion of the City Council, be loaned to any other fund, ~~and~~ by the purchase of the warrants of such other fund, when within the legal limit, for the benefit of the Sinking Fund; but such warrants shall be repaid to, and accounted for, to such Sinking Fund, the same as other money due such fund.

CHAPTER VIII.

Franchises.

Ordinances Granting Franchises.

Sec. 96. Every ordinance by which the council shall propose to grant any franchise shall contain all the terms and conditions of the franchise to be granted, and it shall be a feature of every franchise so granted that the maximum price for the service or charge shall be stated in the grant thereof, and before any such ordinance shall be in force it shall be submitted to the qualified voters of the city at some general or special election in the manner that other ordinances are submitted under the provisions of section 9, chapter two of this charter.

Limits.

Sec. 97. No exclusive franchise shall ever be granted; and no franchise shall be granted for a term to exceed thirty (30) years, nor shall any franchise be granted for the laying of water mains.

Application and Vote.

Sec. 98. The person, firm or corporation desiring any franchise, right or privilege shall make written application therefor and file such application together with the form of franchise, right or privilege desired with the city clerk, and at the same time deposit with the clerk the sum of Fifty dollars to cover the cost of the election thereon and the publication of such application and form if the council direct the publication thereof. Upon the filing of such application and the deposit of such fifty dollars the City Council shall submit the question of granting such franchise to the vote of the legal voters of said city at any general or special election.

Control and Percentage.

Sec. 99. Every franchise shall contain a provision reserving to the City Council the right to regulate and control the business for which said franchise shall be granted and to limit the rates to be

charged for any service to be rendered, and the City Council shall have the right in its discretion to provide for the payment to the City of a percentage of gross earnings. The City Council shall have and possess full power and authority to make and enact all needful ordinances, rules and regulations that may be requisite and necessary to give full force and effect to the provisions hereof.

Regulations of Franchises.

Sec. 100. The City of Ortonville shall have the right and power to regulate, and control, from time to time, the exercise by any person or corporation, of any franchise, whether such franchise has been granted by the City of Ortonville or by and under the state of Minnesota, and the exercise of such power of regulating and controlling shall be vested in the city council. Said city council may, from time to time, enact resolutions and ordinances in relation thereto, except as is otherwise in this charter provided. Such right of regulation and control shall never be surrendered or curtailed.

Requisition.

Sec. 101. Every franchise granted shall contain a provision granting the City the right to acquire the same and the business for which it is granted at the end of every term of ~~XXXX~~ ten (10) years, if a majority of the voters of the City vote in favor of such acquisition.

Whenever the voters of the City are desirous of acquiring any franchise and the business operated thereunder, such acquisition ^{shall} be by purchase, at any appraised value, the method of appraising to be determined by the City Council by ordinance.

Right to Regulate Use by Competing Lines.

Sec. 102. The City Council shall have the right and power at all times to regulate and provide for the use by any competing line or lines of any telephone exchange and switch board operated in said city and to require the company operating the same to allow connection

therewith, on such reasonable terms as said city council may in absence of agreement of the parties prescribe, by any long distance or telephone system that may reach the city limits of said city or be constructed therein or by any competing line or lines, and make all needful and reasonable rules and regulations therefor.

Private Sewers.

Sec. 103. The City Council may permit any person or number of persons associated together for such purpose to construct or lay private sewers in any of the streets or alleys of the city, provided, the same makes proper connections with any of the public sewers of the City and conforms in all respect with such rules, regulations and requirements as may be prescribed by said City Council by ordinance; and such sewers shall be constructed under the direction and supervision of the City Council or such officers as it may designate for such purpose; provided, that the city shall have the right of way to connect any public sewer with such private sewer without the payment of any fee for such connection and the City Council shall have the right to prescribe by ordinance the manner and terms upon which any person not joining in its construction may have the right to make subsequent connections with any such sewer; and provided further, that the City may acquire and take possession of the same at any time when the public welfare demands it.

REPORTS.

Sec. 104. Every corporation or person exercising any franchise in the City of Ortonville shall file annually, on the first Monday in February, in the office of the clerk, a statement, subscribed and sworn to by some officer of such corporation or person who knows the facts, setting forth in detail for the preceding calendar year the then actual cost of the plant or business operated by such party; the actual incumbrance, debts and obligations thereon, if any; the amount of stock issued, and to whom; the gross earnings; the expenses and the net income; and the amount of stock of any such corporation. Said statement shall be open to public inspection, and if the owner of any such fran-

chise refuses or neglects to file such report as herein provided, the council may proceed by ordinance to cancel and revoke such franchise.

Charter to be Part of Franchise.

Sec. 105. The acceptance of a charter or privilege from said city by any person, company or corporation, shall be an acceptance of all the provisions of this charter, whether the same are specifically referred to or not, and all the provisions herein shall constitute and be a part of such franchise or privilege without any express reference being made thereto.

Limitations and Restrictions.

Sec. 106. In granting any franchise or privilege, the council shall impose such limitations and restrictions not herein specifically mentioned as the nature of the business and the best interest of the public may require

Term "FRANCHISE" Defined.

Sec. 107. The term "franchise" or "privilege" whenever the same is used or employed in this charter shall mean special privileges conferred by the city upon any individual, company or corporation which do not belong to citizens of the country of common right.

CHAPTER LX.

C O N T R A C T S .

Official Paper, Bids For.

Sec. 108. The city council shall at their first meeting after each bi-ennial election, or as soon thereafter as may be, advertise for proposals to do the city printing giving notice of not less than one week, in such manner as the council may direct, that sealed bids will be received by the city clerk to do such printing. The bid or bids shall be publicly opened and read by the city clerk at such time and place as the council shall appoint, and the person or persons offering to do such printing at the lowest sum of money or price, in any legal newspaper, printed and published in said city, and who shall give satisfactory security for the performance of the work, shall be declared the city

printer and such newspaper, the official newspaper of said city for the ensuing two years, provided that the city council shall have the right to reject any and all bids, PROVIDED FURTHER, that the council shall have power, if no contract can be secured for prices reasonable in the judgment of the council, to publish any or all of the matters required by this charter to be published, by posting the same in three (3) public places in said city, or having the same printed and published in pamphlet form for general circulation in said city at such intervals of time and in such manner as it shall direct, except that all matters required to be published in local assessments shall in all cases be published in some legal newspaper as herein described.

No Pay Till Affidavit of Publication
Is Filed- Evidence.

Sec. 109. The publisher or publishers of said official paper, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the Clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman or clerk, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution. No compensation for any such publication shall be made or allowed by the City Council until such proof of publication has been made and filed.

General Contracts.

Sec. 110/ All contracts for commodities or service to be furnished or performed for the city or any department thereof shall be made as in this charter 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 city council shall be by resolution or ordinance.

Estimates, Amount of Contract.

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

Proposals.

Sec. 112. The City Council shall, as soon as organized in January after each bi-ennial election, and at its first meeting in January in ^{numbered} odd years, advertise for proposals, as follows:

First, To furnish the city with fuel of all kinds for the ensuing year.

Second, To supply lumber, tiling, cement, lime etc. in such quantities or amounts as the City is likely to use for the same period, based upon such estimate.

Third, For all oils, electrical supplies, fixtures, extras, raw materials of all kinds, hardware, and merchandise generally based upon ~~based upon~~ such estimates.

Such advertisements shall be published in the columns of the official paper two weeks and in such other papers and at such other times and in such other manner as the council may direct.

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

the council chamber, upon a certain day and hour.

Received and Opening Bids.

Sec. 113. At the time and place mentioned in the advertisement for bids the council shall meet in public session, publicly receive, open and read all bids that may be presented. Before any of said bids are opened they shall be numbered consecutively, and no further bids shall be received after any bid has been opened. The council shall give all persons who desire the same ^{an} opportunity to inspect all bids when they are opened.

Action by Council.

Sec. 114. The council shall act upon such bids, and determine which one shall be accepted. All contracts shall be awarded to the lowest reliable and responsible bidder complying with the foregoing requirements; provided, that the council may reject any bids which it may deem unreasonable or unreliable, and the council in determining the reliability of the bidder and his ability to perform his contract, without any reference to the responsibilities of the sureties of his bond, and any person who shall have defaulted in any contract awarded by the city (except as to time), or who shall have refused to enter into a contract after the same shall have been awarded to him, shall not be considered a reliable and responsible bidder. In case the lowest responsible bid shall be more than the estimated cost of such commodities or service, the council may reject all bids and abandon the proposed contract, or it may require the clerk to re-advertise for new bids in the manner hereinbefore provided.

All contracts shall be executed by the bidder within five days after the contract is ready for his signature, and if not executed by him in said time he shall be deemed to have abandoned the same. No contract shall continue more than one year, unless otherwise provided in this charter.

Debts, Orders, Execution and Record of

C O N T R A C T S .

Sec. 115 No debt or liability shall be incurred or created by the city, the City Council or any officer of the city, except pursuant to authority expressly given for that purpose; and no order or orders shall be issued upon the City Treasurer exceeding in amount the tax collected or assessed, or in process of collection, except as otherwise provided. All contracts to which the city is a party shall be signed on behalf of the city by the Mayor and countersigned by the City Clerk, and no contract shall be valid unless signed by both of said officers. All contracts with the city shall be recorded by the City Clerk in a proper book for that purpose and he shall keep an index thereto. Said record or a certified copy thereof shall have the same force and effect as evidence as is given to the original contract.

Bond, when Required, Conditions.

Sec. 116. Whenever the City Council shall make any contract involving an estimated expenditure by the city of more than three hundred dollars (\$300.00), said Council shall require from the contractor or contractors a bond to the City of Ortonville in such sum and such sureties as said Council or any officer or officers designated by it, may approve, conditioned for the faithful performance of said contract, and all and singular its terms and conditions; and in case such contract is for the doing of any work or the making of any improvement, said ~~said~~ contract shall also be conditioned to hold said city harmless from all expenses, claims, demands and liabilities caused by any acts or negligence of said contractors and their employees or any of them, and shall also be conditioned to pay all just claims for labor or work performed or materials furnished for such contractors and in and about such contract. Such bond shall inure to the benefit of any and all persons holding such claims, and they may maintain several actions thereon for the collection of their respective claims. In case any such bond shall be

insufficient to pay all claims secured by it, the claim of said city or for which said city is liable shall be first paid.

Deposit Forfeited, When, Rejection of Bids.

Sec. 117. Whenever the City Council shall receive bids for the letting of any contract and shall require such bids to be accompanied by a bond, certified check or other deposit, and said contract shall be awarded to any of said bidders, if such bidder shall not execute the proper contract and bonds within such reasonable time thereafter as said council may allow, such deposit or the amount of such bond shall be forfeited to the City of Ortonville as liquidated damages, and said city may have any appropriate action for the recovery thereof. Said city shall in all cases have the right to reject any and all bids and shall ^{so} state in their proposals therefor.

Emergencies.

Sec. 118. In case of emergency, and when the delays provided for in this chapter will cause great damage to the public interest, or endanger public safety, the head of any department, with the written approval of the Mayor, may make necessary repairs by day labor and procure materials therefor in the open market.

Contracts not to be Assigned.

Sec. 119. No contract for which a bond or deposit is required as provided in this charter shall be assigned or transferred in any manner, and any assignment or transfer thereof, except by operation of law, and except by consent of council expressed by resolution, shall fully and determine such contract, and shall make the same null and void as to any other or further performance thereof by the contractor or his assigns without any act on the part of the city; and the city, through its proper authorities, may at once proceed to re-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.

Affidavits That Claims are Paid.

Sec. 120/ Before any contractor or his personal representatives shall receive any payment on any estimates on any contract for which bond or deposit is required, as provided in this chapter, said contractor or his representatives shall make and file with the clerk an affidavit that all claims for all work and labor to date, on the work for which an estimate is asked, have been fully paid.

Penalty.

Sec. 121. 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 or for it at suit of any taxpayer without restitution of the property or the benefits received or obtained by the city thereunder.

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

Sec. 122. No Alderman, or other officer or employe nor any corporation in which any of them are officers or shareholders shall be a party to, or interest~~ed~~ in, directly or indirectly, in any job or contract with the city, and any contract in which any alderman or other officer or employe shall be so interested shall be null and void, and in case any money shall have been paid on any such contract the amount so paid may be recovered by a joint or several action from the parties to such contract and the alderman or employe interested in the same.

Sec. 123. An officer or member of the council of any municipal corporation who is interested, directly or indirectly, in the profits of any contract, job, work, or service for the corporation, or acts as commissioner, architect, superintendent, or engineer in any work

undertaken or prosecuted by the corporation, during the term of which he was elected, for one year thereafter shall be fined not more than Five hundred or less than One hundred dollars, or imprisoned not more than three months nor less than thirty days, or both, and shall forfeit his office.

CHAPTER X.

Sewers.

Sec. 124. Chapter 312 of the General Laws of the State of Minnesota for the year 1903 and amendments thereof shall constitute and be a part of this charter and govern all proceedings in relation to Sewers in this City.

CHAPTER XI.

Streets and Highways.

Controlled by City.

Sec. 125. The City shall have the custody of and control over the streets, alleys and public places within its limits. The City Council may lay out, open, extend and widen or straighten any streets, alleys, or public places within the City. The City Council may also, for the purpose of drainage, construction of bridges or for making other necessary public improvements, or for the improvement of the health or sanitary conditions of the City, enter upon, lower, raise, change, the course of, or divert any stream of water, ditch or drain within the limits of the City, and may cause to be built, maintained or repaired, bridges across streams or railway tracks, and may provide for the construction of curbs and gutters, and for the pavement of streets, alleys or public places of the City.

Grades.

Sec. 126. The City Council may, by ordinance, establish the grade of any street, when such grade has not been established, and may by ordinance, passed by the affirmative vote of Five-sevenths of the members of the City Council, change the grade of any street after such grade has been established. It shall cause accurate profiles of the grades of all streets to be made and kept in the office of the City Clerk. The expense of establishing all grades shall in the first instance, be borne by the City, but after such grade has been established, and a profile thereof filed as aforesaid, the expense of finding such grade for private purpose shall be paid by the owners of the property.

Power to Open New Streets and Assess Damages.

Sec. 127. Whenever the City Council shall determine by a vote of five-sevenths of all its members to lay out or open any new streets, highways or alleys in said city, or to widen, straighten, alter or extend any that now exist (or may hereafter exist), it may for such purposes purchase or condemn any real estate

or interest therein, which is private property, and provide for the payment of the value of such property as may be taken for such improvements, and all damages done to any private property by reason of such improvements, and the expense of making such improvements, by assessing, levying and collecting the whole expense of such improvements, or any such part thereof as may be considered equitable, upon the property to be benefited by such improvements, without regard to cash valuation; but no assessment for such improvement shall exceed the actual benefit to the property upon which the same shall be assessed, and in case the whole expense of such improvement shall exceed the benefit accruing therefrom to any specific property, the excess of such expense shall be made a general city charge, to be paid as current expenses of the city. Nothing in this section contained shall be construed as permitting the condemnation of any cemetery ground or burial place used and occupied for such purposes, without the consent of the owners of such ground.

Cleaning Streets.

Sec. 128. The City Council shall have power to designate districts or portions of streets, highways and alleys of said city for the purpose of cleaning the same, and may provide for the cleaning of such districts by contract, or otherwise, on such terms as may be deemed advisable.

Work To Be Done By Contract.

Sec. 129. All work done, or constructions, or improvements made pursuant to the provisions or requirements of this chapter may, and when it cause an expenditure of One Hundred Dollars (\$100.00) or more, shall be done by contract let to the lowest responsible bidder, and in the latter case public notice shall be give and proposals invited for the same in such manner as the city council shall direct.

Liability for Obstruction of Streets.

Sec. 130. All persons, who shall, by means of any excavations in, or obstructions upon, any street of said city, not authorized by law or the ordinances of the City, render such streets unsafe for travel, or who shall, by negligence in the management of such excavation or obstruction as shall be authorized, or by the failure to maintain proper guards or lights thereat, render such streets insufficient, or unsafe for travel, shall be liable for all damages, not caused by negligence of the party injured, to whomsoever resulting, by reason of such obstruction or negligence; and no action shall be maintained against said City for such damages, unless such person or persons shall be joined as party defendants; and in case of judgment against the defendants in such action, executions shall at first issue only against the defendant causing such insufficiency, and the City shall not be required to take steps to pay such judgment until such execution shall be returned unsatisfied, and, if the City shall pay such judgment, it shall become the owner of the same, and may enforce payment of the same from other defendant; it shall be entitled to execution therein against him, and to take such other proceedings as judgment creditors are entitled to take.

Actions For Injuries.

Sec. 131. No action shall be maintained against the City of Ortonville for any defect in any street, until the same shall have been graded; nor for any insufficiency of such grounds, where sidewalks are usually constructed, where no sidewalk is built.

Prohibition Against Piling Snow.

Sec. 132. No railway company shall have any right, in clearing its tracks through any part of said City, or otherwise, to pile up snow or other material and leave same piled upon any traveled portion of any street in said city, and any such company shall, in addition to all penalties prescribed therefor, be liable to any person who shall be injured by means of such obstruction caused by such company or its servants for all damages sustained;

and in case any damage shall be recovered against the City for injuries caused by such obstructions, the City ~~shall~~ shall have the right to recover the same again from the company by whom the obstructions were caused.

Roads in Unplatted Part of City.

Sec. 133. The City Council shall have power to construct and repair roads and streets in the unplatted portion of said city and tax the expense thereof against the property abutting on such road or street and collect the same as other taxes.

Vacation of Streets, Alleys and Avenues.

Sec. 134. The city council of said city shall have power to vacate or discontinue streets, avenues, alleys and highways within said city. No such vacation or discontinuance shall be granted or ordered by the city council except upon petition of all of the owners of the property on the line of such street, avenue, alley or highway, residing in said city, accompanied by a plat of such street, avenue, alley or highway proposed to be vacated, and shall be verified by the oath of at least two (2) of the petitioners. The City Council shall thereupon order the petition to be filed and recorded with the city clerk, who shall thereupon give notice, by publication in the official paper of the city, for three weeks, at least once each 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 city council, or a committee appointed by them, at a certain time and place therein specified not less than ten (10) days from the expiration of such publication. The City Council, or such committees as may be appointed by them 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 the parties interested.

Sec. 135. The City Council, after hearing the same, or upon the report of such committee in favor of granting such petition, may by resolution of four-sevenths vote of all the members, elect, declare such street, avenue, alley or highway vacated, which resolution, before the same shall go into 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 of the proper county.

Sec. 136. Any person feeling himself aggrieved by such vacation or discontinuance or refusal so to do, may within twenty (20) days after the publication of such resolution, or after such refusal, by notice in writing served upon the Mayor or clerk of said city, a copy thereof, with proof of service, shall be filed in the office of the clerk of the District Court of the proper county, appealing to said court from such vacation or discontinuance, or such refusal; when such appeal shall be tried by the court as in ordinary cases, and the judgment of such court shall not be appealed from. It shall be the duty of the city clerk, as soon as such appeal is taken, to transmit to the proper court a certified copy of the records and files of all proceedings in the case, at the expense of the appellant and such appeal shall be entered and brought on for trial and governed by the same rules as appeals from justices of the peace in civil suits, except that no pleading shall be required; provided, that this chapter shall not be construed to oust the district court of jurisdiction to vacate any such street, avenue, alley or highway in such city as provided by the general laws of this state; but in all such cases notice of such application must be served in writing upon such city authorities by delivering to and leaving with the Mayor or city clerk of said city a true and correct copy of such application and notice of hearing, at least twenty (20) days before the day of hearing.

CHAPTER XII.

Local Improvements.

Material and Grades.

Sec. 137. All sidewalks shall be of cement, stone or paving brick. The city council shall have the power in all cases relating to sidewalks in this charter, to determine the grade upon which such sidewalk is to be built or rebuilt.

How Built and Maintained.

Sec. 138. It is hereby made the duty of all owners of lands adjoining any highway, street, lane or alley in said city, to construct, reconstruct, and maintain in good order and repair such sidewalks along the said street, lane, alley or highway next to and adjoining the land of such owners, respectively, as may have been heretofore constructed, or as shall hereafter be constructed or directed by the city council to be built, in such manner and width, and upon such line and grade as the city council may by ordinance or otherwise prescribe.

Grant Powers-Duties of Owners.

Sec. 139. Whenever the City Council shall deem it necessary to build any new sidewalks, either where no sidewalk has been previously built, or to replace any old sidewalk which has become rotten, unsafe or otherwise objectionable, or to repair any sidewalk, they shall adopt an order or resolution therefor, which order may be substantially in the following form:

"Whereas, the City Council of the City of Ortonville, in the Counties of Big Stone and Lac qui Parle, Minnesota, deem it necessary to build (or repair) a sidewalk on the _____ side of _____ street in said City adjoining lot (lots or parcels) _____ in block (or tract) _____

in said City, in the Counties of Big Stone and Lac qui Parle, Minnesota. Therefore the owner, (or owners) of said lot (lots or parcels) is (are) hereby notified that said City will build

(or repair) said sidewalk and assess the cost and expense thereof to said adjoining lot (lots or tracts). Said sidewalks to be _____ feet wide and to be built of _____ and built in the following manner _____.

Adopted by the City Council this _____ day of _____

Approved,

Mayor.

Attest.

City Clerk.

Such order or resolution shall be published once in the official paper of said City, and be recorded in the minutes of the City Council.

Thereupon the City Council shall let the work of building or repairing said sidewalk by contract to the lowest responsible bidder. In case the construction or repairs so ordered amounts to less than One Hundred (100) Dollars, the City Council may let the same by contract aforesaid, or else direct the Street Commissioner of said City to have the sidewalk built or repaired. As soon as the contract for such work is let or in case said work is done by the Street Commissioner, then as soon as the work is done the City Council shall fix a time and place when and where they will meet to assess the costs of such building or repairing to the lots and parcels adjoining the same, and shall cause notice of such meeting and assessment to be made out by the City Clerk. Such notice shall be served upon the owners of the lots or lands to be assessed at least ten (10) days before such meeting in the same manner as a summons in the District Court in this State, but may be served by any Police Officer of said City, or by a private person. If any owner to be served is not a resident of the City of Ortonville, or is unknown such notice shall be served upon such non-resident or unknown owner by publication thereof in the official paper of said City

for two consecutive weeks, at least once a week, prior to said meeting. After the time and place so fixed, the City Council shall meet and consider the said assessment and hear all evidence offered in relation thereto by all parties interested and shall proceed to assess the cost and expense of building or repairing said sidewalk, according to frontage thereon upon lots and land adjoining such sidewalk; provided that no lot or tract shall be assessed for any greater sum than the amount necessary to build or repair that portion of such sidewalk which adjoins such lots or parcel, and the City Council shall make out an assessment therefor, which assessment may be substantially in the following form:

"The City Council of the City of Ortonville, does hereby levy and assess upon and against the several lots and tracts of land below described, the respective sums of money set opposite each lots or parcel of land. This assessment is made to defray the cost and expense of building (or repairing) a sidewalk adjoining said lots and parcels of land pursuant to the order and resolution of the city Council passed _____ day of _____ The amount assessed against each lot or parcel being the amount necessary to build (or repair) such sidewalk along and fronting upon same lot or parcel."

Name of Owner, if Known.	Description.	Lot	Block	Amount.	
				Dols.	Cts.

The cost and expense of building and repairing any sidewalk adjoining any public ground or city property and of building cross walks across the streets and alleys shall be borne by

the City at large, provided, that nothing in this section contained shall apply to cases where the owner of the property shall construct his own sidewalk as hereafter provided.

No sidewalk shall be ordered except upon recommendation of the street committee. No person shall construct any sidewalk curb and gutter, on any street, lane or alley, in the City of Ortonville, where the same has not been ordered by the City Council; unless he shall first have obtained a permit from the City Council for doing such work; such permit shall regulate the manner of constructing such improvement, and shall also include whatever bond or bonds the City Council may deem necessary to protect the interest of said City.

Repair of Sidewalk.

Sec. 140. If the owner of any lot or parcel of land shall suffer any sidewalk along the same to become broken, rotten, or out of repair it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and firm manner and report to the council the cost of such repairs, in each case, with a description of the lot or parcel of land abutting upon the sidewalk on which such repairs are made, and such report shall be carefully filed and preserved by the clerk, and it shall be the duty of the commissioners to assess the cost and expense of making such repairs against said lots, as above provided.

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

Gutters, Curbing and Paving.

Sec. 141. Whenever the City Council shall determine to pave, repave, macadamize or grade any street or alley, or to construct or rebuild any gutter or curbing on any street in said city, or to repair any thereof, they shall adopt an order or resolution therefor, which may be substantially in the following form:

"Whereas the City Council of the City of Ortonville in the Counties of Big Stone and Lac qui Parle, Minnesota, deem it necessary to pave (or repave or macadamize or grade or to build or to rebuild a gutter or curb or repair any thereof, as the case may be) on _____ Street (or alley) (or on _____ side or both sides of _____ Street) (or alley as the case may be) from _____ to _____ in said city, adjoining Lot (lots or parcels) _____ in Block (or tract) _____ in said City of Ortonville, in the Counties of Big Stone and Lac qui Parle, Minnesota.

Therefore the owner (or owners) of said lot (lots or parcels) is (or are) hereby notified that said City will build, make and construct such pavement (macadamizing, grading, gutters, curbing or repairs, as the case may be) and assess the cost and expense thereof to the said lot (lots or parcels) adjoining the same."

Adopted by the City Council this _____ day of _____
Approved,

Mayor.

Attest.

City Clerk.

Such order shall be published once in the official paper of said City and be recorded in the minutes of the City Council.

Thereupon the City Council shall let the contract for the making of such improvements to the lowest responsible bidder. Or in case the construction or repairs so ordered amounts to less than One Hundred (100) Dollars, the City Council may let the same

by contract ^{as} aforesaid, or direct the Street Commissioner of said City to have the said improvement made. As soon as the contract for such improvement is let, or in case the work is done by the Street Commissioner, then as soon as the work is done, the City Council shall fix a time and place when and where they will meet to assess the costs and expenses of such construction or repairs upon the lots and parcels adjoining the same, and shall cause notice of such meeting and assessment to be made out by the City Clerk. Such notice shall be served upon the owner or owners of the lots or lands to be assessed, at least ten days before such meeting in the same manner as a summons in the District Court of this State, but same may be served by any Police Officer of said City, or by a private person. If any owner to be served is not a resident of the City of Ortonville, or is unknown, such notice shall be served upon such non-resident or unknown owner by publication thereof in the official paper of said City for two consecutive weeks at least once a week prior to such meeting.

At the time and place so fixed, the City Council shall meet and consider such assessment, and hear all evidence offered in relation thereto by all parties interested, and shall proceed to assess the cost and expense of making such improvement or repair according to the frontage thereon upon the lots and lands specially benefited thereby and adjoining the same. And said Council shall make out an assessment thereon, which assessment may be substantially in the following form:

"The City Council of the City of Ortonville, does hereby levy and assess upon and against the several lots and tracts of land below described the respective sums of money set opposite each lot or parcel of land.

This assessment is made to defray the cost and expense of _____
(Here state the nature and location of improvement,) _____
adjoining said lots and parcels of land, pursuant to order and resolution of the City Council, passed the _____ day of _____

The amount assessed against each lot or parcel being the amount necessary to make such improvement along and fronting upon the same lot or parcel, (and to the center of the street or alley).

Name of Owner	Description	Amount.	
		Dollars.	Cents.

In making such assessment the City Council shall not assess upon any lot or parcel any greater part of the cost and expense of making said improvement than the cost and expense of making *that part* of such improvement adjoining said lot or parcel and lying between the lot or parcel line thereof and center of the street or alley so improved. The cost and expense of making such improvement or repair adjoining any public ground or City property shall be borne by the City at large.

RE-ASSESSMENT.

Sec. 142. If any special assessment heretofore made by the city council, or under its direction, to defray the expense of any local improvement, has been or shall be, either in whole or in part, annulled, vacated or set aside by the judgment of any court, or if the city council shall be satisfied that any such assessment is so irregular or defective that the same can not be enforced or collected, or if the city council shall have omitted to make such assessment at or before the making of such improvement when it might or should have been done, the city council shall anew, or thereafter compute and determine upon the cost of making such improvement in a gross amount, upon such data as it shall deem sufficient, not exceeding in the case of water mains the cost of laying a six-inch pipe, when a larger pipe was used, and in the case of lateral sewers the cost of an eight-inch sewer pipe; and the city council may then proceed to cause a new assessment of the cost of such improvements to be made, either on the property fronting such improvements or on the property benefited by such improvements according to the character of such improvements,

following as nearly as may be the provisions of the city charter in force at the time of making such improvements in determining the property to be assessed, and the form and manner of proceeding subsequent to the determination of the cost of the improvement, and in case such second assessment shall be annulled, the city council may proceed to make other assessments until a valid assessment shall be made, but nothing in this section shall authorize any new assessment in cases where such courts shall determine that the lots and lands are not subject thereto.

After such new assessment roll shall have been completed the City Clerk shall note thereon, against any piece or parcel of land upon which a former assessment for the same improvement has been made the words "paid on former assessment," which shall cancel such assessment on that parcel.

HOW ASSESSMENT ROLLS SHALL BE RECORDED AND RETURNED.

Sec. 143. The City Clerk shall record all assessment rolls of special assessment ⁱⁿ books to be kept by him for that purpose, and shall, on or before the tenth day of October of every year, deliver to the county auditors of the Counties of Big Stone and Lac qui Parle, all such assessment rolls, and the said county auditors shall extend the assessment in proper columns against the property assessed, and such assessment shall be collected and the payment thereof enforced with and in like manner as state, county and other taxes are collected and the payment thereof enforced such assessment when collected shall be paid over by the county treasurer to the treasurer of the city together with all costs, penalties and interest collected thereon, at the time of making payment of city taxes to the city treasurer.

NO INFORMALITIES TO AFFECT THE VALIDITY OF ASSESSMENTS.

Sec. 144. No omission, informality or irregularity in proceedings in, or preliminary to, the making of any special assessment shall affect the validity of the same, where the assessment roll, has been adopted by the city council. And the assessment roll, and the record thereof kept by the city clerk shall be competent and sufficient evidence that the assessment was duly levied and the assessment roll duly made and adopted, and that all other proceedings antecedent to the adoption of such assessment roll were duly had, taken and performed, as required by this charter.

And no failure of the city clerk to record the assessment roll, or to deliver the same to the county auditor on or before the time prescribed for such delivery, or to do any other act or deed by him required, shall in any way invalidate any assessment; and no variance from the directions herein contained as to the form or manner of any proceedings, shall be held material, unless it be clearly shown that the party objecting was materially injured thereby.

ASSESSMENTS MAY BE PAID TO THE CITY TREASURER.

Sec. 145. After a special assessment shall have been adopted by the City Council, and before the same shall have been delivered to the County Auditor for assessment and collection, any assessment thereon may be paid direct to the City Treasurer; and, upon the productions of the City Treasurer's receipt therefor, the City Clerk shall enter upon the assessment roll, opposite the assessment so paid, the words: "Paid to the City Treasurer," which entry shall cancel the assessment so paid.

EXCESS OR DEFICIENCY OF ASSESSMENT.

Sec. 146. No special assessment shall be questioned or held to be invalid because the amount of such special assessment shall happen to be either more or less than the amount of money actually required for the improvement for which such assessment shall be made. Upon any assessment roll or other papers made or used in any of the proceedings, it shall not be necessary that the words shall be written out in full, but abbreviations, letters, figures, and recognized characters may be used whenever their use shall be convenient, and no error or mistake as to the name of the owner of the property shall be regarded as material in the proceedings under this act.

ASSESSMENTS—WHEN DELAY MAY BE MADE IN MAKING.

Sec. 147. The City Council may, in its discretion, in any case, instead of causing the special assessment to be made entirely upon estimates as hereinbefore provided for, wait until the letting of the contract of such improvement, or until such improvement has

been made, before determining and fixing upon the cost and expense of such improvement, and making assessment.

COUNCIL MAY RE-ASSESS.

Sec. 148. If in any case, the first assessment to pay for any local improvement, either before or after such improvement is completed shall prove insufficient to fully pay for the same, the city council may assess and re-assess the same upon the property benefited, or which will be benefited, until a sufficient amount is realized, to pay for the same. If too large an amount shall at any time be realized, the excess shall be refunded ratably to those by whom it was paid, if the council shall order, it being the true intent and meaning of this act to assess and re-assess upon the real estate benefited to the extent of such benefits for any deficiency over and above the first assessment which said improvement may cost.

ASSESSMENTS AGAINST RAILWAYS.

Sec. 149. When in any case any portion of the costs and expenses of making an improvement mentioned in this charter shall by virtue of any valid law or ordinance or by virtue of any valid contract be chargeable upon any railway company, the amount so chargeable may be assessed upon and against such railway company and the balance only upon the real estate benefited thereby and the city may collect the amount so assessed upon said railway company by distress and sale of personal property, or by suit brought for the purpose; Provided, however, that any real estate belonging to such railway company and deemed benefited by said improvement shall be assessed as in other cases.

CHAPTER XIII.

Fire Department.

Organization.

Sec. 150. There shall be a fire department, of which the mayor shall have general supervision. The head of said department shall be known as the chief of the fire department. said department shall be either volunteer or paid, but a paid fire department shall not be established except by an ordinance passed by an affirmative vote of five-sevenths of all members of the council which ordinance, before it takes effect, shall be submitted to and adopted by the voters of the city, under the provisions of section nine (9) of this charter.

Election of Officers.

Sec. 151. If the city maintain a paid fire department, the mayor shall nominate and the council shall elect the chief and such other officers and members of the department as may be deemed expedient.

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

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

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

Provided, however, that the members of a voluntary fire department may be paid under regulation by the council, not to exceed one dollar for the first hour and fifty cents ~~per~~ hour thereafter while in actual service.

Powers and duties of chief.

Sec. 152. The chief of the fire department, under the direction of the mayor and council, shall have general superintendence of the fire department and the custody of all engines, hooks and ladders, trucks, hose, horses and other property used and maintained for the purpose of said department. He shall see that the same are kept in proper order, and that all rules and regulations and all provisions of this charter relative to the fire department and to the prevention and extinguishment of fires are duly executed. He shall superintend the preservation of all property endangered by fire and shall have control and direction in case of fire of all persons, organizations or associations engaged in preserving such property. In case of absence or disability of the chief for any cause, the assistant chief shall exercise all the powers, perform all the duties and be subject to all the responsibilities of chief.

Authority at fires.

Sec. 153. The council may, by ordinance, provide for the removal and keeping away of any and all persons from fires, and may confer powers for that purpose upon the mayor, the chief, assistant chief, fire marshall and assistant marshalls and other officers of the fire department and the police officers of the city: and for such purposes the chief or assistant chief shall be vested with police powers. The mayor shall have authority, under such provisions as the council may enact, to send fire engines and other apparatus of the department, with a competent force of employees to the relief of any other community, or for the preservation of property endangered by fire outside of the limits of the city.

Fire Alarm and Other Property.

sec. 154. The council may provide for the establishment and maintenance of an efficient fire alarm telegraph and telephone system for the purpose of the fire department, and shall provide for the purchase or lease of such fire engines and other apparatus for the fire protection as may be necessary to secure the highest efficiency of the department.

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

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

Destruction of buildings.

sec. 155. Whenever any building in the city shall be on fire, it shall be lawful for, and shall be the duty of, the mayor or the chief of the fire department to order and direct the destruction and removal thereof, and to destroy, pull down and remove such building, or any other building in the vicinity, or any part thereof that he may deem hazardous or likely to communicate fire, and no action shall be maintained against any person, or said city, therefor, or on account thereof.

Penalties.

Sec. 156. If any person shall, at any fire, refuse to obey the orders of the chief of the fire department, or other officer vested with authority at such fire, such person shall be guilty of a misdemeanor, and shall be punished as prescribed by the ordinances of this city; or, in case the offense is not punishable under the ordinances of the city, then as misdemeanors are punished under the laws of the state.

Fire Department Aid.

Sec. 157. The Fire Department Aid provided by sections 1650 to 1654 inclusive of the Revised Laws of 1905 may be disposed of as provided by those sections or any amendments thereto all of which are made a part of this charter as fully as if set forth herein.

XIV
CHAPTER XIV.

HEALTH DEPARTMENT.

Sec. 158. The health department shall consist of three members, one of whom shall be a physician duly licensed to practice medicine within the state of Minnesota, of good standing in his profession, and who shall have been in practice for at least three years. He shall be styled "Health Officer." Each member of the said department shall be a resident and elector of the city at the time of his appointment.

general Powers and Duties.

Sec. 159. Except as otherwise provided in this charter the members of said department shall have and exercise all the authority and powers and perform all the duties granted to or imposed upon local boards of health by the general Laws of the state of Minnesota and such laws governing such local boards shall so far as applicable apply and be in force in this city.

Sec. 160. The members of said department, in addition to the powers and duties mentioned ^{ed} in the preceding section, shall have the following and additional powers and duties; to enforce the laws of the state and the ordinances of the city and the provisions of this charter relative to public health; and for the enforcement of all such laws, ordinances and provisions they and each of them shall have and be vested with all powers of police officers of the city.

The health officer, in addition to other powers and duties vested in and required of him shall be required:

(1) To give to the Mayor or other City authorities such professional advice and information as they may require, with a view to the preservation of the public health; and whenever he shall know or be informed of the existence of any malignant, contagious or pestilential disease he shall investigate the same and adopt measures to arrest its progress.

(2) It shall be the duty of the members of the health department to make or cause to be made, a personal inspection of every part of the City from time to time, not less than once a month during the period from April first to October first each year, and in all cases where they may discover the existence of any agent, the presence of which might prove dangerous to the health of the City, to cause the same to be removed in accordance with the ordinances of the City, or should there be no ordinance competent for the correction of the evil they shall immediately report the same to the City Council accompanied by their written opinion of the necessity of extraordinary or particular action.

Quarantine Stations.

Sec. 161. The health department by and with the approval of the City Council, may select such sites, places and boundaries for quarantine stations and purposes as may be necessary.

Right to Enter Buildings.

Sec. 162. For the purpose of carrying out the foregoing requirements the health department shall be permitted at all times, from the rising to the setting of the ^{sun}, to enter into any house, store, stable or other building and to cause the floors to be raised, if they shall deem it necessary, for the purpose of a thorough examination of cellars, vaults, sinks, or drains, and to cause all privies to be cleaned and kept in good condition and to cause all dead animals or other nuisance or unwholesome things to be burned, removed or disposed of as they may direct.

Notice to Abate Nuisance.

Sec. 163. It shall be the duty of the health department to serve notice in writing upon the owner, occupant or agent of any lot building or premises in or upon which any nuisance may be found, or upon any person who shall have caused such nuisance/ requiring him to abate the same within a reasonable time, and such notice may be given or served by any officer who may be directed to give or serve the same by the health department or such notice may be given by one publication thereof in the Official Paper of said city.

Sec. 164. It shall be the duty of the health officer to provide at the expense of the city the necessary books for keeping a record of all transactions of the health department, including the proper registration of births and deaths, and other statistical information necessary for the official work of said department.

Visiting and Examining the Sick.

Sec. 165. It shall be the further duty of the health officer to visit and examine or cause to be visited and examined all sick persons who shall be reported to him as suffering from any infectious or contagious disease, and to cause such person to be sufficiently quarantined, and cause him to be provided with suitable nurses and attendance at the expense of such person if he is able to pay for the same, but if not, then at the expense of the city or county, chargeable therefor.

Providing Equipment and Medicine.

Sec. 166. The health officer shall provide under the direction of the City Council or the proper county board, or commissioner, furniture, fuel, food, medicine and such other articles as may be necessary for the equipment and maintenance of any hospital for the prevention and control of infectious or contagious disease among men and animals; and control such hospitals and secure the decent and prompt burial of bodies of all persons dying at such hospital.

He shall when directed by the city council or the board of health attend poor and indigent sick in the city and furnish at the expense of the proper city or county, medicine for said person.

Penalties.

Sec. 167. Any person, who, without a permit from the health officer, shall bury or remove the body of any dead person, or shall leave unburied any such dead body longer than four days, or who shall fail to bury the body of any person dying of any infectious or contagious disease within twenty-four hours after death, when ordered by the health officer so to do; or shall refuse or neglect to abate any nuisance for the existence of which, as owner, occupant or agent of the place upon or within which such nuisance exists he is responsible, after having received notice from the health officer so to do; or who shall neglect to report the occurrence or existence of any birth or death, or case of contagious or infectious disease, as provided for in this charter, the ordinances of this city or laws of the state of Minnesota, or who shall import or bring within the limits of the city knowingly any person or animal sick with contagious or infectious disease; or who shall remove or cause to be removed without permission from the health officer any placard announcing any contagious or infectious disease and attached to any house or building or place by the health officer or his subordinates; or who shall refuse to be vaccinated or to secure the vaccination of any minor child for whom he may be responsible; or who shall disobey or wilfully avoid quarantine regulations imposed by the health officer or who shall interfere with the health officer or his subordinates in the exercise of his or their duties; or who shall violate any of the provisions of this charter, the laws of the state, or the ordinances of the city relating to the public health, shall upon conviction, be guilty of a misdemeanor, and punished as prescribed by the ordinances of the city, or in case the offense be not punishable under the ordinances of the city, then as misdemeanors under the laws of the state of Minnesota.

Whenever the owner or occupant of any building, structure or premises within the city shall neglect or refuse after reasonable notice by the board of health or health officer to observe and comply with respect to the sanitary condition of such building, structure or premises the requirements of the laws of the state, the ordinances of the city and provisions of this charter or the rules and regulations of the board of health or health officer relative to the public health and sanitary condition of the city, then the board of health or health officer shall cause to be done in and upon such building, structure or premises whatever may be reasonably necessary to remove any cause of offense and put the same into suitable sanitary condition in accordance with the requirements of law and the rules and regulations of the board of health or directions of the health officer and assess the expense thereof against the property in and upon which such expense has been incurred in the premises.

Before proceeding, however, in any case in accordance with the foregoing paragraph of this section, the city council shall give at least five days notice to such owner or occupant of its intention to take such action and to assess the cost thereof upon said property; which notice may be served upon such owner or occupant personally, if found within the city; if not occupied and the owner does not reside within the city, then said notice may be served by mailing a copy thereof to said owner at his last known postoffice address. At a meeting of the city council at which said matter is to be heard, or at any meeting to which said matter may be adjourned, the city council shall hear all interested parties, and if determined upon to make an assessment against said property such assessment for such expense incurred as aforesaid may be for the full amount of such expense and the cost of notice; and before making the same, the city council shall require the city clerk to give notice personally or by mail to the interested parties of its

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

Nothing herein contained shall affect the right of the city to have imposed, or relieve any person mentioned in this section from any liability to any prosecution for the violation of or penalty imposed by any ordinance of this city, and nothing herein contained shall affect the right of the city to recover from the person responsible for any nuisance the cost of removing or abating the same.

CHAPTER XV.

PARK BOARD.

Appointment.

sec. 168. There shall be appointed by the mayor and confirmed by the council three Park Commissioners to be known as the Park Board of Ortonville, who shall have control and supervision of the parks within the corporate limits of the said city, and also of such streets or portions of streets and other public grounds as the city council shall by proper resolution designate. said commissioners shall hold their offices three years, and until their successors have been appointed and qualified, provided, that the first commissioners, shall be appointed for One, Two and Three years respectively. They shall receive no compensation for their service.

Powers.

sec. 169. said board shall have power, and it shall be their duty to enforce such laws of the state and ordinances of the city as they may deem necessary for the proper performance of their duties in such department.

Money - How Appropriated and Expended.

sec. 170. The city council may appropriate money from the general fund and turn the same over to said Board for the purposes of said Board as hereinabove set forth, and said Board shall have the power to expend such moneys as they may see fit in improving and beautifying such parks and public grounds, and for the purposes of furnishing entertainment for the public on such public grounds as they may designate; or the city council may at any general election or special election called under provisions of section nine (9) of this charter, submit to the electors of said city the question of voting on annual tax of not more than one mill upon the taxable property in said city for the care and maintenance of the parks of said city, which tax if so voted by a majority of the electors voting upon said question shall be kept in a separate fund to be known as Park fund and shall be paid out by the city treasurer only upon warrants drawn on that fund by the Park commissioners.

CHAPTER XVI.

LIBRARY BOARD.

sec. 171. The present Public Library of this city is hereby confirmed and continued according to the provisions of sections 2255 to 2262 of the Revised Laws of 1905, and chapter 257 of the general Laws of 1905 and any acts amendatory thereof that may be enacted by the state Legislature.

CHAPTER XVII.

CONDEMNATION OF PRIVATE PROPERTY.

Sec. 172. said city is authorized and empowered to condemn property or any right, interest or easement therein, for any and all of the following purposes to wit:- for water works, gas works; heating works and electric light and power works; for markets, parks, public grounds, public squares and sites for public buildings and for building for the fire department, for the construction of slopes, embankments or cuts for sewers, drains, ditches, reservoirs and cisterns; for the laying out, opening, altering, widening and extending, parking and otherwise improving of streets, avenues, parkways, lanes, alleys; for erecting poles and suspending wires thereon; for constructing and laying conduits, mains and pipes and branches and connections pertaining thereto whether for gas, water, sewerage or wires, for lowering, raising, changing the course of or diverting any stream of water, ditch, sewer or drain, and also for any and all other public purposes.

Whenever it shall be deemed necessary to condemn private property for any of the aforesaid purposes, which necessity shall be determined by a majority vote of all the members elect of the city council, said city council shall proceed in the manner hereinafter provided.

Sec. 173. The city council upon any improvement above mentioned to be made, shall appoint three (3) commissioners, all of whom shall be disinterested free holders and qualified voters of the city, to view the premises and assess the damages which may be occasioned by the taking of private property for any of the purposes aforesaid; said commissioners shall be notified of their appointment, as soon as practicable by the clerk of the city to attend at his office at

a time to be fixed by him for the purpose of qualifying and entering upon their duties; and in case any such commissioner being so notified, shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to said city, not exceeding fifty (\$50.00) dollars and shall be liable to be prosecuted therefor in the same manner as for a violation of any ordinance of said city; and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of ~~the~~ absentee or absentees aforesaid, selected from some part or ward of the city not represented on such board of commissioners, and possessing the qualifications aforesaid. In all other cases of vacancy the city council shall fill such vacancy.

Sec. 174. The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in such matter with impartiality and fidelity, and make due return of their actions and doings to the city council; provided, the city council shall fix the compensation for their services and issue an order for the same.

Sec. 175. The said commissioners shall, with all reasonable speed, cause a survey and plat of the proposed improvement or purchase to be made and filed with the city clerk, exhibiting as far as practicable the land or parcels of property required to be taken or which may be damaged thereby, and shall thereupon give notice by publication in the official paper of said city, for at least ten (10) days, to the effect that such plat has been filed, and that the said commissioners will meet at a place and time designated by them and thence proceed to view the premises and assess the damages for property to be taken or which may be damaged by such improvement.

Sec. 176. At the time and place, according to said notice, 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 their 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 or property proposed to be taken or which may be damaged by said 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 property or any part thereof in making such improvement.

Sec. 177. If there should be any building standing in whole or in part upon the land to be taken, the said commissioners shall in each case determine and assess the amount of damages which should be paid to the owner or owners thereof in case such building, or so much thereof as may be necessary, should be taken, and shall also determine and assess the amount of damages to be paid to each owner or owners in case he or they should elect to remove such, and the damages in relation to the building aforesaid shall be assessed separately from the damages in relation to the land upon which they are erected.

Sec. 178. If the lands and buildings belong to different persons or if the land shall be subject to lease, mortgage or judgment, or if there be any interest in it less than an estate in fee, the injury or damage done to such persons, or interests respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement; but in no case shall the aggregate damages assessed to the owners, lessee, mortgagee or other persons having an interest therein, exceed the value of the parcel of property sought to be taken.

Sec. 179. The said commissioners having ascertained and assessed the damages aforesaid, shall make and file with the city clerk a written report to the city council of their action in the premises, embracing a schedule or assessment of the damages in each case, with the description of the land and the names of the owners, if known to them, and also a statement of the costs of the proceedings.

Sec. 180. Upon such report being filed with the city clerk, said city clerk shall give at least ten (10) days notice in the official newspaper of said city, to the effect that such assessment has been returned and that the same will be confirmed by the city council at a meeting thereof, to be named in said notice, unless objections are made in writing by any person interested in any land required to be taken.

Any person interested in buildings standing in whole or in part upon any land required to be taken for such improvement shall, on or before the time specified in such notice, notify the city council in writing of their election to remove such buildings according to the award of the commissioners; the city council, upon the day fixed for the consideration of such report or at such subsequent meeting to which the same may stand to be referred, shall have power in their discretion to confirm, revise or annul the assessment, giving consideration to any objections interposed by persons interested.

Sec. 181. The damages shall be paid out of the proper fund of the city and shall be paid or tendered or deposited and set apart in the treasury of said city to and for the use of the persons entitled thereto within six (6) months from the confirmation of such assessment, and report; and the land or property required to be taken for the purposes aforesaid shall not be appropriated until the damages awarded to the owner thereof shall be paid or tendered to the owner or his agent, or deposited and set apart for his use as aforesaid; and in case the said city shall 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 in such case may be deposited by order of the city council, in the district court of the county, in the same manner as moneys are paid into court until the parties entitled thereto substantiate their claims to the city.

Sec. 182. In case any owner or owners of buildings aforesaid shall have elected in manner aforesaid to remove his or their building, he or they shall so remove them within thirty (30) days from the confirmation of said report, or within such further time as the City Council may allow for the purpose, and shall thereupon be entitled to payment from said city of the amount of damages awarded in such case; in the event of removal when such person or persons shall not have elected to remove such buildings or shall have neglected (after having elected to remove) to remove the same within the time prescribed, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold or disposed of, as the city council shall direct, and the proceeds thereof shall belong to said city.

Sec. 183. When any known owner of lands or tenements affected by any proceeding under this chapter shall be an infant or labor under legal disability, and having no guardian, the Judges of the Probate Courts of the counties in which said city is situated may upon application of said city or said commissioners, or by his next friend, appoint a suitable guardian for such person, and all notices required by this chapter shall be served upon such guardian.

Sec. 184. Any person feeling himself aggrieved by such assessment may by notice in writing served upon the Mayor or city clerk of said city, with affidavit of service attached, file the same in the office of the clerk of the District Court of the county in which such property is situated, with twenty (20) days from the time of confirmation of said report or assessment, appeal from said assessment to the District Court aforesaid, and such appeal shall be tried as in ordinary cases; but no pleading shall be required, and the party shall specify in the notice of appeal the grounds of his objection to such assessment, and shall not be entitled to have any other objections than those specified considered; and a transcript of such report certified by the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just and made in conformity to law, the

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the judgment of said court (unless appealed from) 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 justice of the peace or municipal courts in civil actions and like bonds shall be given to such city by the person appealing as are required ^{of appellant} in such actions.

sec. 185. whenever any public ground, street or alley shall be laid out, altered, widened or enlarged, under provisions of this charter, the city council shall cause an accurate survey and profile thereof to be made and filed in the office of the Register of deeds of the proper counties.

sec. 186. It shall be the duty of the city clerk to keep in his office a record of all proceedings taken under this chapter, and after the confirmation of any report mentioned in section ~~eighty~~ ^{one hundred seventy nine (179)} of this chapter, said city clerk shall carefully record and transcribe in such record all the proceedings taken in relation to the matter in such report, including all petitions, orders and appointments of commissioners returns and reports of commissioners, notices and proof of publication thereof, and orders and resolutions of the city council; and the said record, or a certified transcript thereof, or the original papers, petition, proofs of publication, orders or resolutions on file in his office shall be prima facie evidence of the facts therein contained in any court in this state; provided, that the provisions of this chapter shall not apply to any proceedings now pending, but the same shall be completed as though this charter had not been passed.

sec. 187. when the damage to be paid for the condemnation or appropriation of any property, in pursuance to provisions of this charter, shall have been ascertained and determined, in the manner herein prescribed, or in case an appeal shall have been taken, as

provided in this chapter, and ~~in~~ such damages shall have been made upon the real property deemed to have especially benefited by the doing of the work or the making of the improvement in proportion as nearly as may be to the benefits resulting thereto the balance of the cost of such improvement, over and above the amount realized by such assessment, shall be chargeable upon, and paid by, the city at large.

CHAPTER XVIII.

MUNICIPAL COURTS.

Present Municipal court continued.

Sec. 188. The present Municipal court of the city of Ortonville is confirmed and continued, and Chapter 229 of the general Laws of the state of Minnesota for 1895 and all amendments thereof, and additions thereto heretofore or hereafter made and section 131, and section 139 of the Revised Laws of Minnesota for 1905 are hereby adopted and made a part of this charter and shall have the same force and effect as if herein set out in full.

City Justice.

Sec. 189. All laws of the state of Minnesota relating to the Justice Courts and City Justices thereof of said city in force at the time ~~of~~ this charter goes into effect are hereby adopted and made a part of this charter, save as the same may conflict with any provisions hereinafter set forth, and shall have the same force and effect as if herein set out in full.

The said City Justice shall have jurisdiction of all matters, civil and criminal, except criminal cases arising in the city of Ortonville, within and throughout the said counties of Big Stone and Lac qui Parle, in all matters cognizable before a Court of Justice of the Peace of this state.

Jurisdiction.

Sec. 190 The Municipal court shall have jurisdiction within and throughout the Counties of Big Stone and Lac qui Parle aforesaid in all actions, suits or proceedings cognizable before a Municipal court under the general laws of this state. The said judge of the municipal court ~~and city justice~~ of the city of Ortonville shall have and possess exclusive and original jurisdiction of all criminal cases arising under the provisions of this charter. All prosecutions for violating any of the provisions of any ordinance, resolution, rule or by-law enacted under the provisions of this charter shall be brought in the name of the City of Ortonville and shall be commenced by warrant upon complaint being made before said court as required by law in criminal cases before said courts in this state, and the same proceedings shall be had therein as are required to be had by the laws of this state in criminal and civil actions before municipal and justice courts, provided, that no warrant shall be necessary in any case of a arrest of any person or persons while in the act of violating any law of the state of Minnesota or any ordinance, resolution, rule or by-law of the said City of Ortonville, but in such cases complaint shall be made before the case comes on for trial which shall be reduced to writing, and at the trial the party shall be required to plead thereto as to a warrant in other cases and the persons so arrested may be proceeded against in the same manner as if the arrest had been made by warrant, and such trial shall be made with out jury. All processes issued by the municipal or city justice courts of said city of Ortonville shall be directed to the city marshal, public officer or watchman of the city of Ortonville, and to the sheriff or any constable of the counties of Big Stone or Lac qui Parle, Minnesota. It shall be a sufficient pleading of the ordinance, resolution, rule or by-law of said city to refer to the title and section thereof which are hereby declared to have all the force and effect of general laws if the same conform to this charter,

and are with in the jurisdiction of said city, and it shall not be necessary to read or give them in evidence upon the trial of any proceeding or action, criminal or civil.

Judgment shall be given if for the plaintiff for the amount of fine, penalty or forfeiture fixed by such ordinance, resolution, rule, or bylaw, or such part thereof if a discretion be given, as the court shall deem proportionate to the offense, together with costs of suit; and shall in all cases further adjudge and order that in default of payment thereof the defendant be committed to the city prison^{or} work-house of said city, or to the county jail of Big Stone county, Minnesota, for such time not exceeding ninety days as the court shall deem proper.

If such payment be not forthwith made the judge or city justice (as the case may be) shall make out a commitment stating the amount of such judgment and costs and time for which committed in the usual form of commitments by such courts; every person so committed shall be received and committed to prison by the keeper of the city prison or county jail, and kept until the expiration of the time above provided, but he shall be released by order of the judge or city justice on payment to him of such fine and costs, in due course of law.

Appeal may be taken to the district court from the judgments of the municipal and city justice courts of the city of Ortonville, in the same manner as from judgments in civil actions, in other courts of like jurisdiction except as provided in this charter. In all cases where the fine or penalty imposed exclusive of costs for the violation of the provisions of any ordinance, resolution, rule or by-law of said city exceeds twenty (20) dollars; in case the appeal is taken by the defendant he shall, as a part thereof execute a bond to the city with sureties to be approved by such judge or city justice conditioned that if judgment be affirmed in

whole or in part he will pay the same and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed in whole or in part the execution may be issued against both defendant and his sureties, and in the event of an appeal by the city of Ortonville no bond shall be required.

All fines, forfeitures and penalties received for the violation of any ordinance, resolution, rule or by-law of said city, and all moneys paid for license and permits shall be paid into the city treasury for the use of said city. The clerk of the municipal court and the city justice shall report and pay into the city treasury quarterly all money collected by them and belonging to said city, which reports shall be verified by the affidavit and filed in the office of the city treasurer.

Procedure.

Sec. 191. The city council may determine and establish by ordinance or resolution, the mode of procedure and what shall be sufficient to allege and prove in order to make out a prima facie case of violation of any ordinance.

Process.

Sec. 192. The style of all process issued by the Municipal Court and the City Justice of said city shall be; "State of Minnesota Counties of Big Stone and Lac qui Parles City of Ortonville- SS."

Appeals.

Sec. 193. Appeals from the decisions or judgments of the Municipal or Justice Courts of said city in criminal prosecutions for the violation of the general laws of the state shall be taken to the county in which the offense was committed.

In all prosecutions or proceedings for a violation of the Charter, Ordinances or Regulations of said city, and in all cases in which the city or any of its officers as such is a party appeals from such Municipal and Justice Courts shall be taken to said county of Big Stone.

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CHAPTER XIX.

Miscellaneous.

Sec. 194. All recognizances, obligations and all other instruments entered into, running to or extended by the City of Ortonville before this charter goes into effect, and all fines, taxes, penalties and forfeitures due or owing to the same, and all writs, prosecutions, actions and causes of action, shall continue and remain unaffected by this charter going into operation, but shall pass to and vest in the city under this charter.

Sec. 195. All papers, files, plats and other public records to be kept, preserved, or filed, unless otherwise provided for in this charter shall be placed on file and preserved in the office of the city clerk.

Sec. 196. No law of this state contravening the provisions of this charter shall be considered as repealing, amending or nullifying the same, unless such purpose be clearly set forth in such law.

Sec. 197. The powers conferred upon the city council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings according to law.

Sec. 198. No action shall be maintained against the city on account of any injuries received by means of any defect in the condition of any bridge, street, sidewalk or thoroughfare, unless such action shall be commenced within six months from the date of the injury, nor unless notice shall have first been given in writing to the Mayor or city clerk, within 30 days of the occurrence of such injury or damage, stating the place where and the time when such injury was received and that the person so injured will claim damages of the city for such injury; but the notice shall not be required when the person

injured shall in consequence thereof be bereft of reason, nor shall any such action be maintained for any defect in any street until the same shall have been graded; nor for insufficiency of ground where sidewalks are usually constructed, when no sidewalk is built.

Sec. 199. When any suit or action shall be commenced against said city, service or process therein shall be made by leaving a copy thereof by the proper officer, with the Mayor or clerk and it shall be the duty of the Mayor or clerk forthwith to inform the city council thereof and to take such other proceedings as by the ordinances or resolutions of the city council may have been in such cases provided.

Sec. 200. Said city shall not be liable in any case for the jail fees of any person committed to the county jail of the proper county by any officer of said city, or any magistrate of said city for offenses punishable under the general laws of this state.

Sec. 201. The public property of said city shall be exempt from seizure or sale on execution and from taxation.

Sec. 202. No person shall be an incompetent judge, city justice, witness or juror by reason of his being an inhabitant of the city in any proceeding or action in which the city shall be a party in interest.

Sec. 203. No penalty or judgment ~~reversed~~ rendered in favor of said city shall be remitted or discharged, except by a vote of five-sevenths of the members of the City Council; but nothing in this section shall be so construed as to prohibit the Judge of the Municipal Court from granting new trials or reversing any judgment rendered by him according to the usual procedure of courts, nor to prohibit said Court from suspending execution of sentence, in its discretion.

Sec. 204. Every contract, conveyance, commission, license or other written instrument shall be executed on the part of the city by the Mayor or acting Mayor and the City Clerk, sealed with the corporate seal and in pursuance only of authority therefor from the city council.

Sec. 205. No right, title, estate or easement of the city in or to any streets, avenues, alleys, public grounds or to any property, shall be abridged or lost by any adverse possession or occupancy, and no statute of limitations shall run or operate against the City, in favor of any person or persons occupying the public or platted streets or public or platted grounds, parks or park ways, boulevards, or the meandered land on the shore of Big Stone Lake in said city, whether said streets, alleys, public grounds or such property be improved or not.

Sec. 206. That in all cases of violation of the provisions of this charter and where the city council have power to pass ordinances, resolutions or regulations they shall have authority to provide punishment for the breach thereof.

Sec. 207. In all cases where the doing of certain acts are forbidden or prohibited, either by this charter or by any ordinances and no express punishment is provided for the violation thereof such violation shall be construed and held to be a misdemeanor and

shall be punished by a fine not exceeding \$25.00 or by ^{imprisonment} ~~imprisonment~~ in the City or County Jail or sentenced to the City Work House for the period of 30 days.

Sec. 208. Whenever any action is necessary on the part of said City to enforce any of the provisions of this charter or the ordinances, resolutions or by-laws of said city or the order of any officer of such city for the enforcement of any such provisions there is hereby reserved to said City a lien upon the property so affected for the cost and expense connected therewith which lien may be perfected by taxing the amount thereof to such property as other special taxes or otherwise as provided by this charter.

Sec. 209. The lien of said city for any and all cost and expense of enforcing the provisions of this charter or other law, ordinance or regulation shall be superior to any or all other liens or incumbrances against the property involved or affected and no sale under execution or other proceedings upon a judgment decree, foreclosure or lien, and no transfer or mortgage shall divest or affect the lien of any assessment, for any tax or for any improvements chargeable to or assessed against the property under this charter, although the confirmation of such assessment may be subsequent to the lien of such judgment decree or other lien or to such transfer or mortgage.

~~Sec.~~ 210. The city shall have power to acquire real estate, or an interest therein as a purchaser at an execution sale where such city is the plaintiff in execution, or otherwise interested in the proceeding and to dispose of the property, or interest therein, so acquired, and also to dispose of any real estate, or interest therein, including any streets or portion thereof vacated or discontinued, however acquired or held by such city, in such manner and upon such terms as provided in this charter for sale of real estate belonging to the city.

Sec. 211. No city officer, or employe of the city, shall sell, dispose of, or convert to his own use, any city property in his charge without special authority from the city council.

Sec. 212. All actions brought to recover any penalty or forfeiture under this charter, or the ordinances, by-laws, or police, or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city.

Sec. 213. This charter is hereby declared to be a public act, and may be read in evidence in all courts within this state without proof.

Sec. 214. The City may purchase and hold real and personal estate, for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

Sec. 215. The City shall not be required, in taking an appeal or in suing out any writ or process, in or about any action or proceeding, to enter into any bond or undertaking, or to give any security whatever. Any stay allowed by law or ordered by the court in favor of the City shall take effect without the giving of any such bond or security.

Sec. 216. The City of Ortonville may accept, a grant or devise of real estate situate within its limits, and of personal property, for improvement and equipping the same, or for any other lawful purpose, and may maintain and administer the same, for the benefit of its citizens, in accordance with the terms prescribed by the donor. Provided that nothing herein shall authorize such acceptance for religious or sectarian purposes. Every such acceptance shall be by resolution of the City Council adopted by a Five-sevenths vote of its members expressing such terms in full.

Sec. 217. All ordinances, resolutions and by-laws inconsistent with this charter are hereby repealed to the extent they are inconsistent, except that all vested rights under any ordinance, order, resolution, by-law or contract shall be and remain in full force and effect.

Sec. 218. The Mayor, Aldermen, all city officers, and all the men employed in the several departments of said city, while holding such office, or engaged in the service of the city, shall be exempt from serving as jurors in any court.

Sec. 219. No person shall solicit any officer or employe of the city for money, work or other contributions for political purposes, and any person violating this provision shall be guilty of a misdemeanor.

Sec. 220. All records, books and papers pertaining to the business of the city or any board or department thereof, shall be public and open to the inspection of any citizen of the city at all reasonable times and places.

Sec. 221. The mayor, the acting mayor, the president of the city council, the president or chairman of any committee of the city council, the head of each department, the president of each board, and the committees and commissioners created by this charter or appointed pursuant to its provisions, shall, by virtue of their office, have authority to administer oaths and receive testimony on oath or affirmation in all matters and proceedings before them, relating to the city or any board or department thereof.

Sec. 222. Nothing in this charter contained shall be taken or construed as annulling, releasing or modifying any franchise or contract existing between the City of Ortonville and any individual, company or corporation at the time this charter goes into effect.

Sec. 223. The council may at any time require other and further duties to be performed by any officer whose duties are prescribed in this charter; provided, that such other and further duties are not inconsistent with this charter.

The city council may require any officer elected or appointed under this charter to give bond with sufficient sureties for the faithful discharge of his duties and in such cases the council may accept in stead of personal sureties on such bond, the undertaking,

obligation or guarantee as surety, ~~and such bond~~ of any guaranty, fidelity or surety company authorized to do business in this state, and all bonds official or otherwise, shall run to the city in its corporate name except as otherwise provided by law, and when the surety bonds are furnished the same shall be paid by the city out of the city general funds.

Sec. 224. When the council shall determine to make any public improvement which it has authority to make under this charter, and no specific procedure is in this charter provided therefor, the council may proceed to condemn property and to award damages, and in proper cases to assess benefits, according to any method of procedure prescribed in this charter applicable thereto.

Sec. 225. The place of trial of all actions or proceedings by or against the City of Ortonville, not brought before the Municipal Court shall be in the County of Big Stone. All suits or proceedings by or against said city not brought before the Municipal Court shall be brought in the District Court of said Big Stone County; and no other court whatever shall have original jurisdiction thereof. Provided, that this section shall not prevent the bringing of any proceeding in the Supreme Court of the State in cases in which said Supreme Court may have original jurisdiction.

Sec. 226. In any action pending in which the City of Ortonville is a party, either plaintiff or defendant, any citizen and taxpayer, or any number of citizens and taxpayers, after it has been shown and determined that such citizen or citizens, taxpayer or taxpayers have an interest in the subject-matter of the action, may intervene, and appear and defend or prosecute the same in the name of said city in the manner hereinafter provided. Such citizen or citizens and taxpayer or taxpayers so intending to intervene, shall ~~make~~ application to the district court of said Big Stone County in such cause for leave to intervene and defend or prosecute such action, ~~such action~~, setting forth in said petition the facts showing their interest in said cause.

Notice of a hearing upon such application shall be given and served upon the city attorney at least ten (10) days before the hearing thereof. Such application shall be determined in such manner as the district court may direct and the city may resist such application. The decision upon such application by said district court shall be final as to the right of such applicant to so intervene. If the right of intervention shall be granted by said court, such applicant or applicants may appear and prosecute or defend said cause in the name of said city, and all acts in that behalf which the said city might or could do; provided, that such intervenors shall be required to file in such cause such bond as may be directed by said court indemnifying the City of Ortonville against any costs which may be awarded against it in the action subsequent to the date of such intervention; provided, that such intervention shall not be construed to prevent the City of Ortonville from prosecuting or defending the action on its own behalf. And any citizen, citizens, taxpayer or taxpayers may bring and prosecute any action in the name of and in behalf of the City of Ortonville against whomsoever such cause may exist and in any court, and may obtain in said action any and all relief in behalf of said city which the city might or could obtain if the city prosecuted such action. Such citizen, citizens, taxpayer ^{or} ~~and~~ taxpayers shall, before commencing said action, obtain leave of the court in which said action is commenced in the same manner as hereinbefore provided in case of an intervention, and shall file in said cause, a bond, of an amount to be fixed and approved by the court, indemnifying the city against any judgment which may be obtained against it in said action. If judgment shall be obtained in favor of said city in such action so brought, said person so bringing such action shall be reimbursed by said city for his reasonable costs and expenses in the prosecution thereof; provided, that nothing herein shall be construed to prevent the city from bringing or

prosecuting said action in its own behalf, or from appearing in and prosecuting any action so brought, and the city may appear and prosecute therein without obtaining leave of the court.

Sec. 227. From the time of the going into effect of this charter, the officers of the City of Ortonville, who are officers of said city at the time this charter takes effect, shall remain as such officers of said city under this charter, and hold their offices under this charter and govern said City of Ortonville until their successors are elected or appointed and qualified as herein provided.

The two additional aldermen created by this charter shall be elected at a special election to be called for that purpose within ten days after this charter takes effect.

LETTER OF TRANSMITTAL.

To the Honorable Charles Bolsta, Mayor of the City of Ortonville
in the Counties of Big Stone and Lac qui Parle in the State of Minnesota.

Sir:- We, the undersigned, appointed on the tenth of March, A. D.
1908, by the Honorable S. A. Flaherty, Judge of the District Court of the
Sixteenth Judicial District in the State of Minnesota in and for the
County of Big Stone, and by the Honorables Gorham Powers and G. V. Quale,
Judges of the District Court of the Twelfth Judicial District in the
State of Minnesota in and for the County of Lac qui Parle; as a commis-
sion to draft the proposed charter to supercede the present charter of
the City of Ortonville pursuant to section thirty-six of article four
of the constitution of the State of Minnesota and chapter 375 of the
general laws of the State of Minnesota for the year 1907 and sections
749 to 758 inclusive of the Revised Laws of 1905, do hereby, respect-
fully submit and return to you the foregoing draft of the proposed
charter of the City of Ortonville in Big Stone and Lac qui Parle Counties
in the State of Minnesota .

Dated August 10th, A. D. 1908.

John Michell

O. T. Lutz

Geo MacMorphy

C. N. Murrill

Samuel Chapman

A. L. Humaker

G. S. Campbell

C. J. Horn

W. E. Whitman

N. Schorn

Fred Pfeiffer

J. Horn

David G. Geier

MacCormick

I. L. Cliff

CHARTER OF

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