

THE
CHARTER
OF THE
City of West St. Paul
Minnesota.

PUBLISHED BY AUTHORITY OF THE
COMMON COUNCIL.

FRAMED PURSUANT TO CHAPTER 9 OF THE REVISED LAWS
OF MINNESOTA FOR THE YEAR
1905.

Drafted and compiled by
JOHN A. BURNS, City Attorney.

WILLWERSCHEID & ROITH  5 Dispatch Bldg., St. Paul

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2391

STATE OF MINNESOTA,
COUNTY OF DAKOTA.

DISTRICT COURT,
FIRST JUDICIAL DISTRICT.

In the matter of the application for the appointment of a Board of fifteen freeholders and legal voters to frame a Charter for the City of West St. Paul in said County.

A petition having been presented to the undersigned Judges of said Court for the appointment of a Board of fifteen freeholders who are and for five years last past have been qualified voters in the City of West St. Paul, in Dakota County, Minnesota, to prepare and frame a Charter for said City of West St. Paul, in accordance with the provisions of chapter nine (9) of the Revised Laws of Minnesota for the year 1905, which petition was signed by more than ten per cent of the legal voters of said City:

And the undersigned having duly considered such petition and being of the opinion that it will be advisable and for the best interest of said city to appoint such board. Now, therefore,

IT IS HEREBY ORDERED, that the prayer of said petitioners be, and the same is hereby granted;

That the following named persons, who are freeholders, and who are and for five years past have been qualified voters in said City of West St. Paul, be and the same hereby are appointed as a board to prepare and frame such Charter, viz.:

GEORGE WENTWORTH,
HENRY G. MARTHALER,
JOSEPH HERMANN, JR.,
E. H. HENNESEY,
J. J. GALVIN,
JAMES HURLEY,
AUGUST F. LEHMANN,
JOHN KREY,
GEORGE W. STENGER,
JOHN B. SPERL,
C. C. EMERSON,
AMBROSE BILL,
W. S. DIPPO,
CHAS. E. RICHTER,
GEORGE H. WILFORD.

That each of said persons is appointed to serve as a member of said board for the term of four years from this date.
Dated this 5th day of November, 1906.

F. M. CROSBY,
W. C. WILLISTON,

Judges of the District Court of Dakota County, Minnesota.

THE CHARTER OF THE City of West Saint Paul, Minnesota.

CHAPTER I. CITY WARDS AND BOUNDARIES.

Section 1. The City a Municipal Corporation. All the district of territory in the county of Dakota contained within the limits and boundaries hereinafter described shall be a city of the name of "West Saint Paul," and the people now inhabiting, and those who shall hereafter inhabit, the district of territory hereinafter described, shall be a municipal corporation by the name of West Saint Paul, and by that name shall sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure and take, hold, purchase, lease and convey such real, personal and mixed estate as the purpose of this corporation may require within or without the limits aforesaid; shall be capable of contracting and being contracted with, and shall have the general powers possessed by municipal corporations at common law; and, in addition thereto, shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession.

Sec. 2. Territorial Limits of City. The district of territory aforesaid constituting the city of West Saint Paul, and the limits and boundaries thereof, shall be as follows:

All of Sections numbered seventeen (17), eighteen (18), nineteen (19), twenty (20) and the north one-half ($\frac{1}{2}$) of sections twenty-nine (29) and thirty (30), and the southwest quarter (S. W. $\frac{1}{4}$) of southeast quarter (S. E. $\frac{1}{4}$) of section seven (7). All in Township 28, north of Range 22, west of the Fourth principal meridian.

Sec. 3. City Divided into Three Wards. The said city shall be divided into three (3) wards, to be called the First (1st), Second (2nd) and Third (3rd) wards, limited and bounded as follows:

The First ward shall consist of the easterly three-fourths (E. $\frac{3}{4}$) of sections seventeen (17), twenty (20); and of the north half (N. $\frac{1}{2}$) of section twenty-nine (29).

The Second ward shall embrace the westerly one-fourth (W. $\frac{1}{4}$) of sections seventeen (17) and twenty (20); the west half (W. $\frac{1}{2}$) of the northwest quarter (N. W. $\frac{1}{4}$) of section twenty-nine (29); also the easterly one-half (E. $\frac{1}{2}$) of sections eighteen (18) and nineteen (19); the northeast quarter (N. E. $\frac{1}{4}$) of section thirty (30), and the southwest quarter (S. W. $\frac{1}{4}$) of the southeast quarter (S. E. $\frac{1}{4}$) of section seven (7).

The Third ward shall embrace the west one-half (W. $\frac{1}{2}$) of sections eighteen (18) and nineteen (19); also the northwest quarter (N. W. $\frac{1}{4}$) of section thirty (30).

Sec. 4. City Divided Into Three Aldermanic Districts. Said city of West Saint Paul shall be, and is hereby, divided into three (3) aldermanic districts, and each ward shall constitute an aldermanic district. Said aldermanic districts shall be numbered to correspond with the numbers of the wards.

That each of said aldermanic districts, as above defined and constituted, shall form a separate election precinct of said city for the holding of all the general elections provided for under the laws of this state, and for the election of all corporate officers provided for in this charter.

Provided, however, that the common council of said city may, by a vote of two-thirds (2-3) of the members-elect of said common council, divide such of said aldermanic districts as may contain over four hundred (400) resident electors into two (2) or more election precincts of said district, and, from time to time, designate by resolution or ordinance such election districts as may be deemed necessary, as aforesaid, in order to provide for the convenience of electors and to prevent illegal voting.

Such districts are to be designated by number or otherwise, as said common council may determine, and provided further, that said common council may, by a two-thirds vote of all the members-elect of said body, change the boundaries of the aldermanic districts in this charter defined; but such change shall not be made so as to increase the number of said districts.

CHAPTER II.

ELECTIONS, TERMS OF OFFICE, VACANCIES AND REMOVALS.

Section 1. **City Elections—When Held.** The general city election shall be held the first Tuesday after the first Monday in November, 1908, and biennially thereafter on the first Tuesday after the first Monday in November.

Sec. 2. **Officers to be Elected.** At each general city election there shall be elected a Mayor, City Justice of the Peace, one Constable and a Common Council composed of seven (7) aldermen.

All other officers necessary for the proper management of the affairs of said city, and not otherwise provided for in this charter, shall be appointed by the Common Council for a term co-extensive with the life of said Common Council.

Sec. 3. **Official Year.** The official year for said city shall begin on the first Monday after the first day of January, and the term of office of the Mayor, City Justice of the Peace, Constable and the members of the Common Council shall be two (2) years from and after the first Monday after the first day of January next succeeding their election, and until their successors shall have been duly elected and qualified. Provided that this section shall not be operative until after the first general election held under the provisions of this charter.

Sec. 4. **Board of Education—Election and Term.** There shall be elected by the first Common Council at the first meeting after its election, which meeting will be held on the first Tuesday in June, 1907, a Board of Education composed of five (5) members. The term of office of two (2) of said members shall extend from and after the first Tuesday in June, 1907, until the first Monday after the first day of January, 1909, and until their respective successors shall have been duly elected and qualified. The term of office of three (3) of the members of said board shall extend from and after the first Tuesday of June, 1907, until the first Monday after the first day of January, 1911, and until their respective successors shall have been duly elected and qualified.

At the general city election to be held on the first Tuesday after the first Monday in November, 1908, two (2) members of said Board of Education shall be elected by and from the body of electors of said city for a term of four (4) years from and after the first Monday in January, 1909, and until their respective successors shall have been duly elected and qualified; and regularly thereafter at each succeeding general city election there shall be elected by and from the body of electors of said city for a term of four (4) years sufficient members of said Board of Education to

succeed those members whose terms will expire on the first Monday after the first day of January succeeding such general election.

Sec. 5. **Officers—How Elected.** The Mayor, City Justice of the Peace, one Alderman, one Constable and members of the Board of Education shall be elected by and from the body of electors of said city, and two (2) aldermen shall be elected by and from the electors of each ward respectively: Provided that in the first instance the one alderman to be elected from the body of electors of the entire city shall be elected by the Common Council at its first meeting in June, 1907, and thereafter such alderman shall be elected as herein provided.

Sec. 6. **Members of Common Council—Qualifications.** Every alderman at the time of his election shall be, and during his term of office shall remain, a qualified elector and resident of the ward by which he was elected, and no alderman shall, during the term of office for which he was elected, hold any other city office.

Sec. 7. **Notice of Election—By the City Clerk.** The City Clerk at least fifteen (15) days before the holding of any general city election, and twenty (20) days before the holding of any special city election, shall give public notice of the time and place of holding such election, and the hours during which the polls will be open, by posting in three (3) public places in every election district a notice, containing a list of the officers to be elected at such election, one of which notices shall be posted at the place of holding the election; provided that failure of the City Clerk to give such notice shall not invalidate an election.

Sec. 8. **Election Districts.** Election districts shall be formed within the boundaries of the respective wards by the Common Council, pursuant to and in conformity with the laws of the state regarding elections.

Sec. 9. **General Laws Apply—Canvass.** All general laws of the State of Minnesota relating to elections, and preliminaries thereto, shall, so far as applicable, apply to and govern all elections under the charter, and are hereby adopted as a part of this charter the same as if herein specifically enacted.

Within two (2) weeks after any election under this charter the Common Council shall meet and proceed to canvass the returns of such election, and declare the result as it appears from such returns, and the City Clerk shall forthwith give notice to the officers elected of their respective elections.

Sec. 10. **Special Elections.** Special city elections for any purpose, and all preliminaries thereto, shall be held and conducted and the returns thereof shall be made and canvassed in the same manner as in the case of general city elections. The Common Council may by resolution adopted by the affirmative vote of two-thirds (2-3) of the members elect, 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.

Sec. 11. **Plurality Vote and Tie Vote.** In elections by the people the plurality of votes shall constitute an election. When in elections by the people two or more persons shall receive an equal number of votes for the same office the election shall be determined by the casting of lots in the presence of the Common Council, at such time and in such manner as it shall direct.

Sec. 12. **New Election—When.** Should there be a failure by the people to elect any officer herein required to be elected by the people on the day designated, the Common Council shall order a new election to be held, twenty (20) days' notice of the time of holding the election being first given.

Sec. 13. **Vacancies.** Any officer removing from the city, ward or district for which he was elected, or any officer who shall neglect or refuse for ten (10) days after notice of his election or appointment to qualify and to enter upon the discharge of the duties of his office, shall be as-

sumed to have vacated his office, and the Common Council shall proceed to fill the vacancy as herein prescribed.

Sec. 14. Removal from Office. Any person appointed to an office by the Common Council, or elected to any office by the people, may be removed from such office by the Common Council by a vote of two-thirds (2-3) of the members-elect, but any officer elected by the people shall not be removed except for cause, nor until such officer shall have a reasonable opportunity to be heard in his defense. The Common Council shall have power to fix a time and place for the trial of such officer, of which not less than ten (10) days' notice shall be given, and to compel the attendance of witnesses and the production of papers, and to hear and determine the case; and if such officer shall neglect to appear and answer to such charge, the Common Council, by the aforesaid vote, may declare the office vacant.

Sec. 15. Vacancies—When the Common Council Shall Fill. Whenever a vacancy shall occur in the office of any officer elected by the people, such vacancy shall be filled by the appointment by the Common Council until the next general city election; excepting that vacancies in the Board of Education shall be filled by the appointment of the said Board.

CHAPTER III.

CITY OFFICERS, THEIR GENERAL POWERS AND DUTIES.

Section 1. Oaths of Office. Every person elected or appointed to any office under this charter shall, before he enters upon the duties of his office, take and subscribe to an oath of office and file the same, duly certified by the officer taking the same, with the City Clerk; and such officers of said city as the Common Council may direct shall severally, before they enter upon the duties of their respective offices, execute to the City of West St. Paul a surety bond, said bond to contain such penal sum and such conditions as the Common Council may deem proper and they may from time to time require new or additional bonds, and remove from office any officer neglecting or refusing to give the same.

Sec. 2. Duties of Mayor. The Mayor shall be ex-officio a member of the Common Council and President of the same, but shall have no vote except in case of a tie. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all executive officers of the city discharge their respective duties. He shall from time to time give the Common Council such information, and recommend such measures as he may deem advantageous to the city. All ordinances and resolutions shall, before they take effect, be presented to the Mayor, and if he approves thereof he shall sign the same; such as he shall not sign he shall return to the Common Council with his objections thereto by depositing the same with the City Clerk to be presented to the Common Council at their next regular meeting thereafter.

Upon the return of any ordinances or resolution by the Mayor without his signature the vote by which the same was passed shall be reconsidered, and if after such reconsideration the Common Council shall pass the same by a vote of two-thirds (2-3) of the members-elect, it shall have the same effect as if approved by the Mayor; and in such case the votes shall be by yeas and nays, and shall be entered by the City Clerk of record.

If any ordinances or resolution shall not be returned by the Mayor within five (5) days (Sundays excepted) after it shall have been presented to him, the same shall have the same effect as if approved by him.

Sec. 3. Vice-President of the Common Council. At the first meeting of the Common Council after their election they shall proceed to elect, by ballot, from their number, a vice-president, and during the absence of the Mayor from the city, or his inability for any reason to discharge the duties of his office, said vice-president 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 Common Council, the vice-president shall act as presiding officer for the time being, and shall discharge the duties of such president, and act in his place. The vice-president or temporary presiding officer, while presiding over the Common Council or performing the duties of Mayor, shall be styled "Acting Mayor," and acts performed by either, when acting as Mayor, shall have the same force and validity as if performed by the Mayor.

Sec. 4. City Clerk—Powers and Duties. There shall be a Clerk of said city styled the City Clerk, who shall be elected by the Common Council, and in addition to his duties as City Clerk he shall exercise the functions of City Comptroller.

He shall keep the corporate seal, and all papers and records of the city, a copy and record of the proceedings of the Common Council at whose meeting he shall attend; copies of all papers filed in his office; and transcripts from the records of the Common Council, certified by him under the corporate seal, shall be evidence in all courts as if the originals were produced.

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

The clerk shall have the power to administer oaths and affirmations and take the acknowledgments of deeds and other instruments.

Sec. 5. City Clerk to Submit Report of Financial Condition of the City. The City Clerk shall annually submit to the Common Council at their first stated meeting in January, an itemized report of the financial condition of the city; he shall make a list of all outstanding city bonds, to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear, and to recommend such action to the Common Council as will secure the prompt payment of the principal and interest of such bonds. He shall also submit to said Common Council at their first meeting in each month a synoptical report of the financial condition of the city.

Sec. 6. City Clerk to Report Estimate of Expense. He shall report annually on or before the first meeting in September to the Common Council an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year, and the fiscal year which shall commence the first day of January of each year. It shall be the duty of the City Clerk to keep regular books of account in which he shall enter all indebtedness of the city, and which at all times shall show the precise financial condition of the city; the amount of bonds, orders and other evidences of indebtedness issued by the Common Council; the amount of all bonds, etc., which have been redeemed, and the amount of each outstanding; to countersign all bonds, orders, or other evidences of indebtedness of the city, and to keep exact accounts thereof, stating to whom and for what purpose issued; to keep accounts of all the receiving and disbursing officers of the said city, showing the amount which they have received from all the different sources of revenue, and the amount which they have disbursed under the direction of the Common Council.

Sec. 7. City Clerk Shall not Countersign any Contracts—When. If on or before the first day of any month, the amount expended, or to be expended, chargeable to any special funds (adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund) shall be equal to three-fourths ($\frac{3}{4}$) of the taxes authorized to be raised or revenue estimated for such fund, he shall at once report the same to the Common Council, and he shall not countersign any contracts chargeable to such fund until the amount of taxes actually collected be ascertained; and during the remainder of the fiscal year he shall not countersign any contract the expenses of which shall exceed the

revenue actually collected for the funds to which such expenses are properly chargeable, except as herein otherwise provided.

Sec. 8. City Clerk shall Examine Books and Accounts of City Treasurer. He shall examine the reports, books, papers, vouchers and the accounts of the treasurer, and from time to time shall perform such other duties as the Common Council may direct.

Sec. 9. City Clerk Shall Have Access to Reports, Books, etc., of Treasurer. He shall at all times have access to the said reports, books, papers, vouchers and accounts and shall assist the Treasurer in carrying out the provisions of chapter five (5) of this charter.

All claims and demands against the city, before they are allowed by the Common Council, shall be audited and adjusted by the clerk, and all orders on the treasurer shall be signed by him before they are delivered.

Sec. 10. City Clerk to Designate Funds out of Which Claims are to be Paid. It shall be the duty of the City Clerk in auditing and adjusting accounts and claims against the city, to designate and specify upon each claim, demand or account so audited and adjusted, the particular fund out of which the same shall be paid, and the same shall not be audited or adjusted by him, or reported to the Common Council, until there shall be sufficient funds to the credit of the particular fund out of which the same is payable, to pay the same as well as all other claims before that audited and allowed against such fund.

Sec. 11. City Clerk to Keep Record of His Official Acts. The City Clerk shall keep a record of all his official acts and doings, and keep a book, with an index thereto, in which he shall enter all contracts, which records shall be open to the inspection of all parties interested. He shall give such bonds as the Common Council may require, and the same shall be conditioned for the faithful performance of all the duties required by chapter five (5) of this charter, relating to the treasury department.

Sec. 12. City Treasurer—General Powers and Duties. The City Treasurer shall receive all moneys belonging to said city, including all taxes, license moneys and fines and other revenues of said city, and keep an accurate and detailed account thereof in such manner as to show the exact financial condition of said city. He shall exhibit to the Common Council at the first meeting in January and as often as the said Common Council, or the Finance Committee thereof may require, a full and detailed account of all receipts and expenditures since the date of his last annual report, or for any required period, and also the state of the City Treasury; which accounts shall be filed with the Clerk.

He shall give such bond as the Common Council may require, and the same shall be conditioned on the faithful performance of all duties imposed by this charter and particularly the duties required by chapter five (5) of this charter, relating to the treasury department.

No funds of the city shall be loaned by the treasurer to any city officer, or other person, or otherwise disposed of, except in accordance with law.

Any violation of this provision shall be a misdemeanor, punishable by imprisonment for a period not exceeding one (1) year, or by a fine not exceeding one thousand dollars (\$1,000), or both, in the discretion of the court.

At the first meeting of the Common Council in each month, the treasurer shall report the amount of city funds under his control, and where placed or deposited.

All money received by the city treasurer by virtue of his office as such treasurer (except the money belonging to the Board of Education, which shall be deposited as required by law) shall be deposited daily by said city treasurer in one (1) or more designated national banks; such bank or banks shall be designated by the common council of the City of West St. Paul.

Sec. 13. The City Attorney. The City Attorney shall be a person admitted to practice in all courts of this state at least two (2) years prior to his election, and shall be the legal advisor 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 or defend all suits, actions or proceedings, either civil or criminal, for or on behalf of said city, or the Board of Education thereof, or in which the city or Board of Education may be a party. He shall when required furnish written opinion upon any subject submitted to him by the Common Council or any of its committees, or by the Mayor, or any board created by this charter, attend the meeting of the Common Council, and draw all contracts between said city and other parties, and such other legal instruments and papers as may be required in connection with the administration of city affairs, and to perform such other professional services as shall properly pertain to his office.

Sec. 14. Assessor—General Powers and Duties. The Assessor shall at the time of his election be a resident and qualified voter of said city. He shall have and possess all the authority, rights, powers and duties of assessors under the general laws of this State, excepting as hereinafter provided and qualified. In case of his inability to perform the duties of his office, from any cause whatever, the common council shall appoint an assistant, to serve until such disability shall be removed; and such assistant shall have all the powers, and perform all the duties which are by law imposed upon his principal, and shall receive, from the salary of his principal, all the compensation he shall be entitled to for such service, which shall be at the same rate as his principal. Said Assessor shall, whenever the Common Council shall so determine, make and return a census of the population of the city, in a manner and form prescribed by said Common Council.

Sec. 15. City Justice and Constable—General Powers and Duties. The city justice and constable of said city shall have and possess all the rights, powers, and authority of justices of the peace and constable respectively under the general laws of this State, and in addition thereto the city justice of said city shall have sole and exclusive jurisdiction of all suits, prosecutions, or proceedings for any violation of any ordinance, by-law or regulation of said city, or for the recovery of any fine, forfeiture or penalty under any such ordinance, by-law or regulation; and shall also have exclusive jurisdiction of all actions, suits and prosecutions for any violation of this Charter which are or may be within the jurisdiction of justices of the peace under the laws of this State.

Sec. 16. Violations of Ordinances—How Prosecuted. All prosecutions for any violation of any such ordinance, by-law or regulation, or for the recovery of any such fine, penalty and forfeiture shall be commenced and prosecuted in the name of the "City of West St. Paul," and the same proceedings shall be had as are or may be provided by law in civil or criminal cases tried before Justices of the Peace, except as herein otherwise provided.

Sec. 17. Disposition of Fines. All fines imposed or collected in such cases, for any such violation and also all fines imposed or collected in any action, proceeding or prosecution tried before any such justice for any violation of law committed within said city, shall accrue to the benefit of said city, and be paid into the treasury thereof.

Sec. 18. City Justice to Proceed Upon Complaint. The city justice shall upon complaint made, proceed to hear and dispose of in a summary manner, all suits, prosecutions and proceedings brought before him for any violation of any ordinance, by-law or regulation of said city, or the common council thereof.

All prosecutions for any violation of this Charter or for the violation of any ordinance, by-law or regulation of said city, or police or health regulation of said city, shall be commenced by warrant, and upon complaint being made as required by law in criminal cases before justices of the peace.

Provided, that no warrant shall be required in any case of arrest of any person made while in the act of violating any law of the State of Minnesota, or ordinance, by-law or regulation of said city; but in such cases a complaint shall be made after arrest which the city justice shall reduce to

writing, and the party arrested shall be required to plead thereto as to a warrant in other cases, and the person or persons so arrested may be proceeded against in the same manner as if the arrest had been made upon a warrant.

Sec. 19. Form of Process. All process issued by the city justice of said city for the violation of any ordinance, by-law, or regulation of said city or any police or health regulation of said city, shall be in the name of the "City of West St. Paul," and shall be directed to the Chief of Police or to any police officer or constable of said city.

Sec. 20. In Default of Payment of Fine, Offender to be Imprisoned. In all cases of the imposition of any fine or penalty by the city justice of said city, for the violation of any ordinance, by-law or regulation of said city, the offender shall forthwith be committed to the city prison of said city, or if there be no such prison, to the common jail of Dakota County, and there be imprisoned for a term not exceeding three months, in the discretion of the justice, unless the said fine or penalty be sooner paid, and from the time of arrest of any person for any offense whatever, until the time of his trial, he may be imprisoned in said city prison, or in case there be no such prison, then in the common jail of Dakota County.

Sec. 21. City Justice to Receive Certain Fees from County. The City Justice of said city shall be entitled to receive from the County of Dakota such fees in criminal cases prosecuted in the name of the State of Minnesota, as are or may be allowed to other justices of the peace for similar services, and for services rendered in cases prosecuted in the name of the "City of West St. Paul," such fees as shall be allowed by law.

Sec. 22. City Justice May Require Complaining Witness to Secure Costs. In all actions before said city justice of said city for the violation of any ordinance, by-law or regulation of said city, or any police or health regulation of said city, commenced upon the complaint of any person other than some officer of said city, the justice may require the complaining witness to give security for costs to the satisfaction of said justice, in a sum not less than ten dollars, and the cost taxed by the justice against the city in any such action, prosecution or proceedings shall in no case exceed the sum of ten dollars.

Sec. 23. In Case of Failure to Convict—Payment of Costs. Whenever the accused is tried for the violation of any ordinance, by-law or regulation of said city, or any police or health regulation of said city, shall be acquitted, he shall immediately be discharged; and if the justice certifies in his docket that the complaint was willful and malicious, and without probable cause, he shall enter judgment against complainant for the costs of such prosecution, and execution may issue therefor, or such complainant may be committed to jail until such costs are paid, or until otherwise released according to law, and in case he be so committed and be discharged, execution may issue and such judgment be collected, after such discharge; provided, that in no case shall any judgment for costs be entered against any officer of said city who as such may make such complaint.

Sec. 24. Offender to Pay Costs if Convicted. Whenever any person shall be convicted of any violation of this charter, or of any ordinance, by-law or regulation of said city, or of any health or police regulation thereof, in addition to the penalty prescribed, he shall be adjudged to pay all the costs and disbursements of prosecution, and in default of such payment of such fine and costs and disbursements, shall be imprisoned in the city jail, or in the common jail of Dakota county, not exceeding three months. Any person so convicted may appeal to the district court in like manner as in case of a conviction under the general laws of this State.

Sec. 25. City Justice to Report. The city justice shall at the first meeting of the Common Council in each month, report to the common council a list of all proceedings instituted before him in the name of the city, or which the city is in any manner interested, and shall at the same time

account for, and pay over to the city treasurer, all fines, penalties and costs collected, which may by law accrue to said city, and also file with him such reports and take the receipt of said treasurer for the moneys so paid him.

Sec. 26. Vacancy in Office of Justice—How Filled. Whenever a vacancy shall occur in the office of the city justice the common council shall have the power to fill such vacancy by appointment for the unexpired term thereof.

Sec. 27. Fees of Constable. The constable of said city shall be entitled to the same fees as like officers in towns receive for similar services under the laws of this State.

Sec. 28. City Engineer—General Powers and Duties. The city engineer shall hold his office during the pleasure of the common council, who shall prescribe his duties and fix the fees or compensation for any service performed by him; all surveys, profiles, plans or estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the city clerk open to the inspection of the parties interested.

Sec. 29. Street Commissioner—General Powers and Duties. It shall be the duty of the street commissioner to render his personal services and perform labor in repairing the streets of said city, and to superintend all work and improvements, and carry into effect all orders of the common council in relation to work and improvements upon the streets and public grounds of the city. He shall keep accurate accounts of all moneys received by him and of all moneys expended in the discharge of his duties. He shall also keep a record of the number of men employed and for what time, and of all supplies ordered and for what used, and render monthly report thereof to the common council, or oftener, if required.

Sec. 30. Successors in Office. If any person having been an officer in said city shall not within ten (10) days after notification and request, deliver to his successor in office all property, books, papers and effects, of every description in his possession, belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of said city one thousand dollars (\$1,000) besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Sec. 31. City Officers Exempt from Jury Service. The Mayor, City Clerk, City Treasurer and members of the Common Council shall be exempt from serving on jury during their term of office.

Sec. 32. Common Council May Require Additional Duties of Any Officer. The Common Council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, 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 herein otherwise provided for, but no officer elected or appointed by the Common Council, or appointed by the Mayor, as herein prescribed, shall be appointed for a longer term than two (2) years nor for a term longer than the remaining unexpired term of the Common Council electing such officer, and until his successor is duly elected or appointed and qualified, except as provided for in this charter.

The Common Council shall also have the power, unless herein otherwise provided, to fix the compensation of all officers elected or appointed under this charter. Such compensation shall be fixed by resolution at the time the office is created or at the commencement of the term, and shall not be diminished during said term.

Sec. 33. Salaries to be Paid. For the faithful discharge of the duties of their respective offices, the following named City Officers and employes of the City of West St. Paul shall receive per annum, payable in monthly installments out of the City Treasury, the salaries herein specified. The Mayor, \$100.00; each Alderman, \$25.00. The salaries of the following

officers shall be fixed by the Common Council, but in no event shall they exceed the amount herein specified: City Clerk, \$600.00; Treasurer, \$500.00; Assessor, \$200.00.

The salaries of such other City Officers and employes as are not herein determined shall be fixed by the Common Council at the beginning of the term of office or service of such officer or employe.

CHAPTER IV.

THE COMMON COUNCIL, ITS GENERAL POWERS AND DUTIES.

Section 1. The Aldermen with Mayor to Constitute the Common Council. The aldermen with the mayor shall constitute the Common Council and the style of all ordinances shall be: "The Common Council of the City of West Saint Paul do Ordain," etc.

The Common Council shall meet at least once in each month at such time and place as it by resolution may direct. A majority of the aldermen shall constitute a quorum.

Sec. 2. Meetings. The Common Council shall hold stated meetings, and the Mayor may call special meetings by notice mailed to each of the members, or delivered personally or left at their usual place of abode.

The Common Council shall be the judge of the election and qualification of any officer of said city, excepting members of Board of Education, and in such cases shall have power to send for persons and papers, and also determine the rules of its own proceedings, and have power to compel the attendance of absent members.

Sec. 3. Majority to Constitute a Quorum. A majority of the Common Council shall constitute a quorum to transact business, but a smaller number may adjourn from time to time and compel the attendance of the absent members under such terms and under such penalties as it may provide. The Common Council may determine the rules of its proceedings not inconsistent with the laws of this state and this charter, sit upon its own adjournment and punish its members for disorderly behavior.

Sec. 4. Negative Votes—When Recorded. The Common Council shall keep a journal of its proceedings and the yeas and nays when taken on any question shall be entered on such journals. Any member of the Common Council who, being present when his name is called, fails to vote upon any pending proposition, in a tone plainly understood by the presiding officer, shall be counted as having voted in the negative on said pending proposition.

Sec. 5. Ordinances, etc.—Majority Vote—Two-thirds Vote on Appropriations of Money. No resolution, order or ordinance shall be valid or operative to bind the City of West St. Paul, unless it shall have passed the Common Council by an affirmative vote of a majority of the members present by ayes and noes. No appropriation of money, or resolution, order or ordinance for the payment of money or creating any pecuniary liability, shall be valid or operative unless it shall have passed said Common Council by a vote of two-thirds of all the members taken by ayes and noes, and entered upon the record of the proceedings of the Common Council.

Sec. 6. Publication of Ordinances, etc. The Common Council shall prescribe the time, place and manner in which the record of its proceedings and public notices shall be published and every order, resolution or ordinance shall be so published before the same shall be in force and shall be recorded by the city clerk in books to be provided for that purpose. They shall be admitted as evidence in any court of the state without further proof. Resolutions may be published with the dates of their approval without appending thereto the signatures.

Sec. 7. General Powers of Council. The Common Council shall have the management and control of the property and finances of the city subject to the provisions of this charter, and shall have the power to appropriate money for city purposes only; and shall likewise, in addition to the powers herein vested in them, and subject to the provisions of this charter,

have full power and authority to make, enact, ordain, establish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the good government of the city, the protection of its property, the preservation of peace and good order, the suppression of vice and intemperance, the prevention of crime, the benefit of trade and commerce, the preservation of health and the prevention and extinguishment of fires; it shall have the power to establish and maintain a city prison and watchhouses; for the imprisonment, custody and safe keeping of all persons arrested for or charged with any offense whatever cognizable before the City Justice; to make all rules and regulations for the government and management of such prison and watchhouses, to appoint keepers and other officers for the same, and prescribe their duties and fix their compensation; the keepers of such prison and watchhouses shall have and possess all the powers and authority of jailers at common law or by the laws of this state.

Sec. 8. Specific Powers of Council. For the purpose aforesaid the Common Council shall have authority by ordinances, resolutions or by-laws:

FIRST. Gambling. To prevent and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gaming in said city, and to authorize the destruction of all instruments used for the purpose of gaming.

SECOND. Liquor Licenses. To prevent and prohibit any person from giving or dealing in spirituous, fermented, malt or vinous liquors unless duly licensed by the Common Council, and to determine the amount of license fees.

THIRD. Liquor Licenses. To license and regulate, except as herein-after provided, all persons vending, dealing in or disposing of spirituous, vinous, malt or fermented liquors and all places in which the same are vended, dealt in or disposed of.

FOURTH. Disorderly Assemblages. To prevent and prohibit any riots, noise, disturbance and disorderly assemblages in said city, and to preserve quiet and order in said city.

FIFTH. Disorderly Houses. To prohibit and suppress disorderly houses, grogeries or houses of ill fame.

SIXTH. Encumbrances in Streets. To prevent and prohibit the encumbering of streets, sidewalks, lanes, alleys, public grounds or wharves with any materials or substances whatever.

SEVENTH. Immoderate Driving. To prevent and prohibit horse-racing, immoderate riding or driving in the streets, and to compel persons to fasten their horses or other animals attached to vehicles or otherwise, while standing in the streets.

EIGHTH. Firearms and Fireworks. To prevent and prohibit the shooting of firearms or firecrackers, and to prevent and prohibit the exhibition of any fireworks in any place which may be considered by the Common Council dangerous to the city or any property therein or annoying to any citizens thereof.

NINTH. Concealed Weapons. To prevent and prohibit the carrying or wearing, concealed by any person, any dangerous or deadly weapons and to provide for the confiscation thereof.

TENTH. Drunkenness. To prevent and prohibit open or notorious drunkenness and obscenity in said city.

ELEVENTH. Unwholesome Substances. To prevent and prohibit any person from bringing, depositing or having within said city any putrid, un-sound or unwholesome animal or vegetable substance, and to require the removal of the same by any person who shall have any such substance upon his premises, or who shall bring, deposit or have the same within said city, and to authorize, upon failure to so remove, the removal thereof by some competent officer at the expense of such person.

TWELFTH. Nuisances. To prevent, prohibit, remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds and highways of the city.

THIRTEENTH. Boards of Health, Hospitals, Burial of Dead, etc. To establish and to regulate Boards of Health, provide and regulate hospitals and hospital grounds, to provide for the registration of births and deaths and the returns of the bills of mortality, and to regulate or prevent the burial of the dead within the city limits and within the circuit of one (1) mile beyond the same.

FOURTEENTH. Watchmen. To provide for watchmen and to prescribe their number and duties, and to regulate the same; and to create and establish the police of said city and to prescribe the number of police officers and their duties, and to regulate the same.

FIFTEENTH. Public Health and Safety. To prevent, prohibit and abate any nuisance injurious to the public health or safety, and to do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease, and to prevent the introduction of contagious diseases into the city, and to make and enforce quarantine laws. The jurisdiction of said city shall extend to and be in force over any lands within the County of Dakota purchased or used by said city for the purpose of a quarantine, for police and sanitary regulations; and for the preservation of the health of said city and the suppression of disease and abatement of public nuisances and the suppression of any business contrary to the sanitary regulations of the Common Council or the Board of Health, the jurisdiction of said city shall extend for a circuit of one mile beyond the present or any future limits of said city.

SIXTEENTH. Contagious Diseases. To prevent, prohibit, control and regulate the landing and conveyance of persons from railroad trains, boats, vessels and other conveyances who are affected with contagious or infectious diseases or disorders, and to make disposition of such persons as to preserve the health of the city.

SEVENTEENTH. Vagrants, etc. To prohibit, restrain and punish vagrants, mendicants, street beggars and prostitutes.

EIGHTEENTH. Paupers, etc. To prevent, prohibit, control and regulate the landing and conveyance of paupers and persons in destitute condition into said city, not having a legal settlement or residence therein, by any railroad train, boat or vessel or other means of conveyance, and to require that such persons shall be taken back to the place from whence they may have been brought by the person or persons conveying or leaving them in said city.

NINETEENTH. Animals Running at Large. To prevent, prohibit and restrain the running at large of horses, cattle, swine, sheep, poultry and other animals, and to authorize the distraining and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinances; provided, that when a sale of such animals shall be made the proceeds thereof, after deducting the expenses of distraining, keeping, advertising, and selling such animals, 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 owner within one year from the day of such sale.

TWENTIETH. Driving on Sidewalks. To prevent and prohibit all persons from riding or driving any ox, mule, cattle or other animal on the sidewalks or other public grounds or property in said city, or in any way doing any damage to such sidewalks, grounds or property.

TWENTY-FIRST. Treatment of Animals. To restrain and regulate the penning, herding and treatment of all animals within the city.

TWENTY-SECOND. Unsafe Buildings. To remove or require to be removed any building which by reason of dilapidation, defects in structure or other causes, may have or shall become dangerous to life or property, and to provide for the punishment of all persons who shall cause or maintain the same. A statement of the expenses of such removal, specifying

the lots or parcels of land upon which it was incurred, shall be filed by the City Clerk in the office of the Register of Deeds of the County of Dakota, and shall thereupon become a lien in favor of said city upon such lot or parcel of land. The amount of such expense may be recovered by said city against the owner or owners of said lot or parcel of land and the lien be enforced in a civil action in any court of competent jurisdiction; provided that such statement shall be filed within three months after such expense has been incurred by said city, and that if suit shall not be brought as aforesaid to enforce said lien within one year thereafter, the same shall abate, and provided further, that said lien shall not obtain before the filing thereof against a bona fide purchaser without notice of such expenditures.

TWENTY-THIRD. Theatres, Circuses, etc. To license and regulate the exhibition of common showmen and shows of all kinds, and the exhibition of caravans, circuses, concerts and theatrical performances.

TWENTY-FOURTH. Billiard Tables, etc. To license and regulate billiard tables, pool tables, nine or ten-pin alleys, and other similar devices, the proprietors and keepers thereof and the places in which the same may be used or maintained.

TWENTY-FIFTH. Hotels, etc. To license and regulate hotels, taverns, restaurants and victualing houses.

TWENTY-SIXTH. Pawnbrokers, etc. To define, license and regulate pawnbrokers, and intelligence and employment offices and agents, and shall have power to compel such pawnbrokers, intelligence and employment agents and the persons conducting such intelligence and employment offices to give bond with such sureties as the said Common Council may provide in a sum not to exceed five thousand dollars, conditioned for the payment of any and all damages which any person may sustain by reason of the improper or wrongful acts or omissions of such pawnbrokers or intelligence or employment agents in such capacity or by reason of any false information given by such agent, and any person injured by any act of such improper or wrongful acts or omissions or false information may sustain an action on such bond against such pawnbroker or agent and said sureties, in any court having jurisdiction thereof.

TWENTY-SEVENTH. Auctioneers. To define, license, and regulate auctioneers and to regulate the time and place and manner of holding public auctions or vendues.

TWENTY-EIGHTH. Peddlers, Ticket Brokers, Hackmen, etc. To define, restrain, regulate and license hawkers, peddlers, porters, runners, agents and other solicitors for common carriers, hotels, public houses, express companies or other establishments, ticket brokers, ticket agents, emigration and steamship agents, draymen, cabmen, cartmen, hackmen, omnibus drivers, and to regulate the manner and place in which they shall stand, and to prohibit them from entering or driving within any railroad depot or upon any railroad grounds or entering upon any railroad car or steamboat or other mode of conveyance to solicit passengers or baggage. Also to prescribe places for stands in the streets of said city within which drays, carts, cabs, hacks, coaches, carriages, sleighs, sleds and other vehicles may stand and be kept for hire, and within which loads of wood, coal, hay and other articles may be kept for sale, and to regulate such stands and places.

TWENTY-NINTH. Railroad and Steamboat Stations. To preserve quiet and order at the arrival and departure of railroad cars, steamboats and other vessels and modes of conveyance.

THIRTIETH. Hacks, Trucks, etc. To license and regulate hacks, carts, omnibuses, trucks, wagons and other vehicles engaged in hauling or carrying for hire, and to regulate the charges of the owners and drivers of such vehicles.

THIRTY-FIRST. Second-Hand Stores. To define, regulate and license second-hand stores and junk shops, and the owners, keepers and managers thereof.

THIRTY-SECOND. Butcher Shops and Meat Vendors. To license and regulate butcher shops, butcher stalls, vendors of salt meat, commission merchants and all other persons who may deal in or sell on commission any fresh or salt meats, poultry or game, hucksters, vendors or dealers in fruits or vegetables, stock yards; also to regulate and restrain the sale of fresh or salt meat within the corporate limits of said city and to punish or restrain the forestalling of poultry, game, eggs or fruit within said corporate limits; provided, that this section shall not be construed to prevent pork-packers from disposing of offals or trimmings of hogs, nor shall any person selling game, or who may dispose of any animals raised or fattened by him, or who may sell fresh meats by the carcass or in quantities not less than by the quarter, be deemed or held a vendor of fresh or salt meat under the provisions of this section.

THIRTY-THIRD. Slaughter Houses, Breweries, etc. To direct the location and management of slaughter houses, breweries, distilleries and pawnbrokers' shops.

THIRTY-FOURTH. Bread, Hay, etc. To regulate the size and weight of bread sold or prepared for sale, to provide for the seizure and forfeiture of bread baked contrary thereto; to regulate the place and manner of weighing and selling hay, the measurement and selling of fire-wood, coal and lime, and to appoint suitable persons to conduct and superintend the same.

THIRTY-FIFTH. Liquors and Provisions. To regulate the inspection of flour, pork, beef, salt, fish, whisky and other liquors and provisions.

THIRTY-SIXTH. Lumber and Building Materials. To regulate the measurement and inspection of lumber, shingles, timber and building materials.

THIRTY-SEVENTH. Weights and Measures—City Sealer. To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and to require all weights and measures to be sealed by the city sealer, and to provide punishment for the use of false weights and measures.

THIRTY-EIGHTH. Inspectors, etc. To appoint inspectors, weighers and gaugers; to regulate their duties and prescribe their compensation.

THIRTY-NINTH. Public Baths. To provide, regulate and maintain places of bathing and swimming in the waters within the city limits, and to prevent and prohibit the same.

FORTIETH. Ornamental Trees. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

FORTY-FIRST. Rubbish—Removal of. To compel the owner or occupant of buildings or grounds to remove snow, dirt, or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the Board of Health shall direct; and in his default to authorize the removal or destruction thereof by some officer of the city at the expense of such owner or occupant.

FORTY-SECOND. Unwholesome Places. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome, nauseous house or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

FORTY-THIRD. Gunpowder, Petroleum, etc. To regulate and provide for the receipt, storage, transportation, safekeeping and dealing and traffic in gun powder, gun-cotton, petroleum, kerosene or other dangerous explosive or inflammable oils or substances, within said city or within one mile of the corporate limits thereof, and to provide for the

summary condemnation or destruction of any of such articles as may be kept, stored or dealt in, transported through or received in said city, contrary to such ordinances as said city may enact for the safety of life and property therein; and to license and regulate vendors or any dealers in any such substances.

FORTY-FOURTH. Dogs. To regulate the keeping and prevent the running at large of dogs and to impose a tax on the same, and so authorize by ordinance, and to provide for the killing of dangerous and vicious dogs, and to punish by fine or imprisonment the owner or keeper of any such dog who refuses to deliver up the same to be killed, or to pay the tax imposed thereon.

FORTY-FIFTH. Steam Boilers. To provide for the inspection and regulation of steam boilers and to license and regulate the persons in charge thereof.

FORTY-SIXTH. Buildings, Dense Smoke, etc. To control and regulate the construction of buildings, chimneys and stacks, the emission of dense smoke, and to prevent and prohibit the erection or maintenance of any insecure or unsafe building, stack, wall or chimney and to declare them to be nuisances and to provide for the summary abatement thereof; and in addition thereto by ordinance to impose such fine and imprisonment as it may deem proper, not exceeding a fine of one hundred dollars or ninety days imprisonment or both in each case; also to provide for the regulation or summary abatement of any work or building which is detrimental to the safety, health or security of said city; also to provide for the entry at any time by any of its officers into any building or upon any work to ascertain whether the same is dangerous or insecure.

FORTY-SEVENTH. Market Places. To erect and maintain market houses, to establish markets and market places, to make rules and regulations for the government of the same; to appoint suitable persons for managing, overseeing and regulating such markets, to enforce the due observance of such rules and regulations, to restrain and prohibit during market hours the sale at any other place than in the public markets or market places, of meats, poultry, wild game, fruits or vegetables or other articles, except by regular licensed dealers, and by them only at their regular places of business and for which place they shall have a license, and to restrain and prohibit the purchase by any grocer or dealer in vegetables, poultry or other provisions, any meats, poultry, wild game, fruits, berries or any other article in any public market or market place during market hours, except for the use of his or her family; Provided, however, that nothing in this section shall be construed to prohibit the sale of vegetables, country produce or poultry upon the public streets, lanes or alleys of said city after the hour of twelve o'clock noon of each day.

FORTY-EIGHTH. Waterworks, etc. To make, establish and regulate public pounds, pumps, wells, cisterns, hydrants, reservoirs, and to provide for and conduct water into and through its streets, avenues, alleys and public grounds, and to provide for, control, erect and maintain waterworks for the supply of water to its inhabitants.

FORTY-NINTH. Lighting City and Public Buildings. To provide for lighting the city and all public buildings, to establish, erect and maintain, and cause to be operated gas works, electric lighting plants or other works for lighting the city's streets, public grounds and public buildings; to purchase, erect, establish and maintain poles, wires, pipes, conduits, subways, lamps and other appliances for lighting purposes, the use of which said Common Council may let to any person, firm or corporation contracting to light said city, or any part thereof, for a period not exceeding the term of such contract, and defray the cost of such lighting apparatus out of the general fund.

FIFTIETH. Taxes. To levy annual taxes in the manner and subject to the provisions and limitations contained in this charter and consistent with the laws of this state.

FIFTY-FIRST. Plats. To accept plats of additions, sub-divisions and rearrangements when the same conform to the provisions of this charter and the laws of the state.

FIFTY-SECOND. Fire Limits—Safety Regulations. To prescribe, contract or extend the limits within which wooden buildings or buildings of other materials that shall not be considered fire-proof shall not be erected, placed or repaired; to direct that all and any building within the limits prescribed shall be made and constructed of fire-proof materials; to prohibit the re-building of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent of the value thereof, and to prescribe the manner of ascertaining such damage; to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places and in the streets and highways; to require citizens to provide as many fire buckets and in such manner and times as they shall prescribe and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufacturing industries dangerous in causing and promoting fires; to regulate and prevent the use of fire-works and fire-arms; to compel the owners or occupants of buildings to have scuttles in the roofs and stairs or ladders to the same; to authorize the Mayor, members of the Common Council and other officers of the city to keep away from the vicinity of any fire all idle or suspected persons; to compel all by-standers to aid in the extinguishment of fire, and in the preservation of property exposed to danger thereat; and generally to establish such regulations for the preservation and extinguishment of fires as the Common Council may deem expedient.

FIFTY-THIRD. May Acquire Property. To acquire and take real and personal property by gift, grant, devise or bequest, and hold and employ the same for public purposes.

FIFTY-FOURTH. Fences, Sign-Boards, etc. To license, regulate, prevent, prohibit and suppress the erection or maintenance of fences, sign-boards, bill-boards, and other structure designed for advertising purposes, in such close proximity to any street, highway or public grounds of said city as, in the opinion of said Common Council, may tend to impair or abridge the safe, convenient or free use thereof by the public.

FIFTY-FIFTH. Patrol Limits—Prohibition District. To establish alter, enlarge and contract patrol limits within said city, and to prevent, suppress and prohibit the sale or other disposal of any spirituous, fermented, malt, vinous or other intoxicating liquor within such limits, except by duly licensed druggists for medical, mechanical or chemical purposes to be used elsewhere than upon said druggist's premises.

FIFTY-SIXTH. Municipal Quarries, etc. To provide, establish, equip, maintain and cause to be operated under the supervision of the street commissioner, municipal quarries, works, apparatus and other facilities for the manufacture, construction and laying of macadam, asphalt or other kinds of street pavements and cement, tile or artificial stone sidewalks.

FIFTY-SEVENTH. Sprinkling Plants. To provide, establish, equip and maintain suitable municipal works, apparatus and facilities for the cleaning, repairing and sprinkling of streets, alleys and public grounds, and for the collection and disposal of garbage and all other waste material under the immediate supervision of the Common Council.

FIFTY-EIGHTH. Public Buildings. To provide for the erection, equipment and maintenance of all public buildings, that may, from time to

time, be required for city purposes, not otherwise provided for in this charter.

FIFTY-NINTH. Public Playgrounds. To provide and maintain public parks, public playgrounds and places of recreation for children, and to levy the necessary tax to acquire and support the same, not exceeding in any one year the sum of two thousand dollars.

Sec. 9. Revocation of Licenses—Enforcement of Ordinances. The Common Council shall have full power and authority to revoke for misconduct of the licensee, any license granted under this charter and to declare and impose fines, penalty and punishment, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance or resolution or by-law passed or ordained by it, and all such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state. Such fines, penalties and punishments declared or imposed by the Common Council may extend to a fine not exceeding one hundred dollars and imprisonment in the city prison, or common prison of Dakota County, not exceeding ninety (90) days, or both, at the discretion of the City Justice, and offenders against any ordinance, by-law or regulation as aforesaid, may be required to give security to keep the peace not exceeding six months and in a sum not exceeding five hundred dollars.

The Common Council may provide by ordinance that anyone convicted of an offense before the City Justice subjecting such offender to imprisonment under the charter and ordinance of said city, may be kept at hard labor in any prison established by said city for that purpose, and may also provide by ordinance that anyone convicted of an offense before the City Justice, and committed upon non-payment of a fine imposed, may be kept at hard labor in such prison until such person shall work out the amount of such fine at such rate of compensation as said Council may prescribe for a time not exceeding the term of such commitment; and the Common Council shall have power to establish by ordinance all needful regulations for the security of such persons and to prevent escape and secure proper discipline; provided, that the City Justice shall not have the power for vagrancy to commit any person to the city prison, city workhouse or county jail, or to order such person to work upon the public streets or improvements for a longer period than thirty days.

Sec. 10. Common Nuisances Defined. The powers conferred upon the Common Council to provide for the abatement or removal of nuisances shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind within the limits of said city, wherein more than twenty-five pounds of gun powder or more than five barrels of forty-two gallons each (or such greater or less quantity as said Common Council may direct by ordinance) of petroleum, kerosene, naphtha or other inflammable or explosive oils or substances are deposited, stored or kept at any one time; gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented malt or other intoxicating liquors are sold, without licenses required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Sec. 11. Control of Public Highways, etc.—City Not Liable for Railroad Accidents. The Common Council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares, parks and grounds, sewers, and all other public improvements and public property within the limits of said city except as in this charter otherwise provided, and shall cause all streets which may have been opened and graded under the authority of said city, or with its assent, to be kept open and in repair and free from nuisance. The city corporation shall be exempt from all liability caused by railroads, either to persons or property, when said railroads or engines or cars are passing along, across, under, over or

upon any street, lane, alley or other public way, within the limits of the City of West St. Paul.

Sec. 12. Vacation of Streets, etc.—Petition—Vote. The Common Council of said city shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within said city and also all county, territorial and state roads, whether actually traveled or used at the date of the petition for such vacation or not. No such vacation or discontinuance shall be granted or ordered by the Common Council except upon the petition of a majority of the owners of the property on the line of such public grounds, streets, alleys or highways, resident within said city, save that a corporation, whether domestic or foreign, may, when interested, join in and verify such petition by any officer thereof, and be counted as a resident for the purpose of this section. Each petition provided for in this section shall set forth the facts and reasons for such vacation, accompanied by a plat of such public grounds, streets, alleys or highways, county, territorial or state roads proposed to be vacated, and shall be verified by the oath of one of the petitioners. The Common Council shall thereupon, if it deem it expedient that the matter shall be proceeded with, order the petition to be filed of record with the City Clerk, who shall give notice by publication for four (4) weeks, 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 said body, or a committee by it appointed, at a certain time and place therein specified, not less than ten (10) days from the expiration of said publication. Said body, or such committee as may by it be appointed 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. Said body, thereupon, after hearing the same, or report of such committee in favor of granting such petition, may by resolution passed by two-thirds (2-3) vote of all the members elect, declare said public ground, streets, alleys or highways, county, territorial or state roads vacated, which said resolution shall, before the same shall go into effect, be published as in the case of ordinances, and thereupon a transcript of such resolution and of said plat, duly certified by the City Clerk, shall, before the same is valid, be filed for record and duly recorded in the office of the register of deeds of the County of Dakota. No vacation of any street, alley or public ground in said city shall be hereafter allowed except upon such terms and conditions, as well as to the compensation, if any, to be paid by the person seeking such vacation, or otherwise, as shall be specified in the resolution ordering such vacation.

Provided, further, however, that vacations and discontinuances of such county, territorial or state roads may be granted upon the petition of a majority of the owners of property through which the same or the portions thereof sought to be vacated exist, when such owners shall have platted the same, and shall have provided, in lieu of such roads, sufficient streets in the opinion of the Common Council, of which fact the approval of said Common Council and the acceptance of such plat and the resolution of vacation shall, when recorded, be conclusive evidence.

Sec. 13. Bridges, Viaducts, Tunnels—Approaches to—Change of Grade. The Common Council of the city of West St. Paul shall have full power to construct any bridges, viaducts and tunnels and also the needful approaches thereto in any street or streets or highway or highways of said city or under railway tracks or other places whether such bridge, bridges, viaducts, tunnels or approaches thereto conform to the established grade of the street or highway wherein they may be constructed or otherwise. The said bridge, bridges, viaducts or tunnels with the approaches thereto shall be and become part of the street or highway wherein they may be constructed as aforesaid, and any part or parts of any established grade of such street or highway or of any street or highway crossing the

same, may be so altered or changed by said Common Council, as to conform to the passageway over or under the said bridge, bridges, viaducts or tunnels, or to form the whole or any part of the approaches of such bridge, bridges, viaducts or tunnels, or to facilitate access to, or passage over the said bridge, bridges, viaducts or tunnels or approaches thereto. Provided in case such bridge, bridges, viaducts or tunnels or approaches thereto, shall not conform to such established grade of such street or highway wherein they may be constructed, a vote of at least two-thirds (2-3) of the members elect of such Common Council shall be necessary to authorize the same, or to change any part or parts of such established grade of such street or highway or other streets or highways, crossing the same as aforesaid.

Sec. 14. Damages for Change of Grade. In case such bridge, bridges, viaducts or tunnels or approaches thereto, shall not conform to such established grade, or in case of any change of grade as aforesaid, any owner of land abutting upon that part of such street or highway where such bridge, bridges, viaducts or tunnels or approaches, or change of grade shall be ordered by said Common Council, shall deem himself damaged thereby, he shall be entitled to compensation from said city to be assessed as herein provided.

Sec. 15. Notice of Claim—Filing—Hearings on. To entitle such person so damaged to compensation, he shall file with the city clerk within six (6) months from the passage of the resolution or order from the said Common Council directing the work to be done, or change of grade to be made aforesaid, a written claim of damages specifying the grounds thereof, and the said Common Council shall assess and determine or refer the said claim to the Committee on Streets.

Sec. 16. Petitions, etc., Not Necessary. In ordering the construction of such bridge or bridges or such change of grade no petition of property owners or other petition or preliminary notice or reference to the Common Council or other preliminary proceedings, shall be necessary to enable or authorize the Common Council to act in said matters.

Sec. 17. Real Estate, Lease, Purchase, Sell. The Common Council shall have power to lease, purchase and hold real estate for the use of said City of West St. Paul, or to aid in the purchase of real estate for such public purposes as the Common Council may deem proper, by a two-thirds (2-3) vote of all the members elect and with the approval of the Mayor, provided, however, that the exercise of said power shall be subject to the limitations and restrictions contained in this charter, and said Common Council may by a like vote sell and convey and by a majority of the members thereof lease any such real estate as the city may own which is not needed for municipal purposes. The real estate purchased and held by said city shall be free from taxation.

Sec. 18. Eminent Domain. The City of West St. Paul shall have the power to take private property for public use upon just compensation therefor, being first paid or secured; such power shall be exercised through its Common Council or other officers of said city as provided in this charter, or as may be hereafter provided by law.

Sec. 19. Franchises in Streets. The Common Council shall have power and authority by ordinance passed by a vote of two-thirds (2-3) of all the members elect of said council, to grant rights, franchises and privileges in, over, upon or under any street, highway, alley, public grounds or levees of said city, for the purpose of constructing or operating street railways, or for telephoning, or telegraphing, or transmitting electricity, or transporting by pneumatic tube, or for furnishing to the city or its inhabitants, or any portion thereof, water, light, heat, or power, or for any other public purpose, but subject always to the limitation and conditions in this charter prescribed.

Sec. 20. Common Council Regulation of Franchises. The Common

Council may by ordinance provide for regulating and controlling the exercise by any person or corporation of any public right, franchise and privilege in any of the streets and any public places in said city, whether such right, franchise or privilege has been or may be granted by said city, or by or under the laws of the state of Minnesota or any other authority.

Sec. 21. **No Perpetual Franchise.** No perpetual right, franchise or privilege as aforesaid, shall ever be granted, and no such right, franchise or privilege shall ever be granted for a longer period than twenty-five years, and no right, franchise or privilege as aforesaid shall ever be granted by said Common Council for a longer period than five (5) years, unless such right, franchise or privilege shall first have been submitted to the electors of said city and authorized by a majority vote thereof.

Sec. 22. **Franchise Ordinances in Council.** No ordinance granting any franchise or privilege shall be passed by the Common Council until at least ten days after such ordinance shall have been introduced in such body and framed by such body in the exact form in which it shall be passed.

Sec. 23. **Extensions, Modifications, etc.—How Validated.** No extension, modification or change of any franchise or privilege heretofore granted, or of any condition or limitation affecting such franchise or privilege, shall be valid or effectual unless the person or corporation holding such franchise or privilege shall, in writing, agree that such franchise or privilege, together with any such extension, modification or change, shall be held and used subject to all the conditions and limitation in this charter prescribed.

Sec. 24. **Rates May be Regulated.** The Common Council shall have the power to regulate and control the maximum price to be charged by any corporation or person exercising any privilege or franchise in the city for the service rendered by it to the city, and to any other person or corporation; but such price shall be fair and reasonable.

Sec. 25. **Forfeiture.** Every ordinance granting any franchise or privilege as aforesaid, shall provide for the termination and forfeiture of any franchise or privilege aforesaid, for any breach or failure to comply with any of the terms, limitations or conditions thereof; and in all such cases the Common Council shall have the power to declare the termination and forfeiture of any such franchise or privilege the same as though in each instance such power was expressly reserved.

Sec. 26. **Rights in Streets Reserved.** No person or corporation shall occupy or have any rights in, over, upon or under, any street, highway, alley, public grounds or levees of said city for the purpose of constructing or operating street railways, or for telephoning or telegraphing, or transmitting electricity or transporting by pneumatic tube, or for furnishing to the city or its inhabitants, or any portion thereof, water, light or heat or power, or for any other public purpose, until an ordinance shall have been duly passed by said Common Council, in the manner and subject to the conditions and limitations prescribed in this charter.

Sec. 27. **Steam, Dummy or Elevated Railways—Petition Necessary.** No franchise to construct or operate any steam, dummy or elevated railway of any description on any street, highway, alley, public grounds or levees of said city, shall be granted, except upon the petition of the owners of more than one-half of the property fronting on the line of such proposed road.

Sec. 28. **Additional Terms May be Imposed.** Said Common Council shall have power to impose other terms, conditions and restrictions additional to those prescribed by this charter, upon the grant of any such right, privilege or franchise aforesaid, including suitable provisions that the whole or any part of the property used in the exercise or enjoyment of any such right, privilege or franchise shall, upon the expiration thereof, become the property of said city with or without further compensation.

Sec. 29. **Abandoned Franchises.** All rights, privileges and franchises heretofore granted by any lawful authority in, over, under or upon any of the streets, alleys or public grounds of said city, which have never been

exercised or which have been abandoned or been unused for more than five years before the time when this charter becomes effective, are hereby declared to be forfeited and invalid.

Sec. 30. **Lawful Taxes, etc.—Common Council cannot Relieve.** The Common Council shall not have the power or authority to relieve any person or corporation from the payment of any lawful tax, assessment, fine or license, or to exempt him from any burden imposed upon him or it by law or order, or ordain the payment of any demand not authorized and audited according to law.

Sec. 31. **Disputed Demands on Contracts.** The Common Council shall not have power to ordain or authorize any compromise of any disputed demand arising out of contract or any allowance therefore or therein, except as provided in the contract therefor.

Sec. 32. **Damages for Injuries.** The Common Council shall not have power to ordain or authorize the compromise or payment of any damages claimed for alleged injuries to persons or property, except by ordinance adopted by a two-thirds (2-3) vote of the Common Council.

CHAPTER V.

TREASURY, TAXES AND FINANCES.

Section 1. **Fiscal Year.** The fiscal year of the city of West St. Paul shall end on the first day of January in each year.

Sec. 2. **Property Subject to Taxation.** All real, personal and other property within the city except such as may be exempt by the laws of this state shall be subject to taxation for the support of the City Government and the payment of its debts and liabilities, and all taxes shall be assessed and collected in the manner provided for by the general laws of this state, except as hereinafter otherwise expressly provided. All property, real or personal, belonging to said city, or of special West St. Paul School District, shall be exempt from taxation; PROVIDED, That nothing herein contained shall be construed as limiting the levying and collection of special assessments as provided for in this charter.

Sec. 3. **When and How Levied.** All taxes shall be levied by resolution of the Common Council at a regular meeting prior to the first day of October in each year. All taxes shall be levied in specific amounts and based upon an itemized estimate of the city expenses for the ensuing year.

Sec. 4. **Estimates for Tax Levy.** On or before the first Monday in September, in each year, the City Clerk shall prepare and transmit to the Common Council an estimate of the probable expenditures of the city for the current year giving the amount required to meet the interest and sinking funds for any outstanding funded debts, together with the amounts needed for salaries and the wants of all the departments of the municipal government in detail, and showing specifically the amount necessary to be appropriated to each fund in the Treasury. The estimates shall also show what amount of income and revenue is likely to be collected from funds, licenses and all other sources of revenue, exclusive of taxes upon property, and shall set forth the probable amount that will be required to be levied and raised by tax upon all property in the city to meet the requirements of each year.

Sec. 5. **Fiscal Budget.** The Common Council shall, between the first day of September and the 7th day of October, make a budget of the amounts estimated to be required to pay the expenses of conducting the public business of the city for the year. The budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each Department, office, board or committee as the Common Council may determine, and shall be recorded upon the minutes at length.

Sec. 6. **Same to be Submitted to Mayor.** The budget shall, when completed by the Common Council, be delivered to the Mayor, who may,

within five days after such delivery to him, veto any item in said budget, in whole or in part, and it shall require the vote of at least five members of the Council to overcome such veto. After the final estimate is made in accordance herewith, it shall be signed by the Mayor and the City Clerk and the several sums shall then be appropriated to the several purposes and departments therein named. The estimate shall thereupon be filed in the office of the City Clerk.

Sec. 7. Transmission to County Auditor.—When. The City Clerk shall transmit to the County Auditor of Dakota County, on or before the 10th day of October, in each year, a statement of all taxes levied by the Common Council, as by this charter provided, and the County Treasurer shall pay such collected taxes to the City Treasurer at such time and in such manner as is directed by the general statutes of this state.

Sec. 8. Funds. The moneys and securities in the City Treasury not belonging to any school fund shall be divided into the following named 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 for license fees, fines and costs, sales of city property, and all moneys received from any source, except such as may be expressly destined for special funds, debts and liabilities of the city not otherwise expressly provided for.

The street repair fund, into which shall be paid such proportion of the general tax as shall have been determined by the Common Council in compiling the budget.

The sinking fund, into which shall be paid all moneys raised by taxation for payment of the bonds of the city, and from which such bonds shall be paid.

The Local Improvement Fund is provided for the purpose of aiding in local improvements mentioned in Chapter six, and such other special funds as may hereafter be established by any Statute of the State, or by City Ordinance.

Sec. 9. Funds to be Kept Separate. The said several funds mentioned in the last preceding section shall be kept separate and distinct, and the City Treasurer shall keep separate and distinct accounts of receipts therein and disbursements therefrom. Each of said funds shall be devoted only to the particular purposes for which it is ordered, 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 by the Common 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.

Sec. 10. Moneys Not to be Transferred. The Common Council shall make no appropriation from, or shall the Mayor or City Clerk sign any order upon, any of said funds in the city treasury for any purpose for which said funds cannot legally and appropriately be used, nor shall the Common Council authorize, or attempt to authorize, or the Mayor or the City Clerk sign any order for any transfer of money or its equivalent from any of said funds to another, except as herein otherwise provided.

Sec. 11. Transfer of Funds. The Common Council shall have power to transfer funds from the general fund of said city not to exceed twenty per cent of the total receipts for the general fund for any year to any other funds of said city.

Sec. 12. Appropriation of Funds. Whenever the city Treasurer shall receive from the County Treasurer, or other source, any money

or its equivalent belonging to said city, he shall apportion and credit the same to the proper fund or funds, and shall, without delay, transmit to the City Clerk a duplicate of his receipt thereof.

Sec. 13. Separate Accounts of Estimates and Appropriations. It shall be the duty of the City Clerk to keep an accurate and separate account of the estimates made, and of the appropriations made from time to time for each department and purpose, in such form that he may be enabled thereby to inform the Common Council at any time how much of the sum estimated for any department or purpose remains unexpended. And the City Clerk shall keep, with the aid of duplicate receipts and statements of payments made on city bonds to be furnished to him by the City Treasurer, general accounts of the receipts and disbursements from the general fund, the city bonds fund, and all other funds in the city treasury and other funds not subject to the control of the Common Council, which accounts shall be in such form that comparison may readily be made between them and the accounts kept by the City Treasurer respectively, and may be easily checked by each other.

Sec. 14. Power of Council to Borrow Money. The Common Council shall have power and authority to borrow money, issue bonds, and levy taxes for the purpose of carrying out any of the provisions of this charter, exceeding the amount authorized by other sections hereof; PROVIDED, That the sum be authorized by a majority of the qualified voters voting at any general or special election held for that purpose for which notice is given as at other elections. Whenever it shall be desired to submit to a vote the question of issuing any bond or bonds authorized by this section, the same may be done in such form and manner as the Common Council, by resolution, may prescribe.

Sec. 15. The Treasury Department. Said Common Council shall have full power and authority to issue bonds to fund the floating or funded indebtedness of the city, such bonds to be payable in not more than twenty (20) years after date, with interest payable semi-annually in the city of New York or in the city of St. Paul. No bond hereafter to be issued by said city, for any purpose, shall draw more than six (6) per cent. interest per annum, and said Common Council are fully authorized and required to provide by taxation for the prompt payment of interest, and for a sinking fund sufficient to meet such bonds, and all other bonds, of said city at maturity.

All moneys credited to the general fund of said city shall be under the control of the Common Council, and shall be paid out upon the order of the mayor and clerk, duly authorized by a vote of the Common Council; and all orders drawn upon the treasurer shall specify the specific purpose for which they were drawn, and shall be payable generally out of any funds in the general fund belonging to said city; but no such order shall be paid out of any special fund which has been specifically pledged as aforesaid; and such specific funds shall only be drawn out upon orders drawn upon such funds by virtue of a resolution of the Common Council. All orders shall be payable to the order of the person in whose favor they may be drawn, and they may be transferred by endorsement. No order on the treasury shall be drawn or issued until there shall be funds sufficient to pay the same, together with the orders that may be then outstanding. PROVIDED, That this prohibition shall not apply to orders to pay the police force, city officers and employes.

Sec. 16. Bonds—How Issued. All bonds issued in pursuance of the provisions of this charter shall be under the corporate seal of the said city, signed by the Mayor and Treasurer and attested by the City Clerk, and shall, upon the face, express the object for which they are given, and shall not be negotiated for less than par value.

Sec. 17. No Limitation—When. 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 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.

CHAPTER VI.
LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS, STREET
SIDEWALKS, ETC.

Section 1. General Powers of City. The municipal corporation of the City of West St. Paul is hereby authorized and empowered to condemn land for public parks, public markets, for the opening, widening and extending, altering and straightening of any street, lane, alley or highway, and to condemn an easement in land across, over, or under the property of corporations, for streets, bridges, approaches, culverts, viaducts, ditches and for any and all other public improvements, and to condemn an easement in land for the construction of slopes, or retaining walls for cuts and fills upon real property abutting on any street, levee, lane, alley or highway now ordered or such as shall hereafter be ordered to be opened, extended, altered, straightened or graded, and for changes of grade in any street, levee, lane, alley or highways, and to abate nuisances, and to drain swamps, marshes and ponds, and to fill the same in said city, and to levy assessments for all the improvements mentioned above, and for such other local improvements as may be ordered by said municipal corporation upon property fronting on or to be benefited by such improvements without regard to cash valuation. The provisions of this section shall apply to any and all improvements heretofore ordered, as well as to those that shall be hereafter ordered.

Sec. 2. Improvements Subject to Assessment. Such assessments may be made by said city of West St. Paul, for grading, filling, leveling, paving, curbing, walling, bridging, graveling, macadamizing, planking, opening, extending, widening, contracting, altering, straightening and sprinkling any streets, levee, lane, alley or highway, and for a change of grade in any of the same, and for an easement in land across, over or under the property of corporations for streets, bridges, approaches, culverts, viaducts, ditches and for any and all other public improvements, and for an easement in land for the construction of slopes and retaining walls for cuts and fills in any street, levee, lane, alley or highway, which has heretofore been, or shall hereafter be ordered to be opened, extended, widened, altered or straightened, and for a change of grade in any of the same, and also for keeping the same in repair, also for filling, grading, protecting, improving and ornamenting any public park, square or grounds, now or hereafter laid out, also for planting and protecting shade and ornamental trees, also to abate nuisances, and to drain swamps, marshes and ponds, and to fill the same, also for constructing, laying and repairing crosswalks and sidewalks, retaining walls, area walls, gutters, sewers and private drains, and enlarging all of the same, and also for the abatement of any and all public nuisances within the limits of said city. And the City of West St. Paul is hereby authorized and empowered to change the grade of any street and condemn and take an easement in the land abutting on said street for the construction of slopes and fills in the grading of said street to the grade as so changed as one (1) improvement and under one (1) and the same proceeding.

Sec. 3. Cost Paid by Assessment—Exceptions. The expenses of any improvements mentioned in the foregoing section shall be defrayed, save as herein otherwise provided, by an assessment upon the real estate fronting upon or benefited thereby to be levied in the manner hereinafter prescribed; provided, that the construction, reconstruction or maintenance of

cross foot walks over public streets, lanes or alleys and sidewalks adjacent to public squares, public grounds and public parks shall be paid out of the general fund of said city; and that all or any part of the expense of improving or ornamenting public grounds, squares, and parks, and the paving, repaving, macadamizing and grading of the space occupied by street intersections may, if the Common Council of said city deem it expedient, be paid out of the general fund of said city.

Sec. 4. Assessments, How Made. All assessments for local improvements aforesaid, as provided in this chapter, shall be made by the Common Council of the City of West St. Paul, except as may be herein otherwise provided.

Sec. 5. Applications—How Made. All applications or propositions for any improvement mentioned in section two of this chapter, shall be made to the Common Council of said city. Provided, That any such application made to said Common Council shall be in writing, and that said Common Council shall not be required to proceed further with any such application, unless said Common Council is satisfied that a majority of the property owners, whose property is fronting and abutting upon the line of said proposed improvement, who would probably be assessed for the expense of any such improvement, have subscribed to such application; but the said Common Council may proceed further with any such application if said application is signed by at least five (5) property owners whose property is fronting and abutting upon the line of said proposed improvement. Upon such proper application, said Common Council shall proceed to investigate the same; and if they shall determine that such improvement is necessary and proper, they shall report the same accompanied with an estimate of the expense thereof, and a proper ordinance or order directing the work. If they do not approve of any such application or proposition, they shall report their reasons for their disapproval.

PROVIDED, That the Common Council shall in no case order the doing of any such work, or the making of any such improvement unless in their opinion real estate to be assessed for such work or improvement can be found benefited to the extent of the damages, costs and expenses necessary to be incurred thereby. Two or more streets may be ordered to be graded at the same time, so that the material taken from one street may be used in filling the others.

Sec. 6. Condemnation Proceedings. Whenever any order is passed by the Common Council by virtue hereof, for the making of any public improvement (mentioned in this chapter, save as herein otherwise provided), which shall require the appropriation or condemnation of any land or real estate, the said Common Council shall, as soon as practicable, proceed to ascertain and assess the damages and recompense due the owners of such land respectively, and at the same time to determine what real estate is fronting upon or will be benefited by such improvement and assess the damages, together with the costs of the proceedings, on the real estate by it deemed benefited, in proportion, as nearly as may be, to the frontage upon or the benefit resulting to each separate lot or parcel thereof.

Sec. 7. Notice of Assessment—Hearings. The said Common Council shall then give fifteen (15) days' notice by publication, on the official bulletin boards of the city, of the time and place of their meeting, for the purpose of making said assessment, in which notice they shall specify what such assessment is to be for, and they shall describe the land to be condemned as nearly as may be done by general description, and all persons interested in any such improvement shall have the right to be present and be heard, either in person or by counsel, and the City Attorney as counsel for the City of West St. Paul shall be permitted to appear before them at such hearing to represent the interests of said city. The said Common Council shall view the premises to be condemned, and

receive any legal evidence that may be offered for the purpose of proving the true value thereof, or the damages that will be sustained, or benefits conferred by reason of the contemplated improvement; and the Common Council for this purpose are hereby authorized to administer oaths to all witnesses produced before them, and they may adjourn from time to time, and place to place, until such assessment is completed, and said board shall have authority to send for persons and papers and to compel the attendance of witnesses, and shall have authority to issue subpoenas under the seal of the city.

Sec. 8. Damages—How Awarded—Interest—Consummation of Condemnations. The said Common Council, in making said assessment, shall determine and appraise to the owner or owners the value of the real estate appropriated for the improvements, and the damages arising to them respectively from the condemnation thereof, which shall be awarded to such owners respectively, as damages, after making due allowance therefrom for any benefit which said owners may respectively derive from such improvements.

Sec. 9. Damages in Excess of Benefits. If the damages to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the said Common Council shall strike a balance and carry the difference forward to another column, so that the assessment may show what amount is to be received or paid by such owners respectively, and the difference only shall in any case be collectible of them or paid to them.

Sec. 10. Land Donations—Discretion of Common Council. In the assessment of damages and benefits for the opening of any street, levee, lane, highway or alley, it shall be lawful for the said Common Council in their discretion, in making such assessment, where part of the land to be laid out into such street, levee, lane, highway or alley, has been heretofore donated by any person or persons for such street, levee, lane, highway or alley, to appraise the value of the land so donated, and to apply the value thereof as far as the amount so appraised shall go, as an offset to the benefits assessed against the person or persons making such donation, or those claiming under them; but nothing herein contained shall authorize any person or persons by whom such donation is made, to claim from the city the amount of such appraisal except as an offset as herein provided. And where the assessment is one for the widening of any street which may have been heretofore, either in whole or in part, donated to the public by the proprietors of the adjoining land, it shall also be lawful for said Common Council, in their discretion, to make such allowance therefor, in their assessment of benefits, as shall in their opinion be equitable and just.

Sec. 11. Damages for Buildings—Appraisal—Removal—Notice. If there should be any building standing in whole or in part, upon the land to be taken, the said Common Council shall add to their estimate of damages for the land, the damages also for the building or part of the building necessary to be taken, if it be the property of the owner of the land. When owned by any other person, the damages for the building shall be assessed separately. The value of such building to the owner to remove, or of the part thereof necessary to be taken, shall also be determined by the said Common Council, and notice of such determination shall be given by them to the owner when known, if a resident of the city, or left at his usual place of residence or abode. If the owner is not known, or is a non-resident, ten (10) days' notice by publication on the official bulletin boards to all persons interested shall be given. Such owner may, at any time, within ten (10) days after such notice, notify the Common Council, in writing, of his election to take such building, or part of building, at their appraisal; and in such case the amount of such appraisal shall be deducted by the Common Council from the estimated damages for the

land and buildings, where they belong to the same owner, and from the estimated damages for the building where they belong to different owners; and the owner shall have such time for the removal of such building, after the confirmation of the assessment, as the Common Council may allow. If the owner shall refuse to take the building at the appraisal, or fail to give notice of his election as aforesaid, within the time prescribed, then no deduction shall be made from the estimated damages aforesaid, and the Common Council shall, after the confirmation of the assessment, and after the money is collected or otherwise provided and ready in the hands of the Treasurer, to be paid over to the owner for his damages, proceed to sell such building or part of building at public auction, for cash, giving ten (10) days' public notice of the sale by publication, and cause such building to be then forthwith removed. The proceeds of such sale shall be paid into the city treasury, to the credit of the local improvement fund.

Sec. 12. Joint Owners—Land Subject to Lease. If the lands and buildings belong to different persons, or if the land be subject to lease, the damages due to such persons, respectively, may be awarded to them by the Common Council, less the benefits resulting to them, respectively, from the improvement.

Sec. 13. Assessment of Benefits. Having ascertained the damages and expenses of such improvement, as aforesaid, the Common Council shall thereupon apportion and assess the same, together with the costs of the proceedings upon the real estate fronting upon or by said Common Council deemed benefited, in proportion to the benefits resulting thereto from the improvement as nearly as may be, and shall briefly describe the real estate upon which their assessment may be made; and it shall constitute no legal objection to such assessment, that the amount thereof either exceeds or falls short of the original estimate of the cost of the improvement submitted by the Common Council.

Sec. 14. Notice of Assessment—Hearing—Confirmation—New Assessments, When. When completed, said Common Council shall cause to be given ten (10) days' notice by publication, to the effect that such assessment has been completed, and that at a time and place therein specified the said Common Council will meet for the purpose of hearing objections, and that unless sufficient cause is shown to the contrary, the same will be confirmed, and when so confirmed, shall be entered in a book kept for that purpose. All objections to said assessments shall be in writing and filed with the Clerk of said city at least one (1) day prior to the said meeting of said Common Council last mentioned. Provided, however, that the said Common Council may, in its discretion, allow any party interested, who has accidentally or inadvertently omitted to file his objections aforesaid, to do so at the time of meeting of said Common Council aforesaid. Should no quorum be present at the said appointed meeting of said Common Council the said meeting may be adjourned by the member or members of said Common Council present, or if none of the members are present, by the City Clerk to such other convenient time and place as may be deemed expedient. Provided, further, that nothing herein contained shall preclude the said Common Council from causing a new notice as aforesaid to be given of a meeting of the said Common Council for the purpose of hearing objections to said assessment, and for the confirmation thereof in the same manner as before required, in case the previous notice shall be found imperfect or in case of a failure of the attendance of the members of said Common Council, or for any other reason which shall be satisfactory to said Common Council for so doing. The said Common Council shall have the power to adjourn such hearing from time to time, and shall have power, in their discretion, to revise, correct, confirm or set aside the said assessment and proceed to make an assessment de novo, without any further notice. Said assessment, when confirmed, shall be final and conclusive upon all parties interested therein, except as here-

inafter otherwise provided. When said assessment is confirmed, a warrant under the seal of said city shall issue to the Treasurer of said city for the collection of the same from the property on which the same has been assessed, signed by the Mayor and City Clerk. If said assessment shall be set aside by the said Common Council as aforesaid or by the court, the said Common Council shall proceed de novo to make another or new assessment, and they shall proceed in like manner and give like notice as herein required in relation to the first, and all parties in interest shall have like rights, and the said Common Council shall perform like duties, and have like powers in relation to any subsequent determination, as are hereby given in relation to the first. As soon as practicable after the said assessment has been confirmed and entered, the City Clerk of said city shall cause a notice by publication of the same to be given in the published proceedings of the Common Council.

Sec. 15. Appeals—Notice—Bond—Pleadings—Jurisdiction of Court. Any person whose property has been appropriated, and who has filed objections to such assessment as hereinbefore provided, shall have the right at any time within ten (10) days after the publication of said notice provided for in the next preceding section to appeal to the district court of the County of Dakota of this State, from the order confirming said assessment. Said appeal shall be made by filing a written notice with the City Clerk specifying the name of the court to which the appeal is taken, and a description of the property of said appellant so appropriated, and the objections of said appellant to such assessment, and by filing with the clerk of said court, within ten (10) days thereafter, a copy of said notice of appeal and objections, together with a bond to the City of West St. Paul conditioned to pay all costs which may be awarded against the appellant, in such sum and with such sureties as shall be approved by the judge of said court of record in this State, together with a copy of such notice, with the date of filing thereon certified by the City Clerk. In case of an appeal a copy of the assessment roll as confirmed aforesaid, certified by the City Clerk, at the expense of the appellant, which shall in no case exceed the sum of three (3) dollars, shall be filed in the office of the clerk of the court to which such appeal shall be taken, and the cause shall be docketed by such clerk in the name of the person taking such appeal against the City of West St. Paul as an "appeal from assessments." The said cause shall then be at issue, and it may be brought on for hearing by either party, and shall have the preference in order of trial over all civil causes pending in said court. Such appeal shall be tried in said court as in the case of other civil causes, except that no pleading shall be necessary, and on such trial the only question to be passed upon shall be whether the said Common Council had jurisdiction in the case, and whether the valuation of the property specified in the objections is a fair valuation, and the assessment, so far as it affects such property, is a fair and impartial assessment. The judgment of the court shall be either to confirm or annul the assessment in so far as the same affects the property appropriated aforesaid of the said appellant, from which judgment no appeal or writ of error shall lie. Costs and disbursements may be taxed upon said appeal as in other civil cases, but the judgment entered therefor against said city shall be a separate judgment and paid out of the local improvement fund of said city.

Sec. 16. Payment of Damages—Water Powers—Deeds. When such assessment shall have been confirmed the same shall be a lawful and sufficient condemnation of the land ordered to be appropriated and of every right, title, estate, lien and interest therein except as to those who have appealed therefrom as provided by section fifteen (15) of this chapter. The City of West St. Paul shall thereupon cause to be paid to the owner of such property the amount of damages over and above all benefits which may have been awarded therefor. If in any case there shall be any doubt

as to who is entitled to the damage for land taken the city may require of the claimant a bond with good and sufficient sureties to hold the city harmless from all loss, cost and expenses in case any other person should claim such damages. In all cases the title to the land taken and condemned in the manner aforesaid shall be vested absolutely in the City of West St. Paul in fee simple. Provided, however, that when it may be necessary to condemn any land for the opening, extension or the widening of any street over which any stream of water runs, and which the owner thereof may desire to utilize as a water power, the Common Council, upon being advised of such facts, may order the taking and the condemnation of the necessary land for such street, with the reservation that the owner of such land shall have the right to construct flumes or mill races across, through or under said street, and construct dams above and below said street and the flow of said land; provided further said flumes, races, dams or flowing shall be so constructed and used as not to obstruct public travel on said street. It shall be the duty of the City Clerk to cause all deeds taken by the city of land acquired by condemnation to be recorded without delay, and the said clerk shall be the custodian thereof. In case no deed is given it shall be the duty of said clerk to cause the county auditor and City Treasurer to be notified of the title so acquired by the city, giving to each of them a description of the land so acquired, and it shall be the duty of the register of deeds of the County of Dakota to record all such deeds without requiring the certificate of the county auditor, county treasurer or city treasurer that the taxes and assessments thereon have been paid.

Sec. 17. Possession of Property on Easement. The City of West St. Paul shall have the right to enter upon and take possession of the lands and property ordered to be condemned, or of any easement therein, and to appropriate such lands, property or easement to the purposes for which the same is condemned upon the confirmation of the assessment, as hereinbefore provided. In case an appeal shall be taken from the confirmation of such assessment the same shall not delay the right of the city to enter upon and appropriate the property condemned.

Sec. 18. Covenants, etc., Between Landlords and Tenants. When the whole of any lot or parcel of land or other premises under lease or other contract shall be taken for the purposes aforesaid by virtue of this charter, all the covenants, contracts and agreements between landlords and tenants, or any other contracting parties touching the same or any part thereof, shall, upon publication of the notice required in the preceding section, respectively, cease and be absolutely discharged.

Sec. 19. Parts of Lots Under Contract. Where part only of any lot or parcel of land or other premises so under lease, or other contract, shall be taken for any of the purposes aforesaid by virtue of this act, all the covenants, contracts and agreements respecting the same, upon publication of the aforesaid notice, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable and to be paid for in respect to the same, shall be so proportioned as that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid and recoverable for the same.

Sec. 20. Record of Proceedings—Certified Copies. All proceedings taken by the Common Council in carrying out the provisions of this chapter shall be recorded in a book or books kept for that purpose by the City Clerk, describing particularly the respective improvements and the real estate taken and assessed. The said books in which said proceedings have been entered aforesaid, and the official files and papers of said Common Council shall be deemed public records and be prima facie evidence of the facts therein stated, and certified copies thereof by the City Clerk or officer having proper custody thereof, with the seal of said city attached,

shall be evidence in all courts to the same effect as if the originals were produced. The City Clerk shall be entitled to receive from any private party for any certified copy or transcript aforesaid furnished said private party the like fees as are received for such services by the clerk of the district court of Dakota County.

Sec. 21. Contracts—How Awarded—Assessment of Costs—Repairs not Exceeding Two Hundred Dollars—Main Sewers and Culverts. Whenever any order shall be finally passed by the Common Council of said city as heretofore provided for filling, grading, leveling, paving, curbing, walling, bridging, graveling, macadamizing or planking any street, levee, lane, alley or highway or for keeping the same in repair or for filling, grading, protecting, improving, ornamenting any public square, or for constructing area walls, gutters, sewers and private drains, the Common Council shall cause the said work to be let and done as hereinafter provided; and after the whole of said work shall have been placed under contract, as herein-after provided, the said Common Council shall thereupon proceed without delay to assess the amount, as nearly as they can ascertain the same, which will be required to defray the cost of such improvement, including the necessary expense of making such assessment in proportion, as nearly as may be, to the benefit resulting thereto or to the property fronting thereon in the manner hereinafter provided. Provided, however, that the repairing of any street, levee, lane, alley, highway, public grounds, bridges or sewers, the cost of which repairs is estimated not to exceed the sum of two hundred (\$200) dollars, may be done under the direction of said Common Council, and the cost thereof shall be paid out of the street fund; and provided further, that nothing herein contained shall prevent the said Common Council of said city from ordering the construction of one or more main sewers or culverts in accordance with any general system of sewerage which said Common Council may adopt.

Sec. 22. Assessments Against Railway Property. When in any case any portion of the cost and expense of making any improvement mentioned in the foregoing section shall by virtue of any valid law or ordinance, or by virtue of any valid contract, be chargeable upon any railway company, and the balance only upon the real estate benefited thereby, the city may collect the amount so assessed upon said railway company, by distress and sale of personal property, in the manner provided for by the general laws of this State in the case of taxes levied upon personal property, or by suit brought for that purpose; provided, however, that any real estate belonging to such railway company, and deemed benefited by the said improvement, shall be assessed as in other cases.

Sec. 23. Notice of Assessment—By Advertisement—Personal Notice. Before proceeding to make an assessment for any improvement mentioned in section two (2) of this chapter, said Common Council shall give six (6) days' notice by publication on the official bulletin boards of said city, of the time and place of their meeting for the purpose of making such assessment, in which notice they shall specify what such assessment is to be for, and the amount to be assessed; and said period of six days shall commence from the first (1st) publication. The said Common Council shall also give at least four (4) days' personal notice to the same effect to all property holders interested, or their agents, resident in the city of West St. Paul, or known to the said Common Council and found, but the failure to give such personal notice shall in no wise affect the validity of said assessment, or of any of the proceedings. All persons interested in any such assessment shall have the right to be present and be heard, either in person or by counsel, and the said Common Council may, in their discretion, receive any legal evidence, and may adjourn, if necessary, from time to time, and place to place. The personal notice required by this chapter may be made by depositing in the Post office a postal card, addressed

to the property owners to be assessed, or their agents, resident in West Saint Paul, at least four (4) days prior to the making of an assessment, upon which card shall be either printed or written substantially what the published notice is required to contain, but the failure to give such personal notice shall in no wise affect the validity of said assessment or of any of the proceedings.

Sec. 24. Duties of Common Council Same as in Condemnation Proceedings. When the Common Council shall have completed their assessment provided for in sections twenty-two (22) and twenty-three (23), they shall cause like notice to be given of the time and place when said Council shall meet to hear objections, and for the confirmation of such assessment, as hereinbefore required in relation to assessments for the condemnation of real estate; and objections shall be made in like manner, and under the same regulations and conditions, and all parties in interest shall have the like rights (except the right of appeal), and the said Common Council shall perform the like duties, and have like power in relation to such assessments as are herein given in relation to such assessments for the condemnation of real estate. When confirmed by the said Common Council, said assessments shall be final and conclusive upon all parties interested therein, and shall be collected as in other cases, and no appeal shall lie in any case from the order of confirmation. If any assessment be annulled or set aside, the said Common Council shall proceed, de novo, to make another or new assessment in like manner, and give like notice as herein required in relation to the first.

Sec. 25. Assessment Confirmed—Warrant Issued—Appeal not to Delay Collection Except as to Property of Appellant. When any special assessment shall have been confirmed it shall be the duty of the City Clerk to issue a warrant for the collection thereof, which shall be under the seal of said city and signed by the Mayor and City Clerk, and shall contain a printed or written copy of the assessment roll as confirmed as aforesaid, or so much thereof as describes the real estate and the amount of the assessment in each case. In case of any appeal as provided for by section fifteen (15) of this title said appeal shall not delay or affect the collection of the assessment under such warrant, except as to the property of such appellant. And in case such appeal shall be sustained, and the assessment in relation to said property of said appellant shall be set aside by the court, the Common Council shall make a new assessment as to the property of such appellant last mentioned, proceeding de novo as in the original assessments relating to improvements referred to in this chapter, and in case the amount of damages or recompense which said Common Council may award such appellant upon such new assessment shall exceed the first, the Common Council shall make a new assessment upon the property to be benefited to pay the difference which may have been awarded appellant, together with the costs and expenses of such new assessment.

Sec. 26. Two or More Notices may be Combined. Two (2) or more of the notices required or authorized by this chapter to be given by the Common Council or the City Clerk, by publication on the official bulletin boards of the city, in any special assessment proceedings, may be comprised in one (1) advertisement; provided, however, such notices are of the same general character, or for like object. And, provided, that in other respects the notice so published shall sufficiently comply with the essential statutory requirements. And the provisions of this section shall extend to, and embrace all notices required to be given on the official bulletin boards of the city, by the City Treasurer, of the delivery to him of all special assessment warrants for collection.

Sec. 27. Assessments First Paid out of Local Improvement Fund. When the Common Council of said city shall determine to make any local improvements in the manner provided for in this chapter, the cost of which is to be paid out of assessments on the property fronting upon or

benefited thereby, the cost of such improvement may be paid in the first place, under proper resolutions of said Common Council, out of the local improvement fund of said city, and on the completion of said improvement the City Clerk shall certify the cost thereof to the Common Council, and an assessment for such cost shall be made, levied and collected in the same manner as though the work had been performed by contract as hereinbefore in this chapter provided; and the proceeds of such assessment when collected shall be paid into the local improvement fund of said city, out of which the original cost thereof was in the first instance met.

Sec. 28. **Delivery of Warrants.** All warrants issued for the collection of special assessments shall be delivered by the City Clerk to the City Treasurer, within ten days after the issuance thereof, taking his receipt therefor.

Sec. 29. **Notice by Treasurer.** Upon the receipt of any warrant for the collection of any special assessment the City Treasurer shall forthwith give notice by publication on the official bulletin boards of the city, that such warrant is in his hands for collection, briefly describing its nature, and requesting all persons interested to make immediate payment at his office, and that in default thereof the same will be collected at the cost and expense of the persons liable for the payment of such assessment.

Sec. 30. **Lien of Assessments for Local Improvements.** All assessments upon real property for local improvements levied under the provisions of this charter shall be a paramount lien upon the real property upon which they are imposed from the date of the warrant issued for the collection thereof, and of equal rank with the lien of the state for taxes which have been or may be levied upon said property under the general laws of the state; and that the general rules of law as to priority of tax liens shall apply equally to the liens of such assessments and to such liens for general taxes, with the same force and effect as though all of the liens aforesaid and all of the taxes and assessments aforesaid, were of the same general character and imposed for the same purpose and by the same authority, without regard to the priority in point of time of the attaching of either of said liens, and a sale or perfecting title under either shall not bar or extinguish the other.

Sec. 31. **Penalty, on Unpaid Assessments.** If the assessments charged in any special assessment warrant, whether made by reason of the appropriation or condemnation of land, or for any other improvement whatsoever under the provisions of this chapter shall not be paid before October first (1st) of each year, the assessment then remaining unpaid shall be collected with a penalty attached at the rate of twelve (12) per cent in the manner hereinafter provided.

Sec. 32. **Assessment Rolls Reported to County Auditor for Collection.** The City Treasurer shall keep a record of all assessment rolls of special assessments for local improvements and all of such assessments as remain unpaid on the first day of October of each year shall be reported by the City Treasurer to the County Auditor of Dakota County and said County Auditor shall extend the unpaid assessments and penalties in proper columns against the property assessed and such assessments shall be collected and the payment thereof enforced with and in the like manner as State, County and other taxes are collected and the payment thereof enforced; and such assessments when collected shall be paid over by the County Treasurer to the City Treasurer of said city, together with all costs, penalties and interest collected thereon, at the time of making payment of city taxes to the City Treasurer. Provided, however, that assessments which have been completed less than thirty days before the first day of October in any year shall not be reported to the County Auditor until one year from the first day of October next succeeding the completion of said assessments.

Sec. 33. **Treasurer's Successor Shall Act.** Any change made in the incumbent of the office of the City Treasurer during the pendency of any proceedings, shall not operate to affect or delay the same, but the successor or successors in office of such City Treasurer shall be authorized to do all acts necessary to complete such proceedings, the same as if his predecessor had continued in office. In case of a vacancy occurring in any such office, the proceedings shall be prosecuted by the City Clerk until such vacancy is filled by election or otherwise.

Sec. 34. **Unforeseen Obstacles to Improvements.** If the Common Council, in carrying out the provisions of this chapter, should find unforeseen obstacles in grading, excavating, filling, paving, or in any case of improving or opening or widening streets, levees, alleys or public highways, or sewers, not provided for, the Common Council may by resolution order such change or modification in such improvement to meet such unforeseen obstacles as the said Common Council may deem equitable and just, on their own motion, either before or after the confirmation of any assessment, or before or after the letting or making of any contract to do the same, or at any time while the work is in progress, by a two-thirds (2-3) vote of said Common Council; and any additional expense occasioned by such change or modification of the improvement may be included in the original assessment or raised by an additional assessment upon the property benefited by such improvement, to the extent of such benefits.

Provided, however, that no such work shall be done until ordered by the Common Council by a two-thirds (2-3) vote of the members elect.

Provided, further, that in all contracts the case of such unforeseen obstacles shall be anticipated as far as possible by the Common Council causing a schedule to be made, classifying the various kinds of work and material and fixing the price to be paid by the city for such work or material as may become necessary but cannot be foreseen; but said schedule shall be approved by the Common Council, and a copy thereof shall be signed by the bidder and attached to his bid, and the same shall be attached to and made a part of the contract but no additional expense shall be incurred other than may be absolutely necessary to overcome such unforeseen obstacles. The said Common Council shall have power to correct any error, omission or mistake in any assessment, either before or after the confirmation, up to the time judgment may be obtained thereon, either as to the amount, or owner, or description, so as to conform to the facts and rights of the case as intended; and if by reason of such error, omission or mistake, the assessment shall be reduced below the amount of money required to pay the costs and expenses of said improvement, the Common Council shall make a new assessment upon the property benefited to make up the deficiency, together with the cost and expenses of such new assessment. Provided, further, that five (5) days' notice of the time and place of making such correction shall be given by publication on the official bulletin boards of the city, unless the owner of the real estate affected be present or consent thereto. Said correction shall be entered of record and a copy thereof filed with the City Treasurer. Provided, further, that if the expense required to overcome such unforeseen obstacles will materially increase the cost which would be incurred in the work if such unforeseen obstacles had not occurred, then the Common Council shall have the power by a two-thirds (2-3) vote of the members elect to rescind the contract so far as the uncompleted part of the work is concerned, and may, in their discretion by a two-thirds (2-3) vote of the members elect, after such rescission, order the work to be relet as other work is let under this chapter, and the original contractor in such case shall be entitled to be paid for the portion of the work done by him, ratably, according to the contract price, as nearly as the same can be ascertained, and no more.

Sec. 35. Irregular or Defective Assessments, Cured by New Assessments. If for any cause the proceedings of the Common Council or any of its officers may be found irregular or defective, whether jurisdictional or otherwise, the Common Council may order a new assessment from time to time, and as often as needs be, until a sufficient sum is realized from the real estate benefited by such improvement to pay all the costs, damages and expenses incurred thereby.

Sec. 36. Rule for Estimating Benefits. It shall be the duty of the Common Council, in estimating the benefits to any particular lot, piece or parcel of land, to take into consideration the nature of the owner's interest therein, the form and position of their several parcels of land, the qualified rights of the owner in reference to its employments, and any other circumstances which render the proposed improvement more or less beneficial to him or them, and the determination and assessment or estimate of benefits of said board shall be final, except where an appeal is expressly allowed under the provisions of this charter.

Sec. 37. Deeds of Record Must Have Treasurer's Certificate That Assessments are Paid. The register of deeds of Dakota County shall not record any deed from a private person or private corporation unless there be endorsed on such deed a certificate of the City Treasurer that all assessments for local improvements have been paid, and any violation of this provision by the register of deeds shall be a misdemeanor and be punished by a fine not exceeding double the amount of the unpaid assessment. It shall be the duty of the City Treasurer, upon the application of any person interested in such deed, where the assessment has been paid, and not otherwise, to make such certificate free of charge, but the said City Treasurer shall not certify that said assessment has been paid in any case where the property has been purchased by the said city, and the time for redemption has not expired, and the city still holds the certificate of sale.

Sec. 38. Plats of Condemned Lands to be Filed. It is hereby made the duty of the Common Council, as soon as any assessment is confirmed in any proceeding for condemning any land by said city, or in condemning any slopes by said city, to make or cause to be made a certificate setting forth the general descriptions of the lands condemned and the slopes taken by said city in said proceedings, and to make or cause to be made an accurate plat showing the lands and slopes taken by said city in said proceedings, and the Mayor and the City Clerk shall attach to said certificate and to said plat their official signatures, and the seal of said city shall also be attached to said certificate and to said plat, and it shall be the duty of said Common Council, and before a warrant is issued for the collection of any assessment in such condemnation, and before any further proceeding therein, to cause said certificate to be recorded in the office of the register of deeds of Dakota County, and to cause said plat to be filed for preservation in the office of said register of deeds of Dakota County, and the register of deeds of Dakota County shall carefully file and preserve such plat in a book prepared for such purpose, and in recording said certificate he shall make a notation upon the record thereof showing where said plat can be found in his office, and said register of deeds shall receive from the treasury of said city, for said service, the same fees as in other like cases for similar services.

Sec. 39. Adverse Possession. No right, title, estate or easement of the City of West St. Paul in or to any property shall be prejudiced or lost by an adverse possession or occupancy.

Sec. 40. Assessments Must be Completed. It is hereby made the duty of the Common Council after the approval of any contract let for any public improvement for which an assessment is to be made, to proceed without unnecessary delay to the completion and confirmation of the assessment for the damages, costs and expenses for said improvements.

Sec. 41. Sidewalks, Annual Contracts for. It is hereby made the duty of the Common Council of the City of West St. Paul to annually cause proposals to be published in the same manner and for the same length of time as in the case of other public improvements, for the construction, repair and relaying of such sidewalk as may be ordered built, repaired or relaid by the Common Council prior to the first day of November in each year.

Provided, however, that the Common Council may, whenever in their opinion the public interest will be subserved thereby, cause proposals for bids to be published in the manner hereinbefore prescribed, and award a separate contract for the construction, repair and relaying of wood sidewalks; and also for one or more contracts for the construction, repair and relaying of sidewalks of stone, brick, cement, asphalt, composition, or other permanent material. General plans and specifications applicable to all sidewalks that may be ordered built, repaired or relaid during the year by said Common Council shall be made and filed with the City Clerk at least ten (10) days before the day named for the receipt of said bids, and the work shall be let and placed under contract as now provided by law for the construction, relaying and repair of sidewalks for which an assessment is to be made, except that the bids for the construction, repair and relaying of said sidewalks shall be accompanied by a bond to the City of West St. Paul in such sum as the Common Council may direct, executed by the bidder and two (2) responsible sureties, conditioned that he will enter into and execute a contract to perform the work for the price mentioned in his bid, according to the plans and specifications, in case a contract shall be awarded him. And in case of default on his part to execute the contract and perform the work, said bond may be sued and judgment recovered thereon by the said city, for the full amount thereof, in any court having jurisdiction of the amount; and, except further, that the question of what constitutes the lowest reliable and responsible bidder may be determined by said Common Council independent and exclusive of the bond required by this section. Whenever said Common Council shall pass a final order for the construction of such sidewalks, it shall be the duty of the Common Council, without any unnecessary delay, to transmit a copy of said order to the person or persons having the contract for the construction, repair or relaying of sidewalks, for the time being, who shall, without unnecessary delay, cause the sidewalk so ordered constructed, relaid or repaired, by the Common Council, to be built, relaid or repaired as the case may be.

Sec. 42. Assessments for Sidewalks. The said Common Council shall as soon as practicable after the construction, repair or relaying of said sidewalks, assess the amounts, as nearly as they can ascertain the same, which will be required to defray the cost of such improvement, including the necessary expense of making and collecting such assessment, upon the real estate or lots of land benefited by said improvement. When said assessment is completed, the said board shall give six (6) days' notice by publication on the official bulletin boards of the city, to the effect that at a time and place therein specified that said assessment will be confirmed, unless sufficient cause is shown to the contrary, and that objections must be filed one (1) day before such time of meeting with the City Clerk. Such objections shall be made and filed in the same manner, and said Common Council shall proceed in hearing the same, and have the same power to revise, correct, confirm or set aside such assessment, or proceed de novo as provided in section fourteen (14) of this chapter. Said assessment, when confirmed, shall be final and conclusive, and no appeal shall lie therefrom. A warrant shall issue for the collection thereof, and said assessment shall be enforced and collected as other assessments made under this chapter.

Sec. 43. Contractor's Neglect—Permits to Property Owners. Whenever the said contractor shall fail to build, repair or relay any sidewalk

within the time designated by the Common Council, or in any other respect fail to comply with the terms of his said contract, the Common Council in its discretion shall have power to furnish and use men and material to complete the work and charge the expense to the contractor, and the same shall be deducted from any money due him, or to become due such contractor, or may be collected from him in a suit by said city, or said Common Council may readvertise for bids for the completion of the uncompleted part of said contract, and let a contract in the same manner as heretofore provided in the original contract. In case the said contractor shall proceed to properly perform and complete his said contract, and all the provisions, clauses, matters and things therein contained, the said Common Council may, upon said contractor filing with the City Clerk an affidavit that all work, labor and material for which an estimate is asked is fully paid for, from time to time, as the said work progresses, grant to said contractor every thirty (30) days an estimate of the amount already earned, reserving, however, fifteen (15) per cent therefrom. Provided, however, that said fifteen (15) per cent shall be included in the final estimate allowed said contractor. Provided further, however, that nothing in the foregoing section shall be construed to prevent any property owner from constructing its, his or her own sidewalk, at its, his or her own expense, under the authority and direction of the Common Council, and said Common Council is hereby authorized to grant to such property owner a permit so to do. In case a final order shall have been made by the Common Council for the construction, relaying or repairing of any sidewalk, the owner of the property where such sidewalk is to be constructed, relaid or repaired under such order, may, at its, his or her own expense, construct, relay or repair, as the case may be, such sidewalk over or along its, his or her property forthwith in conformity to the said order, upon complying with the following conditions: Such property owners electing to construct, relay or repair, its, his or her own sidewalk, as aforesaid, shall file with the City Clerk a written notice, subscribed by such owner or its, his or her agent within ten days after the passage of said final order of its, his or her intention to construct, relay or repair, as the case may be, its, his or her own sidewalk, and it shall thereupon be the duty of the City Clerk to grant to such person a permit so to do, within thirty days from a day or time to be specified in said permit. The said work shall be done under the supervision and direction of the Common Council, and the City Clerk shall give prompt notice to the city contractor of the permit so issued by him. Such owner having complied with all the requirements of this proviso, and within the said period of thirty days, shall be exempt from any assessment on account of the sidewalk so constructed, relaid or repaired by him as aforesaid. In case the said owner shall fail to comply with this proviso, in whole or in part, the city contractor shall proceed to construct, relay or repair the sidewalk over or along the property of such owner as directed in said final order, and the property of such owner benefited by such improvement shall be assessable therefor to the extent of such benefits.

Sec. 44. Proposals for Improvements—Advertisement—Sealed Bids—Bond or Certified Check. Whenever any public improvement shall be ordered for which an assessment is to be made, the said Common Council shall cause proposals for doing said work to be advertised for, a plan or profile of the work to be done, accompanied with specifications for the doing of the same being first deposited with the City Clerk, to be kept by him open for public inspection; which advertisement shall be published for at least ten (10) days, and shall state substantially the work to be done. The bids for the doing of such work shall be sealed bids, directed to the Common Council of the City of West St. Paul, and shall be sealed in such manner that they cannot be opened without detection, and shall be accompanied by a bond to the City of West St. Paul, in a sum not less than twenty (20) per cent of the cost of the work, according to the price bid, as

nearly as can be ascertained, executed by the bidder, and two (2) responsible sureties, conditioned that he shall execute the work for the price mentioned in his bid and according to plans and specifications, in case the contract shall be awarded to him. And in case of default on his part to execute the contract and perform the work, said bond may be sued and judgment recovered thereon by the said city, for the full amount thereof, in any court having jurisdiction, of the amount. Said bids shall be opened by said Common Council at their next meeting after the time limited by such proposals, or such other time thereafter as said Common Council may appoint, and it is hereby made the duty of the Common Council, in case of the default hereafter of any contractor to complete his contract with the city within the time limited in said contract, to cause suit to be commenced forthwith, upon the bond executed and delivered to the city, in accordance with the provisions of this section.

Provided, that in lieu of the bond in this section provided for, the bidder may deposit with said bid a duly certified check upon any of the banks of the City of St. Paul payable to the City Clerk for the use of the City of West St. Paul. Such check shall be for ten (10) per cent of the amount bid, as nearly as can be ascertained. All checks shall be returned to the person depositing the same after the bids are opened, except that of the successful bidder, which shall be retained as a guaranty that he will enter into a contract with the City of West St. Paul for the performance of the work offered to be done. The said check so retained shall be returned to the successful bidder as soon as he shall have entered into a contract for the doing of said work.

Sec. 45. Award of Contracts—Patent Pavements. All contracts shall be awarded to the lowest reliable and responsible bidder or bidders who have complied with the requirements of the preceding section, and who shall have guaranteed to the satisfaction of said Common Council, except in the case of patent pavement or pavements, when in such case the notice for bids may call for wood, stone or other kind of pavement, and when all the proposals therefor are in the Common Council may select the one which is relatively the lowest or most satisfactory, all things considered, and the decision of the Common Council therein shall be final. If the pavement selected is patented, the said Common Council shall require a license from the patentee to lay and relay the same for all the time thereafter free from all claims for royalty. Whereupon a contract shall be made on the part of said Common Council in the name of the City of West St. Paul, and shall be executed on the part of said city by the Mayor or such other members as said Common Council may designate, and the seal of said city shall be thereto attached, and the said contract shall be countersigned by the City Clerk. Said contract shall be filed in the office of the City Clerk. Provided, however, that the said Common Council may in its discretion reject any or all bids, and that said Common Council in determining the reliability of a bid shall consider the question of the responsibility of the bidder and his ability to perform his contract, without any reference to the financial responsibility of the sureties on the bond. Provided, further, that no contract shall be awarded except upon or by vote of at least two-thirds (2-3) of the members of said Common Council in favor thereof.

Sec. 46. Improper Construction, Remedy for—Payments on Contracts—Paving Repairs. The said Common Council shall reserve the right in their said contracts, in case of improper construction, to suspend the work at any time and relet the same, or to order the entire reconstruction of the same if improperly done. In cases where the contractor or contractors shall proceed to properly perform and complete the said contracts, Common Council may, from time to time (not oftener than once a month, except final estimates, which may be given and allowed at any time after the allowance of the preceding estimate), as the work progresses, grant to

said contractor or contractors an estimate of the amount already earned, reserving fifteen (15) per cent therefrom, which shall entitle said contractor or contractors to receive the amount which may be due thereon, when there is money applicable to the payment of such work. When the whole work has been completed by such contractor or contractors to the satisfaction of the common council, the amount or balance due him shall be audited by the City Clerk and allowed by the Common Council of said City, and shall be payable out of the moneys applicable to the payment of such work. Provided, however, that in case of contracts for paving streets the Common Council is authorized to retain such sum and upon such conditions and for such lengths of time as may be agreed upon, for the keeping of said pavements in repair.

Sec. 47. **Owners to Furnish Abstract of Title.** Before payment of award in condemnation proceedings to the owner of such property condemned the claimant of the award, shall furnish an abstract of title showing himself entitled to all the compensation and damages claimed. In case of neglect to furnish such abstract, or there shall be any doubt as to who is entitled to such compensation or damage or any part of the same, the amount so awarded shall be by the Common Council appropriated and set apart in the city treasury for whoever shall show clear right to receive the same.

Sec. 48. **Council May Require Bonds.** The Common Council may in its discretion require of such claimant a bond, with good and sufficient sureties, conditioned to indemnify and save the city harmless against all other claims for such compensation or damages, or for the property for which the same was awarded, and all loss, cost or expenses on account of such claims.

Sec. 49. **Deposit of Award in Court, When.** That whenever the City Attorney shall certify in writing to the Common Council that in his opinion he is in doubt to whom the said award or awards shall be paid, said Common Council may order a warrant to be drawn for the same, payable to the Clerk of the District Court of Dakota County; and the City Clerk shall deliver the same to said clerk of the court, and take his receipt for the same which deposit with said clerk of the court shall have the same effect as if set aside in the city treasury, as hereinbefore provided; and in which case the parties entitled to the same shall establish their right to the same by a petition to the district court, setting up the facts entitling them thereto, and by proving the same to the satisfaction of the court, and when so established the court shall make an order directing to whom the same shall be paid.

Sec. 50. **Abbreviations May be Used—Errors Immaterial.** Upon any assessment rolls or other papers made or used in any of the proceedings it shall not be necessary that 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 any property shall be regarded as material in any proceedings under this charter.

Sec. 51. **Local Improvement Fund.** For the purpose of establishing a local improvement fund, authority is hereby granted to the City of West St. Paul to issue the sum of Fifteen Thousand (\$15,000) Dollars in bonds of said city, including bonds now outstanding, the proceeds of which bonds shall be applied to the purposes of the local improvement fund and to none other. To carry out the purposes of this fund, the Common Council may, whenever the necessity of the case requires it, pass resolutions authorizing the City Clerk to draw and the Mayor to sign orders on this fund to pay estimates on account of any contract made in conformity with chapter six (6) of this charter.

The City Clerk shall keep an accurate account with each and every contract made under chapter six (6) showing all moneys received or paid

out on account of the same, and as soon as any balance accumulates in the hands of the City Treasurer to the credit of any such contract specified in chapter six (6) said balance shall be transferred to the local improvement fund.

The bonds herein provided for shall be of the denomination of One Thousand (\$1,000) Dollars each, with interest coupons attached, and shall be payable in not more than twenty (20) years after date, with interest at a rate not to exceed six (6) per cent per annum, payable in the City of St. Paul or New York and none of such bonds shall be sold or negotiated for less than par.

CHAPTER VII. STREET GRADES.

Section 1. **Common Council Shall Establish.** The Common Council shall cause to be established, under the direction of an engineer, the grade of all streets, sidewalks and alleys in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Dakota County.

Sec. 2. **Street Grades May be Altered.** Such grade may at any time thereafter be altered by a two-thirds (2-3) vote of all the members elect of the Common Council, and after notice by publication on the official bulletin boards of said city for three (3) successive weeks, of the time and place when the said Common Council will consider such proposed alteration. Provided, that in case a change of an established grade shall be ordered by the Common Council, notice of such order shall be published on the official bulletin boards of the city, and any property holder feeling himself aggrieved by such order, may, within ten (10) days after the publication of such order, appeal therefrom to the district court of the County of Dakota, in the manner provided herein for appeals from vacation proceedings. On the trial of such appeal, said court shall have full power to determine the necessity or expediency of such proposed change of grade, and all other questions involved in such appeal. The order of the Common Council changing such grade shall not take effect until twenty (20) days from its publication aforesaid, nor pending such appeal.

Sec. 3. **Damages and Benefits.** After such alteration shall have been finally determined as herein provided, the Common Council shall proceed to assess the damages, if any, to property occasioned by such alteration, and also to determine what real estate, if any, will be benefited by such alteration, and to assess upon such property benefited the amount of such damages, together with the costs of proceedings. Provided, that in case property benefited cannot be found to pay for the whole amount of such damages and costs, the deficit shall be paid out of the local improvement fund.

Provided, that when the cost of change of grade does not exceed two hundred (\$200) dollars no assessment shall be made to pay the same, but shall be paid for out of the general fund or ward fund of the ward in which the improvement is made, at the option of said council.

Sec. 4. **Assessment of Damages.** Any party aggrieved by such assessment of damages may appeal under the same regulations and restrictions, and in the same manner provided herein for appeals from award of damages in local improvement assessments; but such appeal shall not operate to stay any of the proceedings in the matter of such alteration.

Sec. 5. **Damages—To Whom Paid.** All such damages allowed after deducting benefits, if any, shall be advanced out of the local improvement fund and paid to the party entitled thereto.

Sec. 6. **Collection—How Enforced.** All assessments of benefits aforesaid shall be collected and enforced in the same manner as in the case of other local improvements provided for in this charter, and the collections therefrom shall be credited to the local improvement fund.

CHAPTER VIII.
PUBLIC SCHOOLS.

Section 1. Board of Education—How Elected—General Powers and Duties. There shall be a board of education composed of five members which shall be elected as in this charter provided, and shall have power to do and to perform all the acts and things and have all the powers and duties which its predecessor the Common Council of said city acting as the Board of Education could do or perform in the management, control and operation of the public schools of said city, except as herein otherwise particularly provided. The said Board of Education shall also have full control and charge of all the funds of the said public schools, and shall each year, on or before the first day of August, submit to the Common Council of said city an estimate of the expenses of operating the school system for the ensuing year. The said Common Council shall have power by a two-thirds (2-3) vote of the members elect of said body to either increase or decrease the estimated budget of expense.

Sec. 2. City to Constitute One District. That the City of West Saint Paul shall constitute one school district, to be known as Special District number two of Dakota County, and all schools organized therein under this charter shall be under the direction and the regulation of the Board of Education of said city and shall be public and free to children residing within the limits therein between the ages of five (5) and twenty-one (21) years, inclusive, subject to such rules and regulations as the Board of Education may establish.

Sec. 3. Territorial Limits—Powers. The territorial limits of said school district shall be coextensive with the limits of said City of West St. Paul, as created by this charter, or as the same may be hereafter enlarged or altered, and the said Board of Education shall appoint all teachers for said schools, and fix the salary of all teachers and their term of office.

Sec. 4. Annual Report to Common Council—School Year—Officers—Appointment of Teachers and Employes. It shall be the duty of the Board of Education organized under this charter to make a report to the Common Council of the city of West St. Paul on or before the first (1st) day of July in each year after the year one thousand nine hundred and eight (1908), showing the number of school children that have attended each of the free schools in said city and school districts during the school year preceding which year shall extend from the first (1st) day of September to the first (1st) day of July, the number of teachers and other employes that have been employed in the free or public schools and the salary or compensation paid to each, and to give a list of the names of all persons employed and the amount of compensation received by each person. Said report shall specify the monthly compensation that they recommend to be paid to each of the teachers or class of teachers of said public schools or other employes for the following school year.

The said Board of Education at its first meeting in June of each year, shall elect from its members a President and a Vice President, whose duties shall be the same as the duties of such officers in other such bodies, unless herein otherwise particularly provided.

The President of such board shall preside over all meetings of said board when present, and in the absence of the President, the Vice President shall preside, and while acting as President, shall have all the powers and exercise all the duties of the President of such board.

The said board shall, not later than January 15th of each year, elect a Secretary of said board, who shall perform all the duties of such officer in other like bodies, and such other and further duties as the said board may from time to time direct. The salary of the Secretary shall be fixed by said board, but in no event shall it exceed the sum of five hundred (\$500) dollars. All checks, bonds and other evidences of indebtedness of said

board, as well as all contracts and agreements, shall be signed by the President and Secretary, on behalf of said board, and all checks shall be audited and countersigned by the City Clerk.

The members of the Board of Education shall receive no compensation for their services. The said Treasurer of the City of West St. Paul shall be ex-officio Treasurer of said Board of Education and shall receive all moneys collected by any officer of the City of West St. Paul, or the County of Dakota, or the State of Minnesota, which may be coming to, or owing, or due, or that may become due or owing to said school district, shall be paid to the City Treasurer. He shall pay moneys from time to time as the board of education may direct and shall exhibit to said board when so requested a full and detailed account of all moneys received and paid out since the date of the last annual report, or for any required term.

Said board shall, not later than the fifteenth (15th) day of June in each year, as far as practicable, appoint all the teachers and employes for the next ensuing school year, and notify each appointee thereof.

Sec. 5. Council Action on Report—Compensation of Teachers—Term of Service. The Common Council shall, by ordinance, have the power to reduce the aggregate or total amount of all the salaries for the ensuing school year, specifying the amount to be taken from the salaries of the teachers and the amount from other employes, but shall not have the power to increase or raise the same, or to fix the amount to be paid to any particular teacher or other employe or to any specific class of teachers (but the board of education in these respects shall have exclusive control), and the aggregate amount of the reduction from the aggregate compensations to be allowed and paid the school teachers or other employes for the ensuing year shall be apportioned among said teachers and employes by the Board of Education in such manner as said board shall deem just and most conducive to the public welfare; and the amount of compensation to each teacher and each class of teachers and employes, thus fixed, shall be paid to the teachers and employes of the school district and City of West St. Paul for the ensuing year, and shall be paid monthly by a requisition of the President of the Board of Education upon the City Clerk, who shall issue his warrants on said requisition upon said Treasurer, as in this charter provided. Teachers appointed by the Board of Education shall serve during the pleasure of the Board of Education, and shall not be subject to an annual election; provided, that all teachers so appointed have taught successfully in the schools of West St. Paul for at least one (1) year; and provided, further, that the salaries of all teachers and other employes shall be fixed annually, as provided in section three (3).

Sec. 6. New Schools—Purchase of Sites and Erection of Buildings, Who to Act. Said Board of Education shall also, in said report, state the number of sittings for school children in the various public school buildings, and in the high school building of said city, and shall state whether or not, in their judgment, any more sittings are required for the ensuing year, and if, in their opinion, additional sittings are required, they shall state in what particular locality of the city a building may be erected that will accommodate the largest number of children for whom provision is not already made, and specify, as near as they may be able, what the cost by purchase or condemnation will be, of a suitable site for a school building, as well as the cost of a suitable building to be erected thereon. The Common Council shall, whenever the conditions of the funds derived from the school tax, levied and collected, or by bonds issued for building purposes as provided by law, or whenever any other fund in the city treasury is available for such purpose, thereupon, by a two-thirds (2-3) vote, order the Board of Education to proceed to obtain such a site, and erect a suitable building thereon, in accordance with plans and estimates to be provided by the said Board of Education. Proposals for furnishing the material and for the erection and construction of said building, and for the grading and prepar-

ing the ground for the erection thereof, shall be advertised for by the Board of Education for at least three (3) successive weeks, once in each week, and giving as fully as may be all the details, both as to material and work to be done, and state that the contract for furnishing said building and doing said work shall be awarded to the lowest responsible bidder, and giving the time and place when and where said proposals will be received and opened. And at the time and place designated in said notice all proposals received for furnishing said material, and for doing said work in the erection and construction of said building, and in grading and repairing the ground for the same, shall be opened in the presence of the bidders, if they desire to attend, and in any event, shall be publicly opened, and the contract for furnishing said material, and for the erection and construction of said building, and grading and repairing the site for the same shall be awarded and let to the lowest responsible bidder, who shall be required to give bonds, with good and sufficient surety or sureties, as required by law, to furnish said material and perform said work in accordance with the terms of said contract. Before the proposals are advertised plans and specifications for said building shall be filed with the Secretary of the Board of Education, and shall be open to the inspection of all people, and especially those who desire to bid upon said contract. When said bids are opened a list shall be made of all the bids received, and the same shall be filed in the office of the City Clerk.

Sec. 7. Contracts for Sites and Buildings. All contracts for the purchase of sites for school buildings and for the erection and construction of school buildings, and material to be used in the same, shall be executed by and between the contractor and the City of West St. Paul, and the amount of money to be paid to any contractor shall be paid from the city treasury upon the warrants of the said City Clerk, based upon a requisition drawn upon him by the President of the Board of Education, which requisition shall specify the contract upon which the money required is drawn, the whole amount of money that will become due upon said contract and the proportion of the same that has already been paid, including the requisition drawn.

All expense incurred by the Board of Education in procuring and furnishing plans and estimates for school buildings shall be paid for from the city treasury by warrant drawn by said City Clerk upon the city treasury based upon a requisition signed by the President of the Board of Education.

Sec. 8. Custody of School Property—Title to Same Vested in City. The Board of Education shall have the care, custody and control of all the school buildings and school property in said school district and in the City of West St. Paul, including the sites and public properties pertaining to the public or free schools of said city, and shall see that the same are faithfully and properly cared for and protected. Said board shall appoint janitors and watchmen of said buildings, and the police department of said City of West St. Paul and each policeman thereof is charged with the duty of especially and carefully protecting said school property and school buildings in every respect. Said school buildings and the sites on which they are erected, and all property pertaining to the public and free schools of the City of West St. Paul which has been and is now in the possession of the Common Council of the City of West St. Paul, is hereby divested from said Common Council and vested in the Board of Education in the City of West St. Paul in trust, for the uses and purposes of education solely, and shall be held for such purposes and used by said city forever, unless otherwise provided by law.

Sec. 9. School Tax Levy—Restrictions on Power to Create Indebtedness. The expense of the public schools of the City of West St. Paul shall not in any year exceed the amount of money appropriated and set

apart therefor by the Common Council of said city, and the Common Council of said city is hereby prohibited from levying any greater tax levy in any one year for the support and maintenance of the public and free schools of said city than twelve thousand dollars (\$12,000), nor less than six thousand dollars (\$6,000); and said Board of Education shall have no power or authority to create any indebtedness against the City of West St. Paul, or to pledge the faith and credit of said city in any respect whatever until after the Common Council of the said city has, by ordinance, ordained what the expenditures for school purposes in said city for the school year shall be, and then only to the extent of the amounts so set apart by ordinance for school purposes each year.

Sec. 10. Monthly Reports to Common Council—Limitations on Common Council. It shall be the duty of said Board of Education, at the end of each month during the progress of the schools, to report to the Common Council the number of children who have been in attendance during the month. The Common Council of the city shall not have the power to employ or dismiss any teacher or employe, or to exercise any control over the board of education as to what particular teacher or teachers or employes they shall at any time employ or dismiss; and shall be limited in its power in this respect to determine the amount of money to be expended for school purposes which shall not in any one year exceed the amount that may be realized by the levy upon the assessed valuation of all taxable property in said school district and in said City of West St. Paul, in addition to all other funds derived from other sources and applicable to purposes of education within said city.

Sec. 11. School Bonds and Indebtedness, City to Pay. The City of West St. Paul is herewith charged with the payment of all bonds heretofore issued by the said city, as well as all legal outstanding and floating liabilities, and is hereby required to make provision for the payment of the same from time to time as they shall become due and payable, out of the city treasury, in the same manner as other city indebtedness is paid.

Sec. 12. Monthly Reports of Clerk and Treasurer. On the first (1st) Monday of each and every month the treasurer and clerk of the City of West St. Paul shall report in detail to the secretary of said Board of Education, which report shall be laid before said board at their next meeting, the amount of all public funds in the treasury of said city belonging to and set apart for educational purposes, and to what particular funds or accounts the same is accredited.

Sec. 13. City Treasurer to Receive School Moneys. Said City of West St. Paul as such separate and special school district is hereby authorized and empowered, through the Treasurer of said city, to apply for and receive from the county treasurer or such other officer as may have the same, any and all moneys appropriated and received for public schools within said district by reason of any general or special law of this state, and such county treasurer or other officer or officers, as may have such money, are hereby authorized and directed to pay the same to the City Treasurer of the said City of West St. Paul, who shall receive the same for the purposes herein provided.

Sec. 14. Habitual Truants, Duty of School Board and City Police. Said Board of Education are authorized and empowered to make such provisions and rules concerning children properly enrolled upon the registers of the public schools within said district, who have become habitual truants and who are between the ages of eight (8) and sixteen (16), as will reasonably tend to compel their attendance in such schools; provided, such truants shall have no lawful occupation or business, and are growing up in ignorance and said board of education may require, and it shall be the duty of the police of the City of West St. Paul to assist in the enforcement of said rules and regulations.

Sec. 15. **Board of Education to Act as a Library Board.** The Board of Education of the City of West St. Paul shall act as a Board of Library Directors for said city, and have the management and supervision of all public libraries, reading rooms, museums and galleries of art, now or hereafter existing in said city, and all property acquired or set apart for the use or maintenance thereof, and have the control and expenditure, subject to the provisions of this charter and the laws of this state, of all moneys levied or collected for such purposes.

CHAPTER IX.

MISCELLANEOUS AND SUPPLEMENTARY.

Section 1. **Common Council Has no Power to Relieve Taxes or Burdens Imposed by Law.** The Common Council shall not have power to relieve any citizen from the payment of any lawful tax or license, or to exempt him from any burden imposed upon him by law, or order or ordain the payment of any demand not authorized and audited according to law; nor shall the Common Council have power to ordain or authorize any compromise of any disputed demand, or any allowance therefor or therein, except as provided in the contract therefor or the payment of any damages claimed for the alleged injuries to persons or property, except by ordinance, and adopted by a two-thirds (2-3) vote of the Common Council. And no action shall be had or maintained against the City of West St. Paul for any damages claimed for alleged injuries to persons or property, unless an action be commenced within one (1) year after a cause of action has accrued, and unless the person so alleged to be injured or some one in his behalf shall give to the Common Council of said city within thirty days after the alleged injury, notice thereof.

Sec. 2. **Actions on Behalf of City.** 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. 3. **Prosecutions for Violation of Ordinances—How Begun.** In all prosecutions of any violation of this charter, or of any by-law or ordinance of the City of West St. Paul, the first process shall be a warrant; provided, that no warrant shall be necessary in case of arrest of any person or persons while in the act of violating any law of the State of Minnesota, or ordinance of the City of West St. Paul, but the person or persons so arrested may be proceeded against, tried, convicted and punished, or discharged, in the same manner as if the arrest had been by warrant. All warrants, process or writs by the city Justice for violation of any ordinance or by-laws of said city, shall run in the name of the City of West St. Paul, and shall be directed to the Chief of Police or any police officer or constable.

Sec. 4. **Fines, Imprisonment, etc.** In all cases of the imposition of any fine or penalty or of the rendering of any judgment by the City Justice, pursuant to any ordinance or by-law of the said City of West St. Paul, or pursuant to any provision of the charter of said city, as a punishment for any offense, or violation of any by-law or ordinance as aforesaid, the offender shall be forthwith committed to the "county jail or city jail," and there be imprisoned for a term not exceeding three months in the discretion of the City Justice, unless the fine or penalty aforesaid be sooner paid or satisfied, and in all cases where the punishment of such offenders shall be by imprisonment, such imprisonment shall be in the said "county or city jail," and from and after the time of arrest of any person or persons for any offense whatsoever, until the time of the trial or hearing, the person or persons so arrested may be imprisoned in the common jail of Dakota county, or in the city prison, and in all cases where

the said City Justice is or may be authorized to commit any person or persons for any other cause by virtue of the provisions of the charter of said city, he may commit such person or persons to said "city jail."

Sec. 5. **City not Liable for Board of Prisoners in Certain Cases.** The City of West St. Paul shall not be liable in any case for the board or jail fees of any person who may be committed by any officer of the city or magistrate to the jail of Dakota county for any offense punishable under the state laws.

Sec. 6. **Not Incompetent as Judge, Justice, Juror or Witness.** No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city, in any proceeding or action in which the said city shall be a party in interest.

Sec. 7. **Process in Suits against City.** When any suit or action shall be commenced against the city the service of process thereof may be had by leaving a copy of the process, by the proper officer, with the Mayor; and it shall be the duty of the Mayor forthwith to inform the Common Council, who shall take such other proceedings as may be needful in the matter.

Sec. 8. **Appeals by City.** The city may prosecute an appeal in all cases to the district court, or to the supreme court of the state. The Mayor, in case of such appeals, or in an action or proceeding to which the city is a party, and in which a bond may be necessary, shall execute a bond, signed by him and the city clerk, who shall affix the corporate seal thereto, conditioned as may be necessary in said action, proceeding or appeal, but no sureties or justification shall be required for said bond; nor shall the city be required in any case to file a bond or give other security for costs.

Sec. 9. **Judgment against City—How Paid.** In case any judgment shall be rendered in any court of record against the city for a sum exceeding five hundred dollars (\$500), and no appeal shall be taken therefrom within thirty (30) days thereafter, it shall be the duty of the attorney to file a certified transcript of such judgment with the City Clerk. And it shall be the duty of the said Common Council to include in the next annual levy of taxes to be thereafter assessed and collected a sufficient sum to pay such judgment, with legal interest accrued thereon; the amount so collected shall be credited to the general fund of said city, and said judgment shall thereafter be paid as other claims and demands against said city, but no execution shall issue upon such judgment for a period of six months after the first annual levy of taxes by said city after the date of filing the said transcript of said judgment as aforesaid by the city. Provided, that the said Common Council may order the payment of such judgment at any time after the rendition thereof, if there shall be sufficient moneys in the general fund of said city not otherwise appropriated.

Sec. 10. **Certain Property Exempt from Levy and Sale.** The following property now, or at any time hereafter, belonging to said city, shall be exempt from levy and sale under or by virtue of any execution: Engine houses, hook and ladder houses, together with the grounds and lots on which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hose or other fire apparatus used by any company created or authorized by the Common Council of said city; market houses and the furniture thereof; city hall and furniture and office rooms; the public levee, streets, or other real estate used for public purposes; the quarantine grounds and the buildings erected thereon; the fixtures and appurtenances thereof; or any other public property which said city shall own, hold or be interested in for the public use, or the rents, uses, profits or incomes whereof are due and payable to the City Treasurer. Nor shall any real or personal property of any inhabitant of said city, or of any

individual or corporation be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Sec. 11. **Deeds and Leases—How Executed.** All deeds, leases and other instruments executed by said city, for the conveyance of real estate or any interest therein, for a term exceeding one (1) year, shall be authorized by a resolution of the Common Council, which shall be quoted or referred to in such instrument and signed by the Mayor and City Clerk, who shall affix the seal of the city thereto.

Sec. 12. **Bonds—How Executed.** All bonds hereafter to be issued by said city, and all orders on the City Treasurer, excepting orders on the school funds, shall be signed by the Mayor and City Clerk, who shall affix the seal of the city thereto.

Sec. 13. **City Purchase and Lease Real Estate.** The said city may lease, purchase and hold such real and personal estate as the common council may deem necessary or convenient, and may lease, sell and convey the same, and the same shall be free from taxation.

Sec. 14. **Contracts not Exceeding \$200—How Awarded—Exception as to Contract for Immediate Public Safety.** All contracts for work to be done for said city, or for the purchase of materials or property of any kind, for the public use of said city, not otherwise provided for in this act, in which the value of such work, or the price or value of such property or materials, shall exceed the sum of two hundred (\$200) dollars, shall be let to the lowest responsible bidder, reserving to the Common Council the right to reject all bids. In such case the Common Council shall require a notice of not less than six (6) days, of the time and place of letting such contract, by publication in a designated paper of said city, which notice shall substantially describe the work to be done, and such other particulars as the Common Council may order, and shall designate the time and place when and where sealed proposals shall be received therefor; the said proposals shall be open and considered by the Common Council at any regular and stated meeting thereafter or at a special meeting if designated in the notice; and upon any bid aforesaid being accepted, a contract in accordance therewith shall be drafted and submitted to said council, at any regular or special meeting, for its approval, and upon the same being approved and signed by the presiding officer of the council, it shall be executed on the part of the city by the Mayor and the City Clerk, with the corporate seal of the city attached, and filed with the bond in the office of the City Clerk. The said Common Council shall require a bond on the part of the contractor, to be executed with such conditions, and with such sureties, and in such amount as the Common Council may prescribe, for the purpose of securing the performance of the contract; the Common Council shall also have the power to require every bid to be accompanied by a bond on the part of the bidder, in such sum and with such sureties and conditions as the common council may prescribe.

Contracts for work or for the purchase of materials or property where the value of the work or the price of the property or materials shall not exceed the sum of two hundred dollars (\$200), may be authorized by a resolution of the Common Council, to be made and entered into by any committee or officer of said city designated in such resolution. Provided, That in the event of extraordinary and sudden injury by fire, flood or other unforeseen cause, to any public street, public levee, public building or other public property of said city, whereby such property or adjoining property may be endangered or damaged, or the public health or safety may require the immediate repair thereof, the said Common Council may authorize the same by resolution passed by a two-thirds (2-3) vote of all the members elect, but the cost and expenses thereof shall not in any case exceed the sum of one thousand dollars (\$1,000), and the same shall be paid out of the contingent fund, if there be no moneys in the general or

other appropriate fund to pay the same. In case of any contract provided for in this charter, required to be let upon notice aforesaid, the clerk shall not countersign the same until there shall be sufficient moneys in the appropriate fund to meet the indebtedness to be incurred by such contract. When the said contract shall have been countersigned by the clerk, he shall immediately thereafter deliver a certified copy thereof to the party or parties named in such contract, and until the delivery of such certified copy the same shall not be deemed the contract of said city, and no work shall be commenced or done thereunder until such contract is so delivered, nor shall the same be accepted by said city, or any accounts, claims or demands allowed, audited and paid therefor.

Sec. 15. **Condition of Contracts.** Any contractor or person who accepts a contract under said city, shall take the same with the condition that he shall be personally and directly responsible for any and all loss, damage or injury to persons or property, by reason of the neglect or failure of himself or any one in his employ to so perform such work as to guard against all loss, damage and injury to person or property, and shall guard said work by suitable guards by day, and with lights at night, so as to prevent any loss, damage or accident.

Sec. 16. **Survey of Public Grounds, Streets or Alleys, etc., Shall be Filed in Office of City Clerk and Register of Deeds.** Whenever any public ground, street or alley, shall be laid out, widened or enlarged, under the provisions of this charter, the Common Council shall cause an accurate survey and profile thereof to be made and filed in the office of the City Clerk, and also filed in the office of the Register of Deeds of Dakota county.

Sec. 17. **Right of Eminent Domain.** The City of West St. Paul shall have the power to take private property for public use upon just compensation therefor being first paid or secured; such power shall be exercised through its Common Council or other officers of said city as provided in this charter, or as may be hereafter provided by law.

Sec. 18. **Plats—How Laid Out and Accepted.** All additions to the City of West St. Paul made, laid out and platted, as required by law, shall, before the same takes effect, or is recorded in the office of the Register of Deeds of Dakota county, be represented to the Common Council of said city at some regular or special meeting thereof, for acceptance by said city for the dedication of streets, lands, alleys, parks or other public grounds therein.

Sec. 19. **Plats, When Accepted.** Said city shall accept the same, when streets, alleys, lanes, parks or other public grounds thereof, proposed to be dedicated, platted and recorded, so far as is practicable from the topography of said addition and adjacent addition; and the proprietors of such new addition shall, when they present their plat for acceptance as aforesaid, also present a plat or map of the additions or addition adjoining the same, if any, showing how said proposed new addition joins and conforms to the streets, alleys, lanes, parks or other public grounds in the older or accepted additions. And the said Common Council of the City of West St. Paul shall not be required to work, repair or keep in repair, or otherwise open or improve any street, alley, lane, park or other public grounds in such new addition until the same has been accepted as aforesaid.

Provided, that said Common Council shall not accept said plats or additions unless all the streets and avenues laid out therein shall be at least sixty (60) feet wide, and all alleys or lanes at least sixteen (16) feet wide and dedicated to public use.

Sec. 20. **State Laws do not Repeal.** No law of this state contravening the provisions of this act shall be construed as repealing, amending or modifying the same unless such purpose be expressly set forth in such law.

Sec. 21. **Ordinances—When Take Effect.** Every ordinance of said city shall, after its passage, be published on the official bulletin boards

of said city, and shall not be in force until after such publication. The proof of such publication by the affidavit of the foreman, or one of the publishers of such newspaper, or the affidavit of the person posting the same, with a printed copy of the ordinance annexed thereto, or any other competent proof of such publication, shall be conclusive evidence of the legal passage, enactment, publication and promulgation of such ordinance, in any court in this state.

Sec. 22. **Files, etc., as Evidence.** The files, papers and records in the office of the City Clerk, or any other officer of said city, or copies thereof duly certified by the officer having the same in charge, proofs of publication of all notices, resolutions, orders, or proceedings of the Common Council required to be published under this charter, on file in the proper office, or copies thereof certified by the officer having the same in charge, shall be received and read in evidence in all courts and places without further proof. All printed compilations of the law and ordinances of the city, and all printed publications of the proceedings of the Common Council, or any of the officers of said city, if published or purporting to be published, compiled or revised by or under the authority of the said city or any of its officers, shall be admissible in all courts of law, and all other occasions in this state as evidence of such laws, ordinances and proceedings.

Sec. 23. **Register of Deeds to Record City Deeds.** That it is hereby made the duty of the Register of Deeds of Dakota county to record any deed or other instrument in which the grantor or grantee in is the City of West St. Paul, without requiring the same to be certified "taxes paid and transferred" entered or paid by sale of land described within, any general law of the state to the contrary notwithstanding.

Sec. 24. **Publication of Ordinances, Resolutions, etc.** The Common Council shall by ordinance prescribe the time, manner and place of the publication of ordinances, resolutions, notices and such other proceedings or communications as the said common council may deem necessary or advisable to publish.

Sec. 25. **Codification of Ordinances, etc.** The Common Council shall before the first day of August, 1907, cause to be arranged, codified and enacted, such ordinances, resolutions and by-laws consistent with this charter as said Common Council may deem necessary to supersede those ordinances, resolutions and by-laws in force and effect at the time of the adoption of this charter.

Sec. 26. **Official Publications.** The time specified for the publication of any notice required to be published on the official bulletin boards of said city, under the city charter or of any of the provisions of the amendments thereto, shall commence with its first publication.

Sec. 27. **Curative Clause.** All provisions of law now in force and which are also contained in this charter shall be regarded as being continued in force, and all provisions of law now in force which are changed, modified or amended shall be regarded as continued in force as so changed, modified or amended, and all provisions of law now in force which are inconsistent with this charter are hereby repealed.

Sec. 28. **Officers Holding When Charter is Adopted.** Nothing in this charter shall be construed to supersede any officer or officers of said city, now acting by virtue of the laws under which said city is incorporated, and any such officer or officers shall continue in office as heretofore until his or their term of office shall expire, except as otherwise expressly provided for in this charter.

Sec. 29. **Charter Shall Take Effect—When.** This charter shall take effect and be in force from and after its adoption.

LETTER OF TRANSMITTAL.

To The Hon. John Licha, Mayor of the City of West St. Paul, Minnesota.
The undersigned members of the Board appointed on the 5th day of November, 1906, by the Judges of the District Court of the First Judicial District of the State of Minnesota, to draft a proposed Charter for the City of West St. Paul, do hereby certify that pursuant to such appointment the members so appointed, duly qualified and organized as such Board and thereafter proceeded with the performance of the duties imposed upon it by law. That the annexed and foregoing proposed Charter has been duly provided and approved by said Board, and is herewith returned to your Honor for further proceedings as are required by law.
Dated this 2nd day of February, 1907.

J. J. GALVIN, Pres.,
GEORGE W. STENGER, Sec.,
E. H. HENNESEY,
G. W. WENTWORTH,
J. B. SPERD,
JOHN KREY,
CHAS. RICHTER,
W. S. DIPPO,
H. G. MARTHALER,
AMBROSE BILL,
JOS. HERMAN,
A. F. LEHMAN,
JAS. A. HURLEY,
GEO. H. WILFORD.

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THE CITY CLERK'S OFFICE OF THE CITY OF WEST ST. PAUL, DAKOTA COUNTY,
STATE OF MINNESOTA.

I, Charles Besse, City of Clerk of the City of West Saint
Paul, Dakota County, Minnesota, do hereby certify that I have compared
the within instrument with the original thereof on file in this office,
and do further certify that the within is a true and correct copy and
transcript of the original, and the whole thereof.

WITNESS the Seal of the City of West St. Paul, this 3rd day
of November, 1907.

Charles Besse

City Clerk of the City of West
St. Paul, Dakota County, Minn^{esota}.

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1917
J. A. Schmitt
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE

I hereby certify that the within
instrument was filed for record
in this office on the _____ day
of _____ A. D. 1
at _____ and was duly
recorded on _____ of

RE-INDEXED

MAY 12 1921

Secretary of State

KNOW YE FURTHER THAT THESE PRESENTS, Certify that the foregoing draft of the said proposed Charter was returned by the Board of Fifteen Members of the City of West St. Paul, Dakota County, State of Minnesota, six (6) months after its appointment, to the Chief Clerk of said City, to-wit: (The Mayor, John F. Galvin, qualified voters of said City at the election held May 7, 1907, of which one hundred and sixty-six (166) qualified voters voted, and of which two hundred and sixty-three (263) said qualified voters voted for adoption and ratification of said Charter, and of said qualified voters ^{with} more than four-sevenths (4/7) cast their votes in favor of the adoption and ratification of said foregoing draft of said proposed Charter, and one hundred and three (103) said qualified voters, less than two sevenths (2/7) thereof, voted against the said adoption or ratification. The question of ratification or adoption having been submitted upon the following:

"Shall the proposed new Charter be adopted?"

AND KNOW YE FURTHER, that all of said votes so cast by the qualified voters or electors of said city at the said General Election, held on May 7, 1907, were thereafter duly canvassed by the Common Council of the City of West St. Paul, acting as a canvassing board of said City for the votes cast at said election.

John F. Galvin
MAYOR
of City of West St. Paul, Dakota
County, Minnesota.

Charles Bosse
CITY CLERK
of City of West St. Paul, Dakota
County, Minnesota.

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