

## CHAPTER XXI.

*An Act to reduce the act incorporating the City of Rochester, in the county of Olmsted, and State of Minnesota, and the several acts amendatory thereof, and the act to organize a Board of Education for the City of Rochester, and the several acts amendatory thereof, to one act, and to amend the same.* March 9, 1867

## CHAPTER I.

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## SECTION FOURTH.

When act to take effect.

*Be it enacted by the Legislature of the State of Minnesota:*

**SECTION 1.** That an act entitled an act to incorporate the city of Rochester, approved August the 5th,

Amends incorp-  
ration act

1858, and the several acts amendatory thereof, and an act entitled an act to organize a board of education for the city of Rochester, approved March the 4th, 1864, and the several acts amendatory thereof, be and the same are hereby reduced to one act and amended to read as follows :

## CHAPTER I.

### CITY AND WARD BOUNDARIES.

Boundaries

**SECTION 1.** All that part of the county of Olmsted contained within the limits and boundaries hereinafter described shall be a city by the name of Rochester, and the people now inhabiting and those who shall hereafter inhabit within the district of country herein described, shall be a municipal corporation, by the name of the city of Rochester, who shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specially granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure, and may take, hold, and purchase, lease and convey such real, personal, and mixed estate as the purposes of the corporation may require, within or without the city.

Further defines boundaries

**SEC. 2.** The territory included within the following boundaries and limits shall constitute the city of Rochester: Beginning at the south-east corner of section one, in township one hundred and six north, of range fourteen west, and running thence to the south-west corner of section two in the same township; thence north to the north-west corner of the south-west quarter of section twenty-six, in township one hundred and seven north, of range fourteen west; thence due east to the north-east corner of the south-east quarter of section twenty-five in same township; thence south to the place of beginning, containing sections one and two, in township one hundred and six north, of range fourteen west, sections thirty-five and thirty-six and

the south half of sections twenty-five and twenty-six in township one hundred and seven north, of range fourteen west.

SEC. 3. The said city shall be divided into three wards, called the first, second and third wards. Divides city into wards—boundaries

The first ward shall comprise all that portion of said city which lies south of a line drawn from the east to the west boundaries of the city, through the centre of Third street.

The second ward shall comprise all that portion of said city that lies north of the first ward, and south of the centre of the Winona and St. Peter Railroad.

The third ward shall comprise all that portion of said city which lies north of the second ward.

## CHAPTER II.

### ELECTIONS.

SECTIONS 1. There shall be an annual election for elective officers, hereinafter provided, held on the first Tuesday in April of each year, at such place within each ward as the common council shall designate, and the polls shall be kept open from ten o'clock in the forenoon until four in the afternoon, and ten days previous notice shall be given by the common council of the time and place of holding such election, and the officers to be elected, by posting notices thereof in three of the most public places of the city, and by publishing the same in at least one of the papers published in the city. Provides for annual election

SEC. 2. The elective officers of said city shall be mayor, justice of the peace for the city, who shall be styled city justice; assessor, treasurer, and city attorney, all of whom shall hold their respective offices for the term of one year, and until their several successors are elected and qualified, except the city justice, whose term of office shall be two years, and until his successor is elected, and qualified. Who shall be elective officers

SEC. 3. No person shall be eligible to the office of mayor, city justice, assessor, treasurer, or city attorney, who shall not have been a resident of the city for one year next preceding his election. Who shall be eligible to office

SEC. 4. The officers elected in each ward shall be

What officers to  
be elected

two aldermen, one of whom shall be elected each year, one justice of the peace, and one constable, who shall hold their offices for two years, and until their successors are elected and qualified, except that the term of the office of the constable shall be for one year, all of which officers shall be residents of the wards in which they were elected, and shall have resided therein thirty days, and in the city six months next preceding such election, and all officers of the city shall be qualified electors of this state.

How vacancies to  
be filled

SEC. 5. Whenever a vacancy shall occur in the office of aldermen, city justice, or justice of the peace, constable or any other officer elected at the annual charter election except the mayor, it shall be lawful for the common council, or a majority of them, at any regular or special meeting, to fill such vacancy by appointing, by warrant, under their hands and the seal of the city, certified by the acting clerk, or recorder, and the person so appointed shall hold his office until the next annual election, and until his successor is elected and qualified and shall have and possess the same powers, and be subject to the same liabilities as if he had been duly elected at the annual election.

Elections to be  
by ballot

SEC. 6. All elections by the people shall be by ballot, and each ballot shall contain all the names of the persons voted for, with a proper designation of the office written or printed thereon, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner, as they shall direct.

Who shall be legal  
voters

SEC. 7. All persons entitled to vote for state and county officers, and who shall have resided in the city for four months next preceding the election, and ten days in the ward where they offer their vote, shall be entitled to vote for any officer to be elected under this law, and the different wards established by law shall constitute the election precincts for city elections.

Who shall be inspectors  
of election

SEC. 8. The elections in said city shall be held and conducted by the aldermen of each ward, who shall be inspectors of elections, and shall take the usual oath or affirmation as prescribed by the general laws

of the state to be taken by the judge and inspectors of elections, and shall have power to appoint clerks of such elections, to administer the necessary oaths. Such elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled as required by the law of this state regarding elections, provided that no candidate for office shall act as inspector or clerk at such elections.

SEC. 9. If either of the inspectors of election shall suspect that any person offering to vote does not possess the qualifications of an elector, or if the vote of such person be challenged by a qualified elector of the ward, the inspector, before receiving the vote of any such person, shall require of him to take the following oath :

Voters may be sworn—form of oath

You do solemnly swear (or affirm as the case may be) that you are twenty-one years of age, that you are a citizen of the United States, or have declared your intentions to become a citizen, conformably to the laws of the United States, on the subject of naturalization; that you have resided within this city four months, and within the ward ten days next preceding the election; that you have not voted at this election, and that you have made no bet or wager, or become directly or indirectly interested in any bet or wager depending on the result of this election. And if the person offering to vote shall take such oath, his vote shall be received and if such person shall take such oath falsely, he shall be deemed guilty of a wilful and corrupt perjury, and upon conviction thereof, upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward, than in the one in which he resides or shall vote more than once at any election, he shall be liable to indictment, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of inspectors to keep a list of the names of all persons whose votes shall be challenged as aforesaid, and who shall make the oath aforesaid; and if any inspector shall knowingly and corruptly receive the vote of any

person not authorized to vote, or shall make out false returns of an election, or any clerk, shall not write down the name of any voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every such inspector or clerk shall be liable to an indictment, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such indictments shall be tried in the district court of the county of Olmsted.

Duties of inspectors of election

SEC. 10. When an election shall be closed, and the number of votes for each candidate or person voted for shall be counted and ascertained, the inspectors shall make return thereof, stating the number of votes for each person, for each and every office, and shall deliver or cause to be delivered such return to the recorder. Within one week after any election the common council shall meet and canvass said returns, and declare the result as it appears from the same, and the city recorder shall forthwith give notice to each of the persons so elected of their respective elections.

Special elections—how conducted

SEC. 11. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward in the same manner, and the returns thereof shall be made in the same form and manner as in the general or annual elections, and within such time as may be prescribed by resolution.

Vacancies—how filled

SEC. 12. Any officer removing from the city or ward for which he was elected, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill the vacancy as herein prescribed.

Term of office

SEC. 13. The term of every officer elected under and by virtue of this act, shall commence at the time of his election and qualification, and continue until his successor is elected and qualified.

New election—when ordered

SEC. 14. Should there be a failure by the people to elect any officer herein required to be elected, on the day designated, the common council shall order a new election to be held, ten days notice of the time and place of holding such election being first given.



CHAPTER III.

GOVERNMENT OF THE CITY.

SECTION 1. There shall be a council, to consist of a mayor and board of aldermen, which shall be styled the common council of the city of Rochester. Title of city council

SEC. 2. The board of aldermen shall consist of two aldermen from each ward, to be chosen by the qualified voters of each respective ward. Of whom to consist

SEC. 3. The common council shall judge of the qualifications, elections and returns of its own members, and shall determine all contested elections, and in such case shall have power to send for persons and papers. Council to be judges, &c

SEC. 4. A majority of the common council shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, under such penalties as may be prescribed by ordinance. What to constitute a quorum

SEC. 5. The common council shall have power to determine the rule of its proceedings, punish its members for disorderly conduct, and with the concurrence of two-thirds of the members elected, expel a member, after due notice given and an opportunity extended to the accused to be heard, by counsel or otherwise. Power of council

SEC. 6. The common council shall keep a journal of its proceedings; and ayes and noes when demanded by any member present, shall be entered on the journal. To keep journal

SEC. 7. The common council shall, at its first regular meeting after the annual election, or as soon thereafter as may be, appoint a city recorder, a city marshal, a city surveyor, and one or more street commissioners, and such other officers as may be necessary for the government of the city, who shall each possess the same qualifications for office as are required in the case of aldermen. Duties of council

SEC. 8. No alderman shall be appointed to any office under the authority of the city, which shall have been created, or the emoluments of which shall have been increased, during the time for which he shall have been elected. Aldermen not to hold office

SEC. 9. There shall be one regular meeting of the

Meetings

common council in each month at such time and place as shall be prescribed by ordinance.

## CHAPTER IV.

### OFFICERS, THEIR POWERS AND DUTIES.

Elective officers  
to be sworn

**SECTION 1.** Every person elected or appointed to any office under this act, shall before he enters upon the duties of his office, take and subscribe his oath of office, and file the same, duly certified by the officer taking the same, with the recorder of the city, and the treasurer and marshal, and such other officers as the common council may direct, shall severally, before entering upon the duties of their respective offices, execute to the city a bond, with at least two sureties to be approved by the common council, and said bonds shall 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 refusing or neglecting to give the same.

The mayor to be  
presiding officer

**SEC. 2.** The mayor shall, when present, preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city be strictly enforced and duly observed, and that all other executive officers of the city discharge their respective duties. The mayor or any two aldermen may call special meetings of the common council. He shall inspect the conduct of all subordinate officers, and cause negligence and persistent violation of duty to be prosecuted and punished, and may require of any officer of the city, whenever he may deem it necessary, an exhibit of his books and papers.

He shall from time to time communicate to the common council and recommend such measures as he may deem advantageous to the city. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act, and is hereby authorized to call on every male inhabitant of said city over the age of eighteen years, to aid in enforcing the laws and ordinances, and in case of riot to call out the military companies of the city to aid him in suppressing the same, or carrying into effect any

law or ordinance; any person who shall not obey such call shall forfeit to the city a fine not exceeding twenty-five dollars, and not less than five dollars.

SEC. 3. In case the mayor shall be guilty of any wilful oppression or corrupt partiality in the discharge of the duties of his office he shall be liable to indictment, and on conviction thereof shall pay a fine of not more than five hundred dollars, and the court shall have power, (upon the recommendation of the jury in the case) to add to the judgment for the fine, that he be removed from office.

Misfeasance of  
mayor—how  
punished

SEC. 4. In case the mayor shall be absent from any meeting of the common council, the common council shall proceed to elect from their own number a temporary presiding officer, who for the time being shall discharge all the duties of the mayor. In case of the absence of the mayor from the city, or of his inability for any reason to discharge the duties of his office, or if there be a vacancy in the office of mayor, the council shall elect by ballot from their own number an officer who shall be styled acting mayor, and all acts performed by him shall have the same force and validity as if performed by the mayor.

Absence of may-  
or—how provided  
for

SEC. 5. The recorder shall keep the corporate seal and all the papers and records of the city and keep a record of the proceedings of the common council, whose meetings it shall be his duty to attend, and 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 recorder shall have power to administer oaths and affirmations, and take the acknowledgments of deeds and other writings. The recorder shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. He shall receive for his services such sum as the common council shall deem proper. In case of the absence of the recorder, or of his inability to perform his duties, the common council may appoint an acting recorder.

Duties of recor-  
der

Duties of city attorney

SEC. 6. The city attorney shall perform all professional duties incident to his office, and when required shall furnish written opinions upon any subject transmitted to him by the common council or its committees. He shall receive such sum for his services as the common council shall deem proper.

Duties of treasurer

SEC. 7. The treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, in such manner as the common council shall from time to time direct. The treasurer shall exhibit to the common council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of all receipts and expenditures after the date of the last annual report, and also the state of the treasury, which account shall be filed with the recorder. He shall be entitled as compensation for his services, to one per cent. on all moneys received and paid out by him.

Duties of marshal

SEC. 8. The marshal shall execute such orders as are made, and perform such duties as are prescribed by the common council. He shall have the powers of a constable at common law, and under the statutes of this state and receive like fees. It shall be his duty to enter complaint to the city justice of all violations of any ordinance, by-law, rule or regulation of said city, and of all assaults, batteries and affrays not indictable, committed within the limits of said city, and shall collect and immediately pay to the treasurer all tolls and license money due the city, and shall be the keeper of the city prison. He shall receive such compensation as the common council shall direct.

Duties of street commissioners

SEC. 9. The street commissioners shall, under the direction of the common council, superintend the grading, repairing and improving of streets and alleys, and the building and repairing of side-walks and cross walks, and the expenditure of taxes levied and collected for such purposes, and shall have the same supervision of the highways in said city and discharge the same duties as are by law required of overseers of highways generally. At least fifteen days before the annual election, each street commissioner shall exhibit to the common council, a full and detailed account of all receipts and expenditures after the date of the last annual report. He shall receive such compensation as the common council shall deem proper.

SEC. 10. The common council shall have power to require from time to time, other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and compensation. Such compensation shall be fixed at the time the office is created or at the commencement of the year, and shall not be increased or diminished during the time such officer shall remain in office. The common council may, at any time, fix the compensation of any officer or committee for any extraordinary service by them performed.

Powers of council

SEC. 11. The common council at their first meeting in each year, or as soon thereafter as may be shall designate one newspaper, printed in the city, in which shall be published all ordinances, and other proceedings and matters required by this act, or that may be required by the by-laws or ordinances of the common council, to be published in a public newspaper.

Council to elect printer

SEC. 12. The city printer, immediately after the publication of any notice or resolution, or other matter which by this act is, or by city ordinance shall be required to be published, shall file with the recorder a copy of such publication, with his affidavit, or the affidavit of his foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, resolution or other matter.

Duties of printer

SEC. 13. No member of the common council shall be a party to, or interested in any job or contract with the city, and any contract in which any member of the common council may be so interested shall be null and void.

Councilmen not to be interested in contracts

SEC. 14. The mayor, sheriff of Olmsted county, and each and every alderman, justice of the peace, marshal and constable, shall be officers of the peace, and may command the peace, and suppress, in a summary manner, all rioting and disorderly conduct within the limits of the city, and for such purpose may command the assistance of all bystanders, and if any person so commanded shall refuse to aid in maintaining the peace, every such person, on conviction thereof, shall pay a fine of not more than twenty-five dollars, nor less than five dollars.

Who shall be peace officers

City Justice—his powers and duties

SEC. 15. The city justice shall possess all the authority, power and rights of a justice of the peace, except he shall in no case entertain any civil proceedings, to which the city is not a party, and shall have sole exclusive jurisdiction to hear all complaints, and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace; but warrants returnable before the said city justice may be issued, in criminal cases, by any justice in the city, but no fee shall be received therefor by said justice. The said justice shall have exclusive jurisdiction in all cases cognizable before a justice of the peace, in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulations of the said city of Rochester, or its charter, or for the breach or violation of any such by-law, ordinance or regulation, and in all cases of offence committed against the same. All prosecutions for a breach, or a violation of any such by-law, ordinance or regulation shall be commenced in the name of the city of Rochester, and the same proceedings shall be had in civil and criminal suits before said justice, when not otherwise herein directed, as are established and required to be had in civil and criminal actions, by the laws of this state, before a justice of the peace: *Provided*, That in case of prosecutions for a breach or violation of an ordinance, by-law or regulation of said city or its charter, or for any assault, battery or affray not indictable, committed within the city limits, no appeal shall be had or allowed, when the judgment or fine imposed, exclusive of costs, shall not exceed twenty-five dollars. In all cases of conviction for assaults, batteries and affrays, within said city, and in all cases of conviction under any ordinance of said city for breach of the peace, disorderly conduct, keeping houses of ill-fame, or frequenting the same, and of keeping or maintaining disorderly and ill-governed houses, the said justice shall have power, in addition to the fine or penalty imposed, to compel such offenders to give security for their good behavior, and to keep the peace for a period not exceeding six months, in a sum not exceeding five

hundred dollars. The said justice shall have the same power and authority, in case of contempt, as a court of record: *Provided*, That nothing herein contained shall be deemed to divest the district judges of their authority as conservators of the peace, nor to affect in any manner the jurisdiction or powers of the district courts or supreme court of this State. In case of the absence, sickness or other inability of said justice, or for any sufficient reason, the mayor, by warrant, may authorize any other justice of the peace, within said city, to perform the duties of said city justice, and it shall thereupon be the duty of the mayor to inform the city attorney and marshal of such substitution, and make report thereof to the common council, and they may confirm or set aside such appointment, or appoint some other justice of the peace, and the justice of the peace so appointed, shall, for the time being, possess all the authority, rights and powers of said justice of the peace for the city. All fines and penalties imposed by the city justice, for offences committed within the city limits, or for violations of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finances of said city.

Powers and duties of city justice

SEC. 16. The city justice shall quarterly report to the common council all the proceedings instituted before him, in which the city is interested, and shall, at the same time, account for and pay over to the city treasurer all fines and penalties collected by him, belonging to said city; and said justice shall be entitled to receive from the county of Olmsted such fees in criminal cases, occurring without the city, as are allowed to other justices in the county for similar services.

City Justice to report to council

SEC. 17. The justices of the peace, and the constables elected in each ward, shall have the same powers, authority and rights that are possessed by other justices and constables of the county of Olmsted: *Provided*, that the ward justices of the peace, elected in said city, may hold their offices, and hear and conduct all trials, executions and proceedings cognizable by them, at any place within the limits of said city; and *Provided*, that for the removal of any trial, examination or proceeding from any one of the said justices

Justices of Peace etc, to have same powers as similar officers

of the peace, the city of Rochester shall be considered as one election precinct.

City Surveyor—  
council to pre-  
scribe duties

SEC. 18. The common council shall prescribe the duties of city surveyor, and fix the fees of compensation for any services performed by him; all surveys, plans or estimates made by him for the city, shall be the property of the city, and carefully preserved in the office of the recorder, open for the inspection of the parties interested.

Penalty for non-  
delivery of books  
etc

SEC. 19. Any person having been an officer in said city shall, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects, of every description, in his possession, belonging to the city, or pertaining to the office he may have held. If he fail to do so after such notification and request, he shall forfeit and pay to the use of the city, one hundred dollars, 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 in cases of the unlawful detention of personal property.

## CHAPTER V.

### THE COMMON COUNCIL—ITS POWERS AND DUTIES.

Common council  
its powers and  
duties

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "The common council of the city of Rochester do ordain," &c.

The common council shall have the management and control of the finances, and all the property of the city, and shall likewise in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and intemperance, and for the prevention of crime, as they may deem expedient; they shall have power to establish and maintain a city prison, and watch-houses, for the imprisonment, custody and safe keeping of all persons arrested for, or charged with any offence whatever, in



any way cognizable before the city justice, to make all rules and regulations for the government and management of such prison and watch-houses, to appoint keepers and other officers for the same, and prescribe their duties, and fix the compensation; the keepers of said prison and watch-houses shall have and possess all the powers and authority of jailors at the common law, or by the laws of this state. The common council shall have full power and authority to declare and impose penalties and punishments, and to enforce the same against any person or persons who may violate any of the provisions of any ordinance, rule or by-law passed and ordained by them; 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, and for these purposes shall have authority by ordinances, resolutions or by-laws:

Further powers

*First.* To license and regulate the exhibition of common showmen, and shows of all kinds, and the exhibition of circuses, caravans, concerts or theatrical performances; to license the keeping of billiard tables, nine or ten pin alleys and bowling saloons, to license and regulate groceries, taverns and victualing houses; to grant licenses for vending or dealing in spirituous, vinous or fermented liquors: *Provided*, That the license for dealing in, or vending spirituous, or spirituous and fermented liquors shall not be less than seventy-five, nor more than two hundred dollars per year, and for dealing in, or vending fermented liquors alone it shall not be less than twenty-five, nor more than one hundred dollars per year.

*Second.* To restrain and prohibit all gaming with cards, and all gaming tables, and to prohibit the use of all gambling devices whatever from being set up or used for gambling purposes, and to restrain and prohibit all description of gaming and fraudulent devices and practices, all playing of cards, dice or other games of chance, for the purpose of gaming, in said city, and to restrain and prohibit any person from vending, giving or dealing in spirituous, vinous, fermented, mixed or intoxicating liquors of any kind, and impose such restrictions, or prohibitions by fine or imprisonment; or by both fine and imprisonment.

*Third.* To prevent any riots, noise, disturbance or disorderly assemblages in said city, and to provide for the arrest and punishment of any person or persons who shall be guilty of the same, to suppress disorderly houses, or groceries, and houses of ill-fame, and to provide for the arrest and punishment of the keepers thereof, and to authorize the destruction of all instruments used for the purpose of gaming.

Further powers

*Fourth.* To compel the owner or occupant of any grocery, cellars, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of the city; and to provide for the abatement and removal of all nuisances.

*Fifth.* To direct the location and management of all slaughter house, barns, stables, blacksmith shops, breweries, and distilleries, and regulate the storage, keeping, and conveying of gunpowder or other explosive materials, or substances.

Further powers

*Sixth.* To prevent the incumbering of streets, sidewalks, lanes or alleys with carriages, carts, wagons, sleighs, boxes, firewood, lumber or any other material or substance whatever.

*Seventh.* To prevent and punish horse racing, immoderate riding or driving in the streets, to compel persons to fasten their horses, or other animals, attached to vehicles, or otherwise while standing in the streets, and to regulate places of bathing and swimming in the waters within the limits of said city.

*Eighth.* To restrain from running at large of cattle, mules, swine, sheep, poultry and geese, and to authorize the impounding, distraining, and sale of the same, and to impose penalties on the owners of such animals for violation of the ordinance.

*Ninth.* To prohibit the running at large of dogs, to impose fines upon their owners, and to authorize the destruction of dogs, when at large contrary to the ordinance.

*Tenth.* To prevent any person from bringing, depositing, or having within said city any putrid carcass, or other unwholesome substance and to require the removal of the same, by any person who shall

have upon his premises any such substance; or putrid or unsound beef, pork, fish hides, or skins of any kind, and on default to authorize the removal thereof, by some competent officers, at the expense of such person or persons.

Further powers

*Eleventh.* To make and establish public grounds, pounds, pumps, wells, cisterns, reservoirs, and to provide for the erection of water works, for the supply of water to the inhabitants, to erect lamps or other means, whereby to light the city, to regulate and license hacks, cabs, drays, carts, and charges of hackmen, coachmen, draymen, and cartmen of the city.

*Twelfth.* To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

*Thirteenth.* To regulate the assize and weight of read, and to provide for the seizure and forfeiture of read baked contrary thereto.

*Fourteenth.* To prevent all persons riding or driving any ox, cow, horse, mule or other animal, on the sidewalks of the city, or in any way doing damage to such sidewalks.

*Fifteenth.* To prevent the shooting of fire-arms, crackers, rockets, or other projectiles, and to prevent the exhibition of any fireworks in any situation which may be deemed by the council dangerous, to the city or any property therein, or annoying to any citizen thereof.

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

*Seventeenth.* To restrain and regulate runners and solicitors for stages, public houses, railroads, and other establishments, and to regulate the police of the city.

*Eighteenth.* To establish public markets, and enforce rules and regulations for the government of the same.

*Nineteenth.* To regulate the place and manner of selling, and to provide for the inspection and weight

Further powers

of hay, and stone coal and measuring of charcoal, firewood, and other fuel, and to appoint suitable persons to inspect, superintend and conduct the same.

*Twentieth.* To compel the owners or occupants of buildings to remove snow, dirt or rubbish from the sidewalk, street, or alley opposite thereto, and compel such owner or occupant to remove from any lot owned or occupied by him all such substances as the board of health shall direct, and in his default to provide for his punishment.

*Twenty-first.* To regulate the time, place and manner of holding public auctions or vendues.

*Twenty-second.* 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 for the punishment for the use of false weights and measures.

*Twenty-third.* To appropriate money, and provide for the payment of the expenses of the city.

*Twenty-fourth.* To establish, regulate and support night watches when necessary.

*Twenty-fifth.* To provide for the erection of all needful buildings for the use of the city.

*Twenty-sixth.* To provide for the enclosing, improving and regulating all public grounds belonging to the city, and for the adorning of the streets thereof with shade trees.

*Twenty-seventh.* To regulate and tax merchants, retailers, taverns, groceries, ordinaries, hawkers, pawn-brokers, and money changers.

*Twenty-eighth.* To license and regulate porters and draymen, and to fix the price of portorage and drayage.

*Twenty-ninth.* To provide for and regulate the inspection of tobacco, beef, pork, flour, meal, lard, butter and other provisions.

*Thirtieth.* To regulate and order parapet walls and partition fences.

*Thirty-first.* To provide for taking, from time to time, the enumeration of the inhabitants of the city.

*Thirty-second.* 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 make regulations to prevent the introduction of contagious diseases into the city, and to make quarantine laws, and enforce the same within three miles of the city. Further powers

*Thirty-third.* To restrain and punish vagrants, mendicants, street beggars, and prostitutes.

*Thirty-fourth.* To prescribe the limits within which wooden buildings, or buildings of other materials, that shall not be deemed fire-proof, shall not be erected, placed or repaired, and to direct that all and any buildings within such limits prescribed shall be made and constructed of fire-proof materials and to prohibit the repairing and rebuilding of wooden buildings within such limits, when the same shall be damaged to the extent of fifty per cent. on the value thereof, and to prescribe the manner of ascertaining such value and damages.

*Thirty-fifth.* To prevent the dangerous construction, placing and condition of chimneys, fire-places, hearths, stoves, stovepipes, ovens, boilers and appurtenances 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, and to prevent the deposit of ashes in unsafe places, and to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires within the city limits; and generally to establish such measures for the prevention or extinguishment of fires as prudence may dictate.

*Thirty-sixth.* To appoint one or more fire wardens, and to prescribe their duties.

*Thirty-seventh.* The common council shall have power to purchase fire engines, and other fire apparatus, and to authorize the formation of fire companies, hook and ladder and hose companies, and to provide for the due support and regulation of the same, and to order such companies to be disbanded, and their apparatus to be delivered up. Each company shall not have to exceed seventy-five members and shall be formed by voluntary enlistments, and each member of every such company shall be exempt from poll tax, from serving on juries, and from military duty, during the continuance of such membership.

Laws, etc to be  
published in offi-  
cial paper

SEC. 2. All laws, ordinances, regulations and by-laws, shall be passed by an affirmative vote of the majority of the common council and be signed by the mayor, and shall be published in the official paper of the city, before the same shall be in force, and, within twenty days thereafter, they shall be recorded by the recorder in books provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof as aforesaid, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication.

What deemed  
public nuisances

SEC. 3. 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. Houses or buildings of any kind, wherein more than twenty pounds of gunpowder are deposited, stored or kept at any time, gambling houses, houses of ill fame, disorderly taverns, or beer shops, or places where spirituous, vinous, fermented, mixed, or intoxicating liquors are sold, given away or dealt in without the license required therefor within the limits of said city, are hereby declared and deemed public or common nuisances.

Council to exam-  
ine books of offi-  
cers

SEC. 4. The common council shall examine and adjust the accounts of the treasurer, marshal, recorder, and all other officers and agents of the city, at such times as they may deem proper, and at the end of each year, and before the time for which such officers were appointed or elected shall have expired, and the council shall require each and every such officer or agent to exhibit his books, accounts, and vouchers for such examination and settlement, and if any such public officer or agent shall refuse to comply with the order of said council in discharge of their duties, in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceedings at law against any such officer or agent who may be found delinquent as defaulting in his accounts, or in the discharge of his official duties. The council shall make full record of all such settlements and adjustments.

## CHAPTER VI.

## FINANCES AND TAXATION.

SECTION 1. All property, real and personal, within the city, except such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the same manner provided by the general laws of this state, for the assessment of taxes for town purposes.

Property subject  
to taxation

SEC. 2. The common council shall have power annually to levy taxes upon all the taxable property in said city, to defray the current expenses thereof, but such assessment and levy shall not exceed five mills upon the dollar of the assessed valuation of said property.

May levy taxes  
-limitation--how  
collected

Also a special tax for building and repairing bridges in said city, to an amount not exceeding ten mills upon the dollar of such assessed valuation. Also a special tax for improving streets and alleys, including the building and repairing of side walks, and cross walks, and sewers, and grading of streets and alleys not exceeding in amount ten mills on the dollar of the assessed valuation of said property. Also a special tax for purchasing ground and erecting and repairing buildings for city purposes not exceeding in amount five mills upon the dollar of said assessed valuation.

All such taxes shall be collected in the manner provided by the general laws of this state for the collection of taxes for town purposes.

SEC. 3. Every male inhabitant of said city, being above twenty-one years of age, and under forty-five years of age, excepting paupers, idiots, lunatics, and such others as are exempt by law, shall be assessed two days labor, in each year, to be expended on the highways in said city. Such assessment shall be collected in the same manner, and may be commuted on the same terms, provided by the general laws of this state.

Highway labor--  
who subject

SEC. 4. All funds in the city treasury shall be under the control of the common council and shall be

How funds to be  
drawn out of  
treasury

drawn out upon the order of the mayor and recorder, duly authorized by a vote of the common council, and all orders shall specify the purpose for which they are drawn. No appropriation shall be made without a majority of a full council voting in favor of it, and the vote shall be taken by calling the roll, and the vote of each member of the council shall be entered on the journal of the council.

All orders shall be payable to the order of the person in whose favor they may be drawn, and may be transferred by indorsement.

How orders to be  
provided for

SEC. 5. The common council may provide for the issuing of orders, payable not more than one year after date thereof, out of the general, or any special fund of said city, with interest at a rate not exceeding twelve per cent. per annum. *Provided*, That not more than ten thousand dollars of such orders shall be outstanding and unpaid at any one time.

## CHAPTER VII.

General powers  
of council

SECTION 1. The common council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, and grounds within the limits of said city, and shall cause all streets, alleys, or highways within the city to be kept open and in repairs and free from nuisances, and shall have the same authority for laying out public roads in the unplatted part of said city as is given to supervisors in the township by the general laws of this state.

No street, alley, or highway, which has been heretofore laid out, or surveyed and platted, and the survey and plat thereof recorded, shall be vacated by the common council, nor shall any alteration be made therein, except to straighten the same between the ends thereof within the city. No street or alley which shall be hereafter dedicated to public use by the proprietor, or proprietors, of grounds within said city, shall be recognized as a public street or alley of said city, unless the common council shall first approve the plat thereof, or accept such dedication, or afterwards confirm the same, by ordinance specially passed for such purpose.

SEC. 2. The common council of said city shall have



power to ordain and contract for the making, grading, repairing, cleansing, improving and adorning of the streets, alleys, highways, public grounds, reservoirs, gutters and sewers, and building and repairing sidewalks and cross walks within said city, and to direct and control the persons employed therein, and all such improvements shall be superintended by a street commissioner.

May make contracts for public improvements

SEC. 3. The cost of grading and improving streets, alleys and public grounds, and of constructing and repairing reservoirs and gutters, and of building and repairing bridges, side walks and cross walks, within said city, shall be paid by the said city out of funds raised for that purpose; but no such improvements shall be ordered by the common council, except by a vote of not less than two-thirds of the members present, and constituting a quorum, at any stated or special meeting, such vote to embrace a majority of a full council.

How costs of grading, etc., to be defrayed

## CHAPTER VIII.

### SCHOOL DISTRICT AND SCHOOLS.

SECTION 1. The city of Rochester, in the county of Olmsted, shall constitute one school district under the general school laws of this state, except so far as they are modified in their application to said district by this act, and hereafter all schools organized therein in pursuance of this act, shall be under the control and direction of a board of education, and be free to all persons between the ages of five and twenty-one years, residing in said city.

City to constitute one school district

SEC. 2. At the next annual charter election in said city, there shall be elected from among the qualified voters thereof, one person from each ward, and two from the city at large, who, being duly elected and qualified, shall constitute a board of education for said district.

Board of Education—of whom to consist

SEC. 3. For the purpose of carrying out the provisions of this act, the board of education herein provided for, shall, within five days after the first annual election after the passage of this act, take, subscribe and file, with the recorder of the city, an oath to support the constitution of the United States,

Members of board to be sworn—term of office.

and of this state, and discharge the duties of their respective offices, as members of the board of education for said district. Also, within the said five days they shall meet at the office of the mayor in said city, and there, under the direction of the mayor, decide by lot the term of office, for which they shall serve. Of those elected from the respective wards, one shall serve for one year, one for two years, and one for three years, as may be so decided. And of those elected at large one shall serve one year, and one for two years, and each of them until their successors are elected and qualified. And annually thereafter there shall be one person elected, in the respective wards in which the term of the incumbent expires, and shall hold his office three years. Also, one member shall be elected at large each year, to hold his office two years, and if a vacancy should occur from any cause, the common council of said city may appoint some person to fill such vacancy for the unexpired time: *Provided*, That not more than two of the members of said board shall be residents of the same ward.

Powers of Board

SEC. 4. The board of education shall possess all the powers of trustees in school districts, under the general school laws of this state, and in addition thereto, such powers as are conferred upon them by this act.

May levy taxes  
for school pur-  
poses

SEC. 5. The board of education shall have power to levy a tax on all the taxable property in said city, each year, sufficient, with the amount received from other sources, to maintain necessary schools in said district, ten months in each year, including the amount required for fuel and repairs of school buildings: *Provided*, That said board shall not levy a tax of more than five mills on the dollar of the valuation of said property in any one year, except by and with the assent and approval of the common council of said city. And such taxes shall be levied and collected as other taxes are or may be levied and collected in said city.

May levy taxes  
for improvem'ts

SEC. 6. For the purpose of purchasing necessary grounds, improving and ornamenting the same, and erecting school buildings thereon, the board of education shall have power, by and with the assent and approval of the common council of said city, to levy

taxes on all the taxable property in said city, not exceeding, in any one year, ten mills on the dollar of the assessed valuation thereof, and may for like purposes, and with like assent and approval of said common council, issue the bonds of said district, payable not more than two years after date thereof, with interest not exceeding twelve per cent. per annum, payable annually: *Provided*, that not more than fifteen thousand dollars of such bonds shall be outstanding and unpaid at any one time.

SEC. 7. The board of education shall have full control of all the public schools of said district, and shall have power to direct where pupils shall attend school, what books shall be used in the several schools and may grade said schools and make and enforce any reasonable rules or regulations pertaining to the management and government of such schools.

To have control  
of public schools

SEC. 8. Within five days after each annual election in said city, which shall be the annual election of said district, said board of education shall meet at the school room of the principal school in said district, and, after being duly qualified, shall proceed to elect one of their number president, and one clerk. The president shall preside at all meetings of the board when present, shall sign all orders drawn on the treasurer for moneys voted to be paid by said board. A majority of said board shall constitute a quorum for the transaction of business, but no moneys or tax voted shall be legal unless sustained by a majority of all the board elected.

Meetings—elec-  
tion of officers  
—quorum

SEC. 9. The clerk shall act as clerk of the district as all district clerks are now required by law, and perform the duties required of clerk under the general school laws of this state, and make all necessary returns to entitle said district to the benefits of the appropriation of the common school fund, also draw and attest all orders on the treasurer for money voted by said board, and keep all district accounts as directed by law.

Duties of clerk

SEC. 10. The treasurer of the city shall be treasurer of the district, and shall receive, from time to time, all moneys from the county treasurer or any other person, belonging to said district, and shall keep a separate account with said district from the city, and the same

City Treasurer to  
be treasurer of  
board

shall be open for the inspection of any citizen of said district at all reasonable hours. He shall pay all orders on the district treasurer, signed by the president and attested by the clerk, if there is sufficient funds in his hands so to do, and enter the amount of such orders and the name of the payee in a book for that purpose. In his annual report to the common council he shall account in detail for all moneys belonging to said district received and paid out by him since the last annual report.

How money to be drawn

SEC. 11. No money shall be drawn from the treasury of said district except upon an order signed by the president of the board, attested by the clerk, stating for what purpose they were drawn, and the records of the district shall be so kept as to show the names of each member of the board of education voting for any appropriation.

Repeals conflicting acts

SEC. 12. All acts and parts of acts in the general school laws, and in the charter of the city of Rochester, conflicting with the provisions of this act, are hereby repealed, so far as they relate to the school district herein named.

## CHAPTER IX.

### MISCELLANEOUS.

Contracts to be let to lowest bidder

SECTION 1. All contracts made by the city, in which the consideration exceeds one hundred dollars, shall be let to the lowest responsible bidder. Notice of the time and place of letting such contract shall be published in the official paper of the city, at least one week before the letting thereof, and all the contracts with the city shall be signed by the mayor and countersigned by the recorder.

How votes to be rescinded

SEC. 2. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such a vote was taken.

Penalties

SEC. 3. No penalty for judgment recovered in favor of the city shall be remitted or discharged except by a vote of two-thirds of the aldermen elect.

SEC. 4. All actions brought to recover any penalty

or forfeiture under this act, or the ordinances, by-laws, or police, or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

How actions brought

SEC. 5. In all prosecutions for any violation of this act, or of any by-law or ordinance of the city of Rochester, the first process shall be a warrant: *Provided*, That no warrant shall be necessary in any case of the 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 Rochester, 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.

Prosecutions to be by warrant

All warrants, processes or writs issued by the city justice for violation of any ordinance or by-law of said city, shall run in the name of the State of Minnesota, and shall be directed to the marshal of said city, or any constable thereof.

SEC. 6. In all cases of the imposition of any fine or penalty, by the city justice of said city, for the violation of any ordinance, or by-law thereof, or for any assault, battery, or affray committed within the limits of said city, the offender may be forthwith committed to the city prison, and may be there imprisoned and compelled to perform hard labor under the direction of the city marshal, for the benefit of the city, not exceeding ninety days, in the discretion of the city justice, unless such fine<sup>s</sup> or penalty be sooner paid, and from the time of the arrest of any person, for any such offence, until the time of his trial, he may be imprisoned in said city prison.

How fines to be recovered

SEC. 7. No person shall be an incompetent judge, justice, witness, or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Citizens not to be incompetent judges, etc

SEC. 8. If any election by the people or common council shall, for any cause, not be held at the time, or in the manner herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be had on any subsequent day, by order of the common council, and if any of the duties enjoined by this act, or the ordinances or by-laws of the city, to

Council may order election

be done by any officer, at any specified time, and the same are not so done or performed, the common council may appoint another time, at which the said acts may be done and performed.

How suits to be commenced

SEC. 9. When any suit or action shall be commenced against said city, the service thereof may be made 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 thereof, or to take such other proceedings as by the ordinances or resolutions of said council may be in such cases provided.

Property ex-empt

SEC. 10. 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 upon which they are situated, and all fire engines, carriages, hooks, ladders, buckets, hose or any 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 of common council and office rooms: *Provided*, That nothing herein contained shall exempt any of the aforesaid real or personal property from levy and sale, by virtue of any execution issued on judgments rendered in favor of any person or persons who may have furnished or sold any fire apparatus to, or on the credit of said city; nor shall any real or personal property of any inhabitants 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.

Council to establish grade

SEC. 11. The common council shall cause to be established, under the direction of the city surveyor, 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 register of deeds of Olmsted county; and should the grade so established be, at any time thereafter, altered, all damages, costs, and charges arising therefrom, shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade.

SEC. 12. The said city may lease, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

City may hold  
real estate

SEC. 13. The city of Rochester 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 any magistrate, to the jail of Olmsted county, for any offense punishable under the state laws.

City not to be li-  
able for board of  
state prisoners.

SEC. 14. The officers of said city shall not be entitled to any compensation for their services except as in this act provided. The mayor shall be entitled to receive three dollars for each meeting of the common council he shall attend, and each alderman two dollars for each meeting he shall attend: *Provided*, That neither the mayor nor any alderman shall receive payment for attending more than twenty-five meetings in any one year.

Compensation of  
officers

SEC. 15. No law of this state contravening the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

State law not to  
repeal

SEC. 2. This act is a public act, and need not be pleaded nor proven in any court in this state.

Public act

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

Repeals inconsis-  
tent acts

SEC. 4. This act shall take effect from and after its passage.

Approved March 9, 1867.